SENATE—*Tuesday, June 18, 1991*

(Legislative day of Tuesday, June 11, 1991)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

The PRESIDING OFFICER. Today's prayer will be offered by our guest chaplain, Benedictine Brother Boniface McLain, of Conception Abbey in Conception, MO. Brother Boniface is the son of George "Irish" McLain, who is the Doorkeeper of the Senate.

PRAYER

The guest chaplain offered the following prayer:

Let us pray:

Lord of all creation, source and sustainer of life, be present in the hearts and minds of these Senators as they again convene for service to the Nation. May they be upheld in their duties by Your wisdom. May Your Spirit guide them along the lighted path of justice and truth remembering that ultimately it is You alone who are in charge of the nations.

May an attitude of love be present in this Chamber and in our land, love for You and for one another so that we really are good news to each other and to the world. And whether we succeed or fail at the task at hand nothing separates us from Your love if we are faithful. You are as present in time of distress as in time of peace.

And while these leaders seek private lives which uphold public virtue in carrying out their responsibilities of office, may they be sustained by Your grace and a light heart. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 18, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

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

Mr. KENNEDY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the majority leader's time be assigned to myself.

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

Mr. KENNEDY. I yield such time as I might use.

STAY THE COURSE ON SANCTIONS AGAINST SOUTH AFRICA

Mr. KENNEDY. Mr. President, South Africa's action yesterday in repealing another of its apartheid laws has renewed the debate on whether to lift the United States economic sanctions enacted in the Comprehensive Anti-Apartheid Act of 1986.

Reports have been circulating for many weeks that the administration is preparing to terminate the sanctions in order to reward the South African Government for the progress made so far. Some have suggested that the administration may even do so in an "August surprise," by lifting the sanctions in early August, as soon as Congress leaves for the summer recess.

In my view, such unilateral action by the administration would be premature and irresponsible on the merits, and an especially serious insult to Congress as well, because the statutory conditions for lifting the sanctions have clearly not been fulfilled.

Since 1986, the United States has been the world's leader in the fight against apartheid. We have provided much-needed support for those in South Africa struggling to bring human rights and dignity to the majority of their fellow citizens. We should not undermine their courageous efforts now. America should stay the course on sanctions, not abandon the course to apartheid.

In addition, especially on this issue, the White House has no right to act unilaterally, without the support of Congress, in taking such a far-reaching step as ending the sanctions. There is strong disagreement with the administration's interpretation of the statutory conditions. If the President persists in this course, the validity of his action may have to be settled in court.

But before President Bush creates such an unnecessary confrontation, he should pause and consider how the sanctions came into being. They were enacted by Congress over President Reagan's veto in 1986. Congress initiated the sanctions, and we fought hard to put them in place, against the strong opposition of the Reagan administration. We do not intend to sit quietly now, while President Bush perpetuates President Reagan's so-called policy of constructive engagement and prematurely revokes the sanctions.

The important progress taking place in South Africa gives all of us hope that apartheid is coming to an end. U.S. sanctions have played a critical and essential role in making that progress possible. Indeed, without the pressure of international sanctions, and particularly United States sanctions, the Government of South Africa would not have begun to take the steps necessary to dismantle apartheid.

President de Klerk deserves credit for the steps he has taken, and he deserves support against the hard-line defenders of apartheid. But he does not deserve to have sanctions lifted at this time.

Our goal should be to ensure the complete and irreversible dismantlement of apartheid, and to keep the United States in the forefront of international pressure for further progress in South Africa. Our policy of the past 5 years is clearly working. To end sanctions prematurely would be a serious setback to the results achieved so far.

At the same time, there is no justification for attempting to retain the sanctions now in place if the terms of the 1986 act are fulfilled. Section 311(a) of the statute enacting the sanctions laid down five conditions for their termination. Just as it would be wrong for the administration to lift the sanctions before the conditions have been fairly met, it would also be wrong for opponents of apartheid to shift the goal posts against the South African Government by imposing new requirements before sanctions can be lifted.

The five conditions in the act require the South African Government to take

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

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the following steps before sanctions can be lifted:

(1) Release all persons persecuted for their political beliefs or detained unduly without trial, and release Nelson Mandela from prison;

(2) Repeal the state of emergency and release all detainees held under it;

(3) End the ban on democratic political parties and permit the free exercise by South Africans of all races of the right to form political parties, express political opinions, and participate in the political process;

(4) Repeal the Group Areas Act and the Population Registration Act and institute "no other measures with the same purposes"; and

(5) Agree to enter into good faith negotiations with truly representative members of the black majority, without preconditions.

Under section 311(b) of the 1986 act, President Bush has the authority to suspend or modify any of the sanctions, if he reports to Congress that condition (1) has been met, that three out of the remaining four conditions have also been met, and that substantial progress had been made toward dismantling the system of apartheid and establishing a nonracial democracy. Congress would then have 30 days under expedited procedures to enact a joint resolution disapproving the administration's action. President Bush could veto such a resolution of disapproval, and Congress could then override the veto by a two-thirds vote.

So far so good. The 1986 act specifies a clear allocation of power between Congress and the President with respect to modifying or suspending one or more of the sanctions, in circumstances where four of the five conditions have been met. But the statute is silent with respect to the appropriate procedure for terminating the sanctions when all the conditions have been met.

The Bush administration apparently intends to take the position that it has the unilateral power to lift the sanctions when it unilaterally determines that all five conditions have been met.

I reject that position, and I urge Congress to reject it too. Congress must be involved in determining when the South African Government has fully met the five conditions in the law, and I urge the administration to begin serious consultations on this issue. If it fails to interpret these conditions fairly, we may be obliged to ask the courts to settle the issue.

I hope that the President will agree to an appropriate role for Congress, and will refrain any unilateral effort to terminate the sanctions and bypass the proper role of Congress, particularly some "August surprise" when Congress is in recess.

There is no dispute that condition (1) relating to the release of political prisoners has not been met. The Bush administration confirmed only yesterday that this condition had not been met. It is true that Nelson Mandela has been released. But that dramatic gesture cannot obscure the fact that large numbers of political prisoners are still being held or detained without trial, in violation of this condition.

Last week, the respected South African Human Rights Commission listed 972 political prisoners who remain in jail. Even the Government admits that nearly 300 of those cases must be reviewed. The other cases will not be resolved until the two sides agree on the definition of a political prisoner.

Over 200 prisoners have recently engaged in a hunger strike to protest their continued incarceration. An estimated 1,400 individuals currently face political trials—including over 300 charged with illegal gathering, picketing, marching, singing or dancing in the streets. Nineteen political prisoners are on death row. Last month alone, hundreds more were arrested for participating in illegal demonstrations.

So long as political prisoners continue to be held and South Africans continue to be arrested and tried for political acts, condition (1) will be unfulfilled.

With respect to conditions (2), (3), (4), and (5), the Bush administration has stated that the South African Government has already met them. The danger is that the administration will seize upon some further gesture by the South African Government on political prisoners under condition (1), declare that all the conditions have been met, and terminate the sanctions.

In fact, condition (2) is the only condition that has been fully met so far—repeal of the state of emergency and release of those detained under it. Even if all political prisoners are released, other conditions remain to be met.

Condition (3), which requires that South Africans of all races must be free to participate in the political process, has not been met. It is true that political freedom in South Africa has increased dramatically in the past year. The Government has proposed amendments to its internal security laws, but those amendments retain many of the current repressive powers. Detention without trial or charge, or without access to lawyers or family will still be permitted for up to 14 days, and the authorities have the right to extend that period even further.

Such incommunicado detention is the time when abuses are most likely to occur, including forced confessions, intimidation, torture, and even murder. Of the 73 individuals who have died while in the custody of the South African security forces since 1963, over half died within the first 14 days, and many died within the first 5 days.

In addition, the Government has maintained the right to ban some organizations and public gatherings. It has yet to repeal the Public Safety Act, under which it continues to declare areas of unrest throughout the nation and retains the power to declare states of emergency.

In the past year, the Government has declared numerous townships as areas of unrest. Fourteen are currently classified as such areas. These powers have been used more to curtail civil and human rights than to prevent violence. In fact, much of the violence to date has occurred despite the declaration of unrest areas.

At a minimum, the Government should repeal section 29 of the Internal Security Act, which permits the security forces to detain individuals without charge or trial or access to lawyers or family, and it should repeal the Public Safety Act to eliminate it as a basis for violations of basic human and civil rights.

In addition, the issue of the return of the 40,000 exiles has yet to be resolved. The Government continues to refuse to grant full indemnity to those seeking to return home. Returning exiles continue to be arrested. The Government has permitted the U.N. High Commissioner for Refugees to participate in the repatriation of the exiles, but the Government's reluctance to provide full access to returned exiles by the UNHCR and the lack of progress on indemnity has prevented the UNHCR from concluding an agreement to work for their return.

A year ago, the South African Government made a series of pledges as part of its effort to enter negotiations with the ANC. In two documents, called the Groote Schuur Minute of May 3, 1990 and the Pretoria Minute of August 6, 1990, the Government committed itself to taking several key steps before negotiations could begin. It committed itself to the release of political prisoners, and to indemnity for exiles who wished to return to South Africa by April 30, 1991. That deadline came and went without agreement on the definition of political prisoners, or guarantees that returning exiles will not face imprisonment.

There are international standards for the UNHCR, not only to help and assist in the repatriation of exiles, but also, under time-tested procedures, they also retain the ability to have followup, to get assurance of the conditions of the various detainees. That has happened worldwide, but the South African Government refuses to permit UNHCR to follow that particular procedure in South Africa. They are willing to take the cloak and the mantle of the UNHCR to demonstrate that they have some willingness in terms of dealing with the exiles, but the UNHCR would effectively have to leave them at the border. They cannot have the followup which is so essential in ensuring the returning exiles are fully protected as

they return. This is especially important regarding South Africa where so many of the exiles have been in the vanguard of the movement to end apartheid, and the reason that some 40,000 of them are exiles is because of the fear of intimidation, torture, and even death, which had been a part of the process of apartheid for years.

In these "Minutes," the Government also agreed to review "security legislation and its application in order to ensure free political activity and with the view to introducing amending legislation at the next session of Parliament."

In this statement, the South African Government itself recognized the need to change its repressive security legislation so that political activity can be free. The United States should insist on no less a standard. So long as the Government fails to deal in good faith with all of these fundamental issues, South Africans will not be fully free to participate in the political process, and condition (3) will not be met.

With respect to condition (4), relating to the repeal of two key apartheid statutes, the South African Government has made important progress, but it is not yet clear that the condition has been met. The South African Parliament is to be commended for its repeal yesterday of the Population Registration Act, which requires all South Africans to register their race at birth and thus determines the rights to which they are entitled. But the repeal only applies to South Africans born after the repeal takes effect. The law passed yesterday explicitly states that, "The population register as compiled * * * shall remain in force and of effect until the repeal" of the South African Constitution. The South African Government suggested the timeframe of 1994–95. That means that for the time being, South African blacks will continue to live under the current race classifications. Only newborn babies will benefit from yesterday's action for the foreseeable future.

On June 5, the South African Parliament repealed the Group Areas Act and the related Land Acts of 1913 and 1936, and those repeals take effect on June 30. These acts, which use race to determine where South Africans are permitted to live, provided the legal basis for the expropriation of the land of 3.5 million blacks, and they relegate blacks to only 13 percent of South Africa's abundant land.

In repealing these acts, however, the Government is ambiguous about whether it plans to protect existing privilege created by the Group Areas Act. It has instituted in place of the Group Areas Act a new law to uphold "norms and standards" in neighborhoods—a policy which may well be used to continue racial exclusions.

Without consulting the black community, the Government rejected the principle of restitution of the land forcibly taken from millions of blacks. The Government also failed to consult with the black leadership when it put forth its new land policy. A good indication of the Government's intention to deal fairly and equitably with the land issue will be whether it decides in favor of or against the effort of the black farming community of Goedgevonden to return to its land in the Western Transvaal seized in 1948.

These issues call into question the commitment of the Government to eliminate race-based restrictions in South Africa. Unless and until that commitment becomes clear, the proviso of condition (4)—that the Government "institutes no other measures with the same purposes" as the Group Areas Act and the Population Registration Act—has not been met.

The final condition—condition (5)—has also not been met. It requires the South African Government to agree to enter into good faith negotiations with truly representative members of the black majority without preconditions. Both sides continue to characterize the discussions to date as "talks about talks," not negotiations—and even these limited talks are currently suspended because of the tragic violence now occurring. Critical issues have yet to be addressed in the talks, such as who sits at the negotiating table, how decisionmaking power will be distributed, and what issues are to be negotiated.

Whether good faith negotiations are underway is still an open question. It would be jumping the gun to assert that the currently suspended "talks about talks" meet the requirements of condition (5).

For all these reasons, it would be unacceptable for the Bush administration to attempt to lift the sanctions before there is full compliance with the statutory conditions. The nations of the European Community have acted prematurely to lift their own sanctions, but we should not follow suit. The United States has always led the fight against apartheid and we must not stop now.

In speaking at the recent heads of state meeting of the Organization of African States in Nigeria, Nelson Mandela urged that sanctions be maintained and chastised those nations who have moved "with indecent haste to lift sanctions." He stated that, "The fundamental national interests of every country * * * are best served by the speedy elimination of the system of apartheid, an objective whose realisation requires the continued use of the sanctions weapon until victory is achieved."

For three decades, Nelson Mandela has been the conscience of South Africa. We must not turn a deaf ear to his pleas at this critical juncture.

Standing firm now will also reassure the majority in South Africa that the United States is not abandoning them in the struggle to end apartheid. Having joined the struggle in 1986, we have a responsibility to stay the course now, and keep the pressure on until the goal of a new South Africa is achieved.

Finally, in addition to the critical issue of retaining the sanctions, we must also begin to consider other ways to encourage the progress we seek. Our efforts should emphasize three broad areas: launching negotiations to end apartheid, ensuring that American tax dollars do not subsidize apartheid, and reaching out to assist the victims of apartheid.

Our immediate concern should be to end the intense violence in black townships and in Natal province, which cost 3,700 lives last year and an estimated 1,000 this year. Black leaders such as Gatsha Buthelezi and Nelson Mandela have a responsibility to do more to control their followers. But let us be clear that the de Klerk government has the principal responsibility for law and order, and its actions have been seriously inadequate. Time and again this year, armed factions have entered townships areas and murdered scores of unarmed men, women, and children in locations where Government police were on patrol yet failed to intervene to stop the killing.

In Alexandra township earlier this spring, hundreds of Zulus—armed with spears, axes, and knives—entered the ANC-dominated township and brutally hacked to death 15 mourners and wounded 18 others attending the funeral of a slain ANC supporter. Fearing such a conflict, the residents had requested police protection, but adequate security was not provided. Rather than arresting the murderers, the Government escorted them back to their hostels. To date, no one has been prosecuted for this shocking massacre.

Recently, a retired South African army major charged that the military has been supplying weapons and covert assistance to inflame the violence. The major said that the South African defense force had distributed AK–47's to Inkatha members and was helping them setup cells in black townships to give greater influence to Inkatha.

The major also identified two army units, the Military Intelligence Institute and the Specialized Communications Operations, that have tried to manipulate politics in Namibia and now have a similar mission in South Africa. These allegations are consistent with reports by human rights observers of South Africa, and they should be fully investigated without delay by an independent and credible body.

The Government also refuses to dismantle single-sex hostels where hundreds of young black workers are forced to live far from their families. These dilapidated, dirty, overcrowded structures have been the source of

much of the violence. Yet the Government still takes no action to address this inflammatory situation.

In addition, government security forces themselves have been implicated in much of the violence, yet no independent or credible investigations and prosecutions to end the abuses have taken place. The Government must also identify and remove from office those responsible for the culture of violence that permeates the South African security forces.

The Government must work more closely with local community leaders to prevent violence. It waited too long to include spears in its ban against carrying cultural weapons in areas of unrest, and only recently ordered such a ban under pressure from the ANC. The Government still refuses to institute a nationwide ban on the display of all weapons, especially the so-called traditional weapons used in much of the violence.

Second, we should make clear now, regardless of what happens to the sanctions, that the United States intends to go slow in extending credits or other U.S. economic aid to the apartheid government. Assistance from multilateral financial institutions, including the International Monetary Fund, should also be withheld, and the worldwide arms embargo should be maintained. As long as apartheid persists, economic aid and arms sales should remain off-limits to South Africa.

We should also make clear to the South African Government that we will not do business as usual with the apartheid regime. South African Government entities with which we resume commercial relations should be desegregated. The first South African Airways jet that lands in the United States should be operated by an integrated crew. The International Olympic Committee is insisting on progress on integrated sports teams and integrated organizational structures, before permitting South Africa to participate in the Olympic games. The United States Government should do no less in its own relations with South Africa.

Third, United States aid being channeled to South Africam blacks through private voluntary agencies should be increased from this year's level of $50 million. I intend to urge Congress to double the current level, with the increase allocated to housing, land acquisition, education, and health care for returning exiles and other victims of apartheid.

The vast majority of blacks in South Africa have seen their living conditions worsen in recent years. In education, $282 is spent for a black child, compared to $1,382 for a white child. The unemployment rate is 40 percent, and the illiteracy rate is 60 percent. Most blacks have little hope of finding jobs, even if they succeeded in overcoming the odds and successfully complete their education. Many are losing hope for a better life.

Although the U.N. High Commissioner for Refugees is attempting to arrange for the return of the 40,000 exiles, most of those who return will have neither a home nor a job when they get there. Blacks also continue to be confined to 13 percent of the land of their ancestors and lack the resources needed to take advantage of their newly granted right to purchase property throughout the country.

U.S. economic aid can make a modest difference now. But in the long run, once apartheid is ended and a new order is in place, the United States should take the lead in establishing a development bank for South Africa. That idea has already been welcomed by Nelson Mandela and a wide range of other South Africans. The bank would be similar to the European Bank for Reconstruction and Development, created by the Western European nations to assist the struggling economies of the newly free nations of Eastern Europe.

In sum, the steps taken in recent months hold great promise for South Africa. U.S. policy in the past 5 years has played a significant role in the achievements so far. Let us not abandon that role now, when we are closer than ever to the goal of a new South Africa for all the people of that nation.

Mr. President, just to review the various conditions and the status of these conditions, I have on this particular card the condition and also the status which I mentioned in my comments here on the floor of the Senate.

Condition one, release of all the persons persecuted for political beliefs or detained unduly without trial, and release Nelson Mandela. Mandela has been released but there are, according to the various human rights organizations, even according to the Bush administration, a number of political prisoners—human rights organizations list 972 political prisoners still being held. The administration has even admitted that there are a number, several hundred, of political prisoners.

So with regard to the status of that particular issue that condition has not been met.

The repeal of the state of emergency and release of all detainees held under it. This state of emergency applies to the actions that are being taken inside South Africa. That has been repealed, and those that have been detained have been released.

There has been some concern about the declaration of unrest areas which has been imposed at places where there has been local violence. Some charge that the Government is simply perpetuating the states of emergency under a different name. But I think a strong case probably can be made that the state of emergency has been lifted, and the essence of this condition has been met.

Third, to unban the democratic political parties, and to permit the free exercise by South Africans of all races of the right to form political parties and express political opinions. Certainly, there has been the unbanning of the ANC, even the Communist Party, and other political parties for all intents and purposes. But all South Africans are not free to participate in political process. Political prisoners must be freed if they are going to participate in the political process, and 40,000 exiles must be given indemnity to return, and allowed to return. The South African Government agreed to a general amnesty in Namibia and the process of reconciliation went forward with great success. But it still refuses to do so with respect to South African political prisoners and exiles.

And security laws need further repeal. I outline section 29 in the security laws which can be utilized and is being utilized to detain individuals incommunicado without the benefit of lawyers. Until these issues are resolved, this particular condition has not been met.

The fourth condition requires the repeal of the Group Areas Act and Population Registration Act, and that the Government institutes "no other measures with the same purpose." The acts have been repealed, but, as I mentioned, it has instituted other measures which are a source of concern. The "norms and standards" provision could be used to perpetuate residential restrictions and the racial classification system will remain in place until sometime off into the future. The Government estimates it will be in the mid 1990's. No one really knows when that will happen.

And what do those norms and standards really mean? I think there has to be a much greater clarification about how they are going to be implemented. I do not think it takes much of a political scientist to understand how they can, in effect, be implemented in such a way as to carry on the same kinds of repugnant policies that these two racist pieces of legislation imposed.

We hope there will certainly be a Constitution, and that the political process will move forward. But certainly while these restrictive measures remain, this condition has not been met.

Finally, the fifth condition requires the Government to agree to enter into good-faith negotiations with truly representative members of the black majority without preconditions. But the suspended "talks about talks" do not constitute an agreement to negotiate. The Government has yet to deal with many substantive issues. I think many of us believe that those issues are going to have to be resolved; the Gov-

ernment cannot simply agree to talk about it.

I think there has been at least a willingness by Mr. de Klerk to move forward. But you cannot have a movement toward the democratic process when you have the kinds of cycle of violence which I outlined in my comments and statements. I think the South African Government bears an important responsibility to provide adequate security, and to do the kinds of investigations necessary to get to the root cause of the crisis, especially where the security forces are implicated. The recent accusations that members of the South African security force have provided AK-47's to members of Inkatha and instigated violence must be fully investigated. To think that we are going to be able to get the kind of talks and negotiations moving forward without a resolution of the tragic issue of violence, is really quite unrealistic.

So finally, Mr. President, I want to again express my respect for the steps which have been taken to date by the Government of South Africa. I think they have been important and I think they have been impressive, but I do not think they have fulfilled the conditions which have been outlined in the legislation.

This legislation was fashioned by Congress over the opposition of the Reagan-Bush administration, over the veto of the Reagan-Bush administration, that believed in a continuation of constructive engagement. This Congress in a bipartisan way rejected that failed policy. The steps that have been taken by the United States as a leader of the free world, followed by other countries, have had an extraordinary impact in terms of the types of changes which have been made in South Africa.

All of us are filled with renewed hope that the new possibilities for a peaceful move toward the real building of democratic institutions, respect for human rights and individual rights, will be achieved. But any judgment and decision about whether these conditions have been met, given the historic position of the administration in the past, absolutely requires that the administration work with the Congress in making a final and ultimate judgment on this issue.

I urge the administration to do so. We are willing to work with the administration in seeking further progesss being made, and that there be a just and final outcome for this policy.

Finally, we must not shift the conditions or shift the goal posts. I believe that such an effort would not be justified. We set those conditions and debated those conditions.

I think it is appropriate that we address what clearly was the intention of those of us who were involved in the fashioning and shaping of the legislation. That effort was done in a bipartisan way, with our good friends, Senator CRANSTON of California, Senator SIMON of Illinois, the chairman then of the Foreign Relations Committee, Senator LUGAR of Indiana, Senator KASSEBAUM, Senator BOREN, and a number of others.

So we are ready to work in a constructive and positive way to carry on what I think has been one of the important successes in American foreign policy, and that is, ensuring that we are going to permit the forces within South Africa to shape and fashion their own democratic institutions and their own path toward a democracy. But we outside of South Africa are not going to be a part of a continuation of aiding and assisting apartheid. That had been the result of American policy for too many years.

With the enactment of this legislation, the United States said, "No, we are not going to be part of it." With that declaration and the support of countries around the world, we have seen these important and dramatic changes. We say it is too early to alter that course. We ought to stay the course. I believe that is in the best interest of all of the people of the United States and the people of South Africa. In debating this issue, it is important to keep in mind the conditions contained in the Anti-Apartheid Act of 1986 for lifting the sanctions, and I ask unanimous consent that the table to which I have referred may be printed at the conclusion of my remarks.

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

Condition	Status
(1) Release all persons persecuted for political beliefs or detained unduly without trial and release Nelson Mandela.	Mandela released but 972 political prisoners still held.
(2) Repeal state of emergency and release of all detainees held under it.	Been met.
(3) Unban democratic political parties and permit the free exercise by South Africans of all races of the right to form political parties, express political opinions, and participate in political processes.	Political prisoners must be freed, exiles given indemnity to return, security laws need further repeal.
(4) Repeal Group Areas Act and Population Registration Act and institute "no other measures with the same purpose".	Acts repealed, but gov't has instituted other restrictions in their place.
(5) Agree to enter into good faith negotiations with truly representative members of the black majority without preconditions.	Suspended "talks about talks" do not constitute agreement.

Mr. KENNEDY. I yield the floor.

Mr. CRANSTON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mr. CRANSTON. Mr. President, I want to thank my good friend and distinguished colleague from Massachusetts, Senator KENNEDY, for his leadership on this vitally important human issue, and for reserving time this morning so Senators may share their view on South Africa's progress in dismantling apartheid. I commend Senator KENNEDY for his unwavering leadership on this issue, and I commend the Senator from Illinois, Senator SIMON, the chairman of the African Affairs Subcommittee, for his leadership role, as well.

THE CASE FOR MAINTAINING SANCTIONS AGAINST SOUTH AFRICA

Mr. CRANSTON. Mr. President, during the past year, the world has seen unprecedented progress in the movement toward nonracial democracy in South Africa. Nelson Mandela and other political prisoners were released, opposition groups were unbanned, and President de Klerk has shown a willingness to talk directly with the leaders of the black majority. The de Klerk government has repealed the Group Areas Act, land acts, and, just yesterday, the Population Registration Act. At a glance, these reforms look promising, but examined carefully they indicate a pattern of two steps forward and then one back.

As framers of the sanctions legislation, Members of Congress must be involved in any decision to certify or to determine that any or all of the conditions for lifting sanctions have been met. Therefore, let us look closely at the degree of progress that the South African Government has made in fulfilling the law's conditions.

The world cheered in February 1990 when Nelson Mandela—the unbowed champion of the antiapartheid struggle—was released after 28 years of imprisonment. A number of other political prisoners were freed before and after Mr. Mandela's release. However, these very symbolic acts are diminished by the fact that, according to the U.N. High Commissioner for Refugees, 20,000 to 40,000 South Africans remain in exile without any clear picture of their future in South Africa.

Further, there is disagreement within South Africa on the definition of political prisoner. The Johannesburg-based, independent Human Rights Commission holds that over 1,500 political prisoners are still in detention. Earlier this month, South African Justice Minister Coetse announced 1,022 prisoner releases. At the same time, he claimed that the remainder were ineligible for release. Thus, the South African Government did not meet the April 30, 1991, deadline for the release of all political prisoners that it agreed to in the Pretoria Minute, the accord reached between the South African Government and the African National Congress on the release of political prisoners and the granting of indemnity.

Let us be clear at the outset that—until all exiles are allowed to return to their homeland without fear of incarceration, and until all political prisoners are released—part of the first requirement for lifting sanctions, the release of all persons persecuted for their

political beliefs or detained unduly without trial, remains unsatisfied.

The de Klerk government has met the letter of the second condition of the sanctions law, by ending the state of emergency in South Africa. It is important to note, however, that the Government continues to impose the status of unrest areas on a number of black residential neighborhoods. This condition provides the same powers as under the state of emergency, and the ministry of law and order has announced recently that this will remain in force for another 3 months.

The South African Government no longer bans political parties. The African National Congress, the Pan Africanist Congress, the South African Communist Party, and the United Democratic Front are now allowed to meet in South Africa and to organize protests. Yet, the question remains as to whether the Government has truly guaranteed South Africans of all races the right to express political opinions and otherwise participate in the political process.

I believe strongly, as any American who loves our Bill of Rights must, that full participation in the political process occurs only when all citizens are able to freely exercise the right to vote. The South African Government must therefore remove any obstacle which prevents black South Africans from voting. A free political environment will not be secured until the ability to vote is guaranteed.

President de Klerk's record of two steps forward, then one back, is also clear in another area of concern. The Group Areas Act and four other land bills have been repealed, but, it appears that another measure—the Abolition of Racially Based Land Measures Act—has been implemented. This act maintains some of the worst aspects of these restrictive land provisions, one substituted for another.

This new measure maintains the status quo in white residential areas. It prohibits any change in existing "norms and standards" in these communities. Essentially, residents will be able to define their own "norms and standards" through local authorities that have the power to issue bylaws regarding the use, maintenance, and appearance of residential property. Although this measure prohibits reference to race, the "norms and standards" provision will grant powers to white residents that may be used to enforce the same policy of racial separation as upheld by the Group Areas Act of 1966.

The new law repeals the ban on the purchase of land in areas controlled by the white minority in South Africa. The extremely low income of the majority of black South Africans makes it unlikely, however, that many will be able to purchase land in these ostensibly newly accessible areas. Therefore, 87 percent of land in South Africa will remain in the possession of white South Africans. South Africa's new land policy does not address the rights of black people and communities who were forcibly removed from their land for the creation of land reserves for the white majority—forcibly removed and given no opportunity to come back.

The law requires that the South African Government not only repeal the Group Areas Act. It also states clearly that it must not institute any other measure for the same purposes. It is apparent that the "norms and standards" provision and the absence of reparations for forced removal have much of the same intent as the Group Areas Act.

The Population Registration Act was repealed yesterday in South Africa by an overwhelming vote. A new measure was approved by the South African Parliament that ends all new race classifications and removes race references that remained in other laws. However, people already classified will continue to be classified until a new constitution is adopted. The fourth condition in the sanctions law explicitly calls for the repeal of both the Group Areas Act and the Population Registration Act. It is obvious that these requirements will not be satisfied fully until a new constitution is negotiated.

The Comprehensive Anti-Apartheid Act also stipulates that the South African Government must agree to enter good faith negotiations with truly representative members of the black majority without preconditions. President de Klerk has expressed a clear interest in negotiations and has agreed to enter them in principle. However, the good faith of the South African Government continues to be questioned because of inconsistencies in its actions, most notably, its breaking of promises on the release of political prisoners and by its implemention of half measures of reform.

Further, a former South African military officer, Nico Basson, recently told a group of journalists, including a New York Times reporter, that the South African defense force has been supplying weapons and covert assistance to members of the Inkatha Freedom Party. According to Basson, weapons and other assistance have been used to attack and weaken the African National Congress by fighting its followers and inciting rivalries among blacks. These strong allegations cast additional doubt on the good faith of the de Klerk government.

Today, South Africa struggles with the question of the representative nature of its negotiating parties. President de Klerk insists that his Government must remain South Africa's legal authority until a new constitution is adopted. This position clearly sets a precondition to negotiations. On the other hand, South Africa's antiapartheid community demands that negotiators be elected representatives whose weight at the negotiating table be linked to their constituent strength. Given this disparity of views, it is premature to claim that negotiations are underway. The United Nations has presented South Africa with guidelines calling for an agreement on a mechanism for drafting a democratic constitution, and for the role of the international community. These guidelines also describe how democratic transition may unfold. An all-party conference in South Africa is scheduled for September. The success of this conference will indicate how soon genuine negotiations can begin.

Mr. President, when Congress began the Herculean task of drafting and passing legislation on South African sanctions, it did so to give voice and legislative meaning to American's repugnance of apartheid. We must not abandon that intention. We must not forget that it was the Reagan administration's abject failure to act justly on this issue that led the Congress to enact, by veto override, the Comprehensive Anti-Apartheid Act of 1986.

I have said many times in this Chamber that we, in the United States, are morally obligated to do our utmost to convince the South African Government to end its oppression of South Africa's black majority and to end the abhorrent system of apartheid. Sanctions have represented the U.S. commitment to ending apartheid. Maintaining these sanctions, until the conditions for withdrawal are fully complied with, reinforces our promise to the people of South Africa that the United States fully supports their struggle for freedom and democracy.

Mr. President, I am delighted that Senator PAUL SIMON, chairman of the subcommittee that deals with this part of the world in the Foreign Relations Committee and a leader in this effort regarding apartheid, is now on the floor and I know he will ask to speak.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Illinois.

Mr. SIMON. Mr. President, I do join my colleagues, Senator KENNEDY and Senator CRANSTON, in saying, first, we applaud the steps taken by President de Klerk and the Government of South Africa. There is no question—it is very, very encouraging.

If I may make an analogy. It is a little like the Berlin Wall coming down, and in the steps that have been taken with the release of Nelson Mandela and the signing and the passage yesterday by the parliament of the bill on population classification, we are very much encouraged. But just like when the Berlin Wall came down, there was a temporary euphoria. But a lot of problems remain.

So in South Africa today, there is great progress and we applaud the

progress of the Government and the fine statement yesterday by President de Klerk. But there are significant problems that remain.

I think it is important that the United States not rush to suddenly taking off sanctions. My hope is that Congress and the administration can work together. I have been very much impressed by the work of Assistant Secretary of State Herman Cohen, better known as "Hank Cohen," on Africa and what has been done in Angola, and the efforts there are encouraging, and what is happening in Ethiopia. But South Africa is, beyond any question, the key to what is happening in that whole southern tier of countries.

It is extremely important that the United States stick to the letter of the law in terms of full compliance before sanctions are withdrawn. And even beyond that, my hope is that the Congress and the administration would work together closely before sanctions are withdrawn. It is a fine line that we have to draw.

We have to encourage the Government of South Africa and applaud what they have done and it is a whole series of things that they have done. President de Klerk has shown amazing courage. One of the encouraging things for me, frankly, personally, is that there is a respect on the part of President de Klerk for Nelson Mandela and on the part of Nelson Mandela for President de Klerk.

Mr. Buthelezi is in the country right now, and I and some others will be meeting with him this afternoon. My hope is that the pieces will fall together and fall together fairly quickly and that serious negotiations can commence soon. But my hope is, also, that the administration will go with some of what the U.S. Supreme Court said "with all due deliberate speed," and in the case of integration that meant very, very slowly.

I am not suggesting that we go with agonizing slowness as we did with desegregation of the schools. But I think we should not send any signals that the battle is over. It is a long way from over. Negotiations, I hope, will commence soon.

The other steps that are required under the sanctions law I hope will be taken and my hope is that the administration and the Congress can work together in a coordinated way to continue to send a signal to South Africa, yes, we applaud what you are doing; yes, some additional steps are needed; yes, we hope negotiations can get going; and we look forward to the day when we can work cooperatively with you and the other nations of the southern tier there in Africa to really developing that area of the world. Everyone is ahead when that happens.

But again I think a word of caution is in order at this point so that the administration does not rush into a policy change that is at this point a bit premature.

Mr. President, during the past year, South Africa has witnessed an unprecedented move toward nonracial democracy. Opposition groups have been unbanned, African National Congress leader Nelson Mandela has been released and talks have started between the African National Congress and the South African Government. Most recently, South African State President F.W. de Klerk has led the repeal of the Group Areas Act and the land acts. Just yesterday, the Population Registration Act was repealed by the South African Parliament.

Despite these promising moves, the situation in South Africa remains troubling. The issue of violence and the Government's response has become a central issue in the disruption of the talks. There are numerous credible reports that a "third force" is actively instigating, exploiting and exacerbating the violence. The African National Congress [ANC] and many other black South Africans believe that some people in the Government are involved. Recently, the New York Times reported allegations that the South African defense force has been involved in supporting and supplying weapons to antiapartheid opposition forces.

The Africa National Congress [ANC] has pulled out of the talks until the Government takes serious action to end the violence. The Government does have a responsibility to utilize its resources to halt this violence. It is unconscionable that a Government would allow hundreds of people to be slaughtered without bringing in Government resources to prevent ongoing killings.

The violence is indeed disturbing—hundreds have been killed, thousands wounded, and numerous communities have been terrorized by brutal attacks. The recent patterns of violence are just too similar to be haphazard events. We are concerned that the Government has been slow to adequately respond to this heinous campaign. It is critical to the reestablishment of the talks that the Government is perceived as placing a high priority on seriously addressing this situation.

We have viewed this ongoing violence with great distress. It is my view that in order to renew confidence in the current process, the authorities must adopt effective measures to end the recurring violence.

With regard to the Comprehensive Anti-Apartheid Act of 1986, there is a great deal of debate on whether the South Africans have met or will soon meet all of the conditions contained in the act.

The administration, is on record as claiming that at least four conditions have been met and that the Government is likely to meet all five conditions by the end of the parliament session. There is clearly some concern that while the conditions have been partially met, the full letter of the law has not and we should move with extreme caution in our decision to lift sanctions.

While political parties have been unbanned, all South Africans are not free to participate in the evolving political process. Demonstrations have been banned and political activities curtailed, especially in the homelands, directly under South African control.

Political prisoners remain in jail, and security legislation remains in place, creating the potential that those incarcerated may be joined by others. The South Africa Government has altered its early agreements on the definition of a political prisoner and the process by which individual cases would be examined. The Human Rights Commission, a credible South African organization maintains that close to 2,000 political prisoners remain. They have identified 972 political prisoners and expect up to 1,000 unidentified remain incarcerated. Today, a total of 160 prisoners are on a hunger strike. It is critical that they solve this issue, realizing that until all political prisoners have been released, the condition has not been fully met.

Political exiles, possibly numbering up to 40,000, are still languishing outside the country, many ready to return but not without guarantees that they will not be jailed. During the Namibian independence process in 1989, the South African Government permitted 44,000 Namibian exiles to return under an automatic and comprehensive indemnity characterized by a minimum of bureaucratic fuss. We encourage the South African Government to consider the adoption of this policy in South Africa to allow for easy return of exiles.

Congress has a clear history on the creation of comprehensive sanctions against South Africa. We continue to be concerned that we do not send the wrong signal to the people of South Africa and to Americans who are concerned with this issue. To this end, we urge the administration to be mindful of congressional concern. We hope and expect that the administration will continue its policy of consultation with Congress. Consultation will allow congressional input into any decision made.

I urge my colleagues and the administration to use caution in the lifting of sanctions. The timing is not right. The breakdown in the talks is real. We must be encouraging all parties to work toward creating a climate conducive to negotiations. Lifting of sanctions at this time is not the answer to getting the talks back on track.

Mr. President, I see the Senator from Maryland on the floor and I will yield the floor to him.

Mr. SARBANES. I thank my colleague for yielding.

Mr. President, I want to address briefly the steps which have taken

place in South Africa and the path that lies ahead of us.

First of all, let me say that significant changes are underway in South Africa, and we welcome those changes. We commend all the parties that have been engaged in putting them into place.

The Congress passed, over a Presidential veto, the Comprehensive Anti-Apartheid Act of 1986. It is not easy to pass legislation over a Presidential veto, and that legislation reflected a very strong feeling in this country with respect to the apartheid system which has prevailed in South Africa, and to its total and complete unacceptability to anyone who has any concern for an understanding of basic human rights and human dignity.

I dare say that if most Americans could actually experience the workings of the apartheid system, the uproar and outrage in this county would be far, far greater than it in fact has been. People have had to be made to understand how this abhorrent system worked. Had they actually experienced it, I think most Americans would be absolutely horrified by the existence of such a system and what it represents.

To the credit of the de Klerk government, South Africa has been moving to lift the statutory framework of apartheid. I welcome that development and I urge its continuation.

The more specific question is whether sanctions should be lifted, and of course that is to a significant degree covered by the language of the Anti-Apartheid Act itself. As the repeals of apartheid laws take place, people are beginning to say "Well, apartheid is over and done with." Mr. President, it is not over and done with. Even the conditions in the statute are not over and done with.

Let me mention three very important items. First of all, the first condition of the Anti-Apartheid Act requires that all those who have been persecuted for their political beliefs be released from prison. This is a mandatory condition; it is one that must be met. It specifically mentions the release of Nelson Mandela, and that, in fact, has been done. However, the condition involves not only the release of Nelson Mandela, but the release of all persons persecuted for their political beliefs or detained unduly without trial. That has clearly not yet been accomplished.

Now, there is a significant difference between the number of political prisoners which the South African Government asserts remain to be dealt with and the number asserted by the ANC. I find it very difficult to explain the gap in their estimation of numbers. It seems to me the Government, which is, after all, the one holding and detaining these people, has a special burden and obligation to examine their situation and to move them out of prisons.

Yet they seem to have placed the burden on the ANC to address that issue. It is not quite clear to me why that should be the case when the Government is itself the detainer of these people who have been held for their political beliefs.

Second, another one of the conditions is to permit the free exercise by South Africans of all races of the right to form political parties, express political opinions, and otherwise participate in the political process.

Mr. President, there are tens of thousands of exiles who have not yet been permitted to return to South Africa. These are South Africans whom any of us would consider citizens of that country, although under the apartheid legislation they are denied the basic rights of citizenship simply because of their color. They are people who left the country, in many instances under threat of punishment, have resided abroad—some in this country, some in Europe, some elsewhere in Africa, and in other places in the world—and now wish to return to their country. Yet they have not been admitted back into South Africa with any assurance of their safety from arrest or Government harassment.

Many of these exiles represent the leadership of the elements in South Africa that were seeking to gain access to participation in the political and economic processes of that country. And while the U.N. High Commissioner has been involved in helping to make it possible for these people to return home, the U.N. High Commissioner has not been given authority by the South African Government to play the same role that the High Commissioner has played in comparable instances elsewhere in the world. Therefore, the reintegration of these people back into South African society has been delayed. Clearly, they should be allowed to come back in and participate in the political process.

The fact that the South African Government is still holding political prisoners presents an additional complication for those desiring to return from exile. In other words, there are two problems. First, the Government has failed to meet its own deadline of April 30, 1991, for the release of all political prisoners. Independent human rights commissions have estimated that significant numbers still remain as political prisoners, and have not yet been released from jail. Second, the condition on full participation cannot be considered to have been met until these tens of thousands of exiles—estimated now at about 40,000 to 50,000—are provided full indemnity and allowed to come back into the country.

Another one of the conditions in the statute calls for the repeal of the Group Areas Act and the Population Registration Act, and—just as importantly—that no other measure be instituted for the same purpose.

Mr. President, this is going to take some very careful examination because there is some reason for concern that while the Group Areas Act—the act that defines where people of different colors can live—was repealed, other legislation was put into place which may indirectly continue the system which the Group Areas Act had instituted in the first place. So the repeal of the Group Areas Act, while on its face a very welcome step, was accompanied by the passage of other legislation which may in practice allow the same situation to continue.

In particular, there is a very deep concern that no effort has been made to allow people to return to lands from which they were forcibly evicted under apartheid, laws, and that new legislation has been passed which will enable people to maintain the status quo despite the repeal of the Group Areas Act.

So, Mr. President, the caution I am sounding is that despite the steps that have been taken by the de Klerk government to repeal the legal framework of apartheid, we are still left with the fact that the practical situation has not yet met the conditions contained in the Anti-Apartheid Act.

As another example, the Population Registration Act has just been repealed, but only with respect to births yet to take place. The registration continues in existence for those who have already been registered.

Of course, the current constitutional system depends on such registration, since South Africa has a parliament for whites, a parliament for Indians, and a parliament for Coloreds, but no parliament whatsoever for Blacks—none at all, no participation whatever in the political process.

Moreover, there are many who believe the participation accorded to Indians and Coloreds under this scheme also represents no or very minimal participation in the political process. But the continuation of official racial classification for those who have already been registered, which is of course everyone except those yet to be born, means that the basic foundations of the Population Registration Act will remain in effect until a new constitution is put into place.

So in spite of the repeal of the Population Registration Act, its workings continue and will continue until a new constitution is put into place.

The fifth condition of the Anti-Apartheid Act is that the Government of South Africa "agrees to enter into good faith negotiations with truly representative members of the black majority without preconditions." These negotiations have been agreed to, in a sense, in the abstract. In other words, the South African Government has issued statements saying they intend to

do this, that this is what they are trying to do. But a negotiating process has not yet been established that would in fact hold open the prospect of moving South Africa to a nonracial democracy.

There have been talks about talks, but they do not yet have in place a process for good-faith negotiations that would lead to a new constitution establishing a nonracial democracy in South Africa, which is stated objective of President de Klerk and of Nelson Mandela and of most of the other parties in South Africa.

So, Mr. President, while we welcome much of what is taking place, I think it is clear that the movement has not yet reached the point where it has met the conditions that are contained in the legislation. We need to sustain the pressure in order to help move this process forward.

I believe the sanctions have made a significant contribution in helping to bring about change in South Africa. We still need further change in South Africa, and thus I think we need to sustain this pressure in order to encourage even further progress—in order to ensure that a nonracial democracy is in fact, established in South Africa.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXTENSION OF MORNING BUSINESS

Mr. EXON. Mr. President, I ask unanimous consent that morning business be extended to accommodate some remarks by the Senator from Nebraska.

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

THE BANK BILL

Mr. EXON. Mr. President, I wish to bring to the attention of the Nation, the U.S. Senate and the House of Representatives a widely circulated news story that I suspect has been accurately reported in more than one of our daily newspapers.

I reference, Mr. President, a headline in the business section of this morning's Washington Post that has been widely circulated in the electronic media. The referenced article, Mr. President, says "Brady:"—Brady being the czar of the whole financial institution in the United States—"Brady: Bailout Possible if Bank Bill Fails."

The story goes on, and I thought one of the most interesting quotes that came out of all of this was the Secretary had this to say:

> Suggesting that Congress will be to blame if a bank bailout is needed, Brady told a group of reporters, "If we have a reasonable economy and a strong, comprehensive banking reform bill, I believe the banking industry will be able to take care of the problem without a taxpayer bailout."

Reading from the story:

> He stopped short of specifically saying that taxpayer funds would be needed, but, questioned repeatedly, he said the only hope of avoiding a resort to public funds for the banking system is passage of the administration's bank bill.

He goes on in the story to say that failure of the Congress to pass the administration's bill will be the fault, or the blame, of Congress for the mess of the commercial banking system.

I think it is about time for the Congress of the United States, Democrats and Republicans alike, to quit playing politics with the solvency of the banking system in the United States. We have witnessed, very clearly, a mismanagement of the fiscal affairs of this Nation under this administration that followed in the footsteps of the previous administration that sold the banking and financial systems of the United States down the tubes. I wonder how many of the people in the United States fully understand that.

Now this Secretary of the Treasury is saying that, unless we pass the administration's banking reform bill as it currently stands, the Congress will be blamed for any future bailouts that are necessary of the banking system.

History seems to repeat itself. I believe almost the same words were used a few years ago by the then Reagan administration Secretary of the Treasury, when he said unless we pass the S&L refinance and reform system, all would be lost, and we might have to go to taxpayer bailout of the savings and loan industry.

This is one Senator who bought into that, and I voted for reform in the S&L industry. I was led to believe by the statements made by the then executive branch of Government, which holds not only the responsibility for making the inspections to determine the solvency of our banking institutions, but has the direct responsibility to carry out any reforms that are necessary—they misled us. They led us down that golden road to a path of success, "If you just go along with our S&L bill."

We did, and look what happened: Absolute disaster in the savings and loan industry.

Now we have a Secretary of the Treasury who is setting up the Congress once again, trying to make the American people believe that if we do not endorse and embrace every part and every syllable of the so-called bank reform legislation advanced by the Secretary of the Treasury and the President, that unless we do that, then we will be to blame for any future taxpayer bailout of the banking industry.

At the same time, the Secretary of the Treasury, the czar of our whole financial empire—out of Wall Street, I might add, which makes him suspect—is saying that he does not know and cannot predict at this time how much taxpayer money will be necessary in the future to bail out the banking system. They cannot even tell us when they expect the present fund behind the banks will reach this point of no return, or zero.

Within the last week or 10 days, we have finally had the Secretary of the Treasury be honest with the American people—for the first time, I suggest, Mr. President—by coming up with more reasonable and startling figures on the amount of taxpayer money that is going to have to go in to bail out the savings and loan industry, which has been consistently—and, I charge, by premeditated planning—fooling the American public as to how much it is going to cost them for the mismanagement of our fiscal houses in the United States of America by the previous Reagan administration, and now by this Bush administration.

It is time, I suggest, Mr. President, for us to take a very detailed look at what is going on and what is not going on. As one Senator, I cannot and will not support this latest shenanigan by the Bush administration and pass their version of a bank reform act because it would do great violence to the stability of the relatively small-sized banks in the central part of these United States, including Nebraska.

Mr. President, I think we have another major problem brewing right here, and I think that the Senate and the American people should be notified and should understand exactly how they are being taken advantage of, once again, if you will, and at the same time the Secretary of the Treasury blatantly saying that, if we do not pass the administration's bank reform package, then it will be the Congress that will be to blame for the mess. Hogwash. We are not talking about finding fault, but it certainly does disturb this Senator when I see a former Member of this body, the Secretary of the Treasury, out of Wall Street, who knows well the operations of the U.S. Senate, taking the political course of already setting up the Congress to take the blame for the potential coming disaster.

Mr. President, I ask unanimous consent that at the conclusion of my remarks the entire article from the Tuesday, June 18, Washington Post be printed in the RECORD.

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

(See exhibit 1.)

Mr. EXON. Mr. President, I certainly say at this time unless the Banking

Committees of the House and the Senate can get the Secretary of the Treasury, the main spokesman for the Bush administration on the financial soundness or lack thereof of our institutions, to come forth and give us an honest appraisal and to come forth with some meaningful changes, then I suggest that it might be appropriate—and I may well introduce at some later date or some sooner date a sense of the Senate, if you will, on the lack of faith in the ability of the present Secretary of the Treasury to perform his duties. After all, he was confirmed by this body, and I voted for him.

I thank the Chair, and I yield the floor.

EXHIBIT 1

[From the Washington Post, June 18, 1991]

BRADY: BAILOUT POSSIBLE IF BANK BILL FAILS

(By Jerry Knight and Susan Schmidt)

Treasury Secretary Nicholas F. Brady warned yesterday that taxpayers may have to bail out the banking system unless the nation's economy rebounds and Congress passes "a strong, comprehensive banking reform bill."

Brady's renewed effort on behalf of the administration's bank restructuring package is in response to increasing congressional concern that the costs of bank and savings and loan failures may be spinning out of control.

He stopped short of specifically saying that taxpayer funds would be needed, but, questioned repeatedly, he said the only hope of avoiding a resort to public funds for the banking system is passage of the administration's bank bill.

Suggesting that Congress will be to blame if a bank bailout is needed, Brady told a group of reporters, "If we have a reasonable economy and a strong, comprehensive banking reform bill, I believe the banking industry will be able to take care of the problem without a taxpayer bailout."

Bank failures to date already have nearly depleted the fund that insures deposits, and Federal Deposit Insurance Corp. Chairman L. William Seidman said he foresees another 300 bank failures by the end of next year, even if the recession ends soon.

The government's chief accountant, Comptroller General Charles A. Bowsher, also warned last week that if the pace of bank failures continues, taxpayer money will be needed to bolster the insurance fund, which now is made up of contributions by the banks themselves.

In addition, Bowsher said more taxpayer money will be needed for the cleanup of the nation's savings and loan industry, pushing the total tab for the thrift crisis toward an estimated $500 billion over 40 years, including interest.

House Banking Committee Chairman Henry B. Gonzalez (D-Tex.), Rep. John D. Dingell (D-Mich.), chairman of the Energy and Commerce Committee, and Rep. Edward J. Markey (D-N.Y.), chairman of the telecommunications and finance subcommittee, all have warned that the banking reform debate is becoming too complex to be completed by this fall, when more money will be needed for the thrift cleanup and the FDIC.

Gonzalez's committee is scheduled to resume work tomorrow on the administration's bill granting banks broad new powers, but prospects for its passage have dimmed because of new evidence that the administration's regulators can barely keep track of problems in the bank and thrift industries. In the past week, government officials have admitted they cannot predict how much bank failures will cost after next year, do not know with certainty when the FDIC will run out of money and cannot put a firm price tag on the S&L cleanup.

At the same time, the actions of banking regulatory agencies, generally among the nation's more respected governmental institutions, are being questioned.

The Federal Reserve Board has been caught up in the Bank of Credit and Commerce International scandal, with questions being raised about why the Fed allowed the Middle Eastern bank to secretly gain control of the First American banks in Washington. The Office of the Comptroller of the Currency has been criticized for failing to halt risky lending practices at Washington's Madison National Bank and at the Boston-based Bank of New England Corp. The Office of Thrift Supervision has come under fire for suggesting that weak thrifts should be kept open rather than closed. And the FDIC has faced sharp questioning because of its repeated revisions in estimates of the cost of bank failures.

While many of these developments are not directly related to the administration's bank reform bill—which is designed to restructure the banking industry and make it stronger—the threat of a bank bailout is beginning to dominate the debate over the proposal. The bill, which would allow banks to open branches nationwide and to expand into the securities and insurance businesses, also has a provision that would replenish the bank insurance fund with up to $70 billion to be borrowed from the Treasury and repaid by the banking industry.

Further complicating the course the banking bill must travel, Brady is expected to ask Congress next week for an additional $100 billion for the thrift cleanup—$50 billion to cover losses of failed S&Ls and another $50 billion to cover depositors' accounts until the assets of failed thrifts can be sold. Until now, the problems in the banking and savings and loan industries have been treated as separate issues, and one of the major changes that seems to be taking place in Congress is the linking of the two.

The $100 billion for the thrift cleanup and the $70 billion for banks adds up to "a big mountain to climb," said Senate Banking Committee Chairman Donald W. Riegle Jr. (D-Mich.). Noting that the administration originally told Congress $50 billion would be sufficient to clean up the S&L mess, Riegle said, "When you look at those numbers in reference to what they are asking for and what they projected, it's just stunning."

As for how much it might cost to rescue the banks, Riegle added, "No one is quite certain about how big it might get."

Riegle met privately last Thursday with Brady, President Bush and White House Chief of Staff John H. Sununu and cautioned them that "to get the approval of additional funding levels, there have to be improvements made" in the operations of the Resolution Trust Corp., the federal agency created to clean up the S&L industry.

The administration is willing to add RTC reforms to its banking legislation, but so far it has not come up with any specific plans, Brady said yesterday.

Repeatedly making the point that the legislation is essential to avoiding a taxpayer bailout for the banking system, Brady said that comparisons with the thrift crisis complicate prospects for the administration's banking plan.

"Any time you get into the subject of the S&L bailout, it is a subject that is extremely unpopular with the American people and especially so in Congress," he said.

Brady insisted the problems of the bank and thrift industries are much different because the banks are better regulated and are much stronger financially than the thrifts were. The similarity, he said, is that the problems in both industries were caused by bad loans that financed a massive overbuilding of commercial real estate.

"There is almost a one-to-one ratio between a lousy real estate market and a weak banking system," Brady said, and the banks' problems will not end until the real estate market improves.

There is no sign of that happening, FDIC Chairman Seidman said last week in his latest update on the health of the banking system.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AN HONEST RESPONSE TO DISHONEST STATEMENTS

Mr. KERREY. Mr. President, I rise to commend the distinguished senior Senator from Nebraska for what I have come to know as an honest response to dishonest statements. I have known him for many years now, and of all the things that I admire him for, the one which I admire him the greatest is his willingness, in the face sometimes of considerable opposition, simply to say that something that is going on in our country just is not right, that it does not smell right, that it is wrong.

In this particular case, Mr. President, what the senior Senator from Nebraska has responded to is, in fact, a dishonest statement by the Secretary of the Treasury saying that Congress will be to blame if we do not pass the President's banking reform bill; we will be to blame for a taxpayer bailout of the FDIC.

Mr. President, almost everyone who has looked at the FDIC in the past 12 months has already concluded that it is likely that taxpayers will be called upon to make an injection of money in order to restore solvency to the bank insurance fund. Almost everyone who has looked at the FDIC has reached the conclusion that the forecasts for the solvency of the FDIC have been overly optimistic and that, though it is unlikely we will face a bailout on the scale of the savings and loan, it is likely that some taxpayer money will be required. For the Treasury Secretary to assert that that bailout is going to be connected with the speed with which we pass the President's bank legislation just is not true. It is not true, Mr. President.

The response, the emotional response, of the distinguished senior Senator from Nebraska, not just on behalf of taxpayers, Mr. President, which I believe to be the case, but on behalf of people who are borrowing money as well because, though the discount rate

has been lowered in the past 15 months by the Federal marketing committee—the Federal Reserve has lowered the discount rate for banks in the United States of America—though that lowering has occurred, there is still a capital shortage for many Americans and not, Mr. President, just as a consequence of the lack of response by banks in lowering the prime interest rates in accordance with the discount rate. In fact, the prime would be 7.5 percent today had the banks responded to that lowering. Instead of responding to that lowering, they have used that margin to reduce some losses, particularly the larger banks have, they experienced as a consequence of bad loans that they made in the 1980's

What we already have is the Treasury Secretary allowing the banks to take advantage of this wider margin, not take advantage of it to lower interest rates to commercial borrowers and to home borrowers; rather than doing that, the Treasury Secretary has allowed them to use that margin to cover previous losses.

In addition to that, Mr. President, we saw recently that over 50 percent of Americans today would not be able to afford a home in the current market as a consequence of their flat and declining, in many cases, standard of living, as a consequence of the cost of houses, and as a consequence of the cost of money and the unavailability of capital.

What the distinguished senior Senator from Nebraska is responding to is not just a situation where the Treasury Secretary is trying to shift the burden of responsibility to Congress, he is not just responding to, at the very least, a misrepresentation of fact; he is responding to taxpayers' concern that their money is not being spent well; and, I believe, most important, he is responding to American borrowers who are unable to get affordable home loans, who are unable, as well, to get the money that they need for small and startup businesses, or unable to get the capital that they need to make productive investments.

Mr. President, again, I am very proud this morning that the distinguished senior Senator from Nebraska has responded in the way that he has. I think he not only engaged the Treasury Secretary in a manner he deserves to be engaged, but he has sounded a warning bell in the Congress that we simply are not going to vote every single time they send down a piece of legislation; that we are not simply going to roll over every time a new request comes for funding, and they will have at least a request for another $100 billion of cash from the taxpayers for the savings and loans and the banks come this fall; that we simply are not going to roll over every single time a request comes our way, because we see capital shortages and borrowers in our States that are in a great deal of difficulty and we see taxpayers angry at the way they have managed it thus far.

Mr. President, I yield the floor.

VOLUNTARY AGENCIES STATEMENT ON VIETNAM

Mr. KENNEDY. Mr. President, the office of the U.N. High Commissioner for Refugees recently sponsored a visit to Southeast Asia by a distinguished group of voluntary agencies—they call them nongovernmental organizations in the United Nations—to evaluate the progress in the implementation of the internationally, negotiated "Comprehensive Plan of Action" for Indochinese refugees.

They recently returned and issued a very thoughtful report on their observations and recommendations regarding the continuing question of how to deal with the flow of people from Vietnam. On the crucial question of repatriation, they found, for example:

That contrary to prevalent understanding in their home countries of the United States, Canada and Australia, conditions in Vietnam are actually favorable for repatriation.

In addition, Mr. President, the delegation found that the motives for departing Vietnam were "for a variety of reasons but not political persecution"—which is the essential basis for deciding who is a refugee and who is not. And on repatriation to Vietnam, the delegation "heard no evidence to indicate that returnees suffer harassment, maltreatment, or discrimination on return."

The findings and observations of this delegation are all the more important because of its composition—representing some of the most distinguished leaders of the voluntary and church agencies long involved in the Indochina refugee program.

Mr. President, I commend to the attention of the Senate the important statement issued by this delegation, and ask that it be printed at this point in the RECORD.

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

[From Monday, a weekly newsletter on refugee and immigration issues, Vol. 10, No. 12. June 10, 1991]

NGO'S SUPPORT PROGRESS FOR THE COMPREHENSIVE PLAN OF ACTION FOLLOWING UNHCR SPONSORED VISIT TO VIET NAM

A UNHCR sponsored group of Non-Governmental Organization (NGO) representatives visited Viet Nam and its environs May 14–21 in support of voluntary repatriation as proffered by the Comprehensive Plan of Action. CWS/IRP Director, Mr. Dale S. de Haan, led the NGO delegation of six, including Le Xuan Khoa, Indochina Resource Action Center, Burgess Carr, Episcopal Migration Ministries, Ralston Deffenbaugh, Lutheran Immigration and Refugee Service, Tom Clark, Canadian Interchurch Committee for Refugees, and Russell Rollason, Australian Council for Overseas Aid. The observers visited Bangkok, Hanoi, Hai Phong, the province of Quang Ninh and Ho Chi Minh City. Five members of the delegation visited refugee camps in Hong Kong, and Mr. de Haan visited the CWS/IRP administered Joint Voluntary Agency in Kuala Lumpur. The visitors spoke freely and frequently with returnees, interviewing over 60 repatriates without Government or UN officials present.

OBSERVATIONS

The NGO team assessed that contrary to prevalent understanding in their home countries of the United States, Canada and Australia, conditions in Viet Nam are actually favorable for repatriation. The delegation released a statement (see attached) citing progress towards a free and open Vietnamese society with rises in personal freedom in conjunction with private entrepreneurship and some economic buoyancy. There have been no reports of abuse of returnees upon return. The observers learned from voluntary returnees that they had originally fled for reasons other than political persecution. Observers concluded that the UNHCR, with the Socialist Republic of Viet Nam (SRV), is in good faith complying with the terms of the Memorandum of Understanding between SRV and the UNHCR, drawn in 1988, providing for the safe and dignified voluntary return of refugees from countries of first asylum.

RECOMMENDATIONS

NGO representatives lauded the UNHCR's dedicated efforts in carrying out the CPA. Recommendations were made for the overall effectiveness of the program which involved continued attention to the more efficient flow of information into and out of Viet Nam, as well as increased international efforts to integrate Viet Nam into the global economy. The need for timely delivery of funds promised by CPA-participating countries to returnees upon return was stressed. The Vietnamese government was asked to support returnees by not harming family leaders who initiated proceedings to return home and by prompt restoration of confiscated properties. The NGOs appreciated the trust and willingness of the Government of the Socialist Republic of Viet Nam to receive more interested visitors in support of a brighter future for Viet Nam and its people in the global community.

OBSERVATIONS AND COMMENTS FROM THE NON-GOVERNMENTAL ORGANIZATION VISIT TO VIET NAM, MAY 14–21, 1991

1. A team of six representatives from Non-Governmental Organizations in the USA, Canada and Australia visited Viet Nam from May 14–21, 1991 to assess the situation of people who have returned under the voluntary repatriation program established by the Comprehensive Plan of Action for Indochinese refugees.

The visit took place following the May 1991 meeting of the Steering Committee of the Comprehensive Plan of Action at which governments made a renewed and stronger commitment to the Plan.

The team visited Bangkok (Phanat Nikhom), Hanoi, Hai Phong, Hong Gai in the province of Quang Ninh and Ho Chi Minh City, with one going to visit Kuala Lumpur and four visiting the refugee camps in Hong Kong.

2. The team is grateful for the assistance provided by UNHCR for arranging our program; to the various Ministries of the Government of the Socialist Republic of Viet Nam for their hospitality and briefings and the Peoples Committees in Hanoi, Hai Phong, Quang Ninh and Ho Chi Minh City for

their hospitality and assistance. In particular, the team thanks all the returnees who spontaneously granted us interviews and answered our questions.

3. Those among the team who had visited Viet Nam previously remarked how they were surprised and impressed with the considerable progress the country was making toward becoming a more open society.

We sensed a strong desire amongst the people to see further progress towards a free and open society. Private entrepreneurship is vigorous and there is evidence of economic buoyancy that is nurturing the increase in personal freedom.

We experienced unhindered access to the people with whom we wished to talk and freedom to ask any questions with or without the presence of Government representatives. On several occasions we selected returnees and met with them without the presence of either Government or UNHCR officials.

4. *Departures.* In our conversations with the returnees we heard that people had left Viet Nam for a variety of reasons but not political persecution.

5. *Screening.* Most of the returnees we interviewed said they were not aware of the screening process before their departure. After learning of the screening process and conditions to be granted refugee status, many did not think that they had a sufficient claim to be "screened-in" and so chose to return to Viet Nam before screening.

6. *Returning.* In our interviews with returnees and discussions with a variety of sources (international NGO staff, diplomats, journalists, EC and UNHCR officials) we heard no evidence to indicate that returnees suffer harassment, maltreatment or discrimination on return.

We have concluded that UNHCR and SRV are in good faith complying with the terms of the Memorandum of Understanding between SRV and UNHCR (December 13, 1988) which provides for the voluntary return from countries of first asylum in conditions of safety and dignity.

The departure of several family groups or groups of close friends appear to have been organized by the head of the household or a "leader" within the group. In order to facilitate further voluntary return, it is important that no action be taken by Vietnamese authorities against such family/group based organizers of illegal departures who have no previous criminal record.

Similarly, voluntary return will be encouraged by consistent and generous restoration of confiscated property to returning, previous owners.

7. *Monitoring.* It is clear that there is an informal and effective network for communication in Viet Nam and with the international Vietnamese refugee community. News travels fast and travels with ease to all parts of the world.

Monitoring occurs in this context and must be seen in this context. Not all returnees are visited on a systematic and regular basis but rather on a random basis.

The increasing presence of international NGO staff in both urban and rural areas contributes to the increased flow of information and thus enhances the confidence in the monitoring process.

Given available resources, we are satisfied that UNHCR is adequately fulfilling its monitoring responsibilities in Viet Nam.

8. *Resources.* We regret that CPA donor governments have been slow in making their pledged contributions for 1991. The result is that returnees have had to wait for up to three months for their first quarterly payment of their return assistance. This is an unacceptable delay considering these people by-and-large return with nothing.

Payment to returnees must be made promptly or the process is put at risk. Donor governments, must ensure the necessary funds are available as required.

As numbers increase, it is incumbent on governments to make available the necessary resources to UNHCR in a timely manner to ensure all aspects of the Plan, including information, monitoring and screening payments, are adequately addressed.

We express appreciation for the speedy contribution from the US Government to the CPA, but urge the US Government to revise its policies to allow its contributions to be spent in Viet Nam.

9. *EC Assistance Program.* We were impressed with the sense of urgency the Program Director showed in discussions on progress made in implementing the EC program of assistance. We welcome the substantial NGO involvement in the implementation of the program.

We note in particular that 60% of available loan funds are for nonreturnees indicating that it is not necessary to leave Viet Nam and be returned in order to access these funds.

10. *Information and Communication.* Ready access to accurate information remains the critical need for effective implementation of the CPA. Rumors inspire people to leave, cause people to fear return and in some cases lead people to choose to return. Rumors hinder a speedy and fair process.

All interested parties must ensure that accurate and up-to-date information is more readily available. The communication procedures must be better organized. More resources and greater attention must be applied to this issue both in the camps in countries of asylum through counselling and other programs, as well as in Viet Nam and internationally.

11. *Orderly Departure Program (Family Reunion).* We met the US Orderly Departure Program interview team in Ho Chi Minh City which has begun processing at an increased rate. Persons with close relatives in the US (and in similar programs for Australia, Canada and Europe) can seek to immigrate directly from Viet Nam. This program is increasingly becoming a viable alternative for eligible persons wishing to leave.

12. *Development.* At the heart of the human tragedy that has seen thousands of Vietnamese leave on unsafe boats in search of a better future is the combination of social, economic and political conditions in Viet Nam and the constraints stopping development assistance from the IMF, World Bank and major western donor governments. It is deeply regrettable that Viet Nam's participation in the global economy continues to be hampered because of difficulties in its bilateral relationship with the United States of America. Viet Nam needs and wants development assistance.

It is time to allow and encourage Viet Nam to participate fully in the international community with all the concomitant rights and responsibilities of states with progressive realization of human rights. We urge our NGO colleagues to support and advocate the necessary policy changes.

13. *Visits.* We note the openness of the Government of the Socialist Republic of Viet Nam to receive additional delegations, and we encourage other concerned individuals and groups to visit Viet Nam to experience the situation firsthand.

14. *Trust.* In conclusion, we wish to pay tribute to the UNHCR officials we met, responsible for the implementation of this program. We have been impressed by their dedication and integrity, in spite of the sometimes difficult circumstances in which they work.

We believe that further cooperation between UNHCR and NGOs will consolidate the trust the international community has placed in UNHCR.

Le Xuan Khoa, President, Indochina Resource Action Center, Washington

Burgess Carr, Executive Director, Episcopal Migration Ministries, New York

Dale de Haan, Executive Director, Immigration and Refugee Program, Church World Service, New York

Ralston Deffenbaugh, Executive Director, Lutheran Immigration and Refugee Service, New York

Tom Clark, Co-ordinator, Interchurch Committee for Refugees, Toronto

Russell Rollason, Executive Director, Australian Council for Overseas Adi, Canberra

HONG KONG, *May 23, 1991.*

TRIBUTE TO DR. WILLIAM O. FARBER

Mr. PRESSLER. Mr. President, I want to take this time to honor my undergraduate college mentor, Dr. William O. Farber. This University of South Dakota political science professor is best known for taking students who may lack direction and providing them with helpful encouragement. He has been a role model for myself and hundreds of other University of South Dakota students.

Dr. Farber established the Farber Student Internship Fund, which helps pay travel expenses for students to attend special seminars and to take part in overseas study trips, as well as other educational activities here in the United States. He has also written many books on the history of South Dakota government and is now working on his memoirs to be entitled "Footprints on the Prairie."

Mr. President, I ask unanimous consent that the Yankton Daily Press articles about Dr. Farber be printed in the RECORD.

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

RETIRED PROFESSOR STILL BUSY

(By Sue Ivey)

VERMILLION—For Dr. William O. Farber, advising students can begin over a plate of cookies in his living room and continue with a trip to London.

This University of South Dakota political science professor emeritus is well-known for taking bright students—especially bright students that may lack direction—under his wing. He provides the encouragement they need, says long time friend and colleague Dr. Loren Carlson.

NBC Nightly News' anchor and Yankton native Tom Brokaw, South Dakota Sen. Larry Pressler, USA Today founder Allen Neuharth of Gannett and CBS Sports' host Pat O'Brien are a few of Farber's more well-known students that consider him their mentor.

Farber, 80, official retired in 1976, but unofficially he says he'll keep working as long as his health allows.

Today he and Carlson are speaking with students at Boys State about South Dakota county government. They wrote the book on our state's government, literally. And now they're revising it for the fourth edition.

Farber came to USD after earning his doctorate at the University of Wisconsin in 1935 at the age of 25. Vermillion became his home and his students became his family.

Since retiring he continues to advise students, revise books, enjoy the Emeritus Club, write students letters of recommendation and spend a good deal of time going to their weddings, their children's christenings and still finds time to testify at committee hearings on state reapportionment in Pierre and administer the Farber Student Internship Fund.

His commitment to good government is at the center of it all.

"What art could be accomplished, what music could be accomplished, what science could be accomplished without good government? The first requirement for progress in civilization is good government."

VERMILLION.—Fifteen years after retiring from the University of South Dakota, Professor Emeritus William O. Farber is still setting fires under young political science majors.

Just two weeks ago, he invited a dozen to his home near campus—Farber Hall, it's called—to meet CBS sports host and his former student Pat O'Brien, who was being honored at spring graduation with an honorary Doctor of Laws degree.

"I think when you have people like that, there's no point in sharing them with faculty and administrators," Farber says. "The important thing is to get the students here to see these role models."

Farber himself has been a role model for USD students. He came to teach in Vermillion after earning his doctorate from the University of Wisconsin in 1935 and, although he was at first inclined to concentrate strictly on the subject matter, he was soon involved in the practical side of government and it has enriched his teaching.

He became administrator of the price control program for South Dakota in 1941, was a warrant officer in the U.S. Air Force during WWII, worked on the Regional Loyalty Board after the war, and became the first director for the state's Legislative Research Council from 1951–55.

He was a visiting professor at the University of Wisconsin, Northwestern University and Seoul National University in Korea, all the time serving as department head and mailing recorded lectures to USD.

Then he was minority counsel for the U.S. Senate Committee on National Policy Machinery, and from 1967–1970, secretary for the Committee on Education, Cultural Affairs and Information with the North Atlantic Assembly, helping at the request of Sen. Karl Mundt to set up a seminar on public administration that taught the principles of democracy to representatives from NATO countries.

He was a member of the State Constitutional Revision Commission, formed by Gov. Frank Farrar and spent 10 years as chairman of the Vermillion Planning Commission. He combined each of these responsibilities with his university teaching.

"He just is one of those guys who makes time," said friend and colleague Dr. Loren Carlson.

Farber knows leaders at every level of government and business, and that knowledge proved invaluable in providing connections and practical experience for his students.

For example, in 1969, Farber took O'Brien to a conference in the Soviet Union where he was one of a number of students who spoke about their countries. O'Brien talked about the youth protest movement of the 1960s.

"He has never forgotten this. It's opened his eyes to what he can do," Farber said.

This has been one of Farber's special gifts through the years and he continues to help students "without fanfare," Carlson said.

"I've taken a number of students with me on trips. What it does is to broaden their horizons and especially to see that it's not impossible for them to be part of a bigger picture," Farber said. "Suddenly they realize that they are not inferior in a competitive way, that they are equal, if not superior to many of the students from larger, Eastern schools. They realize that there are important positions they can occupy with proper training."

Part of his work is with the Farber Student Internship Fund, which was started in the 1970s. It helps pay for students to travel to special seminars and to take part in tours.

USD Foundation Director Ken Grover said the endowed fund now has more than $500,000 in contributions and provides about $25,000 per year to students. Ten students returned this week from a week-long trip to Washington, D.C. where they talked with congressmen and visited national institutions most had never before seen.

Another 20 students are in Great Britain for a study tour this month. The fund also helps students attend an annual model United Nations gathering with students from universities across the country and some attend the moot court competition in Des Moines, Iowa, as well.

In between attending weddings of former students and writing letters of recommendation, he has been revising the book, "Government of South Dakota," with Carlson. He testified at recent legislative committee hearing on reapportionment and received a certificate honoring him from the State Historical Society.

He has been writing an outline for his memoirs, to be entitled "Footprints On The Prairie," Here, too, a recent graduate of the University of Minnesota School of Law has volunteered his time to help Farber in compiling the 12 chapters that will detail his experiences.

Visitors find a box of recent correspondence to answer on Farber's workroom desk. He keeps a wastepaper basket under his mail slot to collect the many incoming letters and periodicals.

Still, this week he got a call from those organizing Boys State in Aberdeen, asking him to speak to some 600 boys on county government, Carlson said, Farber asked Carlson to go too.

"He just dropped everything. I went over there and he was sitting there with the computer, getting materials together," Carlson said.

"That's just typical of how things go."

TRIBUTE TO SENATOR JOHN HEINZ

Mr. LEAHY. Mr. President, John Heinz made his last floor statements here on March 21. Among them were praise for the concluded war effort, the President and returning troops; a discourse on consumer protection against criminal fraud; a treatise on the international computer chip war; and a study request to clarify aspects of tax law.

That was business.

I have wondered what our departed friend might have said had he known he was addressing us for the last time.

I have thought about this often since his untimely and tragic death. Senator Heinz has been eulogized by associates and friends who knew him far better than I.

But I knew Senator Heinz best, as I know most of my fellow Senators, through our association here in the U.S. Senate.

My solace in his passing was this small group of men and women, bound so closely by tradition, history, and public service.

And it came to me that John Heinz would have ended his Senate career with an expression of admiration for this institution, a sense of awe for having been given the honor to serve, and an expression of appreciation to the public who gave him the opportunity to serve.

And he would have flashed his famous smile—and told us to carry on.

Marcelle and I share the deepest sympathy for his wife, Teresa and the lovely children.

The institution endures, and grows stronger because of men and women like John Heinz. And it carries on, as he would wish. It was improved by his presence and diminished by his leaving.

FORMER SOUTH DAKOTA CONGRESSMAN BEN REIFEL

Mr. PRESSLER. Mr. President, my State of South Dakota lost one of its great leaders when Ben Reifel died last year. As the first Sioux Indian to be elected to the U.S. House of Representatives, he had a great impact on those who knew him and worked with him.

Last year, I introduced an amendment to the fiscal year 1991 Department of the Interior appropriations bill to rename the Cedar Pass Visitor Center in the Badlands National Park as the Ben Reifel Visitor Center. On May 11 of this year, the Badlands National Park in South Dakota hosted a Ben Reifel Day, which included the official dedication of the Ben Reifel Visitor Center.

When I introduced the amendment to rename the Cedar Pass Visitor Center in his honor, other Senators who had worked with Ben rose to pay tribute to his unimpeachable character and his distinguished career in the U.S. Congress. I was pleased that other Senators acknowledged the work of this great statesman from South Dakota.

Mr. President, I ask unanimous consent that an article by Ben Reifel's daughter, Loyce Reifel Anderson, from the June 5, 1991, Sisseton, SD, Courier

be printed in the RECORD immediately following my remarks.

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

[From the Sisseton (SD) Courier, June 5, 1991]

CONGRESSMAN BEN REIFEL REMEMBERED BY DAUGHTER

(By Loyce Reifel Anderson)

Ever since I was first asked to say a few things about Dad several weeks ago, I have spent many hours reflecting on his life.

My father would be so pleased for this visitors' center to be named in his honor. The Badlands National Park was not only his favorite spot in South Dakota, but his favorite national park.

Basically he was not a complex person but a people person. He enjoyed fishing, hunting, going to the circus, visiting with people, watching the sunset and being in the Badlands during a thunderstorm and watching the sheet lightning. He believed in God, his country, his fellow men and himself. He worked hard trying to bring about changes from within and with dignity.

He was born in a log cabin at Cut Meat, the eldest of five boys, and raised by a devoted mother. She was born not long after the Battle of Little Big Horn and became a Christian at 12. He was also greatly influenced by his grandmother who lived with them. This grandmother, WeWela, was a member of Spotted Horse's Band of Lower Brule and belonged to the sub-band of Black Crown and Hollow Horn Bear. He told of going out on the prairie to help her dig for wild turnips, carrying their lunch in a flower sack; and before they ate, WeWela would give her offering to the Four Winds.

He was a school "dropout" until an interested teacher helped him to finish the seventh and eighth grades at the age of 16. Dad would tell us with a twinkle in his eyes that he got the highest mark in the county for his eighth grade exam. He was also the ONLY eighth grade graduate in the county that year!

He was always ready to try new things and new ideas. Probably the most challenging event was leaving home and the reservation at the age of 19 to attend "Aggie School" in Brookings. (Aggie School was a five-month boarding high school program designed for farm and ranch students where there were in high schools available and was part of the Land Grant College program).

This was his first time away from the reservation and his family—first train ride, going completely alone to a place he knew nothing about and to live in an all-white world. Although he later would have degrees from South Dakota State University and Harvard, he would always very proudly say, "I learned that in Aggie School!"

He was known as Ben by everyone, including me. In fact, it was when he was in the Army and had to be addressed by rank and last name only that I finally started calling him Dad because no one knew who Ben was. He was able to run for Congress using only his given name.

By the time he ran for that first primary election, he was only two years from retirement from the Bureau of Indian Affairs.

He once commented that he had lived one-third of the life of the United States. In those 83 years he walked many paths, always trying to make things better for his people and others.

Once when I was about eight months old, we took a trip a visit friends in Montana and to see Glacier and Yellowstone national parks. My mother never called it a vacation, as traveling with an infant over 50 years ago was not as easy as it is today. Pasteurized milk was not available in every community. As we neared Sheridan, WY, I was hungry, and with a crying infant Dad drove into town to find a grocery. What he found were signs saying, "no dogs or Indians allowed." My blond, green-eyed mother tried to keep me quiet till we found another community to shop in. Dad vowed never to stop in Sheridan again, but we did 20 years later when All American Indian Days Celebration was held there, and Dad was honored as the Outstanding American Indian of the year.

He went from lunch on the prairie to dinner at the White House. From spiffy new bib overalls and high-top tennis shoes ordered from Sears and Roebuck to attend and call at a community square dance to black tie dinners in Washington, D.C. He was most comfortable in his fishing clothes—and having the opportunity of teaching his three granddaughters the fine art of getting that worm on a hook and catching the "big one."

He bridged that generation gap that somehow only grandfathers can. These three young women learned about honor, trust and a deep respect for their heritage from him. They also learned the difference between a full house, a flush and a straight. And any story they felt Mom and Dad's ears shouldn't hear, they couldn't wait to tell their grandfather. At their weddings he gave the benediction in Lakota and was as nervous as the groom and as proud as their father.

He did not leave many material things, but a legacy rich with friends and deep family love and responsibility. Thank you for remembering him in this way—he would be so proud.

TRIBUTE TO A.B. "HAPPY" CHANDLER

Mr. FORD. Mr. President, as we conduct our business here today, a former Member of the Senate and one of Kentucky's must beloved sons, A.B. "Happy" Chandler, is being remembered and memorialized across our great State. It was with a great deal of sadness that I learned of the death of Happy this past Saturday, and I regret that my required presence in Washington does not allow me to personally pay my final respects to him.

Mr. President, there will never be another like Happy Chandler, who would have turned 93 years of age on July 14. He was a remarkable man that rose from the humblest beginnings to the halls of great power, while at the same time never forgetting a name, never forgetting a face or never forgetting his special rural Kentucky roots. Without a doubt, Happy is, and will always be, a Kentucky legend. He was a statesman, a showman, and an administrator, and above all was a fighter for the causes he believed were right.

A.B. "Happy' Chandler, was born on July 14, 1898, in Corydon, KY. He graduated from Transylvania College in 1921, and went on to earn his law degree from the University of Kentucky. He opened his law practice in Versailles at the young age of 26. He served Kentucky as State Senator, Lieutenant Governor, and two terms as Governor in 1935 and 1955. He was elected to this body in 1939 and served through 1945, when he resigned to take the position of Commissioner of Baseball. In 1982, he was elected to the Baseball Hall of Fame for his role in the integration of major league baseball.

Happy Chandler had a special hold on the citizens of Kentucky, unlike any public figure before him or since, Mr. President. To watch Happy give a speech to an overflow crowd of supporters was to watch a man who knew how to communicate to them and had the special gift of touching people's hearts. During today's ceremony in Kentucky, there will be no more fitting tribute to him than the playing of Happy's own special rendition of our beloved State song, "My Old Kentucky Home." It will serve as a lasting reminder of Happy's genuine affection and love of Kentucky and the special place he will always hold in the hearts of all Kentuckians.

My thoughts and prayer go out to Happy's lovely wife of 66 years, Mildred, affectionately known to Happy and all Kentuckians as "Mama," their children, grandchildren and great-grandchildren, and their extended family during this difficult time.

Happy Chandler was often fond of saying that he came a long way for a boy from the country who was dropping tobacco plants for 25 cents an hour. Yes, Happy, you did come a long way, and we are all better for having the distinct pleasure of having known you and having you touch our lives.

A TRIBUTE TO JAMES A. PARSONS

Mr. BURNS. Mr. President, as we complete debate on Federal highway legislation I want to add a personal note, that of the tragic death of one of my staff, Mr. James Parsons who was struck and killed by a hit-and-run motorist last Friday evening. He will be buried this coming Saturday.

Although what happened is a terrible tragedy and we will all miss James, my staff and I don't want to mourn his passing as much as we would like to celebrate his being here with us for at least a short time. James was only 24 years old when he died but he had already accomplished a great deal in that short time.

My association with James began on day one when he began the task of putting together a computer system for my office here in Washington and in our field offices in Montana. That system became a model for the U.S. Senate. We had faith in James because he was the kind of "can do" person that the Senate can't do without.

James had just completed his first year of law school at George Mason University where he studied at night. His goal was to be a lawyer and perhaps even a judge. I don't doubt that he

would have achieved that goal or any other that he set out to achieve.

In Montana, we have an expression that we use when we agree to do something. In a State where a handshake is an agreement, the words "you bet" are its signature. To James the words "you bet" meant that he would deliver. He never failed me or the others around him. He delivered.

Will he be missed? You bet he will.

ADAMHA REORGANIZATION ACT

Mr. KENNEDY. Mr. President, yesterday Senator HATCH and I introduced S. 1306, the ADAMHA Reorganization Act of 1991. I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD at this point.

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

SECTION-BY-SECTION ANALYSIS OF S. 1306—THE ADAMHA REORGANIZATION ACT OF 1991

TITLE I

Title I reorganizes the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) by separating the research and service-related functions of the agency. The reorganization is accomplished by transferring the three ADAMHA research institutes—the National Institute on Alcohol Abuse and Alcoholism (NIAAA), the National Institute on Drug Abuse (NIDA) and the National Institute of Mental Health (NIMH)—to the National Institutes of Health (NIH). ADAMHA is then reconstituted as ADAMHSA, the Alcohol, Drug, Abuse and Mental Health Services Administration.

Subtitle A. Restructuring

Section 101. Restructuring:

This section restructures ADAMHA as ADAMHSA. Obsolete portions of Title V of the Public Health Services Act are deleted and replaced by provisions authorizing ADAMHSA. This section-by-section analysis will briefly describe each of the newly created sections of Title V.

"Subpart 1":

"Sec. 501" establishes the Services Administration and sets forth the duties of the Adminstrator, a Presidential appointee. There are to be Associate Administrators for Mental Health and Substance Abuse, respectively. The Administrator shall have authority to create agencies within the Administration, including an Office for Substance Abuse Prevention, and Office for Treatment Improvement, and an Office for Mental Health Services.

"Sec. 502" describes the activities of the Administrator that will support the provision of treatment and prevention services. The Administrator will collaborate with the Directors of the research institutes on matters of mutual concern. The Administrator will carry out all grant programs that support treatment and prevention services, including the block grant.

"Subpart 2" authorizes or reauthorizes a series of treatment and prevention programs:

"Sec. 505" reauthorizes the High Risk Youth Grant Program.

"Sec. 506" reauthorizes and improves the ancillary services of the Maternal Substance Abuse Grant Program.

"Sec. 507" reauthorizes and improves a program for Grants of National Significance.

"Sec. 508" authorizes a grant program for substance abuse treatment in criminal justice systems.

"Sec. 509" authorizes a program of treatment and prevention training grants.

"Sec. 510" authorizes the Substance Abuse Treatment Capacity Expansion Program.

"Sec. 511" authorizes AIDS outreach grants and grants for homeless individuals.

"Sec. 512" reauthorizes the Community Partnership Grant Program.

"Sec. 513" reauthorizes demonstration projects for support of community mental health services.

"Subpart 3" addresses administrative matters relevant to the Services Administration.

"Sec. 515" requires the appointment of one or more advisory councils for the Services Administration.

"Sec. 516" provides for peer review of services grants.

"Sec. 517" requires that applications for grants be made in a form prescribed by the Secretary and contain assurances of compliance satisfactory to the Secretary.

"Sec. 518" requires the Administrator to establish procedures for misconduct with respect to the funds expended by the Administration.

"Sec. 519" authorizes the Administrator to obtain the services of up to twenty experts or consultants in accordance with current law.

"Sec. 520" establishes an Office for Special Populations within the Administration to address the needs of women, minorities and the elderly with respect to treatment and prevention services.

Section 102: National Institutes.

This section establishes the three research institutes (NIAAA, NIDA and NIMH) within the National Institutes of Health. The section creates a new subpart IV in title IV of the Public Health Services Act.

"Chapter 1":

"Sec. 486A" establishes the National Institute on Alcohol Abuse and Alcoholism.

"Sec. 486B" establishes the National Institute on Drug Abuse.

"Sec. 486C" establishes the National Institute of Mental Health.

"Chapter 2";

"Sec. 486H" sets forth the research mission of the three institutes and describes the means by which research may be carried out, including the establishment of intramural programs.

"Sec. 486I" establishes National Mental Health and Substance Abuse Education Programs, to be carried out by the institutes, for the dissemination of research findings on these subjects.

"Sec. 486J" authorizes the establishment of National Substance Abuse Research Centers.

"Sec. 486K" establishes a Medications Development Program within NIDA to promote and encourage the development, approval and marketing of anti-addiction medications.

Subtitle B. Miscellaneous alcohol and drug abuse provisions

Section 111: Miscellaneous Provisions.

This section largely duplicates existing title V authority regarding miscellaneous substance abuse provisions. Certain provisions in current law apply identically to alcohol and drugs—these have been consolidated under the heading of substance abuse in the revised Title V.

"Sec. 541" authorizes the Secretary to provide technical assistance to state and local agencies with respect to the management of their treatment and prevention activities.

"Sec. 542" authorizes the Administrator to foster and encourage substance abuse treatment and prevention activities in government agencies and in private industry through the development of model programs and the dissemination of information. Subsection (b) of this section protects recovering substance abusers from employment discrimination, with certain enumerated exceptions.

"Sec. 543" protects substance abusers from discrimination in admission to hospitals and other facilities.

"Sec. 544" establishes the confidentiality of medical records regarding substance abuse. The circumstances under which confidentiality does not apply are set forth in subsection (b).

"Sec. 545" describes the duty of the Secretary to collect various data on substance abuse and mental health. The data that must be collected on mental health is set forth in subsection (b), and the data that must be collected on substance abuse is set forth in subsection (c). Some of the data collection activity to be undertaken pursuant to this section is properly within the realm of research and other activity is properly within the realm of services. Therefore, all of the data collection activity is assigned to the Secretary, who must act through the institute directors or the services administrator, as appropriate. Subsection (d) mandates certain studies pertaining to drug exposed infants.

"Sec. 546" authorizes the Secretary, acting through the Administrator to respond to public health emergencies with appropriate services. Parallel authority already exists in Title IV to enable the Secretary to respond to public health emergencies with appropriate research.

Subtitle C. Transfer provisions

This subtitle contains standard legislative language to address the practical and legal consequences of transferring the research institutes and reconstituting ADAMHA as ADAMHSA.

Section 121. Transfers. Services authority is transferred to the ADAMHSA Administrator, research authority is transferred to the three institute directors, and adequate personnel and resources during the transfer are required.

Section 122. Delegation and Assignment. Both the ADAMHSA Administrator and the institute directors are authorized to delegate authority as appropriate.

Section 123. Transfer and Allocation of Appropriations and Personnel. Appropriations and personnel utilized for research are transferred to NIH with the research institutes, and appropriations and personnel utilized for services are transferred to ADAMHSA.

Section 124. Incidental Transfers. The Secretary is authorized to make determinations and incidental transfers with respect to personnel, appropriations, etc.

Section 125. Effect on Personnel. Employees of ADAMHA are afforded specified protections from adverse consequences as a result of reorganization.

Section 126. Savings Provision. The status of previous ADAMHA determinations (*e.g.*, rules and regulations) and pending legal proceedings are set forth in this section.

Section 127. Separability. Invalid provisions of this subtitle do not invalidate the Act.

Section 128. Transition. The ADAMHSA Administrator and the institute directors are authorized to use HHS personnel to effect the reorganization.

Section 129. References. References to ADAMHA in law are deemed to apply to ADAMHSA.

Subtitle D. Conforming Amendments

Subtitle E. Miscellaneous Provisions

Section 141. Alternative Sources of Funding for Certain Grantees. The Secretary is required to make diligent efforts to find alternative sources of funding for programs receiving funding under the current Community Youth Program, which is not reauthorized. One possible source of funds is the High Risk Youth Grant Program.

Section 142. Peer Review. The same peer review systems, advisory councils and scientific advisory committees utilized by the three ADAMHA institutes are to be utilized by them after the transfer to NIH.

TITLE II

Title II reauthorizes and improves the Alcohol, Drug Abuse and Mental Health Services Block Grant Program. The block grant will be administered by the new Services Administration.

Section 201. Authorization of Appropriations. The block grant is authorized at $1.5 billion in FY92 and such sums for two fiscal years thereafter. Not more than 5% may be used by ADAMHSA for technical assistance, monitoring, evaluation and the state treatment plan requirement.

Section 202. Revision of Block Grant Formula. The formula by which block grant funds are apportioned among the states is revised in five signficant respects. The new formula:

(1) eliminates the urban weight component of the current formula but double-counts each state's population of urban 18-24 year olds to reflect the fact that drug abuse within this age group is twice as prevalent in urban areas;

(2) inserts in the formula a "cost of services" index, constrained to within 10% of the national average, that reflects the higher cost of providing services in urban areas;

(3) provides a small state minimum under which states that received $7 million or less in FY89 will receive no less than a percent increase equal to 25% of the cumulative percentage increase in the total block grant allocation since FY89;

(4) ensures that no state loses money between FY91 and FY92, and ensures that after FY92, no state may lose more than 5% of their block grant allocation in a single year;

(5) provides that no state may gain more than $20 million in a single year unless the total block grant appropriation increases by more than $200 million.

A chart at the end of this section-by-section analysis sets forth the impact of the new formula on each state, assuming funding increases.

Section 203. Use of Unobligated Funds by States. States are permitted to use unobligated funds in a subsequent fiscal year, if the funds were obligated but rendered unobligated due to the state's diligence in carrying out the purposes of the block grant program. Under current law, all unobligated funds revert to the U.S. Treasury.

Section 204. Revision of Intravenous Drug Set-Aside. The Secretary is required to grant a waiver from the 50% IV drug user set-aside if he makes a finding that the incidence of IV drug use in the state does not warrant the level of funding that would result from a 50% set-aside. Under current law, the Secretary "may" grant a waiver after making such a finding.

Section 205. Use of allotments. This section makes several changes in the provision describing the permissive use of block grant funds. The term "chronically mentally ill" is replaced by the current usage, "seriously mentally ill." The authority of states to use block grant funds for treating mentally ill individuals and substance abusers in correctional facilities is made explicit. The authority of states to use block grant funds for renovation of facilities, including the removal of hazardous conditions and providing for access to disabled persons, is broadened. The prohibition on programs is conformed to the prohibitions placed on funds expended under the Health Omnibus Programs Extension of 1988. Administrative expenses, except for training, are capped at 5%. Discrimination against the dually diagnosed (mentally ill substance abusers) is prohibited.

Section 206. Maintenance of Effort. States are required to maintain their own expenditures for substance abuse and mental health programs. Current law does not require that each component of ADMS expenditures be maintained.

Section 207. Requirement of Statewide Substance Abuse Prevention and Treatment Plans. To receive its block grant allotment, each state will be required to submit a statewide plan for expending the allotment. The required contents of the plan are set forth in detail.

TITLE III

Title III requires certain studies (and includes one Sense of Congress provision) relevant to various aspects of the Act. Sections 301 to 304 are part of the Biden/Kennedy Pharmacotherapy Development Act—Section 486K of the Public Health Services Act (as created within section 102 of this bill) authorizes a medications development program at NIDA, and the first four provisions of this title are related to that initiative.

Section 301. Study on Private Sector Development of Pharmacotherapeutics. Within one year, NIDA shall prepare a report on the role of the private sector in the development of anti-addiction medications.

Section 302. Study on Medications Review Process Reform. Within one year, the Food and Drug Administration, in consultation with NIDA, shall prepare a report on the process by which anti-addiction medications receive marketing approval from the FDA.

Section 303. Sense of Congress. This section sets forth the Sense of Congress with respect to the priorities of the Medications Development Division.

Section 304. Report by the Institute of Medicine. By January 1, 1993, the Institute of Medicine shall prepare a report on the nation's progress toward the development of safe, efficacious pharmacological treatments for addiction.

Section 305. Definition of Serious Mental Illness. Within one year, the Secretary shall develop a recommendation to Congress on a uniform definition of serious mental illness.

Section 306. Provision of Mental Health Services to Individuals in Correctional Facilities. Within one year, the ADAMHSA Administrator, acting jointly with the Director of NIMH, shall prepare a report on effective methods of and obstacles to providing mental health services to individuals in correctional facilities.

TABLE 1.—ADMS ALLOTMENTS: FISCAL YEARS 1988–91, S. 1306; FISCAL YEARS 1992–93, PROJECTED FUNDING INCREASED

State	Fiscal year—				S. 1306, fiscal year 1992	S. 1306, fiscal year 1993
	1988	1989	1990	1991		
Alabama	11,491,000	12,953,000	18,006,000	18,732,000	18,732,000	20,310,050
Alaska	2,604,000	2,734,000	2,734,000	2,734,000	3,211,737	3,296,582
Arizona	11,232,000	12,497,000	17,519,000	18,002,000	18,741,696	−20,817,227
Arkansas	7,746,000	7,000,000	8,380,000	8,417,000	9,282,042	10,309,973
California	64,804,000	87,351,000	140,169,000	151,410,000	171,410,000	191,410,000
Colorado	9,582,000	11,165,000	16,414,000	17,518,000	19,268,963	21,402,886
Connecticut	9,039,000	10,941,000	16,027,000	16,576,000	16,576,000	17,230,035
Delaware	1,859,000	2,125,000	3,073,000	3,213,000	3,420,673	3,799,492
District of Columbia	3,146,000	3,444,000	4,770,000	4,896,000	4,896,000	4,651,200
Florida	30,795,000	39,620,000	59,657,000	63,093,000	63,093,000	60,155,883
Georgia	15,113,000	15,837,000	23,701,000	24,845,000	27,792,521	30,870,378
Hawaii	3,408,000	4,095,000	5,827,000	6,078,000	6,813,226	7,567,750
Idaho	2,270,000	2,383,000	2,600,000	2,775,000	4,173,010	4,635,146
Illinois	25,806,000	35,699,000	57,509,000	62,486,000	66,725,816	74,115,303
Indiana	22,821,000	22,522,000	28,240,000	28,563,000	28,563,000	27,381,065
Iowa	4,319,000	4,809,000	7,804,000	8,633,000	10,931,179	12,141,742
Kansas	5,279,000	5,543,000	7,573,000	8,085,000	9,375,283	10,413,540
Kentucky	6,589,000	7,296,000	11,624,000	12,666,000	15,878,694	17,637,165
Louisiana	8,249,000	10,191,000	16,486,000	18,622,000	21,248,319	23,601,443
Maine	4,432,000	4,654,000	4,654,000	4,654,000	5,467,237	5,611,665
Maryland	8,081,000	12,085,000	21,314,000	23,275,000	25,637,467	28,476,664
Massachusetts	22,703,000	25,271,000	35,091,000	36,009,000	36,009,000	36,665,171
Michigan	21,342,000	27,271,000	43,130,000	46,271,000	49,686,041	55,188,474
Minnesota	7,493,000	9,134,000	15,173,000	16,590,000	20,051,488	22,272,071
Mississippi	6,527,000	6,853,000	7,972,000	8,326,000	10,840,574	12,041,103
Missouri	12,563,000	14,318,000	21,448,000	22,790,000	22,790,000	24,847,870
Montana	2,823,000	2,964,000	2,964,000	2,964,000	3,481,928	3,770,466
Nebraska	3,761,000	3,949,000	5,431,000	5,854,000	6,357,360	7,061,400
Nevada	3,584,000	3,890,000	5,404,000	5,656,000	6,979,919	7,752,903
New Hampshire	4,407,000	4,627,000	4,627,000	4,627,000	5,435,519	5,579,109
New Jersey	25,171,000	31,449,000	45,540,000	47,170,000	47,170,000	45,500,560
New Mexico	6,129,000	6,435,000	6,551,000	6,673,000	7,000,000	7,728,847
New York	54,627,000	65,794,000	98,111,000	103,643,000	103,643,000	107,217,707

TABLE 1.—ADMS ALLOTMENTS: FISCAL YEARS 1988–91, S. 1306; FISCAL YEARS 1992–93, PROJECTED FUNDING INCREASED—Continued

State	Fiscal year—				S. 1306, fiscal year 1992	S. 1306, fiscal year 1993
	1988	1989	1990	1991		
North Carolina	14,200,000	14,476,000	21,069,000	22,084,000	28,312,985	31,448,479
North Dakota	1,552,000	1,630,000	1,855,000	1,992,000	2,631,322	2,922,726
Ohio	29,904,000	36,561,000	53,413,000	56,647,000	56,647,000	56,318,550
Oklahoma	9,562,000	9,808,000	12,843,000	13,620,000	13,635,671	15,145,740
Oregon	7,881,000	8,111,000	11,818,000	12,584,000	15,216,472	16,901,606
Pennsylvania	32,746,000	39,746,000	58,481,000	61,799,000	61,799,000	64,570,560
Rhode Island	5,195,000	5,503,000	7,222,000	7,336,000	7,336,000	6,969,200
South Carolina	8,891,000	8,909,000	12,949,000	13,635,000	16,322,572	18,130,200
South Dakota	3,580,000	3,759,000	3,759,000	3,759,000	4,415,845	4,532,498
Tennessee	10,357,000	12,098,000	18,754,000	19,986,000	21,615,095	24,008,838
Texas	30,474,000	40,166,000	65,697,000	73,454,000	80,803,246	89,751,724
Utah	4,898,000	5,686,000	8,502,000	9,083,000	9,233,596	10,256,162
Vermont	3,731,000	3,918,000	3,918,000	3,918,000	4,602,629	4,724,216
Virginia	12,047,000	14,757,000	23,935,000	25,551,000	27,177,844	30,187,629
Washington	12,175,000	14,549,000	21,835,000	23,309,000	28,578,818	31,743,751
West Virginia	5,367,000	5,635,000	5,900,000	6,084,000	8,305,603	9,225,399
Wisconsin	8,462,000	10,338,000	17,451,000	19,186,000	21,139,124	23,480,157
Wyoming	1,224,000	1,285,000	1,285,000	1,285,000	2,277,436	2,529,649
State total	632,041,000	753,834,000	1,116,209,000	1,187,158,000	1,280,732,952	1,374,307,953

Mr. HATCH. Mr. President, yesterday, I was pleased to join with my colleague, Senator KENNEDY, as an original cosponsor of S. 1306, the Alcohol, Drug Abuse and Mental Health Administration Reorganization Act of 1991. I want to commend Senator KENNEDY for his willingness to work with me in developing a bipartisan bill that effectively reauthorizes many of the programs administered by ADAMHA.

Through combined education, interdiction, and treatment efforts by all levels of the public and private sector, we have seen some successes in the war on drugs. Recent studies by the National Institute on Drug Abuse [NIDA] have shown that casual use of all drugs declined last year among every age group. But, a significant proportion of our population is using illicit drugs and alcohol to excess. In fact, although casual use is declining, there is a more intense use of hard-core drugs by those who are addicted. For example, in 1988, an estimated 862,000 used cocaine once a week or more, compared with 647,000 in 1985. And, there are some reports that this number is grossly underestimated.

These statistics show that there is a need to focus more of our efforts on treatment services that are the only hope for heavy users to break these self-destructive behaviors. I am pleased that the legislation being introduced today will go a long way in ensuring improved research and better service delivery.

This legislation addresses a concern that many have had over the separation of the substance abuse and mental health programs from the mainstream health care system. As part of the reauthorization, we are proposing that the three research institutes currently at ADAMHA be transferred to the National Institutes of Health [NIH]. This includes the National Institute for Alcohol Abuse and Alcoholism [NIAAA], the National Institute for Drug Abuse [NIDA], and the National Institute for Mental Health [NIMH]. These institutes will remain intact and separate. They will keep the same authorities, and the existing peer review processes will remain the same.

ADAMHA will then become ADAMHSA, the Alcohol, Drug Abuse, and Mental Health Services Administration. The substance abuse service programs not moving to NIH will be the Office of Substance Abuse Prevention [OSAP] and the Office of Treatment Improvement [OTI]. A new Office of Mental Health Services will be created.

I am very excited about this change which will allow for enhancement of research capabilities as well as strengthened prevention and treatment services. It is crucial that substance abuse and mental health disorders be no longer separated from the mainstream health care system.

Other highlights of this legislation include improvements in the Alcohol, Drug Abuse, and Mental Health Services [ADMS] block grant. The integrity of the block grant will be maintained by the limited number of new categorical programs. And, I am pleased that under the new proposed block grant formula, Utah will be getting an increase of $200,000 if an additional $100 million is appropriated.

Also, included is a provision to require that States develop, submit, and implement a State treatment action plan that will show where they intend to focus their efforts. States must be held accountable for the hundreds of millions of dollars of Federal funds they receive for treatment services. This will ensure that Federal funds are being used to address national priorities such as treatment for adolescents, women, pregnant addicts, and drug users at risk of or suffering from HIV/AIDS.

This bill also includes recommendations made by President Bush and the Office of Drug Control Policy. Under their leadership, we have provided for drug treatment capacity expansion programs and maintenance of effort in the ADMS block grant by each State.

Mr. President, I urge all of my colleagues to support this important legislation. Senator KENNEDY and I have worked hard to develop a bill that best reflects the current thinking on the needs of those who are suffering from these serious addictions and mental health disorders. I urge you to support it.

TRIBUTE TO ROD DEARMENT

Mr. DURENBERGER. Mr. President, today marks the end of a chapter in the professional life of my friend Rod DeArment. He is stepping down from his position at the Labor Department, and he will be missed.

I toiled in the vineyard with Rod when he served as staff director of the Senate Finance Committee. He also served, well, Senator ROBERT DOLE as his chief of staff. He worked with Labor Secretaries Elizabeth Hanford Dole and Lynn Martin as the Deputy Secretary of Labor at a time when the Department was stepping up enforcement efforts of the Occupational Safety and Health Administration and of child labor laws.

Most recently, Rod's work involved him in the administration's efforts to gain "fast-track" status for the proposed North American Free Trade Agreement. He also had an interest in pension issues. Rod took the time to develop fellowship with others in the Department and to impress all with his very special spirit.

Rod DeArment is a young, talented man. After a short break, he will go on to practice law again. Or, he will return to public service. Whatever he decides to do, Rod will be successful, I am sure. I wish him Godspeed.

BALTIC FREEDOM DAY

Mr. D'AMATO. Mr. President, I rise today to pay tribute to the Baltic people in their quest for sovereignty from the Soviet Union. June 14, 1991, was the 15th anniversary of the first Baltic Freedom Day which commemorates the first Soviet deportation of Baltic citizens to Siberia. On the night of June 14, 1941, 60,000 Baltic citizens were deported from Lithuania, Latvia, and Estonia. This date has become a call for unity in the Baltics.

In recent months, Soviet crackdowns in the Baltics have taken lives and property and have dimmed hopes for the liberty that the citizens deserve. President Bush's proposed $1.5 billion in credit guarantees to the Soviet Union should be contingent on the granting of rights to the people of the Baltics. I would like to mark this anniversary of Baltic Freedom Day by calling for renewed support for the Baltic people and their calls for independence.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. BURDICK). Morning business is now closed.

SURFACE TRANSPORTATION EFFICIENCY ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 1204) to amend title 23, United States Code, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Byrd amendment No. 295, to allot bonus apportionments based on the level of effort shown by each State.

(2) Byrd further modified amendment No. 296 (to amendment No. 295), of a perfecting nature.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I rise with the large optimism that is perhaps warranted by the lovely prayer we had this morning from Brother Boniface McLain of the Conception Abbey in Missouri, to say that this day gives every prospect of seeing the conclusion of our labors on the Surface Transportation Efficiency Act of 1991.

The Senator from Idaho, my able and learned comanager and I, have been on the floor almost 2 weeks. We have had a lively discussion of the bill itself, which we think to be of large importance. It is the bill we said 4½ years ago would be coming, the first bill of the postinterstate era, an era that lasted from 1944 really to about 1994, literally, when we will have the last bit of pavement laid—a half century. It is a long era in the history of the world and it is a quarter of our history.

In the course of that time, a theme of our measure, Mr. President, a theme well-known to our revered chairman, who happens to be presiding, is that while we achieved a magnificent engineering feat in creating that transcontinental system, we spent much of the money disastrously. President Eisenhower very personally wanted to see this system built after his experience in an Army exercise in 1919, in which the problem was to assume the railroads had been destroyed by enemy action or sabotage, move a convoy of trucks from Fort Meade in Maryland to San Francisco. The trip took so long that Lieutenant Colonel Eisenhower reverted to his peacetime rank of captain before he reached the coast. He found that you could make 7 miles an hour and that was it, and that was not going to do. And under President Eisenhower, the Interstate System—it had been first proposed by President Roosevelt—became the National System of Interstate and Defense Highways. That defense priority warranted expenditures that would not necessarily be cost-effective just as transportation.

In any event we did it, and we spent most of the money in our cities. Not all of it was spent well; in fact, most of it was spent disastrously. As the Senator from Connecticut remarked in last week's debate, in the course of it we began to show some of the signs of a public sector that is working at minimal efficiency. Public sector goods are typically seen as free goods. Unless it is high levels of morale and supervision and interaction with the public—the way school boards, for example, provide schools—ideas of cost effectiveness and productivity begin to seep out of the system and you begin to have a disorder which I have described as public sector disease.

Public sector disease is a fairly widespread phenomenon. You cannot find any country in the world that does not have it somewhere. Where the economy is entirely in the public sector, you get Albania or the Soviet Union.

There are a number of features of public sector disease which we have never talked about systematically in the Senate, as far as I am aware. We are trying to do it for the first time here. We have been talking about it for 10 days. I have never seen the term in print yet, but we did get it on the MacNeil/Lehrer television show twice, so it may be out into the public. It will take about 10 years for an idea of this kind to make its way out. Ten years is not long. We have been around a long time. We will be here 10 years—not us individually perhaps, but the Senate will be. The specie aeternitas it is described in theology, but little less than eternity, let us hope.

The first characteristic of public sector disease is best shown by analogy: bronze disease. One of the symptoms that a diagnostician would look for first is a disastrous plunge in productivity. That is what functioning economies must find, growth in productivity.

The first thing we found when we asked our Chairman of the Council of Economic Advisers—our very distinguished and learned friend, Dr. Michael Boskin—about what is happening to productivity in transportation, he reported to us that "output per hour in the transportation sector broadly defined, rose by only 0.2 percent annually from 1979 to 1988." Mr. President, that means there has been no productivity. It takes 350 years for 0.2 percent to double itself. That is a medieval rate of growth, a rate of growth of the European economy say from the year 1000 to 1350. Productivity disappeared.

A second thing we encounter is huge disparities between demand for the free goods and supply. As far back as 1981, Professors Meyer and Gomez Ibancz observed that the Interstate Highway Program and the Urban Mass Transit Act of 1964 were supposed to end congestion. Yet there seems to be more congestion.

Indeed, a nice description was given us by Prof. Steven A. Morrison of Northeastern University, who said our highway congestion has the same basic cause, although a more ready solution, as the long lines in front of butcher shops we see in news reports from the Soviet Union. "Both reflect shortages induced by prices set too low." Low prices, meaning no supply comes to market and the great demand means you wait 3 hours to get into a sausage shop and there is no sausage when you get there.

A third symptom of public sector disease is the seeming inefficiency of vast public enterprise investment. Over and over we have heard on this floor about our crumbling infrastructure, a description of interstate routes that are rutted, ribboned. This system has a median age of 18 years. If it is crumbling already, it is because the people who built it did not have the necessary incentive to produce a product that would last. That is a disease. It is a disorder.

Finally, Mr. President, a further indicator of public sector disease is even the public sector entity responsible for the activity does not know the prices it is ignoring.

Hence the endless tables running around here of what is going on. Nobody downtown knows. The main function of the Department of Transportation—this would be predicted, I can say to you, sir—is to prevent entry of new modes of production into the existing system.

That is characteristic of the monopoly instincts of the public sector. We have heard that debate here. We are trying to break out of it with high-speed rail or mag-lev.

I see my friend from Rhode Island wants to speak. I want to therefore yield immediately.

But I want to make one point. The supply siders came to this floor and talked theory all the time. People thought it was fine. So I am going to do the same.

As a level of theory, you would have predicted that the creation of the Department of Transportation would put an end to all innovation in transportation technology. I would say that is exactly what happened.

Twenty-five years ago we created the Department of Transportation, and it

has not permitted a new mode of transportation to enter our system since. That would be the characteristic activity of a situation where you have a large public sector that has begun to decline, and arrangements are made not to hide the decline, but to continue it.

Mr. President, that is enough for openers. It is going to be a good day. Before it is over we are going to have a bill, and none would be more responsible than the ranking member of our committee, the distinguished former Secretary of the Navy, former Governor of the State of Rhode Island, a man who has handled all of these things in his time, the very able and learned Senator from Rhode Island.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, first of all I want to thank the distinguished senior Senator from New York for those kind comments. As always, I want to pay tribute to him as the principal author, the guiding light, in connection with this surface transportation bill that is before us today.

Senator MOYNIHAN has done yeoman work. He has kept his eye on his objectives. This bill is an extraordinary achievement. It in essence really changes the course of direction that we have had on surface transportation from prior years.

This legislation says that the money does not all have to be spent on highways, that it can be spent on other methods of transportation. Indeed, up to half of the money can be spent in this discretionary fashion as the States so decide, whether it is for highways, whether it is for buses, or mass transit forms, subways, whatever it might be. That is really a very, very unique approach, something that we have been working for, for many years.

It is Senator MOYNIHAN that truly brought it to fruition, operating and working in conjunction with our distinguished chairman, Senator BURDICK, and, of course, Senator BAUCUS and myself have been there. But the laboring law and most credit has to go to the senior Senator from New York. I am very, very grateful to the leadership that he has given.

Mr. President, I would like to say that this is a very good bill. Some have quarreled over the spending. Well, just look. Let us look at the total bill. It provides, authorizes spending in excess of $110 billion over the next 5 years. This compares with the spending over the previous 5 years of $85 billion. So what we have here is a 30-percent increase Mr. President. Except for Head Start I do not know if there is a single program that we have dealt with in this legislature, in this Congress, in this Senate, that has seen the type of increase such as we have in this program of a 30-percent increase over prior years.

The current amendment before us, the amendment from the distinguished senior Senator, and our former leader, and the chairman of the Appropriations Committee, is the so-called Byrd amendment. This amendment would propose spending another $8.2 billion in the transportation program, raising the total to nearly $120 billion over the next 5 years. This would be more than a 40-percent increase over what we have had in the previous 5 years.

This money is labeled as "found money." It has been discovered. So now it can be spent, $8.2 billion in budget authority that conforms to the budget agreement within which we are operating. But the only thing it seems to me, Mr. President, that is that has been found is budget authority. The bill we have before us does not deal with outlays. This means that if and when this $8.2 billion is actually spent the additional outlays will have to also be found.

There are only two places to find it. First, the deficit that we are operating under can be increased. Now currently we are running a deficit in this country of $200 billion. There is not a Senator on the floor of this Senate that has not decried the size of these deficits—I, for one, and I am confident others likewise. That is one thing we can do—increase the deficit.

Another approach is to cut other programs to offset an increase in spending. In fiscal year 1993, the first year that this amendment would be applicable, the programs that would have to be cut in order to pay for this amendment would be those that fall under the so-called domestic discretionary cap. These might include health care, education, nutrition, housing, or environmental protection. In the following fiscal years after 1993, in other words starting with 1994 and beyond, all Federal programs would be vulnerable to cuts in order to pay for this spending. These include defense and foreign aid.

Mr. President, the question before the House it seems to me, this has not been touched on, everybody is delighted to have the increased amount of money available. But it seems to me the question before the House is do we really want to set up this competition between programs? Without the amendment we get a 30-percent increase in what we have for our highways. Do we really need an additional $8 billion that will have to come out of any number of areas that we call priority?

Some argue that the highway program is supported by user fees and that all the money collected from these fees should be spent on highway and mass transit projects. Since there is a balance in the highway trust fund, there is a perception out there that this balance is being hoarded to make the deficits that our country runs look smaller. In fact, the deficits are figured in the difference between receipts, money that comes in, and outlays, money that is spent.

Highway outlays exceeded highway user revenue. In other words, the amount we are spending from the trust fund exceeds the amount that has been brought into it, in almost every year in the past decade. These are expected to continue over the period 1990 to 1995.

What does all of this do? The net effect is to increase the deficit. In other words, Mr. President, we are spending more from the trust fund than we are taking in. So spending more of the balance in the trust fund would mean spending more from the fund than it receives in revenues, thus the budget deficit would increase by the amount of the additional outlays. I think everybody can understand that. That is not too complicated.

Mr. President, I think our attention should focus on the relative merits and funding levels of transportation. Do we want transportation, or do we want other spending programs? I think that is what we ought to consider. I do not think we ought to concentrate on the unspent balance in the trust fund.

Decisions on the benefits of transportation spending as with other Federal spending should be made on the basis of benefits to be gained from this spending.

Many feel that spending it on the highways is improving the infrastructure of the country, and is making us more competitive. It is a good way of spending this money. But I think we ought to weigh that against spending it on highways, or the negative effects of not spending it somewhere else as is going to arise in future years.

Let us just look at what $8.2 billion does. Divide $8.2 billion by the number of representative districts in the Nation, in my State there are two representative districts—New York, obviously far more, West Virginia, more, Nebraska, more. But you divide it by the 435, and it comes out to $18,850,000 in every representative district in the country. That is what $8.2 billion does.

If you divide the number of representative districts that we have, 435, into the $8.2 billion, it means that in every single representative district in the country, it amounts to $18,850,000. In every representative district in the country, that is, the States are now going to receive under the bill, as it came to the floor, 30 percent more for highways than they previously received. Do we want this additional money to go into highways, or are there other demands that should be met? Or should we just not spend it at all? That is a thought that ought to come before the House. What is wrong with saving some money once in a while?

Mr. President, in every study of competitiveness that has been made,

whether it is the Young report or any of the other reports, our competitive position, vis-a-vis Japan and the other nations, in the top three items, invariably, two of those mentioned are the following: The size of the deficit in the United States and, thus, the resulting high interest rates that we run. That is one point. The other point is, the lack of educational skills that our people have. Every competitiveness report that comes up stresses the need for improved education in our Nation. In my State, it is clear that we could spend $18,850,000 in each representative district, of which we have two; namely, $37 million, in improving our school buildings and all kinds of educational pursuits.

Sure, we would like it for highways. Sure, we get something increased out of the amendment. But, Mr. President, it seems to me that we have to weigh our priorities.

Mr. President, I also want to point out that coming down the pike are unexpected expenditures. What is on the front page of today's paper? The Secretary of the Treasury says he anticipates there will have to be a bailout, additional money put in what? The FDIC. We have all been down this track before. They start talking about a little money. How much was it for the S&L's? Just a little to start with. And on and on it has gone. So I suspect that it might well be with the FDIC bailout.

So there are other unknown expenditures that come down the pike, whether it is Desert Storm, or an unexpected hurricane, or whatever it might be, or these problems with our banks and S&L's.

So, Mr. President, I hope everybody will give very careful thought to the proposal that is before us that we are going to vote on, probably before noon today, within 1 hour 15 minutes. If not, it will certainly be after the senatorial luncheons that will take place.

Mr. President, I think that it is wonderful to have more money for highways, and I point out that this bill we have before us gives that money—30 percent more. Now this amendment will give us additional to that $8.2 billion. But it does not come from the sky. It will come out of other programs somewhere down the line. That is the question that has to be before us, Mr. President. I hope everybody will give that extremely careful consideration at the time that we vote on the amendment of the distinguished Senator from West Virginia.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, the very distinguished Senator from Rhode Island has raised some important questions. He has said, essentially, that to spend money on highways may be taking it away from education or other more important programs.

I am not quoting him exactly. I hope I am not misrepresenting him or the thrust of the statement.

He also indicates that it might be better to just leave the money in the trust fund and let it go toward ameliorating the deficit. I would like to address my comments to these points, because they are floating around the Chamber and around the Halls, and as the distinguished Senator from New York, the very able Senator from New York—who, in my judgment, would have graced a Senate seat in any period of this Senate's history, and who would have been a credit to the Senate in any period of its history, including the First Congress. I have no problem in viewing him with Oliver Ellsworth, Maclay, Morris, and others. There and then I think he would have made a contribution.

I could see him even at the Constitutional Convention before that, or in the Continental Congress. I can see him in the Senate in 1820 when the compromise was reached, or in 1850, or in the Reconstruction Period. I think that he makes a major contribution to this Senate. I always enjoy listening to the senior Senator from New York speak. I always learn something.

He has referred to the numerous tables that are floating around the Hill. That is one of our problems. We have so many tables that we are all confused by the tables. Everybody calls downtown and gets the Federal Highway Administration to produce a table. We even produce tables ourselves. So as Irvin S. Cobb was reported to have said, "If I wanted to go crazy, I would do it in Washington, because it would not be noticed." In this city and this Chamber and the other Chamber and all over Washington, we are noted for things of that kind.

I intend to address my remarks to a broader perspective than just the points that have been raised by the distinguished Senator from Rhode Island. But suffice it to say this, on those points: "Thou shalt not muzzle the ox when he treadeth out the corn."

What I am saying is, with respect to leaving this money in the trust fund, we will be muzzling the ox when he treadeth out the corn. This money is to be spent on infrastructure—roads, and mass transit; that is why it is collected at the gas pump. That is why the money is collected. It is put into the Federal highway trust fund. It is not put into that trust fund for education, WIC, child nutrition, parks, or for U.S. forests. It is put into the Federal highway trust fund. It is not called the miscellaneous trust fund. It is called the highway trust fund. That is what it is there for—highways, bridges, mass transit.

So to leave it there, is to not use it, and is to muzzle the ox when he treadeth out the corn.

Infrastructure is the ox that treadeth out the corn. It enables this country to be more competitive, more productive. It strengthens the economy of the country.

With respect to other programs, such as education, I take no back seat to any Senator in recognizing the need to educate our citizenry.

Disraeli said "Upon the education of the people of this country the fate of this country depends." I say the same thing. The fate of our own country depends upon the education of our people.

Just throwing more money at education, however, is not going to educate our people, necessarily. But we do have to spend more money. There is not question about it.

Some other things I would advocate. But this is not the place for me to talk about them now. Nobody attaches a higher degree of importance to education than does this Senator from the mountain State of West Virginia.

But how are we going to find more dollars for education? If we let our infrastructure continue to unravel—and this is not to say the bill is not a good bill; this is not to say that it is deficient. It does go a long way.

I have only the highest admiration and the greatest respect for the very distinguished Senator from New York [Mr. MOYNIHAN] and the other members of that committee, and for their work done in producing this bill. If we do not build up the infrastructure of this country, we are not going to be able to compete in world markets. If we do not stimulate the economy, if we do not increase and accelerate our national growth, if we do not improve our Nation's productivity, then we are not going to be able to produce the money for the human needs of the country, for instance, the education of our young people.

Let us begin at the beginning. The Bible says "In the beginning." One cannot go any farther back than that. So, we begin at the beginning. Let us build the country.

Francis Bacon said there be three things which make a nation great and prosperous: a fertile soil, busy workshops, and easy conveyance for men and goods from place to place.

It will not do us very much good to have busy workshops if we cannot distribute the goods, the iron and the leather and the wood and the coal, once they are produced in those busy workplaces. It will not be long until those workshops will no longer be busy.

Distribution is one of our geographical problems, and roads are a major factor in distribution. Yes, we want to talk about priorities. I am for putting the money where our mouth is.

Mr. CHAFEE. I wonder if the distinguished Senator will yield for a question, because nobody knows more about the budgetary process than the distinguished senior Senator from West Virginia. And I have made a statement here which I believe is accurate, but I

would appreciate it if the Senator will be kind enough to respond to see if my thesis is right.

Mr. BYRD. I may be able. I will try. I am glad to yield for that purpose.

Mr. CHAFEE. OK. Here is the problem as I see it. Under the Senator's amendment, in the first fiscal year, 1993, which is the first year the amendment will be applicable, the program would have to be cut in order to pay for this program and those programs.

Under the budgetary system we now have set up, in order to pay for this program, the cuts would have to be made under the so-called domestic discretionary cap. In other words, to get his extra money for his first payment out under the Byrd amendment, you have to get the money from someplace that is under the cap. Therefore you have to look around amongst health care, education, nutrition, housing environment, and so forth. I am just talking 1993 now.

Now, that is the problem of the Senator's amendment as I see it. I will not get into the question of the increase in the deficit, but I will just stick to that one question. Then I would follow up with what happens in the following fiscal years. But I will just stick with that first point right now.

Mr. BYRD. The Senator is saying in order to pay for the results of this amendment in 1993, the money would have to come out of other programs?

Mr. CHAFEE. Because of the cap situation. Unless, of course, the cap is changed. But that is not proposed in the amendment.

Mr. BYRD. The Senator is inaccurate in this. The amendment is within the budget resolution that the Congress has already adopted. And, as a matter of fact, the amendment does not meet the full-blown resolution as it affects Federal highways and infrastructure.

The Appropriations Committee will set the obligation limits and, in my judgment, they will not come out of education or other important programs. As I have already said, the money is put into the highway trust fund, and that is what we are talking about. Senators have been saying why do you not spend the money in the highway trust fund? That is what we are doing in this amendment.

May I say to the distinguished Senator, as the chairman of the Appropriations Committee I have not been niggardly in my allocations for education. I am in my third year as chairman. The first year, for fiscal year 1990, the allocation for the Labor-HHS Appropriations Subcommittee was $3.4 billion. I said to the appropriations subcommittee chairman of Labor-HHS, "Here is your allocation, and it is $3.4 billion above the President's request." Then the next year, fiscal year 1991, I said, "Your allocation this year will be $4.184 billion over the President." For the allocations I have just made for fiscal year 1992 I said to that subcommittee chairman: "Your allocation this year will be $3.16 billion over the President's request."

If there is any subcommittee among the 13 that has really come out better on 602(b) allocations than any other subcommittee, it is the Labor-HHS Appropriations Subcommittee.

Of course, I cannot allocate as much as I would like. We do not have all the money we need. But I have been very conscious of the needs of that subcommittee because when I went to the summit I did not just talk about roads, mass transit, railways, waterways, airports; I also talked about the human side of the infrastructure, the education of our young people and health services, law enforcement, and the like.

And so, in making the allocations to the various appropriations subcommittees, I have been very cognizant and conscious of the needs of the Labor-HHS Appropriations Subcommittee. On my own subcommittee, Interior, I cut it this year by over $700 million, $705 million. Why? In order that that money might go for infrastructure, human and physical.

Mr. CHAFEE. Mr. President, could I just say one thing?

Mr. BYRD. Yes.

Mr. CHAFEE. Mr. President, I do not think anybody here has supported education more than the chairman of the Appropriations Committee, the distinguished senior Senator from West Virginia. I think he knows that I was not suggesting that education would necessarily have to suffer under the amendment.

My point—and I am not going to belabor it. I think I have raised my points in the course of the questions and discussion, and I did not even get into the years beyond 1993, the years 1994 and 1995.

I thank the Chair, and I thank the distinguished Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator. May I say that highways will compete with all other programs each year, and the priorities and levels of funding for all programs will be set each year based first on the 602(a) allocation, in the budget resolution, and secondly, the 602(b) allocations, which I am able to parcel out among the various subcommittees of the Appropriations Committee.

But this amendment does not take money away from education or WIC or child nutrition or research or anything else.

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

Mr. BYRD. Yes.

(Mr. LIEBERMAN assumed the chair.)

Mr. SYMMS. Mr. President, the question I pose to the chairman is—and I might first say, Mr. President, that I rise as one from this side of the aisle in support of his amendment. I might also say that there are some Senators who are saying that this should have been done in the committee. But I think the chairman knows that it could not be done in the committee, because we did not have the ceiling when we passed the bill through the Environment Committee. We put in every dollar that the budget resolution would allow us. Since then, those numbers have changed, and I think the chairman knows that.

But my question is this: All parts of the highway bill come under the obligation ceiling except for emergency relief funds, for obvious reasons, which are what could happen if there is a tragedy or a flood or something. You never know how much that will be.

The minimum allocation, I am told by our economists on the Budget Committee, with respect to the 5-year period of the Byrd amendment and this highway bill, that whether or not the minimum allocation is under the obligation ceiling, it is rather insignificant.

But the question to the chairman is: Do you believe, in terms of good policy for the overall budget, it would be advisable for us to amend the minimum allocation funds to put them under the obligation ceiling on highways also for longer-term planning?

Mr. BYRD. Mr. President, in response to the distinguished Senator's question—and it is a legitimate question—I do not feel that I, as a Senator who is not a member of the authorizing committee, I do not feel that I should attempt to suggest to the authorizing committee the answer to that question.

My amendment does not go to the bill. It only goes to the $8.2 billion that are not utilized up to the full limit of the budget resolution's authorization. So I do not want to get into discussions about what ought to be done to the bill itself. I do not feel that I am competent to do that. I am not a member of the committee, and I have not made a study of that. So I beg the Senator not to feel that I do not want to answer this question.

Mr. SYMMS. I thank the Senator.

Mr. MOYNIHAN. Mr. President, does the Senator from West Virginia have the floor?

Mr. BYRD. Yes, I do have the floor. I would be glad to yield to the Senator.

Mr. MOYNIHAN. May I just make the point that the budget conference report which contains the higher highway numbers was adopted after the committee reported the surface transportation bill. We would not have been allowed under the rules to provide more than was then available.

We looked to the President pro tempore and the chairman of the Committee on Appropriations to respond to the fact that there was more money avail-

able after our bill came to the floor, and he is now doing that.

Would it be inappropriate for me to say: Why does not the rest of the Senate respond as well by voting? I would like to vote for the Senator's amendment. And I see this old marine saying "Semper Fi."

Mr. SYMMS. Vote.

Mr. BYRD. I am ready to vote. I think it is important. But, Mr. President, in the first place, we do not have an agreed-upon hour to vote. There is no way we can force a vote except on a motion to table at this point. There has been no cloture invoked.

I was somewhat stimulated by the remarks and the very appropriate questions raised by the distinguished Senator from Rhode Island. But right now, Senators are waiting on various tables. And the distinguished Senator from New York has already made a good point, that there are too many tables already. But we are still waiting on some more tables. I am not waiting on any tables as far as my amendment is concerned, and the modification thereof.

But I think we need to take a look at why we are here. Why are we even discussing this matter? Well, we are discussing it because it is an extremely important matter, and second because the Senate should focus on it by virtue of the bill that is presently before the Senate. But in discussing it, I think it is important to discuss how we got here, also. The American people are entitled to know why we are focusing on this important matter. And I am so bold as to venture to say that they are in accord with us.

We all speak of the American people, and each of us claims to know where the heart of the American people lies, and each of us claims also to be swimming in the same direction of the American people and singing out of the same hymn book. The American people are asking why are we not doing more about our highways.

Therefore, let me, in attempting to get away from the simple details for the moment, and tables—we are immersed in tables; the Senate is awash in tables. Everybody has a table. Some have more tables than others. But let us just for a moment look at the broad picture, and try to get an understanding in the context of the Nation and its future. I hope to be able to make a few comments in that regard.

I am a great believer in history, and even on a highway bill, it seems to me that to look at a bit of history might be a good thing.

Cicero, who was one of the great orators in the Roman senate, said that one ought to be acquainted with the history of past events. "To be ignorant of what occurred before you were born is to remain a child, for what is the worth of human life if it is not woven into the life of our ancestors by the records of history?"

Herodotus, who was a great Greek historian who lived circa 484 B.C. to 424 B.C., spoke of the rise of the Persian empire. And he said that Darius I paid great heed to the roads of the empire. Herodotus said that the road connecting Babylon with Carchemish, with a spur down to Nineveh, was extended westward and southward to Egypt and that the road between Nineveh and Ecbatana was rebuilt, as was the road connecting Ecbatana with Sardis, with a spur down to Susa. There was a road running from Sardis to Smyrna, and Babylon was connected with a highway to the heart of Media.

So, Darius, who acquired his throne—according to Herodotus—by the neigh of a horse, believed in extending, improving, and rebuilding the roads of the Persian empire.

The Cathaginians and the Egyptians and the Etruscans built roads. The Romans were the truly great roadbuilders. They knew the importance of laying a solid base, and they knew how to spread a pavement on that base, a pavement of flat stones. They also knew that a road needed a crown, that it must be higher in the middle so that the water would drain, and they knew that there needed to be ditches alongside to carry the waters away.

So they built their roads. Most Senators have probably been on the Appian Way. The Appian Way was begun in 312 B.C. by Appius Claudius Caecus, and it extended 350 miles from Rome to Brundisium, an Adriatic seaport in southeast Apulia. Many of the old Roman roads and bridges are still standing. We can cross bridges in Rome that have been there hundreds of years, a thousand years and more. The Romans knew how to build their roads.

The British knew the importance of roadbuilding because any government—such as the British, the Roman empire—the government knew the importance of extending these highways into the uttermost parts of the empire so that they could move their armies quickly. That is important to us, too: national security. If we do not have highways and roads over which the big trucks and buses can run, we will not be in a very good position to respond to a challenge to our national security.

The Romans knew that and the British knew that. That is why the British extended the roads into the remote parts of India. Roads have always been important.

Hannibal said: "I will find a way or make one" in considering the passage of the Alps.

The other day I spoke of Napoleon, who said, "There shall be no Alps." And he built his perfect roads, climbing by graded galleries the most dangerous precipices, until he had opened all of Italy to Paris, as much as any other French city.

But not only were the Romans and the Persians interested in roads, they were interested in bridges, Xerxes knew the importance of bridges when he threw pontoon bridges across the Hellespont when he sought to make war on the various Greek cities. He entered Athens and burned the houses and temples.

He had those two pontoon bridges. And when he fought the battle at Salamis in 480 B.C., he lost that battle and he scurried back to those pontoon bridges, wanting to get across before his armies should be outmaneuvered and blocked from returning home. His bridges were important.

Our early colonial ancestors also knew the importance of roads and bridges. In 1811, the Old Cumberland Road was begun, called the National Road. Settlers who were moving by the thousands to the West. The Northwest Territory did not have good links to the East until they built the National Road through the mountains, to Wheeling, WV, and on westward to Vandalia, IL, and later to St. Louis, and I believe it goes now to Salt Lake City. I am not absolutely positive.

There is a monument to Henry Clay, standing on the highway near Wheeling, WV, out of respect for his services in getting Congress to appropriate moneys for the National Road.

Clay was the prime builder of the Whig Party. The Whig Party lasted, probably, less than 30 years, and it is not very well remembered in American history. It was one of the most unlucky parties in American history. It was able, from time to time, to control one or both Houses of the Congress, but it was only able to elect two Presidents, William Henry Harrison and Zachary Taylor, and both of them died very early in their terms.

So the party that could boast the giants, Clay, Calhoun, and Webster, was not able to elect any one of them to the Presidency, even though each of them prodigiously tried to become President.

But Clay fostered the "American System." Clay's "American System" stood for protective tariffs, a national bank, and Federal support of internal improvements. That is what we are talking about here, internal improvement: highways, bridges, waterways, airports—they did not have airports then, but internal improvements today encompass all of these.

So Clay's "American System" promoted internal improvements. The Nation has built our bridges and our highways so that, today, if we fly over the country, we will find a network of concrete and asphalt ribbons going in every direction from coast to coast.

Isaiah said:

> Prepare ye the way of the Lord, make straight in the desert a highway for our God.
>
> Every valley shall be exalted, and every mountain and hill shall be made low: and the crooked shall be made straight, and the rough places plain:

And the glory of the Lord shall be revealed, and all flesh shall see it together * * *

We Americans made the rough places smooth. We filled in the valleys. We have lowered the mountains and the hills. We have spanned the mighty rivers. We have crossed the Alleghenies, the Great Plains, the Rockies, and extended our great highway system from the Atlantic to the Pacific and from the Canadian border to the gulf.

We have fulfilled that prophecy of Isaiah. Webster, in his second speech on the Foot resolution—the resolution that was introduced by Samuel Foot of Connecticut, had to do with limitation on the sale of western public lands, and Hayne of South Carolina used that resolution to get into his discussion of the nullification doctrine. If Senators think that Robert Byrd is making a long speech, Webster spoke for 2 days in his second speech on the Foot resolution in January 1830.

Webster said this: When the mariner has been tossed for many days in thick weather, and on an unknown sea, he naturally avails himself of the first pause in the storm, the earliest glance of the sun, to take his latitude, and ascertain how far the elements have driven him from his true course. Let us imitate this prudence and, before we float farther on the waves of this debate, refer to the point from which we departed, that we may at least be able to conjecture where we now are.

So, like Webster, I will now pick up at the point where we departed, and that point was the budget summit. We are here today discussing a matter that has its roots in the budget summit of last year. That is one way of looking at it. It has deeper roots than that, as a matter of fact, but it also has its roots in the budget summit.

There are those who may say, what does Robert Byrd have to do with the highway bill? Why is he involved in it? He is not on the committee, and I full well know that. So I come with some trepidation into this arena. But I do know the importance of infrastructure to this country, and I know the Government has been shortchanging the country on its infrastructure in recent years.

I know that between 1981 and 1990, the budget grew from $678 billion to $1.574 trillion. And I know that that whole budget, in increasing from $678 billion to $1.574 trillion, increased by $896 billion, while the domestic discretionary spending portion of that budget grew only from $157 billion to $199 billion. That is what we have to work with this year, $199 billion. Domestic discretionary grew only $42 billion while the entire budget increased by $896 billion.

In other words, domestic discretionary grew 26 percent while the full budget grew 132 percent. That is what we are talking about right now, domestic discretionary spending—investing in ourselves, not in Israel, not in Egypt, not in the Soviet Union, not in Central America, not in South America, but in the United States of America.

Clay said, "I know no North, no South, no East, no West." That is what we are talking about here. Not the infrastructure of West Virginia only, but of the Nation.

Oh, they say, he is trying to get eveything he can for West Virginia. I would not be worth my salt if I did not attempt to represent the people of West Virginia, but I am also thinking of the Nation. Think of it! Domestic discretionary spending pays for our highways, our waterways, our airports, our education, our research, our parks, our war on crime, our law enforcement agencies, and so on was cut from 23.1 percent in 1981 of the total budget to 12.6 percent today. That is what I am talking about.

They may call me provincial if they wish. I do not care. It does not make any difference. As I believe I said earlier, if I wanted to go crazy, I would do it in Washington because it would not be noticed.

That is what I am talking about: Our country! At the summit, I made this plea and I have never deviated one centimeter from it. Napoleon would shorten a straight line. I have kept the straight line. I have tried to live up to the budget agreement. But at that summit, I stood for infrastructure, I stood for infrastructure, and I stood for infrastructure; physical and human, not just bridges and highways but also building our human potential in this country. That is why I am involved here in offering this amendment. There are $8.2 billion which, as the distinguished Senator from New York [Mr. MOYNIHAN] has already explained and the reasons for it, have not been utilized here.

I am still listening to the echoes from the summit. And I say let us use that $8.2 billion on infrastructure. It does not break the budget agreement. It does not bust the budget. Oh, someone says, maybe we can spend it on something else, let us wait, let us wait and determine our priorities.

What is more important than building the infrastructure? As Francis Bacon said, there be three ways which make a country great and prosperous. That may be just a little off. But he did say the three ways were, "a fertile soil, busy workshops, and easy conveyance for men and goods from place to place." He was later impeached and sent to the Tower, but not for saying that.

I am saying, let us put the money where the priority ought to be. If we do not keep our forges and our mills and our factories running, we are not going to have busy workplaces, and without adequate infrastructure, their products cannot be transported. We have to provide infrastructure in order to increase the Nation's productivity. Any company that does not invest in plant and equipment will soon go under, because it will not be able to compete. Plant and equipment will erode and become timeworn and the company will be forced out of business.

I have already demonstrated, by the figures I have used, that our country's plant and equipment are eroding and we are not repairing it. That plant and equipment is the infrastructure of the country. That is why I am here today talking about using $8.2 billion more for infrastructure.

Mr. President, I want more money for education. I am going to do everything I can, within the 602(a) allocation, to find moneys for education, but we only have so much money to go around. We will not have the money if we do not strengthen this country's economy and if we do not make this country more competitive. We have already seen our trade balances stultified. If we do not build up the infrastructure of this country, we cannot stimulate the economy, we will not be able to increase productivity. Think of it! I am told by the Department of Transportation that we waste—these statistics are a year or two old so they are perhaps much more graphic now—waste 1.38 billion gallons of gasoline annually because of traffic congestion and traffic tie ups and we waste 1.25 billion hours because of those same traffic tie ups.

If gasoline were only $1 a gallon, that would be $1.38 billion wasted annually. We are also talking about hours away from the shop, hours away from the factory, hours away from the office, hours that could be utilized to increase the productivity of our workers. As we increase productivity, we make ourselves more competitive. We are able to lower the prices of our goods and compete with other nations. We are able to put money then into other programs like education. But if we choke off this kind of infrastructure, we are also going to choke off education—and much more.

It reminds me of the parable of the sower who went out to sow his seed. Some of it fell by the wayside where it was trodden down and the fowls of the air devoured it. Some of it fell on a rock. And as it sprang up, it withered because it lacked moisture. Some of it fell among thorns. And the thorns sprang up with it and choked it. Some of it fell on good ground, where it sprang up and bore fruit a hundredfold. Luke says a hundredfold. I believe Matthew says a hundredfold, and sixtyfold, and thirtyfold, or some such.

This is money that is spent on good ground. It is not being spent on a rock, not falling by the wayside. It is not falling among thorns. It is being spent on good ground—money for highways,

bridges, and to a certain extent mass transit.

That is the parable of the sower. That is the way I look at this money. Let us sow money where there is good ground, so it will bear fruit a hundredfold. It will put people to work in this country. I am told that $1 billion spent on construction results in 42,600 jobs, or something like it, spread across the entire sector during the first year.

We are talking about jobs for people who want to work. We are talking about making it possible to distribute the grain and the produce from the farms of this country to the seaports and the marketplaces; moving the products from the regions where they are produced to the regions where they will be consumed—build a greater country, prosperity, a better way of life. That is what is involved here.

This is just a little amount, $8.2 billion, compared with the amount provided in the entire bill. But I make my plea to the Senate to concentrate on this priority today so that we will have more money in the years to come to spend on the human needs of our people.

Perhaps Daniel Webster said it best in his oration delivered at the laying of the cornerstone of the Bunker Hill Monument in 1825 when he said, "Let us develop the resources of our land, call forth its powers, build up its institutions, promote all its great interests, and see whether we also, in our day and generation, may not perform something worthy to be remembered."

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I would like to thank the distinguished President pro tempore for those remarks, and I hope that the Senate will soon be ready to vote on the Byrd amendment. And I hope the Senate will vote for the Byrd amendment.

Just to inform the distinguished Senator from New York of the situation on this side of the aisle, Senator DOMENICI would like to speak for a few moments, and for a few minutes on the amendment. Senator BOND wants to speak for a very short period of time on the amendment. Senator DOLE has asked for 10 minutes to speak on the amendment. As far as I know, those are the only speakers.

I hope we will be able to vote on this before the lunch hour. I think it is important that we do so.

Mr. MOYNIHAN. Mr. President, let us do so, and let us do it in the incomparable spirit that the President pro tempore spoke. Let us, indeed, do something worthy of being remembered on this floor by the hour of 12:30. It is entirely within our grasp and ought to be done.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me first say to the distinguished chairman of the Appropriations Committee, former majority leader of the Senate, that I did not hear the entire speech. I heard a few moments of it in my office before I came to the floor. I heard the last 10 or 15 minutes. I would like to first thank him for his eloquence and for his advocacy of infrastructure for the United States, in particular roads and bridges and the like.

I would like to say to the Senate one of the shortcomings of the summit—I was a member, so I was privileged—was that Senators did not get to hear the distinguished senior Senator from West Virginia eloquently defend and insist that our country needed additional discretionary appropriations. It is the same defense he made today, except it was much longer and more detailed. And his defense was not only of infrastructure and highways, but the many things that we have assumed as national responsibilities that are being squeezed out in the discretionary programs of this country over the last 10 to 15 years.

I might add that from the standpoint of the Senator from New Mexico the only thing missing from the argument—and it was implicit but not direct—is that I think we have to, on the other side of the ledger, conclude that we have busied ourselves with entitlement programs beyond that which we can afford. The reason we do not have more discretionary accounts is because the entitlement programs of this land, and entitlement programs are those—the best way that I have found to explain it is that if a citizen of the United States does not receive the entitlement that is on the books of the land they can go to court, and a court will order the Treasury to pay them. That is an entitlement. You do not have to wait for anyone. They are automatic. They are voracious in their appetite and size. They are indeed what are squeezing out the discretionary accounts of this land.

I want to say to my friend, the chairman of the Appropriations Committee, I rise today because about 10 or 12 Senators on our side have directly asked me what is my best advice, and what are my best thoughts, as to whether or not the entire $8.2 billion that Senator BYRD is adding to the base bill will be available when the time comes for that money to be obligated. I am going to try in about 5 or 6 minutes to give my best analysis of whether or not that money is going to be available. And to do that, I have to go through a little bit of an explanation and a few basic charts.

First, I think everyone should know that in totals the President had asked for a total of $86.6 billion over the 5 years of this bill for the programs that we are talking about. The bill that came to the floor was $90.7 billion. The budget resolution had $98.8 billion.

So that in comparing items, let me call the bill that is on the floor the Moynihan-Symms bill.

It had $3.9 billion, over the 5 years, more than the President. The budget resolution had $12.2 billion more than the President, and the Senator BYRD amendment uses the entire $12.2.

It is interesting to note that if you look at the expenditure lines, the big expenditures under the Byrd amendment, those which are significantly in excess of either the President's or the Moynihan-Symms proposal, those occur in the 1994–94 cycle. The diferences are very small in 1993, and actually in 1992, they are negative, less than the President's, about $1.9 billion more in 1993, but substantially more in 1994, 1995 and, of course, 1996.

How much more? Well, in 1994 they are $3.3 billion more; in 1996, $3.8 billion more.

Where did the President get his numbers, and where did the budget resolution numbers come from, which are now being used by the distinguished Senator from West Virginia?

The President's numbers were the President's and OMB's best estimate of what we would spend in highway programs for the 5 years and be consistent with the ratio that highway expenditures had to the discretionary total in 1992 and 1993. In other words, they said, whatever the percent of the discretionary accounts are in 1992, which is currently before us, and 1993 in the budget estimates, that same ratio is what the President put in 1994 and 1995. Not so in 1996; he went higher in 1996. That becomes rather important, in my analysis and best estimate and judgment of where we will be in 1994 and 1995, when that time arises, if this bill in its entirety becomes law.

Mr. President, I ask unanimous consent that that budget and contract authority, Federal highways only, be printed in the RECORD at this point.

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

BUDGET AUTHORITY/CONTRACT AUTHORITY FEDERAL-AID HIGHWAYS ONLY

	Fiscal year—					Total
	1992	1993	1994	1995	1996	
CBO baseline	14.5	15	15.6	16.1	16.7	77.9
President's request	15.8	16.0	16.6	18.1	20.1	86.6
Moynihan EPW	15.2	17.1	18.0	19.6	20.6	90.7
Budget resolution (with allocated adjustment)	15.2	17.9	19.9	21.9	23.9	98.8
Moynihan compared to President	−.6	1.1	1.4	1.5	.5	3.9
Budget resolution compared to President	−.6	1.9	3.3	3.8	3.8	12.2
Byrd et al proposal compared to President	−.6	1.9	3.3	3.8	3.8	12.2

Source: Prepared by SBC Republican staff for informational purposes only; not to be used for official scorekeeping purposes or for determining budget act points of order. The 5 years, 1991–95. Fifty percent of this went into the highway trust fund ($12,500,000,000).

Mr. DOMENICI. Mr. President, the second point I make very quickly is that there are two activities that occur

with reference to the expenditure of highway funds that are rather important to this debate.

First, there is contract authority, that is the obligational authority that we find in these bills. That is what occurs in the authorizing bill, so that everything we have heard about the Moynihan-Symms allocation, and what we have heard in the Byrd amendments with reference to dollars, is obligational authority. If those obligational authorities are in no way limited by the next item, that is very important. That next item is obligational limitation. If there is no change in those, contract authority will spend out automatically.

So that one would say the numbers that are in the Byrd amendment, which is added to the Moynihan-Symms bill—the total in there is contract authority. And if no one limits it, then it will spend out as everyone understands it here, and as the various charts indicate the States' participation in that money.

But there is a second event that occurs, and it is an important event, and it has become more important starting back about 10 or 11 years ago, and annually thereafter. The obligational limitation is set in the appropriations process. That obligational authority becomes the actual, absolute limitation for that year of the money that can be spent—no more—and exactly that amount gets distributed to the States under the legislation that underpins the contractual authority, which I have just explained.

In most of the years since 1980, the obligational limitation has been less than the contract authority. The appropriators have put an obligational limitation in, consistent with what either the President has asked for, or what they think the budget resolution and/or budget agreement needs.

So, technically speaking, there is no question that come 1993, 1994, and 1995, if the Appropriations Committees in the two bodies choose to put no obligational limitations and choose to put them extremely high, close to the amount in the Byrd amendment, added to the Symms-Moynihan bill, then we will all get what is in the bill. We will get the Moynihan-Symms base, and we will get the 4.1 to the donor States and 4.1 to the incentive States. They will all get their money.

But the question then is: Is that apt to happen, that the entire amount will be the obligational limitation in the appropriation process? Frankly, when people ask me if that will happen, I cannot say it will or will not. You know it will happen when the appropriators sit around in 1993, 1994, and 1995 and allocate the 6026 money. They will have a fixed amount of money to allocate in 1993, because we have already agreed on the amount. But in 1994 and 1995, there is not a fixed amount. In 1993, there is a fixed amount. In 1994 and 1995, there is not.

So what is apt to happen? Well, in 1994 and 1995, the summit agreement created a 3-year fixed targets for defense, discretionary, and foreign affairs. So there is a number for 1991, 1992, and 1993 for discretionary accounts. For the years 1994 and 1995, there is not. There is one target number, mandatory number, cap, for all of those, a sum total of domestic, foreign affairs, and defense. There is one number for the year 1994 and one number of the year 1995.

It will fall to the appropriators, absent a new agreement, and absent a change in our rules, to take out of that big number the amount for defense, the amount for discretionary, and the amount for foreign affairs.

I cannot predict whether or not we will be able to add $3.3 billion in 1994, $3.8 billion in 1995, which is the amount by which the Byrd amendment and the underlying amendment, all combined, the underlying bill, will exceed the President's recommendation. I do not know whether they will do it or not. I can give you a couple of ideas.

First, the combined highway bill, which I will call the allocation of 602(a) under the budget resolution, does an interesting thing; it significantly increases the highway funding program in the years 1994 and 1995. How much? My best arithmetic is that it goes up 22 percent, a total of 22.3 in BA; 17.3 percent in actual outlays. That is the sum total of those 2 years.

In other words, those two big pots of money I just described, which we are going to split into three parts, are only going up in their totality. I will tell you what they are going up: Within the highway money, a total of 22 percent and 17 percent, but the entire pot of money is only going up, year after year, 0.6 percent and 1 percent; 0.6 percent and 1 percent, meaning those very large amounts of discretionary money for defense, foreign assistance, and discretionary. There is one of those in 1994 with a number on it, and one in 1995 with a number on it. They are only going up in those years a total of 1 percent in outlays and 0.6 percent in budget authority. But the highway program will be going up 22 percent and 17 percent.

So it does seem to the Senator from New Mexico there will be a squeeze on in 1994 and 1995, and the squeeze will, in the opinion of the Senator from New Mexico, be one of two things: One, the defense of the Nation currently has caps for 1993, but it does not for 1994 and 1995. The Defense Department in all of their plans has a 5-year budget and they assume in 1994 and 1995 they are tolling right down on a line which gives them a cap number in 1994 and 1995.

Frankly, nobody misled them. The distinguished Senator from West Virginia did not mislead the Defense Department. They were told—I will be honest—I proposed a 5-year proposal with caps on all three for all 5 years.

Is that not right, I say to my friend from West Virginia?

Mr. BYRD. The Senator is right.

Mr. DOMENICI. In fact we had all the numbers there, the compromise was 3 years and 2 years without caps, without individual caps.

So one place the extra money can come from is from defense. I am not saying it has to, but it could.

The squeeze will be on. If it does not come from defense or it comes partially from defense, then the balance or all of this increase will come from what is commonly known as discretionary accounts.

Senators have taken the floor already, far more eloquent than I, and spoken to this issue.

We all know what discretionary domestic accounts are: everything from school lunch programs to National Institutes of Health, to all of the various cancer research, and to education. That is all domestic discretionary, and there is a third account and we should mention it. It could be squeezed also. It is the foreign assistance account. It is in there at a given fixed number in 1991, 1992, and 1993, but in 1994 and 1995 it is part of a very large accumulation of the 3 accounts.

So it seems to the Senator from New Mexico that indeed, if one wants to have a real debate and argument on priorities and wants highways to be in that priority debate, then they can support this amendment, they can support this bill, and come 1994 and 1995, the issue will be joined.

Repeating, it is not automatic. I mean the appropriators could decide on the obligational limitation to provide less than the full amount. I think everyone who understands this process will agree that is the case.

On the other hand, they could agree to set a very high obligational limitation. In fact, they could agree to one that will be exactly the contract authority we are talking about, annually, which will yield to the donor State—it would yield the Bensen plan. To the nondonor States—it will yield the Senator Byrd plan and all the States it would hold harmless by funding everything in the Moynihan-Symms plan, as I can understand it, before funding the bonus programs.

That is about as good as I can do it.

I would summarize by saying it is quite obvious if you do not add any money to the bill you will not have an argument in 1994, 1995, and 1996 about whether you want more money for highways because there will be no opportunity to have that. If you do add it to the bill, you are not assured you will get it.

As I understand it, the first part, you are assured of getting the Moynihan-

Symms money that will be first allocation, before money coming after that would be divided equally among the donor proposal of Senator BENTSEN and the incentive proposals in the bill of Senator BYRD'S.

As I understand it, that is the best I can do.

I do think everyone should know when the Senate adopted its budget resolution the first time through, since budget resolutions have been used as the justification for the $8.2 billion, the Senate did not adopt this allocation; it was not that big.

We went to conference with the House. They had found these numbers based on some expectation of new revenues from highway user fees, or the like, and they had much higher numbers which, as we are not debating, are not binding on anyone but permits you to go up to those levels, and that is what we are doing here today.

I have nothing further. I thank the Chair and thank Senator BYRD for his comments, and thank Senator SYMMS for yielding time to me.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. President, I thank the distinguished Senator from New Mexico for his comments.

Let me address some remarks to the Byrd amendment as further amended. I would have to make one correction to the comments of the Senator from New Mexico. He is quite right that we agreed to hold harmless all States insofar as the allocation of funds under the Moynihan bill. But as I understand our agreement we have been able to bring about with Senator BYRD, those of us from the donor States, the next application of the funds after the Moynihan funds, would be the $4.1 billion in the Byrd amendment for the level of effort States, based on States gasoline taxes, and disposable per capita personal income in the State. That would be applied next, and then you would have the extra $4.1 billion that goes to the donor States. That would be the third application of funds under the Byrd amendment.

The reason for doing it in this manner is to take care of the most egregious situations among the donor States, that the donor States with the lowest return on funds contributed be taken care of first after the application of the Byrd amendment. Those States would be brought up to a common level of return until you reach a point where you finally run out of funds. Then in accomplishing that, what we have been able to do with the Bentsen-Warner amendment to the Moynihan bill is to say no State will receive back less than 98 cents on the dollar for that amount of money they will contribute to the trust fund over the next 5 years.

This major change in funding level begins in fiscal year 1993, and there is no question but what we have to expend these additional funds.

Mr. President, I ask unanimous consent that a table showing 25-year totals of donor State bonus apportionments be printed in the RECORD.

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

Donor State bonus apportionments under Bentsen revision to Byrd amendment

[5-year totals]	*Donor State bonus apportionment*
Alabama	$169,923,475
Alaska	0
Arizona	2,288,261
Arkansas	0
California	959,356,766
Colorado	0
Connecticut	0
Delaware	0
Florida	453,619,940
Georgia	328,671,299
Hawaii	0
Idaho	0
Illinois	164,102,600
Indiana	240,785,538
Iowa	0
Kansas	0
Kentucky	106,553,749
Louisiana	0
Maine	0
Maryland	34,790,362
Massachusetts	0
Michigan	273,643,698
Minnesota	0
Mississippi	0
Missouri	208,565,260
Montana	0
Nebraska	0
Nevada	0
New Hampshire	0
New Jersey	34,069,527
New Mexico	0
New York	0
North Carolina	0
North Dakota	0
Ohio	136,542,354
Oklahoma	4,344,500
Oregon	0
Pennsylvania	20,669,522
Rhode Island	0
South Carolina	89,685,230
South Dakota	0
Tennessee	0
Texas	660,555,647
Utah	0
Vermont	0
Virginia	220,232,894
Washington	0
West Virginia	0
Wisconsin	0
Wyoming	0
Total	4,108,400,622

Mr. BENTSEN. Mr. President, I believe we are quite correct in authorizing the extra $8.2 billion for highways and mass transit. We are looking at a deterioration of the highway and bridge system around the country where in some of the major cities today they are going out and buying buses that meet Third World specifications insofar as the axles, the undercarriage, the frame, because of the enormous potholes you will find in many of those cities.

We are looking at a situation where mass transit has not been able to meet the expanding demands for those services.

So these additional funds are needed both for mass transit and for highways and bridges in our country.

If we fail to do so, we will be affecting the productivity of America, of its industry, and America's workers. Untold wasted hours are spent every day by commuting workers and commercial transport trucks in snarled traffic in virtually every major American city.

I do not think the need for that extra $8.2 billion can be seriously contested. It makes no sense to refuse those funds when the demand for transportation improvements is so clear.

Let me further state I have been fighting this fight for a long time from the viewpoint of the donor States. I well understand and have long understood the need for some States to be donor States when you are trying to extend the interstate, trying to push it across Montana, Wyoming; States with sparse populations; climbing mountains, and crossing deserts. I understand that.

I understand we will continue to have donor States because we must continue to maintain highways in those types of situations. But the disparity of it has to be lessened.

This particular amendment and this bill does not address some of the problems and concerns we have for a formula that clearly needs to be updated. We think it is archaic and must be revised to reflect the current demand for transportation improvments. In fact, the present formula will not even reflect 1990 census data.

The formulas must be updated. We were able, with the consent of the manager of the bill, the distinguished Senator from New York, to have an amendment agreed to which would require a study by the General Accounting Office to try to bring this formula up to date and see that we establish greater equity in the application of it. That study will be available for us at the end of 3 years and hopefully can then be implemented at the end of this 5-year authorization period.

We have been down that road before insofar as the General Accounting Office study. But I want to forewarn my colleagues and my friends we, the donor States, are going to be doing everything we can to bring about a revision and an update of that formula. Hopefully, the information from the General Accounting Office will be of help to us. So I say this compromise is not a perfect solution; perfect solutions are rare when we are talking about reconciling opposing forces in the U.S. Senate.

But I want to say to my colleagues that I am going to support this compromise. I am sure there will be other

formulations proposed at a later date, but I believe that from what we have been able to see in the repeated conferences we have had in developing the numbers to try to accomplish these objectives, I believe that Senator WARNER and I have represented a majority of the donor States. Not each and every one; obviously, they are not all going to vote for this. But I think a majority will. And I would like to see us move to an early conclusion and implementation of it, so we can move on.

Once again, I am appreciative of the cooperative efforts of my friend from New York and my friend from West Virginia as we work to bring about what I would have to say is a political solution, but for my own State, a donor State, it is a vast improvement over the current situation.

Mr. WARNER. Mr. President, I will take but a minute or 2 to first thank my distinguished colleague from Texas. It was indeed a pleasure and a learning experience to work by his side on this issue, for he has addressed this problem for many, many years in the U.S. Senate, having been on the subcommittee that dealt with this predecessor legislation some several years ago.

I also thank our distinguished colleague from West Virginia, together with Senator MITCHELL. They recognized the theme that I tried to strike from the very first day of this debate, joined by my good friend, the Senator from Missouri: The inequity among the donor States.

And I daresay, had it not been for the leadership shown by the Senator from West Virginia, the Senator from Maine, and the Senator from Texas, this Senate would not be now addressing in finality the highway legislation, for I and many other Senators would have exercised every single right that we had to see that there would have been equity between the donor and the donee States.

So the leadership has followed the better part of wisdom here, and I think, hopefully, I and others will be supporting the Byrd amendment in sufficient numbers.

Mr. BENTSEN. Will the Senator yield?

Mr. WARNER. Yes.

Mr. BENTSEN. We have been fighting this fight a long time. I can recall my own State was receiving back about 54 cents on the dollar in 1982, when I led the fight on the Bentsen amendment, against the opposition of the administration, to put a minimum allocation in the law for the donor States.

I also note that my friend from New York included the 85 percent in his bill. I also note that the administration did not include a minimum allocation in its bill. What we have been able to do in this compromise is to improve on the 85 percent, not to our full satisfaction, but at least bringing us up to the position where no State, no donor State, from the amount of money that it contributes over the next 5 years, will receive back less than 98 cents on the dollar.

Are we spending down some of the surplus? Yes, we are. But you have $10 to $11 billion of surplus in the highway trust fund, and it is time that we address some of these concerns for our bridges and the deterioration of the highways of America.

Mr. WARNER. Mr. President, I thank the distinguished Senator from Texas. Again, the amendment that he and I devised does provide for a certain measure of insurance, as I see it, in the future as the outyears begin to yield back to the donor States a more justifiable allocation of the moneys.

The Byrd amendment has broken the gridlock in the Senate, and I hope that the dollars that flow from it will break the gridlock in America's traffic.

Mr. BENTSEN. If I may, I would also like to recognize the distinguished Senator from Missouri [Mr. BOND] who has been untiring in his efforts to assist in correcting some of these problems for the donor States. Without his help, we could not have brought it off.

Mr. WARNER. Mr. President, I join in that. The Senator has been a solid supporter from the first.

The PRESIDING OFFICER (Mr. KERRY). The Senator from New York.

Mr. MOYNIHAN. Mr. President, I simply would like to thank all, and join in this general observation that we have come usefully and with more dispatch than might have first appeared to a resolution of the problem for this cycle of the surface transportation program.

But I am sure the Senator from Texas would agree when I say we do provide for a GAO study on what must be a new formula. The committee was left anticipating that something would come from the Department of Transportation that would respond to this postinterstate era. Nothing did, excepting formulas, saying the more gas you use, the more money you get, period. So we have decided to stay with existing arrangements, one last time, perhaps, but no more.

Now we have improved that. The GAO will give us a proposal, but in the end, as the Senator from Texas would be the first to assert, the Congress will decide. And we hope to have a better set of data out of the Bureau of Transportation statistics by then, on which basis to make a better study not just of the allocation resources, but also how effectively they are spent.

It is the case, as the Senator says, that there are municipalities ordering buses to meet Third World road standards. That is absolutely true. But how can this new set of public works have dissipated and deteriorated so quickly if it was not badly built to begin with, and not well maintained? Then what else are these things than a symptom of a public-sector disease?

Mr. BENTSEN. Will the Senator yield?

Mr. MOYNIHAN. Yes, I yield.

Mr. BENTSEN. The Senator makes a very valid point, because we have not kept up with the research and development that the Europeans have done. Their highways do not develop the potholes as fas as ours do, or to the extent that ours do. They have roads that are much more durable than ours. They have taken massive steps forward insofar as building roads that meet far better specifications than our own, and we ought to learn about that and do more research in that department.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BYRD. Will the Senator from Missouri yield to me just briefly?

Mr. BOND. Mr. President, it is my high honor to yield to the chairman.

Mr. BYRD. He has been most patient. He has waited a long time to be recognized.

I want to make a modification to my amendment. But before I do that, let me thank Senator MOYNIHAN and Senator SYMMS for the leadership that they have demonstrated so very capably in bringing this bill to the floor and in speaking on it during consideration.

Let me thank also the distinguished chairman of the committee, Mr. BURDICK, for his untiring dedication to the building up of our highways and waterways, and the infrastructure of the country. I also wish to thank those Senators who spoke on behalf of the donor States.

My initial effort, I should explain, was in the interest of helping States that have put forth a special effort to deal with their infrastructure problems. So there were two parts to my amendment: The first part, which rewarded those States whose gasoline taxes were above the national average, the national average being 17.43 cents; and also the second part of my amendment was to reward them again, those States, based on their ability to pay or lack of ability to pay, and the additional efforts that they really were making in the light of their economies, in the light of their per capita disposable income.

So that a State which had a lower per capita disposable income than the national average, which is $14,303, has to come from below scratch, if I might use that word. It is harder for it to raise its gas taxes than for other States. The per capita disposable income, on the average, is must higher in the richer States, and they are better able to pay. So that was my approach.

And so my amendment in the first degree would take $5.4 billion of the $8.2 billion, and then I put a second-degree thereon which would have consumed $6.2 billion of the $8.2 billion.

And then it was that the majority leader and Senator BENSTEN, Senator MOYNIHAN, Senator WARNER, and others of us, sat down, and I was asked whether I would consider splitting the $8.2 billion. And in the interest of reasonableness—I would like to think I am a man of sweet reasonableness, and I do know that legislation is the art of compromise, so I said, well, yes, after I considered it, yes, instead of $6.2 billion or $5.4 billion, sure I will back away to $4.1, because it is all in the interest of the Nation. That is what we were talking about.

So I said, yes, I will be glad to split. And that is where we remain, that is where we stay today, 4.1/4.1.

But the donor States, I thought, made a good case, and certainly from the standpoint of fairness and logic, they were entitled to $4.1 billion of the $8.2 billion. What happened from there on was between and among them. I did not feel I had any business interjecting myself into that.

That brings me to the point. I have twice, I believe, modified the second-degree amendment, and I have done it each time at the request of the donors and in their interests, based on their discussions among themselves.

In the modification which I sent in yesterday, there was one change that needed to be in there, and the only change in that modification which I will now send to the desk is to ensure that the additional donor State bonus funds will remain available until expended. We have treated the extra effort, on the part of the formula, in such a manner, and it is only fair that the donor States be likewise treated. That was the intent of the modification of the amendment that I offered yesterday, but inadvertently that was left out, so I will now send a modification to the desk.

I say again for the record, the only change that is provided by this modification is to ensure that the different State donor bonus funds will remain available until expended. As I say, that was the intent of the amendment, so this is a technical change.

AMENDMENT NO. 296, AS FURTHER MODIFIED

Mr. BYRD. I send the modification to the desk.

The PRESIDING OFFICER. The Senator had the right to modify this amendment. The amendment as previously modified is hereby further modified.

The amendment, as further modified, is as follows:

In the amendment, strike out "of effort apportionment bonuses" and all that follows through "available until expended." and insert in lieu thereof the following:

OF EFFORT APPORTIONMENT BONUSES.

(a) AMENDMENT TO TITLE 23.—(1) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Level of effort apportionment bonuses

"(a) The Secretary shall, for fiscal years beginning with fiscal year 1993, determine each State's total annual apportionment under sections 133 (relating to the Surface Transportation Program), 144 (relating to the Bridge Program), and 119 (relating to the Interstate Maintenance Program) and shall use that total in calculating the bonus apportionments authorized by this section.

"(b) The Secretary shall, subject to the availability of appropriations, make an apportionment to each State in which the rate of tax on gasoline, as of July 1 preceding the beginning of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, with a bonus apportionment equal to the lesser of—

"(1) five percent of its total annual apportionment under sections 133, 144, and 119 of this title for each of fiscal years 1993, 1994, 1995, and 1996; or

"(2) the percentage by which that State's rate of tax on gasoline exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia, multiplied by its total annual apportionment under sections 133, 144, and 119 of this title.

"(c)(1) The Secretary shall, subject to the availability of appropriations, make a bonus apportionment to each State equal to its total annual apportionment under sections 133, 144, and 119 of this title, multiplied by the percentage by which that State's rate of tax on gasoline, as of July 1 preceding the beginning of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, minus an amount which is the product of that total annual apportionment and the percentage by which that State's per capita disposable income exceeds the average per capita disposable income in the fifty States and the District of Columbia, calculated for the calendar year preceding the year in which the fiscal year begins. The bonus apportionment made to any State under this section shall be reduced by any amount provided under subsection (b).

"(2) For purposes of paragraph (1), the per capita disposable income of a State or the District of Columbia for any calendar year is such income as is determined by the Bureau of Economic Analysis of the Department of Commerce.

"(d) If the aggregate apportionments under this section in any fiscal year exceed the authorization of appropriations for such year, there shall be a pro rata reduction for that fiscal year of the apportionments to the extent of such excess.

"(e) The Federal share payable of the costs of projects carried out with apportioned funds under this section may not exceed 80 percent.

"(f) For purposes of this section, the term 'tax on gasoline' means a tax that is—

"(1) imposed by and administered by a State; and

"(2) uniform as to rate and based upon identical transactions in all geographical areas of such State.

"(g) Funds authorized to be appropriated for bonus apportionment under this section shall be available only for projects authorized under chapter 1 of this title, including provisions which provide contract authority.".

(2) The table of sections for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 158 the following new item:

"159. LEVEL OF EFFORT APPORTIONMENT BONUSES.".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for payment of the bonus apportionments authorized by section 159 of title 23, United States Code, the following amounts for the following fiscal years:

(A) For fiscal year 1993, $390,500,000.
(B) For fiscal year 1994, $943,000,000.
(C) For fiscal year 1995, $1,138,500,000.
(D) For fiscal year 1996, $1,638,500,000.

(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(c) ADDITIONAL DONOR STATE BONUS AMOUNTS.—(1) There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the payment of additional donor State bonus amounts the following amounts for the following fiscal years:

(A) For fiscal year 1993, $390,500,000.
(B) For fiscal year 1994, $943,000,000.
(C) For fiscal year 1995, $1,138,500,000.
(D) For fiscal year 1996, $1,638,500,000.

(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(3)(A) The additional amount provided under this subsection for a fiscal year shall be apportioned only after bonus apportionments under section 159 of title 23, United States Code, to the extent of their availability, have first been made to the States.

(B) The bonus apportionments which are provided under this subsection for a fiscal year shall be apportioned in such a way as to bring successive State, or States, with the lowest dollar return on dollar projected to be contributed into the Highway Trust Fund for such fiscal year, up to the highest common return on contributed dollar that can be funded with the annual authorizations provided under this subsection.

(C) The additional apportionment under this subsection shall be subject to the provisions of chapter 1 of title 23, United States Code, including provisions which provide contract authority.

(d) OBLIGATION LIMITATIONS.—(1)(A) Notwithstanding section 104 of this Act, for each of the fiscal years 1993, 1994, 1995 and 1996, the Secretary shall distribute among the States the limitations imposed by section 104(a) of this Act by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways (other than sums authorized for section 159 of title 23, United States Code and sums authorized by subsection (c) of this section) which are apportioned or allocated to each State for such fiscal year bear to the total of such sums authorized to be appropriated for Federal-aid highways which are apportioned or allocated to all the States for such fiscal year until 100 percent has been distributed.

(B) The Secretary shall distribute the limitation remaining after the distribution in subparagraph (A) among the States entitled to apportionments of sums authorized by section 159 of title 23, United States Code, and sums authorized by subsection (c) of this section, in the ratio which such apportionments and allocations for each such State bear to the total of such apportionments and allocations for all such States.

(2) Whenever the limitation made available for a fiscal year is insufficient to provide 100 percent of the distribution under paragraph (1)(B), then—

(A) 50 percent of such insufficient limitation shall be deducted from the limitation

that would be received for section 159 of title 23, United States Code, and

(B) 50 percent of such insufficient limitation shall be deducted from the limitation that would be received under subsection (c) of this section.

(e) INAPPLICABILITY OF OBLIGATION LIMITATION TO EMERGENCY RELIEF.—Limitations in section 104 of this Act shall not apply to obligations for emergency relief pursuant to section 125 of title 23, United States Code.

(f) DEFINITION.—For purposes of this section, the term "State" has the meaning given to such term in section 101 of title 23, United States Code.

Mr. BYRD. I thank the Chair. I beg the Senator's indulgence, if I may yield to the Senator from Texas with the Senator from Missouri's rights being protected.

Mr. BENTSEN. I thank the distinguished Senator from Missouri and the Senator from West Virginia. Mine is only to comment that that is carrying out our agreement, and I am appreciative of that. What we had stated was the application of the funds, each of the $4.1 billion amounts, be applied equally and that they not lose that money if it was not expended in the fiscal year. So it complies with what the Senator is doing on his amendment. We appreciate the acceptance of the change.

Mr. BYRD. I thank the Senator, and I thank the distinguished Senator from Missouri for his kindness and his courtesy.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I begin by thanking the distinguished senior Senators from New York and Idaho for bringing a very farsighted bill to this floor. They have incorporated in the bill many concepts which may be of great use in the 21st century. They have also responded with good humor and patience as those of us in the donor States expressed concerns about particular parts of the bill. Some of our colleagues have even suggested that it is with too much enthusiasm and at too great a length that we have expressed those concerns. But I say a special thanks to Senator MOYNIHAN and Senator SYMMS for attempting to accommodate our interests.

We have spent many hours, not only on this floor but off this floor, as I am sure everyone is aware, trying to work out the details in this bill to meet some very pressing needs. As I have traveled around my State of Missouri, I have gone from Kansas City to Springfield on crowded two-lane highways, where four lanes are needed, and on to Sikeston, where there have been tremendous traffic jams, and in and out of St. Louis in similar conditions. I have seen first hand the need for better roads. I have seen areas where mass transit, which I support for metropolitan areas, would not be adequate—like I–61 to I–63, like I–70 to the border. People are vitally concerned because highways mean jobs, they mean convenience, and, most importantly, they mean safety for the traveling public.

It is for these reasons that we have engaged in such lengthy efforts on this bill. I want to join in thanking the distinguished senior Senator from Texas, my distinguished senior colleague from Virginia, and the majority leader for working to bring some equity to the donor States through our discussions.

Second, I endorse enthusiastically what Senator WARNER and Senator BENTSEN have just said. I will expand just 1 moment on what the Senator from Texas has said. That is, we in the donor States recognize that any fair formula is probably going to leave us as donor States. My State has been getting back only 80 cents on the dollar because the funding formula is based on factors that went into the highway formula back in early 1900's—1914, 1916—like the miles of postal roads. Those formulas are not applicable any more.

Senator BENTSEN has offered an amendment that would require the GAO to issue a report in 2 years on what factors should be considered for a fair funding formula. But even under the formulas that the donor States support, we recognize that States with very low population density may need more than they contribute to the fund. We recognize that, and that is part of our agreement.

What we really need, as I stated when we began this debate, was, No. 1, to spend the funds out of the trust fund because this Nation is being strangled by inadequate highways, by deteriorating roads and bridges in unsafe condition. We need more funding for bridges. The original Moynihan-Symms proposal achieved that. We need more flexibility so States can spend the money where they need it, and there are some flexibility provisions in this bill, although there are certain elements of it that I do not think are adequate and some provisions I would like to see removed.

Finally, and most importantly, we wanted a fair funding formula. We wanted to bring this 21st century highway bill, surface transportation bill, at least into the 1990's with regard to the formula. We have not been able to achieve that. I commend and thank the chairman of the Appropriations Committee, Senator BYRD for what he has accomplished. He has proposed a formula to spend down the trust fund, which achieves one of my chief objectives.

In further clarification of what my colleague from Texas has said, while the allocations of the additional $8.2 billion will go first to the level of effort provision, if the full $8.2 billion is not available in any year, the pot will be evenly split between the level-of-effort incentive portion and the Bentsen-Mitchell or rising-tide amendment, so that those two provisions will be treated equally. I think it is important that my colleagues understand that, and I thank the Senator from West Virginia for the modification, which takes care of the remaining problem we had with that bill.

With that, I say, while the formula is not what we wish, I hope my colleagues will vote for the proposal before us, the Byrd amendment, as modified. We, from the donor States, want an opportunity to vote on a funding formula after that. We are under no illusion that we will prevail in this body, but somewhere, sometime, somehow, we must have the opportunity to do so. And once we do that, I would urge that the Senate act on this measure, get it over to the other body, and get something back so we can work on it in conference. It is vitally important to this Nation, to our States, and to every citizen in every one of our States, that a surface transportation bill be signed into law by October 1 of this year.

I urge my colleagues to support the Byrd amendment now before us.

The PRESIDING OFFICER. The Senate minority leader.

Mr. DOLE. I know the Senator from New York and the Senator from Texas want to respond, but I will take just one moment. There is a meeting in the majority leader's office I should be attending with the distinguished chairman of the Appropriations Committee.

I want to make a point that, it seems to me, should be rather easily understood. Under the Byrd amendment there will be $4.1 billion that will be spent in fiscal years, 1993, 1994, 1995 and 1996 which reward States who show a commitment to spending more of their own money for road construction and maintenance than the national average. But there are a couple of big flaws in the Byrd amendment.

If we want to talk about fairness, talk about justice, talk about what we ought to be doing, talk about the general contractor support, we can talk about an amendment Senator MITCHELL and I—I think he will be joining me this afternoon—will be offering.

The Byrd amendment measures excise tax on gasoline to determine the test by the States. This creates two shortcomings. First, all States have to dedicate 100 percent to highways. Some use it for deficit reduction, some use it for wildlife, some use it for agriculture. A lot of it is used for nonhighway purposes, but it counts it anyway. It is not fair.

Second, most States use funds from sources other than gasoline taxes, as well as gas taxes, to fund highways. We ought to be looking at the total effort. How much does the State of Texas, Kansas, New York, Idaho, Missouri, whatever the State may be, put in their highways? Also Massachusetts, I might add. Is there anything in addition to excise tax on gasoline? There is in many States. Some have toll roads,

as in New York; some have sales tax, as in Virginia. Other use registration, as in Kansas, excise tax, diesel tax, other taxes that go into highways, and it ought to be counted if you are talking about effort and not just some arbitrary figure.

What we are going to have is a lot of gaming going on. We are told if we raise the gas tax in Kansas we get Byrd money, if it ever comes about; we can raise our gas tax and lower other taxes to game the system. If that is what we want, everybody gaming a system, we are setting up an imitation for every State legislature to come back and, in effect, blow up this so-called amendment by gaming the system. Why should we not raise the gas tax in Kansas and lower every other tax if they are not going to count the other taxes even though they are used for building highways?

So I must say that some of us have a real problem with half of the package. We do not quarrel with the donor part of the package. We are quarreling with the other part of the package. We applaud the agreement even though we do not benefit from it in our State.

I just suggest it seems to me we ought to put some safeguards into this provision. We ought to have a formula that, in effect, counts all the money you put into highways. Why not? Who can argue against counting everything you put into highways and ought to discount all the excise tax on gasoline that is just for some other nonhighway purpose? It makes sense to me. That amendment will be offered later.

We would like to have the distinguished chairman of the Appropriations Committee modify this amendment to include this formula, and that is what the meeting is all about. So I will excuse myself and go to the meeting.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I wish the Republican leader well. Come back soon and we can have a Surface Transportation Act.

I want to thank the Senator from Missouri who has been a bulldog in this matter and properly so. He found no dispute from the Senator from Idaho or New York as regards the legitimacy of the claims. The question was the resources by which to meet them. I think we have done that.

In fact, the always-deft fiscal skills of the chairman of the Finance Committee, the Senator from Texas, who has—if anybody can claim this issue for his own, it is Senator BENTSEN who resolved it. We are going to go into a little more difficulty of trying to allocate State effort under the measures that are about to be voted on. We will have great difficulty doing this because of a lack of data. In the spirit of the Senators who brought supply-side economics to this floor 15 years ago, I have been trying to explain, as best I understand, the disorder of the public sector when they get out of sync.

The Department of Transportation has no information on this subject. It avoids information on this subject. If you started finding out how much is spent, we might start asking what do you get for it? We might start to say how can the most expensive public works program in history be crumbling in 15 years' time? Those Roman roads that Senator BYRD was talking about are still in use two millenia later. Two decades after sectors of the Interstate Highway System have come along, they have effectively been reduced, in many segments, to very poor conditions, and the Department of Transportation has presided over this and done nothing. It is a free good, so who cares what you get out of it. The whole object is to spend the free money. It is a consumption good rather than an investment. I think if there is one way to distinguish public sector disorder: it is when what ought to be investment money becomes "cut the ribbon, get through your term and what else in required?"

This has to do with the ability to delay gratification and all those things that grown up countries are supposed to be good at and seem to have trouble with.

AMENDMENT NO. 353

(Purpose: To authorize the States to enter into certain agreements and compacts relating to regional transportation problems)

Mr. MOYNIHAN. Mr. President, as we wait further word on final agreements with respect to the allocation resources, on behalf of myself and my ever-patient associate in this enterprise, Senator SYMMS, I send a committee amendment to the desk and ask for it's immediate consideration. These have been agreed to on both sides. I ask unanimous consent to temporarily set aside the Byrd amendment.

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

The Clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] proposes an amendment numbered 353.

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

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

The amendment is as follows:

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

SEC. . INTERSTATE TRANSPORTATION AGREEMENTS AND COMPACTS.

(a) CONSENT AND APPROVAL OF CONGRESS.—The consent and approval of Congress are hereby given to the several States to negotiate, enter into, and carry out agreements or compacts for the purpose of establishing policies and priorities, including allocation of funds, to resolve interstate highway and bridge problems of regional significance identified by metropolitan planning organizations.

(b) HIGHWAY TRUST FUND.—The highway and bridge projects identified in accordance with subsection (a) and included in agreements or compacts entered into pursuant to this section are eligible for funding from the Highway Account of the Highway Trust Fund.

On page 42, line 13 strike "not to exceed $5,000,000" and insert in lieu thereof "not to exceed $25,000,000".

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

SEC. . SUBSTITUTE PROJECT.

(a) APPROVAL OF PROJECT.—Notwithstanding any other provision of law, upon the request of the Governor of the State of Wisconsin, submitted after consultation with appropriate local government officials, the Secretary may approve substitute highway, bus transit, and light rail transit projects, in lieu of construction of the I-94 E-W Transitway project in Milwaukee and Waukesha Counties, as identified in the 1991 Interstate Cost Estimate.

(b) ELIGIBILITY FOR FEDERAL ASSISTANCE.—Upon approval of any substitute highway or transit project or projects under subsection (a), the costs of construction of the eligible transitway project for which such project or projects are substituted shall not be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956 and a sum equal to the Federal share of such costs, as included in the latest interstate cost estimate submitted to Congress, shall be available to the Secretary to incur obligations under section 103(e)(4) of title 23, United States Code, for the Federal share of the costs of such substitute project or projects.

(c) LIMITATION ON ELIGIBILITY.—If, by October 1, 1993, or two years after the date of enactment of this Act, whichever is later, the Governor of the State of Wisconsin has not submitted a request for a substitute project or projects in lieu of the I-94 E-W Transitway, the Secretary shall not approve such substitution. If, by October 1, 1995, or four years after the date of enactment of this Act, whichever is later, such substitute project or projects are not under construction, or under contract for construction, no funds shall be appropriated under the authority of section 103(e)(4) of title 23, United States Code, for such project or projects. For the purposes of this subsection, the term "construction" has the same meaning as given to it in section 101, title 23, United States Code, and shall include activities such as preliminary engineering and right-of-way acquisition.

(d) ADMINISTRATIVE PROVISIONS.—

(1) STATUS OF SUBSTITUTE PROJECT OR PROJECTS.—Any substitute project approved under subsection (a) shall be deemed to be a substitute project for the purposes of section 103(e)(4) of title 23, United States Code (other than subparagraphs (C) and (O)).

(2) REDUCTION OF UNOBLIGATED INTERSTATE APPORTIONMENT.—Unobligated apportionments for the Interstate System in the State of Wisconsin shall, on the date of approval of any substitute project or projects under subsection (a), be applied toward the Federal share of the costs of such substitute project or projects.

(3) ADMINISTRATION THROUGH FHWA.—The Secretary shall administer this section through the Federal Highway Administration.

(4) FISCAL YEARS 1993 AND 1994 APPORTIONMENTS.—For the purpose of apportioning funds for fiscal years 1993 and 1994 under sec-

tion 104(b)(5)(A), the Secretary shall consider Wisconsin as having no remaining eligible costs. For the purpose of apportioning funds under section 104(b)(5)(A) of title 23, United States Code, for fiscal year 1995 and subsequent fiscal years, Wisconsin's actual remaining eligible costs shall be used.

(5) FUNDING PROVISIONS FOR SUBSTITUTE PROJECTS.—Notwithstanding any other provision of law, the source of funding for any transit substitute projects approved under subsection (a) shall be the Mass Transit Account of the Highway Trust Fund. All other funding provisions for any approved substitute projects shall be as provided in section 103(e)(4) of title 23, United States Code.

(e) TRANSFER OF APPORTIONMENTS.—Wisconsin may transfer interstate construction apportionments to its National Highway System in amounts equal to or less than the costs for additional work on sections of the Interstate System that have built with Interstate construction funds and that are open to traffic as shown in the 1991 Interstate Cost Estimate.

Insert at the appropriate place in S. 1204:

SEC. . MONTANA-CANADA TRADE.

The Secretary shall not withhold funds from the State of Montana on the basis of actions taken by the State of Montana pursuant to a draft memorandum of understanding with the Province of Alberta, Canada, regarding truck transportation between Canada and Shelby, Montana. Provided that such actions do not include actions not permitted by the State of Montana on or before June 1, 1991.

On page 5, strike out lines 3 through 9 and insert in lieu thereof:

(3) BRIDGE PROGRAM.—For the Bridge Program $2,350,000,000 for fiscal year 1992, $2,440,000,000 for fiscal year 1993, $2,580,000,000 for fiscal year 1994, $2,820,000,000 for fiscal year 1995, and $3,230,000,000 for fiscal year 1996.

On page 6, strike out line 17 and insert in lieu thereof "$120,000,000 for each of fiscal years 1992,".

On page 37, between lines 17 and 18, insert the following:

(c) REHABILITATION.—Of the funds authorized to be appropriated pursuant to section 103(b)(7)(B) of this Act, an amount equal to $20,000,000 shall be available for each of fiscal years 1992, 1993, 1994, 1995, and 1996 for continued rehabilitation of federally owned highways under the Federal lands highway program of title 23, United States Code. Such funds shall remain available until expended.

On page 37, line 18, strike out "(c)" and insert in lieu thereof "(d)".

On page 4, between 2 and 3 insert the following:

"(c) The Secretary shall distribute copies of the Declaration of Policy contained in this section to each employee of the Federal Highway Administration, and shall ensure that such Declaration of Policy is posted in all offices of the Federal Highway Administration.".

Mr. BAUCUS. Mr. President, the State of Montana and the Province of Alberta, Canada, have entered into a draft memorandum of understanding that would lead to the development of a trade port at the town of Shelby, MT.

Shelby is located in north-central Montana, along Interstate 15, approximately 60 miles from the Canadian border. Under the agreement between Montana and Alberta, large Canadian trucks would travel only as far south as Shelby. At Shelby these trucks would be off-loaded onto the railroad or smaller trucks.

This is an important trade promotion and economic development project for the Shelby area. It will create over 100 badly needed jobs in Shelby.

Unfortunately, through what I believe to be an erroneous interpretation of 1982 Symms amendment and Montana's grandfather rights, the Federal Highway Administration has threatened to withhold Montana's highway funds if the State moves forward with the memorandum of understanding.

Mr. President, I ask unanimous consent that several pages of documentation describing the dispute between the State of Montana and the Federal Highway Administration be printed in the RECORD.

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

DRAFT MEMORANDUM OF UNDERSTANDING

The State of Montana hereinafter referred to as Montana and the Province of Alberta hereinafter referred to as Alberta.

Alberta and Montana: Recognize the need to facilitate the free flow of commerce between Montana and Alberta by commercial vehicles;

Wish to eliminate the inconveniences incurred by commercial vehicles because of differences in vehicle size and weight regulations between the two Parties;

Undertake this one year experiment to determine the economic impacts and the tolerance of the Montana highway system to increased vehicle weights; and

Will administer their respective statutes and regulations as hereinafter set forth:

MONTANA

Montana will, under section 61-10-121, MCA, issue special permits for vehicles to travel on Interstate 15 from the U.S.-Canadian border at Sweetgrass to Shelby at the following maximum axle weights.

Steering axle, 12,100 pounds (5,500 kg).

Tandem Drive axles, 37,500 pounds (17,000 kg).

Tridem axles—Axle spread: 94" (2.4m) to < 118" (3.0 meters) 46,300 (21,000 kg); 118" (3.0m) to < 141" (3.6m) 50,700 (23,000 kg); 141" (3.6m) to 146" (3.7m) 52,900 (24,000 kg).

Maximum gross weight: A-Train, 118,000 pounds (53,000 kg); B-Train 8 axle, 137,500 pounds (62,500 kg); B-Train 7 axle, 124,600 pounds (56,500 kg); Tractor/Semi, 102,500 pounds (46,000 kg).

On semi trailers with tridem axle trailer with at least 72" between the trailer axles: 12,100 pounds (5,500 kg); tandem drive axles 37,500 pounds (17,000 kg); Tridem trailer axles 52,900 pounds (24,000 kg).

Since these permits are for reducible loads, all carriers applying for special permits must obtain a restricted route permit and pay appropriate G.V.W. fees.

ALBERTA

Alberta will under section 20, MTA, issue special permits for existing A-trains operating at 82 feet (25 meters) overall length to access the fertilizer plants at Redwater, Medicine Hat and Carseland from the Montana/Alberta boundary at legal axle weights and a maximum gross vehicle weight of 118,000 pounds (53,500 kb).

Nothing in this Memorandum of Understanding waives registration fees, fuel taxes, permit fees, operating authority requirements or compliance to road ban restrictions of either party.

Upon request, Alberta or Montana shall provide the other with any information or documents necessary to verify the operations described in the Memorandum. Such information shall include notification of any legislative or regulatory changes which may affect the operations described herein.

Montana will allow the operations covered herein for a period of one year from the signatory date, unless severe damage to Montana highways is identified. If Montana determines that damages to its highway system are evident, Montana reserves the right to discontinue this agreement.

Either Alberta or Montana may discontinue the operations covered by the Memorandum by giving written notice to the other.

Such discontinuance shall be effective on the tenth (10th) day following the mailing date of such notice or any subsequent date agreed to.

Alberta and Montana shall proceed in accordance with the Memorandum of Understanding on a date agreed after the required internal formalities are completed.

Signed at —— this — day of ——, 1991.

For the State of Montana:

——— ———,
Governor.

For the Province of Alberta:

——— ———,
Premier.

———

MONTANA DEPARTMENT OF HIGHWAYS,
Helena, MT.

To: John Rothwell, Director of Highways.

From: James R. Beck, Administrator, Legal Services.

Date: April 9, 1991.

Subj: FHWA Memo.

I have reviewed the memorandum from Dean Carlson, Executive Director of the Federal Highway Administration, which was forwarded to you by Hank Honeywell, its Montana Division Administrator. The memo advises that the FHWA will withhold a portion of Montana's interstate apportionment if certain overweight permits are issued. The permits in question will be issued if the Memorandum of Understanding is entered into with the Province of Alberta. The FHWA advises that; in their opinion, the issuance of these permits will be in conflict with the provisions of 23 U.S.C Section 127.

The basic issue revolves around the correct interpretation of the "grandfather clause" contained in 23 U.S.C. Section 127. This section imposes restrictions on the weight and width of vehicles that can be operated on the Interstate System. Section 127 was originally enacted in 1956 and contains the following language: "This section shall not be construed to deny apportionment to any state allowing the operation within such state of any vehicles or combination thereof that could be lawfully operated within such state on July 1, 1956." This language in effect "grandfathered" in weights in excess of those authorized under Section 127. In Montana these heavier weights were allowed through the issuance of special permits.

The extent of the Department's authority to issue these special permits became a matter of controversy with not only the FHWA but also the trucking industry. Basically, the dispute with the FHWA centered around two issues:

(1) Should the grandfather clause contained in Section 127 be read to allow only those weights that were being operated on

the highways as of July 1, 1956 or should it be read to allow those weights that legally could have been operated as of that date, even though they were not actually being operated on the highways as of that date?

(2) The second question involved the issue of who made the final determination as to the extent of the weights allowed under the "grandfather" clause, the State or the FHWA?

In 1974 a trucking company brought a declaratory judgment action against the Department of Highways seeking an interpretation of the authority of the Department to issue special permits for weights in excess of those authorized by Section 127. The Montana Supreme Court issued an opinion defining the extent of the Department's authority to issue permits for excess weight. The FHWA was not happy with this opinion and does not agree with it; nevertheless, the Montana Department of Highways is bound by it.

This opinion and the dispute over the issuance of special permits was the subject of much communication with the FHWA between 1974 and 1982. In 1982 the Department contacted the office of Senator Baucus and expressed concern about the FHWA's position on the "grandfather clause." I believe that Senator Baucus was involved in the passage of an amendment to 23 U.S.C. Section 127. The amendment, introduced by Senator Symms of Idaho, revised the "grandfather clause" to read:

"This section shall not be construed to deny apportionment to any state allowing the operation within the state of any vehicles or combinations thereof *which the state determines* could be lawfully operated within such state on July 1, 1956. * * *"

The underlined language was inserted by the Environment and Public Works Committee according to Senator Symms. See 128 Congressional Record S14997.

In 1984 to FHWA issued a Final Rule on Truck Size and Weight in which they attempted to give themselves the final authority on determining the extent of the "grandfather clause." The Department wrote the office of Senator Baucus protesting that portion of the Final Rule. A copy of that letter is attached. The FHWA's then executive director wrote to Senator Symms and sent a copy of the letter to Senator Baucus. In this letter he states in part:

"As you know, the history of 'grandfather' interpretations has been long and controversial. We have attempted to interpret the amendment to Section 127 in a liberal but prudent manner in accord with our reading of legislative intent. In summary, those States, particularly in the Western United States, which have been issuing special permits for doubles and triples for weights in excess of 80,000 pounds, and which were doing so under authority of an opinion of the Attorney General or State Supreme Court (South Dakota and Montana) would be considered to be in compliance with 23 U.S.C. 172. This has been and remains a settled issue with us in these States and no further documentation is required nor would this issue be reopened in the future. Of particular significance to us in the use of Bridge Table B by these States, which does provide for proper axle numbers and spacing.* * *"

"Thus, *I would like to assure you that we have no inclination to overturn these existing practices, whether the States were in fact issuing such permits in 1956 or could have issued such permits in 1956.* We do, however, ask your support in the maintenance of our role with respect to the issuance of permits not conditioned upon Bridge Table B. We have diligently sought to conform to the letter of the law and to the spirit which led to the amendment and we feel we have succeeded in both establishing a proper Federal role and recognizing State determinations of State law." (Emphasis added)

It now appears that the FHWA is attemptiong to "reopen" the issue.

I believe that the Department should contact the office of Senator Baucus to advise him of the FHWA's memo and seek his assistance in this matter. If this is not successful and the FHWA withholds Montana's interstate apportionment, I would suggest that an action be initiated in Federal District Court to determination whether they have the legal authority to withhold these funds.

DEPARTMENT OF TRANSPORTATION,
FEDERAL HIGHWAY ADMINISTRATION,
April 1, 1991.

Subject: Montana: Memorandum of understanding with Alberta concerning overweight vehicle operations.

From: Executive Director.

To: Mr. Louis N. MacDonald, Regional Federal Highway Administrator (HRA-08), Lakewood, CO.

This is in response to your February 26 memorandum concerning Montana's proposed Memorandum of Understanding (MOU) with the Province of Alberta. The MOU would allow overweight vehicles carrying divisible loads to operate under permit on I-15 between Sweetgrass on the U.S.-Canadian border and Shelby. The vehicles would use 37,500 pound tandems and 50,700 pound tridems, both of which exceed Federal axle or bridge formula limits. The gross weight of these vehicles would apparently be 138,000 pounds. You asked for my review and advice. You also questioned whether Montana could enter into the agreement without congressional approval.

This permit program, if implemented, would bring Montana into conflict with Federal law and would result in the withholding of Federal-aid funds to the State.

Chief Counsel Steve Wermcrantz has concluded that vehicles with the weights contemplated by the MOU exceed Montana's grandfather rights under 23 U.S.C. §127. We are aware that the Montana Supreme Court held exactly the opposite in *State ex rel. Dick Irvin, Inc.* v. *Anderson*, 525 P.2d 564 (1974), but we think the decision was incorrect on the critical point. The question of State law addressed in *Dick Irvin*—whether Montana had the authority to issue divisible load permits in 1956—is exclusively within the jurisdiction of that Court. The interpretation of Federal weight law, however, is primarily the responsibility of this agency, and ultimately of the Federal courts. *Dick Irvin* held that the grandfather clause allows a State to issue divisible load permits for vehicles far heavier than those allowed under permit in 1956. That was a fundamental misreading of Section 127. The grandfather clause was intended to freeze vehicle weights, including the weights of vehicles operating under permit, at the levels current in 1956. The Montana Supreme Court's interpretation of the grandfather clause would reverse the intent of Congress and enable the State to increase vehicle weights without limit. The Federal Highway Administration (FHWA) therefore rejects both *Dick Irvin*'s reasoning and its result.

Several other States are also considering the adoption of permit programs that would allow vehicles weighing 110,000 pounds or more to operate routinely on the Interstate. The rationale for these programs is invariably derived from the Montana case. If this problem is not addressed now, the 80,000 pound gross weight limit will in effect disappear.

Please inform Montana that the FHWA considers permit operations under the MOU to be in conflict with Section 127. If it proceeds with the program, the FHWA intends to withhold the State's Interstate construction apportionment on October 1.

The Assistant General Counsel for International Law has advised us informally that the MOU probably does not offend the Constitution.

E. DEAN CARLSON.

DEPARTMENT OF TRANSPORTATION,
FEDERAL HIGHWAY ADMINISTRATION,
Washington, DC, October 3, 1984.

Hon. STEVEN D. SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: Thank you for the opportunity to review Mr. Darrell V. Manning's letter of September 12 to you concerning our recent interpretation of State "grandfather" rights under 23 U.S.C. 127. We have also reviewed Mr. Wicks' letter to Senator Baucus and a letter from Mr. Otis E. Winn to Senator Garn. We are forwarding this response to each of these Senators.

As you know, the history of "grandfather" interpretations has been long and controversial. We have attempted to interpret the amendment to Section 127 in a liberal but prudent manner in accord with our reading of legislative intent. In summary, those States, particularly in the Western United States, which have been issuing special permits for doubles and triples for weights in excess of 80,000 pounds, and which were doing so under authority of an opinion of the Attorney General or State Supreme Court (South Dakota and Montana) would be considered to be in compliance with 23 U.S.C. 127. This has been and remains a settled issue with us in these States and no further documentation is required nor would this issue be reopened in the future. Of particular significance to us is the use of Bridge Table B by these States, which does provide for proper axle numbers and spacing.

We do remain concerned with the issuance of permits, both up to and above 80,000 pounds which do not require the use of Bridge Table B. The increased frequency of loadings of such a magnitude can have disastrous implications for our pavements and bridges. In such cases, we do feel that the Congress has delegated to the Federal Highway Administration (FHWA), the task of ensuring that the safety and preservation of the Federal-aid systems remain intact. Thus, in States instituting new permit practices authorizing higher axle and gross weights we must remain involved to some extent to carry out the requirements of section 127.

I would again call your attention to the long history of FHWA support for the complete use of Bridge Table B. We recommended the lifting of the gross weight cap and use of Bridge Table B as early as 1965 (see H. Doc. 354, "Maximum Desirable Dimensions and Weights of Vehicles Operated on the Federal-Aid Systems)." We introduced legislation in 1969 and again in 1973; each time this legislation was rejected. We also discussed this proposal with the House and Senate staffs prior to the Surface Transportation Assistance Act of 1982 (STAA), but the proposal received an unfavorable reception.

Thus, I would like to assure you that we have no inclination to overturn these existing practices, whether the States were in fact issuing such permits in 1956 or could have issued such permits in 1956. We do, however, ask your support in the maintenance of our role with respect to the issuance of permits not conditioned upon Bridge Table B. We have diligently sought to conform to the letter of the law and to the spirit which led to the amendment and we feel we have succeeded in both establishing a proper Federal role and recognizing State determinations of State law.

I hope this information is of assistance to you.

Sincerely yours,

R.D. MORGAN,
Executive Director.

JULY 24, 1984.

HON. MAX BAUCUS,
U.S. Senator,
Dirksen Office Building,
Washington, DC.

DEAR MAX: The Federal Highway Administration (FHWA) on June 5, 1984 issued a Final Rule on Truck Size and Weight. This is contained in Volume 49 of the Federal Register starting at Page 23302. This rule addresses a number of subjects; however, the Montana Department of Highways is primarily concerned with only one. This is the interpretation that FHWA has placed on the grandfather clause contained in 23 USC 107. This particular section was amended by the Surface Transportion Assistance Act of 1982 (STAA). As you may recall, the gradfather issue as controversial. Our understanding of its resolution is, first, the states determine the permitting weight, and secondly, the weights are grandfathered on the basis of what the states could have issued, not what they were issuing at that time.

The FHWA's interpretation is found in the Supplementary Information under the heading "Special Permits" and is on Page 23312. This interpretation appears to be considerably different than the one expressed in the Notice of Proposed Rulemaking. This is found in Volume 48 of the Federal Register at Page 41280. We did not comment on the issue of the grandfather clause becaue we were not aware of the FHWA's interpretation until the final rule was published. In addition, we did not dispute the FHWA's statement on the effect of the amendment to the grandfather clause which was contained in the Notice of Proposed Rulemaking.

It now appears that the FHWA has altered its position on the effect of this amendment. We feel that the position of the FHWA is not only contrary to the plain meaning of the language of the STAA, but also contrary to the legislative intent as indicated by the legislative history of the STAA. The fact that an agency would attempt to adopt an interpretation that is directly contrary to the language and purpose of an amendment is most disturbing.

In order to understand the concern we have, some background information is essential. Section 127 of Title 23, USC, imposes restrictions on the weight and width of vehicles that can be operated on the Interstate System. This was originally enacted in 1956 and contains the following language: "This section shall not be construed to deny apportionment to any state allowing the operation within such state of any vehicles or combination thereof that could be lawfully operated within such state on July 1, 1956." This language in effect "grandfathered" in weights in excess of those authorized under Section 127. In Montana these heavier weights were allowed through the issuance of special permits.

The extent of the Department's authority to issue these special permits became a matter of controversy with not only the FHWA but also the trucking industry. Basically, the dispute with the FHWA centered around two issues:

(1) Should the grandfather clause contained in Section 127 be read to allow only those weights that were being operated on the highways as of July 1, 1956 or should it be read to allow those weights that legally could have been operated as of that date, even though they were not actually being operated on the highways as of that date?

(2) The second question involved the issue of who made the final determination as to the extent of the weights allowed under the "grandfather" clause, the State or the FHWA?

In 1974 a trucking company brought a declaratory judgment action against the Department of Highways seeking an interpretation of the authority of the Department to issue special permits for weights in excess of those authorized by Section 127. The Montana Suprme Court issued an opinion defining the extent of the Department's authority to issue permits for excess weight. The FHWA was not happy with its opinion and does not agree with it; nevertheless, the Montana Department of Highways is bound by it.

This opinion and the dispute over the issuance of special permits was the subject of much communication with the FHWA between 1974 and 1982.

The Department of Highways, upon reading the provision of the Surface Transportation Act of 1982, thought that the subject had been put to rest as the result of language which amended the grandfather clause in Section 127. This language amended the grandfather clause so that it now reads: "This section shall not be construed to deny apportionment to any state allowing the operation within the state of any vehicles or combinations thereof which the state determines could be lawfully operated within such state on July 1, 1956 * * *" The underlined language was inserted by the Environment and Public Works Committee according to Senator Symms. See 128 Congressional Record S14997.

The FHWA on Page 23313 of the Federal Register states:

"The Congress, in enacting the STAA, attempted to clarify this issue and reduce conflict between the Federal and State governments by amending 23 U.S.C. 127 and placing the responsibility on the States to determine, as a matter of first impression, whether State law on July 1, 1956, provided for the issuance of special permits for divisable loads, and if so, the scope of the permits. However, the legislative history of the STAA addresses the issuance of special permits (see remarks of Sen. Symms, 138 Congressional Record S14997) and makes it clear that Congress did not intend to create exclusive State authority to make such determinations. The Secretary must be involved in this determination process and is responsible for reviewing State determinations that appear to be inconsistent with the requirements of 23 U.S.C. 127. Congress enumerated the States that are considered to have legitimate grandfather rights and also mentioned that the language added to Section 127 was not meant to provide new controversies over this authority."

The clear implication of this paragraph is that the FHWA will make the ultimate determination as to the extent of the State's permitting authority. To justify this, it is noted that the legislative history "makes it clear that Congress did not intend to create exclusive authority to make such determinations." That may be true but it is misleading—Congress did intend that the final determination would be made by the states."

The legislative history is very clear on this. The House version, which was not enacted, contained a subsection amending the language of the grandfather clause. In the House Report on P.L. 97-424 it was stated about this subsection:

"The new subsection also provides, however, that apportionments shall not be denied to States which allow the operation of vehicles which that State determines, in consultation with the Secretary, could have legally operated in the State on July 1, 1956, or in the case of overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Act of 1974. Consultation with the Secretary is intended to ensure that the Federal investment in the Interstate System is safeguarded to the maximum extent practical."

A copy of this subsection is not available to the Department of Highways. However, it is obvious that it required "consultation with the Secretary" in the determination of what vehicles could legally be operated within a State on July 1, 1956.

The Senate amended the above language and in the Conference Report on P.L. 94-424 it is noted:

"The provision also clarifies the application of the "grandfather clauses" authorized by the Federal-Aid Highway Act of 1956 and the Federal-Aid Highway Amendments of 1975. Under this provision States will determine the weight of vehicles and classes of vehicles eligible under the grandfather provision as it applies to their State."

It is obvious that the ultimate determination as to the extent of the weights allowed under the grandfather clause resides solely with the State and that there is no requirement that the states consult with the "Secretary" or the FHWA in making that determination.

The FHWA states, in the latest rules, that the legislative history "makes it clear that Congress did not intend to create exclusive state authority to make such determinations." In support of this they seem to cite the remarks of Sen. Symms at 128 Congressional Record S14997. A reading of Sen. Symms does not support this position. Senator Symms recognized that the ultimate determination would be made by the state. He stated:

"This set of States are the only ones likely to qualify under the State determination process envisioned by the committee in adding the provision. FHWA is certainly encouraged to be actively involved in the state determination process."

Note the language that encourages the FHWA to be actively involved "in the State determination process." This does not mean that the FHWA is empowered to make its own determination but rather that the FHWA should participate in the state determination process, such as an Attorney General's opinion or a court case.

The FHWA in a similar vein is trying to adopt an interpretation of the grandfather clause which is contrary to the plain wording of the legislaton. So far as pertinent, the grandfather clause was amended to read: "* * * to any state allowing the operation within such state of any vehicles or com-

binations thereof which the state determines could be lawfully operated within the state on July 1, 1956 * * *"

The FHWA on Page 23313 of the Federal Register states:

"FHWA believes the authority to issue special permits for divisible loads in excess of 80,000 pounds represents a legitimate grandfather right under Section 127 only if the State was actually issuing such permits in 1956. Furthermore, this permit authority should only extend to those weights for which the permits were being issued at that time. Any other interpretation would allow the States to issue permits for loads that do excessive damage to highway pavements and bridges and would contravene the plain meaning of grandfather rights under Section 127."

The FHWA is taking the position that the extent of the State's permitting authority under the grandfather clause is determined by what permits were actually being issued on July 1, 1956. This is contrary to the plain wording of the statutes. The determination cannot be limited to what the states were actually permitting, but what the states, under their law, could have permitted on that date. This is borne out by the House Report to P.L. 97-424, which states:

"In incorporating amendments with respect to vehicle sizes and weights, the committee has taken care to preserve the authority of the States to continue to permit the operation of vehicles of such sizes and weights as could lawfully be operated on those highways of those states on July 1, 1956."

Congress was no doubt well aware of the difference between the term, "could lawfully be operated" and, "were lawfully operated." If Congress had intended the latter, they would have said so.

We believe that you should be made aware of the action being taken by the FHWA and its incorrect interpretation of the amendment to the grandfather clause. It would appear that the FHWA does not agree with the amendment, and therefore through the process of rulemaking, is attempting to thwart the will of Congress. We are requesting that you intercede in this matter to determine what the FHWA intent is on the rule, and to have the rule rescinded, or modified to comply with the original congressional intent. For your information there are 15 other states apparently being similarly affected, namely Nebraska, South Dakota, Oklahoma, Rhode Island, Idaho, Oregon, New Mexico, Utah, Nevada, Massachusetts, Louisiana, Michigan, Hawaii, Washington and Alaska.

Sincerely,

GARY J. WICKS,
Director of Highways.

Mr. BAUCUS. In closing, this will allow development of the Shelby Trade Port. It will spare the State of Montana from needless and expensive litigation.

Thank you.

Mr. KOHL. Mr. President, this amendment will provide Wisconsin the necessary flexibility to better meet its transportation needs in southeastern Wisconsin.

I ask unanimous consent that a letter written to the chairman of the transportation subcommittee of the Environment and Public Works Committee, Senator MOYNIHAN, by myself and Senator KASTEN which further explains the need for this amendment, 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, May 31, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
Chairman, Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR PAT: In anticipation of full Senate consideration of the Surface Transportation Efficiency Act of 1991, we would like to bring to your attention a matter of special concern to the State of Wisconsin.

During preparation of the 1991 Interstate Cost Estimate [ICE], the Federal Highway Administration agreed that $320.9 million in costs related to the I-94 East-West transitway project in Milwaukee and Waukesha counties had been inappropriately excluded from Wisconsin's ICE in 1981. Although Wisconsin has had no remaining Interstate completion costs since 1987, the 1991 ICE—submitted to Congress in February—showed Wisconsin with an estimated Federal share of funds required to complete the Interstate system of $265.18 million. This sequence of events has created circumstances that FHWA admits are unique in most respects.

FHWA has already agreed to restore these funds and no further action is required to establish Wisconsin's entitlement. However, because of the 10-year period since the costs were excluded by FHWA, the dormancy of the transitway project, and the sudden restoration of these funds, Wisconsin faces a very difficult task in trying to develop plans for the most appropriate use of these funds to be apportioned starting October 1, 1991.

It now appears that the transitway project is no longer the best solution to the growing congestion along the I-94 E-W corridor. Since Wisconsin will need several years to select projects and develop detailed plans before it is actually able to use these funds, we believe that the best solution from both a State and Federal perspective is to make the transitway project eligible as an Interstate substitution project. We have attached draft legislative language to that effect.

There are several justifications for making the transitway project eligible as an Interstate substitution project.

First, it is important to note that we are not proposing this in order to gain additional funds for Wisconsin. Rather, treating this as a substitution project permits a more manageable schedule for project development and fund distribution. This is critical to ensure that sound planning and decisionmaking occurs at each step of the process.

Second, strong local support now exists for construction of a light rail transit [LRT] system along this route instead of a transitway. Under existing law, the use of these funds for a transit project must be done under the auspices of an Interstate substitution project. As you may recall, there is precedent for this in the 1987 Surface Transportation Assistance Act, which permitted Oregon and California to construct a LRT line in lieu of HOV lanes that were part of the ICE in those states. It is also envisioned that a portion of these funds would be used for additional highway projects in the E-W corridor and on connecting routes in the region.

Third, Wisconsin is not in a position to be able to use these newly-restored Interstate funds in fiscal year 1992. It therefore makes little sense to tie up these funds on paper by apportioning them to Wisconsin when it is clear that other States could make better use of the funds in the near term. Massachusetts is in a similar position with regards to its ability to use Interstate funds, and FHWA has proposed language to specifically exclude them from apportionment calculations until the State is ready to use the funds. At such time as Wisconsin formally requests the substitution, its costs would be removed from the ICE, increasing the shares of other States. To ensure that no apportionments are received before that time, the language treats Wisconsin as a zero-cost State when Interstate apportionments are calculated.

Lastly, we feel that the Interstate substitution approach is the best method available to use these funds to achieve their original purpose: namely, to improve mobility in the I-94 E-W corridor. Absent the creation of an Interstate substitution project, other uses will have to be found for these funds that may not adequately serve the original intent of the transitway project.

We hope that we can enlist your support for this Interstate substitution project. Please let us know if, you or your staff need any additional information on the subject.

Best regards,

HERB KOHL.
BOB KASTEN.

Mr. KOHL. Mr. President, I thank the managers of the bill for their cooperation on this matter as their support for this amendment.

Mr. KASTEN. Mr. President, I rise as a cosponsor of this amendment which gives Wisconsin some necessary flexibility in the use of $341 million of highway funds to which we are already entitled. In 1991 during preparation of the interstate cost estimate [ICE], the Federal Highway Administration agreed that $320.9 million in costs related to the I-94 east-west transitway project in Milwaukee and Waukesha counties had been inappropriately excluded from Wisconsin's ICE in 1981.

The 1991 ICE—submitted to Congress in February—showed Wisconsin with an estimated Federal share of funds required to complete the Interstate System of $265.18 million, although Wisconsin has not had any remaining Interstate completion costs since 1987.

FHWA admitted that this is a unique set of circumstances and has agreed to restore these funds without further action to establish Wisconsin's entitlement. Unfortunately the transitway project these funds are allocated for has been dormant for 10 years, making it extremely difficult for Wisconsin to develop plans for their proper use by October 1, 1991.

Furthermore the 10-year dormancy has rendered the transitway project obsolete, as it no longer provides the best alternative for solving congestion problems along the I-94 east-west corridor. I believe the best solution from both a State and Federal perspective is to make the transitway project eligible as an interstate substitution project.

There are several justifications for this decision.

Most importantly, Wisconsin is not requesting any additional funding. Rather the substitution project simply

provides us with the necessary time to draft a manageable and realistic schedule for project development and fund distribution.

Second the 10-year time lapse has changed the solution to the I-94 east-west corridor congestion problem. There is strong local support to construct a lightrail transit [LRT] system instead of the planned transitway. Under the existing law, the use of these funds for a transit project can only be accomplished under the auspices of an interstate substitution project.

Additional highway projects in the E-W corridor and on connecting routes in the region could also be funded with this money. The 1987 Surface Transportation Assistance Act permitted Oregon and California to build a LRT line instead of HOV lanes and serves as a precedent for our proposal.

Third, Wisconsin will need several years to draft plans for the best usage of these funds. It makes no sense to allocate these funds to Wisconsin when other States with more fully developed ideas could make better use of them. Wisconsin's costs would be removed from ICE, thus increasing the allotment of other States. To ensure that no apportionments are received before that time, the language treats Wisconsin as a zero-cost State when interstate apportionments are calculated.

Finally, the Interstate substitution method provides the best solution to improving transportation mobility in the I-94 E-W corridor. Without the Interstate substitution project I am proposing, plans will have to be devised that may not adequately serve the original intent of the transitway project. And without the flexibility this amendment provides, the money may not be directed to its best use.

I thank the managers of this bill for their cooperation and am pleased that this amendment is included in the Surface Transportation Act.

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

The amendment (No. 353) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, seeing no Senator seeking recognition, 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 unanimous consent that Senator BAUCUS be allowed to speak before we go into recess.

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

Mr. BAUCUS. Mr. President, I thank the Senator from New York as well as the Senator from Idaho for their gracious willingness to delay the vote. I thank the Chair.

Mr. President, I rise today in support of the compromise amendment offered by the Senator from West Virginia, our distinguished President pro tempore. I will focus my remarks on the amendment's level of effort bonus provision.

But before I do, I would like to begin by saying that this amendment strikes a reasonable balance between the competing interests that have made debate over this bill so difficult.

Mr. President, it is time for all of us to put our regional differences aside and do what the President has asked us to do; that is, pass a surface transportation bill in about 100 days.

Like the Senator from West Virginia, I have long believed that the Federal highway funding formula should contain a level of effort provision.

Earlier this year Senator REID and I introduced S. 823 the Transportation Improvement Act of 1991. That legislation contained a level of effort bonus provision somewhat similar to that which the Senator from West Virginia has now proposed.

The level of effort provision in this amendment is good national public policy.

The amendment recognizes the Federal Government must encourage State investment in roads and bridges. First and foremost, we should help those States with limited means that make an extra effort to help themselves. That is good policy.

Make no mistake about it, this is an issue that is also critical to our national competitiveness. As the Senator from West Virginia has repeatedly recognized, this country must begin to invest in improving its infrastructure.

For instance, on August 5 of last year the Washington Post ran a piece on the troubled Soviet farm economy. The article cited "miserable country roads" as a major reason why the Soviets lost as much as 2 million tons of grain each day—lost to the Soviet Union because of miserable roads. Grain rots on the farms. And Soviet farm to market roads simply cannot carry enough commodities to support cities like Moscow or Leningrad.

Of course, our roads are not in the same state of disrepair as those in the Soviet Union. They are not. Yet any smart businessman or local planner knows that poor roads and bridges hamper economic development.

Moreover, at least one study shows that an investment in highways and other forms of infrastructure stimulate economic growth. According to a study conducted by Prof. David Aschauer, a former researcher from the Federal Reserve Bank in Chicago, a $1 increase in Federal infrastructure spending adds as much to this Nation's economic productivity as $4 in private business capital investment.

However, such investment must occur at all levels of government—Federal, State, and local. I say this because a full 80 percent of the total road and bridge spending in the United States occurs at the State and local level. By increasing spending at the Federal level, we have accomplished just 20 percent of what must be done.

Yet, unfortunately, when it comes to highway and bridge spending there is an enormous disparity between the States. For instance, in my home State of Montana we are taxing ourselves into the ground just to maintain our existing network of State and Federal aid roads. We are not a rich State. We lack a broad tax base.

But on a per capita basis the Federal Highway Administration estimates that Montanans pay $380 each person in direct and indirect highway taxes—the fifth highest overall State level effort in the Nation. Nationally the per capita level of highway spending is just $226, much higher in a State like mine with no resource base on which to raise more taxes.

Moreover, at 20 cents a gallon our State gasoline tax is among the highest in the Nation. We are tapped out. Unless the Federal Government begins to provide an incentive we cannot even begin to think about paying more. The level of effort provision in this amendment recognizes this fact.

For this reason, Mr. President, I urge adoption of the amendment. It is time to provide a fair incentive for the States to invest in this Nation's infrastructure.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER (Mr. SIMON). The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I ask unanimous consent to be able to speak as in morning business for not more than 10 minutes.

Mr. HATFIELD. Reserving the right to object——

Mr. DOMENICI. I say to the distinguished chairman, the Senator from Florida is wishing to speak on the amendment.

Mr. LEAHY. I am sorry. I sought recognition. I did not realize there was somebody else out there.

Parliamentary inquiry, Mr. President: Who has the floor?

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I ask unanimous consent to be able to yield to the Senator from Florida without losing my right to the floor.

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

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, I would like to talk about the environment in which we are about to consider the amendment offered by the Senator from West Virginia and the basic bill.

There has been a great deal made of the fact that transportation is a key part of our national effort to rebuild economic competitiveness. Of all the things that Government can do that will contribute in our democratic capitalist society to a stronger and more competitive American economy, the two principal areas of investment are education and transportation.

I believe that therefore it is important that we understand what the fundamental impact of this legislation that we are currently considering will be on our Nation's transportation system over its 5-year life expectancy.

To do that, let me share two sets of figures: One from the Federal Highway Administration that relates to the status of this legislation and our National Highway System; the second set from the American Public Transit Administration relative to the impact of this legislation on our public transit system.

According to the Federal Highway Administration, Mr. President, we today have an unmet need in our highways of $450 billion. That is in order to bring our highways up to a level of adequacy, we would have to spend $450 billion.

The Federal Highway Administration projects that over the next 5 years, as a function of the continued deterioration of our existing system, and the needs of a growing population and economy, we will add an additional $225 billion to our current unmet needs.

So if we did nothing and made no expenditures over the next 5 years, we would have a total unmet need in fiscal year 1996 of approximately $675 billion. We are not proposing to do nothing. We are going to be making an expenditure—although the numbers have been somewhat shifting, under this legislation, with the amendment that is currently before us and the amount of State funds which are anticipated to be drawn to this Federal program—of approximately $150 billion over the next 5 years.

The consequence, therefore, is that at the end of this 5-year period, we will, to the extent of approximately $75 billion, have a worse transportation system, a worse highway system than we do today. If anyone wishes to dispute those figures that we are about to pass a bill which guarantees that we are going to have a deterioration of America's highway system, I wish they would please stand and challenge those numbers, because to me that is a basic part of the environment, which this legislation must be considering. We are guaranteeing longer lines, and we are guaranteeing greater deterioration of our highways, a lesser contribution to our Nation's economy. And it is not just in highways.

The American Public Transit Administration, using the same analysis, estimates that today the estimate of backlog in our public transit is $25 billion. We will add to that number, over the next 5 years, an additional $26 billion for maintenance, modernization, and replacement of the existing system, and $24 billion of need for capacity expansion, or a total of $60 billion of additional needs added to the $25 billion that currently exists.

We are proposing to spend, under the public transit title of this bill, $17 billion in Federal funds and will draw $8 billion of State and local contribution, or a total of $25 billion.

So the consequence is that at the end of this process, we will have a $50 billion, rather than the current $25 billion, unmet need in our transit needs. So we are adding over $100 billion in the next 5 years to the backlog of our Nation's transportation system in highways and public transit. That is the basic environment within which this amendment, this legislation, must be considered.

The second issue of environment is the fact that America is moving. The distinguished Senator from New York has used extensively a line from the movie "Field of Dreams," which is, "If you build it, they will come." That movie is set in Iowa. That is where the cornfield was cut down, the baseball field was built, and the Chicago White Sox of 1919 returned, because it had been built and they came.

I am interested in Iowa, because in addition to being a beautiful, wonderful State in our Nation, it also happens to be a State that shares a lot of historical parallels with Florida. When Florida became a State in 1845, Iowa became a State also. We entered the Union together.

When we did, Iowa had a population of 192,000 souls. Florida had a population, in 1845, of 87,000 souls. By 1930, Iowa had grown to 2.471 million. Florida had grown to 1.468 million. Florida had five Members of Congress in 1930, and Iowa had nine. Today, in the 1990 census, the Iowa population is 2,887,000, and it will have 5 Members of Congress. Florida will have a population of 13,003,000 and will have 23 Members in the House of Representatives after the 1990 census is implemented.

Mr. President, why do I cite these figures from the line, "If you build it, they will come"? We did not build it, and they came. I can assure you that there were many reasons why 13 million Americans decided that they wanted to come to Florida. It was not the smell of asphalt. They came for a whole variety of reasons. And now it is America's responsibility to see that a basic part of the American system of serving Americans where Americans live—our transportation system—responds to that. They are there, and now we must respond in an equitable manner.

Later in this debate, I will talk about some of the concerns I have about the underlying legislation, the legislation introduced by the Senators from New York and Idaho, which I believe fails to take into account that second part of the basic environment, which is that America has moved; therefore, our concept of where transportation needs are must also move.

Let me turn, Mr. President, to the issue of the Byrd amendment. When I was in the State legislature, we used to consider the budget by taking up a piece of legislation that had some 1,200 items. The first item in that was always the salary of the Secretary of State. We would spend a considerable period of time debating whether the Secretary of State was worth $30,000, or $32,000, or $28,000, or some other figure, and after having exhausted that very philosophical debate, someone would say, "We have now had a full debate on the budget; let us go to a vote."

I have a sense of deja vu here. We have a tail, the tail of Byrd-Mitchell-Bentsen, an $8.2 billion tail. It is not an inexpensive tail, but it is a tail, because it is attached to a dog that is $105 billion dog.

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

Mr. GRAHAM. Yes.

Mr. MOYNIHAN. Is the Senator not aware—as I know he is aware—that I have repeatedly asked if we could not refer to the bill as a donkey?

Mr. GRAHAM. I do not want to have any partnership by illusion, or otherwise, attached to this legislation. I do not want the symbol of Thomas Jefferson to be associated with an analogy which I think is so precise, because we have a dog, a $105 billion dog. It is an old dog, and we will talk about the age of this dog at a later point. I suggest that it is a relatively emaciating dog in terms of the distance that we want it to travel in meeting our transportation needs. But that is the dog.

What we are talking about here, and have been talking about for most of last week, has been the tail of the dog. Just like I do not want the salary of the Secretary of State in Florida to be defined as the totality of debate on the budget, I do not want the debate over the tail of Senator Byrd-Mitchell-Bentsen—no pejorative to any of those Senators or the tail itself—to be considered to be the debate on the transportation bill.

I have some concerns about the basic proposal of Senator BYRD. We are here allocating Federal money to meet Federal objectives. We are here to see that the mammoth investment that we have

in our Federal Highway System, including the 40,000-plus miles of interstate, is properly maintained. We are here to see that the investment in our Nation's public transit systems, which have been largely built with Federal funds, is maintained. We are here to see that we can meet future needs, as the American population and the American economy grows.

(Mr. SIMON assumed the chair.)

Mr. GRAHAM. Those are what we are here about. Those, Mr. President, I suggest, have no relevance to the question of the amount of effort expended on State and county roads, which is where those funds derived through State gasoline taxes and other sources of funding which go into a State transportation program are directed.

The fact that one State has a different standard of expectation as to what its State or county system would be, the fact that one State, for instance, has less than it has to spend on areas such as law enforcement and therefore is allowed to spend more on transportation, those are not relevant to the question of what is our level of commitment to a National Highway System, and that is the issue which I believe is diverted by our focus on a formula that says we should distribute approximately 3 to 4 percent of our highway money based on your effort for your State and your county roads.

Second, even assuming you could accept the theory there was some appropriateness to that concept, as has been pointed out by several speakers earlier today, the idea of focusing on a single factor, the average rate of tax on gasoline, as being the sine qua non of a State's effort excludes a whole range of other ways in which States have met their transportation needs. It excludes diesel fuel, a very significant factor not only in terms of its dollar contribution but also as an indicator of one of the most serious sources of damage to our highways, which is truck traffic. It excludes license fees. It includes those States that apply an ad valorem tax against automobiles. It excludes those who use toll systems extensively. All of these are forms of citizen contributions toward their transportation system. They are all indicators of a State's particular effort.

I believe before we leave this matter we are going to have to address a more rational and more comprehensive standard of what is State effort.

Finally, Mr. President, I would suggest if we were to adopt this, what we would do is send out a message of encouragement to gaming the system.

It would not be a particularly bright legislature that would be required to figure out they would be better off lowering their license tag fees and increasing their gasoline tax in a proportional manner so the total income was maintained but to do so in the category that would draw down additional Federal funds.

So we are creating an incentive for States to take action that could be totally unjustified by any policy or tax standard just in order to be able to game the system where they would get the greatest amount of funds.

That, Mr. President, speaks to the first half of the amendment that is before us.

The second half is the minimum allocation. I am concerned that "minimum allocation" as a phrase is a misnomer. The fact is we have had a minimum allocation formula in the law for most of the last decade and theoretically that has indicated States would get back 85 percent of what they contribute.

In fact, for many States, including mine, the amount returned has been closer to 74 cents of what we have contributed. And the minimum allocation we are talking about in the future is also a misnomer.

In round numbers, Mr. President, we are proposing now to receive into the highway trust fund over the next 5 years approximately $81 billion. We are proposing to expend from the trust fund for highway purposes $96 billion. Where is the $15 billion difference? The $15 billion difference is we are spending down the highway trust fund and there is some interest earning on that fund.

What we are not doing is we are not going back and readjusting what the States' contributions will be both in terms of what they have already committed in past years and which has accumulated and earned interest and how much they are going to contribute over the next 5 years.

In the case of my State, we are going to be contributing in the first year, 1992, approximately 4.91 percent of the nationwide total. That percentage will grow over the 5-year period. But fixing at that 4.91, if that were applied to the $15 billion that is going to be added to the system beyond what will be contributed over the next 5 years, my State's contribution would be increased by approximately $680 million to $700 million. And it is on that figure, the real amount we contribute, what we contribute, that we have already paid at the office, and what we are going to contribute when the delivery man comes to our door each of the next 5 years that ought to be the standard by which we evaluate whether we are treating all of our States with a minimum level of adequacy.

The consequences of this approach, Mr. President, remind me of the end of a movie which I would recommend to my colleague, "Thelma and Louise." I do not want to tell the full story of a very interesting plot. But at the last scene, in very desperate circumstances, Thelma and Louise take action to remove themselves from their predicament, and the last scene of the movie shows them suspended over a canyon. I suggest we are going to have a transportation system which will be like that last scene in "Thelma and Louise," suspended over a canyon, suspended because we are going to be spending out at a level of $96 billion because we are using past accumulations as well as current receipts. But we are only going to be having funding coming into the trust fund at a level of $81 billion.

So we are guaranteeing to our colleagues in 1996 that not only are they going to have a worse transportation system, poorer roads, and more congestion, and a continued deterioration of our public transit system—we will guarantee that. But he will also guarantee they are going to be in one hell of a financial circumstance because of a mismatch at the level of expenditures and the level of revenues.

I believe this exposes us to the criticism of being at least disingenuous, or maybe even rising to the level of Mark Twain's observation that Congress was America's only indigenous criminal class. Whether we will rise to that level, I do not know, but I think we will be approaching it.

So, Mr. President, I believe we have very fundamental issues in terms of meeting our Nation's transportation requirements, doing so in a mobile society, that we need to begin to focus on the dog, not the tail.

I would hope before we adopt this tail that we would take into account the implications that it is going to have in terms of philosophy, of Federal and State transportation responsibilities, and where this is going to leave us in terms of the fiscal condition of our transportation program in 1996.

Mr. President, I would conclude with just one statement of concern raised by comments such as the Senator from New Mexico earlier today and that is those of us who are going to be buying the dog because they like the tail so much need to be made aware the dog has a fairly guaranteed kennel. The dog is going to be more or less assured it will be fully funded; the tail is going to be very much at risk.

Mr. President, I do not believe it is an appropriate transportation program that results in half of the States of the Nation—25 States are going to be in this minimum allocation category depending upon the good wishes of future Congresses to fully fund that tail, or their dog will be even more emaciated than the dog they have been living with for the last 5 years.

Mr. President, I appreciate the opportunity to share those observations. I look forward to the debate we are going to have on the dog which will give us a chance to discuss the policy bases and some of the alternative policies available to us in terms of the basic financing of our transportation system.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, while I recover from the shock of the Senator

from Florida having given us the final scene from "Thelma and Louise" without a chance to see it, my distinguished colleague and neighbor from New York and the distinguished senior Senator from New York [Mr. MOYNIHAN] has asked if I would yield to him for 1 minute without losing my right to the floor, and I so ask unanimous consent.

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

Mr. MOYNIHAN. Mr. President, on the subject of the dog, I ask unanimous consent that an article by Prof. Charles Lave be printed in the RECORD.

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

[From the Washington Post, June 10, 1991]

(By Charles Lave)

TRANSIT SUBSIDIES: THE HELP THAT FAILED

It's hard to remember now, but mass transit systems were once profitable businesses. Even as late as the mid-1960s, the average transit system earned enough to more than cover its operating costs. But the surplus was not enough to pay for replacing their aging equipment, so the federal government established a capital subsidy program in 1964. It was not to be a perpetual dole, only a one-shot intervention to provide new equipment. Advocates claimed the new equipment would decrease operating expenses, increase productivity and ensure the industry's financial future.

It didn't turn out like that. Instead, operating expenses began to increase sharply. So the capital subsidy program was extended, and then a program of operating subsidies was added as well. Today the average transit system requires an operating subsidy of more than 50 percent.

The administration proposes major changes in the subsidy programs to restore productivity. Before discussing this proposal and its likely effect, we must understand the causes of the industry's financial decline.

Why did our attempt to help make things worse? First, government subsidies reduced financial discipline. From labor's point of view, the industry now had a "sugar daddy," so workers demanded large salary increases and new work rules. And from management's point of view, federal subsidies reduced the need to bargain hard or take a strike—why not be nice guys if the feds will pick up the tab?

Second, many congressmen hitched their pet causes onto the transit funding engine. To help downtowns, transit managers were asked to run inefficient new services out into the suburbs. To help the poor, managers were asked to lower fares for all passengers. These are worthy causes, but they are not the essential mission of mass transit. They are not even things that mass transit can do well.

Third, we indirectly increased the industry's overhead expenses. Transit staffs were expanded to comply with federally mandated standards for planning and environmental assessment and to gather the extra information that the government now wanted.

The transit industry apologizes that its financial problems stem from political decisions beyond its control. Because of that political interference, we must be careful how we measure the industry's performance: Measures such as "passengers served" or "revenue earned" are unfair, because society forced the industry to put service in areas where there is little demand and to keep fares artificially cheap. So I will measure transit productivity as the "cost per bus-hour delivered." This measure is independent of the distorting effects of suburban service and low fares; it is even independent of the effects of traffic congestion. This measure answers the question: Regardless of whether the industry provides the right kinds of service, does it at least provide that service efficiently?

To judge the effects of federal subsidy programs on the industry's productivity, I analyzed the history of the 62 largest transit systems for the period before and after the subsidy programs began. The picture across transit systems was similar, so I will concentrate on the dozen largest ones. In 1964 it cost $21 to produce one hour of bus service; by 1985 that had risen to $47 per hour (in 1985 constant dollars). The cost of putting a bus-hour of service out onto the street had more than doubled. Some of the productivity decline came from increased use of labor: Bus-hours per employee fell 30 percent. Some came from greatly increased overhead: The proportion of costs devoted to administration doubled between 1980 and 1985. And some came from greatly increased salaries for transit employees: In the eight largest urban areas, public transit drivers now earn 31 percent more than unionized private-sector drivers.

Federal subsidies for transit capital projects have been as high as 100 percent. Cheap money encourages unnecessary actions such as replacing equipment long before it wears out—the average transit bus is now younger than the average private automobile. The administration proposes that transit operators pay at least half the cost of any new capital project.

The administration seeks to eliminate operating subsidies altogether. Most academic research has shown that operating subsidies decrease management's financial discipline: Why fight with labor over demands for increased pay and decreased work hours if someone else is going to pay the costs? Why struggle to hold down overhead expenses? It is significant that the threat to reduce federal operating subsidies, in the early 1980s, produced two important productivity-enhancing changes; contract services and part-time labor.

The proposed subsidy changes would be painful for the industry, but not disastrous. At almost all transit systems, rolling stock and buildings are now in relatively good shape, so the cuts are bearable. Asking transit operators to make a 50 percent co-payment on future capital projects will restore their incentive to use capital wisely.

The federal share of operating subsidies is only 7 percent. Cutting this to zero would unquestionably be painful, but it would not halt service, and it would give management the excuse it needs to make serious productivity-enhancing changes.

These are short-run pains, necessary for the long-run health of the patient. Since we cannot afford the current situation, we must do something to restore the industry's incentive to control costs. We must restore productivity, not just to cut government expenditures, but because it will eventually allow us to expand transit service.

An expansion of transit service would help reduce air pollution and congestion in many areas. It would increase mobility for the very old and the very young in most areas. But we cannot afford to expand services now; it's too expensive because of the drop in productivity created by past subsidy policies. To put this drop into perspective, if productivity had merely remained constant during the period since subsidies began, transit operating expenses would be low enough to erase most of the current financial deficit—without raising fares.

The changes proposed by the administration will create strong pressures to restore productivity. Conservatives should support this goal because it saves subsidy money. Liberals should support it because higher productivity will make it possible for us to afford what we need.

AMENDMENT NO. 356 TO AMENDMENT NO. 353

Mr. MOYNIHAN. Mr. President, inadvertently there was a mistake made in the previous committee amendment sent to the desk and adopted. I now ask unanimous consent to amend provisions already agreed to, in effect, with an amendment to amendment 353.

I send that to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

Mr. MOYNIHAN. Mr. President, I think this has to be an amendment to the amendment already adopted.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] proposes an amendment numbered 356 to amendment No. 353.

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

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

The amendment is as follows:

On page 2 of the amendment, in the new section of the bill entitled "Interstate Transportation Agreements and Compacts", strike subsection (b).

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

The amendment (No. 356) to amendment No. 353 was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. LEAHY. I yield to the distinguished majority leader.

ORDER FOR RECESS UNTIL 2:45 P.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Vermont be permitted to address the Senate for 15 minutes, and that following the completion of his remarks the Senate stand in recess until the hour of 2:45 p.m. this afternoon.

The PRESIDING OFFICER. Is there objection? Without objection, the majority leader's request is granted.

FOREIGN AID TO THE SOVIET UNION

Mr. LEAHY. Mr. President, we have been discussing what we might do for the United States and its roads and bridges. And while we have this debate, we have ignored the fact that almost by fiat we are suddenly in the position, it appears, to be giving foreign aid to the Soviet Union.

I want to speak to the question of under what conditions we should be giving foreign aid, because I think we are making a dramatic mistake and one that we are going to regret for a very, very long time.

Even a year ago, this question would have seemed farfetched. But now, as chairman of the Agriculture Committee, I have to weigh the implication of the White House decision to provide $1½ billion in credits to the Soviet Union to buy food. This incidentally, is on top of the $1 billion we extended to them earlier this year.

And as chairman of the Foreign Operations Subcommittee, I have to weigh the very real possibility that the American taxpayer may soon be asked to provide direct foreign aid to the Soviet Union, a country whose credit rating is on a par with junk bonds and defaulting Third World debtor nations.

We are talking about a country, Mr. President, that spends billions of dollars to have submarines armed with nuclear missiles aimed at U.S. cities; that spends billions of dollars to keep the KGB operation worldwide, with much of that money being spent in a KGB espionage network here in the United States.

I am not suggesting the Soviets must unilaterally disarm. But why should the American people have to come up with billions of dollars in foreign aid for the Soviet Union so that they can save their money to pay for the KGB operations in downtown Washington and New York City, and Chicago, IL, and in California and everywhere else?

Why should we be giving them foreign aid dollars so that they might be able to pay for the nuclear submarines with nuclear missiles aimed at the United States?

In his decision to extend the $1½ billion in agriculture credits to Moscow, the President decided the Soviet Union could repay these loans. I do not know any private analysts on Wall Street or anywhere else who would agree with this assessment.

In fact, despite the law that we passed last year which says foreign policy considerations cannot influence a decision to grant agriculture credits to a foreign country, there is little question in anybody's mind that the President's decision was motivated by a desire to help Mikhail Gorbachev cope with his fast deteriorating political position.

And so the American taxpayer in Vermont or Illinois or any other State is the ultimate guarantor of these new credits to a very shakey borrower, and the Soviets are sliding deeper into external debt, which they are going to find very hard to pay.

When Agriculture Under Secretary Crowder briefed me upon his return from the U.S.S.R., he said that the Soviet agricultural problem was with processing and distribution. These are problems that need long-term repairs, not short fixes.

Now, the President has also agreed that Mikhail Gorbachev can come to the Group of Seven Summit in London. President Gorbachev is coming to London to stage a public relations spectacular. He wants to pressure Western leaders to agree to a $100 billion aid program to rescue the Soviet economy, which is now in collapse. The world's spotlight will be on London and the heat will be on the Group of Seven heads of government.

I think permitting President Gorbachev to crash the London summit is a mistake. One of the reasons it is a mistake is because the West has not yet agreed on a common policy toward aid for the Soviet Union.

Before our leaders tell the Soviets what we are willing to do to help, we ought to work out an understanding with our partners and allies about what kinds of economic and political reforms we will demand—and I use the word advisedly—as the price for aid on a scale Moscow must have. Before we send off a blank check, we ought to ask what we are going to get in return.

Instead, what is happening is we are slipping toward a huge direct-aid effort for the Soviets before we establish strict conditions which should be met. We should know exactly what changes must take place before $1 of our money goes to Moscow.

Mr. President, we know the cold war is over. But the Soviet Union is still controlled by the Communist Party. President Gorbachev has gone back and forth between reformers and hardliners several times already. We have no guarantee he will not swing back toward the army and the Communist Party just as soon as it is politically expedient, or even that he is still going to be in power at the end of this year, and many question whether he will be.

The occupied Baltic nations still live under Stanlinist repression. Political reform is stalled at the top, and democratization has shifted to the level of the Republics, not of the union. Very little progress has been made toward privatizing the economy and permitting market forces to operate.

And, lest we forget, the Soviet Union still has 25,000 nuclear warheads, 10,000 of them aimed at the United States. The Soviet Union still spends one-fifth of its gross national product on defense. We spend about one-twentieth. It still arms and subsidizes Cuba.

There are a lot of changes they ought to make there before they start receiving massive aid from the West. We have enormous leverage to push those changes if we would just use it. At a time when we cannot pay our own bills at home, when we cannot even do the things that need to be done here in the United States, why should we be sending more foreign aid to the Soviet Union without pushing for some changes, at the very least?

I think it is in the long-term interest of the West to help the Soviet Union to move toward democracy and a free market economy. I feel strongly about that, Mr. President. In fact, I cannot think of anything more conducive to a global stability than a peaceful end to Communist rule and a command economy. But that fundamental decision has not been made by the leadership in the Soviet Union. Only very tentative steps have been taken. They have made a lot of retreats. Until the Soviet leadership irreversibly commits itself to a market economy and democracy, we ought to keep our money here at home.

I might say that is true, Mr. President, not only about the Soviet Union, but many other countries. If we are going to give aid, we ought to at least ask that it advance U.S. interests. Too often, we send the money and hope that goodness and light will come out of it. And we know that that is not the way the world works.

If we are in a position where we are going to be constantly cutting every single program that benefits the people of the United States, then before we start sending money out in foreign aid to the Soviet Union or any other country, we ought to ask just what it is we get from it.

I do not think that is crass at all. I think that is being very, very realistic. And, especially before we send aid to the Soviet Union, we ought to at least ask what reforms have to come first. Or will we simply be subsidizing the KGB on the streets of Washington?

Mr. President, I yield the floor.

RECESS UNTIL 2:45 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess now until 2:45.

Thereupon, at 1:10 p.m., the Senate recessed until 2:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

SURFACE TRANSPORTATION EFFICIENCY ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise with some confidence to say that it appears that all of the major debate has taken place on the amendment of the chairman of the Committee on Appro-

priations, our revered President pro tempore, Senator BYRD of West Virginia. I anticipate that we will proceed to vote presently.

I see the Senator from Florida is on the floor, and he was speaking with great force and conviction just a short while ago. He may want to resume that theme, although I believe the Senator from Florida means to offer an amendment later on the basic underlying formula; is that right?

Mr. GRAHAM. Mr. President, the Senator from New York is correct. As we discussed earlier, what we have been debating for the last week is the tail, to take an $8 billion additive which was not included in this legislation at the time it was reported by the Environment and Public Works Committee. What we have yet to debate is the dog, the $105 billion basic program which was the product of the committee and which will allocate better than 90 percent of the Nation's transportation funds for Federal purposes over the next 5 years.

It will be my intention when we complete action on the pending amendment, subject to, possibly, a further perfecting amendment on the Byrd amendment, as offered by the Republican leader, to then offer an alternative dog to the one that currently occupies the kennel, a dog which I think the Senate will find to be a happier dog and one with which we can live with greater comfort for the next 5 years.

Mr. MOYNIHAN. Mr. President, as my learned and experienced friend knows, I have several times expressed the wish that if we speak of Senator BYRD's measure as a tail, we might speak of the committee's bill as a donkey rather than a dog. That seems to be a matter beyond my control at this time.

The Senator from Montana would like to speak as in morning business, and I am sure we will want to hear him.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

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

EXPORTING IDEAS TO CHINA

Mr. BAUCUS. Mr. President, at the center of the debate over United States-China policy are the concerns of all Americans about human rights. I rise today to express my concerns about human rights in China, and to advocate what I believe is the most hopeful course for promoting change.

HUMAN RIGHTS IN CHINA

Americans experienced the horror of the Tiananmen Square first person. Live television coverage brought the events of June 1989 into our living rooms. Who can forget the image of a young man blocking a column of moving tanks?

Unfortunately, oppression in China did not end 2 years ago. China has yet to account for the political prisoners of Tiananmen Square. Severe restrictions remain on rights that Americans consider basic: freedom of speech, freedom of assembly, freedom of religion.

During his visit to Washington last April, the Dalai Lama reported on China's past and continuing repression of the people of Tibet. We have evenheard credible reports that China is using prison labor to boost its exports.

Despite international condemnation, there is scant hint of political reform. The United States can no longer sit idly by as human rights abuses continue in China.

MFN—THE WRONG TOOL FOR THE JOB

At the same time, I do not believe we should link our human rights concerns to China's MFN trade status.

If I thought revoking MFN would promote human rights in China, I might support such action. But revoking MFN would sever our ties with the most progressive elements in China, and dramatically reduce our ability to promote change.

Congress tends to view China as a monolithic entity. In fact, as in the Soviet Union, there is tremendous tension between the central government in Beijing and the leadership of China's provinces. Along with China's students and intellectuals, the provincial leadership in China's southern provinces is a critical engine for reform.

Progressive provincial leaders have leverage because they generate a large percentage of the nation's wealth. It is estimated that non-state-controlled entities will produce one-half of China's industrial output this year.

Put simply, the bedrock of progressive China is trade with the West. Revoking MFN would cut the tie to the West, and undermine the very element we are trying to promote. At the same time, it would increase the power of Marxists in Beijing—the true target of our anger. Remember, the Marxists want to minimize contacts with the West. Revoking MFN gives them a U.S. scapegoat to promote their own agenda.

The greater the amount of trade between the United States and China, the greater the opportunities for promoting reform. Ideas are traded along with goods.

There are indications that those on the front lines in China—the students and intellectuals—do not favor a revocation of MFN.

Recent news reports and congressional testimony indicate considerable opposition to revocation of MFN among Chinese students and intellectuals. Other reports detail the tension between Beijing and the provincial governments.

I will ask unanimous consent that these articles and testimony be placed in the RECORD.

These Chinese discussed in these articles have in many cases put their lives on the line to advocate freedom. Many of them believe that trade with the United States is vital to reform efforts.

HONG KONG

Revoking MFN would undermine human rights in another way. In 1997, Hong Kong will rejoin China. A vibrant and free Hong Kong could provide a catalyst for change in China.

But revoking MFN would devastate Hong Kong. Hong Kong is dependent on United States-China trade. Some two-thirds of China's exports to the United States pass through Hong Kong. Revoking MFN for China could throw thousands of Hong Kong's citizens out of work overnight, and send the tiny island's economy into a tailspin.

Snuffing out one of the best hopes for future change is hardly the way to promote democratic reform and respect for human rights in China.

THE OTHER OPTIONS

Congress' decision about MFN would be more difficut if MFN were our only tool. But it is not. We have other alternatives.

This week, I am circulating for signatures a letter to the President in which I advocate strong, targeted action addressing all of our concerns with China, including human rights.

There are several actions that I believe could promote our human rights goals.

First, the administration could increase its efforts to enforce existing U.S. laws prohibiting the importation of goods produced by prison labor.

Second, the United States could renew its opposition to international loans to China. The United States could condition its support for these loans on human rights improvements in China.

Third, the United States could establish a Radio Free China. Our cold war experience with the Warsaw Pact taught us the power of radio for promoting ideas. Such a program in China could complement current United States broadcast efforts.

CONCLUSION

We in Congress have a duty to make responsible policy. We should not lash out in a hollow effort to feel good, when our actions harm innocent bystanders—here and abroad.

Like others in this body, I have grave concerns about China's treatment of its people. But trade relations are a critical bridge between the United States and China's most progressive elements. Let us not destroy this vital link just to make ourselves feel good. Instead, let us pursue a sensible policy that actually does good.

I ask unanimous consent that the article and testimony I earlier referred to be printed in the RECORD.

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

[From the New York Times, May 15, 1991]

DESPITE RIGHTS ISSUE, CHINESE HOPE UNITED STATES TRADE STATUS STAYS

(By Nicholas D. Kristof)

BEIJING.—As a battle looms in Washington over whether to end normal trade relations with China, many Chinese are finding themselves reluctantly siding with their hard-line rulers in hoping that the status is maintained.

While they appreciate the concern for human rights in their country and hope that the debate will force the Government to become less repressive, some worry that a cutoff of so-called most-favored-nation status would hurt their standard of living, harm the most reformist segments of the economy and prompt the hard-liners to restrict contacts with the United States.

It is impossible to be sure of public opinion in so vast and tightly controlled a country as China. But in informal conversations with dozens of Chinese in several parts of the country over recent months, most of those who were aware of the issue did not favor American economic sanctions and hoped that most-favored-nations benefits would be extended.

President Bush's annual recommendation on whether to renew the preferential trade status for China is required by June 3. He is expected to favor renewal, and opponents in Congress are expected to introduce legislation to overturn the decision.

In their first breath, urban Chinese intellectuals typically tell their trusted American friends how much they detest their leadership. In their second breath, they express affection for the United States and inquire about getting visas. And in their third breath, they worry that harsh American sanctions would hurt the Chinese people rather than their leaders.

"If I were President Bush, I would extend most-favored-nation status to China," said Zhang Weiguo, a Shanghai dissident who was unusual only in that he was willing to have his name published. "The U.S. should support China's economic development and social exchanges."

Mr. Zhang's anti-Government credentials are not in doubt. He was arrested after the 1989 Tiananmen crackdown and spent 20 months in prison before being released earlier this year, still unrepentant and fuming at the Government.

Mr. Zhang said the best result would be for a tough battle over Chinese trade in Washington, ending in an extension for another year. Such a close call would encourage China to make concessions on human rights and would leave the issue open for another fight next year, he said.

"Every year it's discussed, and that's very good," Mr. Zhang said. "It puts new pressure on China each year."

A downgrading of American trade links with China would mean a large rise in the tariffs imposed on Chinese goods shipped to the United States, and would hurt its thriving export sector. The south of China, which has the most developed private economy in the country, would be particularly affected as would Hong Kong, through which Chinese goods usually pass for packaging or transshipment.

Many dissidents say they would like the United States and other countries to be even more outspoken in supporting Chinese human rights. Above all, they would like Prime Minister Li Peng and other hard-liners to lose "face." But they worry that economic sactions are the wrong method.

"People are very torn inside," said a university student in Beijing. "They want pressure on the Government to change its policies, and they want the leadership to eat bitterness. But on the other hand, they're afraid that if sanctions are imposed, it's the ordinary people who would suffer. So we want America to threaten sanctions to pressure China, but we don't want sanctions themselves."

PEASANTS SEEM LESS AWARE

Among Chinese peasants and workers, especially outside the capital there seems to be much less awareness of the issue of sanctions, as well as less anger at the Government. Consequently, many people do not have clearly formed ideas on the subject, but frequently seem vaguely opposed to any sanctions that might compound the economic difficulties of the last couple of years. And some wealthier people fear that sanctions would make it more difficult to buy foreign products.

"The fear is that if M.F.N. were cut off, the price of a pack of Marlboros would go up," said an entrepreneur.

[From the Washington Post, May 29, 1991]

CHINA LAUDS UNITED STATES MOVE ON TRADE STATUS; ACCOMPANYING RESTRICTIONS GET LOW-KEY CRITICISM

(By Lena H. Sun)

BEIJING, May 28, 1991.—The government today praised President Bush's decision to extend China's trading privileges for another year, reflecting widespread sentiment here that such a move would enhance prospects for economic reform and prevent collapse of relations.

Renewal of most-favored-nation status "is a realistic and wise decision for which the Chinese government would like to express its appreciation," a Foreign Ministry statement said.

A Chinese intellectual, when told of Bush's decision by a foreign reporter, said: "Let's have a drink to MFN. If it was taken away, we would not be able to meet and talk."

Bush's declaration to Yale graduates Monday that the only way to prompt change in China is to remain "engaged" with its leaders represents a view that is similar to that of many people here. For two months, while the battle over most-favored-nation status has been heating up in Washington, Chinese leaders and intellectuals have been closely monitoring the developments.

Chinese officials, from Premier Li Peng on down, have argued that cutting off the special trading status would not be wise and would not help China's reforms. The status allows Chinese products into the United States at the lowest level of tariffs. China runs a large trade surplus with the United States but had threatened to end commerce if the tariffs were raised.

Congress still could prevent extension of the trade privilege for China, but both houses must act within 90 days of Bush's formal notification of Congress. Bush, in turn, could veto that action.

Although some dissidents have said the United States can only keep its moral authority by conditioning renewal of the trade status on improved human-rights performance here—as many in Congress seek to do—some student activists are less certain, even many with friends still imprisoned for participating in the 1989 democracy movement.

"If the American Congress ties MFN approval to human rights in China, and this causes our government to totally break off economic relations, then more harm than good would be done," said a Beijing University student. "The United States must look at the long-term relationship. Without trade ties, the United States will have no influence here."

Many Chinese fear that withdrawal of most-favored-nation status would punish the wrong people: the markets-oriented coastal provinces where economic change has improved the standard of living, and reform-minded officials who are trying to work around the hard-line leadership.

If the trade status were withdrawn, these leaders could fall back on the centuries-old tradition of blaming foreign pressure for China's economic problems.

"Many students respect the United States stand on human rights but don't agree that economic blackmail should be used to bring about democracy in China," said a senior at the university.

Chinese officials are aware of strong sentiment in the U.S. Congress to deny the trade status unless there is verifiable human-rights improvement. But most Chinese officials, as well as Western analysts, say that although there appear to be sufficient votes in Congress to pass a joint resolution of disapproval, there is a widespread belief that Congress does not have the two-thirds majority in each house to override a Bush veto.

Nevertheless, perhaps in light of the pending congressional action, China issued a relatively mild reaction today to the administration's decision to block high-technology computer sales to China and ban American companies from participating in further satellite launches with China.

U.S. officials said Chinese shipment of M-11 ballistic missiles to Pakistan triggered Bush's decision to restrict the exports.

"We express our regret over this statement. It is known to all that the Chinese government has always adopted a serious, responsible and prudent position on international arms trade," the Foreign Ministry said.

Specifics of the export and satellite restrictions have not been made available, so the impact of the ban on Chinese programs is difficult to assess, Western diplomats said. But it appears likely that the ban on new satellite licenses to China will severely damage the country's fledgling commercial satellite program. Virtually all commercial satellites are made by American companies or contain key parts manufactured in the United States that must be licensed by Washington for export. "This just about derails the Chinese satellite program," said a diplomat.

Following the explosion of the Challenger in early 1986, U.S. shuttles stopped launching commercial satellites, giving China an opportunity to sell its launch services. In April 1990, China successfully launched AsiaSat, an American-made telecommunications satellite.

The Chinese, who have been able to undercut European and U.S. concerns by offering subsidized launch prices, have expected satellite launchings to bring the country tens of millions of dollars in foreign exchange while adding significantly to Beijing's international scientific prestige.

Some analysts said the more serious problems for Beijing would be the administration's ban on further sales of high-speed and high-capacity computers to China. The announcement affects 20 licenses pending for $30 million worth of sales.

What remains unclear, however, is whether the United States has asked for Japan's co-

operation in blocking exports of the same technology to China, diplomats said.

"The satellite program is a prestige thing," one Western diplomat said. In addition, China has lost some bids for satellite launches and has had "problems performing to contract specifications," he said. But the computer ban is far more worrisome because of far-reaching implications for China's modernization program.

"If you're running a modern economy and military, you need the highest available technology to help you with everything from weather prediction to designing of various things," said one analyst. "This is not the kind of stuff you would be able to reverse-engineer from Hong Kong."

[From the Washington Post, June 2, 1991]

DISSIDENT STRUGGLE STILL ALIVE IN CHINA

(By Lena H. Sun)

BEIJING, June 1.—The democracy movement is still alive in China, despite two years of repression since the Tiananmen Square crackdown. But it survives in small, isolated groups that are attacked by Beijing whenever they surface.

It is their underground struggle, and Beijing's continuing effort to suppress it, that serve as the backdrop for the debate in Washington over President Bush's proposal to restore China's most-favored-nation (MFN) trading status. Members of Congress, many of whom say the move would send the wrong signal to Beijing, are urging the administration to link MFN to an improvement in China's human rights record.

In advance of Tuesday's anniversary of the June 4, 1989, crackdown on demonstrators at Tiananmen Square, the government reportedly is mobilizing extra police and imposing new security measures. And dissidents report they must resort to ever more clandestine measures in order to escape capture—and possible imprisonment—by government authorities.

A group in Shanghai, for example, had been planning for months to launch an underground pro-democracy publication. Its purpose was to publicize political concepts that are unpublishable in China's state-controlled media. Organizers assigned code names to members, commissioned articles, compiled a nationwide mailing list and bought a fax machine.

But days before the first issue of Luntan (Forum) was to appear this spring, their secret plans, including the formation of a private human rights organization were discovered by authorities. Police detained one student, a key member of the group, for questioning. He confessed to participating in the plan. Within days, authorities had confiscated the equipment, copies of the articles and the mailing list.

The student and another intellectual remain in jail. Nine others, including one of China's best-known dissidents, 72-year-old writer Wang Ruowang, were interrogated by police for more than 30 hours before being released.

"They have taken away everything, and everybody has to be very careful," said a member of the group, who spoke on condition of anonymity. Nevertheless, he and others expressed optimism about the future of their movement, despite the demonstrated ability of the hard-line Communist regime to crush most open dissent.

What is left appears to be scattered pockets of underground resistance and activities who have ostensibly rejoined the system while waiting for a changing of the old guard.

A secret police report titled Document No. 1, prepared early this year for top party officials, warned of the existence of numerous unnamed illegal organizations and underground publications. It also urged close monitoring of former activists, some of whom are now setting up or joining non-state enterprises to build an economic base for a possible future movement.

Although most of China's dissidents have been silenced, a few still criticize the government openly for its use of force in June 1989.

"Any government that uses their guns on their own people is criminal," said Hou Xiaotian, whose husband, Wang Juntao, has been sentenced to 13 years' imprisonment for advising student leaders. "People won't forget what happened, especially families where somebody died, where somebody was killed, where somebody was jailed. Especially these families, they will never forget June 4."

Despite continued widespread political repression, China's predominantly hard-line leaders are finding it more difficult to maintain their iron grip on political control without choking off economic dynamism needed for the country's survival.

Conservative ideologies view tight centralization of the economy as a key way of maximizing political control. But provinces that have benefited from the past decade of market-oriented reforms, particularly those in booming southern and coastal China, have successfully resisted pressure from Beijing's hard-liners.

As the state sector of the economy continues to decline, with two-thirds of the inefficient state-owned companies operating at a loss, central authorities have begun to recognize the need for pragmatic economic changes, anslysts said.

"In the economic field, they have been reducing the ideological content and taking more practical decisions," said a Western analyst.

The political landscape also shows signs of change.

The appointments this spring of two new vice premiers—former Shanghai mayor Zhu Rongji and technocrat Zou Jiahua—have injected new blood into the leadership. Both are seen as possible candidates to replace hard-line Premier Li Peng, whose television appearance declaring martial law in Beijing in 1989 added to his widespread unpopularity among Chinese.

Perhaps as significant a personnel change came today with the partial rehabilitation of three top officials considered close associates of former Communist Party chief Zhao Ziyang, who was ousted weeks after the army crackdown at Tiananmen Square. The three are Hu Qili, former Politburo standing committee member in charge of ideology; Yan Mingfu, onetime chief of the party's United Front Department, and Rui Xingwen, a dismissed member of the Central Committee secretariat.

All three lost their positions for providing key governmental support to the 1989 democracy movement, but today were appointed to vice-ministerial-level jobs.

The government announcement of their appointments, however, included no mention of Zhao, who has been under virtual house arrest since his ouster.

Observers here say the appointments could signal a softening of the party position on the June 4 crackdown.

"If these guys get put back in official positions, if I were Li Peng, I'd be very uncomfortable," said a Western diplomat.

Authorities have made clear, however, that for the moment they will tolerate no activities even remotely critical of the government or the party.

During the past year, dozens of students and intellectuals charged with committing counterrevolutionary crimes for playing leading roles in the 1989 uprising have been sentenced to up to 13 years' imprisonment.

But many Chinese say they do not believe these harsh sentences will go to full term. "We expect democratic movement leaders will remain in jail for five to six years at the most," said a friend of dissident Wang Juntao. "By that time, the democracy movement's verdict will be reversed, and it may be Li Peng who receives life imprisonment."

For the moment, authorities have used intimidation and a network of informants to crush dissent. Members of the underground reportedly are among the government's chief targets.

Two recent college graduates from Beijing were sentenced to 11- and 15-year jail terms in March for printing one issue of an underground political journal called Tieliu, or Iron Currents. No allegations of engaging in violent activity were brought against the two, but the Beijing Intermediate People's Court found their crimes to be "serious, their nature sinister, and the offense grave," according to court documents obtained by the human rights group Asia Watch.

Thousands of activists remain in jail or in prison camps. Others are still awaiting trial.

Interviews with others who have been freed and with student activists indicate that many former detainees are struggling simply to survive. Many have been fired from their jobs, expelled from the party or banished from the capital or their former places of residence. In some cases, the political pressure has led to divorce.

Some students detained after the crackdown for their leading roles in the movement have been expelled from school.

"China is keeping a really tight lid on everything right now," said an intellectual who was released from prison early this year. He draws a reduced salary and, because he is politically suspect, has been told he may no longer teach. "They know if they just open a crack, things will explode."

One of China's most articulate dissidents is Zhou Duo, a scholar who offers a doomsday picture of the country's immediate future.

Zhou was one of the four hunger strikers who negotiated the students' withdrawal from Tiananmen Square early on June 4.

Before the crackdown, Zhou held a research position in China's largest and most successful private electronics company.

But since his release from prison last year, he has been struggling to set up various private ventures, including a freshwater crab business and a tourist resort outside Beijing.

Zhou, one of the few intellectuals willing to be quoted in the Western press, recently predicted that China would be thrown into turmoil before a more democratic system of government could be established.

He has forecast widespread starvation, worker strikes and marches by peasants into the cities.

Short of the Communist Party's voluntarily transforming itself into a democratic socialist organization, Zhou said, "the only thing that can save China from chaos is a miracle."

[A Position Paper of the China Information Center, June 1991]

KEEPING CHINA'S DOORS OPEN: A CASE FOR RENEWAL OF CHINA'S MOST FAVORED NATION STATUS

We at the China Information Center believe that the extension of MFN will, on bal-

ance, serve the long-term interests of fostering democratic changes and promoting political openness in China. We arrived at this position based upon our understanding of current Chinese political and economic realities. The purpose of this report is to illustrate this understanding and support it with facts we have gathered from diverse sources.

The report is divided into four parts. The first part presents a view among the Chinese students in this country and among progressive, liberal, and reformist intellectuals in China that the United States should take a moderate policy stance on the issue of MFN. The second part deals with the impact the removal of MFN would have on the private and quasi-private sector of the Chinese economy and the political implications therein. The third part speculates about potential repercussions removal of MFN may have on the dynamics of Chinese politics. The fourth part discusses an alternative course of action.

PART I: CHINESE VIEWS ON MFN

There is evidence to suggest that the majority of the Chinese students in this country in fact do not favor revoking MFN status for China. According to an opinion poll conducted by the Independent Federation of Chinese Students and Scholars (IFCSS) last year, 20 percent of the Chinese students in this country think that IFCSS should lobby for an extension of MFN for China and 43 percent of the Chinese students think that IFCSS should not take any action. Only 37 percent of the Chinese students in the poll want the IFCSS to lobby against an extension of MFN for China. Recently, opinions gathered from the computer E-mail service reveal that among Chinese students in this country, there is a wide spectrum of opinions regarding the appropriateness of using MFN as a political and diplomatic instrument and, when it is so used, what kind of conditions should be attached. At the very least, Chinese students in this country are deeply divided on this issue and the impression, often conveyed in the media, that Chinese students in this country overwhelmingly support a revocation of MFN or attaching stringent conditions to it is simply incorrect.

Far more important in informing our positions on MFN, however, should be what progressive and pro-reform intellectuals and officials still in China think about the issue. After all, not only are they more able than us to make a sound judgment as to what is best for China and its people, it is they who will have to shoulder the brunt of the consequences of the decisions currently being debated here.

From our own sources as well as from the coverage in the American media, we can claim that it is a consensus view among the pro-reform and progressive intellectuals and officials in China that MFN should be extended and that China's increasing integration into the world economy holds the best hopes for greater political freedom and greater respect for human rights in China. Many fear that a continued deterioration of the Sino-American relationship will strengthen the position of Chinese hardliners and China's further isolation will make it more likely for the country to revert to the Orwellian world of the Cultural Revolution when the Chinese leadership could engage in political repression without international surveillance.

On the eve of the one-year anniversary of the Tiananmen Square Massacre last year, two Beijing University students were arrested for starting a petition urging Western governments to lift economic sanctions against China. Even Mr. Chen Ziming, one of the two most prominent intellectuals who exerted a profound intellectual influence on the student movement in 1989 and who suffered the ultimate punishment—13 years in jail—for his democratic ideals, supports MFN extension. According to our information, he recently suspended a hunger strike lest his hunger strike be used by the American government as a cause to remove MFN.[1]

It is quite important to point out here that although the debate on MFN status has become a sensitive and emotionally-charged issue, it should not blind us to the fact that there can be honest differences among honest individuals on this issue and that in a democracy, unlike under an authoritarian regime, differences in opinions and positions on any given issue are a natural order of things. Support for MFN extension can have a legitimate grounding in human rights considerations as opposition to such a position. The differences are not over eventual goals, but over the relative merits of different tactics and perceived costs of one course of action over another. These issues will be addressed in the rest of this report.

PART II: THE IMPACT OF MFN REMOVAL ON THE CHINESE PRIVATE ECONOMY

MFN removal will have a very serious detrimental effect on a sector of the Chinese economy that may prove to be an effective agent for future political changes in China. Specifically, we here refer to the private and quasi-private enterprises in China's coastal areas.

China's private and quasi-private enterprises—the latter category includes joint ventures and collective and rural firms—are a direct result of the Chinese economic reforms. Former Party General Secretary Zhao Ziyang had enthusiastically endorsed and supported the development of this non-state sector in an attempt to infuse competition and dynamism into the Chinese economy and to force state enterprises to perform efficiently. As a result, in recent years the private and quasi-private sector has grown rapidly, at an average annual rate of 21.9 percent in gross value of industrial output in real terms between 1980 and 1986.[2] As of the end of 1988, rural enterprises accounted for 24 percent of that year's gross industrial value and provided employment for 90 million people. Private firms employed another 24 million people.[3] This year, despite the dominance of the communist hardliners at the political helm in Beijing, China's private and quasi-private sector has quickly bounced back from a recession a year ago and is outperforming the state sector by a wide margin. According to The Economist, by the end of this year, the private and the quasi-private sector will account for more than half of China's industrial output.[4]

Compared with the state sector, the private and quasi-private sector is more dependent on overseas markets. According to a World Bank study of four representative counties, rural enterprises contributed over 50 percent of export procurement volume in these countries.[5] Rural industry is especially dependent on the markets under MFN protection, such as machinery and textiles. In 1987, rural industry produced 65 percent of Chinese textile exports and 70 percent of Chinese handicraft exports.[6] Thus removal of MFN will have an exceptionally serious impact on this sector of the Chinese economy.

The other reason that MFN removal will hurt the private and quasi-private sector disproportionately more than the state sector is a mechanism in socialist economies called "soft budget constraints." When the tariff schedule is adjusted upward in the United States, the Chinese government will continue to pump financial resources to support the state sector to maintain its export market shares, irrespective of the decline in profits. The private sector, on the other hand, faces "hard budget constraints" and does not get this kind of support. State's mobilization of resources to support the state sector generally has a crowding out effect on private enterprises. Bank credits, for example, will dry up for them. The hard-liners' effort to crack down on private and quasi-private enterprises would be made more effective if the overseas market was withdrawn from them. In short, MFN removal punishes the private and quasi-private sector disproportionately.

An argument has been made that since the central planning leadership in Beijing has taken measures to restrain the development of the private sector, removal of MFN will not have a significant impact. This argument ignores the fact that there are limits to which the central government can go in restraining private industry. As pointed out before, the non-state sector employs over 100 million people and furthermore its efficiency and its stellar performance have made the non-state sector the largest supplier of government revenue in some areas of China.[7] For both political, economic and purely practical reasons, the central government is not willing or able to phase out completely the non-state sector from the Chinese economy. Indeed the central leadership has softened its assault on the non-state sector for fear of urban riots provoked by increased unemployment.[8] In January 1990, the government set up the "China Rural Enterprise Association," whose honorary chairman, Bo Yibo, a known conservative, proclaimed that rural industry was an important invention of reforms.[9]

In addition, we should not overstate the Chinese leadership's ability to recentralize

[1] Foreign reporters in Beijing have also noted that those Chinese intellectuals who support open-door policies and oppose the government also are against economic sanctions. See, for example, Nicholas D. Kristof, "Despite Rights Issue, Chinese Hope U.S. Trade Status Stays," New York Times, May 1991. Last year, when the renewal of MFN came up, Chinese expressed similar desires. See Adi Ignatius, "Effect of Sanctions on China Is Debated," Asian Wall Street Journal, March 5, 1990.

[2] See William Byrd and Lin Qingsong, "China's Rural Industry: An Introduction," in William Byrd and Lin Qingsong (eds.) "China's Rural Industry: Structure, Development, and Reform," (New York: Oxford University Press, published for The World Bank, 1990), p. 14.

[3] "Rural Enterprises and the Private Economy: Rectification," China News Analysis, March 1, 1990, p. 1.

[4] "They couldn't keep it down," The Economist, June 1-7, 1991.

[5] Jan Svejnar and Josephine Woo, "Development Patterns in Four Counties," in Byrd and Lin (eds.), China's Rural Industry, p. 71-73.

[6] See "Chinese Rural Enterprise Almanac, 1978-1987," (Beijing: Agricultural Publishing House, 1989), pp. 317-319.

[7] In 1989, when the Beijing leadership tried to squeeze private enterprises, many local governments simply stopped functioning on account of reduced revenues and the increased need to bail out state enterprises. See "Who is Going to Contract out [China]," (Guangzhou: Flower City Publisher, 1990).

[8] Unemployment rose to 3.5 percent in January 1990 from 2 percent a year before. China Labor Daily, March 10, 1990.

[9] "Rural Enterprises," China News Analysis, March 1, 1990, pp. 2-3.

the Chinese economy and therefore should not confuse policy intentions and rhetoric with actual results. Many local leaders are still pro-reform and have worked to resist, explicitly or tacitly, central efforts to roll back many of the reform measures. In Hainan Province, for example, private business continue to develop even in the face of the central government's pressures to stamp them out.[10] Similarly, provincial leaders have sought to protect rural industry. For example, in December 1989, the Guizhou Provincial Party Secretary, Mr. Liu Zhenwei, declared that rural reform measures implemented since 1979 would not be changed. He specifically singled out rural enterprises as one of the continued development priorities for Guizhou Province.[11] Largely due to the efforts of the provincial leaders and the pro-reform officials within the central government, the central leadership has re-affirmed its commitment to the policies toward special economic zones and granted a set of privileges, similar to the ones currently enjoyed by the special economic zones, to Shanghai to develop its eastern zone. It will be a supreme historical irony that removing MFN plays into the hands of the central planners in Beijing by helping them accomplish what they have so far not been able to do administratively and politically on their own.

Demolition of China's burgeoning non-state sector will have long-term political implications for China. First, private entrepreneurs are probably one of the most ardent supporters of political moderation and stability achieved through democratic institutions. During 1989 pro-democracy movement, private businessmen donated large amounts of money to students and many of them risked their lives and considerable financial stakes by their participation in the movement. A private shopkeeper, Ms. Lu Jinghua, became a spokesperson for the Autonomous Union of Beijing Workers—an organization that had 20,000 members in support of the democracy movement.

Secondly, a political revolution per se is not, and should not be, the end in and of itself; the true end should be the transformation of the totalitarian system into a democratic one. But from the experiences of the Soviet Union and other East European countries, we know that a successful democratic transformation will ultimately depend on a very difficult process of converting a bureaucratically-controlled economy into a market economy. This conversion, in turn, depends on the strength of private entrepreneurship and the existence of a sizable private economy.

Centrally planned economies are not just distorted market economies; there specific behavioral habits and mentalities attached to them, that are anathema to basic principles of a market economy. They take a long time to shape and an even longer time to change. Indeed one of the most important reasons that China was successful in the agricultural reforms in the late 1970s was the presence of a residual private economy in the agricultural sector.[12] Precisely, many difficulties plaguing perestroika arise from the dominance of the central planning tradition and the 70-year stamping out of private entrepreneurship in the Soviet economy.[13]

If the path of political transformation is treacherous without the presence of a sizable private economy, it is downright impossible when people's real living standards are falling. Witness the plight of Gorbachev today. The newly-gained political rights and freedoms on the part of Russian people—a monumental achievement considering the short span of time—are simply brushed aside when bread disappears on the shelf and the specter of a military take-over is ever present on account of economic chaos. Extending MFN to China and trying to keep China's doors open offer us an unique opportunity to lay down economic conditions for a future political transformation in China.

PART III: THE IMPACT OF MFN REMOVAL ON LEADERSHIP DYNAMICS

We believe that revoking MFN status for China may shape leadership dynamics in China in ways detrimental to forces of political moderation and democratic aspirations. The reasons are as follows:

First, the current Chinese leadership is deeply divided both about the wisdom of the ways it handled last year's student protests as well as about the future direction in China. One of the most pronounced manifestations of this division is the lack of a definite resolution on Zhao Ziyang, the disgraced former Party General Secretary. At the Fourth Plenum of the Thirteenth Party Congress in June 1989, it was declared that the Party would "conduct an investigation" but, as far as we can ascertain, the issue has yet to be resolved and may await the Fourteenth Party Congress next year. It is unprecedented in Chinese politics to allow so much time to lapse without a definite verdict; in the past, judgement on a disgraced leader was quickly formed, usually in a matter of days, and was disseminated widely within the Chinese system to ensure compliance with new leaders and to avoid confusion about policy directions.

The division among the Chinese leaders has several sources. First, current leaders have vastly different political philosophies. The uneasy coalition they formed last June has no lasting unity. The so-called, "monolithic hard-liners' bloc" composed of the octogenarian leaders is a myth of the highest order. Deng Xiaoping and Wang Zhen, for example, are politically conservative but economically liberal (in relative terms), and Yang Shangkun, as far as we know, supported Zhao Ziyang's moderate approach toward the students as late as May 4, 1989. These differences with the political and economic conservatives such as Chen Yun, Li Peng and Yao Yilin will come to the fore sooner or later.

Secondly, there are different degrees of involvement in last year's decision to crack down on students among current leaders, Jiang Zemin and Li Ruihuan, for example, were not in Beijing at the time of the massacre and, according to the information we have gathered, they both have indicated their desire to keep some distance from the rest of the leadership, which had a direct hand in last year's repressions.

We have reasons to believe that Chinese politics has entered a particularly delicate phase at this juncture. After nearly two years of hibernation, the reformist faction within the Chinese leadership has quitely exerted its voice and authority in Chinese politics. In the last edition of this position paper, we predicted the rise of Shanghai's reformist mayor, Mr. Zhu Rongji, sometime early this year. This prediction was well confirmed by his elevation to the vice premiership at this year's National People's Congress (together with a pragmatic technocrat, Mr. Zuo Jiahua). A few weeks ago, three reformist officials—all of them close associates of Zhao Ziyang—purged in the wake of 1989 crackdown were reinstated to vice ministerial posts. Although these are small and incremental steps, they are signs of a turnaround in Chinese politics. It is likely that the kind of economic reforms which have improved material welfare of millions of Chinese people and, indeed, plowed seeds for 1989's democracy movement can be on the government agenda once again.

We believe that the best strategy at this time is not to apply undue external pressures on the Chinese leadership and not to take upon the system as a whole by using such a blunt instrument as MFN. Applying too much pressure at this time may in effect drive all the leaders into the same corner and unite an otherwise deeply divisive leadership. The hardliners could, for example, divert criticisms of their policies by blaming the current economic difficulties on Western economic sanctions. The Chinese government has a history of blaming its domestic problems on foreigners and this tactic has proven effective in uniting people behind its nationalistic appeals. In the early 1960s, Mao Zedong attributed large-sale famine and industrial decline, which resulted from his Great Leap Forward initiatives, to the pressures exerted by the Soviet Union and his political leadership survived the worst man-made economic disaster in Chinese history. We should try our best not to provide a convenient scapegoat for the difficulties and problems that the current leadership itself has inflicted on Chinese people.

Worse yet, removing MFN may strengthen the political positions of such hardliners as Chen Yun and Li Peng. In a position paper recently obtained by the China Information Center, He Xin, a top advisor to the Li Peng government, has called for an re-assessment of Sino-American relationship. According to He Xin, the strategic goal on the part of American policy makers from the very beginning of Sino-American rapprochement is to undermine the communist character of the Chinese regime. The primary instruments of such a policy goal, according to He Xin, are economic infiltration and, along with it, spread of Western values and ideas. The reason that these instruments can achieve their intended strategic objective, He Xin points out, is China's open-door policies. Indeed, there is every indication that Chinese hard-line leaders are trying to limit Sino-American ties. The Commission on Higher Education—a bastion of hard-line leaders among Chinese ministries—has issued a decree ordering limits on American and Chinese joint research projects.[14]

Reactionary hard-liners worldwide thrive on and crave for xenophobia and isolation, be it Chen Yun and Li Peng in China today or Hitler and Mussolini in inter-war Europe. (Incidentally, it would be reminded that removing MFN would subject China's export to tariffs laid down in the famous and infamous Smoot-Hawley act of 1930, that was a part of the tariff war responsible for fostering the rise of national socialism in Germany and

[10] Nicholas Kristof, "Capitalist Spirit Lingers in Hainan," The New York Times, December 17, 1989, p. A16.

[11] Economic Reference News, January 24, 1990.

[12] Dwight Perkins, "Reforming China's Economic System," Journal of Economic Literature, #26, 1988.

[13] For a good description of this problem, see "Survey: Perestroika," The Economist, 28 April-4 May 1990.

[14] Daniel Southerland, "Beijing Puts Some Restrictions on Joint US-Sino Research," the Washington Post, May 18, 1991.

Italy after World War I.) Let's never forget the fact that Chinese people suffered the worst political repression and economic deprivation when the hard-line leaders were able to close China's doors completely. In April 1976, there was a crackdown on demonstrators that took place on the same spot as the one in 1989—Tiananmen Square. Unlike 1989, however, no Western camera was there to capture the ferocity of that crackdown. The difference is China's open door policy that was put in place in the late 1970s. Keeping China's doors open in general and extending MFNM in specific help check the ability of Chinese hard-liners to repress Chinese people at will and in seclusion—an ability the Chinese hard-line leaders have never stopped trying to reclaim.

The second reason that we urge MFN be retained for China is the potentially high costs, in political and human terms, of further isolating China. Cutting off our ties with the moderate faction of the Chinese leadership at this critical point (and the removal of MFN represents the most extreme of such an action) may have dangerous implications for the character of future changes in China.

One of the lasting legacies of the Tiananmen Square Massacre is the ever present possibility of bloodshed, violence and even political disintegration. This originates from two sources. First, the violent resolution of the Tiananmen events broke an institutionalized taboo that got formed in Chinese politics in the wake of the Cultural Revolution—that you do not drive the politically vanquished all the way to the wall. The fall of two previous party leaders, Hua Guofeng and Hu Yaobang, was relatively cushioned, gradual and civil. Both of them, while having lost their top party positions, retained Central Committee and Politburo memberships. This is not so with Zhao Ziyang. His fall was total, comparable in scale only to the political misfortunes of Deng Xiaoping during the Cultural Revolution; Zhao lost all of his positions except for his party membership. Character assassination techniques and trumped-up charges were used against him. There was even an attempt to try him as a counter-revolutionary. Chinese political life has become, once again, "nasty, brutish and short."

The second reason that future political changes in China may be costly is the breakdown of Chinese political institutions and the re-introduction of the military in the settlement of an intrinsically political issue.[15] As a result, the Chinese military, more than ever and more than the Chinese Communist Party itself, now plays an enhanced role in maintaining the political status quo. "Political power grows out of the barrel of a gun" has again become a credo in Chinese political values.

The militarization of Chinese politics, coupled with the deep factional strife that is unchecked by any institutional mechanisms, may make future changes in Chinese politics costly, especially in human terms. Given that, it should be our responsibility both to advance democratic goals in China as well as to minimize any possibility of a civil war. We believe that the only way in which the goals of democracy and non-violence can be compatible is to work and strengthen our ties with the moderate and the reformist faction to effect a gradual and peaceful transformation of Chinese politics rather than isolating China further.

No matter how small the probability of a civil war, to avoid violence and to work toward a peaceful transformation have to be one of our topmost concerns. We believe that this goal constitutes the strongest reason to support a continuation of ties with China, of which MFN is one of the most important components.

PART IV: AN AGENDA FOR ACTION

There are four options facing the United States on the issue of MFN for China: revocation, conditional revocation, conditional renewal or renewal. In this report, we have argued that revoking MFN would hurt the very economic and political forces those who are concerned about democracy and human rights wish to promote in China.

Conditional revocation and conditional renewal may have a similar impact because they may in effect be equivalents of a revocation. For one thing, as pointed out before, some of the Chinese hard-line leaders want to shut China's doors to the outside world and thus they may reject MFN upon the slightest provocation that there should be conditions. Furthermore, sweeping conditions may be written into the package that the Chinese government cannot realistically meet. Also certain conditions can be intrinsically subjective and very difficult to verify. This implies that there will be a great deal of uncertainty in future deliberations on MFN for China. Given this uncertainty, the business community may turn to other markets for sourcing or sale, rather than waiting for an outcome of an uncertain legislative process.

The other factor is simply the time that may be involved in regaining MFN for China. The political process involved in MFN deliberations is extremely lengthy and sophisticated China was granted MFN status six years after Senator Mansfield made the first proposal to extend MFN to China.[16] In the meantime, market shares, sourcing of products, and retail contacts, which all take a very long time and meticulous and patient efforts to establish, will be lost. To the extent that revocation of MFN, albeit temporarily, disrupts normal business activities, the attraction of MFN and indeed the value of MFN as a leverage will decrease with time. The net effect will be a significant reduction of American economic presence in China, which, as argued before, would not serve the long-term interests of democratic forces in China.

An additional factor is that with the passage of time, the terms of the political dialogue will change. Even if China's political climate changes in the future, it is quite possible that regaining MFN will not be automatic and will be made contingent upon a host of factors that have nothing to do with Chinese politics. In 1980, for example, granting of MFN faced domestic political pressures. The textile lobby conditioned its support for MFN on the Administration's restrictions on textile imports from China.[17] MFN is not a water valve that can be turned on and off at will.

Although we support renewal of MFN for China, we do recognize the fundamental dilemma between keeping China's doors open and sending an unmistakable signal to the Chinese leadership that their acts of repression entail specific costs to them. To deny the international legitimacy that the Chinese government does not deserve, Western governments, while keeping normal trade relations with China, should continue to be concerned with the human rights situation in China via political channels and international forums. We applaud the decision by President Bush to meet with Tibet's spiritual leader, Dalai Lama and we believe that the problems of intellectual property infringement and sales of nuclear items should be tackled separately from China's human rights situation and with measures directly aiming at them.

In addition, we propose the following measures whereby the American government and business community can show support for the forces of democracy in China without compromising normal business interactions. First, the American business community should refuse to do business with the Municipal Government of Beijing. The Municipal Government of Beijing, headed by Mayor Chen Xitong and Party Secretary Li Ximing, played a particularly active role both in providing justification for the crackdown and in executing the crackdown. The American business community should make explicit the reason why it does not want to conduct business with the Muncipal Government of Beijing.

Secondly, if the human rights situation of China fails to improve, there should be efforts to establish ethical guidelines, similar to the Sullivan Principles, on doing business in China. These guidelines, for example, can encourage business interactions with relatively liberal and progressive coastal provinces while discouraging business with the conservative municipal leadership in Beijing.

Thirdly, World Bank loans, in addition to satisfying "the basic human needs" test currently in place, can also be used as instruments to advance economic reforms in China. This requires, for example, converting some of the infrastructure loans to policy and institutional support loans, which make disbursement conditional upon such reform measures as price and enterprise reforms.

In conclusion, we at the China Information Center support a moderate policy approach toward China. The fundamental issue is twofold. First, should we stand by the faction within the Chinese leadership that advocates further openness and economic reforms or by the hard-line faction that wants to use every opportunity to close China's doors to the outside world? Second, should we use MFN as a leverage to extract concessions from the Li Peng government or as a source of long-term changes, principally in ideas and values, that will make the sustenance of the Li Peng-type regime more difficult?

We believe that the concessions that can be extracted from the current leadership in China are cosmetic rather than substantive in nature. Martial law in Beijing and in Tibet may be lifted but de facto police iron rule reigns supreme in both places. A few hundred prisoners may be released, but more can be arrested secretly. Furthermore, the publicity values of such conciliatory gestures will make the government in Beijing release prominent intellectuals while incarcerating or even executing anonymous workers in large numbers.

We at the China Information Center believe that a free and open market economy is fundamentally incompatible with the rigidities of communist ideology. There is a basic difference between China and South Africa. In South Africa, the economy of slavery is

[15] For an analysis on the relationship between the political leadership and the army since the mid-1980s, see You Ji and Ian Wilson, "Leadership Politics in the Chinese Party—Army State: the Fall of Zhao Ziyang." (Canberra: Strategic and Defense Studies Centre, The Australian National University, Working Paper #195, 1989), pp. 1–24.

[16] "The Way Ahead," China Business Review, January-February 1980, p. 14.

[17] "The Winding Road Toward MFN," China Business Review, November-December 1979, pp. 9–10.

part and parcel of the apartheid system; in China the newly-gained economic freedoms of millions of people will slowly but surely transform the character of the regime. We should make every effort to ensure the openness and the dynamism of China's burgeoning market economy.

We should not view trade and investment ties and cultural and scholarly exchanges with China strictly in dollar or project terms; more appropriately they are windows of opportunities for fostering seeds of future political evolution in China and for bringing about change in a peaceful manner. We should and must look beyond purely punitive measures or short-term policy benefits and take into account the long-term implications of our actions. This approach may not be emotionally satisfying and may even run counter to our intuitive moral senses, but an effective and intelligent policy must be based on an informed understanding of the current Chinese political and economic realities. Given our understanding of such realities, we at the China Information Center believe that MFN should be extended unconditionally and that using MFN to punish China is to use a wrong weapon against the wrong Chinese at an absolutely wrong time.

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

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

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

SURFACE TRANSPORTATION EFFICIENCY ACT

The Senate continued with the consideration of the bill.

Mr. MOYNIHAN. Mr. President, in the presence of the truly eminent former Secretary of Transportation, I am to be a little embarrassed for this body. We have a measure that generations from now will identify as important.

Here we are; we are ready to vote. We have debated for 10 days. This will be the seventh full day we have been on the bill properly. It took us 2 days of discussion to get that point. We have an agreement, if I can count, but I can be wrong.

We are not trying to reach any further agreements. The agreement has been reached. Why do we not vote?

One week ago, Senator BYRD offered his amendment. It has been modified to meet the wishes of different groups that were formed, in fluid arrangements over the last week. They were consummated this morning when Senator BYRD sent to the table the last of his perfecting amendments.

I see my persevering comanager on the floor. Without knowing in advance the answer to my question, may I ask the senior Senator from Idaho, is he ready to vote?

Mr. SYMMS. Mr. President, the Senator from Idaho could inform my leader that I am ready to vote now, but there are Members on my side who will be ready to vote at 4 p.m.

Mr. MOYNIHAN. Oh.

Mr. SYMMS. I am willing to set the time for a vote at 4 p.m., unless the leadership has some complaint about that.

Mr. MOYNIHAN. I see. Do I take it that there are some Senators who are necessarily absent, but will be here at 4? Let us vote at 4, then.

The President has a right to know that something will happen to his legislation.

Mr. SYMMS. It is 104 days now.

Mr. MOYNIHAN. Let us get it done in 104 and ask everybody to be good-humored about an extra 4 days.

We have been hearing so much about this subject, Mr. President, that I will take a moment to suggest that we are doing more than trying to renew for another 5 years a surface transportation act. We are trying to change the way in which the Government approaches this subject in the aftermath of the great half-century era of the Interstate Highway System. The system was authorized in 1944, vastly expedited by President Eisenhower and Congress in 1956, and, with this measure, we will pay out the last dollar of construction and substitution money in fiscal 1994. That is it, done.

Meantime, all across the Chamber we have been hearing how the system we just built is in ruin. The Senator from Texas spoke of municipalities buying buses built to Third World road standards, with axles that were meant to take holes and bumps, because of the poor surface conditions. One interpretation is that we have been neglecting our infrastructure.

Just as strong an implication could be that we did not do it right in the first place. That is what this bill is about. How can you have a crumbling infrastructure you just put $130 billion into, unless you thought the act of spending the money was the end of the process? The resources were a free good and once consumed, that was the end. They were not seen as an investment.

Senator BENTSEN remarked, after I made that comment, that, yes, we look up to find that the European roads are meeting much higher standards than ours, and lasting much longer. Senator BYRD was talking earlier about Roman roads and, indeed, there are portions of Roman roads that are still in use. They are paved now, but they are paved on that stone foundation. It is no surprise to learn that one group thinks we need to spend $700 billion, and another group thinks we should spend $200 billion. What we have is $105 billion. We can go on endlessly about spending more, and the unmet needs, but we are going to have $105 billion. We hope we have a piece of legislation that will get our money's worth out of it.

This is no small enterprise on which we are afoot, and if 4 o'clock is an agreeable time, we ought to set that time right now.

Well, Mr. President, we still cannot reach any agreement. We are going to dawdle here all afternoon and perhaps tomorrow. It is a mystery. Does the Senator from Idaho have any thoughts?

Mr. SYMMS. Mr. President, I do have a few thoughts that I would be happy to make, if the Senator is prepared to yield the floor.

Mr. MOYNIHAN. I yield the floor.

Mr. SYMMS. Mr. President, I thank my distinguished floor manager. I note his frustration and impatience, and I share that. I wish we could go to a vote now. In fact, I was willing to vote last Friday. I do think that a lot of progress has been made on the bill since last Thursday, when we first came to the point that some were ready to vote on the amendment. It has been improved. Every State will benefit from it.

There will be an opportunity now for those of us who have been asking for more dedication of the Nation's resources to infrastructure. This bill will make that possible. It is not clear, as Senator DOMENICI pointed out, whether every dollar of this will be spent, but without this amendment, we know that we will not have the opportunity to spend the money, fix the roads, improve transportation in this country. I have said this before many times. Much of what happens in Congress does absolutely nothing to improve the productivity and the competitiveness of the United States. One thing that is about to happen in Congress with the passage of this legislation—hopefully passage in the other body, and hopefully a successful conference and a signature by the President—is that we will set in motion the possibility of more efficient transportation for Americans in the future. Through the action here in Congress, it will improve our competitiveness to have made a statement and a dedication of policy toward improved infrastructure and transportation in this country.

One of the very important parts of this is that with the improvement of highways in the country, it will improve transportation for individual Americans. I know of no money, other than those dollars spent defending peace and freedom from a national standpoint, that is spent that individual Americans benefit more in personal liberties than the benefits of having good highways, where they can get in their automobiles and drive on their own schedule.

In addition to that, the trucking industry, which makes it possible to move the goods around the country that are so essential for a strong economy, will be able to improve its efficiencies with the maintenance of the Interstate System and the addition of those arterial highways to a primarily National Highway System, to where

there will be a National Highway System larger than the current Interstate System, which will make transportation efficiencies better in the country.

Mr. President, over the course of the debate on S. 1204 there have been many statements made about the safety record of trucks and especially the safety record of the longer combination vehicles. I would just like to add a few comments to that to try to clarify and put that in perspective and set the record straight and will.

The truck safety picture is good and continues to show steady improvement. For the years 1979 to 1989, the Congressional Research Service has reported:

The number of fatal accident is down 18 percent;

The fatal accident rate is down 40 percent;

The number of truck related fatalities is down 18 percent; and

Truck mileage is up 36 percent.

The National Highway Traffic Safety Administration [NHTSA] released a study in May that confirmed the improving truck safety picture. This Federal safety agency said:

Heavy truck safety has improved dramatically over the past decade. The fatal crash involvement rate for medium/heavy trucks was 3.7 per 100 million vehicle miles of travel in 1988, an all-time low. Between 1977 and 1988, the fatal crash involvement rate for combination-unit trucks decreased 40 percent, while the rate for passenger vehicles—cars/light trucks and vans—decreased only 25 percent. The efforts of motor carriers and their drivers, coupled with expanded State-Federal programs to license commercial drivers and inspect vehicles at roadside, all seem to be having a positive effect.

The trucking industry has been a strong and early advocate of truck safety programs which include:

Creation of a single, classified commercial driver's license;

Expansion of the Motor Carrier Safety Assistance Programs, which has increased roadside truck inspections 1,000 percent to 1.6 million inspections a year;

Elimination of 20,000 commercial safety zones where trucks and drivers were allowed to run uninspected; and

Imposition of random, mandatory drug testing requirement for all truck drivers.

The safety record of longer combination vehicles [LCV's] has also been exemplary. The facts are very simple.

LCV's have been operating for 30 years, in 20 States. Because they are 40 percent more efficient, they mean lower prices and less pollution for America's consumers.

There have been 14 deaths in 9 triples-related accidents for the 9-year period of 1980 to 1988. While any fatality is a fatality too many, triples are certainly not a major cause of highway fatalities. In fact, there were no fatal triples-related accidents in 1982, 1983, 1984, 1985, or 1987. Although there are no reliable total mileage data for triples, four of the Nation's largest motor carriers reported triples mileage in 1990 in excess of 60,000,000 miles. That is an excellent record.

During the 8 years from 1980 to 1988, an average of 9 people per year died in accidents involving any kind of LCV's. That compares with an average of 616 people killed in railroad grade crossing accidents.

LCV's carry more cargo with fewer trucks, without increasing axle weight. They are less polluting and reduce congestion.

Last June, in a study requested by the Congress, the Transportation Research Board of the National Academy of Sciences recommended that trucks in excess of 80,000 pounds be allowed to operate under special permits in any State that wants them.

Mr. President, this bill will not allow that. It is grandfathered in so we will stay where we are with respect to these LCV's.

Mr. President, trucking companies are responsible citizens and are not going to put unsafe vehicles on the highway. Given our litigious society, if vehicles were unsafe, you could expect insurance companies to charge extra to cover LCV's. However, according to a leading insurer of trucking companies, the safety of LCV's is a nonissue as far as his insurance business is concerned. His company has no evidence of increased risk and sees no difference in liability exposure between single and multitrailer units. He charges the same premiums in many instances for both.

Mr. President, States that allow LCV's will be able to offer their citizens safe transportation at lower costs. States that allow these vehicles would be wise to retain them.

Mr. President, I want to say further just about safety overall with respect to this bill. This bill will make safer transportation for the American citizens of this country.

I would hope that my colleagues will support the Byrd amendment when it is voted on at 4 o'clock, if we get the order, and then I would hope that as to other amendments that Senators wish to offer we can give them a fair hearing and we can expeditiously deal with those amendments early this afternoon and come to final passage at an early hour this evening.

I think if all Senators on both sides will cooperate with the Senator from New York and myself, and the leaders, both Senators DOLE and MITCHELL, we can bring this bill to early passage yet today, and it would be a big step in the hurdle.

Once it is passed, I say to my colleagues, we are only halfway there because it will still have to go through the other body and conference and back to the floor and hopefully have a bill that the administration and President will be pleased to sign.

Mr. President, I see the majority leader is on his feet. I yield the floor.

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

The PRESIDING OFFICER (Mr. REID). 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 the quorum call be rescinded.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on the modified Byrd amendment, No. 296, occur at 4 p.m. today, and that the time between now and 4 p.m. be equally controlled and divided in the usual form.

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

Mr. MITCHELL. Mr. President, my good friend, the distinguished manager, the Senator from Idaho, who has worked so diligently and so hard to move this bill forward and who deserves great credit along with Senator MOYNIHAN for their work on this, just said with respect to this vote that we could have voted last Friday and he did not know why we did not vote last Friday.

Mr. SYMMS. I know why we did not. I wanted to vote.

Mr. MITCHELL. The reason there was no vote last Friday is there was disagreement. The Republican Senators in the caucus then decided not to permit a vote to occur.

I know the Senator from Idaho did want to vote.

Mr. SYMMS. I wish to clarify this. I said this before on the floor, that the majority leader made every effort to pass this bill in the 100 days. I salute him for that.

Mr. MITCHELL. I appreciate that.

Mr. SYMMS. It was not because of lack of diligence or efforts on the part of the majority leader. We just simply had 97 Senators who had not studied the tables enough that they were prepared to vote.

Mr. MITCHELL. I thank my colleague and commend him again for the efforts of the managers of this bill.

There will now be this vote at 4 o'clock. Mr. President, the time is to be divided and controlled in the usual form.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, we have a moment between now and the time set for our vote. I wish to use it to——

The PRESIDING OFFICER. If the Senator will withhold, the time is equally divided between Senator BYRD,

a proponent of the amendment, and a Senator who is an opponent to the amendment. That is the question now before the Chair. Who is the party?

Mr. MOYNIHAN. What was that? Was that the proposal? I thought it was the managers that would have control of the time.

The PRESIDING OFFICER. The request was that the time be divided in the usual form.

Mr. SYMMS. Senator DOMENICI would like some time.

The PRESIDING OFFICER. Anyone wishing to change that should ask unanimous consent.

Mr. MOYNIHAN. I ask unanimous consent that I might proceed for 10 minutes as on the bill in contrast to the amendment.

The PRESIDING OFFICER. The time will be divided as the Chair has already stated.

Is there objection.

Mr. SYMMS. Mr. President, reserving the right to object, how is the time divided?

The PRESIDING OFFICER. The question the Chair propounded to the managers of the bill is who is in opposition to the amendment of Senator BYRD? That person would control half the time.

Mr. MOYNIHAN. It is our hope and expectation that there will be no opposition.

I ask unanimous consent, Mr. President, that the time remaining be equally divided between the Senator from Idaho and the Senator from New York.

The PRESIDING OFFICER. Hearing no objection, that is the order.

The Senator from New York requested 10 minutes.

Mr. MOYNIHAN. Mr. President, the Senator will now speak to the end of his statement, if that is possible.

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. MOYNIHAN. I said on repeated occasions I have talked about this subject of public sector disease.

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

Mr. MOYNIHAN. I am happy to yield.

Mr. BYRD. Mr. President, I yield control of my time to the distinguished Senator from New York [Mr. MOYNIHAN].

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

Mr. MOYNIHAN. In the introductory statement to our bill, we tried to capture this theme when we said that just as there is no such thing as a free good, there is no such thing as a freeway. The term "freeway" is a metaphor for our attitude toward expenditure of these funds and toward the return on investment that we would hope to get from them, which is to say what is free imposes no restraints.

And we heard that over and again: How can we be at the end of the largest public works program in history and refer to those very same public works as crumbling? How can we have spent more than we have ever done in this area and find that we have not spent nearly enough? These are anomalies which require explanation.

We feel the explanation lies in this disorder which we choose to call public service disease.

It is very simple to identify. The symptoms are easily found. The cure if not the cause is easily found; that once an economic activity starts up in the public sector or is incorporated into the public sector, resources begin to be allocated on the basis of political considerations rather than economic ones.

There is nothing wrong with political considerations. It is just that they have a very uncertain relationship to economic outcomes, sometimes counterintuitive and frequently counterproductive.

Two different calculuses come into effect—political cost and benefit as against economic cost and benefit. These two can be coincidental, they can be proximate, or they can be wildly disparate. When they get to be wildly disparate, you begin to get situations that you see in State sectors of the economy all over the world.

You get a disastrous plunge in productivity. I have mentioned many times now that Dr. Boskin, the Chairman of the Council of Economic Advisers, tells us that output per man-hour in the transportation sector broadly defined rose by only 0.2 percent annually from 1979 to 1988. That is a medieval rate. You end up in just penury if you keep it up.

This is alongside productivity growth in the private sector that is absolutely spectacular. Durable goods manufacturing has been growing at 6 percent. I mentioned this point in a visit recently from the new president of the Xerox Corp., which was originally a Rochester, NY, firm, and is still very much in evidence in Rochester. He said, "Well, yes, we try to keep our productivity going up at 5 or 6 percent a year and have to or the Japanese will beat us."

That is an amazing rate. A generation of 6 percent productivity growth means an economy would be five times richer at the end of a generation than at the beginning, whereas it takes 350 years just to double under our transportation rate. And surface transportation is the infrastructure, the structure under the productive, the manufacturing and service-producing, goods-producing, goods and services producing factor.

The second feature is that there are huge disparities between demand for the free good and the supply. This pattern was revealed to us in the Soviet butcher shop where the prices are set so low no sausage comes to market and a block-and-a-half of people waiting to buy what does not exist because it is so cheap. The same pattern we see in congestion, which we have declared to be a pricing phenomenon. Space is free on the highway and more people will seek to use it then can be accommodated. The congestion is the long line.

Professors Meyer and Gomez-Ibanez pointed out to us that the greatest disappointment with the interstate highway program was that it did not seem to achieve its major objective of reducing traffic congestion. I am sure they would go on to say that in the manner in which it was managed, you could have predicted that. Professors Meyer and Gomez-Ibanez also pointed out that when congestion did not disappear in the aftermath of the suddenly accelerated Interstate System, we moved to the Urban Mass Transit Act of 1964. That was going to settle the problem and it did not. All it did was produce the same public sector phenomenon we have talked about for highways.

Some persons who hear our debate will have reason to think that there is some disposition to point out the shortcomings of highway outlays as against transit outlays by the Federal Government. Not at all. We are very much impressed by the work of Prof. Charles Lave of the University of California at Irvine, who points to the extraordinary drop in productivity in transit that followed the large induction of public funds.

There are patterns here, if only you could get the Department of Transportation to think about them. But, as I say, it is the nature of a public sector to conceal prices and costs.

We did not get our productivity figures from the Department of Transportation and, as Senators have said, there were a number of tables wheeling around this floor the last 10 days as we tried to get allocation percentages.

Knowing too much about these things is exactly what this public sector will not want to do. What they do do is maintain monopolies. This from the first writings of that great, incomparable economist, Joseph Schumpeter, who is beginning to be seen as a much more relevant economist for our times than John Maynard Keynes. He wrote before Keynes and is receiving his rewards afterward. Schumpeter, in his "Theory of Economic Development," written in the early years of the century, put great emphasis on innovation. Innovation is the dynamic of economies.

He spoke of the creative destruction of modern capitalism. That seems oxymoronic, the creative destruction, but that is what he meant, the moving along. Innovation comes along and, suddenly, what had been a useful arrangement previously is no longer useful. You have, in effect, destroyed it, but by adding something better.

The arrangements being destroyed, whatever they are—the handweaving, from the early appearance of looms and

power looms down on into our time—will be resisted and people will find all manner of ways to do it. One good way is to get the Government to create a monopoly for you and keep innovations out.

This is all explained in a brilliant article by the Prof. Thomas K. McCraw at Harvard University in his article, "Schumpeter Ascending," in the American Scholar.

The pattern in transportation is very familiar. The last innovation in transportation in our century was the invention by Drs. Danby and Powell of magnetic levitation in 1964—an event on par with the Wright Brothers and Robert Fulton.

In 1965, the U.S. Department of Transportation was founded. You could practically say their main activity since 1965 was to see that nothing came of the invention of magnetic levitation. That is not unusual. That is what the guilds did in Europe when things like power looms came along.

Schumpeter told the tale of the poor fellow in Danzig who had invented a loom that would double, triple productivity, and the Danzig municipal council ordered him strangled.

Do you want to put housewives out of work? That is what the people smashing machinery in the early 19th century asked. It is understandable. But, if you let it go on too long, you stagnate. We are stagnating.

Some Senators, like the Presiding Officer from the extraordinarily innovative State of Nevada sees the uses of innovation.

But, in the main, you will not. If you get a government agency to help resist it for you, you can stagnate forever. And that is what we want to change. We do not want to hurt anybody. We just want to help the economy. When we say infrastructure, the Latin of infra meaning "under," this is what everything else rests on. Doing it right is not a mundane thing. If you do it right, it is brilliant.

We get a lot of derision for it. In the history of my State, nothing will ever equal the derision that was heaped on Governor Clinton for setting out what was called Clinton's Ditch, the Erie Canal. It changed the history of the world. It changed the history of Britain.

The British never thanked us for much. But after the Erie Canal was opened, wheat from western New York made its way across the canal, down the Hudson River to Liverpool, and suddenly you could feed people in Britain for half the cost that the landed gentry were charging for their wheat—which they called corn, and still do. In the end, before the rumpus was over, you had free importation of food, and Britain became an industrial nation—that was because of the Erie Canal.

Scotland ceased to be a foreign country, once railroads could get back and forth from London to Edinburgh. The west coast became part of our country when you began to be able to fly there in a half a day, rather than riding 6 days on the best railroads.

What we are trying to do is bring ourselves back into the competition. We were always right on the edge of technology.

The Senator from New York was in Canada yesterday at a meeting of the Canadian-United States Business Association, at Ontario-on-the-Lake, that wonderful town, the original capital of upper Canada, right on the banks of the Welland Ship Canal. An American-born gentleman named Merritt who was on the Canadian side in the War of 1812, had the inspiration that if you could build a canal to take ships from Lake Ontario up to Lake Erie and get by the falls, you could open up all that shipping down the St. Lawrence. It took a long time and a lot of Irishmen, but it was done. And then the seaway came after it. Those transportation innovations have changed so much.

Magnetic levitation was the inspiration of Dr. Gordon Danby, a Canadian-born nuclear engineer, while working at Brookhaven National Lab, where he still works with his very eminent associate, Dr. Powell. I said yesterday would it not be grand if that United States-Canadian collaboration could not see itself manifested by a magnetic levitation route that would connect the United States with Canada. A sort of north-south connection that would symbolize something of our free-trade agreement. I learned with great interest that the Canadian Parliament at this very moment is thinking about just that thing.

We have seen you can spend more money. The great, informed, devastatingly candid Senator from New Mexico told us earlier, in 1980 the budget of the U.S. Government was $590.9 billion and it grew in 11 years to $1.4 trillion. We have not a thing to show for it; not a thing. All we hear about, in the aftermath, is our crumbling infrastructure; our gaping needs. I would like to suggest a lot more precision. We might get considerably more output.

I see my friend from Idaho has risen, and I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I yield myself up to 1 minute.

Mr. President, I appreciate the comments that the Senator from New York has made with reference to what the Senator from New Mexico said earlier this morning that what has really grown in the Federal budget since 1980 is the entitlement spending. If only a small, minuscule amount of that money had been diverted into infrastructure, waterways, highways, sewer systems, water systems—in New York City, some of the water systems are older than my State.

Mr. MOYNIHAN. Some?

Mr. SYMMS. Most of them are older than my State. My State celebrated its 100th anniversary last year, 1990.

Mr. MOYNIHAN. Most.

Mr. SYMMS. So most of the water systems in New York City are over 100 years old. Some of them are 150, 200 years old, I suppose.

Mr. MOYNIHAN. 150.

Mr. SYMMS. 150 years old. But the point is that for a very small, minuscule amount of change in those formulas that go for entitlements, there could have been billions of dollars available to be spent on other programs which would have also had an indirect but positive impact of the very people who receive those entitlement benefits.

The Federal Government's money is mailed out in checks every month to citizens.

Mr. President, I yield up to 10 minutes to the distinguished Senator from New Mexico [Mr. DOMENICI].

The PRESIDING OFFICER. The Senator from New Mexico is recognized for up to 10 minutes.

Mr. DOMENICI. I thank my good friend, Senator SYMMS. I do not think I will use the 10 minutes.

I thought before the vote on the Byrd amendment, the Senator from New Mexico, having spent about 15 minutes this morning talking about the $8.2 billion, the subject matter of the Byrd amendment, both as to the donor States and the so-called incentive States, I spent time talking about the conditionality, the conditional nature of that; that it might not be available, and under what circumstances.

I think for those who wonder whether we have appropriately spent time on this matter or whether it has been something that is dilatory, it seems to the Senator from New Mexico that many more Senators understand the proposal before us today.

I think they understand the donor issue and the donor recompense that is in the Bentsen-Warner part of the Byrd bill. I think they understand Senator BYRD's effort to use half of that $8.2 billion as an incentive program. And I think they also understand that, indeed, we might not, in 1993–95 have sufficient resources to fully fund, and they understand the effect of not fully funding, as I understand it. I think most Senators now understand that. I believe that means the time was well spent.

Having said that, I think there is one remaining issue. Clearly, I do not have a formula to substitute for the formula that Senator ROBERT BYRD has in his amendment regarding the $4.2 billion that is under the incentive formula to States. I do not have a substitute formula. But I submit to the Senate that there is a better general formula, and I am going to state it generally. And then we will see how it evolves in the waning hours of this bill.

When I have a bill like this, a highway bill, that is coming up before the Senate, the Senator from New Mexico might handle it differently than others, but I generally ask a group of New Mexicans who are experts in the field to be an informal task force. About 2½ months ago, I asked some New Mexicans to do that. So they monitored the work of the Environment and Public Works Committee, and they monitored the President's bill in detail and informed the Senator from New Mexico how it might affect our State, and what they had to say about the pluses and minuses.

So when Senator BYRD's amendment came up, it was rather easy for me to send it out to New Mexico and ask them what they thought about it. Part of my task force are highway experts, those who are on the commission or those who are in the position of being experts under the highway commission in New Mexico. So they did analyze the Byrd formula. This is what they said.

I will ask that their issue paper be printed in the RECORD before we finish today. But this is their statement, and I ask my friends who manage the bill to listen to these words. They said:

A truer measure of the efforts of the States—

That is what we are talking about in Senator BYRD's amendments, the efforts of States—

A truer measure of the efforts of the States would be the per capita amount of non-Federal funds expended on roads and highways within each State.

It seems to the Senator from New Mexico that is the formula we ought to have. It has to be written up; it has to be put on paper by someone. But what it is saying is every year you spend x amount on highways and roads in the State of New York, the State of Idaho, and the State of New Mexico. Take out Federal money, and you have x minus Federal money. And then divide x by the number of people in the State, and you have a level of effort that they contend is better than what we have before us.

I concur wholeheartedly. There are a couple of other observations which they make which I will make, and then I will yield the floor.

We are talking about 6 years. During that 6 years, there is no question that States are going to adopt new gasoline taxes. It would be absolutely a miracle if a number of States did not adopt, after today, a number of gasoline taxes, because they are in need of more roadways and they want to pay for them. That means that the formula is variable.

So whatever you are counting on will change, because you surely cannot take away from the State of New York gasoline taxes adopted 2 years from now. That will be plugged into the formula, and the total amount will change. They make that point also, and I think that is a very good point.

The Senator from New Mexico does not believe that the formula in the Byrd amendment, as it applies to the incentive States or the effort States, is the best one. I think it should be improved upon. Whether we will do it later on today, or whether it happens later on in this evolving cycle of going to the House with their bill, I do not really know.

But I am going to repeat: I think the truer measure of the efforts of States would be the per capita amount, non-Federal funds expended on roads and highways within the boundaries of a State. And if that is what the distinguished Senator from Kansas has as his formula—and I think, from having heard him the other day, he was not speaking in general language, he was speaking of taxes, which taxes did not go to highways; there were gasoline taxes that did not go in some States; there are general taxes which do go in some States. And he had a variety of mixes. The end product should have been what goes into the roads.

If that is the case, we are getting much closer to the level of efforts. If that is his amendment, I compliment him for it, and I hope the Senate adopts it.

I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from New Mexico ask unanimous consent that something be printed in the RECORD?

Mr. DOMENICI. Mr. President, I will not at this point. I will put it in near the final debate on the bill.

Mr. MOYNIHAN addressed the Chair.

Mr. SYMMS. I yield to the Senator 1 minute.

Mr. MOYNIHAN. Mr. President, I rise simply to agree with the group in New Mexico. A per capita effort is obviously a more desirable measure. I think it will take what we hope will be the Bureau of Labor Statistics a good 4 years to come up with it.

Mr. DOMENICI. I thank my friend from New York, and I do not think it would take that long. I do thank him.

Mr. MOYNIHAN. I was once Assistant Secretary of Labor for Policy Management and Research in charge of the Bureau of Labor Statistics. It took us 80 years to develop the unemployment rate. There were a lot of mathematics that had to be done first.

Mr. SYMMS. I yield 5 minutes to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Republican leader is recognized for 5 minutes.

Mr. DOLE. Mr. President, I appreciate the statement just made by the distinguished Senator from New Mexico, and he is exactly right. That is the very amendment I intend to offer following the disposition of the Byrd amendment, whether it is adopted or defeated.

I think it is rather difficult for some of us to divide up $8.2 billion and get none of it in our States. I think if we did it the fair way, there is no question about it, my State would benefit. I want to make it clear why we think we ought to follow the prescription just outlined by the distinguished Senator from New Mexico.

There are no Republicans and no Democrats in this debate. We understand that. There are donor and donee States. If I get $100 more under this formula, I am for it.

We have States with large land areas and small populations, and States with large populations and small land areas. In short, there are winners and there are losers. This debate has been all about charts, and none of the charts mean anything.

I will get you a chart that will tell you anything. If you give us enough time, we will produce a chart. But the bottom line is how much money do I get under the so-called Byrd amendment? That is the bottom line. Nobody cares about the formula. And how much do I get under the Dole amendment?

Now I am trying to commit a great sin. I am trying to bring a good Government proposal to the debate. Heaven forbid. At the risk of ridicule, I am going to offer this amendment after disposition of the amendment by the Senator from West Virginia. You cannot rely on the charts. The numbers will change. And let us face it, the Senator from New Mexico is right. It is how much the States spend.

I believe that the Senator from West Virginia, the chairman of the Appropriations Committee, started off with a pretty good idea, sort of a base line. But the problem with that approach is twofold. I might add that my concerns are expressed by the Associated General Contractors of America, who say there are two loopholes in the Byrd amendment that ought to be closed. The first is that it does not reflect what States really spend. The State of Kansas, for example, spends a lot more than the gas tax for highways, and that ought to be counted. Nobody can stand up here and say you should not count all money we spent for highways. We are talking about level of effort. That is the first loophole. It is not counted under the Byrd amendment.

The second loophole is that many States do not use all their excise tax for highways. They use it for agriculture, deficit reduction. That ought to be counted, but that is not done: As long as you have the tax out there, we do not care what you do with it; we are going to count that as effort for highways.

That is ridiculous. That is precisely what the Associated General Contractors of America said. I ask unanimous consent to put their letter in the RECORD.

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

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA,
Washington, DC, June 18, 1991.

Senator ROBERT DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: The Associated General Contractors of America supports your efforts to amend the highway reauthorization bill now pending before the Senate.

The amendment would correct two problems found with Senator Byrd's Level of Effort proposal.

Unlike the fuel tax collected at the federal level, many states divert significant amounts of the state fuel tax to general revenues or specific non-transportation programs.

States could also, under the Byrd provision, reduce certain state taxes, recapture that revenue through an increased gas tax, not dedicate those funds for transportation, and still receive the federal bonus based on having a high state fuel tax.

The Dole amendment closes those two loopholes, bases any federal bonus provision on state monies spent on highways, and still retains the integrity and goals of the Byrd provision.

Your efforts are greatly appreciated and supported.

Sincerely,

JAMES W. SUPICA, Sr.,
Legislative Action Committee Chairman.

Mr. DOLE. They did not say it was ridiculous. They just said it was not fair. So what can we do in my State? How can we get even? We raise the gas tax next year and lower the other taxes, and then we are in clover with all the other States, because our effort is more according to the amendment by the chairman of the Appropriations Committee. Or we start spending some of our excise tax on gasoline for other purposes and maybe raise money otherwise and still we are all right.

So, Mr. President, before we vote on this amendment, we had hoped we might get the distinguished chairman of the Appropriations Committee to modify his amendment to make it really reflect what I think every objective viewer, not somebody in there with a calculator trying to say how many dollars do I get, but every objective viewer, including the Associated General Contractors, including the Department of Transportation in New Mexico, and I bet every department of transportation in every State across the Nation is saying—you ought to have the real level of effort, not some arbitrary level of effort that is by gas taxes. The State of Virginia has a sales tax they put in highway construction. Many States have diesel taxes. They put that into highway construction. Many States have registration fees. They put that into highway construction, but that is not counted we are told. We cannot find the figures.

The figures are there. They can be put together in 24 hours or 36 hours.

So we want to game the system. I like half the Byrd amendment. I like the donor State, even though we do not benefit in my State. I do not find any fault with that. It is the other half. Should we vote for half the amendment and against half the amendment?

I hope when the time comes we could have a vote on what I consider to be equity and fairness and objectivity and not voting on charts and how much money do we get from a selfish standpoint. If we want to talk about level of effort, let us talk about the total level of effort, and we will make our case.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, do I have leader time left unused?

Mr. SYMMS. Mr. President, I believe I have some time I would be happy to yield to the majority leader.

The PRESIDING OFFICER. The majority leader has 10 minutes of time remaining from this morning.

Mr. MITCHELL. Will the Senator yield time?

Mr. SYMMS. I will be happy to yield my remaining time. What do I have, 3 or 4 minutes left?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. SYMMS. I will be happy to yield what time the majority leader needs.

Mr. MITCHELL. I thank my colleague.

Mr. President, I find the logic of the distinguished Republican leader persuasive with respect to the question of level of effort. I commend the distinguished chairman of the Appropriations Committee for the effort he has undertaken to try to bring this matter to a conclusion, and it is obvious that we are moving toward a conclusion in part as a result of his efforts.

But the rationale for that portion of the amendment that deals with State effort is that we should reward States that make an effort in expenditure of funds for highway construction and maintenance. The second half of that formula deals with the State's per capita income and suggests, rightly I believe, that their per capita income ought to be a factor in calculating that effort.

But I believe the Senator from Kansas has made a totally persuasive and compelling argument that if we are to measure effort, then we ought to measure effort as accurately as can possibly be measured. It is very clear that the gas tax, while one method of calculating effort, is in and of itself not the most accurate measurement. It is the most readily observable. That can be said for it.

But as the Senator from Kansas pointed out, if it is effort with respect to highway construction and maintenance, then funds derived by motor vehicle registration are as readily observable and that applies to the whole populus. Indeed, in most States you cannot legally operate your motor vehicle, therefore, you cannot buy gas and pay gas tax, until you meet the motor vehicle registration requirements. So that clearly is as applicable as the gasoline tax. It is as readily available and as precisely measurable. I believe the other factors that were mentioned by the distinguished Republican leader should be taken into account. For example, I am advised by some Senators that their States issue bonds for highway construction, dedicated for that sole purpose. If that is the case, that is of course readily measurable and a method of determining effort.

So while I commend the distinguished chairman of the Appropriations Committee for the effort he has undertaken that has carried us to this point, I believe that the suggestions of the distinguished Republican leader to improve the measuring effort, do provide a more accurate assessment of actual effort by States and I hope will ultimately be included in this process, either in the course of voting here in the Senate or in the House consideration or in the conference. This bill has a long way to go, as we all know, and we want to proceed with this first important step.

So, Mr. President, I merely want to conclude by again commending the chairman for the effort he has undertaken to bring us to this point, but also to associate myself with the remarks of the distinguished Republican leader and the suggestions he has made for improving this amendment.

Mr. SANFORD. Mr. President, I would like to say that I am very pleased to be voting for a highway amendment that brings to North Carolina over $400 million for fiscal years 1992–96. Such an increase in North Carolina's share of the Federal-aid highway program is long overdue. Over the past 40 years, the citizens of North Carolina have contributed more to the highway trust fund than they have received. The passage of this amendment will mark the first time the citizens of North Carolina will break even on their contributions.

The Byrd amendment raises some very valid points regarding a State's level of effort. For many years the State of North Carolina, because it has been treated so unfairly under the current allocation formula, has maintained a very strong level of effort. Our State gas tax is the fifth highest in the Nation, 22 cents. Balance this against that fact that our State has also one of the lowest per capita incomes and you will find that citizens of North Carolina have been carrying a heavier burden, and paying more than their fair share for adequate surface transportation programs. I support the level of effort proposal brought forward by Senator BYRD.

There has been quite a bit of discussion regarding formulas and changing them to reflect fair and equitable dis-

tribution. I am proud to have been one of the founders of a coalition formed to change the formula. North Carolina, in the past receiving only 75 cents to the dollar has carried the Nation's transportation burden for too long. However, it is becoming very clear to me that the Members of this body are not as serious as I am in seeing that a fair and equitable formula is reached.

I expressed my feelings on formulas to the Members of the Senate on a number of occasions since this debate began. I have cited GAO and AASHTO formula recommendations and have provided explanations for why such changes are important and necessary. Even the chairman of the Public Works Subcommittee confirmed the validity of my remarks. I am disappointed then that more serious consideration and discussions did not take place over an issue so crucial to 24 States. For this reason Senator BENTSEN and myself introduced an amendment which was adopted last week which tasked the GAO to study and recommend to Congress a formula for the allocation of Federal-aid highway funds so that the next surface transportation reauthorization debate and legislation will indeed see a change of the outdated and antiquated formula.

North Carolina expects to gain quite significantly from the Byrd amendment, and I feel confident that our coalition, although we were not successful in bringing forward a new and equitable formula, have been able to raise the issue most successfully. I am still committed to my efforts to change the formula and ensure them an equitable return for the citizens of North Carolina's dollars is received. The Byrd amendment does not address the fairness issue, however. I will continue to do so in the future.

Mr. ROCKEFELLER. Mr. President, today I am pleased to join Senator BYRD, the senior Senator from West Virginia, in offering an amendment to the Surface Transportation Efficiency Act of 1991. This amendment will improve the bill by providing additional funds from the trust fund to be used for construction and maintenance of our crumbling transportation infrastructure. This amendment will not shift funds from any category in the bill. The funding will come from the difference between the amount of funding provided by the bill and the amount of highway funding allowed for highway programs in the budget resolution. The Surface Transportation Efficiency Act does not use all of the funding available under the budget agreement. There is an $8.2 billion cushion.

Like many other States, my State of West Virginia has transportation needs that are well above the allocation that we receive from the U.S. Department of Transportation. To try to bridge this gap between what the Federal Government provides and our enormous need, West Virginia has levied one of the highest gas taxes in the Nation. The Byrd amendment will reward that effort by providing a bonus apportionment to those States that have a gas tax higher than 17.43 cents per gallon. This is the average national gasoline tax. Per capita income is also considered in apportioning the bonus.

This amendment is more than equitable. It rectifies what I believe to be an unfair situation that has existed for many years. West Virginia is not a wealthy State, but we have historically shouldered a substantial burden by raising funds for our transportation needs through a higher-than-average gasoline tax. It angers me to think that there are States that are financially better off than West Virginia with a gas tax of 15 cents per gallon compared to our 20 cents. Often these States are also receiving a much larger percentage of the highway trust fund allocation.

In West Virginia, our roads cost more to build than in many other parts of the Nation. Our mountainous terrain and severe climatic conditions make the cost of construction and maintenance much higher than average. Our Appalachian corridors, which are highways that link interstates, cost over $18 million per mile to construct. When this is compared to the $11 million per mile cost throughout the Appalachian region it is obvious why West Virginia needs every highway dollar that we can possibly shake loose.

For West Virginia and the rest of the Nation, accessible transportation is the keystone of economic development. Jobs are created as a result of highway construction. Between 1978 and 1988, 81 percent of all jobs in the Appalachian region were created in counties where there was a corridor and/or an interstate highway. Those States that have made a sacrifice by raising their gas tax have done so because they realize the benefit of an improved infrastructure.

Again, this is a fair and important amendment because it rewards those who have shouldered more than their fair share of the burden. It helps those that help themselves. Any State that wishes to participate may. All a State must do to be eligible for the bonus is raise the gas tax above the national average. Thirty-three States already have a gas tax above the national average. Those that have the highest tax will receive the largest bonus.

In addition to providing funds for transportation infrastructure, the amendment is an incentive to conserve fuel. I believe energy conservation and efficiency are vital objectives to ensuring a stronger, more secure nation.

I am proud to join the senior Senator from my State, Senator ROBERT C. BYRD, in proposing this amendment. His leadership on this transportation bill, an all legislative matters regarding our State of West Virginia, is without equal.

Mr. HEFLIN. I would like to ask my distinguished colleague from West Virginia an important question with regard to this local effort amendment. It is my understanding that the Federal Highway Administration currently includes petroleum product inspection fees in its calculation of base gas taxes. In calculating Alabama's gas tax for charts associated with this amendment, for example, the Federal Highway Administration added the 11 cents per gallon tax with the 2 cents per gallon petroleum product inspection fee to obtain the total Alabama gas tax, listed on the relevant charts as 13 cents per gallon. I ask the Senator from West Virginia if it is his intention that the Federal Highway Administration continue to include petroleum product inspection fees in its calculations of base gas taxes for purposes of allocating funds under this amendment?

Mr. BYRD. Yes, the Senator is correct. Petroleum product inspection fees would continue to be included in the calculation of each State's base gas tax by the Federal Highway Administration for the purposes of allocating funds under this amendment.

Mr. HEFLIN. I thank the Senator from West Virginia.

Mr. BURNS. Mr. President, the concept behind the Byrd amendment which passed today is that States with higher gas taxes and lower per capita incomes should receive a level of effort bonus under the Federal-aid highway program. The level of effort bonus was first proposed in legislation introduced by my colleague MAX BAUCUS, the senior Senator from Montana, of which I was an original cosponsor. I want to recognize Senator BAUCUS for his key role in making sure Montana gets its fair share of the highway trust fund. As this bill moves forward, we plan to continue to work together to protect our State's interests.

Just 10 days ago Secretary of Transportation Sam Skinner visited our State as a guest of Senator BAUCUS and myself. Secretary Skinner got a chance to see first hand why Montana with its thousands of miles of highway and low population needs a greater share of Federal highway money. It is our hope that when this bill finally makes its way to the President's desk that Secretary Skinner will remember his trip to the Big Sky country.

Mr. DURENBERGER. Mr. President, my colleague, Senator BYRD, has crafted an amendment which addresses the concerns of the donor States as well as recognizes those States with a high level of effort.

The Senate is, in the final analysis, a consensus institution. I regard this amendment as a necessary accommodation to get his bill passed, and I support it for that reason.

I am concerned of the budget implications that this provision will bring

about. I say that, even though my State does better with the Byrd amendment. I understand that this amendment will place S. 1204 in excess of $20 billion over baseline. I don't believe this is a truly fair formula. Those are big problems. But I would rather have the bill before us with this amendment than no bill at all. It does directly aid the existing donor States and therefore solves one of the major obstacles that has threatened this bill.

Mr. President, my colleague from West Virginia is proposing that an additional $8.2 billion be split between donor States and States that impose gas taxes above the national average, and then the revenue would be adjusted to factor in the State's per capita income. States that have low per capita incomes and higher than average gas taxes will significantly benefit. Although Minnesota has a high gas tax, its per capita income is too high to ensure that it would get a very large increase under this formula. Minnesota will benefit from this amendment. According to the tables that were handed out, my State will get an increase of $108 million over 5 years. However, this is a formula that can be gamed since States can earn money by changing State laws and thus change the overall numbers.

I commend my colleague, Senator DOLE, for pursuing a more appropriate formula that measures a State's total effort. Minnesotans pay for highways through fuel taxes, vehicle licenses, drivers licenses, permit fees, investment income, and other fees. Minnesota only receives 55 percent of its dedicated highway funds from the fuel tax. No one can argue that these other dedicated funds, contributing 45 percent of highway dollars, are less of a measure of effort than a State's gas tax. Mr. President, if we are going to recognize each State's level of effort, I agree that we must look more closely at all the factors that should constitute that definition.

Although the highway trust fund has a high enough cash balance to finance this provision, it will compete against domestic discretionary programs in the out years. If we increase the amount for transportation, we must decrease the amount spent on other discretionary programs.

As we unfortunately do too often around here, we are enacting a present fix which carries with it a future problem. We are not going to do a future budget resolution here on this floor today, but we had better acknowledge and be ready to face the tough choices when they come.

Having said that, I urge my colleagues to vote for the amendment before us and move this important bill forward.

Mr. GLENN. Mr. President, I have spent the past weeks working closely with my colleagues from other donor States to develop a formula to provide Ohio and other donor States with a fair return on their contributions to the highway trust fund. I support the modified Byrd amendment which provides needed equity in the highway program.

The amendment before us bases funding on a State's gasoline tax rate and on personal per capita income. In addition, the amendment would increase the rate of return on dollars to the highway trust fund. This rate of return ensures that no donor State will receive less than a 98 percent return on its contribution. In the existing program, Ohio motorists received back only 80 cents in highway aid on the tax dollar paid in. Over the past 34 years, approximately $2.2 billion in Federal user taxes collected in Ohio have been spent improving roads in other States. Mr. President, the objectives of this amendment are long overdue for Ohio and other donor States.

Under this amendment Ohio's level of funding will increase by $398 million from the level contained in the Senate bill. These funds are critically needed in Ohio for roads and bridges which have deteriorated while Ohioans paid for construction of new facilities in other States.

Mr. President, I strongly support this amendment to bring equity to Ohio and the other donor States, and I urge my colleagues to join me in voting for its adoption.

Mr. LEVIN. Mr. President, I will vote for the amendment offered by Senators BYRD and BENTSEN because it takes a significant step toward correcting the unfairness that has characterized the highway trust fund formulas for many years. Under those formulas, my State of Michigan over the decades has paid far more into the trust fund in the form of gasoline taxes than it has gotten back in funds for surface transportation projects, such as highways. This situation is in spite of the fact that important road and highway projects in Michigan remain to be completed or are in need of repair.

Because of these needs and because of the unsatisfactory nature of the current formula, I worked closely with Senators MITCHELL, BENTSEN, WARNER, and others to modify the original Byrd proposal so that it included a provision which provided some measure of justice to those States—the donor States—which pay more into the highway trust fund in the form of gasoline taxes than they receive in the form of funds for surface transportation.

In particular, I worked to see that the level of effort portion of the Byrd amendment was calculated prior to the donor State bonus portion of the Byrd amendment. In addition, I believed that it was important that the donor States which received the lowest rate of return from the highway trust fund under the committee bill have their return raised before the donor States which were somewhat better off. The net effect of these two fine-tunings of the Byrd amendment that I worked for was to increase the funds that could go to Michigan by more than $79 million. These two changes contributed to an increase in Michigan's rate of return from the highway trust fund on the dollar to 99 cents, assuming the highway appropriation bill is fully funded. The average rate of return for Michigan over the past 5 years was 83 cents, and the rate of return under the bill as reported by the committee would have been 89 cents on the dollar.

Mr. President, I worked for this amendment because I am convinced that it was the best possible proposal that could be passed in the Senate from the perspective of the needs of my home State of Michigan—fairness to the donor States and the needs of the Nation.

Mr. MITCHELL. Mr. President, I believe all time has been used. Have the yeas and nays been requested on a vote?

The PRESIDING OFFICER. The yeas and nays have not been requested.

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The time of 4 o'clock having arrived, the question is on agreeing to amendment 296, as modified, offered by the Senator from West Virginia [Mr. BYRD].

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 15 seconds.

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

Mr. BYRD. Mr. President, I will be prepared to respond to some of the arguments that have been made by both Mr. DOLE and Mr. MITCHELL, but the time for the vote has arrived. I will save my remarks until the appropriate time when the amendment is before the Senate.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arizona [Mr. DECONCINI] is necessarily absent.

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

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

The result was announced—yeas 89, nays 9, as follows:

[Rollcall vote No. 95 Leg.]

YEAS—89

Adams	Biden	Bradley
Akaka	Bingaman	Breaux
Baucus	Bond	Brown
Bentsen	Boren	Bryan

Bumpers	Harkin	Murkowski
Burdick	Hatch	Nickles
Burns	Hatfield	Nunn
Byrd	Heflin	Packwood
Coats	Helms	Pell
Cochran	Hollings	Pressler
Cohen	Inouye	Reid
Conrad	Johnston	Riegle
Craig	Kassebaum	Robb
Cranston	Kasten	Rockefeller
D'Amato	Kennedy	Sanford
Danforth	Kerrey	Sarbanes
Daschle	Kerry	Sasser
Dodd	Kohl	Seymour
Dole	Lautenberg	Shelby
Domenici	Leahy	Simpson
Durenberger	Levin	Specter
Exon	Lieberman	Stevens
Ford	Lott	Symms
Fowler	Lugar	Thurmond
Garn	McCain	Wallop
Glenn	McConnell	Warner
Gore	Metzenbaum	Wellstone
Gorton	Mikulski	Wirth
Gramm	Mitchell	Wofford
Grassley	Moynihan	

NAYS—9

Chafee	Jeffords	Rudman
Dixon	Mack	Simon
Graham	Roth	Smith

NOT VOTING—2

DeConcini	Pryor

So the amendment (No. 296), as modified, was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 295, AS AMENDED

Mr. MITCHELL. Mr. President, a parlimentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MITCHELL. Have the yeas and nays been ordered on the underlying Byrd first-degree amendment?

The PRESIDING OFFICER. They have.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the yeas and nays on this amendment be vitiated.

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

Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from West Virginia, as amended.

The amendment (No. 295) as amended, was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I now ask unanimous consent that Senator GRAHAM of Florida be recognized to offer an amendment relating to the FAST formula; that there be 3 hours of debate on the amendment, with no amendment to the amendment in order; that when all time is used or yielded back, the Senate proceed to vote, without intervening action or debate on or in relation to the Graham amendment; that the time on the amendment be controlled as follows: 2 hours under the control of Senator GRAHAM; and 1 hour under the control of Senator MOYNIHAN.

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

Mr. MITCHELL. Mr. President, Senators are aware that there will be a vote on the Graham amendment 3 hours from now if all time is used, or earlier than that if any of the time is yielded back. So, there will be a vote approximately 7:25 or sooner if the time is not used on the Graham amendment. We will then be in position to assess what remaining amendments there are on the bill and how best to proceed from then.

I thank my colleagues for their cooperation.

The PRESIDING OFFICER. Under the previous order the Senator from Florida is recognized.

AMENDMENT NO. 357

(Purpose: To make improvements in Federal-aid highways, and for other purposes)

Mr. GRAHAM. Mr. President, for the past week plus, we have been debating the tail. We have just voted on the tail. I suspect that we will have at least one more vote on the tail. I suggest that we now turn our attention to the dog. The dog is the formula under which 90 percent plus of the Nation's transportation funds for the support, maintenance, and expansion of the Federal effort in transportation will be allocated.

We have before us, Mr. President, two very clear alternatives. One is offered by the Senator from New York and the Senator from Idaho. The other is offered by a consortium of State highway officials under the name Federal Aid Surface Transportation Act or acronymed FAST. It will be the allocation of highway funds under the FAST proposal that I will be submitting as an amendment to the pending legislation with the cosponsorship of Senators KOHL, LOTT, NUNN, SHELBY, COATS, MCCONNELL, MACK, PRYOR, and SANFORD.

Mr. President, to place this matter in some historic perspective, the basic approach for allocation of half of the money under Senator MOYNIHAN and Senator SYMMS' approach is to take the current allocation formulas, calculate what percentage they resulted in each State receiving as a proportion of the national total over the time period 1987 to 1991 with some adjustments, and then allocate a percentage to each State for the time period 1992 to 1996, which is to say that we are continuing forward for the next 5 years essentially the same basic allocation formula and process as we have used for the past 5 years.

In 1985, our former colleague, Senator Lawton Chiles, asked the Government Accounting Office to examine that formula, to determine what would be a more appropriate method for allocating Federal highway funds. The General Accounting Office submitted its report in March of 1986.

Mr. President, in that report, the GAO, in its executive summary, stated:

> The factors used in formulas to apportion highway funds should reflect the extent and usage of today's highway system. The factors used in the primary, secondary, and urban highway apportionment formulas—land area, population and postal mileage—are not closely related to today's highway system. These factors were chosen between 40 and 70 years ago on the basis of data available at that time. Other factors that better reflect highway activity are now available.

I conclude the quotation from the General Accounting Office report, Mr. President, to editorialize, that the bill that we have before us purports to do exactly what the GAO report criticized 5 years ago and, that is, we are carrying forward an antiquated formula of 40 to 70 years ago into the late 20th century.

What did GAO report? GAO reported and recommended that lane miles is a direct measure of the size of the road network and should be used to reflect the extent of the system to be preserved.

GAO went on to recommend that highway use can be measured by both vehicle miles traveled and motor fuel consumption. GAO recommended that we adopt a formula which uses factors which are relevant to today's highway system, for which data are available and which are direct measures of Federal interest relative to highways, such as assuring that our highway system is maintained, the enormous investment that we have made in our 850,000 miles of Federal aid highways, as well as our ability to meet the needs of an expanding population and economy.

As a result of that study, State highway officials began to meet to discuss how recommendations such as those of the General Accounting Office could be molded into legislation for consideration during this reauthorization of the Federal Surface Transportation Act.

This process began 4 years ago when State departments of transportation began to develop ideas on future surface transportation programs. There was a year-long information gathering phase, including public hearings in every State, Mr. President. Numerous meetings then occurred during which ideas were developed to set a new course for American transportation.

The organization which initiated this activity was the American Association of State Highway and Transportation Officials, an organization comprised of the departments of transportation of all 50 States. Extensive supporting documentation was developed, including a set of recommendations included in a report which was entitled "New Transportation Concepts for a New Century." These recommendations were approved by 48 of the 50 States at a meeting in late 1989. They represent the best ideas of the transportation professionals in this country.

What were those recommendations? They recommended that in lieu of the 40- to 70-year-old antiquated formula which the Federal Government was using and which is proposed to be used into the future, that, rather than that approach, two new principal programs be established: A categorical program serving a national highway system, one; and, two, a flexible system to address increasingly diverse and intermodal needs of the State.

Several of the State DOT's took these recommendations a step further by developing more specific funding formulas for these programs. And it is these recommendations, Mr. President, that I will soon be offering as an amendment.

Mr. President, I would like to talk a bit about the FAST proposal, and then contrast it to the provisions which are in the bill as reported by the committee. As indicated, the major recommendations of the FAST proposal are to restructure and consolidate Federal aid highway programs into two principal programs; A national highway and bridge system, and an urban and rural highway and bridge program.

It proposes to revise formulas by which Federal funds are apportioned to the State to more accurately reflect today's transportation needs and to provide greater equity for all States in the funding distribution. It would help States and local governments meet their distinctive needs more efficiently and effectively by giving them greater flexibility and control over their funds.

To turn first to the new national highway and bridge system, the FAST proposal purports, pursuant to the amendment which I have offered, to allocate to a National Highway System in fiscal year 1992 $6.6 billion. That will increase until 1996 when $9.8 billion will be committed to the National Highway System, which will include the 44,000 miles of our interstate system, plus an additional 110,000 to 140,000 miles of other Federal aid highways.

This system will be provided and will be comprised of existing urban and rural interstate highways, and an appropriate proportion of urban and rural principal arterial highways. The method to allocate the national highway funds to the States should reflect the national purposes of the National System. Both the extensiveness of the National System proportionate to the total statewide lane miles and the intensity of its use proportional to statewide travel should be recognized in the allocation system.

Recognition of its role in interstate commerce: Commercial truck traffic should be recognized, with the most effective measure being diesel fuel use.

Finally, the national highways allocation should recognize the total national urban costs are approximately twice as much as rural costs. Therefore, the formula under which the national highway funds will be allocated is based on three factors: Statewide lane miles, with one-ninth being rural lane miles, and two-ninths being urban lane miles; one-ninth based on statewide rural vehicle miles traveled and two-ninths being statewide urban vehicle miles traveled; and three-ninths based on statewide diesel fuel consumption. Those are the factors that would be utilized to allocate the funds for the National Highway System.

The second component of the National System will be an urban and rural highway bridge program. Federal highway responsibility is not limited to the National Highway System. Americans living in small cities and rural communities are also entitled to have an effective access to the National Highway System. Congestion on urban and suburban streets must be relieved. Those traveling to and from the National Highway System deserve reasonably consistent safety and quality standards throughout the Nation.

State and local resources to meet these needs are being severely stressed, and in many States constrained. Each State requires a distinctive mix of solutions to meet present and future transportation problems involving metropolitan congestion and rural access and air quality constraints.

The proposal for the Urban and Rural Highway and Bridge Program is to provide a funding to help States and local governments meet their unique transportation challenges in cost effective ways. Federal urban and rural highway and bridge funds could be used on any arterial or collector highway except those designated for the National Highway System.

National urban and rural highway funds should be allocated to the States in proportion to their percentage of the Federal highway trust fund contributions. To assure local governments a fair share of these fundings, each State shall allocate to non-State transportation facilities at least as much as allocated to the non-State facilities in 1991 from the Federal Aid Urban and Secondary Bridge Program.

Mr. President, the second component of the FAST Program, the Urban-Rural Road and Bridge Program, would receive the same funding each year as the national highways, that is $6.6 billion in fiscal year 1992, rising to $9.8 billion in fiscal year 1996.

The allocation formula for those parts of the Highway System off the National System would be based on the contribution that each State made toward the national trust fund.

The third issue is the issue of bridges. Routine bridge replacement should be funded as another element in the regular National Highway and Urban-Rural Highway and Bridge Program. Although bridges were singled out as a special national priority in previous Federal Highway Programs, and would be singled out again in the program as submitted by the Senators from New York and Idaho, the rationale for this unique treatment has decreased as States have used categorical funds to replace or rehabilitate the most seriously deficient bridges.

The proposal of FAST is to establish a national discretionary fund. That fund could be reached by States which had a bridge replacement cost in excess of either $20 million or a figure that would comprise more than 10 percent of that State's total Federal apportionments for that particular year. The proposal is to fund this discretionary bridge account in fiscal year 1992 at $230 million, rising to $440 million in fiscal year 1996.

Other features of the FAST proposal are an allocation of $1.8 billion each year for 5 years to those States which have uncompleted segments of the Interstate System to be completed. The FAST proposal also proposes to maintain and increase in some areas the current level of Federal participation in these programs. Interstate completion would continue at 90 percent; nontoll projects would be increased to 85 percent Federal participation, and toll projects would participate at a 35-percent level. There would be a 20-percent transferability available between the National Highway System and the Urban-Rural Road and Bridge Program.

We have talked a lot about the fact that we are in a new era, the postinterstate era. If we are in a new era, it is time for new thinking and new direction. The proposal we have from the committee carries the past into the future.

What is that baggage of the past that is being carried into the future? The proposal of the Senators from New York and Idaho purports to allocate half of the Nation's highway funds, up until the year 1996, on a formula which includes the 1916 number of postal miles and the 1980 census. Sixteen years after that census was taken, it proposes to continue to use factors which the GAO has stated to be nonrelevant to today's transportation needs, such as land area.

I believe this is the time for this Congress to begin to provide a transportation program which is responsive to America's needs. That need is particularly urgent because we are making an even more fundamental policy in this bill, and that is to disinvest in our Nation's Highway System. Let no one be misguided. Under the amendment which I have offered, as well as under the bill as sponsored and managed by the Senators from Idaho and New York, we will have a worse highway system in 1996 than we have today. There will be more congestion, there will be a lower standard of maintenance, there will be less service to our expanding economy and population

under either approach because both approaches suffer from the basic deficiency of not providing a sufficient level of funding to meet our expected needs over the next 5 years, much less make a contribution toward reducing the current backlog of $450 billion of unmet highway needs.

We also need a formula which is as flexible as possible. The proposal of the Senators from Idaho and New York continues and, by the adoption of the Byrd amendment, even adds additional categorical slots through which money will be flowed. We have a specific formula for bridges, a specific formula for interstate maintenance, a specific formula for air quality and congestion, and now a specific formula for an incentive based on effort program.

The FAST proposal simplifies, by having basically two programs, a National Highway Program and a Urban-Rural Road and Bridge Program. It allows 20 percent flexibility between those two, so a specific State, if its needs were greater on the portions of the National Highway System which ran through the State, could allocate up to 20 percent of its urban-rural road and bridge funds to that purpose or vice versa.

There are some perverse results from the proposal of the Senators from Idaho and New York. I would like to point out one of those perverse results and ask if, during the course of the debate, the Senator from Idaho or the Senator from New York would provide us with the analysis that would give a policy explanation to these differences. I am speaking specifically to the allocation among the States which appear to be not based upon defensible policy grounds.

Under the proposal of the Senators from Idaho and New York, as an example, the State of Connecticut will receive, over the 5-year period, $1.711 billion. This is before any funds are added under the Byrd amendment. Under the provisions we are now debating—and I reiterate the amendment I offer will not alter or disturb the Byrd amendment which we have just adopted—but under the base bill, $1.711 billion will be allocated to Connecticut. That represents $1.71 for every dollar collected by the Federal highway trust fund from the State of Connecticut. The State of Alabama, on the other hand, will receive $1.504 billion, which represents 82 cents of what the citizens of Alabama and visitors will contribute to the trust fund.

Let us look at these two States, one of which gets more than twice the return as the other. Alabama had a population, in 1990, of 4,026,000. Connecticut has a population of 3,295,000. Yet Connecticut receives twice as much proportionate to the amount contributed as does Alabama.

Alabama has 51,705 square miles of land area; Connecticut, 5,018; more than a 10-to-1 ratio. Yet Connecticut will receive $1.711 billion; Alabama, $1.504 billion.

Taxes paid into the trust fund: Alabamans paid 2.9 percent of the fund, or, in the year 1990, $260 million; Connecticut $142 million. Yet Alabama will get back 82 cents, Connecticut $1.71.

Federal aid system mileage: Alabama has 21,982 miles to maintain with its $1.504 billion; Connecticut has 5,474 miles to maintain with its $1.711 billion.

Mr. President, there may be an explanation of those differences. I look forward to the sponsors of this proposal giving us the details that would justify those differences. I do not pick those States in any sense pejoratively. These numbers are the result of the formula which is before us, and our vote in favor of this formula will be a vote to ratify that allocation of funds.

Just one last item. Since ability to pay has been referred to as a relevant factor, and using, as one indicia of the ability to pay, Federal income revenue collections, Alabama, in 1986, paid $7.2 billion in Internal Revenue taxes; Connecticut, $17.7 billion. So, even though the population was substantially smaller, in terms of wealth, as indicated by income tax payments, the State of Connecticut was more than twice as wealthy as the State of Alabama.

Again, I call upon my colleagues to give us an explanation of that set of differentials.

The amendment which I will now send to the desk represents 4 years of work by the leading transportation professionals in this country; 4 years in which those men and women were looking to the future.

They were asking the question: What kind of transportation system does America need to have in order to begin to meet its needs in the future?

This plan is woefully deficient in terms of the total amount of dollars that are going to be expended, but that is a decision that was made elsewhere and for other purposes and which we all must live with. At least we ought to be spending what resources we have in a way that will best meet our Federal responsibilities.

I know that each of us is elected by the constituents of a specific State and clearly we have a major interest toward those citizens. But we also are U.S. Senators. We have a responsibility to what will best meet the needs of this Nation.

I am prepared to support programs that are in the national interest that are very unlikely to have any value to the State of Florida, such as major hydroelectric projects. I would also ask the consideration of my colleagues from elsewhere to some of the special concerns of our State, such as the large and growing number of refugees who are arriving each day in our State due to Federal immigration and refugee policy. I would also ask my colleagues to look with a national perspective on which of these bases of allocation of funds makes the most rational case for the future of America's transportation system.

I believe, as the General Accounting Office believes, and as the large majority of State highway officials believe, that it is the proposal of the Federal Aid Surface Transportation Act that best accomplishes that national objective.

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself, Mr. KOHL, Mr. LOTT, Mr. NUNN, Mr. SHELBY, Mr. COATS, Mr. MCCONNELL, Mr. MACK, Mr. PRYOR, Mr. SANFORD and Mr. BOND, proposes an amendment numbered 357.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The Chair advises the Senator from Florida he has used 27 minutes, and asks the Senator if he wants that charged to the amendment.

Mr. GRAHAM. The time used by the Senator from Florida should be charged against the 2 hours controlled by the Senator from Florida.

The PRESIDING OFFICER. Who yields time? If no one yields time, there will be time equally deducted from both sides.

Mr. MOYNIHAN. Mr. President, let me rise to make just some preliminary observations about the amendment of the Senator from Florida and to say, Mr. President, that our committee, the Committee on Environment and Public Works, very carefully examined this proposal and we rejected it. We rejected it by a 15 to 1 vote.

The allocation funding arrangements of the administration bill were based on the efforts that the American Association of Highway and Transportation Officials had very properly made. The principle here is that the more gasoline you consume, the more funds you get. It is, as some of us said at the time, an energy policy, not a transportation policy. We feel that is a wrong priority.

In 1973, the United States was importing about one-third of its oil. Most of it came from Canada. In the aftermath of OPEC price shock, things began to shift. We became better consumers of energy. In 1973, it took 27,000 Btu's to produce $1 of gross national product. We brought that down with improved energy efficiency to just over

20 in 1986. In a matter of 13 years, we cut the Btu's per dollar of gross national product by about a quarter and it has been flat ever since.

Maybe we did as much as we could, or forgot what we were doing, but we did bring it down. That was in response to price.

On the other hand, we continued to use more oil and to import more, and now most of what we import comes from Saudi Arabia. If the Saudis were to bring an amendment to this bill, I think they would bring this amendment; it says the more Saudi oil you purchase, the more resources you get.

But is that really the way we want to organize ourselves for the era ahead? I do not think so. The committee did not think so. We want to get more out of the gallon of gasoline and, if we possibly can, get more out of alternate energy sources.

We just cannot justify this. We have looked at it carefully.

Mr. GRAHAM. Will the Senator from New York yield?

Mr. MOYNIHAN. We could not find the basis, and on a 15 to 1 vote said no.

What we did say is we are going to have to think of a new allocation formula, and we are going to spend the next 5 years doing just that, and to try to produce a formula, which we will do, that will serve us for another generation. We are in a new era, and we need to have new bases. The old arrangements are, admittedly, biased by the needs of building an Interstate System.

We continue to have the need of maintaining it. But I would have to say that the committee has already dealt with this matter and the Ambassador from Saudi Arabia is not on the floor but if he were he would be speaking in favor of the proposal.

Mr. SYMMS. Will the Senator yield me 2 minutes?

Mr. MOYNIHAN. I am happy to yield.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. The Senator from Florida asked a question about how the committee came up with this formula. What happens is always what happens in my experience on highway bills. This is the fourth time in my short time in the Senate that we have brought a highway bill through the Senate. The third time we were not successful in achieving a conference and we had to come back—I guess it was the second time. The third time we came back the next year to reach a conference and pass a bill.

Senators from Florida and Texas and other States are pushing for a formula that bases it more on population and use of roads. And the States like Montana and other States, the Dakotas and so forth, Idaho and others are pushing for a formula that is based on th size of the system. They have huge highway systems that are bridge States that connect the country together in the National Interstate and Defense Highway System, and it always comes down to the last day that we finally finalize it by people looking at the list and they say how much does my State get?

The way we came up with this, the interstate program, was based on an original 60 to 40 formula. It was amended to suit the needs of the more populous States to 55 to 45. That is road miles and passenger miles. So we still would be able to maintain an Interstate System in Montana. I use Montana as a good example because it has, I believe, the most interstate per capita of any State in the Nation, with some very difficult terrain, extremely hostile weather to the roads and it is a State that people like to drive through getting across from east to west.

After the 1982 formula, in which we had made some promises to accommodate States—and we accommodated the donor States by raising it to 95 percent, and I was chairman of the highway committee when that happened—to accommodate the other States like Texas and Florida and Virginia and others, then what happened we arrived at a formula through that year to achieve a balance with the House. The old revenue-sharing formula was brought into it. We finally got a bill passed then 5 years later that still carried some of that with it, that record for the current highway program.

The Senator from New York is quite correct. It was impossible to come up with an apportionment formula that would suit everyone and still maintain a National Highway System.

Now, I think what we have done is we have achieved a very good balance, but we must remember—and I tell my friend from Florida—this battle is not over yet, and his point of view will be very well represented in the other body because of the nature of the demographics of the House of Representatives compared to the Senate.

I certainly respect the right of the Senator to offer the amendment. It is a tenacious struggle to represent Florida, but I want to say that with now the compromise that has been achieved with the Byrd-Bentsen language added to the committee bill, the State of Florida has had a vast improvement over where it was.

The State of Florida is actually reaching a par level, I will just read it off here. Florida will be projected to pay $3,998,000,000 into the highway trust fund, and it is projected that Florida will get back $3,994,000,000, so they are right at a one dollar for one dollar level, which I think is where the Senator from Florida has tried to go.

So I would just say that if we accepted his amendment now, it would completely disrupt all of the work that has gone on for the past 2 to 3 years plus the last 2 or 3 weeks on the floor, and this Senator finds it impossible to accept that.

I am sympathetic with what the Senator is trying to do. I understand what the Senator is trying to do. But I think the compromise we have now achieved in the bill, as part of this bill, is going to treat the State of Florida much more fairly than the Senator from Florida had originally thought. To now go back and try to rewrite the formula I think is simply not acceptable and I would oppose and do oppose the amendment for that reason, and many other reasons which I will address later, and I reserve my time.

Mr. GRAHAM. Will the Senator from New York or Idaho yield for a question?

Mr. SYMMS. I will be happy to yield as long as we yield on the time of the Senator from Florida.

Mr. GRAHAM. I yield on my time. I have two comments and a question.

It is not a Florida formula, an individual State formula. It is adopted by a State highway coalition. Forty-eight out of 50 of those officials voted for the basic population regulations that undergird this proposal.

Mr. SYMMS. But not 48 out of 50 States; 48 out of 50 of the officials from the donor States.

Mr. GRAHAM. No, 48 out of 50 State highway officials voted for the policies which undergird this recommendation.

No. 2 is the false issue that this approach is going to be promoting fuel consumption. The fact is I think that the Senator from New York has confused this amendment with the administration's proposal. It is correct that the administration under its national highway program would have used motor fuel usage to allocate 70 percent, that would have been 70 percent of the allocation factor. That is not a factor in our national highway program. Our national highway program is one-third lane miles, one-third vehicle miles traveled, and one-third diesel fuel, I underscore diesel fuel used, and that it weights urban lane miles and urban vehicle miles traveled twice representing the greater cost of providing highways in an urban setting.

Third, the explanation for these bizarre allocations under the current law and proposed to be carried forward is always Montana.

The question I would like to ask the Senator from Idaho, let us now talk about Alabama. Let us take the sheet that we have of the division under the proposal in S. 1204. It indicates that Connecticut is receiving $1,711,879,954. This is as it left the committee without the changes that have been made by Senator BYRD. Does that number concide with what the Senator from Idaho understands?

Mr. SYMMS. I am sorry, I missed the question.

Mr. GRAHAM. The question is, Is the Senator understanding that the State of Connecticut will receive $1,711,879,954 over the period 1992 to 1996

under the proposal of S. 1204 as it came from the committee?

Mr. SYMMS. $1,900,000,000?

Mr. GRAHAM. $1,711,000,000.

Mr. SYMMS. Right, $1,700,000,000. That is correct.

Mr. GRAHAM. Now let us look at Alabama, which is $1,504,654,492. Is that what the Senator understands?

Mr. SYMMS. Correct.

Mr. GRAHAM. Will the Senator please explain to me—and I would like to use this as an opportunity to go into the specifics of the formula that is being carried forward from the past into the future—how you can have for a State which is 10 times as large, Alabama being 10 times the number of square miles as Connecticut; Alabama has a Federal-aid highway system which is five times the size of the Connecticut; Alabama has a population that is approximately 750,000 larger than Connecticut; Alabama is substantially a poorer State than Connecticut, a formula which results in that diverse allocation of funds?

Mr. SYMMS. The reason for the major part of the difference is that Connecticut's interstate system is not completed. They are going to get over a quarter of a billion to complete their interstate. Alabama's interstate system is completed short of about $45 or $50 million.

So this is over $200 million. That is about the difference in a nutshell.

Some Senators have come to me and said why is Massachusetts getting so much money? The same reason is the very expensive sections of the interstate that are not completed in those high property value States like Connecticut and Massachusetts are not completed. I think the distinguished Senator from New York said that for Connecticut it may be a substitution that was not completed; that is being paid out.

I would like to adjust one thing that was said. We have taken countless hours of testimony in the committee on this issue. I want to read a quote from 10 transportation officials from 10 different States where they made a statement to the committee. Let me quote what they said:

> We have seen comments that, under the current system for allocating highway funds, certain States are "donors" to the Federal highway program and others are "donees," as if those labels alone mean the program should be changed. We reject that terminology as overlooking the important fact that all citizens, both those in rural and metropolitan areas, are beneficiaries of a well-developed highway system stretching across our country. This basic concept must continue if we are to have a national highway and transportation system which serves national interests.
>
> Present law already significantly accommodates the so-called donor States with a minimum allocation program. S. 965 and S. 823 would continue a minimum allocation program. We have no objection to continuing the present 85 percent minimum allocation provisions of the highway program. We take this position even though most Federal programs have no minimum allocation provisions.
>
> Let us amplify by discussing the transit program. We believe that continued Federal support for transit is in the national interest, though most of the States joining in this statement do not participate significantly in that program. We believe the Nation would be adversely affected if urban congestion makes our metropolitan areas less productive. However, as a price for our agreement that there is a national interest in transit, we have not suggested—at least to this point—that there must be an 85 percent minimum allocation to each State of highway user taxes dedicated to transit.
>
> We understand that there may be interest on the part of some States in increasing the highway program's minimum allocation to 90 percent.

Which has already been done here on the floor indirectly through the additional funds that have been added in.

Let me continue the quote:

> Arguments for such a change apparently based on a premise that national money has to be spent in a State regardless of how well the expenditures related to a national purpose.
>
> We want to make clear that we would object to such proposals. Our States do not participate at all or at least not meaningfully in major Federal programs based in some of those States, such as the space program or the superconducting supercollider. And we have not to date pressed for a minimum allocation in those programs. The point is that there are reasons of national policy why there is a donor/donee relationship in the Federal Highway Program as well as other programs, and it is the role of the Federal Government to recognize and act upon national policy concerns.

Mr. President, it just happens that those 10 departments of transportation are all from the Western part of the United States, but I think it is very applicable to the same situation between down the eastern seaboard, the Southeastern part of the United States and New England. In any State that has not completed their interstate or are exchanging for a substitute, as in the case of Connecticut, it can skew and distort these figures for this projection period of this bill.

I think the Senator from Florida has unique situations in that State where the State is a rapidly growing State. But I believe that this language in this bill, the way it is now crafted, would treat Florida very fairly.

Mr. GRAHAM. Mr. President, I yield myself such time as is necessary.

It is just inexplicable to have a formula that treats States that are disparate in size, compactness, and wealth as Connecticut and Alabama in exactly the opposite way that anyone would reasonably assume they would be treated. I believe that treatment is primarily a function of the fact that we are using a formula which is fundamentally inappropriate to the 1990's. It is inappropriate, as the General Accounting Office has stated, to use a formula which relies on a census basis that will be 16 years out of date at the conclusion of this authorization period. It is inappropriate to use postal route mileage of 1916 as the basis of distributing funds in 1996.

Mr. President, the sop that has been extended to certain States over the past decade has been the sop of minimum allocation. Theoretically, that was supposed to be 85 percent. So the assumption was if we put in a dollar at least we would get 85 cents back. In fact, that has not been the case. The State of Florida has averaged over this past period not 85 cents but 74 cents return on every dollar and cent. The same is true of many other States.

Second, the suggestion has now been made that all States are going to get almost a dollar-for-dollar return. That is on its face not a mathematical possibility. You cannot have some States that get substantially more than a dollar back and others who get exactly a dollar back and nobody getting less than a dollar back. If we have done this, we ought to be able to quickly solve the Federal budget deficit problem.

How do we arrive at this magical arithmetic? The answer is very simple. Under this plan, under the Moynihan-Symms proposal, again excluding the Byrd amendment, we are going to be distributing substantially more money than we are collecting. Why? Because we have accumulated interest in the trust fund, and we have not fully spent down the trust fund over the last 5 years. So we are shipping out about $1.20 for every $1 that we are taking as new, fresh money into the highway trust fund.

With that kind of mathematics, it is not easy, or it is not difficult, to give some States a lot more than a dollar back and give most States close to their dollar back.

But, of course, that sum of money which represents the trust fund being spent down and the interest earning on the trust fund did not fall from the clouds. It came from the same place that the money from now until 1996 came from. It came from the motor fuel users of America who fill up their tanks and fill up their trucks to pay taxes into the Federal highway fund.

In the case of Florida, if you allocate that portion of interest earnings and accumulation in the trust fund which is going to be spent out over this period in the same way that our State is projected to be contributing to the fund, we will not be a dollar-for-dollar State. We will again be getting back about 85 to 86 cents on every dollar that we have in the fund.

Mr. President, again in this time when we are so fundamentally disinvesting in transportation and we are making the decision here today that we are going to preside over the gradual erosion of our Nation's transportation system, assuring that our

children and grandchildren will have yet another debt to pay now, a debt to pay in terms of the deteriorated transportation system, let us not distribute funds, those that we have, on a formula which drags the 1916's into the 1996's.

The State highway officials have presented us with a plan, a road map. It is a road map which is consistent and inspired by the outline of direction suggested by our own General Accounting Office as the appropriate method for allocating Federal transportation funds.

Mr. President, I hope that we will avoid the mirage of mathematics and focus on a formula that adequately funds one of the Nation's most important systems, our National Highway System. The amendment which is at the desk, in my judgment, will best accomplish that objective.

The PRESIDING OFFICER (Mr. DASCHLE). Who yields time?

Mr. MOYNIHAN. Mr. President, two points, sir.

To be explicit, I did make a mistake earlier. I said the amendment was identical to the one which had been proposed by the administration that used fuel consumption as the metric whereby to determine allocation of resources. Not quite so. Seventy percent of the administration measure would have been based on fuel consumption; 66 percent of this proposal. It is a small difference, but I acknowledge that.

I wish to make a statement that the American Association of State Highway and Transportation Officials takes no position on this or any other amendment before us. They offer recommendations, and their advice is available to anybody who wishes it.

I yield the floor.

Mr. LAUTENBERG addressed the Chair.

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

Mr. LAUTENBERG. Mr. President, I rise in opposition to this amendment.

Mr. President, this amendment is about a lot more than a game of numbers. It is a lot more than making winners out of some States and losers out of others.

This amendment would make the Nation a loser. It would move our transportation policy backward, instead of forward.

When our Nation should be seeking energy conservation, this amendment would reward energy extravagance.

When our Nation should be seeking ways to clean the air, this amendment would reward States that pollute it.

Instead of getting people out of their cars or driving more fuel efficient cars, this amendment would reward States that drive more, and guzzle gas more.

This amendment would base allocations largely—66 percent—on fuel consumption. States would, effectively, be rewarded for using more fuel, and penalized for reducing consumption.

That is not a policy that we should be adopting here.

Transportation today consumes more than 60 percent of the oil used in this country. Any effort to reduce the consumption of foreign oil has to involve transportation.

But this amendment would only worsen the problem. The more people drive in a State, the more money the State gets.

But, if a State is successful in getting people out of their cars, into mass transit, or to share a ride with a neighbor—the State may get cleaner air, and less congestion—but, it would get less transportation funding.

We have to cut down on consumption by automobiles. Rewarding States for using more and more fuel and driving more and more distances is not going to contribute to that goal.

In the committee bill, we took a number of steps forward. The administration, like the proponents of the amendment before us, has proposed basing State allocations mostly on fuel consumption. We said no.

Having worked last year to reauthorize and strengthen the Clean Air Act, we said that this bill can play a part in improving environmental quality, and gave States the flexibility to meet their transportation needs most efficiently.

We setup a special pot of money to help areas with air quality problems implement measures to clean their air. In doing that, we provide an incentive to areas that reduce auto traffic.

But, this amendment would turn us in the other direction. It would be the wrong direction.

And it is not going to help our metropolitan areas improve their air quality.

By dedicating 50 percent of the funds to a national highway system, this amendment woud also gut a key provision of S. 1204: Its flexibility that flexibility is a key to helping States like New Jersey meet their transportation needs and their clean air goals. But the amendment would remove much of that flexibility.

That is why this amendment is inconsistent with the goals of this bill, and the goals we laid out in passing the Clean Air Act amendments last year.

As a matter of environmental policy, energy policy, transportation policy, and the integration of the three, I urge my colleagues to oppose this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

If no one yields time, time will be deducted equally from both sides.

Mr. MOYNIHAN. Mr. President, I do not wish to be in any way hectoring, but the managers agreed to a 2-to-1 division of the time on this amendment, anticipating that there would be many Senators wishing to speak in favor of the amendment, or having perhaps been led to think that. But no one has appeared save the Senator from Florida.

We would not like to see our time used up equally with those of the proponents of the amendment, such that we would end up with no time when they had an hour left. Not that it would make much difference. I do not know that the Chair can do anything about this, but it seems unfortunate.

Mr. President, I ask unanimous consent that time not used by either party be allocated 2 minutes to the amendment and 1 minute to the managers.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. MOYNIHAN. 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. MOYNIHAN. 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. MOYNIHAN. Mr. President, not entirely in jest, may I suggest that the Senate is not in order. The silence is deafening. We are happy to hear debate. Why is the Senate being held for 3 hours when no one wishes to persuade anyone?

In any event, Mr. President, having this moment, may I ask there be printed in the RECORD a very thoughful and persuasive letter from Mr. Kent C. Nelson, who is the chief executive officer of United Parcel Service, in which he says:

When we at UPS talk about running "the tightest ship in the shipping business," that is not just an advertising slogan. With us it is a way of life! That is why UPS is not only the largest, but also the most efficient package delivery firm in the world.

He has some thoughts on this subject which I find entirely persuasive, not in every respect, but the spirit of the this letter is the spirit of our bill, and I ask unanimous consent to have it printed in the RECORD.

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

UNITED PARCEL SERVICE,
May 24, 1991.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate, 464 Senate Russell Office Building, Washington, DC.

DEAR SENATOR MOYNIHAN: It was a pleasure to talk with you about your bill, the Surface Transportation Efficiency Act of 1991. Our phone conversation caused me to review your bill, the Administration proposal and also the position of the American Trucking Association regarding your bill.

The principles we believe are important that will influence UPS's support of a highway bill are these:

1. Adequate funds must be developed over the long term to build and maintain a national integrated system that allows users to operate efficiently.

2. Highway funds should be raised through the user pay approach.

3. Tax monies raised from highway users should be spent on highways.

When we at UPS talk about running "the tightest ship in the shipping business" that is not just an advertising slogan. With us it is a way of life! That is why UPS is not only the largest, but also the most efficient package delivery firm in the world.

We would love to support a highway bill that would help all American companies operate more efficiently. We need good roads—with the right capacity—going to the right places in order to charge low rates. We need the flexibility to operate the right size vehicle—yes even larger vehicles—in appropriate areas consistent with safety. (You probably are aware that UPS has years of safe experience operating double and triple trailers on appropriate designated highways in many parts of the country.)

In short Senator Moynihan, there is much that we can agree on, and some that we cannot. The three principles that we outlined are very important to us. We greatly fear the parts of your bill that will divert badly needed highway funds to such areas as local commuter rail assistance. While such assistance may be needed, we believe it should come from a combination of users and general tax funds.

We look forward to working with you and your staff to achieve the most efficient transportation system possible to meet the needs of our great nation.

Sincerely,

KENT C. NELSON.

Mr. MOYNIHAN. Also I have a letter from Prof. John F. Kain, who was such a great help to the committee on this matter, reporting the view of the environmental defense fund, which we are not able to incorporate at this moment in our legislation but which we do take respectful notice of.

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

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

JUNE 12, 1991.

Senator DANIEL PATRICK MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR PAT: Bill Roberts, Legislative Director of the Environmental Defense Fund, reached me in Jakarta this morning and asked me to contact you about the prohibition on tolls contained in the Moynihan Surface Transportation Efficiency Act of 1991 (S. 1204).

Roberts correctly points out that the language of the act, "Tolls may not be imposed on any existing free interstate highway," would seriously limit efforts to implement meaningful road pricing schemes for at least the next five years.

The Environmental Defense Fund has been urging your staff "to amend the bill to allow (but not require) tolls on Interstates if they are part of a congestion pricing program and if the program would be implemented in an area designated by EPA as a extreme, severe or serious nonattainment area under the Clean Air Act." This would permit the implementation of tolls on Interstates in about 25 large cities with serious air pollution problems.

The prohibition of tolls on urban Interstates seems to me to be highly inconsistent with the overall goals of your bill. I hope you will be willing to consider the amendment suggested by the Environmental Defense Fund.

If you or your staff has any need to contact me, my secretary, Kathy Warden, at 617-495-2185 knows how to reach me. My FAX number here in Jakarta is 6221 374 615.

Sincerely,

JOHN F. KAIN,
Professor of Economics.

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

The PRESIDING OFFICER. Without objection, the time will be counted proportionally against either side.

Mr. MOYNIHAN. Mr. President, I sugggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. WARNER. Mr. President, I ask unanimous consent that the Senator from Virginia be yielded time by the Senator from Florida [Mr. GRAHAM].

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

Mr. WARNER. Mr. President, I have the privilege of serving on the committee and, indeed, the Subcommittee of Environment and Public Works which worked on the drafting of this bill. It was not a happy day for me when I had to cast the only dissenting vote.

Since that time I have worked with the distinguished Senator from Florida [Mr. GRAHAM]; the junior Senator from Florida [Mr. MACK]; and many others who have formed a group representing the interest of the donor States.

Early on in our work, we were given support by a group of State transportation officials, who, for the past 2 years, have linked themselves together under the title FAST. I was so impressed with that group in the long and arduous trail that they had worked for themselves over these 2 years that eventually I indicated that I would support, at an appropriate time, an amendment reflecting their interests. That amendment has now been laid before the Senate by my distinguished colleague from Florida [Mr. GRAHAM]. I wish to associate myself with the arguments that he has made today and with the objectives of his amendment.

Among those in the FAST organization is the secretary of transportation for the Commonwealth of Virginia, Mr. Millikin. He has given me steadfast advice throughout these many weeks that I have worked on this legislation, and I want to single him out today and accord him recognition and respect from this Senator for the contributions that he has made to the deliberations on this bill. He is joined by several in the office of the Governor of Virginia here in Washington, DC, who are the resident representatives of the Governor of Virginia, and he, together with other State transportation officials, brought together a large group of FAST representatives some several weeks ago, hosted by the office of the Governor of Virginia. There we had a free and open discussion on the merits of the FAST legislation.

So, in indicating my support for the objectives of the amendment of the Senator from Florida, I pay special recognition to my own secretary of transportation, a number of his subordinates, and to those highway and transportation officials across America who worked so diligently for these 2 years with the common purpose in mind to try to revise this formula, commonly referred to as the apportionment section of the bill, which we feel should be updated to reflect a more diversified series of bases for the calculations.

Mr. President, I rise in support of the FAST amendment.

As I have stated earlier in this debate, the FAST amendment is an alternative proposal which has a bipartisan coalition. It represents the collective efforts of 2 years of work by transportation officials in nearly 20 States. The Congress owes this group a lot of credit, particularly the Virginia Secretary of Transportation John Milliken.

As I predicted as early as the Environment and Public Works Committee markup of this bill, the floor debate would be the "battle of the charts." Certainly, after 6 days of deliberations, and countless charts prepared by the Federal Highway Administration, for every potential amendment my prediction has been proven.

The fundamental problem is inequity. The committee's bill, before amendments, perpetuates an inequitable allocation of Federal highway funds between the 50 States and the District of Columbia based on a formula largely that was drafted 40 to 70 years ago. The supporters of FAST do not expect, nor request, a 100-percent return; but we do seek an apportionment which closes the wide gap between donor and donee States. In one word—equity.

A second major problem is flexibility—flexibility is the power given to the States as to how their allocation is applied to their own priorities.

Mr. President, let me emphasize that this amendment also provides three guarantees to all States. They are:

First, there is a hold harmless provision based on 1991 apportionments. That means that no State will receive less than the apportionment it received in fiscal year 1991.

Second, there is a protection of one-half of 1 percent which guarantees each State a minimum of one-half or 1 percent of the total apportionments.

Third, there is a 90-percent minimum allocation.

The FAST amendment, embodies three principles as alternatives to sections of the committee bill.

First, the amendment retains a Federal partnership that has been the hall-

mark of national transportation policy since the outset of the Interstate Highway System in 1956.

And it does so by recognizing that our future national transportation system must link States with modern, well maintained corridors moving interstate commerce and people.

Second, the amendment gives the States maximum flexibility to deal with the particular needs that a State may have.

Third, in dividing up the money among the several States it follows what we believe should be the cardinal principle in the postinterstate era: "Put the money where the cars are." It offers a solution that is tied to the problem that many of our States face—urban and suburban congestion—gridlock.

It is gridlock that is ignored in the committee bill.

It is gridlock that causes a loss of $1.5 billion in productivity in the workplace, and $1.5 million in unnecessary gasoline consumption.

Let us get Americans moving again.

Let us get people moving on buses, by rail, and in cars.

FAST accomplishes this goal.

People sitting in gridlock day after day are the same people paying taxes into the highway trust fund.

They are the same people who must be served by this bill—but they are not.

The FAST amendment is simple and straight-forward. It is a two-part program consisting of a National Highway and Bridge Program, and an Urban and Rural Highway and Bridge Program equally divided 50 to 50 in terms of funding.

The amendment calls for the development of a national transportation system and earmarks half of the money going to any State for use on that system. The States, working with the Federal Highway Administration, would develop the actual system over the months to come. This can be new roads, or, more likely the designation of existing roads—roads which must be maintained to high standards.

There is a continuing need to provide for uniformity and connectivity to all parts of the Nation for interstate commerce and national defense, linking major population centers.

Importantly, when it comes to defining and meeting a transportation need in a corridor on the National System, maximum flexibility would be given to the State to meet that need in the most reasonable way.

The National Highway and Bridge System would provide that the Interstate System would be the cornerstone of the expanded system.

States would have the flexibility to designate other roads and bridges to be a part of the National Highway System and the U.S. Department of Transportation would certify the designations made, not by the Federal Government, but the States. That is flexibility.

That same type of flexibility exists in the other program under FAST. The Rural and Urban Highway and Bridge System would receive the other half of the funds. These funds can be used on any project except the most local roads at the discretion of the State.

To provide even greater flexibility, up to 20 percent of the funds in either of the two categories can be transferred to the other program to meet a State's needs.

The amendment provides for an 85-percent match from the Federal Government for both programs, making an important exception for the construction of high occupancy vehicle [HOV] lanes to help meet our clean air obligations. HOV lane funding would be a 90-percent match.

This amendment departs from the Federal aid surface transportation bill as introduced in one respect. The amendment provides for a new discretionary bridge program. It is intended to provide a source of funds to States for the replacement or rehabilitation of high-cost bridges. Specifically, high-cost bridges are defined as those costing over $20,000,000 or more than 10 percent of a State's annual apportionment.

I would like to emphasize that the other programs provided in S. 1204 would not be altered. My amendment does not change the Congestion Mitigation and Air Quality Program, it does not change the Interstate Completion and Substitution Program or other programs.

This amendment does provide for a more fair and equitable distribution of the highway trust fund among the 50 States. It recognizes that in the creation of a national transportation system there will be donor and donee States. That is the nature of a national system.

But, this amendment does say that with the completion of the Interstate System, the disparity between donor and donee does not have to be as great. This amendment is simply founded on the principles of fairness and equity.

I urge my colleagues to support this amendment to bring our Nation's transportation programs into the 21st century.

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

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

Who yields time?

Mr. BUMPERS. Mr. President, I ask unanimous consent that the time be charged to the Senator from Florida.

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

Mr. BUMPERS. Mr. President, I guess it was Sam Rayburn, I am not sure, who said one time, all politics is local. I have never seen a bill on the Senate floor where that was truer than it is now. Every Senator here is judging this legislation and the amendments thereto on the basis of how his State is going to fare.

I started out when this bill was first presented on the floor, indignant, outraged, and determined to do everything I could to redress the terrible inequity in the bill as far as my State was concerned. That is what Senators are paid $100,000 a year to do, to look out after their people. And when you look out after the people of Arkansas, you are saying I do not want my people discriminated against.

When it comes to discrimination, incidentally, it is an interesting phenomena, not deliberate, but it just so happens that every State in the old Confederacy takes a real shellacking because of the minimum allocation system under S. 1204. The reason for that is not because the North or the West is still trying to punish the South. The reason for that is because the allocation system under which this money is given does not take into consideration poverty, low incomes, and what-have-you.

The reason I voted for the Byrd amendment and the reason I will vote for final passage with the Byrd amendment now safely ensconced in the bill, is because it did two things that I thought were extremely relevant:

First, it takes into consideration a State which is making a strong effort to do something about its own highways with a gasoline tax. My State happens to have a higher than national average gasoline tax, so we profit handsomely under the Byrd amendment.

Second, the thing Senator BYRD did in his first amendment was to take into consideration per capita income, so that States like mine that are 46th and 47th in per capita income again benefit. So thanks to the Byrd amendment, the people of the great State of Arkansas are going to get $144 million more over the next 5 years than they were going to get under this original bill.

Over the past 34 years, the people of the State of Arkansas have given millions of dollars into the trust fund that has gone to other States. We did not like it. It still irritates me to even say it. Why in the name of all that is good and holy, is a State like Arkansas giving money to build highways, for example, in New York? I say this with the utmost respect for the State of New York.

I voted to bail New York City out, and I want you to know that was not the most popular vote back home that I ever cast in the U.S. Senate. I did it for a lot of good reasons, but that is beside the point. It just points out how flawed this allocation system is today.

It was designed to help States build their Interstate System. Highly meritorious. All the States understood that they had to help some of these other States build rather long Interstate Systems that they could not alone afford. But, so many millions from my State, $59½ million in 1989 alone from the 47th poorest State—maybe I should change that to say the fourth poorest State in the Nation.

Mr. President, you do not have to be a rocket scientist to know that there is something seriously wrong with a formula that would permit that.

Arkansas needs roads. Why do you think we have a gasoline tax higher than the national average? Because we believe that good roads are absolutely essential to economic development, and economic development and education are our primary goals in Arkansas.

In the last 5-year period, Mr. President, we gave $713 million to the trust fund which represents 1.4 percent of the total, and got back $582 million. That is a pretty healthy contribution from my State to all the other States in the Nation.

We got a nickel on each dollar for mass transit back. And so I started off in this bill supporting the proposition that Senator GRAHAM is now offering the Senate. I am probably not going to vote for him, simply because it will cost my State a lot of money. I voted for the Byrd amendment that will give my State $144 million more over the next 5 years, so here is a politician that has been bought and paid for. I am going to stick with that proposal, even though my respect and admiration for the Senator from Florida is unbounded. Because he, with this amendment, has put his finger precisely on the problem.

Think about using the 1980 census, which is totally outdated, through the year 1996. I may fare well under that formula, but everybody here knows there is something basically wrong with that. And the Interstate System is finished. Whatever rationale anybody could ever have used to justify for States like mine, and Virginia, and Florida, and Texas—paying massive sums into the trust fund, much greater sums than they got back, that rationale is over.

There has to be some kind of national system of highways because if there is not, then we might as well get the Federal Government out of the gasoline tax business and let the States have it all. You cannot justify a national gasoline tax, a Federal gasoline tax, unless there is some rationale for it. Otherwise, we should just let the State collect all the taxes and build highways where they please.

So, there are some things that have to be funded at the national level. Usually the way you get those things is what we call the carrot. In other words, we say here is a system—as we did in the case of the Interstate Highway System—and if you will build this system the way we have it laid out here, we will give you 90 cents of every dollar it costs you. Everybody jumped on that like a chicken after a June bug. We loved that 90 cents on the dollar from the Federal trust fund. But there has to be more equity in this than there has been in the past.

Here we are going to 1996 with the same formula we have been using that has cost the donor States so dearly. It is an anchronism, the allocation formula is out of date, it has no sane rationale.

So, as I said the other evening when I spoke on this subject, if I am here 5 years from now I will be standing right here at this desk. I have no intention of moving. I have been here for about 10 years. I like this seat. I can get to this door in a hurry when I want to leave.

Did you ever hear that great story about when the Puerto Ricans opened fire over in the House of Representatives? There was a Congressman from Alabama, and they tell me he weighed close to 300 pounds, and when the shooting started he jumped up from his seat and started waddling toward the door. Somebody said where are you going? He said I am going home to get my gun.

So, I like my seat, and if I am in this seat 5 years from now I am going to be standing right here, fighting like a saber-toothed tiger to change this allocation system we are going to be saddled with for the next 5 years, under this bill.

Mr. President, I will close my remarks by again paying my respects to the Senator from Florida, who has never wavered for an instant. I have sat in on meeting after meeting with him, and other Senators from the donor States, over the past week, or however long this bill has been up. Not one time has he bought into anything except changing this egregious allocation system. He deserves the praise of everybody here. He will not get enough votes to prevail and he will not get my vote, because my State would lose almost $100 million if I voted for this amendment right now. I cannot afford to do that. I would hate to go home and campaign on that one. Would my colleague not hate to do that?

So I will stick with the Byrd amendment. But I thank the Senator from Florida, who I personally believe knows about as much about this bill as anyone. There are three or four Senators in this body who really understand this complex issue and he is one of them. But I wanted to speak to express the concern I had as the Senator from Arkansas, for a State which has really been taking it on the chin for the past 34 years. I thank the Senator from Florida for his wise and sagacious comments, and his tenacity in sticking with what he really believed.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, the Senator from Florida is controlling the time.

I would like, before yielding to my colleague, to thank the Senator from Arkansas for his very eloquent and kind remarks.

I would indicate to all of my colleagues the amendment which I have offered deals exclusively with the formula in the bill as reported by the committee. It does not alter the amendment which we adopted earlier today, the Byrd-Bentsen amendment.

I would also point out the amendment which I have offered, the amendment developed by State highway transportation officials, contains a 90-percent minimum allocation within the basic program, the program we have the greatest expectation will actually become reality.

We are all aware of the degree of tenuousness which is associated with the Byrd-Bentsen amendment, which was added today. I have not looked at the specific numbers, but it would be difficult for me to comprehend that the combination of changing from the antiquated formula in the committee bill to the formula as recommended by most of the State highway administrations with a 90-percent minimum allocation, plus the Byrd-Bentsen amendment as adopted today, would not result in the State of Arkansas being treated as well, as fairly, as equitably, as the status quo.

But I urge the Senator to review that matter because I know how strongly he feels about the mistreatment over a long period of time of his State and his commitment to total fairness in the allocation of Federal highway funds.

With that said, I yield 10 minutes to my colleague from Florida.

Mr. MACK. I thank my colleague for yielding. Let me express my appreciation for the work he has done, and the ability of the two of us to work together for what we believe is the best interests of our State, and for that matter, our Nation.

I come into this debate from a perspective of looking out for my State's interests. A term I have used is "Florida's fair share." I really got into this by looking, a couple of years ago, at the return, on the dollars we received from Federal grants.

A group in Florida called Florida's Tax Watch had indicated Florida was 50th out of 50 States with respect to the dollars we received in Federal grants. I think it was about 62.5 cents they indicated we were getting back on grants by the different agencies. We looked into this and we found it was a population-based problem. That is, many of the agencies were using old census data.

For a State like Florida, that grows 33 percent in a decade, imagine the impact using 1980 census data will have on the disbursement of grants in 1988–89—using census data that is almost 10 years old.

I have looked at other areas such as Medicaid reimbursement. We have looked at a formula that has been put forward by the General Accounting Office, one they think would be a fairer formula for the distribution of Medicaid funds for the States. This means about $500 million a year, in additional reimbursement.

The point that I am trying to make is that the Highway Program is only one of a whole series of Federal expenditures in which my State comes up on the short end. To put that in perspective, I heard my colleague from Arkansas mention earlier that over the 34 years of the Highway Program, his State had contributed something like $400-plus million to other States.

To put that into perspective, in the last 5 years, Florida has paid almost $800 million. In the last 5 years alone, $800 million from Florida has gone to other States. In fact, in the last 2 years, that number amounts to about $600 to $650 million.

To get back to the population point for a moment, as I understand the formula that is in the bill, 15 percent of that allocation is based on population. Unfortunately, the figures that are going to be used for population for 1992, 1993, 1994, 1995, and 1996 are going to be based on 1980 census data. It is just blatantly unfair to a State like the State of Florida that is growing, as I said, by 33 percent in the last decade.

A point that I have made, both in hearings in the committee and on this floor before, but again, I think it is worth saying, is that everyone seems to understand that Florida is a fast-growing State. This does not understand that Florida is a big State geographically. The best way to make that case is to remind my colleagues, as I have said before, that it is almost as far from Key West, FL, to Pensacola, FL, as it is from Pensacola, FL, to Chicago.

I think it is important this information be understood because, if we do not take into consideration the number of miles—whether those are urban miles or rural miles—the number of lane miles, and the number of cars traveling across them, the total amount of money going to the State of Florida is, in fact, just not fair.

Most of my colleagues voted for the amendment we just voted on earlier. Frankly, I felt like we were being bribed with our own money. The $8.2 billion that everybody is talking about, as I understand it, is money already in the trust fund that has been contributed over the years that has not been spent. That is our money.

We were asked to agree to a formula that gave half of that money to the so-called Byrd States, based on what was perceived as a fair allocation based on a State's gasoline tax. But what about States that raise a tremendous amount of money from other resources, whether that is diesel fuel, license fees, or registration fees? There are many things happening in the State of Florida that are not being given credit for in the amendment that was just agreed to.

So again, I make the case that the amendment offered by the senior Senator from Florida, Senator GRAHAM, is asking for basic fairness. If I have heard the word "fair" over the last several years, if I have heard it once, I have heard it at least 1,000 times. If you want to have some basic fairness in this program, then the FAST proposal that has been offered by Senator GRAHAM, is the way that we should be going. It will, in fact, give credit to States like Florida that not only have large populations, but also have a tremendous amount of geography to cover.

So I encourage my colleagues to take a look at this. This is, again, a fair approach to allocate limited resources. I do not think there is any question in anyone's mind that the heart of this issue is what to do about this formula.

The amendment that was offered earlier was, frankly, a smokescreen. It was a diversionary tactic to get us to move away from the main discussion about fairness of the formula.

Again, I believe my colleagues ended up being bribed with their own money, and I suggest that the money is not going to be there. Over this 5-year period, there are going to be votes on the floor of the Senate about the appropriation of the $8.2 billion. I do not think it is going to come forward. I do not think it is going to be there. And if there is a choice in 1994, 1995, and 1996, it is going to be how much are you going to take out of defense to put into roads. In 1993, it is going to be how much are you going to take out of domestic programs in order to fund highways.

I again congratulate my colleague for offering this amendment. It is an amendment that should be agreed to, and I urge my colleagues to support it.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. SYMMS. Mr. President, I note that the Senator from Connecticut is here, and he wants to speak against the amendment. The Senator from Pennsylvania would like to speak on the highway bill.

I was going to inquire as to how much time Senator MOYNIHAN has left and how much time Senator GRAHAM has left.

The PRESIDING OFFICER. The Senator from Florida has 40½ minutes remaining, and the Senator from New York has 39 minutes remaining.

Mr. SYMMS. Forty minutes left, or 1 hour 40 minutes?

The PRESIDING OFFICER. Forty minutes left.

Mr. SYMMS. I yield 10 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. On whose time?

Mr. SYMMS. I was going to inquire, would the Senator from Florida like to share 5 minutes of time with the Senator from Pennsylvania? He has other speakers, so I yield 10 minutes of Senator MOYNIHAN's time to the Senator from Pennsylvania. And following him, then, 10 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. If the Senator will withhold.

Mr. GRAHAM. Mr. President, as I understand it, the Senator from Pennsylvania is recognized for 10 minutes, and then the Senator from Connecticut. I ask unanimous consent that immediately after the Senator from Connecticut, the Senator from Mississippi be recognized for 10 minutes.

Mr. LOTT. That will be fine. I thank my colleague.

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

Mr. SPECTER. Mr. President, I thank my colleague from Idaho for yielding 10 minutes. I had sought this time, as I have awaited some floor time, to discuss a number of important highway projects in the Commonwealth of Pennsylvania.

I regret that we do not have more funds available in this bill to allow us to direct funds for these projects. The amendment which I had offered last week to take the highway trust funds off-budget was not adopted, which would have made some $12 billion more available.

Mr. President, there are many, many vital highway projects across the country, and I think it worthwhile to comment on just a few in Pennsylvania. I cannot cover them all of course, in the course of 10 minutes, which is available at the moment.

One is the Exton bypass, which I visited yesterday. Exton, PA, is a prime example of a suburban area which had overwhelming land development in the 1980's and is now suffering severe mobility problems. The Exton bypass would encompass some 5½ miles involved in U.S. Route 30 and U.S. Route 100 and U.S. Route 202.

The bypass would remove approximately 60 percent of the current traffic along the limited access which is in the highway. It is complete, virtually, as to all environmental and design work.

Representative DICK SCHULZE in the House has introduced H.R. 30 to authorize $87 million as a demonstration project in the 1991 highway bill to advance this very important project.

As I say, I visited the project yesterday and can personally attest, not only

from yesterday's visit but from having been in the area on many occasions, to the tremendous bottleneck and the need for this important highway demonstration project.

Another very important project, Mr. President, is the Mon Valley Expressway. The 1987 highway bill established a pilot program to allow several States to blend Federal highway funds with toll revenues to develop new highway capacity. Under the pilot program, nine States were allowed to participate. Federal participation was limited to 35 percent of the project costs. The 1991 highway bill, as reported by the committee, expands on the 1987 language and allows all 50 States to participate. Federal participation was limited to 35 percent of project costs. The 1991 highway bill as reported by the Senate Environment and Public Works Committee expands on the 1987 language and allows all 50 States to participate.

In Pennsylvania, the Mon Valley Expressway was designated as the highway eligible to use Federal funds for construction as a toll facility. Consequently, cost of this economic development highway are large and the limit of 35 percent Federal share limits the State's ability to proceed with this important project.

I urge consideration of the value to toll financing and request that direct Federal funding be provided to the Mon Valley Expressway to demonstrate the toll financing and its economic development potential in economically depressed areas such as the Mon Valley of western Pennsylvania.

Another important program is Erie's east side sector, where Congressman TOM RIDGE has taken the leading role as an extremely important link for the entire northeastern Pennsylvania. It represents a missing link in Erie's transportation system.

Currently, truck traffic which services the port terminals must travel through the central business districts or through east side residential neighborhoods. A 5-mile transportation sector between Interstate 90 and the Port of Erie is proposed in order to advance intermodal opportunities of the port and to relieve congestion there. The total project cost is estimated at some $77 million.

Another matter of enormous importance—and I might say, Mr. President, that I have been on the Mon Valley Expressway on many occasions. I can attest to that important project. I have also been on the east side connector and can personally attest to the importance of that project.

When it comes to ranking of these items, it is not the order of importance in which I articulate these matters because all are of extreme importance, all are of vital importance. But I now refer to U.S. Route 33 and a project where the lead has been taken by Congressman RITTER, which involves Interstate 78 and a demonstrated need for a connector between Route 22 and I–78 between Bethlehem and Easton, PA. This project proposes a 3.2-mile extension of the current Route 33, which will connect Route 22 and I–78, allowing motorists passable access to major east-west interstates, with the total project cost being estimated at some $77.5 million.

Again, I have been on that highway, and, as most Senators, perhaps all Senators traveling extensively through their States, have firsthand knowledge, perhaps too much knowledge, of the deficiencies in the highway system. I can attest to the need on Route 33.

Another matter of great importance, again a route which I have traveled on many occasions, is Route 219, which is a limited-access, four-lane highway which has a significant impact on the economy of western Pennsylvania. This major artery is one of the few transportation routes which flow north-south through Appalachia. A study by the New York and Pennsylvania Transportation Departments has disclosed that the extension of Route 219 north into New York would create thousands of jobs, and the completion of Route 219 in Somerset County would have a similar result.

Mr. President, another route of tremendous importance is Route 15, which is the only major north-south highway in the central region of the Commonwealth. Primary interest in the State has focused on approximately 152 miles from Harrisburg to the New York State line. In many respects the highway serves as an interstate without being a four-lane highway. Again, I speak from personal experience of having traveled that route and know intimately the great need for improvement there.

Mr. President, I have the statistics on the number of accidents during the reportable period from 1983 to 1986 on this particular link. There were 2,202 reported accidents resulting in 2,275 serious injuries and 113 fatalities. I believe that if you were to take a look at all of these projects and, really, projects across the country, Mr. President, there would be a demonstration of the tremendous number of accidents, injuries, and enormous economic loss in addition to time spent and damages resulting from the decrepit and insufficient infrastructure which exists in our country.

Mr. President, touching on just a few of the other highways, because my time is about to expire, the Lackawanna Industrial Highway is a proposed economic development throughway which would run from Interstate 81 to Carbondale in northern Lackawanna County. Another major highway need is Interstate 83 at Harrisburg with a proposed widening exiting the beltway around the city of Harrisburg.

Another in a long list of Pennsylvania necessary projects is the North Scranton Expressway, which is a proposed realignment of some 3,000 feet of the North Scranton Expressway in Lackawanna County to connect with a new Mulberry Street bridge.

Still another important project, Mr. President, is the Wysox Narrows, which is a proposed widening of U.S. Route 6 near Wysox Narrows, in Bradford County, PA. And again, Mr. President, I do not by this recital mean to express or articulate all of the needed highway projects which exist in my State. Really, these are only illustrative.

Again, I ask unanimous consent that there be an elaboration in the CONGRESSIONAL RECORD as to the description on each one.

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

LIST OF IMPORTANT PROJECTS IN PENNSYLVANIA

Exton Bypass.—The Exton, PA, area is a prime example of a suburban area that had overwhelming land development in the 1980s and is now suffering from severe mobility problems. The 5.5 mile segment of U.S. Route 30 which passes through the heart of Exton is the weak link in this highway of national significance. Therefore, local leaders have proposed the Exton Bypass to complete the U.S. Route 30 Corridor by connecting the Coatesville-Downingtown Bypass to U.S. Route 202. The Bypass will remove 60 percent of the current traffic along limited access highway, traffic that is neither originating in the area nor destined to the area. All the environmental and design work is nearly complete. Representative Dick Schultz introduced H.R. 30 in the House of Representatives to authorize $87 million as a demonstration project in the 1991 Highway bill to advance this important project.

U.S. Route 33.—With the current construction of Interstate 78, local officials have demonstrated the need for a connector between Route 22 and I–78 between Bethlehem and Easton, Pennsylvania. The project would provide for a 3.2 mile extension of current Route 33 that will connect Route 22 with I–78, allowing motorists easy access to the major east-west interstates: I–80 and I–78. Total project cost is estimated at $77.5 million. Representative Ritter introduced H.R. 1540 in the House of Representatives to authorize this important highway connector.

Route 202 Highway-Transit Demonstration Project.—There exists a missing link between two on-going highway capacity projects in Pennsylvania along U.S. Route 202 between King of Prussia and Montgomeryville. The Montgomery County, Pennsylvania, Planning Commission has designated this section as the number one priority in the County. In addition, proposed is a park and ride station for SEPTA where Route 202 and SEPTA Lansdale Line cross in Lower Gwynedd Township. The proposal has the strong support of both the Planning Commission and SEPTA Officials. The Highway-Transit demonstration project is critically needed for improved travel and road safety in the region. The total cost of the highway and transit project are $30 million and $5 million respectively.

East Side Connector.—The East Side Connector Project is extremely important for entire Northeast Pennsylvania. It represents

a missing link in Erie's transportation system. Currently, truck traffic which services the port terminals must travel through the central business district or through eastside residential neighborhoods. A five mile transportation connector between Interstate 90 and the Port of Erie is proposed by local leaders to advance the intermodal opportunities of the Port and to relieve congestion in the region. Proposed is a five mile link between Erie's east side terminus of the Bayfront Parkway southerly to Interstate 90 and U.S. Route 17. Total project cost is estimated at $77 million.

Route 219.—Completion of Route 219 as a limited access, four lane highway would have a significant impact on the economy of Western Pennsylvania. This major artery is one of few transportation routes which flow north-south through Appalachia. A study by the New York and Pennsylvania transportation departments reveals that a project to extend Route 219 into New York would create more than 10,000 jobs. The completion of Route 219 in Somerset County would have similar results.

Mon Valley Expressway.—In the 1987 Highway Bill established a pilot program to allow several states to blend federal highway funds with toll revenues to develop new highway capacity. Under the pilot program, nine states were allowed to participate. Federal participation was limited to 35 percent of project costs. The 1991 Highway Bill as reported by the Senate Environment and Public Works Committee expands on the 1987 language and allows all 50 states to participate. In Pennsylvania, the Mon Valley Expressway was designated as the highway eligible to use federal funds for construction as a toll facility. Consequently, cost of this economic development highway are large and the limit of 35 percent federal share limits the state's ability to proceed with this important project. Direct federal funding is needed for the Mon Valley Expressway to demonstrate the toll financing and its economic development potential in economically depressed areas such as the Mon Valley of Western Pennsylvania.

Route 15.—Route 15 is the only major north-south highway in the central region of the Commonwealth. Primary interest in the State has focused on approximately 152 miles from Harrisburg to the New York State line. In many respects the highway serves as an interstate, without it being a four-lane limited access highway. During the four year period from 1983-1986, between Harrisburg and New York State there were 2,202 reportable accidents resulting in 2,275 serious injuries and 113 fatalities.

Lackawanna Industrial Highway.—Proposed economic development highway that would run from Interstate 81 to Carbondale in northern Lackawanna County. Cost of the project is estimated at $150 million.

Interstate 83 at Harrisburg.—Proposed widening of exiting beltway around the city of Harrisburg. Cost of the project is estimated at $25 million.

North Scranton Expressway.—Proposed realignment of 3,000 feet of the North Scranton Expressway in Lackawanna County to connect with a new Mulberry Street Bridge. Estimated cost of $12 million.

Wysox Narrows.—Proposed widening of U.S. Route 6 near Wysox Borough in Bradford County, Pennsylvania. Widen one mile stretch of the road to help safety at the "Wysox Narrows." Cost of the project is estimated at $4 million.

Route 422.—Proposal for a bypass at Indiana, Pennsylvania, to reduce urban congestion. Proposal is for a 6 mile limited Access highway between Route 119 and Route 422 in Indiana County. Estimated project cost is $60 million.

Fox Chapel Road Project.—Proposed highway widening at Fox Chapel in Allegheny County for relief from urban congestion. Cost of the project are estimated at $1.5 million.

Mr. SPECTER. In conclusion, Mr. President, I think the items which I have mentioned just briefly as to my State could be replicated in each of the 50 States of the country. We do need more attention to our highways, and I have not begun to articulate the tremendous number of bridges which are in need of repair. I think the day will come when we will take the highway trust fund and the mass transit trust fund off budget because I think Americans are willing to pay for an improved highway system but are not willing to pay a gasoline tax or other taxes when the money goes in as an offset against the deficit, which is what is happening at the present time.

Again I thank my colleague from Idaho.

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut is recognized for a period not to exceed 10 minutes.

Mr. LIEBERMAN. Mr. President, I thank the chairman and ranking member.

I rise to strongly oppose the amendment of my colleague from Florida. I do so because I strongly support the underlying committee bill. We have spent a good part of the last couple of weeks in the debate on this bill focused on the funding element, but what distinguishes and I think elevates the underlying bill is that this not only deals with money and allocation of money but it has a vision, it has a plan about how that money should be spent. There is a danger in the understandable struggle that has been going on here in this Chamber for the last several days over who gets what that we will forget the central question the committee bill has raised is where does that go and how will it affect our Nation.

This amendment offered by our distinguished colleague from Florida directly undercuts some of the central premises of the committee bill. It builds its allocation formula on usage factors. It encourages the use of fuel when we should be discouraging the use of fuel, at least encouraging the conservation and efficient use of fuel. It will, in that sense, not only undercut our quest for energy independence, it will further degrade our environment. And in committing one-half of the funds allocated to the National Highway System, this amendment deals a body blow to the central principle of State control, of flexibility at the State level where more is known about the needs of the State, and taking it away from the dictates of the Federal Government including the dictates of this body and Congress itself.

So, Mr. President, I am going to oppose this amendment. But I wanted to take this opportunity to speak a little bit more about some of the premises underlying this amendment and the one offered a short while ago by our distinguished colleague and President pro tempore, the Senator from West Virginia [Mr. BYRD].

I voted for that amendment because I saw it as a way to move this bill along and get it adopted and to help the infrastructure needs of our country. But in the Graham amendment, and the Byrd amendment before it, there is a philosophy suggested that ought not to go unanswered. I would like to spend just a few moments now talking about the concept of minimum allocation and fiscal capacity and tax effort.

Much has been made about minimum allocation guaranteeing a State that it will have a fixed percentage of the money that it gives through gas taxes to the highway fund. I say that there are two basic problems with allocating funds in that way. First, that system ignores the true needs of individual States and the Nation as a whole. Second, it stands in stark contrast to how we allocate Federal money more generally across the board.

Mr. President, I want, at least rhetorically, to raise the suggestion that we ought to be consistent and consider not just gasoline taxes, if we are concerned about minimum allocation, but all Federal taxes. Those are, after all, user fees to fund general purposes of the Federal Government.

At present we allocate Federal spending for housing, social welfare, defense, agriculture and every other purpose of Government on the basis of perceived needs and the appropriateness of governmental support. That is a deliberative and, in many ways, a painful process. But after all, it seems to have served this Nation pretty well for over 200 years now.

Under this process, the one that prevails, my State of Connecticut, in a very direct way through its tax contribution to the Federal Government, provides 2.1 percent of the Department of Agriculture's funds. But to say the obvious, we receive no cotton price supports.

Should I then be asking for a minimum allocation of Agriculture money for the State of Connecticut?

Well, the northeast part of our country shoulders 27.8 percent of the burden of funding the Bureau of Reclamation. The bureau does not have a single bureau project subsidizing electricity. The Bureau of Reclamation operates only in the States west of the 100th meridian by statute. Parenthetically, maybe there is no coincidence here, 10 of the 11 Northeastern States have electricity rates that are substantially higher than the national average.

Should we be asking for some minimum allocation for these funds to the Northeast?

Consider, Mr. President, expenditures on education. If a minimum allocation based on tax burden were applied, States with low per capita incomes and consequently low tax burdens might not receive enough funding to administer programs like Head Start, for which they have an obvious and profound need.

Similarly, imagine if the funds available for low-income housing were allocated based on respective State's share of tax burden. There is no guarantee. In fact, there is some probability that would not be a decent response to need.

Mr. President, I cannot resist turning to what amounts to the single biggest regional transfer of wealth in American history. That is the savings and loan bailout. Between fiscal years 1988 and 1990 Federal resolution costs, as they are called, for State-chartered thrift institutions totaled $32.8 billion. Of that amount, the Federal Government spent $22.4 billion in just one State, Texas. That is 68 percent. Assuming conservatively that taxpayers end up footing 75 percent of the savings and loan bailout bill, Connecticut residents paid $518 million of the resolution costs I just mentioned. None of that money was returned to the State of Connecticut.

What if we imposed or asked for an 85-percent minimum allocation? I am pleased to say that we would receive over $440 million in Connecticut as a result of that program.

Mr. President, to suggest this is to suggest how ridiculous the proposal is and how fundamentally at odds it is with the fact that we are one Nation, one Nation that taxes and one Nation that responds to the Nation's needs without general application of minimum allocation concepts.

If you begin to take some of the donor States under the highway trust fund, and consider the amount of money that they give to the Federal Government and receive overall, not just highway funds, trust funds contribution, but overall, the numbers are startling. I am going to print the list of 15 of the donor States with what they would receive or how much less they would receive under this formula.

But let me just say in the aggregate, these 15 States' shares of allocable Federal expenditures overall exceeded their shares of the Nation's tax burden by an astonishing $290 billion between fiscal years 1981 and 1988, despite the fact that they are somewhat disadvantaged by the highway trust fund apportionments.

Of course that money has to come from somewhere. You will not be surprised to hear where it comes from. Let me list just a few. Between fiscal years 1981 and 1988, if the following States' share of allocable expenditures, Federal Government across the board, had been equal to their share of tax burden, New Jersey would have received $80 billion more; New York would have received almost $60 billion more; Minnesota, $12 billion more; my own State of Connecticut, would have received $7.7 billion more.

Mr. President, you can see why, if we are going to start talking in terms of minimum allocation, many of us in some of the general donor States to the Federal Government would be very happy to have an 85 percent or greater minimum allocation.

We abdicate responsibility as legislators if we determine that apportionments must equal tax payments, no more and no less. We do tremendous damage to the principles of federalism on which our country is based, to the notion that out of many we are one. That is why I will oppose this amendment, and I felt that the underlying premises in the Byrd amendment had to be responded to.

Mr. President, if I have a moment more, I want to deal very briefly with the question of per-capita income and fiscal capacity. The Byrd amendment rewarded certain fiscally strapped but high-tax-effort States with $4.1 billion in bonus applications over the life of the highway bill.

In doing so, while the amendment moved generally in the right direction, I think it relies on an inexact, inaccurate measure of such capacity. For the past 30 years, Mr. President, our own Advisory Commission on Intergovernmental Affairs has warned that per capita income is a poor indicator of fiscal capacity of the States to raise revenue. In March 1982 the ACIA adopted a resolution which said:

> The Commission finds that the use of a single index, resident per-capita income to measure fiscal capacity seriously misrepresents the actual ability of many governments to raise revenue.

The PRESIDING OFFICER. The Chair informs the Senator that the 10 minutes allocated to him have expired.

Mr. MOYNIHAN. How much time have we remaining, Mr. President?

The PRESIDING OFFICER. Eight and one-half minutes.

Mr. MOYNIHAN. I yield the Senator as much time as he requires.

Mr. LIEBERMAN. I thank the Senator from New York. I will try to be brief.

The flaw with per capita income as a surrogate for fiscal capacity is that it fails to take into account other revenue sources. For instance, there are some States that can impose a severance tax on coal or on oil. Of course the attractiveness to those States of those taxes is that the burden of paying them ultimately falls on the end user who is usually not a resident of that State. States like my own State of Connecticut, States like New York cannot impose a severance tax of this kind because we do not produce those kinds of resources.

Mr. President, ACIA, the Treasury Department and other organizations, both public and private, have devoted considerable resources and expertise to development of a fiscal capacity alternative to resident per capita income. There are many available. I cite them in my prepared statement. But I believe I may be mistaken on this, that only the alcohol, drug abuse, and mental health block grant [ADAMHA] uses anything other than resident per capita income as a measure of fiscal capacity.

Using this standard also fails to take into consideration regional differences in the cost of providing services. In an article entitled "Cost as a Factor in Federal Grant Allocations," Ray Whitman, a distinguished economist, argues that because costs vary significantly from State to State, a measure of the variability required to produce Government services ought to be included in grant formulas. I will include in my prepared statement, Mr. President, some examples of his thinking.

Robert Rafuse of the U.S. Department of the Treasury echoed those views when he said:

> A measure of revenue-raising ability alone is a seriously incomplete indicator of the overall ability of a State or local government to finance its service responsibilities.
>
> Only when revenue-raising capacity is related to the costs of the public service responsibilities of a Government can it be said that its general fiscal situation is accurately represented.

That is the end of that quote.

Mr. President, finally, resident per capita income also fails to take into account differences that are considerable in the cost of living. I know much has been made in this debate, by my friend from Florida particularly, of the high per capita income in my own State of Connecticut. Yes, it is true, people in Connecticut make more. But I can tell you that they also pay more, Mr. President, a good deal more.

The National Association of Home Builders rates housing markets in our State and the rest of the Northeast as among the highest in the country. The EIA [Energy Information Administration] reports that Connecticut has the highest energy prices of any State in the country. The Bureau of Labor Statistics says that the cost-of-living expenses in my State and the Northeast are the highest nationwide, except for Hawaii and Alaska. So to base these allocation formulas on resident per capita disposable income is just not a useful and realistic way to measure relative fiscal capacity.

Mr. President, these are some of the reasons why I wanted to speak out in the RECORD against some of the premises in the previous amendment we adopted, and why I feel so strongly

that we should defeat the amendment offered by the Senator from Florida.

I yield the floor.

Mr. MOYNIHAN. Mr. President, if the Senator from Mississippi will allow me to proceed for a minute.

Mr. LOTT. Certainly.

Mr. MOYNIHAN. The Senator from Connecticut is rapidly becoming an ornament in this Chamber, and I have even to add to the very careful and thoughtful remarks. I am not sure I bring him good news, but later in this debate, we are going to enter a table of donor and donee States to cover all the programs involved.

We know that in collecting this data of the donor States of the Nation, first is New Jersey and second is Connecticut; fifth is New York. I want to say that there are Senators in this body who will wish the hour had not come when the distinctions donor-donee have become so much part of our rhetoric and the language of our debates, because this will not be the last time we hear those terms.

The PRESIDING OFFICER. Under the previous order, the Senator from Mississippi [Mr. LOTT] is recognized for a period not to exceed 10 minutes.

Mr. LOTT. Mr. President, I have found this legislation to be one of the most interesting bills that I have seen debated in the Senate in the past 2½ years. It is not a partisan issue. It is even hard to get a fix on how regional an issue it is. It really boils down to how well you do or how poorly you do under the formula, and the details of the bill that has been reported by the committee.

I think it really depends just on where you are from. If you are from Connecticut, you do well and you are for it. If you are from Mississippi, you do poorly and you are against it.

For the life of me, I do not understand why it is bad to have an amendment that says that 50 percent of a highway bill goes for highways. I mean, it seems to me that is the very minimum we should be doing.

So I rise to support the amendment of the Senator from Florida to have minimum allocations and to have levels of efforts considered. Certainly, that is something that should be in this kind of legislation.

I want to emphasize at this point that I am not put out with the committee that reported this legislation. They did the best they could. They were wrestling with a lot of extraneous details and bells and whistles that were added in committee. We are not protesting what they did. They protected their States, in most instances. But that is understandable, too.

But still, I think we have every right, once this legislation gets to the Senate, to try to make improvements and to try to make changes in it. I urge my colleagues to look at the fairness of this Graham amendment, because it deals with fundamental problems in the bill.

The major problem is the formula for allocation. How in the world can you defend a formula that continues to say that Mississippi, the poorest State in the Nation, is going to be a donor? This is a State with terrible highways, and a State that makes maximum effort. We are well above the national effort in trying to provide highways. Yet, we only get 80 cents on the dollar return of the money we put in the highway trust fund. There is no way that can be justified or defended. So this amendment would change the formula of allocation and make it fairer and make it deal with the problems of highways in this country.

It was interesting to me, as we came to realize that there were problems with this bill, that, voila, we came up with $8.2 billion. The money had been sitting over here somewhere and we had not found it, and all of a sudden there it was. We had a great debate about how to divide this up: $4.1 billion to the donor States and $4.1 billion to the States, based on the level of gasoline taxes and poverty.

That is fine. I voted for it, because my own State benefited from those additional funds. But I am very worried about it, because it still did not change the fundamental problem of the formula. Instead of it being assured of a formula that will be fair, and where my State would get at least 100 percent return of its money, we do not know for sure what we will get. It will still have to go through the appropriations process, and it still will have to be pitted at some point against other social programs and defense. It is a bet on the come. I have my doubts that we are going to get this money. So the way to fix this problem is to fix the formula, as Senator GRAHAM would do.

There is another problem with this legislation that really has sort of been lost in the shuffle, because there has been such a fight over the allocation; that is, the Federal matching ratios. The Graham amendment would improve the Federal-State matching ratios. It would keep the interstate completion funds at 90–10, 90 percent Federal, 10 percent State and local. Interstate maintenance would be 90–10, bridges at 85–15. Under the bill from the committee, the Moynihan bill, it is 90–10 for interstate, 80–20 for interstate maintenance, as I understand. It would be 75–25 for single occupancy, and 80–20 for all other.

I think that we should at least leave the Federal-State matching ratios at the existing levels. We should not be reducing that.

I know full well that the administration is saying that the State and local governments ought to put up more. Once again, I can tell you, if my own State has to come up with 25 percent matching for single occupancy, bridges, we are not going to be able to come up with that money. Therefore, our road situation, our bridge situation, will get even worse than it already is.

So I think, at a minimum, we should keep the existing formulas on Federal matching ratios. But the Graham amendment actually improves that by making the Federal matching ratio share 85–15 for bridges. This is a very important issue in States that are in a very bad situation economically already, having difficulty paying for just basics in their States that have to come up with a balanced budget under their own State constitution. So to increase the State matching ratio is a big mistake. The Graham amendment would deal with that problem.

So on every count, with emphasis on highways, on coming up with a fairer allocation formula, and on the Federal matching ratios, the Graham amendment improves this bill. I urge my colleagues in the Senate to support this amendment. Then we can have a bill that we can all truthfully support as a highway bill.

Mr. President, I yield the floor.

Mr. MOYNIHAN addressed the Chair.

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

Mr. MOYNIHAN. Mr. President, I yield myself 1 minute.

Mr. President, may I say to my friend from Mississippi that in matters of great concern, I would think to Mississippi as to New York, the present matching rates for primary roads, secondary roads, and urban roads is 25–75.

Under the committee bill that 25 percent that Mississippi must now pay for rural roads goes to 20. You have a lower match than you do now.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida [Mr. GRAHAM].

Mr. GRAHAM. I yield 6 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank my good friend from Florida for the time, and I also commend him for his effort on achieving fairness in the Surface Transportation Act.

As I mentioned before on this floor, we have been through long and contentious sections because we believe this measure is vitally important to the citizens of this Nation and the citizens of our State.

I previously thanked the distinguished senior Senator from Virginia, Senator WARNER, Senator BENTSEN from Texas, and others. They, along with both Senators from Florida, my colleague from Mississippi who just spoke, and others, have fought for basic essential fairness in this vitally important legislation. I have made the

point before—and I make it again—as I see the national needs that this bill must address, we must spend out funds that have been accumulated in the highway trust fund because we have great needs for our infrastructure. We lose money, we lose time, and we lose lives when we have inadequate roads, highways, bridges, and transportation.

Second, there must be flexibility, flexibility so each State with differing needs can spend the funds as they need to spend those funds to assure an adequate and safe transportation system.

Third, we must have money for bridges because bridges in disrepair pose great risks to those who travel over them. I do not have to remind people of the horror stories and the scare as we all saw the bridges collapsing in San Francisco from the earthquake.

Finally, and most important, we need a fair funding formula, a funding formula up to date, addressing the needs of today and tomorrow.

What is a fair formula? I think a fair formula is one which is based on use and need. This measure establishes a whole new list of factors which would put the money where the cars, the trucks, and the other vehicles traveling the roads are. These factors would include the number of vehicle miles traveled in a State, the number of State rural and urban lane miles, and the amount of diesel fuel purchased in the State. This is very similar to a use-and-need formula which I included in highway legislation I introduced earlier this year.

The Graham amendment also addresses the critical issue in our States of flexibility. It will allow States to transfer up to 20 percent of their highway money from one program to another. As differing needs emerge in differing States than money could be transferred. This would allow State's to put their money where the needs are, whether it be in bridges, as in my State, or in mass transit in other States.

I have previously expressed my concern over some of the aribitrary limitations continued in the underlying bill. I do not need to go into those other than to say I think those do limit flexibility, needed flexibility, and I think that the emphasis that this measure puts on maintaining a National Highway System, giving the States and the State decisionmakers the opportunity to allocate the money is vitally important.

The amendment before us would also retain the discretionary bridge program as a separate component, and I support that. Missouri has the dubious distinction of ranking second in the Nation in bad bridges, and we desperately need funding to address this critical problem. We have bad bridges because we have such high usage of our highways. We are a crossroad State—people going North and South come through Missouri; people going East and West travel through Missouri; and those who travel the roads and the highways in my State know how severe those problems are.

The underlying basic provision would also contain a hold-harmless provision so that no State will receive less than it did in 1991.

There has been talk also about who is a donor State and who is a donee State. I do not expect that a fair funding formula necessarily is going to take my State off of the donor State rolls. There are States in the West, particularly where there are great expanses, that need to have not only adequate highways built but maintained.

So I say that it is right that we have a factor in the formula such as miles of highways. I think there is a fair means of arriving at an equitable allocation. This is the formula developed by many of the State highway and transportation officers who have worked together to try to propose what would be a national formula.

We have heard many people talk about crafting a Surface Transportation Act for the nineties and the 21st century. I think that is a noble objective, and I want to support that objective. But why do we drag into that bill a dinosaur of a formula going back to 1916 as the basis of allocating highway funds? I am told that in 1916 the only maps available were U.S. postal maps and that is why miles of postal roads were put in. Surely, we have and we do have more accurate formulas now.

I am very pleased that ultimately we will have a GAO study. But I can tell you what the 1986 GAO said and that is that the formula then in existence and now being perpetuated in the underlying bill is outmoded. We must come up with a fair funding formula.

I cannot support this measure on final passage without a fair funding formula. I believe that we must look to the future, and I would hope that our colleagues in the other body would address the formula. I urge colleagues to support this amendment.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. What time does the Senator yield?

Mr. SYMMS. Five minutes.

The PRESIDING OFFICER. The Senator from South Dakota [Mr. PRESSLER] is recognized for 5 minutes.

Mr. PRESSLER. Mr. President, I thank my colleagues.

Mr. President, the Federal highway bill is always one of the classic struggles in Congress, as has been pointed out here so well. Time and time again, we in Congress debate the issue of how to best apportion highway funds to the various States. I come from the State of South Dakota, which has not been a donor State under most of the previous formulas. But there are a number of factors about South Dakota and similar States that must be taken into consideration. First of all, in South Dakota we have many miles of highway with a relatively low population. Although we have a population of approximately 700,000 people, over 2 million tourists per year come to our State.

Also my State of South Dakota does not have Amtrak service. I say that as one who has been supportive of Amtrak. Airline deregulation also has been especially hard on smaller cities and rural areas. Therefore, we rely on highways and roads more than other States that are blessed with Amtrak, federally subsidized railroads, or federally subsidized airports. Also, I wish to say with pride that my State has not been a recipient of S&L bailout funds, according to our calculations.

The point I am making is that the people of each State are able to make a number of arguments both pro and con, regarding the fairness of Federal programs. For example, my State has the highest voluntary repayment rate of Federal student loans of any State in the Nation. So I could continue to advocate the merits of my State or the demerits of another State. This debate is a classic form for the States here in the U.S. Senate. So I rise with great pride in pointing out many of the virtues of my State of South Dakota.

I am pleased that the Environment and Public Works Committee has produced, and is near passing a highway bill that is well balanced, visionary, and, most of all, fair.

The bill not only gives States the funds required to meet their unique transportation needs, but also gives them the flexibility to use these funds in the most efficient way possible. The members of the committee deserve our appreciation and congratulations on a job well done.

I know that members of the committee, particularly Senator MOYNIHAN and Senator SYMMS, have been at the middle of some very heated discussions both on and off the Senate floor. Their leadership in this debate will ensure the passage of this important legislation.

Mr. President, one of the most important aspects of the committee's transportation bill is that it retains the donor donee apportionment relationship. Senators from donor States argue this is an unfair relationship—that their States are being short-changed by this system. This assertion lacks a practical foundation.

My State of South Dakota has large, wide-open spaces with long stretches of highway. However, we have a relatively small population which must carry the primary burden of financing these long stretches of highways. In fact, South Dakotans pay $382 per capita on highways, while the national average is only $236. So it depends on whose sta-

tistics you look at in determining which States are paying the most.

My constituents pay more per capita than the national average, although we are classified as a "donee" State.

The level of effort made by South Dakotans on our highways is one of the highest in the Nation. Indeed, South Dakotans pull more than their own weight in financing our Nation's highways.

Mr. President, these long stretches of highway in South Dakota benefit all Americans. The effectiveness and efficiency of our overall national economy depend on them every day. The connecting highways in South Dakota and other Midwestern States are used to transport the products of east coast and west coast businesses, by tourists traveling the United States, and for various other purposes.

I look upon the highways in South Dakota and the Midwest as connective tissue, so to speak, used by people from across over country.

The key point is that our highways in South Dakota are used as connectors of the Nation, and do not exist just for the benefit of South Dakotans.

Some argue that the 85-percent minimum allocation funding formula is unfair. They say that they should not have to help pay for highways in South Dakota and other rural States.

Mr. President, the simple truth of this issue is that in receiving Federal program funds, some States win and some States lose. South Dakota traditionally receives more Federal dollars than it contributes to the highway trust fund. But this has been the exception, not the rule.

My State of South Dakota has contributed to many other Federal programs from which we receive little or no benefit. One only needs to look at the hundreds of failed savings and loan institutions in this country. That is not a South Dakota problem, but we have contributed to cleaning it up.

My point is that the scales even out on these things when we look to the big picture. All Americans benefit from having quality roads in South Dakota connecting the east and west coasts. Citizens of both rural and urban areas are the beneficiaries of the increased efficiency afforded by a well-developed National Highway System. We must continue with this national approach if we are to have a transportation system which truly serves national interests.

So I feel we must work together in developing a national highway bill, not a patchwork quilt made up of the needs of each individual State. The Environment and Public Works Committee has done a good job in this regard. I plan to vote for this highway bill, which is good for all of our States.

The PRESIDING OFFICER. The Chair informs the Senator from South Dakota that his time has expired.

Mr. MOYNIHAN. I thank the Senator from South Dakota for his very generous words.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, I yield up to 10 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. SANFORD. Mr. President, I am proud to support my distinguished colleague from Florida in his effort to put before this Senate an amendment that has been prepared thoughtfully and with the utmost concern for fairness.

I think the last two opponents to speak to this amendment have made the argument in favor of it. First of all, the distinguished Senator from South Dakota argued that his State needs more highway funds than other States. It is a sparsely populated State. It has a fairly large geographical area. All along we have expected to have the States that have greater population help those States with great land areas and less population.

But it makes the point that if we are going to decide State by State, plea by plea, Senator by Senator, what States have special problems, then we are not goint to find it possible to come to a fair solution that serves the best interests of all of the people of the Nation.

The Senator from Connecticut made the same arguments with the opposite facts or he is from a highly populated State, a State with small land area, and high income; just the opposite of South Dakota. And he made the case why they needed additional funds to be contributed from other States, because they could not, as in the case of South Dakota, quite take care of their situation.

We will never find a national solution if we are going to vote according to self-interest, State by State.

What I find disappointing in the work of the subcommittee is not so much that they have been unfair, but that they did not try. They well knew the old formula, based on old census figures, and antiquated factors such as postal miles was out of date. But they did not try to come up with a new formula that would have been fair and equitable to all States.

I think it would have been worth the effort to have tried to find a formula. Certainly no one will dispute the fact that an old formula does not fit a new situation.

My State, as I have indicated, has long been on the donor side. The North Carolina Secretary of Transportation participated in the deliberations that came up with the FAST formula which leaves North Carolina in the neighborhood of a 90 percent return on what was paid in. And I asked him: Why not go to 100? He said, "I think we have arrived at a fair formula," looking at the elements that ought to be looked at." North Carolina does not receive 100 percent return, but in the new fair formula, it achieves a better balance between contributions to the highway trust fund and receipts.

In this amendment offered by Senator GRAHAM, North Carolina will not fare as well as we would fare under the Byrd amendment that was adopted. On the other hand, in the long run the FAST formula is the most fair and proper way to allocate Federal-aid highway funding.

I have heard now two or three times, Mr. President, the argument that federalism cannot flourish if States are not going to care for one another. Certainly each State cannot have its own way. That is for certain, and that is most fundamental to a proper system of federalism.

But it is true different kinds of programs require different kinds of divisions of resources. New York certainly needs some of the social services beyond other States, and they get a fair proportion because it is based on the individual need in that individual State, and no one can complain about that too much.

Certainly, in the case of highways, we have to be concerned with one another, concerned with the national roads system, and I am. But I would like to think that we would, in observing federalism, in caring federalism, attempt to be fair with one another.

I think the committee, in its determination to get a bill to the floor as rapidly as possible, may simply have overlooked the factor of fairness, overlooked the need to bring the formula up to date, overlooked the need to bring the census figures up to the present. And so I hope, Mr. President, that we can revert to statesmanship and we can revert to fairness when we go into conference with the House.

It is my hope that the House will come up with a fair and equitable formula. This formula will be better than a formula that is decades old. It may not be a perfect one. But at least it will be worked out in a fair and equitable way. I support the FAST formula for that very reason—it is fair and equitable.

I think it is incumbent on us to be fair and to attempt to find a formula that treats every State as fairly as possible. It is not a question of getting all you can, but is a question of our finding a fair formula that best serves the nation.

The PRESIDING OFFICER (Mr. WELLSTONE). Who yields time?

Mr. GRAHAM. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Florida has 19½ minutes. The Senator from New York, 6½.

The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I yield myself such time as is necessary.

This may be the conclusion of this debate. I would like to make a few points as our colleagues reach a decision as to how to vote.

The first of those is that we are dealing exclusively with the dog. The tail that we adopted earlier today, the amendment offered by Senator BYRD, is not affected by this amendment. Look at what your State will receive under the Byrd amendment. You will receive that irrespectve of whether the amendment before the Senate at this time is adopted or defeated.

Second, we have in the legislation before us a fundamentally warped formula. It is a dog which is deformed. In part, it is deformed out of age. An old dog has problems: It may become blind, halt; it may develop other illnesses and symptoms. And a formula which carries a 1916 postal route factor into a 1996 allocation formula is almost equally certain to have some inperfections and defects. A formula which purports to use the 1980 census as the basis for allocating funds in 1996, as incredible as that statement sounds, is certainly a formula that is going to have weaknesses.

What are some of the weaknesses of this formula? The most obvious one is that we have ended up with almost 40 percent of the States in America being minimum allocation States. That means that whatever the formula said was an appropriate level of funding, whatever the formula said was an appropriate allocation, whatever the formula was that was supposed to put States in a position where they could compete with their wit and wisdom, using money intelligently to achieve efficient, intelligent highways, has been essentially because the formula puts 40 percent of the States in the category that they just get the basic crumbs that are thrown out. They are not able to participate in all of these positive things that are going to occur.

As I said earlier on more than one occasion, this is happening in an environment were we are, in this Nation, disinvesting in transportation, disinvesting in our basic commitment to our highways and our public transit system.

We also have a worn and lumpy dog—program—because of the egregious mismatch between receipts and expenditures. We are going to have the Nation operating at a $96 billion program in 1996 with $81 billion of expenditures, each of those figures being for the 5 preceding years cumulative. We are almost assuring a major disruptive crisis in our Federal support for transportation just 5 years from now.

The amendment we have offered is the product of 4 years of head work by some of the ablest people in our Nation, by some of the people on whom our individual States have placed the responsibility for actually putting these dollars into useful transportation projects. They have recommended by an overwhelming majority that we adopt the program before us in the Federal aid surface transportation amendment.

The States appreciate the fact that this gives them maximum flexibility. We will have two basic Federal programs, a National Highway Program and an Urban-Rural Road and Bridge program. As opposed to the legislation that was reported by the committee, which has special categories for congestion, for air quality, special programs for interstate maintenance, special programs for bridges, and now a special program, which is not going to be disturbed by my amendment, but we have added another program, an incentive program to the States.

The amendment before us would give us the maximum degree of assurance that people at the local level who are most knowledgeable would be able to put the funds in the programs that would be of most benefit to their citizens as part of a National Highway System.

The most consistent criticism that has been made about our proposal is that it would, in some bizarre way, encourage fuel consumption because fuel consumption is a factor in the formula. Where is it a factor in the formula? One-third of the formula for distributing the National Highway System money is diesel fuel. Why do we use diesel fuel? Because that is the most direct proxy, as recommended by the General Accounting Office, as well as State highway officials, for truck traffic.

Why are we concerned about truck traffic? Because it is the trucks that inflict most of the damage to the highways. The formula from the committee gives no recognition to that special demand imposed on highways as a result of large-scale truck traffic, another example of its failure to relate to what is required for an intelligent allocation of Federal highway funds to the States.

This formula in no way is going to be causing States to put up billboards to advertise for people to use more fuel so they can get a larger share of Federal highway funds back into their State. To make such a proposition is patently absurd. The reason those factors are used is because they are relevant to what it is we are trying to do, to maintain our highway system.

The committee has given us an old, a tired, a battered dog, one that ought to be, in the best standards of humanity and consideration for animals, put gratefully to bed. Rising in its place should be a new dog, a new dog upon which the tail of the Senator from West Virginia will be afixed, which will direct us toward the 1990's and beyond in terms of matching relevant factors, relevant to highway maintenance and highway capacity, relevant to the relationship of the Federal Government and the States in meeting our common transportation needs, relevant in terms of adequately funding a National Highway System.

This new dog is a dog that can, together, give us comfort and support and leadership as we move toward the postinterstate era. That new dog is embodied in this amendment, and I urge its adoption.

If no one else wishes to speak, and if the floor managers are ready to yield back their time, I am prepared to yield back mine.

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

Mr. MOYNIHAN. The Senator from Montana wishes to speak?

The Senator yields 5 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MITCHELL. Mr. President, I wonder if I could ask if the Senator would permit me to request a unanimous-consent agreement regarding disposition of the bill beyond this amendment? Will the Senator yield?

Mr. BAUCUS. I yield.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, a vote will occur at approximately 7:25 this evening on the Graham amendment. That will be the last rollcall vote today. At 10 a.m., the Senate will take up the bill again and will turn to the Lott amendment, and there will be a vote on that at 10:15 a.m. tomorrow. I will repeat what I have been saying for several days. I hope and expect we can finish the bill tomorrow. I hope this time my statement proves to be accurate. I thank the managers again for their diligence and effort in this regard. I thank the Senator from Montana for yielding.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I rise in opposition to the amendment offered by the Senator from Florida.

As I have stated on this floor several times over the past week, I believe S. 1204 strikes a fair balance between the competing interests that have made debate on this legislation so difficult.

In addition, as the lead Senate author of last year's Clean Air Act, there is not a doubt in my mind S. 1204 in its current form will help communities throughout this Nation clean up their air.

This legislation does not base its allocation formula on fuel consumption or vehicle miles traveled. Furthermore, S. 1204 gives those States with automotive related air quality problems unprecedented flexibility to spend their highway dollars on mass transit or on highways.

Unfortunately, this amendment—the so-called FAST proposal—would largely allocate highway funds among the

States on the basis of fuel consumption and vehicle use.

This would set off an environmentally dangerous chain of events:

Under this amendment, the more fuel a State consumes, the more Federal highway money it would receive;

To keep these dollars flowing, local planners will build more highways. Gone would be S. 1204's current incentive for the States to establish mass transit, light rail, HOV lanes, and ridesharing programs. Expanding such programs is a necessity if we are to clean up the air in this Nation's most polluted cities; and

It logically follows that increased highway capacity means more auto-related air pollution—more cars mean more pollution.

In addition, I doubt the wisdom of encouraging fuel use at a time when we are developing a national energy strategy to reduce our reliance on imported oil.

Last year's Clean Air Act amendments require the States to take aggressive action to lower emissions from cars and trucks in our most polluted cities. These requirements encourage, and in some cases mandate, States to develop programs which will limit vehicle use.

Thus, if the Sentate adopts this amendment, we will penalize States for complying with the Clean Air Act.

We cannot let that happen. Last year, Congress and the President took bold action to clean up the air we breathe. Passage of this amendment would be one giant step backward for the environment and the public health.

In contrast, in its current form. S. 1204 puts this Nation on the course toward innovative new transportation and environmental policies. I urge my colleagues to stay that course.

Finally, Mr. President, I bring to my colleagues' attention a letter signed by the Environmental Defense Fund, the Sierra Club, and the National Wildlife Federation strongly opposing the FAST formula, for the reasons I have just indicated. I ask unanimous consent that this letter be printed in the RECORD.

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

ENVIRONMENTAL DEFENSE FUND, SIERRA CLUB, NATIONAL WILDLIFE FEDERATION,

June 11, 1991.

Hon. MAX BAUCUS,
U.S. Senate, Washington, DC.

DEAR SENATOR BAUCUS: As the principal Senate author of the Clean Air Act Amendments of 1990, we write to urge you to oppose efforts by a number of states, embodied in the so-called "FAST" proposal introduced as S. 1121, to build into the Surface Transportation Efficiency Act of 1991 a strong disincentive for states to comply with the Clean Air Act and reduce energy consumption.

Under the FAST proposal, state apportionments will be determined by fuel consumption and growth in vehicle use. This proposal would penalize states that use innovative transportation alternatives to increase vehicle occupancy, encourage shifts to other modes of travel, or implement requirements to comply with the Clean Air Act. The FAST proposal allocates funds if a state's fuel consumption increases or if a state's overall vehicle use increases.

As part of the Clean Air Act Amendments of 1990, which received overwhelming support in the Senate, many states who have urban areas with air that is unsafe to breathe are required to take steps to reduce or stop the growth in vehicle use. Each of these states must develop implementation plans to comply with these requirements.

Under the FAST apportionment formula, a state which does a better job of complying with the Clean Air Act requirements is penalized by a reduction in transportation funding, while a state which allows vehicle use to grow out of control is entitled to more funds.

By contrast, S. 1204—the Surface Transportation Efficiency Act of 1991 actually rewards states who comply with the Clean Air Act and successfully control the growth in vehicle use. As a result, S. 1204, if enacted, will complement the objectives of the Clean Air Act Amendments of 1990. The FAST proposal will undermine those objectives.

In addition, the FAST proposal allocates funds based on a state's consumption of diesel fuel. The more fuel a state consumes, the more money it receives. As the Congress and President struggle to develop a comprehensive energy strategy to encourage less reliance on imported oil and greater effort to conserve energy, it simply makes no sense to penalize a state which takes strong steps to control or lower fuel use.

Allocating funds among the states is a difficult and challenging task, but we believe that with enactment of the Clean Air Act Amendments of 1990 and the compelling need for a national energy strategy, the Senate must reject an allocation scheme that encourages vehicle use or fuel consumption.

Sincerely,

WILLIAM J. ROBERTS,
Environmental Defense Fund.
DAVID GARDINER,
Sierra Club.
SHARON NEWSOME,
National Wildlife Federation.

Mr. BAUCUS. I yield the floor.

Mr. MOYNIHAN. Mr. President, I simply thank the Senator from Montana, who could not be more explicit. If you are against the environment, you are for this measure; if you are for the Saudis, you are for this measure; but if you are for the bill that this committee has brought to this floor, you will be against this measure.

Mr. President, this new dog will not hunt. The Senator yields back his time.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. KOHL. Mr. President, as a cosponsor of the amendment being offered by the Senator from Florida, I want to begin by commending Senator GRAHAM for his leadership on this issue. Over the past few weeks, the Senator from Florida has impressed me with not only his exceptional understanding of this issue, but his tenacity. No Senator has been more forceful and more vocal in this formula fight than Senator GRAHAM, and I want to personally thank him for all of his hard work on behalf of all of us who represent donor States.

Mr. President, Wisconsin is a donor State. As I pointed out last week, my State gets back an average of 74 cents of every $1 dollar in Federal gas taxes we send to Washington. Since 1956, Wisconsin has contributed $1.15 billion more in Federal gas tax dollars than we've gotten back in Federal highway aid.

Now I don't begrudge our past generosity. But I see no reason, as I said last week, for continuing—as this bill does—an inequitable and archaic formula of allocating Federal highway dollars to States. Which is why I strongly support the amendment being offered by the Senator from Florida.

I suspect, unfortunately, that this amendment will not pass. I also suspect that this amendment will not garner as many votes as it would have had it been offered before the Byrd amendment. And that I find troubling—because there is considerable support in this body for the so-called FAST proposal.

I do not mean to belittle the efforts of the distinguished chairman of the Appropriations Committee. Indeed, the distinguished Senator from West Virginia is to be commended for his efforts to forge a compromise on the funding formula issue. But the Byrd amendment only corrects a little of the inequity, not the cause of the problem.

I voted for the Byrd amendment. I did so because it offers the State of Wisconsin the possibility of an additional $222 million over and above what the State would receive under S. 1204 without modification.

But, with all due respect to the Senator from West Virginia, the Byrd amendment does not solve the formula dispute. It merely attempts to dissolve it.

The Byrd amendment was the $8.2 billion solution. The Senator from West Virginia innovatively found an additional $8.2 billion in budget authority to use or provide additional funds to donor States. And those of us from donor States are certainly grateful for his efforts to assist us.

Yet we are now being asked to take our additional $8.2 billion and go home. We are being asked to ignore the remaining $88 billion in this bill that continues to be allocated unfairly. And this Senator is not prepared to do so.

Supporters of the bill argue that a State such as Wisconsin gets more than an even return on its dollar under the Moynihan bill as modified by the Byrd amendment. It does, if one measures it on a dollar in, dollar out basis. But one needs to consider the following point.

Over the next 5 years, approximately $81 billion in Federal gas tax receipts

are likely to be deposited into the highway trust fund. Yet this bill authorizes $96 billion in Federal highway program spending over the same time period. If we were only authorizing $81 billion for Federal highway programs, then the fact that Wisconsin gets a dollar back for every dollar contributed would mean something. But it rings hollow when we are actually authorizing 18 percent more in spending than what is coming in over the same time period.

Mr. President, under the FAST proposal, the State of Wisconsin would receive an additional $235 million over and above what it would receive under the Moynihan bill without the Byrd amendment. If one was to add the additional funding provided under the Byrd amendment, Wisconsin would do even better—receiving an additional $457 million over the next 5 years.

Mr. President, let us be sure as we move toward a vote on this amendment that we don't mix apples and oranges. The Byrd amendment dealt with the allocation of an additional $8.2 billion pot of money. The Graham amendment deals with the allocation of the underlying $88 billion in authorized funding for Federal highway programs. In my mind, there is no debate here over which of the two amendments is more fair, more important, and more necessary.

I yield the floor.

IMPORTANCE TO WISCONSIN OF ENACTING A HIGHWAY BILL THAT CORRECTS PAST INEQUITIES

Mr. KASTEN. Mr. President, I rise today to speak on the importance to Wisconsin, and I believe the Nation, of enacting a surface transportation bill that corrects some of the technical formulas that determine the manner in which highway funds are distributed to the States. As has been pointed out by almost every speaker, and indeed by subcommittee Chairman MOYNIHAN during the debate on the last bill finally enacted in 1987—we have reached a watershed.

The last 35 years have focused on the designing and building of the fine Interstate System that now links all the regions of our country. Wisconsin has contributed to the development of this national system in a very significant way. Since 1956, Wisconsin taxpayers sent $1.15 billion more in transportation tax dollars to Washington than it has received back in Federal funds. We have been a chronic donor State, and the consideration of this surface transportation bill is the perfect time to reassess what our new outlook should be for the next 35 years.

Since 1956 we have received back 74 cents for each dollar paid into the Federal Government. This type of system cannot remain in effect. We were early participants in the highway program, building much of our system back when each dollar bought more road. We have 1 percent of the Nation's interstate mileage, 2 percent of the Nation's population, and about 2 percent of its land area. Yet we only have received back about 1 percent of the highway dollars expended. My State has been penalized for its wise and early investment strategy in regard to its roads and bridges.

The main concern that I have with the committee's formulas is the continuation of business as usual in regard to the funding formulas. It seems we have recognized the new postinterstate era that we are about to be entering in our statements, but not where it counts most—in the funding formulas. While we cannot undo the inequities of the past, there is certainly no reason to maintain them.

In fact the distinguished chairman of the subcommittee admitted that about the only thing recommending the formulas which are in the bill was the fact that they had been the ones in existence. I am aware of the effort to have a study help us determine how to better allocate these highway moneys in the future. However, why weren't we ready to adopt the new funding formulas in this first highway bill of the postinterstate era?

Together with the need for equity, Wisconsin is also pleased with the flexibility of the FAST proposal which is embodied in S. 1121 which was introduced by Senator WARNER and in the amendment now offered by the Senator from Florida [Mr. GRAHAM]. I am pleased to be cosponsor of S. 1121 and the current amendment and hope that the wisdom of this proposal is seen by the majority of my colleagues.

The flexibility of the Warner proposal is another feature that appeals to me and the Wisconsin Department of Transportation. I am proud that the Wisconsin DOT played an instrumental role in the development of this proposal. Under FAST the States are given the flexibility to address their own priorities, with appropriate Federal coordination, through a simpler programmatic structure. There is an ability to transfer up to 20 percent of the funds between the National Highway Program and the Urban and Rural Road and Bridge Program.

The structure of having separate programs is not necessary in my view. For example, Wisconsin early on saw the value of investing State money to address the problems with our bridges. We would like the flexibility of using our funds for bridges or roads as our needs dictate, not as our program structure dictates.

Finally, it is important to note that this amendment speaks to the $88 billion which is the heart of the highway program. We have already voted to adopt the equalization formulas of the Byrd-Mitchell-Bentsen proposal. We were trying to equalize the disproportionate amounts that the donor States received for the moneys they paid in.

I would hope that we might adopt the FAST proposal which would bring fairness to the underlying 90 percent of the moneys to be distributed, rather than focusing on just the last $8.2 billion which we found to equalize the burdens borne by the donor States under the old formulas of S. 1204.

I strongly urge the Senate to adopt this amendment to equalize the distribution formulas and not just live with the inequities of the past while waiting for one more GAO study.

Mr. GRAHAM. Mr. President, if no one else wishes to speak, just briefly I will speak.

No one is proposing that a State is going to be urging big trucks to come and operate over its highways inflicting the amount of damage which it takes 9,600 automobiles to create in order to put itself in a position that it can sell a little more diesel fuel. That is an absurd proposition.

We do not have in this legislation what the administration had, which is that 70 percent of the formula would be on motor fuel use. The only factor that we have in here that relates to consumption is one-third of the National Highway Act would be on diesel fuel, and the reason that we have diesel fuel is because that is the most relevant proxy to truck traffic, and truck traffic is the most relevant statement as to how much damage you are likely to be inflicting upon your highways, a totally rational position endorsed by the General Accounting Office, endorsed by the large majority of our State highway commissioners, and now trashed as our poor dog is just trying to emerge as a young, bright puppy from the kennel.

Mr. President, this is a serious matter. The question is: Are we going to go boldly into the 21st century behind our 1916 postal road system? Are we going to look boldly toward 1996 utilizing as our standard the 1980 census? If our friends who are so vehement in their opposition feel that we came upon, almost a century ago, the perfect formula, postal road miles for distributing Federal highway funds, then I assume that our sons, grandsons, daughters, and granddaughters, who will be here in the years in the future, will still be at the feet with appropriate Federal kennel rations before this old dog who we revere and wish to continue in service to the Nation.

I suggest it is time to adopt a new approach, an approach for the nineties, an approach that will meet the needs of our States, an approach that will provide equitable funds for all of our States with maximum flexibility for the citizens of a State, that community, to meet its needs.

I urge adoption of the amendment, Mr. President.

If the floor manager is prepared to yield back his time, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Florida.

Mr. DOMENICI. I ask the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arizona [Mr. DECONCINI] is necessarily absent.

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

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

The result was announced—yeas 41, nays 57, as follows:

[Rollcall Vote No. 96 Leg.]

YEAS—41

Bentsen	Gramm	Metzenbaum
Bond	Hatfield	Nickles
Boren	Heflin	Nunn
Breaux	Helms	Packwood
Bumpers	Hollings	Riegle
Coats	Johnston	Robb
Cochran	Kasten	Sanford
Danforth	Kohl	Sasser
Dixon	Levin	Seymour
Ford	Lott	Shelby
Fowler	Lugar	Simon
Glenn	Mack	Thurmond
Gore	McCain	Warner
Graham	McConnell	

NAYS—57

Adams	Dole	Mitchell
Akaka	Domenici	Moynihan
Baucus	Durenberger	Murkowski
Biden	Exon	Pell
Bingaman	Garn	Pressler
Bradley	Gorton	Reid
Brown	Grassley	Rockefeller
Bryan	Harkin	Roth
Burdick	Hatch	Rudman
Burns	Inouye	Sarbanes
Byrd	Jeffords	Simpson
Chafee	Kassebaum	Smith
Cohen	Kennedy	Specter
Conrad	Kerrey	Stevens
Craig	Kerry	Symms
Cranston	Lautenberg	Wallop
D'Amato	Leahy	Wellstone
Daschle	Lieberman	Wirth
Dodd	Mikulski	Wofford

NOT VOTING—2

DeConcini	Pryor

So the amendment (No. 357) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

FEDERAL LANDS HIGHWAYS—AMENDMENT NO. 353

Mr. SARBANES. Mr. President, the amendment that Senator MIKULSKI and I are offering would set aside $100 million in additional funding for rehabilitation of federally owned parkways, including the Baltimore-Washington Parkway.

According to the Federal Highway Administration, there is a backlog of $1.5 billion in work needed to bring the 7,400-mile U.S. Park and Parkway network up to acceptable standards. One such parkway in the National Capital area—the Baltimore-Washington Parkway—is a vital transportation link between Baltimore and Washington for millions of commuters and tourists each year. A major portion of the highway is federally owned by the National Park Service. Congress recognized the need for improvements to the parkway and authorized funds for its reconstruction 15 years ago in the Federal Highway Act of 1970.

In 1984, the Federal Highway Administration completed an engineering study on the parkway and found that age and unanticipated heavy traffic volumes have contributed significantly to the deterioration of the roadway, its bridges, and interchanges. Between 1980 and 1986, average daily traffic increased a dramatic 25 percent on this major roadway, and the number has grown substantially since then. The highway now carries more than 75,000 vehicles per day—far above the volume anticipated when it was originally constructed in the early 1950's. The traffic congestion and poor condition of the roadway precipitate accident conditions. The Federal Highway Administration study identified a critical need for significant improvements to the mainline highway and interchanges to improve safety and traffic operations and restore the parkway to an acceptable level of performance.

Funding appropriated in the last 6 years under the existing authorization has enabled the Federal Highway Administration to undertake engineering and design work, initiate bridge and interchange construction, and make pavement repairs and safety improvements. To date, $75.3 million has been appropriated, exhausting the previous authorization.

New estimates prepared by the Federal Highway Administration in March of this year indicate the need for an additional $93.3 million to complete the rehabilitation of the federally owned portion of the Baltimore-Washington Parkway. This amendment would help provide the resources necessary to complete work on federally owned parkways such as the Baltimore-Washington Parkway.

Ms. MIKULSKI. Mr. President, I am glad to join my friend and colleague Senator SARBANES in offering this amendment to the Surface Transportation Act.

This amendment is great news for the more than 75,000 commuters who use the Baltimore-Washington Parkway every day.

This amendment addresses the day-to-day needs of these commuters. I know from personal experience how badly we need this amendment.

I take the Baltimore-Washington Parkway back and forth from my home in Baltimore to Capitol Hill every day the Senate is in session. And let me tell you, we need to get moving on its rehabilitation. The parkway today is an obstacle course of grade changes, lane closings, and lengthy delays. It is bad for my car's transmission and it is bad for my mental health. Almost every day at rush hour, the Baltimore-Washington Parkway becomes what I call a "rolling backup."

With the funds authorized under this amendment, the Federal Government will be able to smooth the potholes and fix the bridges—and in the process, make life a little better for the working men and women who need to use the Baltimore-Washington Parkway to get back and forth between their homes and their offices, shops, and industrial parks.

I thank the managers of the bill for accepting this amendment, and I urge its adoption by the Senate.

Mr. SARBANES. Mr. President, on behalf of the commuters of my State of Maryland, I want to thank the distinguished managers of the bill, Senator MOYNIHAN and Senator SYMMS, for their assistance with this very important amendment.

Senator MIKULSKI and I would like to address some questions to Senator MOYNIHAN concerning this amendment.

Is it accurate to state that the intention of this amendment is to provide funds for the ongoing rehabilitation of the Baltimore-Washington Parkway?

Mr. MOYNIHAN. Yes. The ongoing rehabilitation of the Baltimore-Washington Parkway is clearly eligible under this amendment. I understand the importance of the Baltimore-Washington Parkway as a major commuter route between the Baltimore metropolitan area and the Washington, DC, metropolitan area. It is critical that this rehabilitation continue, and that Federal funds be available to accomplish it. That is why I'm delighted to support this amendment.

Ms. MIKULSKI. As I understand it, Federal lands highway projects such as those contemplated in this amendment are 100 percent federally funded; is that correct?

Mr. MOYNIHAN. The Senator is correct. No State matching funds would be necessary to carry out ongoing rehabilitation of Federal lands highway projects under the Parks and Parkways Program.

Ms. MIKULSKI. I thank Senator MOYNIHAN, and congratulate him for his leadership on this important bill.

Mr. KOHL. Mr. President, I would like to point out for my colleagues a provision in this bill which is very important to the way we oversee our Nation's transportation system, and plan for its future. I had the pleasure of working with Senator MOYNIHAN to develop guidelines for a new Bureau of Transportation Statistics which we are creating with this legislation.

I believe that the new statistical agency we have created will provide policymakers and transportation officials with invaluable information about the quality of our highway system, the demand for different modes of transportation, and the research necessary to prepare for the 21st century.

The annual report, called for in this legislation, will provide an ongoing review of our current system and the information for planning the transportation system of the future. The study by the National Academy of Statistics will provide the necessary vision to assure that this statistical agency can anticipate the information needs of policymakers and administrators.

This bill is also sensitive to the need for protecting the confidentiality of those individuals or companies providing information for statistical purposes. There is a careful balance drawn here between protecting that confidentiality and maintaining open and public access to Government information.

Through working with the Federal statistical community I have learned that there are a number of provisions necessary for a strong and independent statistical agency. Those provisions are included in this bill.

This is a historic bill in many dimensions, not the least of those is the awareness of the need for good information to develop good policy. It has been my pleasure to work with Senator MOYNIHAN to make this happen, and I commend him for his excellent leadership in developing this bill.

Mr. RIEGLE. Mr. President, the outcome of the debate in the Senate in the past 2 weeks will go far in shaping the future of transportation in our Nation. We need a surface transportation bill that will meet the needs of tomorrow and provide a level of fairness for all States. A continuation of old Federal highway policy meets neither of these tests.

The transit piece of the reauthorization of the surface transportation act went through the Banking Committee and I worked to craft a policy that meets the needs of both urban and rural communities. I have already made a statement about that portion of this legislation. Now, I would like to speak about the highway portion of the bill.

Our Nation's economic strength is largely dependent on the quality of our infrastructure. Transportation represents a major component of our economic base; it accounts for about 17 percent of our GNP. Our roads, bridges, railroads, and airports must be in top shape in order to move workers to jobs and goods to markets.

Far too many years now, we as a nation have not invested enough in the quality of our infrastructure, creating enormous physical problems that hamper our Nation's ability to grow economically. In that late 1960's, net investment in public works in the United States was 2.3 percent of GNP; today it is less than one-half of 1 percent. Analysts draw a close connection between the quality of a State's or a nation's infrastructure and its economic productivity. Investment in public works increases productivity in the private sector by improving the ability to move goods and services efficiently. As our investment in public works has dipped, our economy's growth rate has slowed.

Our economic rivals understand the importance of investing in infrastructure. Last year, Japan spent 5.7 percent of their GNP on public works and Germany spent 3.7 percent of their output on physical infrastructure.

Before I share my concerns with the surface transportation reauthorization bill reported by the Environment and Public Works Committee, I would point out that it contains a number of positive attributes. For example, it contains provisions written by the Senator from New Jersey [Mr. LAUTENBERG] to encourage the development of intelligent vehicle highway systems.

IVHS research that is being done at the University of Michigan and at other places around the country promises to reduce traffic congestion, improve safety, and make our roads more efficient. Highway congestion costs us over $40 billion a year in extra fuel costs and lost time. IVHS technology can make travel more efficient by enabling cars and trucks to avoid delays and select the fastest routes. Since it will be difficult and expensive to build new roads connection urban and suburban areas, we need to look at innovative ways, such as IVHS, to reduce congestion.

I am also pleased that the bill contains provisions to meet key needs other areas. Funding to enable communities to improve air quality will help us preserve our environment for the next generation of Americans. Support to help implement the Americans with Disabilities Act is an important step forward in making our Nation accessible to all citizens.

Despite its good points, the original bill as reported by the committee was flawed by a defective funding formula that benefited a number of rural western States and a handful of northeastern States without addressing the transportation needs of the entire Nation. The legislation perpetuated a formula that wasn't appropriated 4 years ago, isn't appropriate now, and won't be appropriate in the future. A highway bill in this form would not benefit the citizens of Michigan and the majority of Americans who depend on safe, uncongested, and well-maintained highways.

Years ago, there was some logic to the idea that relatively greater funding was necessary to build interstates in big, rural States in the West. We all benefit from a country well-connected by highways. But hose highways have been completed and have been for some time. We now need to channel resources toward areas where the roads and bridges have been worn out by wear and tear from intensive use.

Our challenge in this highway bill is to maintain and improve the roads that have been worn by high-traffic volume and age. Sixty percent of U.S. roads are substandard and 40 percent of bridges are structurally deficient or functionally obsolete. We need to pass a highway bill that will address these problems effectively and equitably.

My State of Michigan is among a number of donor States that pay more in gas tax than they receive in highway construction and maintenance funding. These donor States contain the vast majority of citizens and generate the vast majority of economic output in this country. Highway use and congestion tends to be higher in these States than in States that receive more than they contribute. More funding should be allocated to these donor States.

My State of Michigan faces major challenges in the area of transportation over the next 5 years and beyond, but suffers from unfair distribution of Federal highway funding. At a time in which roads and bridges are crumbling in Michigan, its citizens send 15 cents on every gas tax dollar to other States. This inequity must be corrected.

A recent article in the Washington Post entitled "Cutting Corners on Maintenance in Michigan: Cash-Strapped Transportation Engineers Try To Shave Costs Without Sacrificing Safety," outlined the dilemma created by deteriorating roads and bridges and inadequate funding. Bridges in Michigan are not being repaired until they are falling apart. Over 40 percent of the local bridges in my State are inadequate and are in need of repair. But there isn't enough money available to take care of the problem.

The State government can't make up the difference; it doesn't adequately fund worthy road projects now. Human service budgets are being slashed and there is no room in the budget to pay for additional road work. Michigan citizens cannot afford to keep sending so much money to other States to fix their highway problems while their own needs are not being met.

I support the Byrd amendment. This proposal improves the original bill significantly by allocating greater funding to donor States, reducing the flow of tax dollars out of States like Michigan. While it does not address the underlying problems with the funding formula, it sets a common level of funding for the donor States.

The deck was stacked against the donor States. It has taken a great deal of work to craft this amendment that improves the bill and increases funding

to my State and other States that pay more in gas taxes than they receive. I urge my colleagues to support the Byrd amendment.

Mr. MOYNIHAN. Mr. President, we come now to the end of our consideration of the Surface Transportation Act for the day. I believe that it can be said with confidence that the measure will be completed in the early afternoon tomorrow.

There are several amendments that are still to be offered. The very able Senator from Mississippi has one with which we will begin at 10 o'clock in the morning. The Republican leader has an amendment. We are not sure of any others, but they have a way of appearing. In any event, we expect to be to final passage early tomorrow.

I want to thank all Senators for their toughtfulness in the debate today. No one has raised his or her voice. Not everyone has been able to agree about every ratio and every correlation coefficient in these enterprises. But we have been surprisingly equitable about what those points were on which we could not agree.

The bill is intact. An apportionment formula is in place. There was a resounding victory of the proposal by our President pro tempore. I do not know how it can be described as victory; there was no opposition. But there was near unanimous support in that regard, and on the emphatic measure here, the decision on this vote, on the amendment of Senator GRAHAM. The bill is intact. The substance is in no way different than the measure that was reported from the Committee on Environment and Public Works, 15 to 1.

Thanks to the frugal habits of the chairman of the Committee on Appropriations, there is more money for this purpose. I think it will be well spent, and I think we are well on our way to sending this bill to the House.

Mr. SYMMS. Mr. President, I agree with the distinguished floor manager, and it looks to me like if we can get all Senators in tomorrow morning and start moving on these amendments—we have one committee amendment that has been cleared on both sides that takes care of several minor technical and other amendments in the bill. We have the Lott amendment, and there will be a Mack amendment dealing with the census.

And there may not be too many other amendments other than Senator DOLE's amendment on the test of how much States are actually contributing. Once that is settled, I see no reason we cannot go to final passage. I hope we would have this all done by very early in the afternoon, if not even in the morning.

Mr. MOYNIHAN. Mr. President, seeing no Senator wishing to comment, I ask unanimous consent to print several letters in support of the bill into the RECORD at this point.

These letters have been signed by:

The National League of Cities.

The National Conference of State Legislators.

The American Public Transit Association.

The National Association of Regional Councils.

The American Planning Association.

Northeast States for Coordinated Air Use Management.

South Coast Air Quality Management District.

The Surface Transportation Policy Project.

America's Coalition for Transit Now.

The National Trust for Historic Preservation.

Scenic America.

The Rails-to-Trails Conservancy.

The National Wildlife Federation.

The Environmental Defense Fund.

The Natural Resources Defense Council.

The Natural Resources Council of Maine.

1000 Friends of Oregon.

League of Conservation Voters.

Gov. Mario M. Cuomo of New York.

The New York City Chamber of Commerce/New York City Partnership.

The New York Metropolitan Transportation Council.

The Capitol Region Council of Governments (Hartford, CT).

The Chittenden County Metropolitan Planning Organization (Essex Junction, VT).

The Toledo Metropolitan Area Council of Governments.

Neighborhood Transportation Network (Minneapolis, MN).

National Growth Management Leadership Project (Portland, OR).

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

NATIONAL LEAGUE OF CITIES,
Washington, DC, May 20, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
Chairman, Subcommittee on Water Resources, Transportation and Infrastructure, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the cities and towns represented by the National League of Cities, I am writing to express our support for S. 965, the Surface Transportation Efficiency Act of 1991. Local officials believe your legislation would help ensure that federal transportation dollars are used most efficiently and productively by enhancing our nation's commerce centers and our economic vitality.

We are pleased to see the emphasis placed on flexibility for state and local officials in meeting mobility needs. We are also gratified at your recognition that local officials need to play a key role in transportation decision-making.

Specifically, NLC supports preservation and maintenance of the existing Interstate system as our national network of highways, the surface transportation program which separates the needs of urban and rural communities, a separate bridge program, federal matching requirements that are uniform across modes, targeted funding and increased local decision-making in planning and selecting projects within local jurisdictions, and the separate funding to meet congestion and Clean Air goals S. 965 would provide.

We also urge your support for one provision not included in S. 965, billboard reform. We endorse S. 593, the Visual Pollution Control Act, which would allow increased local discretion over sizing and removal of billboards.

Once again, thank you for your leadership in introducing such a far-reaching surface transportation proposal that we believe will help our nation achieve its mobility and environmental goals. We look forward to working with you to achieve Congressional approval of S. 965.

Sincerely,

SIDNEY BARTHELEMY,
President, Mayor, New Orleans.

NATIONAL CONFERENCE OF STATE LEGISLATURES,
Washington, DC, May 1, 1991.

Hon. DANIEL MOYNIHAN,
Chairman, Subcommittee on Water Resources, Transportation and Infrastructure, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The National Conference of State Legislatures is very pleased that you have introduced S. 965, the Surface Transportation Efficiency Act of 1991. We find it conforms, in large part, to our official policy and addressess many of our objectives concerning flexibility, decisionmaking, responsiveness, and funding. Our support is tempered somewhat by concern about certain details of the legislation, but commend you nonetheless for the approach you have taken.

NCSL has longed called for increased state participation in transportation planning and programming. The current multitude of federal categorical programs has permitted the mere availability of funds to drive state transportation decisionmaking. The inclusion of the new Surface Transportation Program in your reauthorization package effectively expands the ranks of transportation stakeholders, and undoubtedly will shift traditional bases of power. Clearly, comprehensive and consensus planning is the hallmark of this legislation.

The restoration of the states as laboratories can only serve to move the nation's transportation network forward. The goals of the Interstate era will soon be accomplished, and a new state-federal partnership should be founded on progressive goals that recognize the importance of mobility and system efficiency. The national network is only as good as its weakest link, and under this proposal, states will be challenged to make infrastructure improvements which foster an interconnected system. To those critics who decry this proposal as a dismantling of a cohesive federal system, I would respond that a true federal system is the sum of its parts: the states.

You have obviously taken much care in recognizing and providing for the variances among the states. To have done so without generating an acrimonious debate over equitable distribution of federal funds is laudable. The proposal fulfills the commitment to complete the Interstate system and protects states without an adequate revenue base to fully maintain their portion. In those areas where demands are great to improve deficient bridges or where states face federal sanctions for clean air non-attainment, this proposal dedicates needed funding.

The legislation is indeed a bold step in the right direction. As S. 965 is examined by the

Senate, I urge you to take into consideration the following concerns:

(A) The proposed five-year total of $105 billion, while reflecting new budget constraints, does not adequately reduce the Highway Trust Fund surplus nor reclaim last year's five-cent gas tax increase.

(B) Much new authority is extended to non-governmental entities and local governments in the absence of needed clarification of the state role as final arbiter of statewide project priorities and designator of non-federal sources.

(C) In the interest of providing a national non-Interstate network of major arterials to improve commercial access to the Interstate system, the addition of a designated national system would be in order.

(D) The inclusion of a "reprogramming" mandate for state adoption of seatbelt and helmet laws establishes a dangerous precedent for further erosion of state flexibility.

Again, this legislation would allow states to tailor transportation programs to meet specific goals, demands and opportunities. The National Conference of State Legislature looks forward to further refinements to this innovative measure.

Sincerely,

JOHN L. MARTIN,
Speaker, Maine House of Representatives, President, NCSL.

AMERICAN PUBLIC TRANSIT ASSOCIATION,
Washington, DC, May 2, 1991.

Hon. DANIEL P. MOYNIHAN,
Chairman, Subcommittee on Water Resources, Transportation and Infrastructure, Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The American Public Transit Association wishes to express its support for the concepts embodied in S. 965, the federal surface transportation reauthorization bill.

The transit industry welcomes this proposal, which offers a framework for a new era in transportation policy and investment across the United States.

We are particularly supportive of the Surface Transportation and Congestion Mitigation and Air Quality Improvement Programs. These provisions will provide the flexibility to ensure that national investments in surface transportation also support other national goals, such as clean air, energy conservation and economic development.

S. 965 offers a much-needed restructuring and reorientation of the federal surface transportation program. We applaud your leadership on this legislation and look forward to working closely with you and your colleagues on the Senate Banking Committee to craft a fully-coordinated response to the Nation's surface transportation needs.

Sincerely,

JACK R. GILSTRAP,
Executive Vice President.

NATIONAL ASSOCIATION OF REGIONAL COUNCILS,
Washington, DC, May 9, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
Chairman, Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, Dirksen Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: The National Association of Regional Councils applauds your vision and leadership in introducing highway reauthorization legislation that establishes a fresh, new approach to meeting our nation's metropolitan and rural transportation needs. We fully support your concepts for restructuring the current federal-aid highway program to enable the states and local governments to respond to pressing mobility problems in both metropolitan and rural America.

Our association is the national organization which represents metropolitan planning organizations mandated under federal highway and transit statutes to perform metropolitan transportation planning and program management. Over the last four years local elected officials, who comprise the substantial majority of the governing boards of our member MPOs, have devoted considerable time to assessing and debating a possible future direction for the federal highway and mass transit programs. We collectively have determined that in order to respond more effectively to current and emerging transportation needs, the federal program had to be fundamentally restructured.

We believe the new federal program must be designed in the following manner:

To focus investments on integrated, multimodal approaches to reducing traffic congestion;

To provide sufficient flexibility to invest a broad range of highway, transit, and demand management strategies that will meet mobility needs while responding to environmental concerns such as air quality;

And, to enhance the role of local elected officials in project selection and programming decisions through a strengthened metropolitan planning and programming process. The process we envision would require the collaboration and concurrency of the states, the local governments and transit operators in making transportation investment decisions that respond to federal objectives and to state and regional mobility needs.

We offer our strong support of the Surface Transportation Efficiency Act of 1991, which incorporates the above features. We congratulate you and your colleagues on introducing a bill that offers a bold, new alternative to traditional, modal approaches to meeting mobility needs.

Sincerely,

JOHN A.F. MELTON,
President, National Association of Regional Councils.
T.J. "TED" HACKWORTH,
Chairman, Transportation Advocacy Group.

AMERICAN PLANNING ASSOCIATION,
Washington, DC, May 8, 1991.

Hon. DANIEL P. MOYNIHAN,
Russell Building,
Washington, DC.

DEAR SENATOR MOYNIHAN: On behalf of the 27,500 members of the American Planning Association, thank you for introducing S. 965, The Surface Transportation Efficiency Act of 1991. If enacted, this bill would be a major improvement over current law and the Administration's proposal.

We strongly support the flexibility S. 965 gives states and localities in deciding which mode of transportation best meets their mobility needs. By giving states and localities other options, this bill will allow them to develop a transportation system which also helps meet our national goals of economic competitiveness, energy efficiency and environmental quality.

We believe, however, that the planning provisions in S. 965 need some minor clarification in order to be truly effective. We are presently working with staff to address these concerns. We also feel that the inclusion of billboard reform provisions would be an important asset to S. 965.

On the other hand, we are concerned that the National Recreation Trails Act (Title II) was included. It seems to encourage the use of motor vehicles which could increase air pollution in environmentally sensitive areas.

Again, we thank you for introducing this significant legislation and for your leadership.

Sincerely,

CONNIE B. COOPER,
AICP President.

NORTHEAST STATES FOR COORDINATED AIR USE MANAGEMENT (NESCAUM),
May 17, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: The Northeast States for Coordinated Air Use Management (NESCAUM) are writing to express our strong support for the "Surface Transportation Efficiency Act of 1991", S. 965, which you introduced on April 25, 1991 on behalf of Senators Burdick, Chafee, Lautenberg, and Symms.

NESCAUM is an interstate association of air quality control divisions in Connecticut, Massachusetts, Maine, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. All of our member states, with the exception of Vermont, are either partially or entirely designated as nonattainment areas for the federal criteria pollutant ozone. Most Northeast states also have one or more carbon monoxide nonattainment areas. This situation poses a potential public health threat to millions of residents of the region. Motor vehicles currently contribute approximately 50% of all hydrocarbons, 50% of all oxides of nitrogen, and 75% of carbon monoxide emitted in the Northeast.

As part of the effort to bring all areas of the Northeast into attainment with the National Ambient Air Quality Standards, the NESCAUM states will rely on a host of new programs to minimize emissions from motor vehicles including: (1) the design, manufacture and certification of cleaner new vehicles; (2) the use of less polluting gasoline; (3) the adoption of enhanced inspection and maintenance programs to ensure that in-use vehicles are performing to their design standards; and (4) transportation control measures aimed at reducing vehicle use. Even drastic reductions in emissions from individual vehicles will not be sufficient without strategies to control the increase in vehicle miles travelled. In the past, the rapid growth in automobile use has offset technology gains.

Recent computer modelling exercises for the Northeast transport cooridor suggest that attaining the ozone health standard throughout the region will be difficult even with the implementation of extremely aggressive control measures. The NESCAUM Directors regard the control of growth in vehicle trips and vehicle miles travelled as a key component of the overall strategy to bring all areas of the region into attainment with the National Ambient Air Quality Standards.

S. 965 presents a rational and environmentally sensitive approach to transportation planning in the U.S. which acknowledges the goals outlined in the Clean Air Act Amendments of 1990. NESCAUM supports the basic tenets promoted in S. 965, including the integration of long range transportation and

air quality planning and the flexibility given to states to use transportation funds for either highway or mass transit programs.

NESCAUM strongly supports the $5 billion Congestion Mitigation and Air Quality Improvements Program proposed in Section 107 of the Bill. This program would fund projects capable of contributing to attainment of the NAAQS and would effectively eliminate funding for new roadway capacity, with the exception of high occupancy vehicle facilities where the add-on lanes would exclude single occupant vehicles during peak travel periods. Appropriations under this section would be apportioned according to the severity of the ozone design values, with additional funds allocated to carbon monoxide nonattainment areas. NESCAUM supports the population-based appropriation formula, with a severity factor, for allocating Congestion Mitigation and Air Quality Improvement funds. This process could, however, be strengthened by adopting the VMT Index Amendment proposed by the Environmental Defense Fund. Such a program would provide an economic incentive for states to control or reduce VMT, as required by the Clean Air Act Amendments of 1990.

The Northeast states petition the sponsors of S. 965 to add language to Sections 113 and 114 that would only permit those projects with a rasonable likelihood of being funded during the applicable planning period to be included in plans and programs.

NESCAUM proposes that language be added to S. 965 requiring an annual vehicle registration fee of $4.00, specifically earmarked to state and/or local air quality agencies to offset the cost of transportation and motor vehicle related activities required by this Bill and the Clean Air Act provisions. Although the proposed Bill does recognize and address the need for substantial funding to promote congestion mitigation and air quality improvements, the air quality control agencies in the Northeast are concerned that shrinking state budgets will leave them without sufficient funding to carry out the extensive transportation planning and implementation responsibilities that will be required to meet the ambitious goals of S. 965. See the attached model amendment for specific program format and language suggestions. While it is suggested that this fee be collected as part of the vehicle registration process, states should retain the flexibility to collect these fees through a variety of other mechanisms such as motor vehicle licenses or insurance policies.

While NESCAUM generally supports the equitable federal matching share provisions for all projects the Bill promotes, the Northeast states propose that preferential funding be provided for mass transit programs in nonattainment areas.

S. 965 would promote the integration of transportation and air quality planning, reinforcing the requirements contained in the Clean Air Act Amendments of 1990. The proposed Bill would also significantly reduce infrastructure investment in facilities that promote the proliferation of single occupant vehicle use in areas where such facilities contribute to air quality nonattainment problems. The NESCAUM Directors enthusiastically support the Bill and offer our assistance.

Sincerely,

EDWARD DAVIS,
NESCAUM Chairman.

SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT,
El Monte, CA, May 15, 1991.

Hon. QUENTIN N. BURDICK,
Chair, Senate Environment and Public Works Committee, Washington, DC.

DEAR SENATOR BURDICK: The South Coast Air Quality Management District congratulates you and your colleagues on the committee for the introduction of S. 965, which provides a bold new approach to addressing this country's transportation needs.

As you well know, the Clean Air Act Amendments of 1990 establish a link between improvements in transportation efficiency and improvements in air quality. We are heartened that S. 965 confirms this linkage with the creation of a flexible-funding program which allows states and localities to address the key national interests of transportation and energy efficiency, economic competitiveness and environmental quality.

In addition, we are pleased that you and the other co-sponsors of S. 965 have recognized the need to make addressing air quality issues a high priority in nonattainment areas by creating the Congestion Mitigation and Air Quality Improvement Program. This program will significantly improve our opportunities to implement programs which directly address the transportation needs in this, the nation's only extreme air quality nonattainment area, with environmentally sound approaches to our mobility needs.

While we strongly support the program structure and emphasis on efficiency, productivity, and air quality, there are certain provisions of S. 965 that we believe need clarification to ensure effective implementation and integration with the requirements of the Clean Air Act Amendments of 1990. We would like to work with you on these aspects of the bill in the coming weeks.

The South Coast Air Quality Management District commends you and offers our support for this legislation. We offer our cooperation and assistance to you as you continue to address the reauthorization of the Surface Transportation Assistance Act.

JAMES M. LENTS, PH.D.,
Executive Officer.

TRANSPORTATION COALITION PRAISES "INNOVATIVE" SENATE BILL

A bipartisan Senate leadership bill for highway funding, which departs from the Administration's proposal to create a new National Highway System, is an innovative and important step toward a transportation policy in the national interest, according to the Surface Transportation Policy Project (STPP).

"The Senate bill recognizes that local officials need to solve many different transportation problems, not just to build roads," said David Burwell, President of the Rails-to-trails Conservancy, a member of the STPP. "Rather than fund a national highway system more than three times the size of our current interstate system, as proposed by the Bush Administration, the Senate bill instead allows funding to be used for the many kinds of transportation that will best serve the nation's communities and its economy."

By dedicating funds to all forms of transportation, which under the Administration's proposal are dedicated just to highways, the Senate bill makes a fresh start and moves toward a transportation policy that would assure the national interests of energy efficiency, environmental quality, economic competitiveness, and enhanced communities, according to the STPP.

AMERICA'S COALITION
FOR TRANSIT NOW,
May 7, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR: The undersigned members of America's Coalition for Transit NOW support the major concepts embraced in S. 965, the Surface Transportation Efficiency Act of 1991.

This bill establishes a new and important principle for our Nation's surface transportation system by permitting the use of traditional, federal "highway" funds to finance a broader range of transportation improvements, including transit and rail. The bill explicitly rejects a "more of the same" approach to surface transportation, and charts a future course that responds to a host of national concerns.

The bill will permit state and, in particular, local officials to exercise greater discretion in the use of federal highway funds to achieve national goals including clean air, energy conservation, economic development and congestion relief.

S. 965 offers a surface transportation policy that is equitable and responsive. With the transit legislation being developed by the Committee on Banking, Housing, and Urban Affairs, S. 965 offers the United States a transportation policy that can move our nation into the 21st century.

We urge your support of the important principles around which S. 965 was fashioned.

Sincerely,

ABB Traction Inc., A.B.P. Inc., ACUSON, Aetna Insurance Company, Alliance of American Insurers, Alliance for a Paving Moratorium, Alliance to Save Energy, Amalgamated Transit Union, AFL–CIO, American Chamber of Commerce Executives, American Institute of Architects, American Insurance Association, American Lung Association, American Pedestrian Association, American Planning Association, American Public Health Association, American Public Transit Association, Amphion Environmental, Inc., Angeles Corporation, Association for Commuter Transportation, Association for Public Transportation, Inc., ACORN-Association of Community, Atlantic Track and Turnout Co., AVX Corporation, Bay Area Council, Bearn Stearns & Co.

Building Owners and Management Association International, Cartwright & Goodwin, Inc., Catholic Golden Age, Central Hudson Gas & Electric Corporation, Chase Securities, Inc., Chemical Securities, Inc., Child Welfare League of America, Inc., Coach and Car Equipment Corporation, Community Transportation Association of America, Computer & Communication Industry Association, Consoer, Townsend & Associates, Inc., Conservation Foundation of DuPage County, Consumer Federation of America, DAMES & MOORE, Daniel, Mann, Johnson & Mendenhall, De Leuw, Cather & Company, Dean Witter Reynolds Inc., Del-Jen Inc., Deloitte & Touche, Delon Hampton & Associates, Chartered, Detroit Diesel Corporation, The Detroit Edison Company, Dillon, Read & Co., Inc., Disability Rights Education and Defense Fund, Dumont Electrical Inc.

Edison Electric Institute, Ehrlich Bober & Co., Inc., Electrack Division of EMJ/McFarland-Johnson Engineers, Inc., Fluor Daniel, Inc., Fredrick R. Harris,

Inc., The First Boston Corporation, Gannett Fleming, Inc., GenCorp Polymer Products, General Electric, Gibbs & Hill, Inc., Goldman, Sachs & Co., Greater Philadelphia Chamber of Commerce, Greater Philadelphia First Corporation, Hawaiian Electric Company, Inc., High Speed Rail Association, Hewlett-Packard, Howard, Needles, Tammen & Bergendoff, Hughes Aircraft Company, ICF Kaiser Engineers, Inc., Indiana Transportation Association, Indianapolis Power & Light Company, Industrial Unions Department, AFL-CIO, Institute for Transportation & Development Policy, Institute for Urban Transportation, J.P. Morgan Securities.

J.W. Leas & Associates, The Keith Companies, Katherine McGuinness & Associates, Inc., KPMG Peat Marwick, Lazard Freres & Co., Lebenthal & Co., Inc., Lomarado Group, LS Transit Systems, Inc., Luminator, A MARK IV INDUSTRIES Company, Manufacturers Hanover Securities Corporation, Marin Rainbow Coalition, Marine Midland Banks, Inc., Merrill Lynch Capital Markets, Metropolitan Planning Council of Chicago, Midwest Bus Rebuilders, Corp., Morrison Knudsen Corporation, M.R. Beal & Company, National Association of Area Agencies on Aging, National Association of Counties, National Association of Families Caring for Elders, National Association of Industrial and Office Parks, National Association of Transit Consumer Organizations, National Association of Meal Programs, National Association of Nutrition and Aging Service Programs, National Association of Railroad Passengers.

National Association of Regional Councils, National Council of Senior Citizens, National Council on the Aging, National Easter Seal Society, National Growth Management Leadership Project, National Industries for the Severely Handicapped, National Interstate Insurance Agency, Inc., National Jobs with Peace Campaign, National League of Cities, National Multiple Sclerosis Society, National Rural Electric Cooperative Association, National Urban Coalition, National Urban League, National Womens Political Caucus, National Resources Defense Council, The Nettleship Group, New Flyer Industries, Ltd., New York Building Congress, New York Chamber of Commerce and Industry, New York City Partnership, Older Womens League, Organizations for Reform Now, Paine Webber Incorporated, Paralyzed Veterans of America, Parsons Brinckerhoff Quade & Douglas, Inc., Philadelphia Electric Company.

Portland General Corporation, The Promus Companies, Public Financial Management, Inc., Pryor, McClendon, Counts, & Co., Inc., Read Communications, Renew America, Ricon Corporation, Rides for Bay Area Commuters, Rocky Mountain Institute, Russell's Printing and Publishing, Shearson Lehman Brothers, Sierra Club, Simon & Company, Inc., Stone & Webster Engineering Corporation, The Stride Rite Corporation, Summit Communications, Transportation Communications Union, Transport Workers Union, AFL-CIO, Transportation Manufacturing Corporation, United Auto Workers, AFL-CIO, United Transportation Union, AFL-CIO, United States Conference of Mayors, Universal Coach Parts, Inc., Urban Engineers, Vapor Corporation, Western Insurance Information Services, Wisconsin Power and Light Company, WR Lazard Laidlaw & Mead, Inc.

MAY 8, 1991.

Hon. DANIEL P. MOYNIHAN,
Chairman, Subcommittee on Water Resources, Transportation and Infrastructure, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR CHAIRMAN MOYNIHAN: We congratulate you and your colleagues on the Senate Environment and Public Works Committee for introducing a bold new approach to meeting our nation's transportation needs. S. 965 represents a dramatic improvement over current law and the Administration's most recent proposal for a new highway program.

By enabling the majority of funds to be spent on the best means of meeting transportation needs, rather than dedicating them just to highways as the Administration has proposed, S. 965 assures that states and localities are able to address the key national interests of transportation and energy efficiency, economic competitiveness, and environmental quality. This is the kind of national program we must have to stay competitive and at the same time maintain our quality of life.

While we strongly support the program structure and emphasis on efficiency, productivity, and air quality, there are certain provisions of S. 965 that we believe need clarification to ensure effective implementation. We also are concerned about the absence of the billboard reform provisions of S. 593 and the inclusion of Title II, which promotes motor vehicle use in environmentally sensitive areas. We would like to work with you on these aspects of the bill in the coming weeks.

Again, we offer you our sincere thanks for the leadership you have shown in introducing this important legislation.

Sincerely,

J. Jackson Walter, National Trust for Historic Preservation; David G. Burwell, Rails-to-Trails Conservancy; Keith A. Bartholomew, 1000 Friends of Oregon; Connie B. Cooper, American Planning Association; Janet S. Hathaway, Natural Resources Defense Council; John J. Bosley, National Association of Regional Councils; Sally G. Oldham, Scenic America; Sharon Newsome, National Wildlife Federation; William J. Roberts, Environmental Defense Fund; Bill Wilkinson, Bicycle Federation of America; Everett B. Carson, Natural Resources Council of Maine.

LEAGUE OF CONSERVATION VOTERS,
Washington, DC, June 13, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
Chairman, Subcommittee on Water Resources, Transportation and Infrastructure, Committee on Environment and Public Works U.S. Senate Washington, DC.

DEAR CHAIRMAN MOYNIHAN: On behalf of the League of Conservation Voters, I am writing to urge you to strongly oppose adoption of the Breaux-Durenberger Amendment to S. 1204, the Surface Transportation Efficiency Act of 1991. This is the most important environmental amendment the Senate will consider during its deliberations of S. 1204, because it is the one amendment that will fundamentally undermine the flexibility states and localities need to shape their transportation systems to reduce air pollution, relieve congestion, and save energy.

This amendment will undermine the state and local flexibility embodied in S. 1204 by requiring that a substantial percentage of flexible funding be earmarked for an undefined National Highway System. The Committee on Environment and Public Works has wisely recommended that the Administration devote the next two years to study the development of this new Highway System. But, the Breaux-Durenberger Amendment will compel states and local governments to spend a substantial share of their funds on projects that may do little or nothing to address state and local transportation needs.

The essential strength of S. 1204 is that it gives states and localities the freedom and discretion to make transportation investment decisions. The Breaux-Durenberger Amendment will cut off that freedom and flexibility and force states and localities to fund a federal road system that will be developed by the federal government without public input, without criteria, and without Congressional review.

Many commentators, transportation experts, environmentalists and Senators have commended S. 1204 for its vision and innovation. The Breaux-Durenberger Amendment will convert S. 1204 into a traditional "highway" bill and hamper the ability of states and localities to meet their transportation needs.

Sincerely,

JIM MADDY,
Executive Director.

STATEMENT BY GOV. MARIO M. CUOMO

The highway bill introduced today by Senator Pat Moynihan demonstrates once again his superb leadership and expertise in developing sensible national legislation. The bill reaffirms the Federal commitment to America's highways, and appropriately acknowledges the necessity of both increased funding and essential improvements to our highway infrastructure.

This is more than just a simple highway bill. It is the blueprint which will propel our vital highway systems into the 21st Century.

Unlike the Administration's recent transportation proposal, Pat Moynihan's bill recognizes that sound Federal highway policy does not simply mean passing greater financial responsibility onto the states. State and local governments continue to outspend significantly the Federal Government for virtually every mode of transportation, and we will continue our substantial support. This new bill increases Federal funding, but appropriately refrains from mandating yet greater state matching requirements.

The Moynihan bill also wisely avoids divisive debate on new formulas for distribution of Federal funds because it provides increased funding to improve existing highways and bridges based on each state's historic share of highway funding. Thus, no state would receive an advantage at the expense of another state.

Enactment of this important legislation makes good sense not only from a national perspective, but from a New York perspective as well. The bill will provide New York with almost $4.5 billion over the next five years for the preservation and improvement of our highways and bridges. In addition, we will receive more than $100 million per year to address aggressively air quality and traf-

fic congestion problems in the New York City metropolitan area and in most of our upstate cities. We are also assured of receiving our full share of the Westway trade-in.

The $90 billion Surface Transportation Efficiency Act of 1991 will provide New York with $1.3 billion more in Federal highway funding than we received over the previous five years.

The proposal offers greater flexibility in the use of Federal funds by allowing states to transfer monies between highway and mass transit accounts. This will enable states to target funds toward their most pressing transportation needs. The bill also provides greater latitude for the development of new potential sources of revenue for highway improvement.

Pat Moynihan demonstrated his usual foresight by including several important traffic safety provisions in his bill. It increases the Federal emphasis on rehabilitating and replacing deficient bridges and on maintenance and preservation of the existing Interstate Highway System. It protects both passengers and property by establishing national seat belt and motorcycle helmet programs similar to those already in place in New York.

With an eye toward the future, the Moynihan bill also provides funding to design, construct, and test a U.S.-developed magnetic levitation (Maglev) transportation system along Federal-aid highway rights-of-way. Maglev has the potential to become a major, efficient, and safe mode of transportation.

I applaud Pat Moynihan for developing and introducing landmark legislation which at once meets the highway rehabilitation needs of today and provides funding and flexibility through a variety of multi-modal measures to address the growing concerns of air quality and traffic congestion. It provides a prudent transition from the highway program that has served this State and Nation so well in the 20th Century to a program designed to meet the transportation needs of the future.

I offer my assistance and that of my Administration in working for the enactment of this important legislation.

NEW YORK CHAMBER OF COMMERCE,
NEW YORK CITY PARTNERSHIP,
New York, NY, May 20, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: I want to thank you, on behalf of the New York City Partnership and the New York Chamber of Commerce and Industry, for your leadership in introducing the Surface Transportation Efficiency Act of 1991. We believe your bill, in contrast to the Administration's proposal, will better enable states to achieve the important goals of economic development, congestion relief, clean air, and energy conservation.

Attached is a copy of the letter we sent to the members of the Environment and Public Works Committee urging them to support your bill.

We will continue to work with our members and in coalition with other organizations to ensure that this important legislation becomes law.

Sincerely,

RONALD K. SHELP, *President and Chief Executive Officer.*

NEW YORK METROPOLITAN
TRANSPORTATION COUNCIL,
New York, NY, May 3, 1991.

Hon. DANIEL P. MOYNIHAN,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR MOYNIHAN: I am writing on behalf of the New York Metropolitan Transportation Council (MYMTC) to express our support for the Surface Transportation Efficiency Act of 1991. NYMTC is the Metropolitan Planning Organization (MPO) designated by the Governor for the New York Metropolitan region. Our MPO encompasses New York City, Long Island, and the lower Hudson Valley.

We want to commend you for your leadership in setting a new direction in federal support for transportation. You have taken the words in the USDOT's National Transportation Policy Statement and turned them into bold new legislation. We are particularly pleased with the section on metropolitan planning. It is very supportive of MPOs and provides the necessary funding to meet our expanded responsibilities contained in the bill.

We are hopeful that the Senate Committee on Banking, Housing, and Urban Affairs will produce a companion bill consistent with the major previsions of your bill, particularly in regard to a significant increase in transit planning funds for MPOs.

We look forward to working with you as your bill advances through the Committee and the full Senate.

Sincerely,

ROBERT J. BONDI,
NYMTC Co-Chairperson,
Putnam County Executive.

CAPITOL REGION
COUNCIL OF GOVERNMENTS,
Hartford, CT, April 26, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
Chairman, Sub-Committee on Water Resources and Infrastructure, Committee on Environment and Public Works, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR MOYNIHAN: I am writing on behalf of the Capitol Region Council of Governments, the Metropolitan Planning Organization for Hartford, Connecticut, to express our strong support for your proposed Surface Transportation Efficiency Act of 1991.

This bill provides the overall policy and fiscal support direction that will allow for planning and implementation a truly integrated transportation system. The incorporation of the Clean Air Act, land use, energy and other concerns is essential as your bill recognizes.

Enactment of this landmark legislation will provide the infrastructure required to ensure the economic viability of the United States in the 21st Century. The Council of Governments will do all it can in supporting you and your efforts to ensure passage of this bill.

Sincerely,

DANA S. HANSON,
Executive Director.

CHITTENDEN COUNTY METROPOLITAN
PLANNING ORGANIZATION,
Essex Junction, VT, April 25, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: I understand that you will be introducing the "Surface Transportation Efficiency Act of 1991" at 2:30 p.m. today. I believe it is important that federal transportation legislation renew the strong federal-state-regional partnership in providing high quality transportation infrastructure to our nation. This can only be achieved by: 1. Maintaining a strong federal funding presence; 2. Creating balanced systems (highways and public transportation) that are coordinated with land use plans; and 3. Strengthening the urban transportation planning process as performed by metropolitan planning organizations.

Congratulations on developing a workable "common sense" approach to a national transportation program.

Sincerely,

CRAIG T. LEINER,
Transportation Director.

TOLEDO METROPOLITAN AREA
COUNCIL OF GOVERNMENTS,
Toledo, OH, April 26, 1991.

Senator HOWARD METZENBAUM,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR METZENBAUM: On Thursday, April 25, 1991 Senator Moynihan introduced the "Surface Transportation Efficiency Act of 1991". This Bill, which would replace the Administration's "Surface Transportation Act of 1991", would be very beneficial to our hard pressed urban areas.

The Administration and the Congress are proposing the most significant changes to the process by which the federal government is providing funding to the surface transportations system, both highways and mass transportation, since the creation of the Interstate System almost thirty years ago. In February the Administration released its proposed Surface Transportation Assistance Act of 1991. Although generally moving in the right direction, it certainly does not contain all of the necessary policy changes for the next century. In particular, the proposal misses its mark when it deals with managing the transportation problems in urban America.

When the federal government first became involvement in the surface transportation system in the early 1900s it was to solve issues which involved a major segment of its population, the rural population, by "getting the farmers out of the mud." Today the United States is primarily composed of urban centered metropolitan regions. Major modifications are needed to what is being proposed by the Administration to more adequately meet the needs of the majority of our population in the United States which now live in metropolitan areas.

We feel that the Moynihan Bill much more adequately addresses the issues of urban America. It does not put major resources into the National Highway System. It provides more funding for the urban system. It provides more funding and more responsibilities for local elected officials through the Metropolitan Planning Organizations (MPOs), such as TMACOG, to manage the urban problems: congestion and decaying bridges and streets.

We urge your support of this proposal.

Sincerely,

CALVIN M. LAKIN,
Executive Director.

NEIGHBORHOOD
TRANSPORTATION NETWORK,
Minneapolis, MN, May 16, 1991.

Re Surface Transportation Efficiency Act of 1991 (S. Bill 965).

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate, Washington, DC

DEAR SENATOR MOYNIHAN: We applaud your sponsorship of S. Bill 965. The bill provides

the vision necessary to enable this country's metropolitan areas to be competitive in a world economy that will face changing and challenging times in the 21st Century. It also provides the courage for this country to address our extreme dependence on automobiles. And it sets a stage that will allow us to come to grips with the heavy prices we are now paying for that dependence in the form of social and environmental consequences.

The Neighborhood Transportation Network is a coalition of community groups in Minneapolis who joined forces to address transportation. Our members represent 45,000 people who are concerned that our air quality does not meet Federal standards—yet the state highway department is striving to bring us Los Angeles-style freeways that will worsen our air quality. And the resulting decreases in transit services will increase unemployment throughout the region among people who depend on transit for their basic needs.

In the 1980s, we became the country's largest metropolitan area that does not have rail transit. We are the largest region that is totally dependent on streets and highways. We are the largest region that is completely vulnerable to fluctuations in the supply and pricing of fossil fuels, located in a State that has no fuel supply of its own.

Now is the time for action. A major fuel crisis will occur in the next 40 years, perhaps the next 20 years. The economic security of Minnesota and of the Twin Cities Metropolitan Area mandates that the highest priority be given to bringing us rail transit.

We urge your continued leadership in crafting the strongest, most environmentally-sensitive, transit-oriented Federal legislation possible. We need your leadership today.

Sincerely,

S. DORÉ MEAD,
President.

NATIONAL GROWTH
MANAGEMENT LEADERSHIP PROJECT,
Portland, OR, May 7, 1991.

Re the Surface Transportation Efficiency Act of 1991 (S. 965).

Hon. Daniel Patrick Moynihan,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: I am writing to congratulate you and your colleagues on the Environment and Public Works Committee for introducing S. 965, The Surface Transportation Efficiency Act of 1991, a bill that, if enacted, would establish a bold new approach to meeting the nation's transportation needs. The bill represents a substantial improvement over current law and the Administration's recent proposal for a new highway program.

By enabling the majority of funds to be spent on the best means of meeting transportation needs, rather than dedicating them just to highways as the Administration has proposed, S. 965 assures that states and localities are able to address the key national interests of transportation and energy efficiency, economic competitiveness, and environmental quality. This is the kind of national program we must have to stay competitive and at the same time maintain our quality of life.

The National Growth Management Leadership Project (NGMLP)[1] does have some concerns with certain details of the bill. For example, the section on transportation planning is not, in our opinion, adequate to assure that federally funded transportation projects are integrated with energy efficient land uses. If not corrected, this deficiency could lead to further waste of federal funds by squandering transportation capacity on energy-wasteful sprawl development. Attached is a list of several concepts that could be used to alleviate this program.

The planning provisions aside, the bill's creation of a "Surface Transportation Program" is a monumental improvement. Particularly impressive are the provisions assuring mode neutrality, proportional allocation within each state, and federal match incentives to promote alternatives to single occupancy automobile travel. These are precisely the types of program measures that are essential to providing sustainable, liveable communities across the nation. As the Committee has recognized, current transportation funding priorities are in dire need of adjustment. The Surface Transportation Program of S. 965 provides that adjustment.

NGMLP strongly supports S. 965's program structure and we offer our sincere thanks to you for the leadership you have shown in introducing this important legislation. We would be happy to work with you on possible improvements to the planning sections of the bill.

Very truly yours,

KEITH A. BARTHOLOMEW,
Staff Attorney.

TALKING POINTS—CENTRAL ARTERY

(1) The $2.55 billion for the Central Artery/Third Harbor Tunnel was contained in the Administration's highway reauthorization proposal, was included in the Moynihan bill under debate today, and was included in the Warner substitute bill as well.

(2) The project has had and continues to have broad bipartisan support, from the Bush Administration and the new Republican Weld Administration in Massachusetts to the former Dukakis Administration and Massachusetts' Democratic Congressional delegation.

(3) The state share of funds for the Central Artery/Third Harbor Tunnel was continued in a transportation bond issue passed by the Massachusetts legislature and recently signed into law by Governor Weld. The local funding is in place.

(4) The Federal Highway Administration recently issued its Record of Decision for the project, marking the successful completion of the administrative and environmental review process.

(5) The first major construction contract for the Third Harbor Tunnel, amounting to over $200 million for tunnel tube fabrication and installation, has been advertised for bid and will be awarded this fall. This project is well underway.

(6) The funds in this bill for Massachusetts are there because of a compromise reached in the 1987 Surface Transportation Reauthorization measure. That compromise, which was the result of long and hard work in the House-Senate conference committee, resulted in only a portion of the Central Artery project being eligible for Interstate Construction funding. It is only that portion which is represented by the funds in this bill. There is no reason to tamper with the 1987 compromise. Now the time has come to make good on the Congressional commitment made at that time.

(7) Along with projects in California and Hawaii, the I-90/93 project in Massachusetts represents the last major gap in the Interstate system. The language in this bill is necessary to ensure the efficient closure of this gap and the completion of the Interstate System.

(8) The money in this bill is equivalent to the amount that Massachusetts has lapsed to other states over the past ten years, when adjusted for inflation. In fact, over the past three years alone, Massachusetts has made available, through the Federal Highway Administration's administrative process, over $700 million for re-apportionment to other states. Now that this project is underway, it's Massachusetts' turn to receive the funds to which it is entitled.

CENTRAL ARTERY PROJECT FACTS

The Central Artery (I-93) is the most congested Interstate highway in America. If nothing is done, the region will have 14 hours a day of rush hour congestion.

The Central Artery is not a true Interstate highway. It was designed by the Commonwealth before the beginning of the Interstate program. It does not meet Interstate standards.

Massachusetts proposed to upgrade the Central Artery in 1975. Costs of the depression of the Central Artery were first put in the ICE by FHWA in 1976. These costs have been included in every ICE passed by Congress since 1976, including the 1981 ICE and the ICE passed in March 1984.

The 1987 highway reauthorization limited the portion of the project eligible for federal funds, and only those funds are contained in the present bill.

The project will eliminate the present untenable congestion of the Central Artery. It will eliminate twelve hours of traffic congestion. It will double the capacity of the Central Artery.

According to the AASHTO calculations of cost benefit, the traffic benefits, alone, of the project will save 184.2 million dollars per year. The annual rate of return on the project will be 7.4%. It will save 20.9 million hours of travel time savings per year, almost three times as high as any of the recently approved large Urban Interstate projects (I-105 in Los Angeles, I-478 in New York, I-90 in Seattle, I-10 in Phoenix and I-95 in Baltimore).

The project will employ 75,000 construction workers for the life of the project (7,500 full time jobs per year for the 10 years of construction).

MORNING BUSINESS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein.

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

TRIBUTE TO A.B. "HAPPY" CHANDLER

Mr. THURMOND. Mr. President, I rise today to pay tribute to a great American and a good friend, Albert Benjamin "Happy" Chandler, who passed away on June 15. Happy Chandler was a man of character, compas-

[1] The NGMLP is a confederation of seventeen regional and statewide organizations promoting sound growth management throughout America. Representing more than 125,000 individuals, NGMLP members include organizations from California, Colorado, Florida, Georgia, Hawaii, Illinois, Maine, Maryland, Massachusetts, New Jersey, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and Washington.

sion, and intellect, and his death is a great loss for both his native State of Kentucky and this Nation.

Happy Chandler was born in Corydon, KY, on July 14, 1898. He earned his undergraduate degree from Transylvania College and his law degree from the University of Kentucky, and served in the Army during World War I.

Happy was from a poor family and his parents separated when he was quite young. Although he attained great heights, he never forgot his humble beginnings and always remained a champion of the common man.

Even as a youngster, Happy made an impression with the positive outlook and upbeat personality that earned him his nickname. Throughout his long and colorful life, he pursued each goal he set with vigor and imagination. Although he is best known for his career in public service, he also practiced law, raised tobacco, and published a weekly newspaper with the same energy and commitment he brought to politics.

Happy Chandler's involvement in Kentucky politics spanned over a half century, and his skill and determination earned him a reputation as a tough opponent and a loyal friend. He served as a State senator, Lieutenant Governor, two-time Governor and U.S. Senator, always bringing his unique perspective to bear on the issues at hand. He also served as a Democratic national committeeman and as commissioner of baseball.

As Governor, he reorganized the State government of Kentucky, overhauling a bureaucracy which was mired in the arcane practices of another century. He was also responsible for the creation of the A.B. Chandler Medical Center at the University of Kentucky, an achievement of which he was justifiably proud.

A well-known fan of athletics, Happy became known as a champion of players' rights during his tenure as baseball commissioner. This did not earn him the gratitude of the owners, but did get him elected to the Baseball Hall of Fame in 1982.

Happy Chandler was a man of passionate beliefs. He was an old-school southern Democrat when it came to big government, believing that government should intrude as little as possible on the private lives of citizens. He was renowned as an orator of rare persuasion and talent, and people came from miles around to hear him speak—sometimes as much for entertainment as anything else. He was also known as a die-hard University of Kentucky fan, and his flamboyant demonstrations of support for Kentucky athletic teams were legendary.

Mr. President, Happy Chandler was a rugged individualist. He was a distinguished stateman, loyal friend, and devoted husband and father. He served Kentucky and this Nation with dedication, integrity, and patriotism and he will be greatly missed.

I would like to take this opportunity to extend my deepest condolences to his lovely wife, the former Mildred Watkins, his four children, and the rest of his fine family at this difficult time.

OUTDOOR ADVERTISING

Mr. HATCH. Mr. President, outdoor advertising is of great economic value to business in Utah and across our country. No other medium of advertising allows the businessperson the selectivity in reaching their clientele as does outdoor advertising. One display 5 miles on the approach side of a highway motel or restaurant will reach a much higher percentage of prospective customers than any other medium.

Outdoor advertising has the built-in ability to reach people while they are on the road to shopping, dining, vacationing, and most other consumer activities. With many shoppers, it is the last advertising they will experience before selecting their purchases.

Outdoor advertising is also superior in the field of brand or name recognition. Nowhere is this more evident than in the field of politics. Most successful politicians rely heavily on outdoor advertising. Here again, the medium's selectivity allows the person running for office to concentrate his message within strict limits. The message is not wasted on areas where it is not needed or heeded.

Proof of the economic value of outdoor advertising is demonstrated by the fact that last year, American businesses spent over $1 billion on outdoor advertising. American businesses are not noted for wasting money; they want results for their dollars, and they get it with outdoor advertising.

ELECTRONIC COMMUNICATIONS PRIVACY ACT

Mr. LEAHY. Mr. President, in 1986, Congress passed the Electronic Communications Privacy Act [ECPA], which updated the Federal wiretap statute to cover emerging technologies. In the 5 years since we passed ECPA, technology has continued to improve at a great pace. Developments in cordless phone technology, improved cellular systems, and caller-ID are examples of changes that demand our continued attention.

I have found that this area raises difficult questions—both in terms of policy and technology. Success depends on approaching these issues with full and accurate information about how the technologies actually work and what impact they will have on the public, the business community, and the Government. It is vital for industry and privacy advocates to work together with Congress to address these new technologies comprehensively. To that end, I convened a task force earlier this year to consider the privacy issues raised in the context of new technologies and to provide its opinions and recommendations to the Technology and the Law Subcommittee.

The task force spent many hours wrestling with the difficult issues arising in the context of new technologies. The final report of the privacy and technology task force is an excellent examination of radio-based technologies, out-of-band signaling, 800- and 900-number services, electronic mail, and government monitoring. I am very grateful to this group for providing not only their expertise, but their time and commitment to furthering our understanding of these issues.

We hear much about the American people becoming discouraged with the legislative process. The work of this task force shows not only that citizens care about the process, but that they are willing to take part in it. It is an extraordinary group and all of us are thankful that they took the time to get involved.

I would like to say a special thank you to John Podesta, who chaired the task force, and Leah Gurwitz, who worked with him to prepare the report. I am grateful to all of the dedicated members of the privacy and technology task force: David Johnson, Esq., Wilmer Cutler & Pickering; Ronald L. Plesser, Esq., Piper & Marbury; Mr. James Sylvester, director of infrastructure, Bell Atlantic; Mr. Elliot E. Maxwell, assistant vice president, policy and issues management, Pacific Telesis; Martina Bradford, Esq., vice president, Government affiars, AT&T; Marc Rotenberg, Esq., Computer Professionals for Social Responsibility; Prof. Glenn Smith, California Western School of Law; Janlori Goldman, Esq., American Civil Liberties Union; Jerry Berman, Esq., Information Technology Project of the American Civil Liberties Union; Mr. Thomas Mills, director of public affairs, New England Telephone—Vermont; Ms. Debra Berlyn, executive director, National Association of State Utility Consumer Advocates; P. Michael Nugent, Esq., associate general counsel and vice president, Citicorp/Citibank; Mr. Michael F. Cavanagh, executive director, Electronic Mail Association; John J. Byrne, Esq., Federal legislative counsel, American Bankers Association; and Mr. John Gilroy, executive director, Vermont Public Interest Research Group.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,285th day that Terry Anderson has been held captive in Lebanon.

WELCOMING THE POLISH-GERMAN TREATY

Mr. PELL. Mr. President, yesterday, Poland and Germany signed a comprehensive treaty that ushers in a new phase in relations between the two countries, and indeed, for all of Europe. The treaty puts to rest the disagreements that have plagued the two nations for generations. In the treaty, Poland and Germany pledge to abstain from using force; to establish the Oder-Neisse line as the definitive Polish-German border; and to guarantee minority rights. It is a historic event scarcely conceivable a few years ago.

I particularly welcome the treaty's unequivocal recognition of the Polish-German border. In the spring of 1990, with the prospect of German unification imminent, I was deeply concerned by the seeming reluctance of West German leaders to declare unambiguously their acceptance of the Polish-German border. At that time, with the cosponsorship of 15 of my colleagues, I submitted a resolution that would have linked United States support for a treaty on German unification to Germany's recognition that its current borders are legal, permanent, and unalterable.

The day after I submitted the resolution, Chancellor Kohl stated his intention to provide the essential assurances about the Polish-German border. He further proposed that the West German Bundestag and the new East German Parliament agree to an identical resolution on the border issue. It was widely reported that international pressure, including that generated by prospective action on my resolution, contributed to Chancellor Kohl's welcome and historic decision.

In October of last year, on the eve of German unification, the United States gave its advice and consent to the Treaty on the Final Settlement with Regard to Germany. In that treaty—signed by the two Germanys, France, Great Britain, the Soviet Union, and the United States—the two plus four—the united Germany pledged to confirm the existing border with Poland. In its consideration of the treaty, the Foreign Relations Committee "ascribed great importance to the fact that the treaty expressed a solemn confirmation and commitment that the borders of the united Germany shall be confined to the territory of the two German states and that the definitive nature of the borders of the united Germany is an essential element of the peaceful order in Europe."

Mr. President, in signing the treaty with Poland, Germany has fulfilled its obligations under the treaty to which we gave our advice and consent last fall. Together with Poland, Germany has made an important contribution to building a new Europe.

MESSAGES FROM THE HOUSE

At 4:31 p.m., a message from the House of Representatives, delivered by Mr. Hays, one if its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2608. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 64. An act to authorize appropriations to establish a National Education Commission on Time and Learning and a National Council on Education Standards, and Testing, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 2608. An act making appropriations for the Departments of Commerce, State, and Justice, the Judiciary, and related agencies for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-102. A resolution adopted by the Senate of the State of Michigan; to the Committee on Armed Services.

"SENATE RESOLUTION 152.

"A resolution honoring the National Guard and Reserves.

"Whereas, The members of this legislative body unite to honor the military forces of the United States, in conjunction with their coalition allies, who have successfully forced Iraq to give up its hold on the nation of Kuwait. We strongly urge the President, the Secretary of Defense, and the Congress to ensure that the post-war Michigan National Guard forces structure and equipping levels will reflect the outstanding job done by our troops in the Desert Shield/Desert Storm Operation and will assure their capability to meet federal constitutional responsibilities as part of the Total Force, and also to fulfill their responsibilities to the state as a civil and natural disaster response force; and

"Whereas, Michigan Army and Air National Guard and Reserve forces of the Army, Navy, Air Force, Marines, and Coast Guard have served valiantly alongside their active component counterparts in their courageous effort. These brave men and women can now return to their homes and families; and

"Whereas, We commend those employers, support groups, and all other citizens who have so generously and steadfastly supported these brave men and women while they were serving in the Gulf and who assisted in easing the burdens placed on their families and loved ones during their absence in the service of freedom; now, therefore, be it

"Resolved by the Senate, That we recognize the outstanding role that our National Guard and Reserve forces played in fulfilling their Desert Shield/Desert Storm mission as part of this nation's total force. We commend the President, the Secretary of Defense, the Service Secretaries and their staffs on the confidence that they placed in our troops and, we pledge the continued efforts of this state to provide capable National Guard forces fully committed to their Total Force role. We strongly urge the President, the Secretary of Defense, and the Congress to ensure that the post-war Michigan National Guard forces structure and equipping levels will reflect the outstanding job done by our troops in the Desert Shield/Desert Storm Operation and will assure their capability to meet federal constitutional responsibilities as part of the Total Force, and also to fulfill their responsibilities to the state as a civil and natural disaster response force; and be it further

"Resolved, That suitable copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of Defense, and each member of the Michigan congressional delegation, and the Michigan National Guard and Reserves."

POM-103. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Armed Services:

"JOINT RESOLUTION 29

"Be it resolved by the Legislature of the State of Alaska:

"Whereas the members of our Armed Forces were called upon to liberate Kuwait and defend Saudi Arabia and Israel from the aggression of Iraq; and

"Whereas many of the U.S. troops sent to the Persian Gulf were pulled away from civilian lives at great personal sacrifice; and

"Whereas many of our U.S. troops, including Sergeant David Douthit of Alaska, made the ultimate sacrifice by giving their lives while serving in the Middle East; and

"Whereas the Allied troops endured the uncertainties and hardships caused by separation from their loved ones for months while stationed in the harsh climate of the Middle Eastern desert under conditions that left them vulnerable to unpredictable missile attacks and terrorist activities; and

"Whereas the troops successfully performed their mission with great dispatch, exemplifying the high degree of dedication, professionalism, and training that underlies the technological and strategic superiority of our military strength;

"Be it resolved that the Alaska State Legislature:

"(1) commends the bravery of Alaska's military personnel, all the men and women who served in the Allied Forces in the Persian Gulf, and the civilians residing in the area; and

"(2) congratulates the Allied commanding officers for pursuing tactics that led to a speedy cease-fire to end the ground war with very little loss of American or other Allied troops' lives; and be it

"Further resolved that the legislature requests the Alaska Legislative Council to direct the Legislative Affairs Agency to send the following message to all returning Alaskans and persons stationed in Alaska who served in the U.S. military forces in the Persian Gulf conflict: 'The Alaska State Legislature thanks you heartily for your efforts in stopping Iraq's aggression, liberating Kuwait, and laying the foundation for a just and lasting peace in the Middle East. You deserve a hero's welcome.'"

POM-104. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Appropriations:

"HOUSE CONCURRENT RESOLUTION 117

"Whereas, in 1954 the people of Rongelap Atoll in the Marshall Islands were exposed to radioactive fallout from the United States "Bravo" nuclear weapons test, and within three days the people of Rongelap were removed from their ancestral homeland; and

"Whereas, these people returned three years later in 1957, after they were assured by U.S. scientists that Rongelap Atoll was once again safe; and

"Whereas, following their return, the people from Rongelap began to experience cancer and other health problems not previously experienced, notwithstanding U.S. assurances to the contrary; and

"Whereas, they concluded that these problems were caused by the radiation from the U.S. atmospheric nuclear weapons tests in the Marshall Islands; and

"Whereas, in 1985 the Rongelap people were again forced from their ancestral home because they feared for the safety of their children; and

"Whereas, this fear was generated by a U.S. Department of Energy report that suggested that their homeland was dangerously contaminated with radiation left by radioactive fallout; and

"Whereas, the United States Congress recognized the plight of the Rongelap people in 1985 and acknowledged an obligation to address it; and

"Whereas, Congress included a special provision within the Compact of Free Association (Compact) with the Marshall Islands enabling legislation that:

"(1) Mandated a review of the U.S. Department of Energy Report that had caused the people to flee Rongelap; and

"(2) Directed that an independent, comprehensive scientific study of Rongelap Atoll be undertaken if necessary to ensure its safety and habitability;

"and

"Whereas, after the initial study, questions still remain as to the safety and habitability of Rongelap Atoll, and further scientific study is now under consideration; and

"Whereas, it is essential that the plight of the Rongelap people, who remain exiled from their homeland, must not be forgotten as these studies are undertaken; and

"Whereas, since 1985 the Rongelap people have lived a life of hardship on a remote and desolate island; nevertheless, they face their day-to-day existence with courage, trusting that the United States will fulfill the commitment made to them in 1985 and that one day they will indeed be able to return home without fear; and

"Whereas, the Rongelap people have suffered life in exile for close to six years, yet no one can offer or promise with any certainty when, if ever, the Rongelap people will safely return home; and

"Whereas, as new and potentially lengthy scientific studies commence, the hardships of the Rongelap people must, first and foremost, be alleviated because this suffering, although courageous, people deserve no less; and

"Whereas, the United States stood for many years as the United Nations guardian and trustee of the freedom and independence the Marshall Islands now enjoy; and

"Whereas, there is little question that the people of Rongelap have, both individually and as a group, been adversely affected by the past U.S. atmospheric nuclear weapons testing program; and

"Whereas, to permit the Rongelap people to await an answer to their fate without assistance is morally wrong because this would deny them the rights and benefits to which they are entitled under the Compact; and

"Whereas, if the Compact is to serve the best interests of both the people of United States and the people of the Republic of the Marshall Islands, it must first and foremost serve the interests and protect the rights of those whose freedom and independence the Compact was designed to guarantee because the Compact cannot, nor will it ever, succeed in this endeavor if the people of Rongelap fail to find meaning within the scope of the Compact; and

"Whereas, this is a matter of humanitarian concern, and the Legislature seeks to ensure that the obligations to the people of the Marshall Islands, as those obligations have been set forth in the Compact, are guaranteed to the fullest extent; and

"Whereas, Hawaii's historical relationship with the people of these Pacific Islands commands no less; now, therefore,

"Be it resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, the Senate concurring, that the Hawaii Congressional delegation be requested to secure without delay such funds as are necessary to ensure humanitarian assistance and relief to the People of Rongelap while they await the outcome of those studies that are undertaken pursuant to Section 103(i) of the Compact of Free Association; and

"Be it further resolved that the U.S. Congress immediately provide this humanitarian assistance to the Rongelap Atoll Local Government of the Republic of the Marshall Islands for the express purpose of improving the Rongelap people's current living conditions, meeting their special needs, and otherwise addressing the unique circumstances following the aftermath of U.S. atmospheric nuclear weapons testing; and

"Be it further resolved that certified copies of this Concurrent Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the Hawaii Congressional Delegation, President Amata Kabua of the Republic of the Marshall Islands, and Senator Jeton Anjain of the Republic of the Marshall Islands."

POM-105. A resolution adopted by the Legislature of the State of Michigan; to the Committee on Appropriations:

"SENATE RESOLUTION 84

"Whereas, there is a consensus among educators, business leaders, and policymakers that United States students are lagging far behind students of other industrialized nations in nearly every area of learning; and

"Whereas, it is also widely acknowledged that our country's future economic success and competitiveness are dependent upon a strong and productive educational system; and

"Whereas, the federal government contributes large sums of money to the states to fund welfare and other social programs, but contributes less than ten percent of the total funding necessary for educating our young people; and

"Whereas, the resources of the federal government would be better spent on educating our young people so that they can become productive members of our society, thereby relieving the demand for funds to be used to address problems caused by a deficient education system; now, therefore, be it

"Resolved by the Senate, That we hereby memorialize the United States Congress to appropriate more money to the states for K-12 education; and be it further

"Resolved, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation."

POM-106. A concurrent resolution adopted by the Legislature of the State of Minnesota; to the Committee on Appropriations:

"CONCURRENT RESOLUTION 3

"Whereas, Congress enacted the low-income home energy assistance program in 1981 to provide funds to low-income Americans to help them pay for the costs of energy to heat their homes; and

"Whereas, since 1986, the funding level for the program has been reduced by approximately $600 million to a level of $1.415 billion, while eligibility for the program has been expanded to include energy assistance for household cooling, resulting in financial hardship for many low-income Americans in cold-weather states; and

"Whereas, the secretary of health and human services has indicated, in a letter to the federal office of management and budget, his intention to reduce program funding by two-thirds, to $468 million for fiscal year 1992, and to concentrate operation of the program in the six New England states, New York, New Jersey, and Pennsylvania, where low-income residents are most likely to use fuel oil for home heating; and

"Whereas, sharply curtailing the funding and availability of program funds in states, like Minnesota, with harsh climates could result in life-threatening conditions for low-income persons; now, therefore,

"Be it resolved by the Legislature of the State of Minnesota that the President and Congress should resist efforts to reduce funding for the low-income home energy assistance program and to concentrate its operations in a few selected northeastern states, to the detriment of other cold-weather states like Minnesota.

"Be it further resolved that Congress should increase the appropriation to the low-income home energy assistance program to reflect the increasing cost of heating fuel and to anticipate events that could further affect its cost and supply.

"Be it further resolved that the President should support and sign into law legislation enacted by Congress increasing the appropriation to the low-income home energy assistance program and should disavow the efforts of his secretary of health and human services to curtail operations of the program in most of the country.

"Be it further resolved that the Secretary of State of Minnesota shall transmit copies of this resolution to the President of the United States, the President and the Secretary of the Senate of the United States, the Speaker and the Clerk of the House of Representatives of the United States, and to Minnesota's Senators and Representatives in Congress."

POM-107. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Armed Services:

"SENATE CONCURRENT RESOLUTION No. 59

"Whereas, the closure of England Air Force Base would result in a serious negative impact on the economy of Rapides Parish and central Louisiana; and

"Whereas, the local community would need all assistance available to avoid as much as

possible a very critical downturn in the local economy; and

"Whereas, a transfer of the physical properties to local authorities would aid in assisting economic development for the local and regional community to offset the negative impact resulting from a closure of the base.

"Therefore, be it resolved that the Legislature of Louisiana memorializes the Congress of the United States to transfer England Air Force Base to local authorities in the event that the base is closed.

"Be it further resolved that a copy of this Resolution be transmitted to the Secretary of the United States Senate and to the Clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-108. A resolution adopted by the House of Representatives of the State of Hawaii; to the Committee on Armed Services:

"HOUSE RESOLUTION 106

"Whereas, pursuant to United Nations and Congressional authorizations, the United States led a coalition of 28 nations to implement the 12 UN resolutions calling on Iraq inter alia to withdraw from Kuwait; and,

"Whereas, General Norman Schwarzkopf planned and brilliantly directed Operation Desert Storm which ousted Iraq from Kuwait with an astoundingly small number of casualties; and,

"Whereas, Iraq has formally accepted all 12 UN resolutions and has begun implementing them by annulling its annexation of Kuwait and returning Allied prisoners and Kuwaiti civilian detainees; and,

"Whereas, the United States has long sought to promote a settlement of the Arab-Israeli conflict and succeeded, under President Jimmy Carter ten years ago, in bringing peace between Israel and Egypt; and,

"Whereas, in his speech to Congress on March 6, 1991, President George Bush pledged to work for peace and reconstruction in the Middle East; now therefore,

"Be it resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, that this body acclaim President George Bush for his decisive leadership, congratulate General Schwarzkopf for his brilliant generalship, and applaud the bravery and courage of all the men and women of all 28 nations for the complete success of Operation Desert Storm in carrying out the United Nations mandate; and reaffirm our support of United States policy for peace and reconstruction in the Middle East."

POM-109. A concurrent resolution adopted by the Legislature of the State of Minnesota; to the Committee on Armed Services:

"CONCURRENT RESOLUTION 1

"Whereas, the President of the United States, with the authorization of Congress, has ordered military action against Iraq in an effort to force Iraqi Armed Forces from occupied Kuwait; and

"Whereas, more than 500,000 men and women of the United States Armed Forces are now involved in armed conflict; and

"Whereas, 158,000 members of the Reserves and National Guard have been called to active duty since August 22, 1990, and approximately 2,400 from Minnesota have become involved in armed conflict; and

"Whereas, the citizens of Minnesota have great pride in the men and women of the United States Armed Forces and support them in their efforts; and

"Whereas, the citizens of Minnesota deeply appreciate the great personal sacrifices being made by our military personnel in the Persian Gulf and by their families and loved ones back home; now, therefore,

"Be it resolved by the Legislature of the State of Minnesota that it joins Congress in unequivocally supporting the men and women of our Armed Forces who are carrying out their missions with professional excellence, dedicated patriotism, and exemplary bravery.

"Be it further resolved that the Legislature supports the President in negotiating a peaceful settlement of the conflict.

"Be it further resolved that it calls upon all the parties to the conflict to minimize civilian casualties and to honor international law including the Geneva Convention on prisoners of war.

"Be it further resolved that the Legislature urges federal, state, and local government agencies, religious institutions, employers, schools, charitable organizations, and all our citizens to do all that is humanly possible to assist the families and loved ones of our Armed Forces members with all necessary and available support.

"Be it further resolved that the Legislature requests the Governor of the State of Minnesota to declare a day of prayer for peace and to ask all religious institutions to participate.

"Be it further resolved that the Legislature deplores the burning or disrespectful use of our National Flag and reaffirms its support for the Constitution and the Bill of Rights.

"Be it further resolved that the Secretary of State of the State of Minnesota is directed to prepare certified copies of this memorial and transmit them to the President of the United States, the President and Secretary of the United States Senate, the Speaker and Chief Clerk of the United States House of Representatives, and Minnesota's Senators and Representatives in Congress."

POM-110. A resolution adopted by the Senate of the State of Michigan; to the Committee on Armed Services:

"SENATE RESOLUTION 146

"A resolution to memorialize the Congress of the United States and officials of the Pentagon to transfer the tanker unit of Wurtsmith Air Force Base to Selfridge Air National Guard Base if the Wurtsmith facility is closed.

"Whereas, United States Secretary of Defense Richard Cheney has included the Wurtsmith Air Force Base near Oscoda on a list of bases that the Pentagon is considering closing as a cost-saving measure. The Wurtsmith Air Force Base includes two main units, a squadron of B52 bombers and a squadron of KC135 refueling tankers; and

"Whereas, The closing of the Wurtsmith base would be a major loss for the state of Michigan. While we would hope that such a loss would not have to occur at all, if the Wurtsmith Air Force Base is closed, it would seem prudent from many points of view to locate the tanker aircraft within Michigan. There would likely be advantages in relocation costs to a facility reasonably close to Wurtsmith. In addition, the major loss in jobs and money would be softened considerably if Michigan could keep as much of the units as is possible; and

"Whereas, Selfridge Air National Guard Base in Macomb County offers an opportunity to maintain the tanker unit in this state. The capabilities of Selfridge would easily accommodate the addition of the tanker aircraft, while keeping some of the jobs and payroll loss from the base closing within this state; now, therefore, be it

"Resolved by the Senate, That the members of this legislative body hereby memorializes the Congress of the United States and the United States Department of Defense to consider relocating the tanker unit from Wurtsmith Air Force Base to Selfridge Air National Guard Base if the Wurtsmith facility is closed; and be if further

"Resolved, That a copy of this resolution be transmitted to officials of the United States Department of Defense, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congregational delegation."

POM-111. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Energy and Natural Resources:

"SENATE CONCURRENT RESOLUTION 185

"Whereas, upon the annexation in 1899, the Republic of Hawaii ceded to the United States of America approximately 1,800,000 acres of land and other public property at no cost to the United States government; and

"Whereas, since the annexation, Congress had indicated in various measures that a special trust relationship exists between the public land ceded to the United States and the inhabitants of Hawaii; and

"Whereas, the Hawaiian Homes Commission Act, 1920, as amended, enacted in 1921 by the United States Congress provides for the rehabilitation of the native Hawaiian people through a government sponsored homesteading project; and

"Whereas, because of various restrictions and the exclusion of some of the best agricultural lands, the Act was significantly weakened, and the realization of the goals of the Act were severely handicapped due to the quality, characteristics, and location of the remaining lands; and

"Whereas, when Hawaii joined the Union as a state on August 21, 1959, the State accepted the terms of admission in the Admission Act which enabled the federal government to retain control of 409,555 acres of ceded land, including the island of Kaho'olawe and 237,048 acres of land used for national parks; and

"Whereas, the State received approximately 1,200,000 acres of ceded land from the United States, for five purposes stated in Section 5(f) of the Admission Act; and

"Whereas, the State entered into a compact with the United States to assume the duties of the management and disposition of the Hawaiian home lands; and

"Whereas, Act 395, the Native Hawaiian Trusts Judicial Relief Act was enacted in 1988 and Section 5 of the Act requires the Governor to present to the 1991 Legislature proposals to resolve controversies that occurred between August 21, 1959 and July 1, 1988; and

"Whereas, the Governor submitted such proposals in a report titled An Action Plan to Address Controversies Under the Hawaiian Home Lands Trust and the Public Land Trust in compliance with Section 5 of Act 395, Session Laws of Hawaii 1988; and

"Whereas, the Legislature finds that the action plan meets the intent of Section 5 of Act 395, Session Laws of Hawaii 1988; and

"Whereas, the action plan was reviewed and discussed in a series of public meetings at various sites across the State, including Hawaiian homestead and other communities with large Hawaiian and native Hawaiian

populations, giving the beneficiaries of the trusts and others an opportunity to express their reactions to the plan and other concerns; and

"Whereas, the Legislature has held public hearings to allow further review and comment from beneficiaries and others about the action plan and related legislation; and

"Whereas, the Legislature continues to have concerns about the following issues:

"(1) A desire of beneficiaries for more input into the Commission's decisions resolving land claim disputes;

"(2) Beneficiaries' concern with restrictions placed on beneficiary access to Department of Hawaiian Home Lands water, the adequacy of water reservations for future development, acceleration of the water infrastructure construction schedule, and more information on rate basis;

"(3) A need for acceleration of subdivision infrastructure construction and more frequent progress reports on the master planned communities;

"(4) The concern of many beneficiaries that applications for homestead waiting lists are not handled in a consistent manner and that policies are not written and readily available for public inspection; and

"(5) The extent and nature of individual claims that may be brought as a result of breaches of trust under the Hawaiian Homes Commission Act, as well as the cost and appropriateness of specific remedies; now, therefore,

"Be it resolved by the Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, the House of Representatives concurring, that the Legislature accepts the Governor's action plan to address controversies under the Hawaiian Home Lands Trust and the Public Land Trust; provided that the following issues be addressed to strengthen the action plan, by amending the report to:

"(1) Forbid the implementation by the Hawaiian Homes Commission of proposed resolutions of land claim disputes without opportunity for public input including input from the trust beneficiaries; the Hawaiian Home Lands Claims Task Force should report to the 1992 Legislature on its work and accomplishments, recommendations for appropriation of funds, conveyance of additional lands to the Department of Hawaiian Home Lands, and other matters;

"(2) Require the Department of Hawaiian Home Lands to present a plan of action with the necessary budget requests to accelerate construction of water systems which ensure that beneficiaries have access to water in any location where water restrictions are preventing homesteading activities and that sufficient provisions are made for future water needs in new homestead communities; and

"(3) Require the state administration to pledge to authorize the sale of additional general obligation bonds to finance the design and construction of on-site and off-site improvements required as a prerequisite for subdivision and home construction for all lots awarded on an unimproved basis prior to 1991; and

"Be it further resolved that an interim legislative committee be created by appointments by the President of the Senate from the Senate Committee on Housing and Hawaiian Programs and Ways and Means, and by the Speaker of the House of Representatives from the House Committees on Water, Land Use and Hawaiian Affairs, and Finance, in consultation with the Office of Hawaiian Affairs, the Department of Hawaiian Home Lands, the Office of State Planning, and affected community groups to:

"(1) Explore land exchanges, transfers, and return of ceded lands to the Department of Hawaiian Home Lands or the Office of Hawaiian Affairs, or both;

"(2) Explore the issue of compensation for these land transfers, including the question of going beyond a value-for-value basis, the right of first refusal when lands are returned to the State, and the resulting impacts on the Hawaiian Home Lands Trust and the Public Land Trust;

"(3) Explore the possibility of allocating twenty per cent of revenues derived from August 1959 to June 15, 1980 to either the Hawaiian Home Lands Trust or to the Office of Hawaiian Affairs if the federal government is required to pay to the State all revenues from leases, rents, and revocable permits from federally-controlled ceded lands;

"(4) Prepare comprehensive legislation to implement the Governor's Action plan; and

"(5) Propose legislation which would implement the findings of the interim committee; and

"Be it further resolved that a claims review panel accept, investigate, and develop advisory opinions on the merit and possible compensation of each individual beneficiary claim arising as a result of breaches of trust under the Hawaiian Homes Commission Act that occurred between August 21, 1959 and July 1, 1988 in a report for discussion by the State Legislature; and

"Be it further resolved that the findings and recommendations of the interim legislative committee be presented for public hearing and discussion during the Regular Session of 1992; and

"Be it further resolved that certificated copies of this Concurrent, Resolution be transmitted to the Governor, the members of Hawaii's, congressional delegation, the commissioners of the Hawaiian Homes Commission, the trustees of the Office of Hawaiian Affairs, the Chairperson of the Hawaiian Homes Commission, the Director of the Office of State Planning, the President of the Senate, and the Speaker of the House of Representatives."

POM-112. A resolution adopted by the Legislature of the State of Hawaii; to the Committee on Energy and Natural Resources:

"SENATE RESOLUTION 192

"Whereas, the federal government has the power of eminent domain to take private property for public use; and

"Whereas, that power to deprive an individual of ownership of private property has been described as a power that can be used to terrorize and oppress the owner of property unless that power is kept in check by clear and specific limitations which are designed to protect the property rights of the individual; and

"Whereas, inherent in the reason for the power of eminent domain is the dedication of the property to the public use for which the property is condemned; and

"Whereas, if the property so condemned is no longer utilized or required for the public use initially intended under the condemnation, the reason for the condemnation no longer obtains; and

"Whereas, the original private landowners of such condemned properties should have a right to regain ownership of their properties which are no longer being used for the particular public use for which it was originally condemned under the federal government's eminent domain powers; now, therefore,

"Be it resolved by the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, that it is the sense of this body that all lands originally condemned by the federal government for particular public uses and which are no longer used for such particular public uses should be returned to the original landowners on mutually acceptable terms and conditions with the federal government; and

"Be it further resolved that the Congress of the United States be and is hereby requested to fashion, consider, and enact appropriate legislation to provide for the return of lands originally condemned by the federal government for public uses and which are no longer used for such public uses to the original landowners on equitable terms, and compensation; and

Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and Hawaii's congressional delegation."

POM-113. A resolution adopted by the House of Representatives of the State of Florida; to the Committee on Energy and Natural Resources:

"HOUSE MEMORIAL 955

"Whereas, the use of domestic alternatives to oil in the nation's motor vehicles could reduce our nation's foreign trade deficit and relieve our dependence on foreign oil and foreign governments, and

"Whereas, alcohol fuels for motor vehicles can be produced from domestically grown crops, such as corn, sugar cane, beets, and wheat, as well as from inedible vegetable waste, and

"Whereas, the American farmer could grow crops for alcohol fuel on farmland currently withheld from production, saving tax dollars paid in government subsidies to farmers not to grow crops, and

"Whereas, the production of alcohol fuels is labor intensive and would provide employment for large numbers of American workers, and

"Whereas, the use of cleaner-burning alcohol fuels, rather than oil, in motor vehicles would result in reduced carbon monoxide and ozone emissions, thus reducing air pollution and protecting the environment, and

"Whereas, alcohol fuels are a renewable resource, in direct contrast to oil, which is a finite, nonrenewable resource: Now, therefore, be it

Resolved by the Legislature of the State of Florida, That the Congress of the United States is hereby urged to take such action as may be necessary to initiate a comprehensive program to develop alcohol fuels and convert the nation's fuel economy from dependence on oil to the use of alcohol as the primary fuel for the nation's motor vehicles.

"Be it further resolved that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress."

POM-114. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Environment and Public Works:

"SENATE JOINT RESOLUTION 91-26.

"Whereas, Legislation will be introduced in the One Hundred and Second Congress to reauthorize the "Resource Conservation and Recovery Act"; and

"Whereas, Through said legislation the Congress will determine whether the Envi-

ronmental Protection Agency or the state governments will have the lead regulatory authority over mine wastes; and

"Whereas, In Colorado mining continues to produce almost one-half of one billion dollars worth of minerals annually and is a major source of employment in many rural areas; and

"Whereas, In Colorado it is understood that mine wastes differ dramatically from each other and from industrial, municipal, and hazardous wastes and should be regulated by state experts knowledgeable in mine specific wastes; and

"Whereas, In Colorado the state regulates all mining operations and requires extensive reclamation of all permitted mines through the "Mined Land Reclamation Act of 1976" which recognizes that handling and disposal of mine wastes must be based on site specific factors; and

"Whereas, In Colorado mining operations are also regulated by the "Water Quality Control Act", which includes surface water, ground water, and storm water controls, and the "Air Quality Control Act", and numerous other state environmental programs; and

"Whereas, In Colorado, the General Assembly is concerned about the unnecessary duplication and growth of federal requirements and the increase in bureaucratic entanglements even though the state is responding adequately to protect the public health and welfare and the environment; and

"Whereas, In Colorado the General Assembly through various environmental statutes has recognized the need to balance economic development with environmental protection in order to assure continued mineral production along with sound environmental practices; and

"Whereas, In Colorado the General Assembly opposes the establishment of federal mandates which may be imposed upon the state without funding and without considering the costs to the state; and

"Whereas, In Colorado the Governor and the General Assembly believe that permitting authority over mine waste should remain with the state agencies and not be usurped by the Environmental Protection Authority; and

"Whereas, The Environmental Protection Agency should only be given authority to develop guidelines, set minimum program requirements, and review programs and permits but not have authority to issue or deny permits if they comply with the approved state mine waste programs; now, therefore,

Be It Resolved by the Senate of the Fifty-eighth General Assembly of the State of Colorado, the House of Representatives concurring herein:

"That the Colorado General Assembly hereby urges the Congress of the United States to adopt a provision in the "Resource Conservation and Recovery Act" that allows the states to continue to have the permitting authority and to maintain control of the regulation of mine wastes and that any changes in programs under the "Resource Conservation and Recovery Act" should establish a state based approach for protection of public health and the environment taking into account site specific, waste specific, and waste management specific practices that are currently in use.

"*Be It Further Resolved*, That copies of this resolution be sent to the President of the United States Senate, the Speaker of the United States House of Representatives, Members of the Senate Committee on Environment and Public Works, Members of the House Committee on Energy and Commerce, to each member of the Colorado Congressional delegation, to the Energy and Environment and Executive Committees of the National Conference of State Legislatures, the Executive Committee of the Western Legislative Conference, and the Executive Committee of the Western Governors Association."

POM–115. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Environment and Public Works:

"JOINT RESOLUTION NO. 16

"Be it resolved by the Legislature of the State of Alaska:

"Whereas the construction and maintenance of an adequate highway system is vital to the economic health of the states and the nation; and

"Whereas the principle of relying on user fees held in a trust fund to finance the federal highway program has been recognized as a sound one by the Congress; and

"Whereas, as a response to the federal deficit, the Congress enacted a five-cent motor fuels tax increase, of which half was earmarked for the federal highway trust fund with one-half cent designated for transit projects, and this increase is scheduled to expire in 1995; and

"Whereas the Congress has for too long been holding back the highway trust fund money from its intended use in order to make it appear that the federal budget deficit is not as large as it actually is; and

"Whereas the money in the highway trust fund is sorely needed by the states for their highway systems; and

"Whereas the unique nature of Alaska's transportation needs has been recognized through an exemption in current federal law that allows the state to transfer funds between categories designated under the federal highway system; and

"Whereas the federal aid highway program is due to expire in September 1991; be it

"*Resolved*, That the Alaska State Legislature urgently calls upon the Congress to make federal highway trust fund money available immediately to the states for obligation in fiscal year 1991, or, in the alternative, requests that the states be repaid in later years for using state money for projects that should be financed by federal trust fund money; and be it further

"*Resolved*, That the five-cent motor fuels tax be continued beyond 1995 and that the entire amount be earmarked for highway purposes; and be it further

"*Resolved*, That when the Federal Surface Transportation Assistance Act is extended, it should retain the same matching requirements and allocation formula for distributing money to the states that are used in the current Act and the same exemption that allows Alaska to transfer funds between categories designated under the federal highway system; and be it further

"*Resolved*, That the Alaska Marine Highway System should be considered to be a part of the national highway system for purposes of federal transportation assistance."

POM–116. A resolution adopted by the New Jersey State Federation of Women's Clubs opposing legislation which would increase the size and weight of trucks on America's highways; to the Committee on Environment and Public Works.

POM–117. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Environment and Public Works.

"SENATE JOINT RESOLUTION NO. 6

"Whereas, Approximately 95 million acres of wetlands currently exist in the lower 48 states of this nation; and

"Whereas, The federal policy toward those wetlands has been reversed in the past few years; and

"Whereas, The regulatory policies of several federal governmental agencies affect land determined to fall within the definition of "wetland"; and

"Whereas, Several differing definitions of the term "wetland" have been adopted by those agencies; and

"Whereas, Many Nevadans are adversely affected by the overlapping of these inconsistent and occasionally incomplete definitions; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of Nevada, jointly*, That the Nevada Legislature hereby urges the Congress of the United States to adopt legislation that will provide a universal definition of the term "wetland" generally applicable to all federal laws and regulations referring to wetlands and the related issues; and be it further

"*Resolved*, That the definition so adopted should specify that "wetland" means a naturally occurring area of predominantly hydric soils that presently support hydrophytic vegetation not common to cultivated land or farming practices; and be if further

"*Resolved*, That for the purposes of the "wetland" definition the phrase "hydric soil" should be defined to mean soil which is consistently wet enough to maintain an anaerobic condition that supports primarily hydrophytic vegetation, and "hydrophytic vegetation" should be defined to mean plants that grow in water or in soils which are made deficient of oxygen because of excessive water content and are generally considered to be a swamp or bog; and be it further

"*Resolved*, That the definition of "wetland" should specifically exclude land previously converted to farming as well as small acreages below a stated size; and be it further

"*Resolved*, That the definition of "wetland" should also specifically exclude areas created artificially by irrigation that would no longer meet the definition of "wetland" if the irrigation ceased, unless the artificial wetland was created specifically to replace a natural wetland no longer regulated as such because of that replacement; and be it further

"*Resolved*, That the Congressional approach to a wetlands program should protect private property rights as defined in federal Executive Order No. 12630, including water rights; and be it further

"*Resolved*, That the Congressional approach to a wetlands program should not consider farming practices such as leveling the land, regardless of the method used, as "dredge and fill" operations subject to regulation; and be it further

"*Resolved*, That the Congressional approach to a wetlands program should recognize that unique conditions exist in each state which require flexibility in the application of the federal policy toward wetlands of "no net loss"; and be it further

"*Resolved*, That a copy of this resolution be transmitted by the Secretary of the Senate to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

"*Resolved*, That this resolution becomes effective upon passage and approval."

POM–118. A resolution adopted by the Board of Supervisors of the County of Los

Angeles, California, supporting legislation relative to free trade between the United States and Mexico, the Committee on Finance.

POM-119. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Finance.

"HOUSE JOINT RESOLUTION 91-1034

"Whereas, It is in the best interests of the United States, Mexico, and Canada to negotiate and enact a North American Free Trade Agreement ("NAFTA"), since such an agreement would provide the United States with an historically unprecedented opportunity to stabilize trading relationships with Mexico; and

"Whereas, Although a NAFTA could cause job losses in certain sectors of the United States economy, the additional trade between the United States, Mexico, and Canada, as a result of a NAFTA, would increase significantly employment opportunities in the United States; and

"Whereas, The value of 1989 Mexican exports to the United States was thirty-five billion dollars and the value of 1989 United States exports to Mexico was thirty billion dollars, making Mexico the number three trading partner of the United States and the United States the number one trading partner of Mexico; and

"Whereas, The Colorado economy and the people of Colorado may benefit greatly through the enactment of a NAFTA and the increased trade with Mexico, particularly in the areas of agriculture, high tech industry, and environmental technology; and

"Whereas, By providing a ready source of technology and technological expertise to an emerging Mexican market, the United States would enhance its relations with its neighbor to the south and thereby present a tremendous market opportunity for United States, Canadian, and Mexican businesses; and

"Whereas, The government and the people of Mexico are deeply concerned about adverse environmental conditions that may exist in Mexico, and President Salinas de Gortari, on behalf of Mexico, has made environmental concerns a national priority; and

"Whereas, The government and people of Mexico will be more able to ameliorate any adverse environmental conditions that may exist if a NAFTA is enacted as a result of increased prosperity in Mexico, Canada, and the United States and

"Whereas, The United States and Mexico are addressing any adverse environmental conditions that may exist along the two thousand mile contiguous border between the two countries through various border alliances and institutions; and

"Whereas, The government and people of Mexico are reaching out to the government and people of the United States to provide, through a NAFTA, the largest and the most prosperous economic trading area in the world; now, therefore,

"Be It Resolved by the House of Representatives of the Fifty-eighth General Assembly of the State of Colorado, the Senate concurring herein:

"(1) That the General Assembly requests Congress to respond in an affirmative manner by supporting the extension of fast-track authority and allowing the negotiation of a NAFTA;

"(2) That the General Assembly of the State of Colorado urges the Colorado congressional delegation to the United States Congress to support the fast-track authority allowing the negotiation of a NAFTA;

"(3) That the General Assembly of the State of Colorado encourages Congress to consider impact assistance for training workers who may lose their jobs as a direct result of a NAFTA to prepare them for the jobs to be created by the implementation of a NAFTA; and

"(4) That the General Assembly of the State of Colorado urges the United States and Mexico to continue to jointly address and ameliorate any adverse environmental conditions that may exist along the countries' joint border."

POM-120. A concurrent resolution adopted by the Legislature of the State of South Carolina; to the Committee on Finance:

"CONCURRENT RESOLUTION

"Whereas, more than fifty percent of the people in rural counties have not graduated from high school; and

"Whereas, in rural areas the number of citizens living in the poverty range is from eleven to more than thirty-two percent; and

"Whereas, up to thirty-three percent of the population is under thirteeen years of age in these areas; and

"Whereas, up to twelve and five-tenths percent of the people in rural counties are over sixty-five years of age; and

"Whereas, as a result of the poverty, lower educational levels, and ages of the rural residents, incidences of chronic diseases and general health problems are more prevalent; and

"Whereas, Medicare is a federally-funded program created to care for persons sixty-five years and older; and

"Whereas, Medicare has not kept up with hospital inflation rates; and

"Whereas, while all hospitals face losses created by Medicare payments, the problem is exacerbated in rural hospitals which are paid an average of thirty to forty percent less than urban counterparts for similar cases; and

"Whereas, this underfunding has significantly impacted budgets of rural hospitals. Now, therefore: be it

"Resolved by the Senate, the House of Representatives concurring:

"That the members of the General Assembly memoralize Congress to make federally-funded medical payments equalized for equal treatment at all medical facilities eligible for these payments so as to encourage more doctors to practice medicine in rural areas in South Carolina."

POM-121. A resolution adopted by the Senate of the State of Hawaii; to the Committee on Finance:

SENATE RESOLUTION NO. 38

"Whereas, liquefied petroleum gas (LPG) for automotive use is a non-toxic, non-corrosive, lead-free, hydrocarbon fuel that is capable of delivering consistent vehicle performance with clean, smooth combustion under all driving conditions; and

"Whereas, the technology exists to affordably convert engines from gasoline to "dual fuel" or "LPG-only" systems, with data from Australia indicating that LPG conversion is a sound proposition for motorists who drive more than 19,000 miles a year or who retain their vehicles for four or five years; and

"Whereas, data from Australia also indicate that the initial cost of standard installation for an LPG system can be recouped in less than fifteen months with approximately 19,000 miles of driving a year, and that LPG-powered vehicles are equally safe, if not safer overall, than vehicles with gasoline systems; and

"Whereas, although LPG operation involves some loss of power as compared to gasoline operation, the difference between the two is minimal and barely noticeable except under extreme engine load, and because LPG vaporizes completely before it enters the engine, its use results in a smoother application of power across the range of engine operating conditions; and

"Whereas, although LPG produces less energy output than gasoline on a gallon for gallon basis and requires up to twenty per cent more fuel by volume to travel a given distance, data from Australia indicate that for every six dollars worth of LPG used, a person must use ten dollars worth of gasoline to travel the same distance; and

"Whereas, with growing concerns about the long-term environmental and health effects of air pollution, the ongoing war in the Persian Gulf and the destruction of that region's oil producing capacity, and the ever present danger of catastrophic oil spills, the conversion of automobiles from gasoline to "dual-fuel" or "LPG only" systems should be encouraged; now, therefore, be it

Resolved by the Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, That the Congress of the United States is respectfully requested to provide tax credits to motorists to encourage the conversion of automobiles from gasoline to liquefied petroleum gas."

POM-122. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Finance:

SENATE JOINT RESOLUTION NO. 9

"Whereas, America's senior citizens have voiced concern over the future of their Social Security benefits; and

"Whereas, Approximately 90 percent of the senior citizens who receive Social Security benefits have yearly earnings in the low to middle income range; and

"Whereas, It has been suggested that a reduction in Social Security benefits is a means to balance the budget; and

"Whereas, Because of the increasing national debt and budget deficit, Congress has found it necessary to use surpluses from the Social Security Trust Fund to limit the amount of the deficit; and

"Whereas, To ensure that adequate Social Security benefits are available for the future generations, proper management of the Social Security Trust Fund is of utmost importance; now, therefore, be it

"Resolved by the Senate and Assembly of the State of Nevada, jointly, That Congress is hereby urged to deposit all money in the Social Security Trust Fund into an independent trust fund; and be it further

"Resolved, That Congress is hereby urged not to use surpluses from the Social Security Trust Fund to limit the amount of the budget deficit; and be it further

"Resolved, That copies of this resolution be transmitted by the Secretary of the Senate to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

"Resolved, That this resolution becomes effective upon passage and approval."

POM—123. A resolution adopted by the Municipal Police Employees' Retirement System favoring legislation to changes to provisions of the tax code relative to overall contributions and benefits; to the Committee on Finance.

POM—124. A resolution adopted by the House of Representatives of the State of Illinois to the Committee on Foreign Relations.

HOUSE RESOLUTION NO. 142

"Whereas, The centrally controlled government in Belgrade, Yugoslavia, has held a strong arm rule over the democratically inclined State of Croatia since the end of World War II; and

"Whereas, The ethnic, political and economic suppression that Belgrade has exercised over Croatia is finally being challenged; and

"Whereas, Croatia has been fighting and continues to fight for freedom and democracy, and the people of Croatia has been fighting and continues to fight for freedom and democracy, and the people of Croatia have recently elected a democratic government that has a chance to give them the democracy and self-determination that they have long sought; and

"Whereas, The movement for democratic reform and self-determination in Croatia must be supported by the United States of America, thus putting an end to years of totalitarian rule; and

"Whereas, The Croatian State, which along with the State of Slovenia, is seeking emancipation from the communist controlled central government in Belgrade, needs and deserves whatever moral, financial and political support we can lend at this difficult time; therefore, be it

"Resolved, by the House of Representatives of the Eighty-Seventh General Assembly of the State of Illinois, That we join with the Croatian-American community in urging President Bush and the United States Congress to support the people of Croatia and their elected government in their fight for freedom and democracy."

POM-125. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Foreign Relations:

HOUSE CONCURRENT RESOLUTION NO. 187

"Whereas, the 1990s will likely bring in the Asian-Pacific arena further major transformations in the structure of society, advances in science and technology and continued growth in regional business and trade, trends already reshaping the industrial structure of the Pacific Rim and the trading patterns and relations among nations; and

"Whereas, the high rates of economic growth and investment in recent years within the region and the emergency of Japan as a financial and technological power have fueled the belief that the Asian-Pacific region will become the central driving force for new technology development and economic growth in the twenty-first century; and

"Whereas, Asian countries of the Pacific Rim believe that the United States's commitment to Asian-Pacific economic cooperation is vital because the United States provides a bridge between the Atlantic and the Pacific; and

"Whereas, Hawaii, by virtue of its unique geopolitical position and cultural and ethnic links with the nations of the Asian-Pacific region, is in a prime position to become a crossroads for mutual cooperation and understanding in this emerging Pacific community; and

"Whereas, Hawaii is becoming a center for diplomatic and international cooperation, including having served as the venue of activities, including the negotiations resulting in the Compact of Free Association, the Pacific Islands Conference of leaders from the region, the first United States-Pacific Nations Summit called by President George Bush, and a symposium on United States-Asia/Pacific security strategy; and

"Whereas, Hawaii is already host to significant international conferences (both official and quasi-official) and trade shows, a trend that can be harnessed to increase opportunities for Hawaii business, government, and academic communities, including tourism; and

"Whereas, Honolulu has emerged as a significant airline hub, with more than two dozen international airlines providing service through Hawaii; and

"Whereas, Honolulu has a telecommunication network that is especially significant given its strategic time zone midway in the Pacific Basin; and

"Whereas, Hawaii has in place institutions with superior resources and experts that act as an international center for east-west research, education, and training, including expertise in Asian-Pacific and Polynesian development issues at the University of Hawaii, the East-West Center, and the Bishop Museum, and expertise in foreign policy issues at the private, nongovernmental Pacific Forum/CSIS; and

"Whereas, the School of Hawaiian, Asian and Pacific Studies at the University of Hawaii has taken steps to establish foreign service training programs for both United States and international students; and

"Whereas, Hawaii is the site of full-time consulates of Australia, France, Japan, South Korea, and the Philippines; twenty-six honorary consuls; forty sister relations; and Pacific Island area offices including American Samoa, Guam, Western Samoa, Tonga, the Cook Islands, the Republic of the Marshall Islands, the Commonwealth of the Northern Marianas, the Federated States of Micronesia, and the Republic of Palau; and

"Whereas, the Pacific Basin Development Council, a jointly supported regional organization that focuses on issues of common concern, directed by the governors of the American Flag Pacific Islands (Hawaii, Guam, the Northern Marianas, and American Samoa) is headquartered in Hawaii; and

"Whereas, the Office of International Relations, working with the United States Departments of State, Commerce, and Interior, has begun efforts to establish Hawaii as a clearinghouse for information in international activities, has developed contacts with foreign government representatives, and has been increasingly focusing on international trade issues, working with the United States Departments of Interior and State on these and other international issues of concern to Hawaii; now, therefore,

"Be it resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, the Senate concurring, that the President of the United States, the United States Secretary of State, the United States Secretary of Commerce, and the United States Secretary of the Interior are urged to recommend Hawaii as the site of the United States-Pacific Nations Joint Commercial Commission headquarters."

POM-126. A resolution adopted by the House of Representatives of the State of Hawaii; to the Committee on Foreign Relations:

"HOUSE RESOLUTION NO. 422

"Whereas, the United States of America organized and led a coalition of 28 nations and freed Kuwait from Iraqi occupation pursuant to United Nations and Congressional authorization; and,

"Whereas, following the cease-fire, Saddam Hussein has crushed the Shiite rebellion in South Iraq and is now wreaking his vengeance on the Kurdish population in the North; and,

"Whereas, one to two million Kurdish refugees are fleeing from Saddam Hussein's wrath which was exemplified in his use of gas on the Kurds a few years ago; and,

"Whereas, the United States Government is responding with a massive airlift of food, blankets and medicine to the refugees who are starving and dying in the cold; and,

"Whereas, the United States Government has proclaimed a buffer zone north of the 38th parallel in North Iraq to prevent Saddam Hussein from attacking the Kurdish population; and,

"Whereas, the United States has traditionally followed a foreign policy based on democratic and humanitarian principles in the twentieth century, beginning with Secretary of State John Hay's Open Door Policy in 1900, continuing with President Woodrow Wilson's Fourteen Points of 1918 ("self-determination"), and culminating in President Franklin D. Roosevelt's Four Freedoms of 1941 ("freedom of speech and worship, and freedom from want and fear"); and,

"Whereas, Prime Minister Winston Churchill and President Franklin D. Roosevelt in their crusade against Adolf Hitler proclaimed the Atlantic Charter in 1941; and,

"Whereas, President George Bush, in organizing and leading the coalition to free Kuwait, has called Saddam Hussein a "Hitler" and urged the Iraqi people to get rid of Saddam Hussein; and,

"Whereas, Secretary of State James Baker is leading an effort to bring peace between Israel and her Arab neighbors; and, between Israeli and Palestinians; now therefore,

"Be it resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, that the United States of America live up to its democratic and humanitarian rights, recognize the human and civil rights of the many millions of Kurds in Iraq, organize and lead the work to help the Kurds gain their physical and spiritual security in the North Iraqi homeland where they have lived for millenia; and,

"Be it further resolved, that the House ask Her Britannic Majesty's Government to acknowledge the human and civil rights of the many millions of Kurds and cooperate with the United States government to bring peace and security to the Kurds in particular and the region in general; and,

"Be it further resolved that the House call on the United Nations to accept responsibility for the tragic situation of the aftermath of the war to liberate Kuwait and act expeditiously, as it did in authorizing the use of force to implement its resolutions, to help the Kurds; and,

"Be it further resolved that the House call upon the coalition partners and the world community to help Turkey and Iran to cope with the overwhelming numbers of Kurdish refugees clamoring for haven in their territories."

POM-127. A concurrent resolution adopted by the Legislature of the State of Minnesota; to the Committee on Foreign Relations:

"RESOLUTION NO. 2

"Whereas, on April 12, 1973, the United States Department of Defense publicly stated that there was "no evidence" of live American POWs in Southeast Asia; and

"Whereas, the public statement was given nine days after Pathet Lao leaders declared

on April 3, 1973, that Laotian communist forces did, in fact, have live American prisoners of war in their control; and

"Whereas, no POWs held by the Laotian government and military forces were ever released; and

"Whereas, there have been more than 11,700 live sighting reports received by the Department of Defense since 1973 and, after detailed analysis, the Department of Defense admits there are a number of "unresolved" and "discrepancy" cases; and

"Whereas, in October 1990, the United States Senate Foreign Relations Committee released an "Interim Report on the Southeast Asian POW/MIA Issue" that concluded that United States military and civilian personnel were held against their will in Southeast Asia, despite earlier public statements by the Department of Defense that there was "no evidence" of live POWs, and that information available to the United States government does not rule out the probability that United States citizens are still held in Southeast Asia; and

"Whereas, the Senate Interim Report states that congressional inquiries into the POW/MIA issue have been hampered by information that was concealed from committee members, or were "misinterpreted or manipulated" in government files; now, therefore,

"Be it resolved by the Legislature of the State of Minnesota that it requests the Congress of the United States to continue funding of this investigation that is vital to resolving the POW/MIA issue in Southeast Asia."

POM-128. A concurrent resolution adopted by the Legislature of the State of Minnesota; to the Committee on Foreign Relations:

RESOLUTION NO. 6

"Whereas, the Baltic Republics of Latvia, Lithuania, and Estonia were independent democratic republics, fully recognized by the United States of America and the world community before being annexed forcefully by the Soviet Union in 1940; and

"Whereas, the United States never recognized the forcible annexation of the Baltic Republics and has always supported their right to self-determination; and

"Whereas, the Soviet troops and the black berets, in full battle gear, attacked and killed the unarmed civilians who had erected concrete barricades and flocked by the thousands to protect their parliament and official buildings in the Baltic Republics; and

"Whereas, the Soviet actions in Latvia, Lithuania, and Estonia are in direct violation of the Helsinki Final Act, the United Nations Charter, and other international documents guaranteeing human rights and self-determination of all people; now, therefore,

"Be it resolved by the Legislature of the State of Minnesota that Congress should condemn the brutal violence and intimidation by Soviet forces in the Baltic Republics and should call on President Gorbachev to cease immediately the use of force against the people and the democratically elected governments of Latvia, Lithuania, and Estonia, and enter into meaningful negotiations with the democratically elected leaders of Latvia, Lithuania, and Estonia for the purposes of establishing the formal recognition of the independent Baltic Republics.

"Be it further resolved that Minnesota's concern lies with the Baltic Republics due to the large number of Minnesotans who are of Latvian, Lithuanian, and Estonian heritage."

POM-129. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Governmental Affairs:

ASSEMBLY JOINT RESOLUTION NO. 18

"Whereas, More than 2,000 Americans are still classified as missing-in-action or as prisoners-of-war as a result of the Vietnam Conflict; and

"Whereas, Although it has been 18 years since all of the American prisoners-of-war were supposedly released from Indochina, there is much evidence to the contrary; and

"Whereas, Among that evidence are over 10,000 reports compiled by the Defense Intelligence Agency since 1975 and the information contained in the October 29, 1990, Interim Report on the Southeast Asian POW/MIA issue released by the United States Senate Committee on Foreign Relations; and

"Whereas, The reports compiled by the Defense Intelligence Agency are classifed as "Top Secret" and are unavailable to the public and even to the members of the families of those Americans still missing; and

"Whereas, H.R. 1147 of the 102d Congress 1st Session (1991), would direct each federal agency to disclose the information it possesses concerning any United States personnel classified as a prisoner-of-war or missing-in-action after 1940; and

"Whereas, The bill contains sufficient provisions to ensure that our national security is not breached and to preserve the privacy of the family members of those Americans who are still missing; and

"Whereas, The soldiers who serve this country deserve the same loyalty from their fellow countrymen as we expected from them when they were deployed; now, therefore, be it

"*Resolved, by the assembly and Senate of the State of Nevada, jointly*, That the members of the Nevada Legislature urge Congress to enact H.R. 1147 of the 102d Congress, 1st Session (1991); and be it further

"*Resolved*, That copies of this resolution be prepared and transmitted by the Chief Clerk of the Assembly to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

"*Resolved*, That this resolution becomes effective upon passage and approval."

POM-130. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Govermental Affairs:

HOUSE JOINT RESOLUTION 91-1023

"Whereas, There are more than 88,000 American service personnel missing in action from World War II, the Korean Conflict, and the Vietnam War, without a complete or satisfactory resolution of their status taking place in any instance; and

"Whereas, Evidence has continued to mount over the years that American military personnel are being held against their will in Southeast Asia after the end of the conflict in that region, including evidence of more than 11,000 live sighting reports received by the Department of Defense since 1973, and such evidence is supported by facts such as the statements made by Laotian leaders in April, 1973, that they did in fact then have live American prisoners of war under their control who were never released; and

"Whereas, In October, 1990, the minority staff of the United States Senate Committee on Foreign Relations released an "Interim Report on the Southeast Asian POW/MIA Issue", which concluded that United States military and civilian personnel were held against their will in Southeast Asia after April, 1973, despite earlier public statements by the Department of Defense on April 12, 1973, that there was "no evidence" of live prisoners of war, statements which were contrary to information then available to the United States government; and

"Whereas, The Interim Report states that Congressional inquiries into the POW/MIA issue have been hampered by relevant information being concealed from congressional members, or being "misinterpreted or manipulated" in government files; and

"Whereas, Although the Department of Defense has taken the public stance since 1973 that there was "no evidence" of live American prisoners of war in Southeast Asia, after detailed analysis of growing evidence, the Department of Defense admits there are a number of "discrepancy" and "unresolved" cases; and

"Whereas, The "POW/MIA Truth Bill", now awaiting consideration before the United States Congress, would direct the heads of federal government agencies and departments to disclose relevant information, including live sighting reports, concerning those unreturned United States service personnel who were originally classified as prisoners of war or missing in action from World War II, the Korean Conflict, the Vietnam War, and if necessary, the Persian Gulf War; and

"Whereas, This bill would prevent disclosure of the sources and methods used to collect the live sighting reports, thus protecting national security; and

"Whereas, A resolution was submitted to the United States Senate on March 14, 1991, asking that a Senate Select Committee on POW/MIA Affairs be formed, which would formally put the United States Senate on record as giving the POW/MIA issue a higher national priority than the executive branch has assigned to it for nearly a decade; and

"Whereas, Once established, a Select Committee would give institutional life in the Congress to the investigation presently underway by the minority staff of the Senate Committee on Foreign relations, whose significant findings have so effectively laid the groundwork and set the standards for subsequent efforts in this area; and

"Whereas, The "POW/MIA Truth Bill" and the resolution to establish a Senate Select Committee on POW/MIA Affairs would set in motion the processes by which the fullest possible accounting of all POW's and MIA's could be achieved, thus satisfying to the greatest extent possible the families of missing service personnel who have waited for such a long time for such an accounting, as well as satisfying the nation as a whole; now, therefore,

"Be it resolved by the House of Representatives of the Fifty-eighth General Assembly of the State of Colorado, the Senate concurring herein:

"That the General Assembly of the State of Colorado urges the Congress of the United States to enact the "POW/MIA Truth Bill" into law and to resolve to establish a Senate Select Committee on POW/MIA Affairs, in order to further the cause and facilitation of the disclosure of information and the ongoing investigation of such information concerning American service personnel being held prisoner or missing in action from World War II, the Korean Conflict, the Vietnam War, and the Persian Gulf War; be it further

"*Resolved*, That the General Assembly of the State of Colorado urges the President of

the United States to bring to bear the full force, power, and influence of the President's office and cabinet in the active support of the passage and implementation of the "POW/MIA Truth Bill", and in the active support of the passage and implementation of the resolution to establish a Senate Select Committee on POW/MIA affairs, thereby demonstrating the higher national priority which the executive branch assigns to furthering the cause and facilitation of the disclosure of information and the ongoing investigation of such information concerning American service personnel being held prisoner or missing in action from World War II, the Korean Conflict, the Vietnam War, and the Persian Gulf War."

POM-131. A petition from citizens of Concord, New Hampshire opposing statehood for the District of Columbia; to the Committee on Governmental Affairs.

POM-132. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Governmental Affairs:

"HOUSE JOINT RESOLUTION 91-1023

"Whereas, There are more than 88,000 American service personnel missing in action from World War II, the Korean Conflict, and the Vietnam War, without a complete or satisfactory resolution of their status taking place in any instance; and

"Whereas, Evidence has continued to mount over the years that American military personnel are being held against their will in Southeast Asia after the end of the conflict in that region, including evidence of more than 11,000 live sighting reports received by the Department of Defense since 1973, and such evidence is supported by facts such as the statements made by Laotian leaders in April, 1973, that they did in fact then have live American prisoners of war under their control who were never released; and

"Whereas, In October, 1990, the minority staff of the United States Senate Committee on Foreign Relations released an "Interim Report on the Southeast Asian POW/MIA Issue", which concluded that United States military and civilian personnel were held against their will in Southeast Asia after April, 1973, despite earlier public statements by the Department of Defense on April 12, 1973, that there was "no evidence" of live prisoners of war, statements which were contrary to information then available to the United States government; and

"Whereas, The Interim Report states that Congressional inquiries into the POW/MIA issue have been hampered by relevant information being concealed from congressional members, or being "misinterpreted or manipulated" in government files; and

"Whereas, Although the Department of Defense has taken the public stance since 1973 that there was "no evidence" of live American prisoners of war in Southeast Asia, after detailed analysis of growing evidence, the Department of Defense admits there are a number of "discrepancy" and "unresolved" cases; and

"Whereas, The "POW/MIA Truth Bill", now awaiting consideration before the United States Congress, would direct the heads of federal government agencies and departments to disclose relevant information, including live sighting reports, concerning those unreturned United States service personnel who were originally classified as prisoners of war or missing in action from World War II, the Korean Conflict, the Vietnam War, and if necessary, the Persian Gulf War; and

"Whereas, This bill would prevent disclosure of the sources and methods used to collect the live sighting reports, thus protecting national security; and

"Whereas, A resolution was submitted to the United States Senate on March 14, 1991, asking that a Senate Select Committee on POW/MIA Affairs be formed, which would formally put the United States Senate on record as giving the POW/MIA issue a higher national priority than the executive branch has assigned to it for nearly a decade; and

"Whereas, Once established, a Select Committee would give institutional life in the Congress to the investigation presently underway by the minority staff of the Senate Committee on Foreign Relations, whose significant findings have so effectively laid the groundwork and set the standards for subsequent efforts in this area; and

"Whereas, The "POW/MIA Truth Bill" and the resolution to establish a Senate Select Committee on POW/MIA Affairs would set in motion the processes by which the fullest possible accounting of all POW's and MIA's could be achieved, thus satisfying to the greatest extent possible the families of missing service personnel who have waited for such a long time for such an accounting, as well as satisfying the nation as a whole; now, therefore,

"Be it resolved by the House of Representatives of the Fifty-eighth General Assembly of the State of Colorado, the Senate concurring herein: I21"That the General Assembly of the State of Colorado urges the Congress of the United States to enact the "POW/MIA Truth Bill" into law and to resolve to establish a Senate Select Committee on POW/MIA Affairs, in order to further the cause and facilitation of the disclosure of information and the ongoing investigation of such information concerning American service personnel being held prisoner or missing in action from World War II, the Korean Conflict, the Vietnam War, and the Persian Gulf War.

"Be it further resolved, That the General Assembly of the State of Colorado urges the President of the United States to bring to bear the full force, power, and influence of the President's office and cabinet in the active support of the passage and implementation of the "POW/MIA Truth Bill", and in the active support of the passage and implementation of the resolution to establish a Senate Select Committee on POW/MIA Affairs, thereby demonstrating the higher national priority which the executive branch assigns to furthering the cause and facilitation of the disclosure of information and the ongoing investigation of such information concerning American service personnel being held prisoner or missing in action from World War II, the Korean Conflict, the Vietnam War, and the Persian Gulf War."

POM-133. A resolution adopted by the Legislature of the State of Florida; to the Committee on Governmental Affairs:

"HOUSE MEMORIAL NO. 2517

"Whereas, the United States Government has records and information pertaining to United States personnel listed as prisoners of war or missing in action from World War II, the Korean Conflict, and the Vietnam Conflict, and

"Whereas, disclosure of information related to such persons would allow the government of a nation proud of its democratic heritage to no longer keep secret from the public facts necessary to achieve long overdue introspection and final catharsis regarding World War II, the Korean Conflict, and the Vietnam Conflict, and

"Whereas, disclosure would permit this nation to better examine its past and provide more complete and accurate facts upon which future policy can be developed, and

"Whereas, disclosure would allow generations recalling World War II, the Korean Conflict, and the Vietnam Conflict to honor those brave Americans who suffered and may continue to suffer for the freedom that all Americans now enjoy, and

"Whereas, disclosure would make all generations appreciate the ultimate sacrifices that Americans have made in the name of democracy and would teach these generations that Americans place a higher value on the freedom for all than they place on their own lives, and

"Whereas, disclosure might also benefit surviving prisoners of war by compelling their captors to set them free, and

"Whereas, House Resolution 1147 accomplishes disclosure and the goals stated herein while protecting national security by safeguarding information concerning sources and protecting the privacy of affected families, Now, therefore,

"Be it resolved by the Legislature of the State of Florida: That the Congress of the United States is requested to pass House Resolution 1147."

POM-134. A concurrent resolution adopted by the Legislature of the State of Minnesota; to the Committee on Governmental Affairs:

"RESOLUTION NO. 5

"Whereas, there are more than 88,000 American service personnel missing in action from World War II, Korea, and Vietnam; and

"Whereas, recent information has been released regarding American service personnel being held against their will after World War II, Korea, and Vietnam; and

"Whereas, the United States Senate Foreign Relations Committee released an interim report in October 1990 that concluded that American service personnel were held in Southeast Asia after the end of the Vietnam War and that information available to the United States government does not rule out the probability that American service personnel are still being held in Southeast Asia; and

"Whereas, the POW/MIA truth bill, would direct the heads of the federal government agencies and departments to disclose information concerning the United States service personnel classified as prisoners of war or missing in action from World War II, Korea, and Vietnam; and

"Whereas, this bill would censor out the sources and methods used to collect the live sighting reports, thus protecting national security; and

"Whereas, the families of these missing service personnel need and deserve the opportunity to have access to the information concerning the status of their loved ones after these many years; now, therefore,

"Be it resolved by the Legislature of the State of Minnesota that it urges the Congress of the United States to begin immediate committee hearings and requests action on the POW/MIA truth bill."

POM-135. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on the Judiciary:

HOUSE JOINT RESOLUTION 91-1033

"Whereas, The right of free expression is part of the foundation of the United States Constitution, although the courts have drawn very careful limits on expression in

specific instances as legitimate means of maintaining public safety and decency, as well as orderly and productive public debate; and

"Whereas, Certain actions, although arguably related to one person's free expression, nevertheless raise issues concerning public decency, public peace, and the rights of expression and sacred values of others; and

"Whereas, There are symbols of our national unity such as the Washington Monument, the United States Capitol Building, and memorials to our greatest leaders which are the property of every American and are therefore worthy of protection from desecration and dishonor; and

"Whereas, The American Flag to this day is a most honorable and worthy banner of a nation which is thankful for its strengths and committed to curing its faults; and

"Whereas, It is only fitting that people everywhere should lend their voices to a forceful call for restoration to the Stars and Stripes of a proper station under law and decency; now, therefore,

"Be it resolved by the House of Representatives of the Fifty-eighth General Assembly of the State of Colorado, the Senate concurring herein:

"That the General Assembly hereby petitions the Congress of the United States to propose an amendment to the Constitution of the United States which would forbid physical desecration of the United States flag, and to submit such amendment to the state legislatures for ratification."

POM-136. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on the Judiciary:

"JOINT RESOLUTION NO. 16

"Whereas three out of four women in the United States will be victims of at least one violent crime during their lifetimes; and

"Whereas the most serious crimes against women are rising at a significantly faster rate than the rate of total crime, and rape rates have risen nearly four times as fast as the total crime rate during the past decade; and

"Whereas in the United States between 3,000,000 and 4,000,000 women are beaten each year and a woman is beaten by her spouse or partner every 18 seconds; and

"Whereas from 1974 to 1987 the national rate of assaults against young women jumped by 48 percent, while for men of the same age group it decreased by 12 percent; and

"Whereas the rape rate in the state is one and one-half times the national rate; and

"Whereas the state's domestic violence and sexual assault programs have seen a 23 percent increase in the number of victims of domestic violence and sexual assault and a 44 percent increase in shelter nights in the past three years; and

"Whereas last year alone there was a 27 percent increase in domestic violence cases brought before the district courts of the state; and

"Whereas on January 14, 1991, S. 15, the Violence Against Women Act of 1991, was introduced into the United States Senate to combat violence and crimes against women on streets and in homes; and

"Whereas S. 15 is a comprehensive bill to address domestic violence and provides national leadership and funding for increased efforts by prosecutors, police, public safety departments, shelters, and rape crisis centers to provide effective prevention, intervention, and response to this growing national problem; and

"Whereas on February 21, 1991, S. 472, a bill that in part addresses the problem of domestic violence was introduced into the United States Senate to improve the reporting of sexual assaults at school campuses, fund education grants to reduce domestic violence and to create a national task force on violence against women.

"Be it resolved that the Alaska State Legislature declares its support for prompt action by the United States Congress to enact comprehensive legislation to combat domestic and other violence against women, and urges the United States Congress to enact legislation encompassing the best and most enlightened provisions of both S. 15 and Sec. 201 and Secs. 241-272 of S. 472 in order to combat the growing national problem of violence against women."

POM-137. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on the Judiciary:

"CONCURRENT RESOLUTION NO. 2

"Whereas, although the right of free expression is part of the foundation of the United States Constitution, very carefully drawn limits on expression in specific instances have long been recognized as a legitimate means of maintaining public safety and decency, as well as orderliness and productive value of public debate; and

"Whereas, certain actions, although related to a person's right to freedom of expression, interfere with public peace, public decency, and the rights of expression and sacred values of others; and

"Whereas, there are symbols of our national soul such as the Washington Monument, the United States Capitol Building, and memorials to our greatest leaders, which are the property of every American and are therefore worthy of protection from desecration and dishonor; and

"Whereas, the American flag is still an honorable and worthy banner of a nation which is thankful for its strengths, committed to curing its faults, and remains the destination of millions of immigrants who are attracted by the American ideal; and

"Whereas, the law, as interpreted by the United States Supreme Court, no longer accords the "Stars and Stripes" the reverence, respect, and dignity befitting the banner of this most noble experiment of a nation-state; and

"Whereas, it is only fitting that people everywhere lend their voices to a forceful call for the American flag to be restored to a proper station under law and decency.

"Therefore, be it resolved that the Legislature of Louisiana does hereby memorialize the Congress of the United States to propose an amendment to the United States Constitution, for ratification by the states, specifying that congress and the states shall have the power to prohibit the physical desecration of the flag of the United States."

POM-138. A resolution adopted by the Unicameral Legislature of the State of Nebraska; to the Committee on the Judiciary:

"RESOLUTION NO. 194

"Whereas, the business of insurance is currently regulated almost entirely by the states; and

"Whereas, the various states, due to their size, economy, and generally dissimilar needs, require individualized regulation; and

"Whereas, under the existing regulatory system Nebraska's Director of Insurance has responsibilities to regulate the activities of insurers licensed to transact business in this state; and

"Whereas, the regulatory responsibilities of the director include issuing certificates of authority to transact business in this state, examining insurers for solvency, regulating unfair trade practices and unfair claims settlement practices, licensing and disciplining agents and brokers, and providing information and assistance to the public; and

"Whereas, the federal McCarran-Ferguson Act leaves the regulation of the business of insurance to the states; and

"Whereas, the system of state regulation of the insurance industry has proven to be responsive and effective in its protection of each state's residents; and

"Whereas, organizations such as the National Conference of Insurance Legislators, the National Conference of State Legislatures, and the National Association of Insurance Commissioners work cooperatively with state legislatures and state insurance commissioners to address common needs and problems; and

"Whereas, H.R. 9 and S. 430 which are being considered by the Congress would repeal essential provisions of the McCarran-Ferguson Act; and

"Whereas, H.R. 9 and S. 430 would result in federal bureaucracies usurping much of the regulatory authority of the director and the policymaking authority of the Legislature.

"Now, therefore, be it resolved by the members of the ninety-second Legislature of Nebraska, first session:

"1. That the Legislature hereby respectfully urges the Congress of the United States to reject H.R. 9 and S. 430 or any similar legislation which would infringe upon the authority of Nebraska and every other state to be the principal regulators of insurance companies.

"2. That official copies of this resolution be prepared and forwarded to the Speaker of the House of Representatives and President of the Senate of the Congress of the United States and to all members of the Nebraska delegation to the Congress of the United States."

POM-139. A resolution adopted by the County of Suffolk, New York Legislature urging passage of the "Brady" handgun control bill; to the Committee on the Judiciary.

POM-140. A resolution adopted by the Senate of the State of Illinois; to the Committee on the Judiciary.

"SENATE RESOLUTION NO. 318

"Whereas, The business of insurance is currently regulated almost entirely by the states; and

"Whereas, Under existing state and federal law, the Director of the Illinois Department of Insurance has the responsibility to regulate the activities of approximately 1,800 insurance companies conducting business in Illinois, as well as the activities of many thousands of agents and brokers; and

"Whereas, Those regulatory responsibilities include fraud prevention, fiscal examinations, licensing, investigation of complaints and enforcement against violators; and

"Whereas, This system of state regulation of the insurance industry has proven to be an effective protection for the public, especially when compared to federal efforts at the regulation of financial institutions, such as the savings and loan industry; and

"Whereas, The insurers regulated by the State generate annual premiums of $21,318,142,560; and

"Whereas, Partial operation of the Department of Insurance is funded by fees and assessments levied on insurers with support from the General Revenue Fund; and

"Whereas, Additionally, insurers annually pay a Gross Premium Tax to the State's General Revenue Fund which in the 1990-91 Fiscal Year is estimated to exceed $161.8 million, a revenue source exceeded in size only by the Personal Income, Corporation, and Sales and Use Taxes; and

"Whereas, The federal McCarran-Ferguson Act delegates responsibility for insurance regulation to the states, so long as they provide consumer protection from price-fixing and other unfair business practices which Illinois law currently provides; and

"Whereas, H.R. 9 and S. 430 which are being considered by the United States Congress would be unnecessary, duplicative and possibly conflicting as they relate to insurers doing business in Illinois; and

"Whereas, H.R. 9 and S. 430 would prohibit certain practices which insurers now use to control insurance costs; and

"Whereas, H.R. 9 and S. 430 would result in federal bureaucracies usurping much of the authority of the Director of the Illinois Department of Insurance and the General Assembly of the State of Illinois; therefore, be it

"Resolved, by the Senate of the eighty-seventh General Assembly of the State of Illinois, that we memorialize the President and the Congress of the United States to reject H.R. 9 and S. 430 or any similar legislation which would infringe on the authority of Illinois and each other state, to be the principal regulator of insurers."

POM-141. A resolution adopted by the Senate of the State of Illinois; to the Committee on the Judiciary:

"HOUSE RESOLUTION NO. 496

"Whereas, The business of insurance is currently regulated almost entirely by the States; and

"Whereas, Under existing State and federal law the Director of the Illinois Department of Insurance has the responsibility to regulate the activities of approximately 1,800 insurance companies conducting business in Illinois, as well as the activities of many thousands of agents and brokers; and

"Whereas, Those regulatory responsibilities include fraud prevention, fiscal examinations, licensing, investigation of complaints, and enforcement actions against violators; and

"Whereas, This system of state regulation of the insurance industry has proven to be an effective protection for the public, especially when compared to federal efforts at the regulation of financial institutions, such as the savings and loan industry; and

"Whereas, The insurers regulated by the State generate annual premiums of $21,318,142,560; and

"Whereas, Partial operation of the Department of Insurance is funded by fees and assessments levied on insurers with support from the General Revenue Fund; and

"Whereas, Additionally, insurers annually pay a gross premium tax to the State's General Revenue Fund which, in the 1990-91 Fiscal year, is estimated to exceed $161.8 million, a revenue source exceeded in size only by the personal income, corporation, and sales and use taxes; and

"Whereas, The federal McCarran-Ferguson Act delegates responsibility for insurance regulation to the states, so long as they provide consumer protection from price fixing and other unfair business practices which Illinois law currently provides; and

"Whereas, Application of federal antitrust laws pursuant to H.R. 9 and S. 430, which are being considered by the United State's Congress, would be unnecessary, duplicative and possibly conflicting as they relate to insurers doing business in Illinois; and

"Whereas, H.R. 9 and S. 430 would prohibit certain practices which insurers now use to control insurance costs; and

"Whereas, H.R. 9 and S. 430 would result in federal bureaucracies usurping much of the authority of the Director of the Illinois Department of Insurance and the General Assembly of the State of Illinois; therefore, be it

"Resolved, by the House of Representatives of the eighty-seventh General Assembly of the State of Illinois, that we memorialize the President and the Congress of the United States to reject H.R. 9 and S. 430 or any similar legislation which would infringe on the authority of Illinois and each other state, to be the principal regulator of insurers."

POM-142. A resolution adopted by the City Council of Seattle, Washington urging passage of the "Brady Bill" calling for a seven day waiting period prior to the purchase of a handgun; to the Committee on the Judiciary.

POM-143. A resolution adopted by the Senate of the State of Hawaii; to the Committee on the Judiciary.

SENATE RESOLUTION 120

"Whereas, the people of the State of Hawaii come from diverse ethnic and national backgrounds and live in harmony because of mutual respect and the Aloha spirit; and

"Whereas, the history of our State shows that the road to harmony requires elimination of practices which foster discrimination in all areas of life; and

"Whereas, the 1988 Legislature, in creating the Hawaii Civil Rights Commission, declared that "the practice of discrimination because of race, color, religion, age, sex, marital status, national origin, ancestry, or handicapped status in employment, housing, or public accommodations is against public policy"; and

"Whereas, Congress is presently considering H.R. 1, the Civil Rights Act of 1991, which is intended to restore civil rights protections which were dramatically limited by recent Supreme Court decisions and to strengthen existing protections and remedies available under federal civil rights laws in order to provide more effective deterrence and adequate compensation for victims of discrimination; and

"Whereas, persons suffering from employment discrimination need the protection of strong laws at both the state and federal levels in order to ensure that factors unrelated to job performance are not considered in employment decisions; and

"Whereas, enforcement of strong state laws against discrimination may be impeded by federal cases which changed the burden of proof from that established in earlier precedents and created procedural roadblocks which may allow discriminatory practices to continue; and

"Whereas, the promise of equality embodied in our Constitution and the Declaration of Independence needs to be clearly stated in our laws guaranteeing civil rights protection to all persons; now, therefore,

"Be it resolved by the Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, that the Senate expresses its strongest support for the passage of the Civil Rights Act of 1991."

POM-144. A concurrent resolution adopted by the Legislature of the State of Minnesota; to the Committee on the Judiciary:

"RESOLUTION NO. 4

"Whereas, on February 13, 1991, the Canadian immigration service imposed new entry permit rules for crossing the International Border from Lake of the Woods to Pigeon River; and

"Whereas, the new permits are difficult to obtain, limited in scope, extremely burdensome in practice, and of no apparent use for ordinary purposes of border control; and

"Whereas, open input by citizens of both the United States and Canada was not solicited; and

"Whereas, the new rules put an impossible economic burden on thousands of people whose livelihoods depend on reasonable access to the lakes and forests of the boundary area; and

"Whereas, the history of the Canada-United States border in Minnesota has been one of cooperation and accommodation; and

"Whereas, the great wilderness along the border has a matchless value for the people of the two countries that can only be enjoyed as a whole and will be destroyed by any effort to make it into two isolated parts; and

"Whereas, this border does not resemble other international frontiers and has always been administered for the mutual advantage of all concerned people of both countries; and

"Whereas, it is difficult even to understand what the purpose of these disruptive new rules could be; and

"Whereas, it is the confident hope of the people of Minnesota that their friends in Canada will quickly correct this uncharacteristic new situation: Now, Therefore,

"Be it resolved that the appropriate federal officials of both Canada and the United States immediately begin a dialogue to the mutual benefit and satisfaction of the citizens of both countries to resolve differences and restrictions to travel and freedom of passage, especially as they relate to remote areas of the United States/Canada border between the province of Ontario and the state of Minnesota that have been imposed by policy, regulation, or law by the governments of both countries.

"Be it further resolved that state and provincial officials have direct input into the dialogue, discussion, and negotiation which takes place relating to this matter."

POM-145. A resolution adopted by the Arkansas General Assembly Joint Interim Committee on Insurance and Commerce opposing legislation which would infringe upon the authority of the State to regulate insurers; to the Committee on the Judiciary.

POM-146. A resolution adopted by the General Assembly of the State of New Jersey; to the Committee on Veterans' Affairs.

"ASSEMBLY RESOLUTION NO. 213

"Whereas, The intent of the federal Soldiers' and Sailors' Civil Relief Act of 1940 is to assist military personnel called to active duty by protecting them and their families from the economic hardships which may accompany the call to active duty; and

"Whereas, The current provisions of the federal Soldiers' and Sailors' Civil Relief Act of 1940 are outdated and do not provide adequate protection to military families from these hardships; and

"Whereas, The United States House of Representatives recently passed legislation to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to update and modernize its provisions to reflect the problems and economic hardships faced by members of the National Guard and the Reserves who have been called

to active duty in Operation "Desert Storm"; and

"Whereas, The proposed amendments to the Soldiers' and Sailors' Civil Relief Act of 1940 would (1) prevent the eviction of the family of a person serving in the armed forces if the monthly rent is less than $1,200; (2) guarantee reinstatement of private health insurance for military personnel returning to civilian life; (3) guarantee the right of military reservists to return to civilian employment; (4) requires courts to suspend legal proceedings at the request of a person on active duty; and (5) suspend the requirement for doctors to pay premiums on private medical malpractice insurance while they are serving in the armed forces; and

"Whereas, Similar legislation is presently being considered for passage in the United States Senate and there is an urgent need for this legislation to gain final approval as quickly as possible; now, therefore,

"Be it resolved *by the General Assembly of the State of New Jersey:*

"1. This House memorializes the United States Congress to adopt legislation to update and modernize the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 in order to provide assistance to members of the National Guard and the Reserves who have been called to active duty in Operation "Desert Storm" and to their families.

"2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President of the Senate, the Speaker of the House of Representatives, the members of Congress elected from this State and Adjutant General Vito Morgano."

POM-147. A resolution adopted by the House of Representatives of the State of Hawaii; to the Committee on Veterans' Affairs:

HOUSE RESOLUTION 82

"Whereas, the General Accounting Office (GAO) in a recent report to the Congress of the United States made a proposal to require a direct performance of duty relationship for the awarding of service-connected disability compensation; and

"Whereas, the White House invited comments of the Secretary of Veterans Affairs on its fiscal year 1991 budget passback, including a direct performance of military duty requirement for disability compensation as previously recommended by the GAO; and

"Whereas, the Secretary of Veterans Affairs appointed a compensation reform committee with a goal to reduce costs within the Department of Veterans Affairs (DVA) using the GAO report and its proposals as a guide; and

"Whereas, the compensation reform committee, in addition to requiring direct performance of duty relationship to exist in making a determination of service connection for compensation, went much further in its report concluding that a severe cutting of eligibility and restriction of current benefits would ultimately cut costs within the DVA; and

"Whereas, the DVA is charged with serving as veterans' advocates, and champions for their entitlements in the White House and in the Congress; and

"Whereas, the action undertaken by the Secretary of Veterans Affairs and his committee on compensation reform were conducted in a closed environment, without public scrutiny; and

"Whereas, any attempt to reduce federal deficits in any department at the expense of those gallant men and women who served their country and left service honorably suffering the wounds and diseases of war; and

"Whereas, the recommendations of the compensation reform committee would also severely injure the survivors of those men and women who served their country; now, therefore,

"Be it resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, that the President of the United States and the United States Congress are urged to oppose benefit-cutting proposals made to the Department of Veterans Affairs as a cost-reduction measure."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 1106. A bill to amend the Individuals with Disabilities Education Act to strengthen such Act, and for other purposes (Rept. No. 102-84).

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. ROCKEFELLER:

S. 1307. A bill to extend the suspension of duty on certain chemicals; to the Committee on Finance.

S. 1308. A bill to suspend temporarily the duty on certain heterocyclic compounds; to the Committee on Finance.

S. 1309. A bill to suspend temporarily the duty on UV-1084 light stabilizer; to the Committee on Finance.

S. 1310. A bill to extend until January 1, 1995, the suspension of duty on certain carbodiimides; to the Committee on Finance.

S. 1311. A bill to suspend temporarily the duty on certain carbodiimide masterbatches; to the Committee on Finance.

S. 1312. A bill to suspend temporarily the duty on octadecyl isocyanate; to the Committee on Finance.

By Mr. BIDEN (for himself, Mr. BAUCUS, Mr. PRYOR, Mr. HARKIN, Mr. BUMPERS, Mr. CONRAD, Mr. DASCHLE, Mr. LEAHY, Mr. HEFLIN, Mr. FOWLER, and Mr. BRYAN):

S. 1313. A bill to improve crime and drug control in rural areas, and for other purposes; to the Committee on the Judiciary.

By Mr. BOREN:

S. 1314. A bill to amend the Internal Revenue Code of 1986 to provide for fair treatment of small property and casualty insurance companies; to the Committee on Finance.

By Mr. MCCAIN (for himself and Mr. INOUYE, and Mr. COCHRAN):

S. 1315. A bill to transfer administrative consideration of applications for Federal recognition of an Indian tribe to an independent commission, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. THURMOND:

S. 1316. A bill to amend title 28, United States code, with respect to the admissibility in evidence of foreign records of regularly conducted activity; to the Committee on the Judiciary.

By Mr. PELL:

S. 1317. A bill to authorize appropriations for defense economic adjustment assistance; to the Committee on Armed Services.

By Mr. HATFIELD (for himself, Mr. PACKWOOD, and Mr. JEFFORDS):

S. 1318. A bill to amend the Solid Waste Disposal Act so as to protect the environment from discarded beverage containers; to reduce solid waste and the cost in connection with the disposal of such waste through recycling; and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1319. A bill to provide for the establishment in Hawaii of a Department of Veterans Affairs post-traumatic stress disorder treatment program; to the Committee on Veterans' Affairs.

By Mr. KOHL:

S. 1320. A bill to amend section 924 of title 18, United States Code, to make it a Federal crime to steal a firearm or explosives in interstate or foreign commerce; to the Committee on the Judiciary.

By Mr. KERRY:

S. 1321. A bill for the relief of Michael Houtmeyers; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. BROWN, and Mr. KOHL):

S. 1322. A bill to amend title 18 of the United States Code to clarify and expand legal prohibitions against computer abuse; to the Committee on the Judiciary.

By Mr. GORE:

S.J. Res. 164. A joint resolution designating the weeks of October 27, 1991, through November 2, 1991, and October 11, 1992, through October 17, 1992, each separately as "National Job Skills Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIDEN (for himself, Mr. BAUCUS, Mr. PRYOR, Mr. HARKIN, Mr. BUMPERS, Mr. CONRAD, Mr. DASCHLE, Mr. LEAHY, Mr. HEFLIN, Mr. FOWLER, and Mr. BRYAN):

S. 1313. A bill to improve crime and drug control in rural areas, and for other purposes; to the Committee on the Judiciary.

RURAL CRIME AND DRUG CONTROL ACT

• Mr. BIDEN. Mr. President, I rise today to introduce the Rural Crime and Drug Control Act of 1991.

Violent crime, drug dealing, hardcore addiction—Mr. President, to many Americans, these seem to be the problems of our large cities. However, the most recent data just in from rural America tells a vastly different, and disturbing, story. America's rural towns, villages, and small communities are suffering a plague of violent crime, drug trafficking and drug abuse.

The latest crime figures show that the violent crime toll is growing faster in rural America than in large urban States; faster in the rural States than in even America's largest cities. A report—"Rising Casualties: Violent Crime & Drugs in Rural America"—I release today, documents rural Ameri-

ca's skyrocketing criminal violence—murders, rapes, robberies, and violent attacks are growing at an astonishing pace.

The bad news does not, unfortunately, stop there. The latest figures from rural, America clearly outline the grim shadow cast by the rural drug epidemic—for the number of drug addicts seeking treatment is on the rise. In fact, these reports indicate that need for drug treatment in rural America is rising more than 50 percent faster than in America's largest and most urban States.

These and other hard data confirm what rural law enforcement officers, local officials, and citizens have been reporting from the past few years—the crime problem in rural America is in the midst of a fundamental change, a change for the worse. As never before, drugs and violent crime have extended their death grip into our rural heartland. For example:

Most rural States suffered greater increases in violent crime over the past year than did New York City;

About one-half of all rural States saw violent crime rise faster than did California;

Today, rural high school seniors are more than twice as likely to abuse the methamphetamine "ice" than there peers in urban high schools; and

Rural law enforcement officers are increasingly faced with the same challengers as their big city colleagues: Drug traffickers, drug and gang-involved juveniles and criminals armed with military-style assault weapons.

Plainly, rural America needs relief from the growing epidemic of violent crime and drug trafficking that has literally exploded in these once quiet communities. Despite the mounting severity of violence and hard-core addiction in rural America, the administration continues to focus on suburbia and the casual use of drugs among its residents.

In fact, the administration has consistently fought congressional initiatives that could help reverse the alarming rise of rural crime and drug abuse—opposing efforts to boost the number of DEA agents in rural areas, efforts to boost Federal aid to rural law enforcement agencies, and efforts to expand training opportunities for rural police officers.

The latest information from rural America tells us that our worst fears of a few years ago are coming true—Congress must take immediate action and the administration must cease its footdragging.

Today, Mr. President, I introduce with several of my Senate colleagues the Rural Crime & Drug Control Act of 1991—legislation which sets out a comprehensive, all-fronts attack on the violent crime and drug trafficking already proven to be devastating rural America. The act includes many initiatives I have developed; as well as several provisions authored by my Senate colleagues. Two of these, Senators MAX BAUCUS and DAVID PRYOR, deserve special mention for their work on the rural drug treatment and drug prevention programs included in this legislation.

Among the specific proposals which will bolster the Nation's fight against drug traffickers and violent criminals plaguing rural America are:

Additional resources for rural law enforcement officials on the front lines of the anticrime, antidrug effort;

Increased penalties for trafficking the methamphetamine, "ice";

More Federal agents and other special Federal efforts—including rural drug task forces—to support law enforcement in rural America;

Special programs to increase the availability of drug treatment in rural America; and

Special efforts to develop and implement drug prevention programs for rural communities.

If we move quickly, and adopt these proposals, we can preserve the small towns of America and prevent them from mirroring the crime problems of their big-city neighbors. With a commitment to Federal and local law enforcement and drug treatment and education programs, the dangerous trends of rising rural violence can be reversed. We can prevent the decay of our inner city streets from spreading onto the backroads of America.

I ask unanimous consent that a letter from Senator PRYOR appear in the RECORD immediately following my statement.

I also ask unanimous consent that a full copy of the bill appear in the RECORD immediately following Senator PRYOR's letter.

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

U.S. SENATE,
Washington, DC.

Hon. JOSEPH R. BIDEN,
Chairman, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, DC.

DEAR JOE: I was pleased to learn that you intend to introduce the "Rural Crime and Drug Control Act of 1991", which includes several provisions relating to rural law enforcement and rural substance abuse treatment and prevention that were authored by me, along with Senators Baucus, Bumpers, Conrad, and Hardin. As I am continuing my recovery from a recent heart attack, I am sorry that I am unable to join you today.

Based upon your support in the 101st Congress for "The Drug-Free Rural America Act", "The Rural Drug Treatment Act", and "The Rural Drug Information Clearinghouse and Education Act", sponsored by Senator Baucus and myself, I know you share my deep concern about the ever growing drug crisis facing rural America. I applaud your continuing commitment to this important issue, and strongly support the "Rural Crime and Drug Control Act of 1991".

As you know, last year, the General Accounting Office reported the total substance abuse rates in rural states "are about as high" as in nonrural states. Moreover, it found that arrest rates for substance abuse violations in rural counties are virtually identical to those in nonrural counties.

In addition to these chilling statistics, I frequently hear from law enforcement officers in my home state of Arkansas, who inform me that the drug problem in our rural areas continues to grow. For example, police officers have seen Los Angeles street gang members walking the streets of several southern Arkansas communities. As noted by the General Accounting Office, 71% of persons entering Arkansas prisons reported having substance abuse problems, and 57% of all Arkansas inmates reported being under the influence of drugs or alcohol at the time they committed their crimes.

Contrary to conventional wisdom, the drug problem is not confined to the inner cities of our nation's metropolitan areas, but is also ravaging small communities throughout rural America. "The Rural Crime and Drug Control Act of 1991" recognizes this crucial fact and addresses the problem in a constructive and comprehensive manner.

First, as you know, this bill would reduce the supply of drugs in rural areas by beefing up federal anti-drug efforts in rural communities, by authorizing an additional $30 million for federal support of state and local rural law enforcement agencies, and by providing specialized training for rural law enforcement officers at the Federal Law Enforcement Training Center. Second, it would reduce the demand for illegal drugs in rural communities by authorizing $25 million in federal grants for treatment and prevention facilities serving those areas and by establishing a federal clearinghouse project for collecting and disseminating information regarding rural substance abuse treatment and prevention programs. Third, it begins to address the growing problem of environmental damage caused by rural, clandestine drug labs.

In conclusion, I praise you for introducing the "Rural Crime and Drug Control Act of 1991" and look forward to working with you on this important issue, as soon as I complete my recovery and return full-time to my duties in the Senate.

Sincerely,

DAVID PRYOR.

S. 1313

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 "Rural Crime and Drug Control Act of 1991".

TITLE I—FIGHTING DRUG TRAFFICKING IN RURAL AREAS

SEC. 101. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new paragraph:

"(7) There are authorized to be appropriated $50,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994 to carry out part O of this title.".

(b) AMENDMENT TO BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "$100,000" and inserting in lieu thereof "$250,000".

SEC. 102. RURAL DRUG ENFORCEMENT TASK FORCES.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, shall establish a Rural Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands.

(b) TASK FORCE MEMBERSHIP.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service; and

(5) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

SEC. 103. CROSS-DESIGNATION OF FEDERAL OFFICERS.

The Attorney General shall cross-designate up to 100 law enforcement officers from each of the agencies specified under section 102(b)(5) with jurisdiction to enforce the provisions of the Controlled Substances Act on non-Federal lands to the extent necessary to effect the purposes of this title.

SEC. 104. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 in each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of subsection (a).

TITLE II—FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 201. AUTHORIZATION FOR FEDERAL LAW ENFORCEMENT AGENCIES.

There is authorized to be appropriated for fiscal year 1992, in addition to any other appropriations for the Drug Enforcement Administration, $45,000,000 to hire, equip and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas.

TITLE III—INCREASING PENALTIES FOR CERTAIN DRUG TRAFFICKING OFFENSES

SEC. 301. SHORT TITLE.

This subtitle may be cited as the "Ice Enforcement Act of 1991".

SEC. 302. STRENGTHENING FEDERAL PENALTIES.

(a) LARGE AMOUNT.—Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in clause (vii) by striking "or" at the end thereof;

(2) by inserting "or" at the end of clause (viii); and

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

"(ix) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline in form.".

(b) SMALLER AMOUNT.—Section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended as follows:

(1) at the end of clause (vii) by striking "or";

(2) by inserting at the end of clause (viii) the word "or"; and

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

"(ix) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline in form.".

TITLE IV—RURAL DRUG TREATMENT

SEC. 401. RURAL SUBSTANCE ABUSE TREATMENT.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new section:

"SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Secretary, acting through the Administrator, shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Administrator at such time, in such manner, and containing such information as the Administrator shall require.

"(2) COORDINATED APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) SPECIAL CONSIDERATION.—In awarding grants under this section the Administrator shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(e) DURATION.—Grants awarded under subsection (a) shall be for a period not to exceed 3 years, except that the Administrator may establish a procedure for renewal of grants under subsection (a).

"(f) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Administrator shall provide grants to fund at least one project in each State.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $25,000,000 for each of the fiscal years 1992, 1993, and 1994.".

TITLE V—RURAL DRUG PREVENTION

SEC. 501. RURAL SUBSTANCE ABUSE PREVENTION.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), as amended by section 401, is amended by adding at the end thereof the following new section:

"SEC. 509I. RURAL SUBSTANCE ABUSE PREVENTION.

"(a) IN GENERAL.—The Secretary, acting through the Administrator, shall make grants to public and nonprofit private entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse prevention services.

"(b) REQUIREMENTS.—To receive a grant under this section an entity shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) agree to coordinate the project assisted under this section with substance abuse prevention activities within the State and local agencies responsible for substance abuse prevention; and

"(3) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Administrator at such time, in such manner, and containing such information as the Administrator shall require.

"(2) COORDINATED APPLICATIONS.—State or local agencies that are responsible for substance abuse prevention may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) SPECIAL CONSIDERATION.—In awarding grants under this section the Administrator shall give priority to—

"(1) applications from community based organizations with experience serving nonmetropolitan areas;

"(2) projects that are designed to serve areas that have no available existing treatment facilities.

"(e) DURATION.—Grants awarded under this section shall be for a period not to exceed 3 years, except that the Administrator may establish a procedure for renewal of grants under subsection (a).

"(f) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Administrator shall provide grants to fund at least 1 project in each State.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1992, 1993, and 1994.".

SEC. 502. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa–7) is amended—

(1) in paragraph (3), by striking "and" at the end thereof;

(2) in paragraph (4), by striking the period at the end thereof and inserting a semicolon; and

(3) by adding at the end thereof the following new paragraphs—

"(5) gather information pertaining to rural drug abuse treatment and education projects funded by the Administrator and other such projects throughout the United States; and

"(6) disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested persons.".

TITLE VI—RURAL LAND RECOVERY ACT

SEC. 601. DIRECTOR OF RURAL LAND RECOVERY.

Each of the task forces established under section 102(a) shall include one Director of Rural Land Recovery whose duties shall include the coordination of all activities described in section 102.

SEC. 602. PROSECUTION OF CLANDESTINE LABORATORY OPERATORS.

(a) INCLUSION OF INDICTMENTS OF ADDITIONAL COUNTS FOR VIOLATION OF ENVIRONMENTAL LAW.—State and Federal prosecutors, when bringing charges against the operators of clandestine methamphetamine and other dangerous drug laboratories shall, to the fullest extent possible, include, in addition to drug-related counts, counts involving infringements of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.) or any other environmental protection Act, including—

(1) illegal disposal of hazardous waste; and

(2) knowing endangerment of the environment.

(b) SUITS FOR ENVIRONMENTAL AND HEALTH-RELATED DAMAGES.—State and Federal prosecutors and private citizens may bring suit against the operators of clandestine methamphetamine and other dangerous drug laboratories for environmental and health-related damages caused by the operators in their manufacture of illicit substances.●

● Mr. HARKIN. Mr. President, I am proud to join with Senator BIDEN in introducing the Rural Crime and Drug Control Act of 1991. I am grateful to my colleague from Delaware, Senator BIDEN, for his continual concern about the drug problem confronting rural America.

Mr. President, last year I joined with several of my colleagues in requesting a GAO study to determine the extent of the drug problem in rural America. The GAO study, released in September 1990, concluded that "Drug problems are no different in the country than in the city." Today, the Senate Judiciary Committee's majority staff report indicates that the drug problem in rural America is getting worse. In many areas it is increasing faster than in our Naton's big cities. According to the committee's report, violent crime rose faster in "thirteen of fifteen rural States than it did in New York City."

In Iowa, violent crime increased by 8.5 percent in 1990 as compared to a 3-percent increase in New York City. Despite this crisis confronting our communities, the administration has failed to recognize the drug crisis confronting our communities and has opposed efforts to increase the number of DEA agents in rural areas.

Jamaican drug dealers and Mexican black tar heroin can now be found on the streets of Sioux City, IA. Yet, despite numerous requests from my office and other legislators representing the tristate area, for at least one full time DEA agent, the administraton has consistently refused to provide a DEA agent for Siouxland. Mr. President, the administration's drug strategy may have missed rural America but the drug dealers haven't.

Mr. President, people in rural America have worked hard to cultivate a good quality of life. They have worked hard to make their communities a place to raise a family, a safe place, a decent place, but drug dealers are planting the seed of destruction and are wreaking havoc on small towns and rural communities all over America; 1 out of every 10 hardcore cocaine addicts now lives in rural States.

Rural America needs an action plan. Our law enforcement officers in rural areas need the means to fight back. We have a problem and we have an opportunity to pull together, take back our towns and streets from drug dealers. The drug epidemic sweeping across the plains of Iowa and other rural areas can be stopped. We need concentrated action and a plan that moves us forward. The Rural Crime and Drug Control Act of 1991 moves us forward.

This bill provides $45 million to hire 350 agents and support personnel to expand law enforcement operations against drug trafficking in rural areas. It establishes rural drug enforcement task forces in Federal districts with rural areas. The bill also provides $50 million in aid to State and local law enforcement officials in rural areas. Mr. President, our law enforcement officers need these resources. The challenge and risks they face are the same as in big cities. Drug dealers with assault weapons and juvenile drug gangs place police officers lives in danger the same in Sioux City as they do in New York City.

Mr. President, the bill being introduced today also accounts for the special needs facing our communities in the area of drug treatment and prevention by devoting $50 million to address these problems. Drug treatment and prevention programs all over America are overburdened. Yet, in many rural areas such programs do not even exist. This at a time when according to the Senate Judiciary Committee's report, the need for drug treatment in rural America is "rising more than 50 percent faster than in America's largest and most urban states." Doctors, health care facilities, and rural clinics are in need of personnel and unless we take action the problem only becomes worse.

We can win back our communities. We must win back our communities and we must fight back. The Federal Government has a role to play with the States and local communities and private citizens. It is a question of priorities and the determination to defend our homes from a threat that is right down the street, not halfway around the world.●

● Mr. FOWLER. Mr. President, I rise today to give my support to the Rural Crime and Drug Control Act offered by the chairman of the Judiciary Committee.

When the average American thinks of crime, an image of a dark alley in a large city may flash in his mind. However, recent data tells us that violent crime is growing faster in rural America than in our nation's largest cities.

The small towns we used to know, where most people did not bother to lock their doors at night, are quickly disappearing. Instead, violent crime has become a sadly familiar fact of life. Drug abuse is increasingly common—with crack, ice and all the latest deadly concoctions and designer drugs readily available. Major drug traffickers are operating in our poorest, remotest rural areas, corrupting and undermining those communities.

The problems of rural America, in general, are too often overlooked. But we cannot afford to overlook the torment visited on our small towns and countryside by the rural crimewave of the last decade. That is why I heartily commend my colleague, the Senator from Delaware, for having the wisdom to include this provision in his crime bill.

By passing this legislation, we commit ourselves to preserving our small towns. This new pledge to our rural communities will enable us to stem the rising crime rate.

In order to fight crime, we need money and well-trained manpower. And that is what our rural communities are most lacking.

This legislation attacks rural crime on three fronts. The first is on the Federal level. It provides $45 million to hire 350 DEA agents directed specifically to target rural drug trafficking. Thus, it provides money to get to the heart of our rural drug problem.

On the State and local law enforcement level, this act provides $50 million to law enforcement officers in rural areas. In addition, it provides funding so that these officers will be well-trained and able to handle this new responsibility.

This legislation also concentrates on the critical area of drug prevention and treatment. It funds programs which will enhance antidrug awareness and disseminate information to rural citizens who may lack ready access to treatment programs, telling them where they can turn for help.

I believe that this legislation, combined with the comprehensive crime bill which will soon come before the Senate, will equip our law enforcement officers with the tools they need to combat violent crime in our rural areas. It will give local citizens and local communities the boost they need to combat this epidemic.

It is easy to talk about crime and law enforcement. However, the time for simply talking is long gone. This bill provides the resources and makes the commitment to fight crime everywhere in our Nation.●

By Mr. BOREN:

S. 1314. A bill to amend the Internal Revenue Code of 1986 to provide for fair treatment of small property and casualty insurance companies; to the Committee on Finance.

SMALL PROPERTY AND CASUALTY INSURANCE COMPANY EQUITY ACT

● Mr. BOREN. Mr. President, today I am introducing a bill to address the inequity that exists regarding the current tax treatment of small property and casualty insurance companies.

Current law provides small life insurance companies, defined as those with assets of less than $500 million, with a tax deduction of 60 percent of the company's first $3 million in income, reduced by 15 percent of the excess income over $3 million. The deduction then phases out at an income level of $15 million.

Unfortunately, the Internal Revenue Code does not provide small property and casualty insurers with the same treatment. This inequity hampers small property and casualty companies in their attempt to compete for capital with small life and larger property and casualty insurers.

In addition, small property and casualty companies saw their tax burden significantly increased by several provisions in the so-called Tax Reform Act of 1986, especially those provisions dealing with the discounting of loss reserves and the tax on increases in unearned premium liabilities. The 1986 act estimated an increased 5-year tax burden of $7.5 billion from this industry. Instead, the Treasury has collected $12.2 billion as a result of the 1986 changes.

The legislation I am introducing today simply provides small property and casualty companies with the same deduction allowed for small life companies. The bill allows for a deduction of 60 percent of the first $3 million of a company's income, reduced by 15 percent of the income in excess of $3 million. This bill would also provide the same phase-out as the existing provision for life companies.

Mr. President, our economy needs small property and casualty insurers. These companies provide increased competition within the insurance industry. Many of these small insurers are specialty writers, providing coverage to markets that are ignored by many of the major companies.

Unfortunately, the current tax situation limits small property and casualty companies to raise the capital they need in order to survive and grow. This legislation will help level the field with respect to capital formation by providing equitable treatment to these insurers.

Mr. President, I urge my colleagues to join me in support of this legislation, and 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. 1314

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Small Property and Casualty Insurance Company Equity Act of 1991".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. SMALL COMPANY DEDUCTION.

(a) IN GENERAL.—Section 832(c) (relating to deductions allowed) is amended by striking "and" at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting "; and", and by adding at the end thereof the following new paragraph:

"(14) the small insurance company deduction allowed by subsection (h)."

(b) DETERMINATION OF DEDUCTION.—Section 832 (relating to insurance company taxable income) is amended by adding at the end thereof the following new subsection:

"(h) SMALL INSURANCE COMPANY DEDUCTION.—In the case of taxable years beginning after December 31, 1991—

"(1) IN GENERAL.—There shall be allowed as a deduction for the taxable year 60 percent of so much of the tentative taxable income for such taxable year as does not exceed $3,000,000 (hereafter in this subsection referred to as the 'small insurance company deduction').

"(2) PHASEOUT BETWEEN $3,000,000 AND $15,000,000.—The amount of the small insurance company deduction determined under paragraph (1) for any taxable year shall be reduced (but not below zero) by 15 percent of so much of the tentative taxable income for such taxable year as exceeds $3,000,000.

"(3) SMALL INSURANCE COMPANY DEDUCTION NOT ALLOWABLE TO COMPANY WITH ASSETS OF $500,000,000 OR MORE.—

"(A) IN GENERAL.—The small insurance company deduction shall not be allowed for any taxable year to any insurance company which, at the close of such taxable year, has assets equal to or greater than $500,000,000.

"(B) ASSETS.—For purposes of this paragraph, the term 'assets' means all assets of the company

"(C) VALUATION OF ASSETS.—For purposes of this paragraph, the amount attributable to—

"(i) real property and stock shall be the fair market value thereof, and

"(ii) any other asset shall be the adjusted basis of such asset for purposes of determining gain on sale or other disposition.

"(D) SPECIAL RULE FOR INTERESTS IN PARTNERSHIPS AND TRUSTS.—For purposes of this paragraph—

"(i) an interest in a partnership or trust shall not be treated as an asset of the company, but

"(ii) the company shall be treated as actually owning its proportionate share of the assets held by the partnership or trust (as the case may be).

"(4) TENTATIVE TAXABLE INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'tentative taxable income' means taxable income determined without regard to the small insurance company deduction.

"(B) EXCLUSION OF ITEMS ATTRIBUTABLE TO NONINSURANCE BUSINESSES.—The amount of the tentative taxable income for any taxable year shall be determined without regard to all items attributable to noninsurance businesses.

"(C) NONINSURANCE BUSINESSES.—

"(i) IN GENERAL.—The term 'noninsurance business' means any activity which is not an insurance business.

"(ii) CERTAIN ACTIVITIES TREATED AS INSURANCE BUSINESSES.—For purposes of clause (i), any activity which is not an insurance business shall be treated as an insurance business if—

"(I) it is of a type traditionally carried on by insurance companies for investment purposes, but only if the carrying on of such activity (other than in the case of real estate) does not constitute the active conduct of a trade or business, or

"(II) it involves the performance of administrative services in connection with plans providing property or casualty insurance benefits.

"(iii) LIMITATION OF AMOUNT OF LOSS FROM NONINSURANCE BUSINESS WHICH MAY OFFSET INCOME FROM INSURANCE BUSINESS.—In computing the taxable income of any insurance company subject to tax imposed by section 831, any loss from a noninsurance business shall be limited under the principles of section 1503(c).

"(5) SPECIAL RULE FOR CONTROLLED GROUPS.—

"(A) SMALL INSURANCE COMPANY DEDUCTION DETERMINED ON CONTROLLED GROUP BASIS.—For purposes of this subsection—

"(i) all insurance companies which are members of the same controlled group shall be treated as 1 insurance company, and

"(ii) any small insurance company deduction determined with respect to such group shall be allocated among the insurance companies which are members of such group in proportion to their respective tentative taxable incomes.

"(B) NONINSURANCE MEMBERS INCLUDED FOR ASSET TEST.—For purposes of paragraph (3), all members of the same controlled group (whether or not insurance companies) shall be treated as 1 company.

"(C) CONTROLLED GROUP.—For purposes of this paragraph, the term 'controlled group' means any controlled group of corporations (as defined in section 1563(a)); except that subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply.

"(D) ADJUSTMENTS TO PREVENT EXCESS DETRIMENT OR BENEFIT.—Under regulations prescribed by the Secretary, proper adjustments shall be made in the application of this paragraph to prevent any excess detriment or benefit (whether from year-to-year or otherwise) arising from the application of this paragraph."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.●

By Mr. MCCAIN (for himself, Mr. INOUYE, and Mr. COCHRAN):

S. 1315. A bill to transfer administrative consideration of applications for

Federal recognition of an Indian tribe to an independent commission, and for other purposes; to the Select Committee on Indian Affairs.

INDIAN FEDERAL RECOGNITION ADMINISTRATIVE PROCEDURES ACT OF 1991

• Mr. MCCAIN. Mr. President, I rise today to introduce the Indian Federal Recognition Administrative Procedures Act of 1991. I am pleased to be joined by Senators INOUYE and COCHRAN as cosponsors of this important legislation. From the earliest times, the Congress has acted to recognize the unique Government-to-Government relationship with the tribes. In the recognition of an Indian group we are recognizing the formal political relationship between the tribe and the Federal Government. There are, and always have been, some Indian tribes which have not been recognized by the Federal Government. This lack of recognition does not alter the fact of the existence of the tribe; it merely means that there is no formal political relationship between the tribe and the Federal Government.

Over the years, our courts have ruled that recognition, while solely within the authority of the Congress, may also be conferred through actions of the executive branch. Both the President and the Secretary of the Interior have historically acted in ways which the courts have found to constitute recognition of Indian tribes. Regulations specifically establish criteria and procedures for the recognition of Indian tribes. Since 1978, tribal groups have filed 126 petitions for recognition. The branch of acknowledgment and research of the Bureau of Indian Affairs has acted on 20 of these petitions. Of this number, 12 petitioners were denied recognition and 8 were granted recognition. During this same period, the Congress recognized five other petitioners through legislation.

In 1978, 1983, 1988, and 1989 the Select Committee on Indian Affairs held oversight hearings on the Federal recognition process. At each of these hearings the record has clearly shown that the process is not working properly. The current administrative process for Federal recognition of certain Indian groups is a very costly and protracted one. There needs to be consistency and fairness in the Federal recognition process, which has too often been characterized by inconsistency and the lack of fairness. The administrative recognition process is hindered by a lack of staff and resources needed to fairly and promptly review all petitions. The annual cost to the Federal Government is estimated at $450,000.

The record from our previous hearings reveals a clear need for the Congress to address the problems affecting the recognition process. I believe that the bill which I am introducing today will go a long way toward resolving the problems which have plagued both petitioners and the Department of the Interior over the years. This bill is not an attempt to rewrite the existing body of laws that apply to the recognition process. It incorporates the Secretary's existing recognition criteria. By doing so, the bill avoids the need to reevaluate prior decisions of the Department and the need for tribal groups to file new petitions.

The Indian Federal Recognition Administrative Procedures Act provides for the creation of the Commission on Indian Recognition. The Commission will be comprised of three members appointed by the President. The Commission on Indian Recognition shall review petitions submitted by Indian groups for Federal recognition. In addition, the Commission can hold hearings and take testimony on petitions for Federal recognition. The bill provides realistic timelines to guide the Commission in the review and decision process. Some petitioners have waited 10 or more years for even a cursory review by the BIA. This bill requires the Commission to complete an initial review within 12 months from the date of the filing of the petition. It further requires the Commission to make a proposed finding on the petition within 1 year from the date that active consideration of the petition has begun.

To ensure fairness, the bill provides for appeals of adverse decisions to the Department's office of hearings and appeals. Final decisions on appeal are subject to further review in the Federal courts. To ensure promptness, the bill authorizes increased funding for the Department. The present annual funding level of $450,000 would be increased to $1.5 million. In addition, all petitions would be processed on a first-come first-served basis to avoid arbitrary decisions about the priority for processing applications. To assist petitioners in the preparation and filing of their petitions, the Administration on Native Americans of the Department of Health and Human Services is authorized to provide up to $500,000 per year in grants to unrecognized tribal groups.

This bill will also provide finality for both the petitioners and the Department. The Department has had a process for recognizing Indian tribes, in one form or another, since the 1930's. Great uncertainty has existed about when or how this process might be concluded. I believe that it is in the interest of all parties to establish a clear deadline for the completion of the administrative Federal recognition process. Accordingly, the bill requires all interested tribal groups to file their petitions within 6 years of the date of enactment. The Commission is required to complete action on all petitions within the established timelines.

Mr. President, I ask unanimous consent that the full text of the Indian Federal Recognition Administrative Procedures Act of 1991 and the section-by-section summary be printed in the RECORD immediately following my remarks.

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

S. 1315

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Indian Federal Recognition Administrative Procedures Act of 1991".

PURPOSES

SEC. 2. The purposes of this Act are to—

(1) establish an administrative procedure for the recognition of the existence of certain Indian tribes;

(2) extend to Indian groups the protection, services, and benefits available from the Federal Government pursuant to the Federal trust responsibility;

(3) extend to Indian groups the immunities and privileges available to federally recognized Indian tribes as well as the responsibilities and obligations of such Indian tribes;

(4) ensure that the special government-to-government relationship between the United States and Indian tribes has a consistent legal and historical basis;

(5) provide clear and consistent standards of administrative review of recognition petitions for Indian groups; and

(6) expedite the administrative review process by providing definitive timelines for review and adequate resources to process recognition petitions.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "Secretary" means the Secretary of the Interior or a representative designated by the Secretary of the Interior.

(2) The term "Commission" means the independent commission established under section 4.

(3) The term "Department" means the Department of the Interior.

(4) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(5) The term "area office" means an area office of the Bureau of Indian Affairs.

(6) The term "Indian tribe" means any Indian entity that—

(A) is located within any of the States of the United States; and

(B) is recognized by the Secretary of the Interior to be an Indian tribe.

(7) The term "Indian group" means any Indian entity that—

(A) is located within any of the States of the United States; and

(B) is not recognized by the Secretary of the Interior to be an Indian tribe.

(8) The term "petitioner" means any entity which has submitted, or submits, a petition to the Secretary requesting recognition that the entity is an Indian tribe.

(9) The term "autonomous" means having its own tribal council, internal process, or other organizational mechanism which the Indian group has used as its own means of making decisions independent of the control of any other Indian governing entity, and in using such term for purposes of this Act, such term must be understood in the context of the culture and social organization of that Indian group.

(10) The term "member of an Indian group" means an individual who—

(A) is recognized by an Indian group as meeting its membership criteria;

(B) consents to being listed as a member of that group; and

(C) is not a member of any Indian tribe.

(11) The term "member of an Indian tribe" means an individual who—

(A) meets the membership requirements of the Indian tribe, as set forth in its governing document or recognized collectively by those persons comprising the governing body of the Indian tribe, and

(B) has continuously maintained tribal relations with the tribe, or is listed on the tribal rolls of that Indian tribe as a member, if such rolls are maintained.

(12) The term "historical" means dating back to the earliest documented contact between—

(A) the aboriginal Indian group from which the petitioners descended, and

(B) citizens or officials of the United States, colonial or territorial governments, or if relevant, citizens and officials of foreign governments from which the United States acquired territory.

(13) The term "continuous" means, with respect to any Indian group, extending from generation to generation throughout the Indian group's history essentially without interruption.

(14) The term "indigenous" means native to the area that constitutes the continental United States in that at least part of the group's aboriginal range extended into what is now the area that constitutes the continental United States.

(15) The term "community" means any people living within such a reasonable proximity as to allow group interaction and maintenance of tribal relations.

(16) The term "other party" means any affected person or organization other than the petitioner who submits comments or evidence in support of, or in opposition to, a petition.

(17) The term "petition" means a petition submitted to the Commission under section 5(a)(1) or transferred to the Commission under section 5(a)(3).

(18) The term "treaty" means any treaty—

(A) negotiated and ratified by the United States with, or on behalf of, any Indian group,

(B) made by any sovereign with, or on behalf of, any Indian group, whereby the United States acquired territory by purchase or cession, or

(C) negotiated by the United States with, or on behalf of, any Indian group in California, whether or not the treaty was subsequently ratified.

COMMISSION ON INDIAN RECOGNITION

SEC. 4. (a)(1) There is established, as an independent commission, the "Commission on Indian Recognition".

(2)(A) The Commission shall consist of 3 members appointed by the President, by and with the advice and consent of the Senate.

(B) No more than 2 members of the Commission may be members of the same political party.

(C) The Commission shall hold its first meeting no later than 30 days after the date on which all members of the Commission have been appointed and confirmed by the Senate.

(D) Each member of the Commission shall be entitled to one vote which shall be equal to the vote of every other member of the Commission.

(E) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(F) In making appointments to the Commission, the President shall give careful consideration to—

(i) recommendations received from Indian tribes, and

(ii) individuals who have a background in Indian law or policy, anthropology, genealogy, or history.

(3) At the time appointments are made under paragraph (2)(A), the President shall designate one of such appointees as chairman of the Commission.

(4) Two members of the Commission shall constitute a quorum for the transaction of business.

(5) The Commission may adopt such rules (consistent with the provisions of this Act) as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(b)(1)(A) Each member of the Commission not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the executive Schedule under section 5316 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties authorized by the Commission.

(B) Except as provided in subparagraph (C), a member of the Commission who is otherwise an officer or employee of the United States Government shall serve on the Commission without additional compensation, but such service shall be without interruption or loss of civil service status or privilege.

(C) All members of the Commission shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Commission while away from home or their regular place of business, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(2) The principal office of the Commission shall be in the District of Columbia.

(c) The Commission shall carry out the duties assigned to the Commission by this Act, and shall meet the requirements imposed on the Commission by this Act.

(d)(1) Subject to such rules and regulations as may be adopted by the Commission, the chairman of the Commission is authorized to—

(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director of the Commission and of such other personnel as the chairman deems advisable to assist in the performance of the duties of the Commission, at a rate not to exceed a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code; and

(B) procure, as authorized by section 3109(b) of title 5, United States Code, temporary and intermitent services to the same extent as is authorized by law for agencies in the executive branch, but at rates not to exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(2) The Commission is authorized—

(A) to hold such hearings and sit and act at such times,

(B) to take such testimony,

(C) to have such printing and binding done,

(D) subject to the availability of funds, to enter into such contracts and other arrangements.

(E) to make such expenditures, and

(F) to take such other actions,

as the Commission may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(3) The provisions of the Federal Advisory Committee Act shall not apply to the Commission established under this section.

(4)(A) The Commission is authorized to secure directly from any officer, department, agency, establishment, or instrumentality of the Federal Government such information as the Commission may require for the purpose of this Act, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairman of the Commission.

(B) Upon the request of the chairman of the Commission, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality available to the Commission and detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section.

(C) 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.

(e) The Commission shall cease to exist on the date that is 60 days after the date on which the Commission publishes in the Federal Register the last determination the Commission is required to make under section 8(b) with respect to petitions filed under section 5(a). All records, documents, and materials of the Commission, prior to its termination, shall be transferred by the Commission to the National Archives and Records Administration.

PETITIONS FOR RECOGNITION

SEC. 5. (a)(1) Any Indian group that is indigenous (including any Indian group whose relationship with the Federal Government was terminated by law) may submit to the Commission, during the 72-month period beginning on the date of enactment of this Act, a petition requesting that the Commission recognize that the Indian group is an Indian tribe.

(2) The provisions of this Act do not apply to the following groups or entities, which shall not be eligible for recognition under this Act—

(A) Indian tribes, organized bands, pueblos, communities, and Alaska Native entities which are already recognized by the Secretary as eligible to receive services from the Bureau;

(B) splinter groups, political factions, communities, or groups of any character which separate from the main body of an Indian tribe that, at the time of such separation, is recognized as being an Indian tribe by the Secretary, unless it can be clearly established that the group, faction, or community has functioned throughout history until the date of such petition as an autonomous Indian tribal entity; and

(C) groups, or successors in interest of groups, that prior to the date of enactment

of this Act, have petitioned for, and been denied or refused, recognition as an Indian tribe under regulations prescribed by the Secretary.

(3) No later than 30 days after the date on which all of the members of the Commission have been appointed and confirmed by the Senate, the Secretary shall transfer to the Commission all petitions pending before the Department that request the Secretary, or the Federal Government, to recognize or acknowledge an Indian group as an Indian tribe. On the date of such transfer, the Secretary and the Department shall cease to have any authority to recognize or acknowledge, on behalf of the Federal Government, any Indian group as an Indian tribe. Petitions transferred to the Commission under this paragraph shall, for purposes of this Act, be considered as having been submitted to the Commission as of the date of such transfer.

(b) Any petition submitted under subsection (a) by an Indian group shall be in a form which clearly indicates that it is a petition requesting the Commission to recognize that the Indian group is an Indian tribe and shall contain each of the following:

(1) A statement of facts establishing that the petitioner has been identified from historical times until the present, on a substantially continuous basis, as Indian, except that a petitioner shall not be considered as having failed to satisfy any requirement of this subsection merely because of fluctuations of tribal activity during various years. Evidence which can be offered to demonstrate Indian identity of the petitioner on a substantially continuous basis shall include one or more of the following:

(A) Repeated identification of the petitioner as Indian by Federal authorities.

(B) Longstanding relationships of the petitioner with State governments based on identification of the petitioner as Indian.

(C) Repeated dealings of the petitioner with a county, parish, or other local government in a relationship based on the Indian identity of the petitioner.

(D) Repeated identification of the petitioner as an Indian entity be records in courthouses, churches, or schools.

(E) Repeated identification of the petitioner as an Indian entity by anthropologists, historians, or other scholars.

(F) Repeated identification of the petitioner as an Indian entity in newspapers and books.

(G) Repeated identification of the petitioner as an Indian entity by, and dealings of the petitioner as an Indian entity with, Indian tribes or recognized national Indian organizations.

(2) Evidence that—

(A) a substantial portion of the membership of the petitioner lives in a community viewed as Indian and distinct from other populations in the area, and

(B) members of the petitioner are descendants of an Indian group or groups which historically inhabited a specific area.

(3) A statement of facts which establishes that the petitioner has maintained tribal political influence or other authority over its members as an autonomous entity from historical times until the present.

(4) A copy of the present governing document of the petitioner describing in full the membership criteria of the petitioner and the procedures through which the petitioner currently governs its affairs and members.

(5) A list of all current members of the petitioner and their current addresses and a copy of each available former list of members based on the petitioner's own defined criteria. The membership must consist of individuals who have established descendancy from an Indian group which existed historically or from historical Indian groups which combined and functioned as a single autonomous entity. Evidence of tribal membership required by the Commission includes (but is not limited to)—

(A) descendancy rolls prepared by the Secretary for the petitioner for purposes of distributing claims money, providing allotments, or other purposes;

(B) State, Federal, or other official records or evidence identifying present members of the petitioner, or ancestors of present members of the petitioner, as being an Indian descendant and a member of the petitioner;

(C) church, school, and other similar enrollment records indicating membership in the petitioner;

(D) affidavits of recognition by tribal elders, leaders, or the tribal governing body as being an Indian descendant of the Indian group and a member of the petitioner; and

(E) other records or evidence identifying the person as a member of the petitioner.

NOTICE OF RECEIPT OF PETITION

SEC. 6. (a) Within 30 days after a petition is submitted or transferred to the Commission under section 5(a), the Commission shall send an acknowledgment of receipt in writing to the petitioner and shall have published in the Federal Register a notice of such receipt, including the name, location, and mailing address of the petitioner and such other information that will identify the entity submitting the petition and the date the petition was received by the Commission. The notice shall also indicate where a copy of the petition may be examined.

(b) The Commission shall also notify, in writing, the Governor and attorney general of, and each recognized Indian tribe within, any State in which a petitioner resides.

(c) The Commission shall publish the notice of receipt of the petition in a major newspaper of general circulation in the town or city nearest the location of the petitioner. The notice will include, in addition to the information described in subsection (a), notice of opportunity for other parties to submit factual or legal arguments in support of, or in opposition to, the petition. Such submissions shall be provided to the petitioner upon receipt by the Commission. The petitioner shall be provided an opportunity to respond to such submissions prior to a determination on the petition by the Commission.

PROCESSING THE PETITION

SEC. 7. (a)(1) Upon receipt of a petition, the Commission shall conduct a review to determine whether the petitioner is entitled to be recognized as an Indian tribe.

(2) The review conducted under paragraph (1) shall include consideration of the petition, supporting evidence, and the factual statements contained in the petition.

(3) The Commission may also initiate other research for any purposes relative to analyzing the petitioner's status and may consider any evidence which may be submitted by other parties.

(b) Prior to actual consideration of the petition and by no later than the date that is 12 months after the date on which the petition is submitted or transferred to the Commision, the Commission shall notify the petitioner of any obvious deficiencies, or significant omissions, that are apparent upon an initial review of the petition and provide the petitioner with an opportunity to withdraw the petition for further work or to submit additional information or a clarification.

(c)(1) Except as otherwise provided in this subsection, petitions shall be considered on a first come, first served basis, determined by the date of the original filing of the petition with the Commission, or the Department of the Interior if the petition is one transferred to the Commission pursuant to section 5(a). The Commission shall establish a priority register including those petitions pending before the Department of the Interior on the date of enactment of this Act.

(2) Petitions that are submitted to the Commission by Indian groups whose relationship with the Federal Government was terminated by law or by Indian groups that were parties to treaties—

(A) shall receive priority consideration over petitions submitted by any other Indian groups, and

(B) shall be considered on an expedite basis.

(d) The Commission shall provide the petitioner and other parties submitting comments on the petition notice of the date on which the petition comes under active consideration.

(e) A petitioner may, at its option and upon written request, withdraw its petition prior to publication in the Federal Register by the Commission of proposed findings under section 8(a) and may, if it so desires, resubmit a new petition. A petitioner shall not lose its priority date by withdrawing and resubmitting its petitions, but the time periods provided in section 8(a) shall begin to run upon active consideration of the resubmitted petition.

PROPOSED FINDINGS AND DETERMINATION

SEC. 8. (a)(1) Within 1 year after notifying the petitioner under section 7(d) that active consideration of the petition has begun, the Commission shall make a proposed finding on the petition and shall publish the proposed finding in the Federal Register.

(2) The Commission may delay making proposed findings on a petition under paragraph (1) for 180 days upon a showing of good cause by the petitioner.

(3) In addition to the proposed findings, the Commission shall prepare a report on each petition which summarizes the evidence for the proposed findings. Copies of such report shall be available to the petitioner and to other parties upon request.

(4) Upon publication of the proposed findings under paragraph (1), any individual or organization wishing to challenge the proposed findings shall have a response period of 120 days to present factual or legal arguments and evidence to rebut the evidence upon which the proposed findings are based.

(b)(1) After consideration of any written arguments and evidence submitted to rebut the proposed findings made under subsection (a)(1), the Commission shall make a determination of whether the petitioner is recognized by the Federal Government to be an Indian tribe. Except as otherwise provided by this Act, the determination shall be considered to be a determination on such recognition by the Federal Government, and shall be treated as a determination on such recognition by the Secretary, for all purposes of law.

(2) By no later than the date that is 60 days after the close of the 120-day response period described in subsection (a)(4), the Commission shall—

(A) make a determination of whether the petitioner is a federally recognized Indian tribe;

(B) publish a summary of the determination in the Federal Register; and

(C) deliver a copy of the determination and summary to the petitioner.

(3) Any determination made under paragraph (1) shall become effective on the date that is 60 days after the date on which the summary of the determination is published under paragraph (2).

(c) In making the proposed findings and determinations under this section with respect to any petition, the Commission shall recognize the petitioner as an Indian tribe if the petition meets all the requirements of section 5(b). The Commission shall not make such findings or determination of recognition of the petitioner if such requirements have not been met by the petitioner.

(d) If the Commission determines under subsection (b)(1) that the petitioner should not be recognized by the Federal Government to be an Indian tribe, the Commission shall analyze and forward to the petitioner other options, if any, under which application for services and other benefits of the Bureau may be made.

(e) A determination by the Commission that an Indian group is recognized by the Federal Government as an Indian tribe shall not—

(1) have the effect of depriving or diminishing the right of any other Indian tribe to govern its reservation as such reservation existed prior to the recognition of such Indian group.

(2) have the effect of depriving or diminishing any property right held in trust or recognized by the United States for such other Indian tribe prior to the recognition of such Indian group, or

(3) have the effect of depriving or diminishing any previously or independently existing claim by a petitioner to any such property right held in trust by the United States for such other Indian tribe prior to the recognition of such Indian group.

APPEALS

SEC. 9. (a) By no later than 60 days after the date on which the summary of the determination of the Commission with respect to a petition is published under section 8(b), the petitioner, or any other party, may appeal the determination to the United States Court of Appeals for the District of Columbia Circuit.

(b) The prevailing parties in the appeal described in subsection (a) shall be eligible for an award of attorney fees and costs under the provisions of section 504 of title 5, United States Code, or section 2412 of title 28 of such Code, as the case may be.

IMPLEMENTATION OF DECISIONS

SEC. 10. (a) Upon recognition by the Commission that the petitioner is an Indian tribe, the Indian tribe shall be eligible for the services and benefits from the Federal Government that are available to other federally recognized Indian tribes and entitled to the privileges and immunities available to other federally recognized Indian tribes by virtue of their status as Indian tribes with a government-to-government relationship with the United States, as well as having the responsibilities and obligations of such Indian tribes. Such recognition shall subject the Indian tribes to the same authority of Congress and the United States to which other federally recognized tribes are subject.

(b) While the Indian tribes that are newly recognized under this Act shall be eligible for benefits and services, recognition of the Indian tribe under this Act will not create an entitlement to existing programs of the Bureau. Such programs shall become available upon appropriation of funds by law. Requests for appropriations shall follow a determination of the needs of the newly recognized Indian tribe.

(c) Within 6 months after an Indian tribe is recognized under this Act, the appropriate area offices of the Bureau of Indian Affairs and the Indian Health Service shall consult and develop in cooperation with the Indian tribe, and forward to the respective Secretary, a determination of the needs of the Indian tribe and a recommended budget required to serve the newly recognized Indian tribe. The recommended budget will be considered along with other recommendations by the appropriate Secretary in the usual budget-request process.

LIST OF RECOGNIZED INDIAN TRIBES

SEC. 11. By no later than the date that is 90 days after the date of the enactment of this Act, and annually thereafter, the Secretary shall publish in the Federal Register an up-to-date list of all Indian tribes which are recognized by the Federal Government and receiving services from the Bureau.

ACTIONS BY PETITIONERS FOR ENFORCEMENT

SEC. 12. Any petitioner may bring an action in the district court of the United States for the district in which the petitioner resides, or the United States District Court for the District of Columbia, to enforce the provisions of this Act, including any time limitations within which actions are required to be taken, or decisions made, under this Act and the district court shall issue such orders (including writs of mandamus) as may be necessary to enforce the provisions of this Act.

REGULATIONS

SEC. 13. The Commission is authorized to prescribe such regulations as may be necessary to carry out the provisions and purposes of this Act. All such regulations must be published in accordance with the provisions of title 5, United States Code.

GUIDELINES AND ADVICE

SEC. 14. (a) No later than 90 days after the date of enactment of this Act, the Commission shall make available suggested guidelines for the format of petitions, including general suggestions and guidelines on where and how to research required information, but such examples shall not preclude the use of any other format.

(b) The Commission, upon request, is authorized to provide suggestions and advice to any petitioner for his research into the petitioner's historical background and Indian identity. The Commission shall not be responsible for the actual research on behalf of the petitioner.

ASSISTANCE TO PETITIONERS

SEC. 15. (a)(1) The Commissioner of the Administration for Native Americans of the Department of Health and Human Services may award grants to Indian groups seeking Federal recognition to enable the Indian groups to—

(A) conduct the research necessary to substantiate petitions under this Act, and

(B) prepare documentation necessary for the submission of a petition under this Act.

(2) The grants made under this subsection shall be in addition to any other grants the Commissioner of the Administration for Native Americans is authorized to provide under any other provision of law.

(b) Grants provided under subsection (a) shall be awarded competitively based on objective criteria prescribed in regulations promulgated by the Commissioner of the Administration for Native Americans.

SECTION-BY-SECTION SUMMARY ANALYSIS OF THE INDIAN FEDERAL RECOGNITION ADMINISTRATIVE PROCEDURES ACT OF 1991

SECTION 1

Section 1 cites the short title of the Act as the "Indian Federal Recognition Administrative Procedures Act of 1991."

SECTION 2

Section 2 sets out the purposes of the Act.

SECTION 3

Section 3 of this bill sets out the definitions used in the Act.

SECTION 4

Section 4 of this bill provides that there will be established the "Commission on Indian Recognition" as an independent commission. The Commission shall have three members who shall be appointed by the President with the advice and consent of the Senate. The Commission shall hold its first meeting no later than 30 days after the date on which all members have been appointed and confirmed by the Senate.

This section provides that the President shall give careful consideration to recommendations from Indian tribes and individuals who have a background in Indian law or policy, anthropology, genealogy or history. The President shall designate one appointee as the Chairman of the Commission and two members shall constitute a quorum for the transaction of business.

Subsection (b) of this section provides that each member of the Commission not employed by the Federal government shall receive compensation at a rate equal to the daily equivalent of the annual rate of pay for level V of the Executive Schedule under section 5316 of title 5, U.S.C. for each day the member is engaged in the performance of duties authorized by the Commission. This subsection provides that employees or officers of the Federal government shall serve without additional compensation except for reimbursement of travel and per diem expenses incurred during performance of their duties. Finally, this subsection provides that the principal office of the Commission shall be in Washington, D.C.

Subsection (c) provides that the Commission shall carry out the duties and meet the requirements imposed by this Act.

Subsection (d) provides that Chairman is authorized to appoint, terminate and fix compensation for an Executive Director of the Commission and such other personnel as deemed advisable. The chairman is also authorized to procure temporary and intermittent services to the same extent as is authorized by law for other agencies.

This subsection also provides that the Commission is authorized to hold hearings, to take testimony, to administer oaths or affirmations to witnesses and to enter into contracts or other arrangements as the Commission may deem advisable. The provisions of the Federal Advisory Commission Act shall not apply to the Commission on Indian Recognition.

Subsection (d) authorizes the Commission to secure information from any agency, department or instrumentality of the Federal government as it may require for the purposes of this Act. Each agency, department, or instrumentality of the Federal government is authorized and directed to furnish such information to the extent permitted by law. The Chairman of the Commission may request the use of any facilities, services or personnel of an agency, department or instrumentality of the Federal government to assist in the Commission in carrying out its duties under this section.

Subsection (e) of this section provides that the Commission shall cease to exist on the date that is 60 days after the date on which the Commission publishes in the Federal Register the last determination on petitions required under section 5(a) of the Act. All records, documents and materials shall be transferred by the Commission to the National Archives and Records Administration.

SECTION 5

Section 5 provides that any Indian group, including a terminated Indian tribe, may submit to the Commission a petition requesting that the Commission recognize that the Indian group is an Indian tribe. A recognition petition submitted under this Act must be submitted during the 72 month period beginning on the date of enactment of this Act. This section provides that the provisions of this Act shall not apply to Indian tribes or Alaska Native entities which are already federally recognized, splinter groups or political factions which have separated from the main body of a federally recognized Indian tribe, of groups or successors in interest of groups which have petitioned for Federal recognition and been denied.

This section also provides that no later than 30 days after the date on which all members have been appointed or confirmed by the Senate, the Secretary shall transfer to the Commission all petitions for Federal recognition pending before the Department of the Interior. On the date of the transfer, the Secretary shall cease to have any authority to recognize or acknowledge on behalf of the Federal government any Indian group as an Indian tribe. Petitions transferred to the Commission shall be considered as having been submitted to the Commission as of the date of such transfer.

Subsection (b) of this section provides that a petition submitted to the Commission on Indian Recognition shall contain a statement of facts establishing that the petitioner has been identified from historical times to the present, on a substantially continuous basis, as Indian. A petitioner shall not be considered as having failed to satisfy any requirement of this subsection merely because of fluctuations in tribal activity during various years. A petition for Federal recognition shall contain evidence that a substantial portion of the membership of the petitioner lives in a community viewed as Indian and distinct from other populations and that members of the petitioner are descendants of an Indian group which historically inhabited a specific area.

The petition submitted under this section shall include a statement of facts which establishes that the petitioner has maintained tribal political influence over its members as an autonomous entity from historical times to the present. The petition shall also include a copy of the governing document of the petitioner and a list of all current members of the petitioner.

SECTION 6

Section 6 provides that within 30 days of receipt of a petition the Commission shall send an acknowledgement of receipt to the petitioner and have published in the Federal Register a notice of such receipt. The Commission shall also notify in writing the Governor and attorney general of, and each recognized Indian tribe within, any state in which a petitioner resides. The Commission shall also publish a notice of receipt in a major newspaper of general circulation in the town or city nearest the location of the petitioner. This notice will also provide notice of opportunity for other parties to submit factual or legal arguments in support of, or opposition to, the petitions. Copies of such submissions shall be provided to the petitioner upon receipt. Petitioner shall have an opportunity to respond to such submissions prior to a Commission determination on the petition.

SECTION 7

Section 7 provides that upon receipt of a petition, the Commission shall conduct a review of the petition, including any supporting evidence, to determine whether the petitioner is entitled to be recognized as an Indian tribe. The Commission may initiate research to assist in the analysis of the petition and supporting documentation. Prior to actual consideration of the petition and by no later than the date that is 12 months after the date the Commission receives the petition, the Commission shall notify the petitioner of any obvious deficiencies or significant omissions that are apparent upon initial review of the petition. The petitioner may withdraw the petition or submit additional information.

Subsection (c) of this section provides that petitions shall be considered on a first come, first served basis which is determined by the date of original filing of the petition with the Commission. The Commission shall establish a priority register of all petitions including those petitions pending before the Department of the Interior. Petitions submitted by groups that were terminated by law or groups that were parties to treaties shall receive priority consideration over all other petitions and shall be considered on an expedited basis.

Subsection (d) of this section states that the Commission shall notify the petitioner and other interested parties of the date on which the petition comes under active consideration.

Subsection (e) of this section provides that a petitioner may withdraw its petition prior to publication of the Commission's proposed findings and may resubmit a new petition. A petitioner shall not lose its priority date by withdrawing and resubmitting its petition but the time period will begin to run upon active consideration of the resubmitted petition.

SECTION 8

Section 8 provides that the Commission shall make a proposed finding on the petition within one year of the notice of active consideration. The proposed finding shall be published in the Federal Register. Upon a showing of good cause by the petitioner, the Commission may delay making a proposed finding for 180 days. The Commission shall prepare a report which summarizes the evidence to support each proposed finding. Copies of the report shall be available to the petitioner and to other parties upon request. Any party may submit a legal or factual challenge to the proposed findings within 120 days of their publication.

Subsection (b) of this section provides that the Commission shall make a determination of whether the petitioner should be recognized by the Federal government to be an Indian tribe after consideration of all written arguments and evidence submitted to the Commission. The Commission shall make a determination of whether the petitioner is a federally recognized Indian tribe and publish a summary of such determination in the Federal Register within 60 days after the close of the 120 day response period under subsection (a)(4). The determination made under this subsection shall become effective on the date that is 60 days after the summary is published in the Federal Register.

Subsection (c) of this section states that the Commission shall recognize the petitioner as an Indian tribe if the petition meets all the requirements under section 5(b).

Subsection (d) provides that if the Commission determines that the petitioner should not be recognized to be an Indian tribe, then the Commission shall analyze and forward to the petitioner other options for services or benefits from the Bureau of Indian Affairs.

Subsection (e) provides that a determination by the Commission that an Indian group is recognized as an Indian tribe shall not have the effect of depriving or diminishing: (1) the right of any other Indian tribe to govern its reservation as such reservation existed prior to the recognition of the group; (2) any property right held in trust or recognized by the U.S. for an Indian tribe prior to the recognition of the Indian group; (3) any previously or independently existing claim by a petitioner to any such property right held in trust by the U.S. for another Indian tribe prior to the recognition of the Indian group.

SECTION 9

Section 9 states that no later than 60 days after the date on which the summary of the determination of the Commission on the petition for recognition is published, the petitioner, or any other party, may appeal the determination to the United States Court of Appeals for the District of Columbia. The prevailing parties in the appeal shall be eligible for an award of attorneys fees and costs under the provisions of section 504 of title 5 or section 2412 of title 28 of the U.S.C. as the case may be.

SECTION 10

Section 10 provides that upon recognition by the Commission that the petitioner is an Indian tribe, the Indian tribe shall be eligible for services and benefits from the Federal government. The Indian tribes shall have the same responsibilities and obligations as other federally recognized Indian tribes Programs and services provided by the Bureau of Indian Affairs shall be provided to the newly recognized Indian tribe when funds have been appropriated for such programs. Requests for appropriations shall follow a determination of the needs of the newly recognized Indian tribe.

Finally, this section provides that within 6 months after an Indian tribe is recognized under this Act, the area offices of the Bureau of Indian Affairs and the Indian Health Service shall consult and develop in cooperation with the Indian tribe a determination of needs and a recommended budget. The needs determination and recommended budget shall be forwarded to each Secretary for their consideration.

SECTION 11

Section 11 provides that within 90 days of enactment of this Act and anually thereafter, the Secretary shall publish in the Federal register an up-to-date list of all Indian tribes which are recognized by the Federal government and receiving services from the Bureau.

SECTION 12

Section 12 provides that any petitioner may bring an action in Federal District Court to enforce the provisions of this Act including any time limitations established under this Act and the District Court shall issue such orders as may be necessary to enforce the provisions of this Act.

SECTION 13

Section 13 authorizes the Commission to prescribe such regulations as may be necessary to carry out the provisions and purposes of this Act.

SECTION 14

Section 14 provides that within 90 days of enactment of this Act, the Commission shall make available suggested guidelines for the format of petitions including suggestions on research required in the documentation of a petition for Federal recognition. This section also provides that the Commission may provide advice and technical assistance to a petitioner in documenting the historical background and Indian identity of the Indian group. It further provides that the Commission shall not be responsible for actual research on behalf of the petitioner.

SECTION 15

Section 15 provides that the Commissioner of the Administration for Native Americans may award grants to Indian groups seeking Federal recognition. Grants may be used to conduct research necessary to substantiate petitions for Federal recognition and to prepare documentation necessary for the submission of a petition for Federal recognition. The Commissioner shall award grants on a competitive basis pursuant to objective criteria established by regulation.

SECTION 16

Section 16 provides that there shall be authorized to be appropriated for the Commission on Indian Recognition $1,500,000 for each fiscal year 1992 through 2004 to carry out the purposes of this Act. This section provides that there shall be authorized to be appropriated for the Administration for Native Americans $500,000 for each fiscal year 1992 through 2004 to carry out the purposes of section 15 of the Act.●

By Mr. THURMOND (by request):

S. 1316. A bill to amend title 38, United States Code, with respect to the admissibility in evidence of foreign records of regularly conducted activity; to the Committee on the Judiciary.

FOREIGN RECORDS OF REGULARLY CONDUCTED ACTIVITY

Mr. THURMOND. Mr. President, I rise today to introduce a bill, at the administration's request, that will facilitate the introduction of foreign business records into evidence in Federal civil proceedings. This section is analogous to title 18, section 3505 of the United States Code, which applies to the introduction of foreign business records into evidence in Federal criminal proceedings.

The hearsay rule does not allow statements by persons who are not present at a trial to be admitted into evidence. The bill I am introducing today will add another exception to the hearsay rule for foreign business records. This exception is based on the business record exception, one of the hearsay exceptions currently found in the Federal Rules of Evidence. This exception allows a business record that is a hearsay statement to be admitted into evidence if it possesses sufficient guarantees of its truth to justify the absence at trial of the person who made the hearsay statement.

The foreign business record exception would allow foreign business records to be admitted into evidence if the records fulfill certain certification requirements, thereby facilitating the introduction of a foreign business record while providing safeguards for its authenticity. This exception currently exists for foreign business records in Federal criminal proceedings, and the Justice Department's experience with this procedure has been extremely favorable.

Mr. President, this legislation will provide a useful exception to the hearsay rule. I urge my colleagues to support this legislation and 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. 1316

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

SECTION 1. FOREIGN RECORDS OF REGULARLY CONDUCTED ACTIVITY.

(a) AMENDMENT TO TITLE 28.—Chapter 115 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§1747. Foreign Records of Regularly Conducted Activity

"(a)(1) In a civil proceeding in a court of the United States, including the United States Claims Court and the United States Tax Court, a foreign record of regularly conducted activity, or a copy of such record, shall not be excluded as made by the opposing party and determined by the court before trial. Failure by a party to file such motion before trial shall constitute a waiver of objection to such record or duplicate, but evidence by the hearsay rule if a foreign certification attests that—

"(A) such record was made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters;

"(B) such record was kept in the course of a regularly conducted business activity;

"(C) the business activity made such a record as a regular practice; and

"(D) if such record is not the original, such record is a duplicate of the original;

unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness.

"(2) A foreign certification under this section shall authenticate such record or duplicate.

"(b) As soon as practicable after a responsive pleading has been filed, a party intending to offer in evidence under this section a foreign record of regularly conducted activity shall provide written notice of that intention to each other party. A motion opposing admission in evidence of such record shall be section 1746 the following item: "1747. Foreign records of regularly conducted activity.".

SEC. 2. EFFECTIVE DATE.

The amendments made by Section 1 are effective on the date of enactment of this Act.

By Mr. PELL:

S. 1317. A bill to authorize appropriations for defense economic adjustment assistance; to the Committee on Armed Services.

ECONOMIC ADJUSTMENT ASSISTANCE AUTHORIZATION ACT

Mr. PELL. Mr. President, I am introducing a bill to remove the fiscal year restrictions from the Defense Economic Adjustment, Diversification, Conversion and Stabilization Act of 1990, which was enacted as part of the National Defense Authorization Act for fiscal year 1991.

My bill would authorize further funding in future fiscal years for the programs authorized by that act, namely community economic adjustment assistance through the Economic Development Administration of the Department of Commerce, and adjustment assistance, training, and employment services for employees through the Department of Labor.

As the author of S. 2097, the Defense Diversification and Adjustment Act in the 101st Congress, parts of which were enacted in the fiscal year 1991 Defense authorization bill, I have a special interest in seeing that these programs are assured of continuity in coming years when the impact of decreased defense spending will almost certainly become increasingly severe.

I am very pleased that the Department of Defense has now agreed, after some delay, to transfer the funds authorized and appropriated for these programs in fiscal year 1991, namely $150 million to the Labor Department and $50 million to the Department of Commerce. I note that these funds are to remain available until expended, by terms of the authorization bill, and until September 30, 1993, by terms of the appropriation bill.

While it is too early to estimate the rate of depletion of these funds, it is possible that they may be quickly obligated due to the continuing reduction in defense spending and particularly as a result of possible implementation of the pending proposals for closure and realignment of military bases.

For these reasons, it seems prudent to continue the authorizations on an open-ended basis for fiscal years after 1991 so that Congress will be free to appropriate such sums as may be necessary to help cushion these continuing blows to the defense-based sectors of the economy.

I am pleased to note that my bill is identical to H.R. 2366 which was introduced on May 15 by Congresswoman MARY ROSE OAKAR, who shares my great concern about the need to provide adjustment assistance to those who through no fault of their own find their livelihood threatened by macrochanges in national budget priorities.

My own concern stems from the vulnerability of defense contractors who make up a substantial portion of the economic base of my State. Already, the Electric Boat Division of General Dynamics, builder of Seawolf and Tri-

dent submarines and the largest private sector employer in the State, has indicated that it will be forced to cut its work force of 22,000 in half by 1997, even assuming construction rates of one new submarine a year. Raytheon's Submarine Signal Division, located in Portsmouth, RI, has laid off 30 percent of its work force in the last year, and an associated community of high-technology contractors, mostly small businesses, also has been hard-hit. And in the areaof base closures, it appears that the civilian work force of the Naval Construction Battalion Center, better known as the Seabees, will be out of work with the proposed shutdown of that facility.

The State of Rhode Island is mounting a statewide effort to deal with these dislocations. The State's Office of Strategic Planning has launched a statewide economic adjustment planning project, hopefully to be funded in part by a Federal grant from the Department of Defense Office of Economic Adjustment, for which application is pending.

An important related development is a job creation demonstration project proposed by the Economic Innovation Center of Middletown, RI, and designed especially to assist the adjustment of workers in the high technology contracting community. An application is now pending with the U.S. Department of Labor for support of this project from the funding provided by the economic adjustment provisions of the defense authorization and appropriation bills for fiscal year 1991.

I cite these local circumstances to show that even in the Nation's smallest State, vigorous efforts are under way to lay claim on the State's fair share of the Federal adjustment assistance funds now currently available. Our efforts are surely magnified nationwide with intensity which will increase as the impact of base closures and reduced contracts sinks in. It only makes sense to extend the authorization for these programs now to give assurance that the Federal Government will keep faith with those who need help in adjusting to a new world order.

By Mr. HATFIELD (for himself, Mr. PACKWOOD, and Mr. JEFFORDS):

S. 1318. A bill to amend the Solid Waste Disposal Act so as to protect the environment from discarded beverage containers; to reduce solid waste and the cost in connection with the disposal of such waste through recycling; and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL BEVERAGE CONTAINER REUSE AND RECYCLING ACT

Mr. HATFIELD. Mr. President, I am pleased to rise today to introduce the National Beverage Container Recycling and Reuse Act. I am joined in this effort by my colleague from Oregon, Senator PACKWOOD, and my colleague from Vermont, Senator JEFFORDS.

As Congress undertakes the reauthorization of the Resource Conservation and Recovery Act [RCRA], recycling will no doubt emerge as one of the most effective tools in addressing the solid waste crisis. I know the sad irony of overflowing landfills on one hand, and diminishing resources on the other is not lost on my colleagues, and I am encouraged by indications that our constituents are losing patience with this irony as well.

In 1971, during my first term as a U.S. Senator, Oregon passed the Nation's first beverage container deposit law, which required a 5 cent deposit on each beverage container, redeemable upon return to the grocer. I have been a proponent of a Federal deposit law ever since. I believed then, and still believe now, that the proliferation of throwaway containers is a repugnant reminder of society's wanton depletion of energy resources and the continued idolization of convenience.

As someone who grew up during the Great Depression, I am constantly reminded of the throwaway ethic that has emerged so prominently in this country. In this regard, Oregon's deposit system serves a much greater role than merely cleaning up littered highways, saving energy and resources or reducing the waste flowing into our teeming landfills. The bottle bill acts as a tutor. It is a constant reminder of the conservation ethic that is an essential component of any plan to see this country out of its various crises. Each time a consumer returns a can for deposit, the conservation ethic is reaffirmed, and hopefully the consumer will then reapply this ethic in other areas.

The legislation that Senators PACKWOOD and JEFFORDS and I introduce today modernizes the approach taken by the States that have enacted deposit laws. The bill is modeled in part on elements of laws passed in California, Vermont, Maine, and of course Oregon, and addresses many of the industry concerns that have stalled this bill in the past. One of our principle goals is to encourage, through private enterprise, the development of a more efficient and comprehensive recycling infrastructure. Just as infrastructure is a vital part of our Nation's transportation system, infrastructure is also one of the most important components of a successful recycling program. Our bill encourages the various uses of unclaimed consumer deposits for this purpose. At the proper time, we do intend to offer the bill as an amendment to the RCRA reauthorization bill.

One of the concerns about this legislation is that it is incompatible with curbside recycling. As was recently reinforced before the Environment and Public Works Subcommittee on Environmental Protection by Fred Hansen, Director of Oregon Department of Environmental Quality, States that have working deposit systems are experiencing greater success by pairing a deposit system with a curbside system. They are diverting more waste from the landfills and spending less per ton doing it. Oregon has seen a significant expansion of curbside programs that work effectively in tandem with Oregon's bottle bill.

The GAO report commissioned by Senator JEFFORDS, Congressman HENRY and myself indicates that curbside systems and deposit systems are compatible. I have also recently become aware of a study by officials in the city of Cincinnati that indicates a dual deposit/curbside approach would divert 60 percent more waste from the landfill than the current curbside program alone.

Mr. President, now more than ever, we need programs with the popular support and effectiveness of the bottle bill. We need to put higher priorities on reducing waste, conserving energy and changing our throwaway mentality. There are many demonstrated benefits to a deposit approach and I hope my colleagues consider this legislation carefully.

Mr. PACKWOOD. Mr. President, I rise today as a cosponsor of the National Beverage Container Reuse and Recycling Act of 1991. Since the 93d Congress—1973–74—after Oregon adopted the Nation's first bottle bill, I have cosponsored legislation for a national program.

I recently received a letter from a 14-year-old Boy Scout from Troop 530, in Tualatin, OR, who addressed the lack of a national recycling program. Listen to what Gary Crockett of Tualatin had to say:

Dear Senator Packwood, I am a Boy Scout working on my citizenship-in-the-nation merit badge. I am writing to you concerning a national bottle bill. I think having a nationwide bottle recycling campaign would save a lot of natural resources used in producing more and more cans and bottles. The bottle return system works very well here in Oregon, and I'm sure it works just as well in States like California, Iowa, Maine, Vermont, and Michigan. It's very simple to operate. Take your cans and bottles to the grocery store and return them for a refund of a deposit you paid when you purchased the beverage. It is inexpensive to recycle the cans and bottles, and will help save the environment at the same time. It would increase space in landfills and would save glass and aluminum. I feel a national bottle bill would work well and would be good for our country's environment. I would enjoy hearing your opinion on this subject.

Well, Gary, I couldn't have said it any better. My opinion on this should be clear in my support today for this new and innovative approach for beverage container recycling.

A recent General Accounting Office report to Congress stated that 70 percent of Americans also support a de-

posit system. A national bottle bill is one part of a comprehensive recycling legislative solution and one that doesn't have to have all sorts of layers of Federal bureaucracy.

The bill is simple. It exempts States that have at least a 70-percent recycling rate for beverage containers or exempts those States that establish a program that substantially meets the bill's requirements within the next 2 years.

Mr. President, I hope this legislation brings forth a strong recycling incentive from all 50 States, and that this bill will be a guideline for the entire country to participate in a uniform beverage container recycling system.

Not only would this help the Nation environmentally, but it would also positively affect the Nation's health care system as well. A startling figure came out of a Massachusetts study after the adoption of its State bottle bill. The number of children who had to be taken to hospital emergency rooms for stitches because of injuries from discarded beverage containers went down over 60 percent the year after the Massachusetts bottle bill became law. The medical study concluded that the decrease was brought about by the State's new bottle bill.

Mr. President, this beverage container reuse and recycling legislation saves energy and natural resources, endorses national environmental goals, addresses cost containment, and insures our children's health and well-being and I ask my colleagues for their support of this legislation.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1319. A bill to provide for the establishment in Hawaii of a Department of Veterans Affairs post-traumatic stress disorder treatment program; to the Committee on Veterans' Affairs.

POST-TRAUMATIC STRESS DISORDER TREATMENT CENTER IN HAWII

• Mr. AKAKA. Mr. President, for myself and Senator INOUYE, I am today introducing legislation that would authorize the establishment of a facility in Hawaii that would comprehensively address the needs of veterans and active duty soldiers in the Pacific basin who suffer from post-traumatic stress disorder [PTSD] or other war-related disorders.

The Pacific Center for PTSD and War-Related Disorders would offer education and training programs and conduct scientific and program evaluation research on PTSD and war-related disorders with a special focus on investigating variations in these conditions which may be influenced by culture, ethnicity, gender, and other psychosocial variables. The center would provide a comprehensive response to the problems of Pacific area veterans suffering from PTSD and other war-related mental health disorders. Most importantly, the Pacific center would offer specialized inpatient treatment for those suffering from severe cases of PTSD. The organization would also undertake the Asian-Pacific component of the ongoing Matsunaga minority PTSD study. The Pacific center would coordinate and integrate all PTSD-related activities undertaken by VA, Tripler Army Medical Center, the University of Hawaii, the State Department of Health, and other health-care related entities.

Mr. President, I recently returned from a factfinding visit this spring to the big island of Hawaii, which may have the highest rates of PTSD incidence and prevalence among veterans in the Nation. I personally met with veterans who have serious cases of the disorder, many of whom live in the most primitive of conditions and who are unable because of their condition to hold jobs, afford decent housing, or have normal human relations with other members of their community. National media coverage, including a "20/20" segment that was aired last Friday and a February 11 Time magazine article, may have made some of my colleagues aware of the extent of the problems faced by this unfortunate population.

The veterans with whom I met had many complaints about their treatment by VA personnel, especially in the area of adjudication for PTSD compensation benefits. However, I was particularly struck by their lack of access to specialized psychiatric inpatient care for their condition. Their problems are shared to one degree or another by all veterans in Hawaii and throughout the Pacific region.

In Hawaii, medical and mental health professionals who treated Vietnam war veterans from ethnocultural minority groups indicate that both the extent and the severity of PTSD among these groups represent an important challenge for service providers. Many members of these ethnocultural groups are not receiving needed care because of cross-cultural difficulties regarding communication, diagnostic procedures, clinical assessment, and appropriate treatment alternatives.

Currently, Hawaii veterans have only a limited range of PTSD care in the State. Veterans with milder forms of the disorder are essentially treated on an outpatient basis, utilizing services provided through the various clinics and vet centers located throughout the State. Veterans with more serious cases are referred to the general psychiatric ward at Tripler Army Medical Center, which lacks the extended, specialized care that a unit dedicated to PTSD treatment can provide, and whose military setting dissuades many veterans from presenting themselves for treatment. Indeed, the entire VA health care system in Hawaii is geared only for short-term crisis management of PTSD, not for intensive treatment of the disorder. This despite the fact that Hawaii has a proud tradition of military service. As a matter of record, the 50th State has the highest number of veterans per capita of any State in the Nation.

Those veterans who are deemed to require indepth care are referred to VA's specialized PTSD treatment facilities at Menlo Park, CA, or American Lake, WA, thousands of miles distant. However, aside from a 2- to 3-month waiting period for admittance, veterans fortunate enough to be accepted in these programs must leave their family and community support groups behind, which are often key factors in recovery. Family members who wish to join them are forced to give up jobs, friends, and homes and also must bear the cost of relocation. Additionally, testimony gathered by the Senate Veterans' Affairs Committee in two separate Hawaii field hearings shows that Hawaii veterans may be subject to racial harassment by other veterans in the mainland programs—for example, being called gooks because of their Asian-Pacific heritage—that exacerbates their conditions. Knowing the obstacles that they encounter on the mainland, Hawaii veterans in desperate need of treatment often choose to forgo care at these facilities. Finally preliminary evidence indicates that PTSD and other disorders have an ethnocultural component, and thus may require the development of radically new methods to identify and treat the condition—methods that are not available at either Menlo Park or American Lake.

Writing in the fall 1990 issue of the Clinical Newsletter of the National Center for PTSD, Doctors Marsella, Chemtob, and Hamada provided a summary to what is known about the impact of culture on PTSC. An excerpt from their article follows:

At a recent meeting of the National Center for PTSD, attention was directed to the needs of ethnocultural minority veterans suffering from PTSD. The National Vietnam Veterans Readjustment Study (NVVRS 1988) reported significantly higher rates of PTSD among Hispanics and Blacks. Unfortunately, the study did not include findings from any cross-cultural or transcultural research. Those attending the meeting at the Center concluded that understanding and treating PTSD veterans from ethnocultural minority groups requires more specialized knowledge about ethnocultural variations in the nature, experience, and care of PTSD than is currently available.

We have identified four factors which may have predisposed ethnocultural minorities to additional risk and vulnerability under battlefield conditions. First, ethnocultural minorities were subject to racial stereotyping, ridicule, and inequitable treatment. Second, they were asked to fight a non-white people on behalf of a country which many of them considered racist. Third, the Vietnamese enemies often reminded soldiers of color of their own non-white status, increasing guilt and conflicts. Fourth, ethnocultural minorities' personality temperaments were often

different from those preferred by the military. Lower military social status and ambivalent feelings towards the white-dominated military may have acted in concert to increase minorities' risk of and vulnerability to stress.

In addition, many ethnocultural minority traditions idealize the masculine role and encourage endurance and silence in the face of distress rather than complaining about problems. Many ethnocultural minority veterans felt complaining to the Veterans Administration about PTSD-related problems would make them feel shame and humiliation. This was compounded by the reluctance of many ethnocultural minority veterans to pursue assistance from the Veterans Administration because of their distrust of the white-dominated institutions. Lastly, ethnocultural minorities are reluctant to seek assistance because of language and communication differences. Frequently, they speak street or pidgin English dialects which are difficult to understand. In some instances, English may be their second language. It should be noted that communications difficulties also apply to a spectrum of non-verbal and paraverbal ethnocultural differences which are non-redundant communication channels.

While there has been only limited research on variations in PTSD among ethnocultural minority veterans, considerable anecdotal experience has been accumulated at Department of Veterans Affairs clinics and hospitals across the country (e.g., Abueq, 1990, Hamada, Chemtob, Sautner & Sato, 1988). In addition, there is an extensive body of published research regarding cultural determinants of psychopathology and psychotherapy that bear directly upon the needs of ethnocultural minority veterans with PTSD. This research addresses virtually all aspects of psychopathology and psychotherapy that are relevant to PTSD. This includes the ethnocentricism and bias associated with current psychiatric and psychological knowledge regarding: (a) standards of normality and abnormality; (b) expression, course, diagnosis, classification, clinical assessment, and outcome of mental disorders; and (c) cultural appropriateness of various therapy procedures and techniques (e.g., Kleinman & Good, 1985; Marsella 1980; Marsella & Kameoka, 1989; Marsella & White, 1984).

There has been considerable research demonstrating ethnocultural variations in the expression and manifestation of certain anxiety and depressive disorders (op. cit.). This research has shown that individuals from non-Western cultural traditions often fail to present classical symptoms of these disorders and are misdiagnosed as suffering from somatic disorders. Thus, it is quite possible that ethnocultural minority veterans suffering from PTSD and related disorders may be wrongly diagnosed and inappropriately treated. This problem requires developing clinical assessment procedures which are sensitive to ethnocultural variations in the expression of PTSD. Clinical assessment of PTSD relies on a battery of psychological and psychiatric tests and interviews. Many questions used in clinical tests and interviews, however, are inappropriate in content for assessing ethnocultural minorities and thus do not accurately index problems that may be present. Many of the tests and interviews are based on norms which do not include ethnocultural minority group reference data. Yet, these norms are being used as the standards for evaluating ethnocultural minorities.

Every ethnocultural tradition has therapy forms which seek to resocialize patients according to expected and preferred standards of behavior. In addition, every culture uses therapy forms consistent with its own view of the nature and cause of disease and of the procedures presumed necessary to reestablish normal functioning. Thus, all aspects of therapy and counseling reflect cultural influences. This includes (a) the patient's conception of the nature/cause of his disorder; (b) the patient's expectations of therapy and of the therapist; (c) the patient's definition of the "ill" role; (d) the patient's motivation to comply with therapy; and (e) the patient's personal/social resources and skills.

In response to the gradual recognition of ethnocultural variations in both therapy process and outcome, the field of cross-cultural psychotherapy and counseling has gained increased popularity (e.g., Marsella & Pederson, 1982; Pederson, Draguns, Lone & Trimble, 1988). Some authors have raised serious ethical questions about the implications of therapists conducting therapy with patients from different ethnocultural backgrounds. In recent years, there have been efforts to introduce indigenous healers and non-Western alternatives into Western clinical settings. These therapies differ from traditional Western "talk" psychotherapies in that they frequently involve strong spiritual, tactile, and family components. There can be no doubt about their effectiveness. Many of them have been in use for centuries. Increasingly, clinics and hospitals are beginning to work collaboratively with indigenous healers in providing care to ethnocultural minority group members who are still heavily identified with traditional cultures.

Mr. President, it is precisely the need to develop and evaluate new methods of treating veterans from different ethnic and cultural backgrounds that is one of most important reasons underpinning the Pacific center initiative. As some in this Chamber may be aware, Senator INOUYE and I helped fund an ongoing study initiated by my predecessor, the late Spark Matsunaga, to examine the incidence and prevalence of PTSD in those minority populations—including Native Americans, Alaska Natives, and Asian-Pacific Islanders—that were overlooked in the seminal National Vietnam Veterans Readjustment Study, which was completed 2½ years ago. The "Matsunaga Study" is at an initial design stage, and the center would serve as an ideal, cost-effective infrastructure for carrying out the Asian-Pacific component of the undertaking.

In short, Mr. President, the apparent high incidence and prevalence of PTSD in Hawaii, the lack of the full range of PTSD treatment—particularly the lack of specialized inpatient care—in the islands, and the pressing need to explore new methods to better treat veterans from minority cultures could all be addressed in one degree or another by the establishment of the Pacific center.

However, there are some who would say that the Pacific center is unnecessary given VA's plans to establish Hawaii's first and only VA medical center. My reply is threefold: First, the hospital will not become operational until at least late 1997 and thus will not meet the immediate, pressing need to assist PTSD-afflicted veterans in Hawaii. Second, and more importantly, current plans for the facility do not include a specialized PTSD inpatient capacity, only general psychiatric services similar to what is now being offered through Tripler. Since the VA hospital will be located on Tripler grounds, the same veterans who refuse to present themselves at Tripler because of that facility's military associations also will likely refuse to frequent the VA medical center. Third, the Pacific center will provide a major opportunity to develop an affiliation with the University of Hawaii, bringing to bear its considerable expertise in ethnocultural aspects of health on veterans health-care programs. This is why it is vitally important that we establish the Pacific center: It fills a glaring gap in current VA plans for veterans in Hawaii and the Pacific region.

In closing, let me restate what I envision for the Pacific Center for PTSD and war-related disorders. I see it primarily as a treatment center for veterans and active duty soldiers who suffer from PTSD or similar disorders throughout the Pacific Basin. I see the center not only as just another specialized inpatient facility, but as a unique center of excellence that will gather the best, most innovative minds concerning PTSD, particularly as the disorder affects veterans from various ethnic and cultural backgrounds. The fact that Hawaii's climate and topography already attract veterans with the syndrome in inordinate numbers makes Hawaii the ideal location for these types of activity.

Thank you, Mr. President. I believe that the potential contributions that the Pacific center can make to our understanding and treatment of PTSD is fully consistent with Congress' and VA's newfound attention to this serious health care issue.

Mr. President, I ask unanimous consent that my bill and a copy of the Time magazine article to which I referred earlier be printed in the RECORD.

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

S. 1319

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

SECTION 1. ESTABLISHMENT OF A POST-TRAUMATIC STRESS DISORDER TREATMENT PROGRAM IN HAWAII.

(a) ESTABLISHMENT.—Chapter 73 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—MISCELLANEOUS PROGRAMS

"§ 7381. Post-traumatic stress disorder treatment facility in Hawaii

"(a) The Secretary shall establish in Hawaii a post-traumatic stress disorder diagnosis and treatment facility to be known as

the "Pacific Center for Post-Traumatic Stress Disorder and War-Related Disorders". Activities shall be conducted at the facility in accordance with this section.

"(b)(1) The Secretary shall ensure, to the maximum extent practicable, that activities relating to post-traumatic stress disorder shall be carried out at the facility as follows:

"(A) The provision of inpatient care services and comprehensive outpatient care services relating to the disorder to the following individuals suffering from post-traumatic stress disorder who live in the Pacific jurisdiction of the Department:

"(i) Veterans.

"(ii) Members of the Armed Forces on active duty, pursuant to a memorandum of understanding which the Secretary shall enter into with the Secretary of Defense.

"(B) The provision of education and training programs relating to the disorder for health care and human service professionals located in Hawaii and the Pacific basin, with an emphasis in the coverage of such programs on the manifestations of the disorder among individuals who are members of ethnic minorities.

"(C) The conduct of scientific research relating to the disorder and other war-related mental health disorders, including research relating to (i) the access of individuals who are members of ethnic minorities to diagnosis and treatment of such disorders in facilities of the Department, and (ii) the effectiveness of such diagnosis and treatment for such individuals.

"(D) The coordination of activities in Hawaii relating to research and treatment of the disorder that are conducted pursuant to programs affiliated with the Department of Defense, the Department of Veterans Affairs, institutions of higher education, State or local entities, or community entities and organizations.

"(E) The collection and dissemination of information relating to the diagnosis and treatment of (i) post-traumatic stress disorder, (ii) war-related mental health disorders, and (iii) mental health problems related to natural or man-made disasters.

"(2) The Secretary of Defense shall reimburse the Secretary of Veterans Affairs for the cost of providing care services to the members referred to in paragraph (1)(A)(ii).

"(3) For the purposes of this subsection, the term 'facility of the Department' has the meaning given such term in section 601(4) of this title.

"(c) In providing for the conduct of the activities of the facility under subsection (b), the Secretary shall ensure that special emphasis is given to investigating the relationship between post-traumatic stress disorder and the various cultural, ethnic, gender, and other psychological and social characteristics of persons who suffer from the disorder.".

"(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7368 the following new items:

"SUBCHAPTER V—MISCELLANEOUS PROGRAMS

"7381. Post-traumatic stress disorder treatment facility in Hawaii.".

LOST IN AMERICA—FOR VIETNAM VETS HUNKERED DOWN IN THE JUNGLES OF HAWAII, THE WAR NEVER CAME TO AN END

(By Paul A. Witteman)

Outside, the rain is beating a relentless riff that is familiar to anyone who has lived through a monsoon in Southeast Asia. Inside the Army-issue tent in a clearing at the jungle's edge, Nash A. Miller, a onetime helicopter door gunner and crew chief, is changing into a dry pair of camouflage fatigues. As his two watchdogs prowl silently, Miller, nicknamed "Nam" (his initials), recounts his tale with a small, innocent smile. It begins at a firebase in the badlands west of Kontum, near the Vietnam-Cambodia border, in the summer of 1970.

As Miller's gunship, a ponderous Huey "hog," was taking on a fresh load of rockets and grenades, a Soviet-made 122-mm shell exploded several yards away in a lethal burst of metal. Fragments shredded his pants, embedding themselves in his legs. One shard burned its way into his throat. After the field surgeon in Pleiku extracted a chunk close to his jugular vein, an opening the size of a quarter remained in his neck. "I was fascinated by the hole," he says, rubbing the scar. "When I looked in the mirrow, I could see my Adam's apple."

Two decades later, Miller is still on intimate terms with the war. "For years, I've slept with my left hand on my Bible and my right hand on my .45," he says. But the particular piece of tropical rain forest that Miller inhabits is a long way from the Ho Chi Minh Trail. Miller's base camp hunkers down on some hardscrabble red dirt several miles outside the village of Pahoa on the Big Island of Hawaii. In touch and smell, as well as sight, it is the closest to Vietnam that one can get within the U.S. "I will never live anywhere else," Miller declares. "The jungle is my home."

Today, as Americans once again hear reports of U.S. soldiers taken prisoner of war or missing in action, many are reminded that not everyone lost in the last big conflict has been accounted for. The government of Vietnam last month continued to return the remains of U.S. fightingmen who lost their lives there. Lobbyists go on pressing for the location of other MIAs (surprisingly, many Americans still believe there are U.S. soldiers behind held captive somewhere in the jungles of Indochina). Much less attention has focused on another group of "lost" warriors: those combat veterans who, like Miller, disappeared into the jungle after they got home.

Most of the "bush vets," as they've come to be known, prefer it that way, having chosen to shun virtually all human contact. Many returned home only fleetingly before retreating into tropical solitude. "My family thinks I'm an MIA in the U.S.A.," says Glen Hayne, 44, who made it back to Oakland in February 1968, after a tour full of fire fights and body bags with the Tenth Cavalry, only to drift to Mexico and then Hawaii. He supported himself by growing the powerful local variety of marijuana known as pakalolo but, after a recent crackdown by drug agents, has switched to fishing. Patrick Barnett (not his real name), on the other hand, who is originally from Honolulu, lived for years under trees and bushes in the Waipio Valley, subsisting primarily on breadfruit, mangoes and bananas. "My first 14 years on this island were spent in hiding," says Barnett, who is stooped, almost toothless and looks decades older than his 41 years.

By some estimates, there are several hundred Vietnam veterans living on the mountainous and sparsely settled Big Island, as well as clusters in such diverse places as the Pacific Northwest and the backwoods of Maine. An accurate count is tough to come by. "You don't have to move very far up slope to get out of sight," says Stephen Staten, a psychiatrist who began counseling bush vets at a Veterans Administration clinic in Kona 16 months ago. No one is looking too closely either, since some of the bush vets are armed, unpredictable and have set booby traps around their camps. "There are veterans in the bush who are beyond help," says Michael Cowan, who in 1987 helped found V.F.W. Post 3874 in Kona. "I hate to say this, but the authorities need to go in, drop nets over them, confiscate their weapons and put them in straitjackets."

Cowan, a Silver- and multiple Bronze-Star winner who guided artillery and air strikes in Vietnam, ought to know. He self-destructed when he went home to Oklahoma. His marriage failed, he was dismissed from the Army, and he spent four years in a mental hospital after being arrested for his role in a shooting incident. In 1983 he hit the beach in Hawaii, a burned out case who washed windows for beers and scrounged in dumpsters for food. In 1985, 12 years after his last combat action, Cowan was given a medical explanation for his troubles: post-traumatic stress disorder.

PTSD is the modern term for what used to be called battle fatigue or shell shock. A congressional study in 1988 found that about 479,000 of the nation's 3.5 million or so Vietnam vets are afflicted with serious cases; an additional 350,000 display more moderate symptoms. PTSD is a state of extreme arousal caused by the virtual nonstop release of adrenaline and other similar substances into the bloodstream. When cars backfire, PTSD patients generally hit the dirt. The sound of helicopter rotor blades causes some to conceal themselves in trees. A baby's cry can invoke instant rage. Put in nonclinical terms, says psychiatrist Staten, the symptoms of PTSD are "like experiencing one's most threatening nightmares." A recent medical study found that the adrenaline levels of PTSD sufferers remain higher during hospital treatment than those of manic-depressives and paranoid schizophrenics.

In Vietnam, PTSD was often caused by the prolonged stress of trying to survive an ambush or a fire fight. Bill Ralph developed his case riding shotgun on fuel trucks engaged in night resupply missions. For seven of the 18 years he has lived in Hawaii, Ralph occupied an 8-ft. by 12-ft. hilltop shack. If a stranger approached, Ralph would slip into the jungle, his knife at the ready. "I didn't even know I was sick," he says. "I just thought I was a little different."

At the Kona clinic, Staten has been working to coax Ralph and a handful of others out of desperate isolation. Some of the men have formed a self-help group. At meetings of the new Hawaii Veterans Association, in the town of Captain Cook, they begin to make peace with the demons that haunt them, by discovering that others are haunted as well.

They also nurture communal outrage at the bureaucracy of the Veterans Administration, that latter day Viet Cong, for making benefits difficult to obtain. Adrian Yurong, 45, who served about a year and a half with the 25th Infantry Division near the Viet Cong stronghold of Cu Chi, has been denied benefits because his job description shows he was a radar operator. Yurong, now known simply as Nano, was pressed into service, he says, as an infantryman throughout his tour. The VA grants that he has PTSD but says he must have contracted it elsewhere. Such arguments enrage V.F.W. activist Cowan. "When you first go to the VA, you are denied benefits. Fifty percent of the vets don't go back. The second time you are denied, you lose another 25%," he says. "You must be willing to put up with total bullshit to get help," says Cowan, who fears that his own disability payments may be threatened by his activism.

Samuel A. Tiano, director of the regional VA office in Honolulu until a recent transfer, says dismissingly of the bush vets, "Some of these people would live this way if they had not been to Vietnam. We have some who are always wanting this and wanting that." But such service requests, says Tiano's boss, Edward Derwinski, the Secretary of Veterans Affairs, are exactly what the veterans should be making, Says he: "The customer is always right." Derwinski, whose department has been embarrassed by recent reports of negligence at VA hospitals, concedes that his bureaucracy has not always acted compassionately. "We have had a communications gap with Vietnam veterans. It is not a perfect situation."

Staten is trying to rectify that. In the process of helping the bush vets, he has learned that theirs is a well-traveled path. When Roman Legionnaires returned from war, they were encouraged to settle in rural areas where they could decompress quietly. Japanese literature tells of samurai retiring to tend the "perfect garden." For many of these men, the island of Hawaii is that perfect garden, or as Staten calls it, the "gentle jungle." Says Cowan: "It is like a sanctuary. I trust my emotions and feelings here."

Some bush vets have been drawn to the jungle, subconsciously seeking what therapists call "belated mastery." They want control over an environment that once terrified them. Says former Green Beret Lee Burkins, who has lived in Hawaii for 11 years; "I didn't plan to go back to the jungle to taste my fears. I wanted to achieve inner peace. But I kept looking for a foot, a pair of eyes or a gun muzzle. I had to tell myself not to worry about that anymore."

Not surprisingly, these veterans have strong feelings about the potential human consequences of America's latest war. After decades of suffering, they have a message for the future veterans of Operation Desert Storm. "There are occupational hazards in fighting a war," says, Burkins. "They are costly." Cowan adds a sobering caveat: "If a nation is going to suit up its young men and send them to war, it should be prepared to take care of them afterward." In the case of Hawaii's bush vets, that care has been long overdue.●

● Mr. INOUYE. Mr. President, I rise today to introduce, together with the junior Senator from Hawaii, a measure to authorize the establishment of the Pacific Center for Post-Traumatic Stress Disorder and War-Related Disorders.

The center would study variations in PTSD to ensure the successful diagnosis and treatment of Asian-American, American-Pacific Islander, and native American, including native Hawaiian, veterans in a culturally sensitive manner. In fiscal year 1991, the Congress appropriated funds at our request to study the incidence and prevalence of PTSD among these minority populations which were omitted in the national Vietnam veterans readjustment study. This center would serve as an appropriate place to test and implement the results and recommendations of this national study. Initial findings indicate that specialized treatments are needed because of cross-cultural differences in communication, clinical assessments, and appropriate treatment alternatives. Pilot treatment protocols would be developed and utilized to treat these minority veterans.

There is an urgent need for such a center in Hawaii, and in particular on the Island of Hawaii, which may very well have the highest number per capita of Vietnam era veterans suffering from PTSD. An alarmingly significant number have chosen to leave their families and jobs to return to the primitive conditions of Vietnam in the mountains of Hawaii. They relocate to Hawaii to live in a climate and topography similar to that of Vietnam. In doing so, they return to relive the nightmare which has been haunting them for over a decade.

Mr. President, in the February 11, 1991, edition of Time magazine, there appeared an article entitled "Lost in America," which graphically described the tragic lives of Vietnam veterans, termed "bush vets," living in the jungle, or bush, on the Island of Hawaii. On Friday, June 14, 1991, "20/20" aired a very similar segment on the bush veterans in Hawaii. In the wake of the returning U.S. heroes of Operation Desert Storm, Hawaii is receiving national attention as a haven for America's lost heroes.

These forgotten veterans—once brave soldiers who upon their return from a war America wanted to forget—were made the scapegoats for our United States policy in Vietnam. There were no welcome home parades, no yellow ribbons, and no American flags waving. Rather, they came home in the darkness of night, only to be ridiculed and humiliated in the light of day. Many veterans in the jungles of Hawaii, traumatized by what they were forced to endure in Vietnam, were pushed over the edge by the boos and jeers of the American people. It is, indeed, a sad commentary that these veterans would prefer an environment that reminds them of the horrors of war. Tragically, mainstream America—which ridiculed their willingness to sacrifice their lives and cheapened the lives of comrades who made the supreme sacrifice for this Nation—may have been more of a horror.

These national stories spotlighting Hawaii are both tragic and illuminating. Both focused on the lack of specialized psychological services for Vietnam veterans in Hawaii. Treatment is limited to crisis management on an outpatient basis through VA clinics and vet centers throughout the State. Veterans with serious PTSD problems are referred to the psychiatric ward at the Tripler Army Medical Center in Honolulu. However, as it is not the mission of an Army hospital, it lacks the targeted, long-term care that PTSD treatment requires. Additionally, its military setting discourages many from seeking treatment.

Moreover, in some cases, veterans are referred to the VA's PTSD treatment facilities at Menlo Park, CA, or American Lake, WA, thousands of miles from Hawaii. In addition to the 2 to 3-month waiting period, there are two primary reasons which result in very few Hawaii veterans seeking help in these facilities. First, the relocation of the veteran means that ties with family members, friends, and community-based support groups are severed. Such support is imperative to a healthy recovery. Second, there are veterans who fled to Hawaii to relive Vietnam and have no desire to return to once again place themselves in a setting they no longer feel a part of.

Mr. President, for these reasons, I believe that a specialized center on the Island of Hawaii is critically needed. We must turn our policy around and bring the treatment to the Veterans. The Pacific Center for Post-Traumatic Stress Disorder and War-Related Disorders will develop educational, training, counseling, and program evaluation research based on PTSD data collected and will establish a specialized inpatient treatment protocol for application at the center to assist veterans in need.

Mr. President, with the triumphant return of the Persian Gulf veterans, I believe that America is finally coming home. Only then is there hope that our PTSD Vietnam veterans may also return home. From this most recent war, I hope Americans have learned, that regardless of the our individual beliefs about the propriety of U.S. involvement in a war, we must not blame and lash out at our troops for that involvement. Their willingness to sacrifice their lives for this Nation deserves only our admiration and respect.

I believe that this lesson was learned—unfortunately at the expense of the many PTSD inflicted Vietnam veterans suffering in silence today. They continue to be tormented with shrapnel in their hearts and in their minds. I hope and pray that the coming home of the gulf war veterans and the establishment of this center will help the healing process and will allow our lost heroes to find the strength, through specialized PTSD treatments, to leave the jungles of Hawaii and come home.●

By Mr. KOHL:

S. 1320. A bill to amend section 924 of title 18, United States Code, to make it a Federal crime to steal a firearm or explosives in interstate or foreign commerce; to the Committee on the Judiciary.

FIREARMS THEFT ACT

● Mr. KOHL. Mr. President, I rise to introduce legislation that is long overdue: The Firearms Theft Act of 1991. This bill creates Federal penalties of up to 5 years imprisonment and fines of up to $5,000, for anyone stealing firearms or explosive materials.

The violent crime rate in our Nation is rising at an alarming rate. Every

day police face automatic gun fire on our city streets. Drive-by shootings by gang members have become commonplace. Every 19 seconds there is a violent crime committed in the United States. Mr. President, the Senate has no time to delay.

The sad truth is that no State or city is immune from this scourge. Last year, 155 murders were committed in my home city of Milwaukee, a 37 percent increase over 1989. The youngest of these murder victims were less than 1 week old. And recently Newsweek labeled Milwaukee one of the new murder capitals of the country.

In both major metroplitan areas and small rural communities, the rates of murder, assault with a deadly weapon, and drug related crimes are skyrocketing. Based on figures for the first part of 1991, it seems that the crime rates are increasing, not slowing down.

Mr. President, stolen firearms figure prominently in many of the most heinous crimes. Last month the Washington Post reported that over an 8 month period, 18 gun shops were robbed in the District of Columbia vicinity. Approximately 600 firearms were stolen. Some of these weapons were traced to Washington area crack houses just a few hours after they were stolen from a Maryland gun shop—and at least one was used in the murder of a Washington man. We can only imagine the nefarious purposes for which the others were utilized.

These are not isolated incidents. The Justice Department has informed the Judiciary Committee that approximately 20,000 stolen guns are reported each month. Combine this with the fact that five out six criminals receive their guns from the black market, and we have the makings of a national crisis.

My bill will directly assist Federal law enforcement agencies in halting these acts of thievery an reducing the number of guns available on the streets. Like the gun-free school zones law I authored last year, this proposal provides an additional tool to a prosecutor's arsenal, so that they can convict the persistent offenders who profit from violence in our communities.

Mr. President, I urge my colleagues to support this legislation, and ask unanimous consent that the bill be printed in the RECORD at this time. I also ask that an article from the Washington Post be printed in the RECORD following my remarks.

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

S. 1320

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

SECTION 1. THEFT OF FIREARM OR EXPLOSIVE MATERIAL.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) Whoever steals a firearm that is moving as, or is a part of, that has moved in, interstate or foreign commerce shall be fined under this title and imprisoned for not more than 5 years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(k) Whoever steals explosive material that is moving as, or is a part of, or that has moved in, interstate or foreign commerce shall be fined under this title and imprisoned for not more than 5 years, or both.".

AREA'S GUN STORE THEFTS SOAR WITH DEMAND FOR FIREPOWER

[From the Washington Post, May 23, 1991]

(By Pierre Thomas and Michael York)

Federal agents and police from Maryland and Virginia are investigating a series of recent burglaries from gun stores throughout the region in which hundreds of firearms have been stolen, some of which were later confiscated on the streets of the District.

In the last eight months, 18 gun shops have been broken into and about 600 firearms, worth up to $500,000 on the illegal gun market, have been stolen. Federal and local officials said the thefts are evidence of an alarming trend that underscores criminals' demand for firepower.

Many of the burglaries appear to have been committed by the same group, law enforcement officials said. Several police sources said as many as 10 of the burglaries may be related.

In some cases, the guns have been transported to New York and other cities. Many of the stolen firearms were brought into the District within hours. Guns from one Wheaton store, Guns Unlimited, have been recovered in arrests or searches in each of the District's four quadrants, and from five of the city's seven police districts.

"These criminals are willing to do just about anything to get to guns," said Margaret Moore, who oversees agents from the U.S. Bureau of Alcohol, Tobacco and Firearms who are assigned to ACES II, a federal-local effort targeting illicit gun dealing. "You are probably talking about more violent individuals, people going to great lengths not to be traced to the weapons. [In these types of thefts], you would likely have orders before you steal and distribute."

"There is an almost insatiable market for firearms in this area," said David C. Troy, the special-agent-in-charge of the bureau's Washington district office. "This rash of thefts indicates that. Those guns are on the street somewhere right now."

According to Troy, the burglars have taken all kinds of firearms, from revolvers to assault rifles to semiautomatic pistols to fully automatic machine guns. Troy who has supervised federal firearms investigators in Los Angeles and Philadelphia, said he has never seen this many gun shop thefts in the same region in such a short time.

"They have taken a potpourri of weapons," he said. "This is an unusual situation. It indicates a rash of thefts that we have not seen here in recent years."

Handgun possession is illegal in the District, except for those bought before September 1976 and registered before February 1977. Residents of Maryland and Virginia can buy handguns at stores in their states.

The bureau is working with local law enforcement agencies in an attempt to coordinate information and establish patterns of criminal activity.

About 31 firearms have been recovered, about half of them in the District and most of the others in Prince George's and Montgomery counties.

The Guns Unlimited break-in in Wheaton is an example. On Oct. 18, thieves broke through the wall of an adjoining store, gained entry and made off with 56 handguns, 10 long guns and two fully automatic machine guns. A short time later, D.C. police and federal agents raiding a crack house found about 12 firearms from that theft. Guns from the same store have been found in Northwest, Northeast, Southwest and Southeast Washington.

On New Year's Eve, thieves in a stolen four-wheel-drive Toyota truck smashed through the barred front window of a College Park store, Schelin Gun Shop, and fled with nearly $11,000 worth of weapons, mostly military-style semiautomatic assault rifles—10 handguns and five assault rifles.

There was a similar break-in in Hanover County, VA., near Richmond. On April 24, thieves drove a stolen flatbed truck through a cinder-block wall of the Green Top Sporting Goods store about 4:45 a.m and stole 159 semiautomatic pistols and revolvers. When a sheriff's deputy arrived six minutes after the store alarm went off, the thieves were gone and there was a 3-by-3 foot hole in the store.

Less than 24 hours later, police responding to a report of a shooting in Southeast Washington found a man shot in the neck and 10 guns from the Hanover heist, law enforcement sources said.

The theft from the Green Top gun shop "had to be professional," said Cecil Hopkins, chairman of the firm that owns the store. "The place had been thoroughly cased. I think the people behind this are in the drug business . . . . Before, [burglary attempts] had been pretty amateurish."

Hopkins said the burglars got inside even though his store is virtual "vault."

Jack Killorin, the bureau's chief of public affairs, said most of the gun shops have "pretty good security because most have considerable value in firearms."

"It's not a failure on the part of the gun dealers," Killorin said. "It's more indicative of how bad some of these people want guns." Gun store owners "need to know that they have to worry not only about people coming into their stores to misrepresent themselves to get guns, but also about people willing literally to drive through their back wall."

Thefts of guns during house burglaries have been common across the nation for years, and thefts from gun stores elsewhere are not unknown. In February, the owner of a San Diego gun shop was slain during a robbery attempt, according to published reports. In less than a year, more than 100 firearms were stolen in six store burglaries in the Grand Junction and Rifle areas of Colorado.

Federal authorities do not collect information on the numbers of gun shop thefts nationally because the burglary of a gun store is not a federal crime. Killorin said the Bush administration's new crime package would make such a burglary a federal violation.

One gun store owner won't wait for a new law. Ken Bingham, owner of Ken's Gun Room in Owings, Md., said he is going to sell his store because of a March 6 theft there. The thieves entered through an adjacent business that didn't have a burglar alarm and stole 32 firearms.

The adjacent store put in a burglar alarm later, but the problems didn't cease. Less than a month later, Bingham's store was broken into again. This time thieves smashed through a rear wall. They took 21 more handguns.

The store, he said, was the fulfillment of "a dream." But, he said, "an honest business can't make it . . . . I am tired of this foolishness."●

By Mr. LEAHY (for himself, Mr. BROWN, and Mr. KOHL):

S. 1322. A bill to amend title 18 of the United States Code to clarify and expand legal prohibitions against computer abuse; to the Committee on the Judiciary.

COMPUTER ABUSE AMENDMENTS ACT

Mr. LEAHY. Mr. President, I am pleased to introduce the Computer Abuse Amendments Act of 1991 with Senator BROWN and Senator KOHL.

The free flow of information is vital to our competitiveness as a nation. Innovations in computer technology create new opportunities for improving the flow of information and advancing America's economic future, but they also create new opportunities for abuse by those who seek to undermine our computer systems. The maintenance of the security and integrity of computer systems has become increasingly critical to interstate and foreign commerce, communications, education, technology and national security.

The National Research Council [NRC] recently published a major study, "Computers at Risk: Safe Computing in the Information Age." The study finds that we risk computer breaches that could cause economic disaster and even threaten human life. The NRC study points out:

> Tomorrow's terrorist may be able to do more damage with a keyboard than with a bomb. To date, we have been remarkably lucky. * * * Unfortunately, there is reason to believe that our luck will soon run out. Thus far we have relied on the absence of malicious people who are both capable and motivated. We can no longer do so.

The NRC study underscores the need for immediate action to protect our computer systems. In the 101st Congress, the Senate responded to the threat posed by new techniques for creating and transmitting malicious programs and codes by unanimously passing the computer abuse bill I introduced with Senators Humphrey and KOHL. The bill was not considered by the House of Representatives in the last Congress, so I now join with Senators BROWN and KOHL in reintroducing the bill.

This legislation is the product of over 2 years of work by the Subcommittee on Technology and the Law. It deals with new technologies and newly discovered forms of computer abuse. An alarming number of new techniques—computer viruses, worms and Trojan horses—can be used to enter computers secretly. Their simple names belie their insidious nature. Thousands of virus attacks have been reported and hundreds of different viruses have been identified. Hidden programs can destroy or alter data. For example, a Michigan hospital reported that its patient information had been scrambled or altered by a virus that came with a vendor's image display system. Hidden programs can also hopelessly clog computer networks, as we saw in the INTERNET worm of November 1988.

Other computer incidents, using the same kinds of programs, have been inadvertent. For example, in December 1989, the Vermont State computer network froze. It was impossible to sign on to the system. Rather than a virus or sabotage, it turned out to be a security device in the form of a "time bomb," built into the system's hardware to deter outside access. The manufacturer of the software had failed to inform the State that a special code would be triggered after a given date, locking out access through normal channels. It was a nuisance to be sure, but certainly without criminal intent.

The subcommittee held a hearing on May 15, 1989, to explore the threat to computers and the information stored in them posed by new forms of computer abuse. We heard testimony from FBI Director William Sessions, who stressed the seriousness of the threat posed by computer viruses and other techniques.

The subcommittee also heard testimony from Dr. Clifford Stoll, an astrophysicist at the Harvard-Smithsonian Center for Astrophysics. He testified that many researchers throughout the United States were prevented from using their computers for 2 days as a result of a worm that was introduced onto the INTERNET computer network in November 1988. While managing the computer system at the Lawrence Berkeley Laboratory, Dr. Stoll caught a West German spy using computer networks to try to gain access to military information.

As a prosecutor for more than 8 years in Vermont, I learned that the best deterrent to crime was the threat of swift apprehension, conviction, and punishment. Whether the offense is murder, drunk driving, or computer crime, we need clear laws to bring offenders to justice. Trespassing, breaking and entering, vandalism, and stealing are against the law. They have always been against the law because they are contrary to the values and principles that society holds dear. That has not changed and will not change.

In crafting this legislation we have been mindful of the need to balance clear punishment for destructive conduct with the need to encourage legitimate experimentation and the free flow of information. As witnesses testified in both the computer virus hearings and the subcommittee's March 16, 1988 hearing on information and competitiveness, the open exchange of information is crucial to scientific development and the growth of new industries. We cannot unduly inhibit that inquisitive 13-year-old who, if left to experiment today, may tomorrow develop the telecommunications or computer technology to lead the United States into the 21st century. He or she requests our future and our best hope to remain a technologically competitive nation.

Mr. President, this bill clarifies the intent standards, the actions prohibited, and the jurisdiction of the current Computer Fraud and Abuse Act [CFAA], 18 U.S.C. section 1030. Under the current statute, prosecution of computer abuse crimes must be predicted upon the violator's gaining, unauthorized access to the affected Federal interest computers. However, computer abusers have developed an arsenal of new techniques which result in the replication and transmission of destructive programs or codes that inflict damage upon remote computers to which the violator never gained access in the commonly understood sense of that term. The new subsection of the CFAA created by this bill places the focus on harmful intent and resultant harm, rather than on the technical concept of computer "access."

The bill makes it a felony intentionally to cause harm to a computer or the information stored in it by transmitting a computer program or code—including destructive computer viruses—without the knowledge and authorization of the person responsible for the computer attacked. This is broader than existing law, which prohibits "intentionally access[ing] a Federal interest computer without authorization," if that causes damage.

This legislation recognizes that some computer incidents are not malicious, or even intentional, and they are treated differently. The bill creates a parallel misdemeanor for knowingly transmitting a computer program with reckless disregard of a substantial and unjustifiable risk that the transmission will cause harm. The standard for recklessness is taken from the Model Penal Code. This provision will give prosecutors and juries greater flexibility to get convictions for destructive conduct.

The bill creates a new, civil remedy for those harmed by violations of the CFAA. This would boost the deterrence of the statute by allowing aggrieved individuals to obtain relief.

The bill expands the jurisdiction of the CFAA. It would cover all computers involved in interstate commerce, not just Federal interest computers, as the current law does. This is appropriate because of the interstate nature of computer networks. American society is increasingly dependent on computer networks that span State and national boundaries. The potential for abuse of computer networks knows no boundaries. The bill addresses this threat by expanding the jurisdiction of the CFAA to the full extent of the powers of Congress under the commerce

clause of the U.S. Constitution, article I, section 8.

Mr. President, it is important to update the CFAA to stay abreast of rapid changes in computer technology and computer abuse techniques. The Computer Abuse Amendments Act of 1991 has been drafted and revised on the basis of careful reviews of issues raised in the Subcommittee on Technology and the Law's hearings, and with the benefit of consultation with computer experts. At the hearing of the Subcommittee on Technology and the Law on July 31, 1990, Deputy Assistant Attorney General Mark Richard testified that this bill "* * * provides a useful improvement over and clarification of, the scope of existing law." The bill has been broadly supported by the computer industry and computer users. In the 101st Congress, the bill was unanimously reported by the Judiciary Committee and unanimously passed by the Senate.

Mr. President, I want to thank Senators BROWN and KOHL for joining with me in reintroducing this bill in the 102d Congress. I look forward to working with them on this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

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

S. 1322

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 "Computer Abuse Amendments Act of 1991".

SEC. 2. AMENDMENTS TO THE COMPUTER FRAUD AND ABUSE ACT.

(a) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of or in a manner affecting a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, of the use of a computer, computer services, system or network, information, data or program; and

"(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of or in a manner affecting a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals;".

(b) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)"; and

(3) in paragraph (3)(A) by striking the period at the end thereof and inserting "; and"; and

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

"(4) a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(c) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(d) REPORTING REQUIREMENTS.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Attorney General shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning prosecutions under section 1030(a)(5) of title 18, United States Code.".

(e) DEFINITION.—Section 1030(e)(1) of title 18, United States Code, is amended by striking ", but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device".

(f) PROHIBITION.—Section 1030(a)(3) of title 18, United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

Mr. BROWN. Mr. President, I rise today to join Senators LEAHY and KOHL in support of passage of S. 1322, the Computer Abuse Amendments Act of 1991. As ranking member of the Subcommittee on Technology and the Law of the Senate Judiciary Committee, and as an original cosponsor of S. 1322, I urge the Senate to pass this legislation.

S. 1322 represents the culmination of the efforts of the Subcommittee on Technology and the Law to clarify and strengthen the existing Federal law dealing with computer abuse crimes. The current measure under consideration is identical to S. 2476, the Computer Abuse Amendments Act of 1990, which passed the Senate by unanimous consent in the last Congress.

This bill has the support of computer manufacturers and the software industry. Both groups believe S. 1322 strikes the proper balance between the need for strong laws against computer abuse and the need to promote the free flow of information across computer information networks. The Department of Justice has stated that the bill is an improvement over existing Federal laws.

During the past decade, computer information networks have become an integral part of communications in modern society. Technological advances in the development of computer networks have enabled network users in different States and even different countries to communicate and exchange information. Computer networks now provide vital links for the exchange of financial information, scientific research data, and national security information. Unfortunately, the rapid technological advances that have led to the proliferation of computer information networks also have provided computer criminals with additional opportunities to introduce harmful computer worms and viruses into computer systems.

Despite the rapid technological advances in the computer manufacturing and software industries, computer security technology has not been able to keep pace with the spread of new computer abuse techniques. The existing Federal law governing computer abuse, the Computer Fraud and Abuse Act of 1986 [CFAA], has not been able to deal effectively with the new forms of computer viruses and worms which have emerged in the past 5 years.

With the number of microcomputers used in the workplace expected to increase from 10 to 34 million in the next 3 years, computer crime will become a much bigger concern for businessmen and law enforcement officials. A recent study by the accounting firm of Ernst & Whinney, cited in the National Institute of Justice Journal, estimated that computer crime now causes between $3 and $5 billion in damages each year. Three-quarters of the law enforcement officers responding to a National Institute of Justice survey identified com-

puter crime as an issue likely to take up a significant part of their workload in the future.

S. 1322 amends the CFAA and brings Federal computer crime statutes up to date with recent advances in computer technology and computer abuse techniques. The CFAA had created a felony violation for gaining unauthorized access to a computer used either by or for the Federal Government. This definition of a felony violation allowed computer criminals who were able to introduce harmful computer viruses into an information network without illegally accessing a computer to escape prosecution. S. 1322 closes this loophole by making the main element of a felony violation under the CFAA the malicious intent of a perpetrator in transmitting a computer worm or virus designed to damage or disable a computer network.

The bill also expands the scope of criminal offenses under the CFAA to include incidents of computer abuse which do not rise to the level of a felony violation. S. 1322 creates a misdemeanor violation for transmitting a computer program with reckless disregard for the potentially harmful effects of the program on other computers.

In recognition of ever-increasing numbers of computer information networks, the bill expands the scope of statutory protection against computer abuse to cover all computers used in interstate commerce or communications, not just computers used by or for the Federal Government.

S. 1322 also creates a civil cause of action for victims of felony computer abuse violations under the CFAA. The civil remedy will be limited to recovery for economic loss or damages resulting directly from the felony violation. The addition of a civil cause of action to the CFAA will strengthen the existing Federal law and provide an effective deterrent against computer abuse activities.

Passage of this legislation will serve to continue to promote the rapid growth of computer information networks, while at the same time updating Federal computer crime laws to take into account the new varieties of computer abuse techniques. S. 1322 will help clarify and strengthen the laws that are so essential to protect the computer information networks on which so many people now depend.

By Mr. GORE:

S.J. Res. 164. Joint resolution designating the weeks of October 27, 1991, through November 2, 1991, and October 11, 1992, through October 17, 1992, each separately as "National Job Skills Week"; to the Committee on the Judiciary.

NATIONAL JOB SKILLS WEEK

• Mr. GORE. Mr. President, today I am introducing a joint resolution to designate as "National Job Skills Week," the week of October 27, 1991, through November 2, 1991, and the week of October 11, 1992, through October 17, 1992.

We all know that technological achievements play a prominent role in advancing the U.S. economy. But we realize, too, that workers can be the greatest power driving economic growth. Our Nation is strongly challenged now by international economic competition to develop this masterful work force.

Mr. President, I am introducing this resolution to help us meet that challenge.

National Job Skills Week focuses national attention on the changing needs of employers and workers. It raises the profile of private and public job-training efforts. And it promotes thorough examinations of promising technological and managerial developments.

The nature of work and workplaces is evolving more rapidly than ever before. Every day we hear of technological and administrative advances that can expand our ability to compete in the global marketplace. But to use effectively those new technologies and to function efficiently with new styles of management, American companies need trained, responsible, and versatile workers. Yet even as highly skilled workers are in demand, the Nation's pool of competent entry-level workers in declining, and many of those now in the work force are limited to skills that soon will be obsolete.

Mr. President, I'm sure we all agree that a well-trained, responsible work force is fundamental to America retaining its longstanding economic leadership worldwide. I believe our education, training, and business communities have the capacity to give us this much-needed work force and in turn to give us an even higher standard of living than we presently enjoy. But I believe, too, that citizens can hasten work force improvements by taking time to learn more about technological and training developments in their companies and in their communities. For this crucial purpose, then, I ask my colleagues' support of National Job Skills Week.

For the past 5 years, I have sponsored—and Congress and the President have approved—resolutions to designate a National Job Skills Week. I trust our efforts on this matter will be equally successful this year.•

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. PRESSLER, the names of the Senator from Illinois [Mr. SIMON], the Senator from Kentucky [Mr. MCCONNELL], the Senator from North Dakota [Mr. BURDICK], and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of S. 98, a bill to amend the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989.

S. 141

At the request of Mr. DASCHLE, the names of the Senator from Connecticut [Mr. DODD] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 141, a bill to amend the Internal Revenue Code of 1986 to extend the solar and geothermal energy tax credits through 1996.

S. 239

At the request of Mr. SARBANES, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 239, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 280

At the request of Mr. SASSER, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 280, a bill to provide for the inclusion of foreign deposits in the deposit insurance assessment base, to permit inclusion of nondeposit liabilities in the deposit insurance assessment base, to require the FDIC to implement a risk-based deposit insurance premium structure, to establish guidelines for early regulatory intervention in the financial decline of banks, and to permit regulatory restrictions on brokered deposits.

S. 284

At the request of Mr. BRADLEY, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 284, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 297

At the request of Mr. HEFLIN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 297, a bill requiring that the United States Postal Service study and report to Congress on ways to encourage mailers of second-class and third-class mail matter to use recycled paper.

S. 377

At the request of Mrs. KASSEBAUM, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 377, a bill to amend the International Air Transportation Competition Act of 1979.

S. 448

At the request of Mr. SYMMS, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 448, a bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees.

S. 480

At the request of Mrs. KASSEBAUM, the name of the Senator from Maryland [Mr. SARBANES] was added as a co-

sponsor of S. 480, a bill to amend the Public Health Service Act to provide grants to States for the creation or enhancement of systems for the air transport of rural victims of medical emergencies, and for other purposes.

S. 567

At the request of Mr. SANFORD, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 567, a bill to amend title II of the Social Security Act to provide for a gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly, and for other purposes.

S. 596

At the request of Mr. MITCHELL, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 596, a bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

S. 722

At the request of Mr. ROTH, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 722, a bill to amend the Internal Revenue Code of 1986 with respect to the requirement that an S corporation have only one class of stock.

S. 790

At the request of Mr. DECONCINI, the name of the Senator from Illinois [Mr. DIXON] was withdrawn as a cosponsor of S. 790, a bill to amend the antitrust laws in order to preserve and promote wholesale and retail competition in the retail gasoline market.

S. 827

At the request of Mr. SHELBY, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 827, a bill to credit time spent in the Cadet Nurse Corps during World War II as creditable for Federal civil service retirement purposes for certain annuitants and certain other individuals not covered under Public Law 99-638.

S. 844

At the request of Mr. DOMENICI, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 844, a bill to provide for the minting and circulation of one-dollar coins.

S. 866

At the request of Mr. BREAUX, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 866, a bill to amend the Internal Revenue Code of 1986 to clarify that certain activities of a charitable organization in operating an amateur athletic event do not constitute unrelated trade or business activities.

S. 874

At the request of Mr. DECONCINI, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 874, a bill to amend the Public Health Service Act to establish a demonstration program to allow drug-addicted mothers to reside in drug abuse treatment facilities with their children, and to offer such mothers new behavior and education skills which can help prevent substance abuse in subsequent generations, and for other purposes.

S. 882

At the request of Mr. SARBANES, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 882, a bill to amend subpart 4 of part A of title IV of the Higher Education Act of 1965 to mandate a 4-year grant cycle and to require adequate notice of the success or failure of grant applications.

S. 884

At the request of Mr. PACKWOOD, the names of the Senator from Connecticut [Mr. DODD], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 884, a bill to require the President to impose economic sanctions against countries that fail to eliminate large-scale drift net fishing.

S. 895

At the request of Mr. PRESSLER, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 895, a bill to amend the Internal Revenue Code of 1986 to allow a deduction from gross income for home care and adult day and respite care expenses of individual taxpayers with respect to a dependent of the taxpayer who suffer from Alzheimer's disease or related organic brain disorders.

S. 1008

At the request of Mr. MCCONNELL, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1008, a bill to require State agencies to register all offenders convicted of any acts involving child abuse with the National Crime Information Center of the Department of Justice.

S. 1084

At the request of Mr. MITCHELL, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1084, a bill to deny the People's Republic of China nondiscriminatory (most-favored-nation) trade treatment.

S. 1091

At the request of Mr. ADAMS, the names of the Senator from Hawaii [Mr. AKAKA], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 1091, a bill to require that certain information relating to nursing home nurse aides and home health care aides be collected by the National Center for Health Statistics and the Bureau of Labor Statistics, and for other purposes.

S. 1111

At the request of Mr. MITCHELL, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1111, a bill to protect the public from health risks from radiation exposure from low-level radioactive waste, and for other purposes.

S. 1151

At the request of Mr. CRAIG, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1151, a bill to restore an enforceable Federal death penalty, to curb the abuse of habeas corpus, to reform the exclusionary rule, to combat criminal violence involving firearms, to protect witnesses and other participants in the criminal justice system from violence and intimidation, to address the problem of gangs and serious juvenile offenders, to combat terrorism, to combat sexual violence and child abuse, to provide for drug testing of offenders in the criminal justice process, to secure the right of victims and defendants to equal justice without regard to race or color, to enhance the rights of crime victims, and for other purposes.

S. 1157

At the request of Mr. DASCHLE, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1157, a bill to amend the Internal Revenue Code of 1986 to allow the energy investment credit for solar energy and geothermal property against the entire regular tax and the alternative minimum tax.

S. 1170

At the request of Mr. DURENBERGER, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1170, a bill to require any person who is convicted of a State criminal offense against a victim who is a minor to register a current address with local law enforcement officials of the State for 10 years after release from prison, parole, or supervision.

S. 1263

At the request of Mr. DIXON, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1263, a bill to amend title 18, of the United States Code to punish as a Federal criminal offense the acts of international parental child kidnaping.

S. 1281

At the request of Mr. RIEGLE, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1281, a bill to provide for immediate delivery of U.S. Savings Bonds available to the public at the point of purchase.

S. 1301

At the request of Mr. CRAIG, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1301, a bill to establish grant programs and provide other forms of Federal assistance to pregnant women,

children in need of adoptive families, and individuals and families adopting children, and for other purposes.

SENATE JOINT RESOLUTION 96

At the request of Mr. RIEGLE, the names of the Senator from Louisiana [Mr. BREAUX], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Joint Resolution 96, a joint resolution to designate November 19, 1991, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 121

At the request of Mr. DECONCINI, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of Senate Joint Resolution 121, a joint resolution designating September 12, 1991, as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 124

At the request of Mr. BRADLEY, the names of the Senator from Delaware [Mr. BIDEN], the Senator from Michigan [Mr. LEVIN], the Senator from Rhode Island [Mr. PELL], the Senator from California [Mr. SEYMOUR], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 124, a joint resolution to designate "National Visiting Nurse Associations Week" for 1992.

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. DODD, the names of the Senator from South Dakota [Mr. PRESSLER], the Senator from Idaho [Mr. CRAIG], the Senator from Maine [Mr. MITCHELL], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Washington [Mr. ADAMS], the Senator from Massachusetts [Mr. KERRY], the Senator from Virginia [Mr. ROBB], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of Senate Concurrent Resolution 43, a concurrent resolution concerning the emancipation of the Baha'i community of Iran.

SENATE RESOLUTION 82

At the request of Mr. SMITH, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Resolution 82, a resolution to establish a Select Committee on POW/MIA Affairs.

AMENDMENT NO. 295

At the request of Mr. GRASSLEY, his name was added as a cosponsor of amendment No. 295 proposed to S. 1204, an original bill to amend title 23, United States Code, and for other purposes.

At the request of Mr. ROCKEFELLER, his name was added as a cosponsor of amendment No. 295 proposed to S. 1204, supra.

AMENDMENT NO. 296

At the request of Mr. GRASSLEY, his name was added as a cosponsor of amendment No. 296 proposed to S. 1204, an original bill to amend title 23, United States Code, and for other purposes.

At the request of Mr. ROCKEFELLER, his name was added as a cosponsor of amendment No. 296 proposed to S. 1204, supra.

AMENDMENTS SUBMITTED

SURFACE TRANSPORTATION EFFICIENCY ACT

MOYNIHAN AMENDMENT NO. 353

Mr. MOYNIHAN proposed an amendment to the bill (S. 1204) to amend title 23, United States Code, and for other purposes, as follows:

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

SEC. . INTERSTATE TRANSPORTATION AGREEMENTS AND COMPACTS.

(a) CONSENT AND APPROVAL OF CONGRESS.—The consent and approval of Congress are hereby given to the several States to negotiate, enter into, and carry out agreements or compacts for the purpose of establishing policies and priorities, including allocation of funds, to resolve interstate highway and bridge problems of regional significance identified by metropolitan planning organizations.

(b) HIGHWAY TRUST FUND.—The highway and bridge projects identified in accordance with subsection (a) and included in agreements or compacts entered into pursuant to this section are eligible for funding from the Highway Account of the Highway Trust Fund.

CONGESTION PRICING PILOT PROGRAM

On page 42, line 13 strike "not to exceed $5,000,000" and insert in lieu thereof "not to exceed $25,000,000".

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

SEC. —. SUBSTITUTE PROJECT.

(a) APPROVAL OF PROJECT.—Notwithstanding any other provision of law, upon the request of the Governor of the State of Wisconsin, submitted after consultation with appropriate local government officials, the Secretary may approve substitute highway, bus transit, and light rail transit projects, in lieu of construction of the I-94 E-W Transitway project in Milwaukee and Waukesha Counties, as identified in the 1991 Interstate Cost Estimate.

(b) ELIGIBILITY FOR FEDERAL ASSISTANCE.—Upon approval of any substitute highway or transit project or projects under subsection (a), the costs of construction of the eligible transitway project for which such project or projects are substituted shall not be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956 and a sum equal to the Federal share of such costs, as included in the latest interstate cost estimate submitted to Congress, shall be available to the Secretary to incur obligations under section 103(e)(4) of title 23, United States Code, for the Federal share of the costs of such substitute project or projects.

(c) LIMITATION OF ELIGIBILITY.—If, by October 1, 1993, or two years after the date of enactment of this Act, whichever is later, the Governor of the State of Wisconsin has not submitted a request for a substitute project or projects in lieu of the I-94 E-W Transitway, the Secretary shall not approve such substitution. If, by October 1, 1995, or four years after the date of enactment of this Act, whichever is later, such substitute project or projects are not under construction, or under contract for construction, no funds shall be appropriated under the authority of section 103(e)(4) of title 23, United States Code, for such project or projects. For the purposes of this subsection, the term "construction" has the same meaning as given to it in section 101, title 23, United States Code, and shall include activities such as preliminary engineering and right-of-way acquisition.

(d) ADMINISTRATIVE PROVISIONS.—

(1) STATUS OF SUBSTITUTE PROJECT OR PROJECTS.—Any substitute project approved under subsection (a) shall be deemed to be a substitute project for the purposes of section 103(e)(4) of title 23, United States Code (other than subparagraphs (C) and (O)).

(2) REDUCTION OF UNOBLIGATED INTERSTATE APPORTIONMENT.—Unobligated apportionments for the Interstate System in the State of Wisconsin shall, on the date of approval of any substitute project or projects under subsection (a), be applied toward the Federal share of the costs of such substitute project or projects.

(3) ADMINISTRATION THROUGH FHWA.—The Secretary shall administer this section through the Federal Highway Administration.

(4) FISCAL YEARS 1993 AND 1994 APPORTIONMENTS.—For the purpose of apportioning funds for fiscal years 1993 and 1994 under section 104(b)(5)(A), the Secretary shall consider Wisconsin as having no remaining eligible costs. For the purpose of apportioning funds under section 104(b)(5)(A) of title 23, United States Code, for fiscal year 1995 and subsequent fiscal years, Wisconsin's actual remaining eligible costs shall be used.

(5) FUNDING PROVISIONS FOR SUBSTITUTE PROJECTS.—Notwithstanding any other provision of law, the source of funding for any transit substitute projects approved under subsection (a) shall be the Mass Transit Account of the Highway Trust Fund. All other funding provisions for any approved substitute projects shall be as provided in section 103(e)(4) of title 23, United States Code.

(e) TRANSFER OF APPORTIONMENTS.—Wisconsin may transfer interstate construction apportionments to its National Highway System in amounts equal to or less than the costs for additional work on sections of the interstate System that have been built with interstate construction funds and that are open to traffic as shown in the 1991 interstate cost estimate.

Insert at the appropriate place in S. 1204:

SEC.—. MONTANA-CANADA TRADE.

The Secretary shall not withhold funds from the State of Montana on the basis of actions taken by the State of Montana pursuant to a draft memorandum of understanding with the Province of Alberta, Canada regarding truck transportation between Canada and Shelby, Montana. Provided that such actions do not include actions not permitted by the State of Montana on or before June 1, 1991.

On page 5, strike out lines 3 through 9 and insert in lieu thereof:

(3) BRIDGE PROGRAM.—For the Bridge Program $2,350,000,000 for fiscal year 1992, $2,440,000,000 for fiscal year 1993, $2,580,000,000 for fiscal year 1994, $2,820,000,000 for fiscal year 1995, and $3,230,000,000 for fiscal year 1996.

On page 6, strike out line 17 and insert in lieu thereof "$120,000,000 for each of fiscal years 1992,".

On page 37, between lines 17 and 18, insert the following:

(c) REHABILITATION.—Of the funds authorized to be appropriated pursuant to section 103(b)(7)(B) of this Act, an amount equal to $20,000,000 shall be available for each of fiscal years 1992, 1993, 1994, 1995, and 1996 for continued rehabilitation of Federally-owned highways under the Federal lands highway pro-

gram of title 23, United States Code. Such funds shall remain available until expended.

On page 37, line 18, strike out "(c)" and insert in lieu thereof "(d)".

On page 4, between lines 2 and 3 insert the following:

"(c) The Secretary shall distribute copies of the Declaration of Policy contained in this section to each employee of the Federal Highway Administration, and shall ensure that such Declaration of Policy is posted in all offices of the Federal Highway Administration.".

VIOLENT CRIME CONTROL ACT OF 1991

GRAHAM AMENDMENTS NOS. 354 AND 355

(Ordered to lie on the table.)

Mr. GRAHAM submitted two amendments intended to be proposed by him to the bill (S. 1241) to control and reduce violent crime, as follows:

AMENDMENT NO. 354

At the appropriate place, add the following:

SEC. 107. RACIAL AND ETHNIC BIAS STUDY GRANTS.

(a) FINDINGS.—The Congress finds that—

(1) equality under law is tested most profoundly by whether a legal system tolerates race playing a role in the criminal justice system; and

(2) States should examine their criminal justice systems in order to ensure that racial and ethnic bias has no part in such criminal justice systems.

(b) AUTHORIZATION OF GRANT PROGRAM.—

(1) IN GENERAL.—The Attorney General, through the Bureau of Justice Assistance, is authorized to make grants to States that have established by State law or by the court of last resort a plan for analyzing the role of race in that State's criminal justice system. Such plan shall include recommendations designed to correct any findings that racial and ethnic bias plays such a role.

(2) CRITERIA FOR GRANTS.—Grants under this subsection shall be awarded based upon criteria established by the Attorney General. In establishing the criteria, the Attorney General shall take into consideration the population of the respective States, the racial and ethnic composition of the population of the States, and the crime rates of the States.

(3) REPORTS BY STATES.—Recipients of grants under this subsection shall report the findings and recommendations of studies funded by grants under this subsection to the Congress within reasonable time limits established by the Attorney General.

(4) REIMBURSEMENT OF STATES.—Grants may be made to reimburse States for work started prior to the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out the provisions of this section.

AMENDMENT NO. 355

Strike section 207 of the bill.

SURFACE TRANSPORTATION EFFICIENCY ACT

MOYNIHAN AMENDMENT NO. 356

Mr. MOYNIHAN proposed an amendment to amendment No. 353 proposed by him to the bill S. 1204, supra, as follows:

On page 2 of the amendment, in the new section of the bill entitled "Interstate Transportation Agreements and Compacts.", strike subsection (b).

GRAHAM (AND OTHERS) AMENDMENT NO. 357

Mr. GRAHAM (for himself, Mr. ROTH, Mr. LOTT, Mr. NUNN, Mr. SHELBY, Mr. COATS, Mr. MCCONNELL, Mr. MACK, Mr. PRYOR, Mr. SANFORD, and Mr. BOND) proposed an amendment to the bill S. 1204, supra, as follows:

Beginning on page 12, strike section 105 of the bill and insert the following new section:

SEC. 105. UNOBLIGATED BALANCES.

Unobligated balances of funds apportioned or allocated to a State under title 23, United States Code, before October 1, 1991, shall be available for obligation in that State under the law, regulations, policies and procedures relating to the obligation and expenditure of those funds in effect on September 30, 1991, except that—

(1) unobligated balances of primary and Interstate 4R funds may be transferred to the National Highway and Bridge System;

(2) other unobligated balances may be transferred to the Urban and Rural Highway and Bridge Program;

(3) transferred funds are subject to the law, regulations, policies and procedures relating to the category to which transferred;

(4) transfers will be allowed on a one time per year basis; and

(5) this section does not apply to unobligated balances of interstate construction or interstate substitution funds.

Beginning on page 12, strike section 106 of the bill, and insert the following new sections:

SEC. 106. NATIONAL HIGHWAY AND BRIDGE SYSTEM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following new section:

"SEC. 160. NATIONAL HIGHWAY AND BRIDGE SYSTEM.

"(a) FINDINGS.—The Congress hereby finds and declares the following:

"(1) National resources should be focused upon the important goals of preserving the Nation's investment in its interstate systems and insuring that these systems continue to support actively interstate commerce, national defense, and linkage of major urban areas.

"(2) Broad national defense, economic, safety, and international policy goals are advanced by efficient transportation system which ensure free movement of people, goods, and information.

"(3) National transportation investments should increasingly encourage domestic and international commerce and trade.

"(4) Based on congressionally established national transportation policy and objectives, a new Federal high priority highway network, a national highway and bridge system should be designated from the most vital elements of the current network.

"(b) ESTABLISHMENT.—(1) The Secretary shall establish the National Highway and Bridge System—

"(A) to provide an interconnected system of principal arterial routes which will serve major population centers, ports, airports and international border crossings;

"(B) to meet national defense requirements; and

"(C) to serve interstate and interregional travel.

The National Highway and Bridge System shall consist of all designated Interstate highways on the date of the establishment of the program, an appropriate portion of the rural and urban principal arterial routes, including toll facilities, and national defense highways.

"(2) In addition other routes which meet the following criteria shall be eligible for inclusion:

"(A) Nationally significant truck routes.

"(B) Routes that provide nationally significant commodities with access to markets.

"(C) Access points to significant national parks, international border crossings, ports and airports, and major regions in the States.

"(3) Facilities that will provide logical connection between major population centers and the national highway and bridge system.

"(4) Major urban corridors.

"(c) DESIGNATION.—Each State, in consultation with regional and local officials, shall designate the national highway and bridge system, with the approval of the Secretary. The National Highway and Bridge System shall be based on a functional reclassification of roads and streets in each State. The system should be designated by September 30, 1992, and shall be designated by not later than September 30, 1993, in accordance with guidelines issued by the Secretary. Such guidelines shall provide for an equitable allocation of mileage among the States. For fiscal year 1992 and, if necessary, fiscal year 1993, States may use National Highway and Bridge Program funds for the purposes of funding the preliminary National Highway and Bridge System designated by the State and approved by the Secretary as of September 30, 1991.

"(d) REVIEW.—The Secretary shall establish criteria for reviewing projects to be funded as part of the National Highway and Bridge System. The criteria shall define eligible projects to include rehabilitation, resurfacing, restoration, capacity expansion, operational improvement, safety, and new highway construction. The criteria shall ensure, as a first priority for the use of available funds, the adequate preservation and protection of investments made in the Interstate highways in each State, and the provision of suitable traveling quality by the Interstate highways. The criteria shall permit funding in urbanized areas to be used to improve highway and transit systems, in any case where there is a showing that the improvement will provide an increase in the level of service within the corridor of the National Highway and Bridge System. The criteria shall also permit the use of such funds for projects for access to ports, airports, international border crossings and other major travel destinations.

"(e) FEDERAL SHARE.—Notwithstanding any other provision of this title, the Federal share payable for a project under this section for the construction of high occupancy vehicle lanes (as described in section 102(d) of this title) shall not exceed 90 percent of the cost of the project.

"(f) DISCHARGE OF RESPONSIBILITIES.—(1) Upon the request of any State, the Secretary may discharge responsibilities under this title relating to any National Highway and Bridge System project that—

"(A) meets the categorical exclusion criteria (as defined in section 771 of title 23, Code of Federal Regulations, as in effect on the date of the enactment of the Surface Transportation and Efficiency Act of 1991); and

"(B) has an estimated cost of construction of less than $5,000,000,

by accepting a certification by the State transportation or highway department that any such project will be developed, let to contract and constructed in the same manner as other National Highway and Bridge System project.

"(2) Upon the request of any State, the Secretary may discharge responsibilities under this title relating to any National Highway and Bridge System that—

"(A) meets the categorical exclusion criteria (as defined in in section 771 of title 23, Code of Federal Regulations);

"(B) has an estimated cost of construction of $5,000,000 or more; and

"(C) is selected in accordance with criteria established by the Secretary,

by accepting a certification by the State transportation or highway department that any such project will be developed, let to contract and constructed in the same manner as other National Highway and Bridge System projects.

"(g) PROCEDURES AFTER FISCAL YEAR 1995.—Beginning with fiscal year 1996, the Secretary shall discharge responsibilities for the National Highway and Bridge System projects described in subsection (c)(1) of this section by the certification process described in this section. The Secretary shall, beginning with fiscal year 1996, rescind project approval if a satisfactory certification is not presented by the State.".

(b) APPORTIONMENT.—Section 104(b) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) NATIONAL HIGHWAY AND BRIDGE PROGRAM.—

"(A) APPORTIONMENT FORMULA.—For the National Highway and Bridge Program—

"(i) 1/9 in the ratio which the rural lane miles in each State bears to those of all States;

"(ii) 1/9 in the ratio which rural vehicle miles traveled in each State bears to those of all States;

"(iii) 2/9 in the ratio which the urban lane miles in each State bears to those of all States;

"(iv) 2/9 in the ratio which the urban vehicle miles traveled in each State bears to those of all States; and

"(v) 3/9 in the ratio which diesel fuel consumed in each State bears to that consumed in all States.

"(B) MINIMUM APPORTIONMENT.—No State shall receive less than ½ of 1 percent of each year's apportionment.

"(C) TRANSFER TO URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM.—A State may transfer up to 20 percent of its annual National Highway and Bridge System program apportionment to the urban and rural highway and bridge program of the State if the Governor of the State and the Secretary agree that adequate Interstate System conditions exist.";

(2) by striking "upon the Federal-aid systems" and inserting "upon the National Highway and Bridge System, the Urban and Rural Highway and Bridge Program, and the Congestion Mitigation and Air Quality Improvement Program";

(3) by striking "paragraphs (4) and (5)" and inserting "subparagraph (5)(A)"; and

(4) by striking "and sections 118(c) and 307(d)" and inserting "and section 307".

SEC. 106A. URBAN AND RURAL HIGHWAY BRIDGE PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following new section:

"SEC. 161. URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish an urban and rural highway and bridge program to provide a category of funds that minimizes Federal requirements, and to provide flexibility in the use of available funds for either highway or transit projects. The urban and rural highway and bridge program shall consist of all public highways (including bridges) functionally classified as arterials, urban collectors, and rural collectors (other than those designated as part National Highway and Bridge System), and shall also include bridges on any public road. Each State, in cooperation with regional and local agencies of the State, shall establish guidelines for implementing the program under this section. The guidelines shall—

"(1) include criteria for setting priorities and encouraging regional intermodal solutions, where appropriate;

"(2) ensure that administrative costs are minimized through simplification of processes and application of controls that ensure accountability for funds and projects;

"(3) ensure that each agency has flexibility to use funds for solutions to transportation problems that bring about a most efficient increase in mobility and best address regional and local land use, air quality, and economic development issues.

"(b) ELIGIBLE HIGHWAYS.—Highway projects may be funded on public roads (except any road on the National Highway and Bridge System, any road functionally classified as local, or any road functionally classified as rural minor collector). Part of a State's annual urban and rural highway and bridge program apportionment may be extended for highway safety improvements, bridge replacement or rehabilitation, or eliminating rail-highway crossing hazards on public roads functionally classified as local or as rural minor collector.

"(c) ELIGIBLE PROJECTS.—Eligible projects under this section shall include construction, operational improvements, highway safety improvements, highway research and development, transportation planning, capital transit projects (such as the construction, reconstruction, and improvement of fixed rail facilities, including purchase of rolling stock for fixed rail), the purchase of buses and support facilities, capital projects to improve access and coordination between intercity and rural bus service, technology transfer projects, startup costs for traffic management and control projects, bicycle and pedestrian projects, projects to develop and improve scenic byways, projects to enhance rural and urban accessibility and mobility, the acquisition of outdoor advertising signs and the sites, removal or screening of junkyards, carpool projects, fringe and corridor parking projects, the construction of exclusive or preferential high occupancy vehicle lanes, landscaping, scenic enhancement and rest area projects, and projects that create, conserve or enhance wetlands.

"(d) REQUIREMENTS.—

"(1) COMPLIANCE WITH STATE REQUIREMENTS.—Projects under this section must be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards and construction standards.

"(2) COMPLIANCE WITH FEDERAL REQUIREMENTS.—

"(A) IN GENERAL.—Each State with a project under this section shall comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the Single Audit Act of 1984 (31 U.S.C. 7501 through 7507), the Civil Rights Act of 1964, the Clean Air Act (42 U.S.C. 7401 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.), the applicable requirements of this title and other applicable Federal laws, regulations, and Executive orders.

"(B) DELEGATIONS.—In lieu of applying the Federal environmental review procedures otherwise applicable under the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.) the Secretary may, under regulations, provide for the approval of projects by recipients of assistance under this section. Such recipients, pursuant to the requirements of this paragraph, may assume all of the responsibilities for environmental review, decision making, and action described in the National Environmental Policy Act, and other provisions of law that would apply to the Secretary if the projects were undertaken as Federal projects. The Secretary shall issue regulations to carry out this paragraph only after consultation with the Council on Environmental Quality.

"(C) CERTIFICATION.—Each State or other recipient assuming responsibilities on the part of the Secretary pursuant to subparagraph (B) shall submit an annual certification under the regulations authorized by subparagraph (B). The certification shall—

"(i) be in a form acceptable to the Secretary,

"(ii) be executed by the chief executive officer or other officer of the recipient of assistance under this section qualified under the regulations authorized by subparagraph (B),

"(iii) specify that the recipient of assistance under this section will fully carry out its responsibilities as described under the regulations authorized by subparagraph (B),

"(iv) specify that the certifying officer—

"(I) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and each provision of law specified in regulations issued by the Secretary (to the extent that the provisions of such Act, or other provisions of law apply under the regulations authorized by subparagraph (A) or (B)); and

"(II) is authorized and consents on behalf of the recipient of assistance under this section and the certifying officer to accept the jurisdiction of the Federal courts for the purpose of enforcement of the certifying officer's responsibilities; and

"(v) agree that the Secretary's approval of any certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other provisions of laws the regulations of the Secretary specify insofar as the responsibilities relate to the approval of projects by recipients under this section.

"(3) BRIDGE INSPECTION AND INVENTORY SYSTEM.—Each State that conducts a project under this section must have an ongoing bridge inspection and inventory system.

"(4) CONSULTATION.—In any case where a tribe has jurisdiction or is affected by a project under this section, consultation with local officials and Indian tribal officials shall be required.

"(5) DISTRIBUTION OF FUNDS.—In cooperation with local units of government each State shall develop a method to distribute apportionments within the State under this section fairly and equitably to rural areas, urban areas and urbanized areas with a population greater than 250,000.

"(6) COMPLIANCE.—If the Secretary determines that a State or local government has failed to comply substantially with provisions of this section, the Secretary shall notify the State that, if the State or local government fails to take corrective action within 120 days after the receipt of the notification, the Secretary may withhold payments under this section until the Secretary is satisfied that appropriate corrective action has been taken.

"(e) OBLIGATION OF FUNDS AND METHOD OF PAYMENT.—

"(1) OBLIGATION OF FUNDS.—The Governor of each State shall certify prior to the first day of each fiscal year that the State will meet all the requirements of subsection (e). The Governor shall notify the Secretary of the amount of obligations expected to be incurred for urban and rural highway and bridge program projects. The State may subsequently request adjustment to the obligation amounts during the fiscal year. Acceptance of the notification and certification shall be deemed a contractual obligation of the United States for the payment of the urban and rural highway and bridge funds expected to be obligated by the State in that fiscal year.

"(2) METHODS OF PAYMENT.—The Secretary shall make payments to a State (or other recipient) for costs incurred with respect to a program conducted pursuant to this section. Such payments shall not exceed the Federal share of costs incurred as of the date the State requests payment.

"(f) REVIEW AND REPORT.—The Secretary may conduct reviews of State procedures and projects. The States shall report annually to the Secretary in accordance with guidelines established by the Secretary on the use of funds administered under this section.".

(b) APPORTIONMENT.—Section 104(b) of title 23, United States Code, is amended by inserting the following paragraph in an appropriate place:

"(3) URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM.—

"(A) APPORTIONMENT FORMULA.—The funds authorized to be appropriated for the urban and rural highway and bridge program shall be apportioned in the ratio of attributable tax payments to the highway account of the Highway Trust Fund, attributable to the highway users of each State. No State shall receive less than ½ of 1 percent of each years apportionment.

"(B) TRANSFER TO NATIONAL HIGHWAY AND BRIDGE PROGRAM.—A State may transfer up to 20 percent of its annual urban and rural highway and bridge program apportionment to the national highway and bridge program of the State.".

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

SEC.—. FEDERAL SHARE PAYABLE.

Section 120(a) of title 23, United States Code, is amended to read as follows:

"(a) NATIONAL HIGHWAY AND BRIDGE PROGRAM AND URBAN AND RURAL HIGHWAY BRIDGE PROGRAM PROJECTS.—(1) Except as provided in paragraph (2) and in section 129 the Federal share payable on account of any national highway and bridge and urban or rural highway and bridge program project—

"(A) shall not exceed 85 percent of the cost of the project (except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved), exclusive of national forests and national parks and monuments, exceeding 5 percent of the total area of all lands in the State, the Federal share may be increased by a percentage of the remaining costs equal to the percentage that the area of such lands in the State, is of its total area); or

"(B) shall not exceed 85 percent of the costs of the project (except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share may be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in the State is of its total area, except that the Federal share payable on any project in a State under subparagraph (A) or (B) shall not exceed 90 percent of the cost of the project.

"(2) In any case where a State elects to have the Federal share provided pursuant to paragraph (1)(B), the Governor of the State must enter into an agreement with the Secretary (for a period of not less than 1 year). As part of the agreement the State shall agree to use such funds solely for highway construction purposes (other than paying the State share of the projects approved under this title) during the period covered by the agreement the difference between amount of the State share of such State (as provided in paragraph (1)(B)) and an amount determined pursuant to paragraph (1)(A) that represents the amount that such State would have received had the State elected pursuant to paragraph (1)(A) to pay the share under such subparagraph.".

Beginning on page 28, strike section 108 and insert the following new section:

SEC. 108. DISCRETIONARY BRIDGE PROGRAM.

Section 144 of title 23, United States Code, is amended to read as follows:

"SEC. 144. DISCRETIONARY BRIDGE PROGRAM.

"(a) PURPOSE.—Congress finds and declares it to be in the vital interest of the Nation that a discretionary bridge replacement and rehabilitation program be established to enable States and Federal agencies to replace and rehabilitate high cost highway bridges over waterways, other topographical barriers, other highways, or railroads when the State or Federal agencies and the Secretary find—

"(1) that a bridge is important;

"(2) that the bridge is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence;

"(3) that the bridge poses a safety hazard to highway users;

"(4) that the replacement or rehabilitation of the bridge would minimize disruptions, delays, and costs to users; or

"(5) that the replacement or rehabilitation of the bridge would provide more efficient routes for emergency services.

"(b) INVENTORY; ASSESSMENT; IMPROVEMENT CATEGORY; COST.—The Secretary, in consultation with the States, shall—

"(1) inventory all highway bridges on public roads that are bridges over waterways, other topographical barriers, other highways, and railroads;

"(2) assess each bridge from the standpoint of safety and adequacy to serve traffic; and

"(3) based on the assessment described in paragraph (2), assign each bridge to one of the following improvement categories:

"(A) REPLACEMENT.

"(B) REHABILITATION.

"(c) APPROVAL OF FEDERAL PARTICIPATION.—In approving projects under this section, the Secretary shall give consideration to projects that will remove from service bridges most in danger of failure. For bridges on the National Highway and Bridge System, the Secretary may approve Federal participation where a determination as to need, type of improvement and timing have been established through a bridge management system approved by the Secretary. On other public roads the Secretary may approve Federal participation if the agency with jurisdiction over the bridge has a bridge inspection and inventory program that meets the requirements of the National Bridge Inspection Standards (NBIS).

"(d) ELIGIBLE ACTIVITIES.—

"(1) HIGH PRIORITY DEFICIENCIES.—Discretionary Bridge Program funds may be used to correct normally ineligible safety related bridge deficiencies that have been identified as high priority by the Secretary. A State shall submit a strategy, work plan and timetable for approval by the Secretary before bridge funds can be used to correct deficiencies. Removal of deficiencies identified as high priority by the Secretary is mandatory for any bridge improved under the discretionary bridge program.

(2) REPLACEMENT AND REHABILITATION.—Discretionary Bridge Program funds may be used for replacement and rehabilitation.

"(e) ALLOCATION.—Amounts available for the discretionary bridge program shall be allocated to States at the discretion of the Secretary. For projects for bridges—

"(1) with a replacement or rehabilitation cost of $20,000,000 or more; or

"(2) with respect to which more than 10 percent of a State's annual Federal highway apportionment is expended.

"(f) TOLL BRIDGE ASSESSMENT.—Applications for funding under the Discretionary Bridge Program must include a comprehensive assessment of—

"(1) the feasibility of constructing a toll bridge; and

"(2) the option of using combinations of funds other than Discretionary Bridge Program funds.

"(g) SELECTION OF PROJECTS.—In selecting projects for the Discretionary Bridge Program the Secretary shall consider—

"(1) the bridge rating factor which includes, but is not limited to serviceability, safety, essentiality for public use, traffic volume, and cost;

"(2) whether the bridge is closed to traffic or has severe load limits;

"(3) the need for equitable nationwide distribution of funds;

"(4) the need to continue or complete projects already begun with discretionary funds; and

"(5) other factors that the Secretary deems appropriate.

"(h) OBLIGATION AND ADMINISTRATION OF PROJECTS.—Discretionary bridge projects on the National Highway and Bridge System shall be obligated and administered under National Highway Program procedures. Bridge projects on public roads not on the National Highway and Bridge System shall be obligated and administered under urban and rural highway and bridge program procedures.

"(i) THE GENERAL BRIDGE ACT OF 1946.—Notwithstanding any other provision of law,

the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) shall apply to bridges authorized to be replaced, in whole or in part, by this section, except that subsection (b) of section 502 of the General Bridge Act of 1946 and section 9 of the Act of March 3, 1899 (30 Stat. 1151, chapter 425) shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if the bridge is over waters—

"(1) that are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce; and

"(2) that are—

"(A) not tidal waters; or

"(B) if tidal waters, are used only by recreational boating, fishing, and other small vessels less than 21 feet in length.

"(j) REHABILITATE DEFINED.—As used in this section the term 'rehabilitate' in any of its forms means major work necessary to restore the structural integrity of a bridge as well as work necessary to correct a major safety defect.

"(k) FEDERAL SHARE PAYABLE.—The Federal share payable on account of a project under this section shall not exceed 85 percent of the cost of the project.".

On page 4, strike lines 16 through 22 and insert the following new paragraph:

(1) NATIONAL HIGHWAY AND BRIDGE PROGRAM.—For the National Highway and Bridge Program $6,000,000,000 for fiscal year 1992, $6,250,000,000 for fiscal year 1993, $6,650,000,000 for fiscal year 1994, $7,365,000,000 for fiscal year 1995 and $9,060,000,000 for fiscal year 1996.

On page 5, strike lines 3 through 8 and insert the following new paragraphs:

(3) URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM.—For the Urban and Rural Highway and Bridge Program $6,000,000,000 for fiscal year 1992, $6,250,000,000 for fiscal year 1993, $6,650,000,000 for fiscal year 1994, $7,365,000,000 for fiscal year 1995 and $9,060,000,000 for fiscal year 1996.

(4) DISCRETIONARY BRIDGE PROGRAM.—For the Discretionary Bridge Program $230,000,000 for fiscal year 1992, $280,000,000 for fiscal year 1993, $330,000,000 for fiscal year 1994, $380,000,000 for fiscal year 1995, and $440,000,000 for fiscal year 1996.

On page 5, line 17, strike "(5)" and insert "(6)".

On page 6, line 1, strike "(6)" and insert "(7)".

On page 6, line 9, strike "(7)" and insert "(8)".

On page 6, line 19, strike "(8)" and insert "(9)".

On page 6, line 23, strike "(9)" and insert "(10)".

On page 7, line 4, strike "(10)" and insert "(11)".

On page 7, line 12, strike "(11)" and insert "(12)".

On page 7, line 18, strike "(12)" and insert "(13)".

On page 8, line 10, strike "(13)" and insert "(14)".

On page 12, beginning on line 19, strike "Surface Transportation Program" and all that follows through the period on line 20 and insert "National Highway and Bridge Program or for the Urban and Rural Highway and Bridge Program as if the funds had been apportioned for the programs.".

Beginning on page 30, strike section 109 and insert the following new section:

SEC. 109. MAINTENANCE.

Section 116 of title 23, United States Code is amended to read as follows:

"§ 116. Maintenance

"(a) DUTY TO MAINTAIN.—It shall be the duty of the State transportation or highway department to maintain, or cause to be maintained, any project on the National Highway and Bridge System constructed with the aid of Federal funds under this title or under the provisions of prior Acts. Each State shall use sums needed from its National Highway and Bridge Program apportionment to ensure adequate maintenance of the Interstate System. If the Secretary finds that a State is not adequately maintaining the Interstate System, the Secretary will require the State to program amounts from its National Highway and Bridge Program apportionments to bring the Interstate System up to adequate condition and keep it in that condition. The State's obligation to the United States to maintain a project shall cease when it no longer constitutes a part of the National Highway and Bridge System.

"(b) STATE AGREEMENTS WITH LOCAL OFFICIALS.—In any State where the State transportation or highway department is without legal authority to maintain a project within a municipality or within an Indian reservation, the transportation or highway department shall enter into a formal agreement for its maintenance with the appropriate officials of the municipality or Indian tribe.

"(c) WITHHOLDING PROJECT APPROVAL.—If at any time the Secretary shall find that any project on the National Highway and Bridge System constructed under this title, or constructed under the provisions of prior highway Acts, is not being properly maintained, the Secretary shall call that fact to the attention of the State transportation or highway department. If, within 90 days after receipt of the notice, the project has not been put in proper condition of maintenance, the Secretary shall withhold approval of further projects of all types in the State highway district, municipality, county, other political or administrative subdivision of the State, or the entire State in which the project is located, whichever the Secretary deems most appropriate, until the project shall have been put in proper condition of maintenance.".

On page 34, line 21, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

Beginning on page 34, strike line 23 and all that follows through page 35, line 4.

On page 53, line 10, strike "section 133(c)(2)" and insert "the Urban and Rural Highway Bridge Program".

On page 57, strike lines 14 through 18.

On page 57, line 19, strike "(c)" and insert "(b)".

On page 58, line 3, strike "(d)" and insert "(c)".

On page 71, beginning on line 4, strike "Surface Transportation Program project" and insert "National Highway and Bridge Program project, Urban and Rural Highway and Bridge Program project."

On page 74, beginning on line 1, strike "Except as provided" and all that follows through "Transportation Program" on line 3 and insert "Projects".

On page 79, line 10, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 84, beginning on line 17, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 96, strike lines 6 through 17.

On page 96, line 22, strike " "metropolitan area" ".

On page 97, strike lines 22 and 23.

On page 103, beginning on line 20, strike "Surface Transportation Program" and insert "Urban and Rural Highway and Bridge Program".

On page 104, strike lines 14 and 15 and insert the following new subparagraph:

(A) Subsection (a) is amended by striking "section 117 of this title" and inserting in lieu thereof "for the Urban and Rural Highway and Bridge Program".

On page 105, strike lines 16 through 21 and insert the following new subparagraph:

(A) Subsection (a) is amended—

(1) by striking "located on a Federal-aid system" and inserting in lieu thereof "constructed under this chapter"; and

(2) by striking "in section 117 of this title" and inserting in lieu thereof "for the National Highway and Bridge Program and the Urban and Rural Highway and Bridge Program".

On page 106, line 3, strike "SURFACE TRANSPORTATION PROGRAM" and insert "URBAN AND RURAL HIGHWAY BRIDGE PROGRAM".

On page 106, line 8, strike "section 104(b)(1)" and insert "the Urban and Rural Highway and Bridge Program".

On page 106, line 10, strike "AND PRIMARY" and insert "AND NATIONAL HIGHWAY AND BRIDGE PROGRAM".

On page 110, beginning on line 14, strike "Surface Transportation Program" and insert "National Highway and Bridge Program, Urban and Rural Highway and Bridge Program".

On page 112, beginning on line 19, strike "Federal-aid primary" and insert "National Highway and Bridge".

On page 111, line 7, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 111, strike lines 11 through 17 and insert the following new paragraph:

(22) Section 217 is amended by striking in each of the 2 places it appears "in accordance with paragraphs (1), (2), and (6) of section 104(b) of this title" and inserting in lieu thereof in each place "for the National Highway and Bridge Program and the Urban and Rural Highway and Bridge Program".

On page 112, lines 9 and 14, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 112, beginning on line 20, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 122, line 7, strike "or device," the first place it appears.

On page 124, line 2, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 126, line 3, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 126, lines 8 and 12, insert an ending quotation mark before the period.

On page 123, line 18, strike "set forth in section 120(a)" and insert "85 percent".

At the appropriate places in the bill, conform the analysis and the section numbers of title 23, United States Code, to the foregoing and following amendments.

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

SEC.—. ELIMINATION of I—R4 PROGRAM.

(a) IN GENERAL.—Section 104(b)(5) of title 23, United States Code is amended by striking subparagraph (B).

(b) CROSS-REFERENCES.—Notwithstanding any other provision of law, any reference to subparagraph (B) section 104(b)(5) of title 23 of the United States Code shall have no force or effect.

(c) INTERSTATE SYSTEM RESURFACING.—Title 23 of the United States Code is amended by striking section 119.

(d) CROSS-REFERENCES.—Notwithstanding any other provision of law, any reference to section 119 of title 23, United States Code, shall have no force or effect.

SEC.—. MINIMUM ALLOCATION.

(a) 90 PERCENT MINIMUM ALLOCATION.—Subsection (a)(3)(A) of section 157 of title 23, United States Code, is amended to read as follows:

"(A) GENERAL RULE.—In each fiscal year, on October 1, or as soon as possible thereafter, the Secretary shall allocate among the States amounts sufficient to ensure that the total of apportionments and minimum allocation for each State in each such fiscal year shall not be less than 90 per centum of the percentage of estimated tax payments into the Highway Account of the Highway Trust Fund, attributable to highway users in the State (in the latest year for which such data are available) of total apportionments in each such fiscal year and allocations for the prior year (except allocations for emergency relief, forest highways, Indian reservation roads, parkways and park roads, nonconstruction safety grants authorized by sections 402, 406, and 408 of this title, and Bureau of Motor Carrier Safety Grants authorized by section 404 of the Surface Transportation Assistance Act of 1982).".

(b) HOLD HARMLESS.—Subsection (f) is added to section 157 of title 23, United States Code to read as follows:

"(f) HOLD HARMLESS.—In each fiscal year the Secretary shall allocate among the States amounts sufficient to ensure that each State's total apportionment from the Highway Account of the Highway Trust Fund for the year is not less than that made during the 1991 fiscal year (excluding any interstate construction funds in excess of fiscal year 1992 one-half percent minimum, interstate substitution, and amounts for demonstration or discretionary funding programs or projects.".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 157 of title 23, United States Code is amended by striking "primary, secondary, interstate, urban, bridge replacement and rehabilitation, hazard eliminations, and rail-highway crossings" and inserting in lieu thereof, "Interstate, National Highway and Bridge Program and Urban and Rural Highway and Bridge Program".

(2) Subsection (d) of said section is amended by striking "section 154(f) or 158(a) of this title or any other provision" and inserting in lieu thereof "a".

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research and General Legislation will be holding an oversight hearing on the grain quality title of the 1990 farm bill. The hearing will be on Wednesday, June 25, 1991, at 2:30 p.m. in SR-332.

For further information please contact Ray Dobert of the subcommittee staff at 224-2321.

Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research and General Legislation will be holding an oversight hearing on the research title of the 1990 farm bill. The hearing will be on Thursday, July 9, 1991, at 9 a.m. in SR-332.

For further information please contact Ray Dobert of the subcommittee staff at 224-2321.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, June 18, beginning at 9:30 a.m., to conduct a hearing on RCRA interstate transportation of waste.

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

COMMITTEE ON SMALL BUSINESS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Tuesday, June 18, 1991, at 10 a.m. The committee will hold a full committee hearing on lender liability for environmental cleanup costs.

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

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Manpower and Personnel of the Committee on Armed Services be authorized to meet on Tuesday, June 18, 1991, at 9:30 a.m., to receive testimony on the issue of the utilization of women in the military services, in review of S. 1066, the Department of Defense authorization bill for fiscal years 1992-93.

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

COMMITTEE ON ARMED SERVICES

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, June 18, 1991, at 2 p.m., to receive testimony on current issues associated with sustaining and enhancing the Nation's industrial base as it supports the national security, in review of S. 1066, the Department of Defense authorization bill for fiscal years 1992-93.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MOYNIHAN. 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, Tuesday, June 18, 1991, at 10 a.m. to conduct a hearing on the nominations of David Mullins to be Vice Chairman of the Board of Governors of the Federal Reserve System; and Constance Harriman, to be a member of the Board of Directors of the Export-Import Bank.

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

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks, and Forests of the full Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., June 18, 1991, to receive testimony on S. 1029, a bill to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System, and for other purposes.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation and the National Ocean Policy Study, be authorized to meet during the session of the Senate on June 18, 1991, at 10 a.m. on weather service modernization.

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

ADDITIONAL STATEMENTS

CHEMICAL ARMS DISPOSAL: HOW SAFE WILL IT BE?

• Mr. SIMON. Mr. President, recently, the Chicago Tribune had an article on chemical arms disposal written by David Evans that I may have missed in other newspapers. I think what it says is extremely important.

The article suggests serious problems in the disposal of chemical arms that this Nation and other nations have consumed.

I welcome the move that halts chemical arms production.

But the problems of disposal also suggest that we should be very careful before we create certain arms, that we create long-term problems in the process.

I ask to insert the chemical arms disposal story into the RECORD at this point.

The article follows:

CHEMICAL ARMS DISPOSAL: HOW SAFE WILL IT BE?

(By David Evans)

WASHINGTON.—America's chemical weapon disposal program is plagued with technical problems and fierce opposition from local groups who fear that toxic gases will spew from the stacks of the incinerators being built to eliminate these "pesticides for people."

The Army is under the gun to dispose of its stockpile of some 30,000 tons of chemical

weapons. Congress required that the U.S. unilaterally destroy its aging stocks by 1997 and President Bush wants to sign a chemical disarmament treaty by May 1992 that will require all nations to eliminate their chemical stockpiles within 10 years.

The Army plans to build a complex of incinerators in states where the U.S. weapons are stored, as well as on Johnston Island in the Pacific, where about 300,000 chemical shells and rockets await disposal. Army officials say the disposal plan is intended to avoid the risks of transporting the weapons, many of which are badly corroded, to distant cremation sites.

Eliminating these chemicals, is a dangerous and formidable engineering challenge. The nerve agents in the arsenals to the U.S., the Soviet Union and Iraq are extraordinarily toxic. A drop the size of this "o" on the skin is enough to kill.

Residents of areas where the incinerators will be built are deeply suspicious of Army assurances that the plants will be environmentally safe.

(More than 1,500 people turned out for a meeting April 25 in Richmond, Ky., to protest the Army's plan to build an incinerator at the Lexington-Blue Grass Army Depot to destroy 500 tons of mustard and nerve munitions stored there.

"Everybody from the governor down to the local dogcatcher is totally opposed to building an incinerator 10,000 feet from a grade school with 800 kids," said Peter Hile, a leader of a local group opposing the incinerator. "It's totally unacceptable. If we agreed to get rid of all our nukes, we wouldn't spread the uranium into the environment."

Hile pointed out that according to the Army's own studies, taking no action and leaving the munitions in their bunkers for 25 years, poses "a lower risk than removal or incineration at this site."

However, in a draft of a chemical weapons treaty, the U.S. and the Soviet Union have agreed in principle to eliminate their chemical stockpiles by the end of this century. The Soviets report they have 50,000 tons of weapons.

And under the United Nations cease-fire accord in the recent Persian Gulf war, Iraq's chemical arsenal—estimated at 1,000 tons—must be eliminated before the end of this year.

The U.S. military may have the only disposal technology that is immediately available: advanced incinerators with robotic machinery designed to slice or drill holes in bombs, rockets and shells, suck out the chemical agents, burn the contents and sterlize the metal cases in banks of incinerators.

The technology has obvious application for disposing of the Soviet and Iraqi chemical arsenals. Neither nation has comparable technology at hand. According to sources, the Soviets considered, then dropped, the idea of destroying their chemical weapons in an underground nuclear test.

However, the Army's program has been plagued with technical glitches and soaring cost overruns.

Last month, Susan Livingstone, assistant secretary of the Army for installations and environment, told Congress the cost estimate for the program was $6.5 billion—more than double the $3.2 billion she reported in 1990.

The disposal cost is now around $200,000 a ton. Charles Baronian, deputy director of the Johnston Island incinerator, said at this price it will cost about 10 times more to dispose of these weapons than it did to produce them.

In addition, it has taken months longer than expected to complete test burns at Johnston Island, where the first full-scale incinerator has been built.

The project manager's daily reports from last August through September outlined a discouraging list of glitches: "Burners difficult to light . . . [chemical] agent feed lines broken . . . ram feeder sticks in full extended position . . . rocket punch machine not punching holes [to drain the chemical] . . . agent leak detected in observation corridor . . . general shutdown after the discovery of EPA violation."

Baronian conceded that the problems were "very depressing for an engineer." Fixes installed last December have since boosted the rate at which chemical rockets were sliced, drained and incinerated from 4 per hour to 11. The goal is a destruction rate of 24 per hour, and further test runs will take until March 1992.

Opponents of the Army's mechanically intensive process cite these problems as reasons for looking at alternatives to incinerators.

Sebia Hawkins, co-director of Greenpeace's Pacific Campaign, argues that with a little more effort, better technologies could be developed, possibly some that would use enzymes in a biodegradation process, comparable to "odor eaters" for chemical weapons.

"All the alternatives [to incineration] we've looked at can be done at equal or less cost in a closed system," Hawkins said. "We don't want toxic emissions released to the environment."

While waiting for these environmentally superior methods to reach full-scale application, Hawkins said, the existing stocks of chemical weapons could be placed in storage containers, rather like hermetically sealed time capsules, to await the day of disposal.

This approach conflicts with the U.S.-Soviet disposal timetable. For this reason, Greenpeace's stance is opposed by arms control advocates, who prefer using the best available method now for eliminating chemical weapons.

Lee Feinstein, an expert at the Arms Control Association, said: "The issue is, What's the best method to limit the damage and risks? Keeping them around leaves open the remote possibility that they can be used again. We think thse weapons should be destroyed now to avoid a bigger problem in the future."

Rep. Martin Lancaster (D-N.C.) also disagrees with Greenpeace. A member of the Armed Services Committee, Lancaster is one of four congressional observers to the chemical weapons talks with the Soviets.

"With biodegradation, you might be able to destroy a little bit, but you still end up with hazardous waste," he said.

Lancaster has visited the Johnston Island incinerator and is confident that "the technical problems will work themselves out."

"I frankly think we haven't accelerated the destruction because we didn't want to get ahead of the Soviets. They haven't appropriated a single ruble for destruction facilities," he said.

Lancaster suggested that "we ought to sell our [incinerator] technology to the Soviets. It can't be turned to hostile purposes." Indeed, the draft treaty with the Soviets promises U.S. technical assistance for disposal.

"We are not going to build an incinerator in Kentucky until the Johnston Island facility is safe," Lancaster said.

As an incentive to building all eight incinerators, he suggested, "it would be cheaper if we built two, one on each coast." This alternative, Lancaster said, would alleviate some of the public opposition and would still minimize the risk of transporting the chemicals.

The Iraqis' chemical arsenal will be the first to be eliminated completely. A UN disarmament expert, speaking on condition of anonymity, said building a special incinerator in Iraq and running it with a UN team is "one of several options being looked at."

Locating the incinerator in Iraq would emulate the U.S. strategy to minimize transportation risks.

Regarding the risk of toxic emissions out the stacks, the UN expert said, "That may not be any more hazardous than the sulfur emissions pouring out of all those burning oil wells in Kuwait."●

TRIBUTE TO FRANK SAIN, LAS VEGAS, NV

● Mr. BRYAN. Mr. President, I rise today to commemorate the work of one of Nevada's most outstanding citizens. Mr. Frank Sain, executive director of the Las Vegas Convention and Visitors Authority, is retiring July 1, 1991, after 10 years of dedicated service to Nevada. Without a doubt, his hard work and diligence will be difficult to replace.

The Las Vegas Convention and Visitors Authority was founded in 1957 by a small group of entrepreneurs who envisioned southern Nevada as a booming area for conventioning business men and women and tourists. Although southern Nevada was an underdeveloped area in the 1950's, the Nevada State Assembly provided funding to build the Las Vegas Convention Center and to set up the Las Vegas Visitors Authority. These undertakings were meant to encourage more businesses to bring their annual conventions to the West, thus, bringing a new influx of business to the tourism industry. Since its inception, the convention center has grown to new heights with $100 million in expansion and renovation projects in the last decade. The convention center has a $45 million expansion plan this year. Frank Sain has been a crucial part of this progress.

Frank Sain has done much to boost tourism in Nevada, the State's primary industry. He has been a driving force for Las Vegas' economic growth. Conventions and meetings added over $1.1 billion to the Las Vegas economy in 1989. In fact, due to increased tourism, Las Vegas is one of the fastest growing metropolitan areas in the country and was the destination of more than 20 million people in 1990, double the number in 1980. These accomplishments can be in large part accredited to Mr. Sain.

Mr. President, business is booming in Nevada. Frank Sain has helped make Las Vegas a city of prosperity by showing its continuing potential for growth. He has given his time, hard work and conviction to the economic future of Las Vegas, and I am pleased to have this opportunity to express my gratitude for all he has done.●

A NEW WORLD ORDER?

• Mr. SIMON. Mr. President, one of the most thoughtful, balanced, and insightful public officials in my years in public life is former Secretary of State Cyrus Vance.

Recently, a friend of mine, Ted Van Dyk, sent me a copy of Cyrus Vance's address to the Fletcher School of Law and Diplomacy at Tufts University. It was delivered there last month.

Its title is: "A New World Order?"

I ask to insert it at the end of these remarks.

There are several things in his speech that are worth noting.

He calls for regional political offices of the United Nations. He says:

Imagine for a moment what might have been possible had the U.N. possessed the capacity to head off or avert Iraq's aggression.

In this connection, Prime Minister Ingvar Carlsson's Stockholm Initiative recommends, among other things, the establishment of a global emergency system with the United Nations.

Under this proposal, which I enthusiastically support, permanent U.N. political offices would be established in key places, such as India/Pakistan, South Korea/North Korea, Iraq/Kuwait, and Iran, to provide early-warning of potential aggression. But that, alone, would be inadequate. The U.N. also marked forces that are available on the call of the Security Council—to intervene, forcibly if necessary, when the Security Council so determines.

This suggestion seems to me to be eminently sensible. We must not only put out wars of aggression when they occur, we must do more to prevent the wars of aggression from occurring in the first place.

In another point in his remarks he says:

We must also recognize that debt service continues to consume a major share of developing country resources.

He might have included the United States in that characterization, but we have to be very careful that we do not encourage excessive borrowing by developing nations. When we encourage that, ultimately, you end up with a transfer of wealth from the poor country to the richer country, and from poor people to wealthy people. If all of the nonwealthy countries in the world did not have their heavy debts, their ability to revive their economies would be substantial, and that would help our economy.

In this connection, Cyrus Vance says:

The common thread that links these complex and intersecting factors is evident: No nation can resolve all its own problems without the help of other nations. Common actio is essential.

Secretary Vance urges us to pay attention to world poverty. He says:

The United Nations estimates that one billion people—one-fifth of the world population—now live in extreme poverty. Yet the World Bank estimates that with sufficient investment, this number could be reduced by almost half by the end of the decade.

Such an effort would require that all nations commit themselves to simple and discrete targets.

The worldwide cost of meeting key social-development targets is estimated at $20 billion annually—the cost, if you will, of sustaining the recent Persian Gulf war for a fortnight.

After World War II, under the Marshall plan, the United States spent 2.9 percent of its gross national product [GNP] in helping the poor beyond our borders. We now spend less than one-fifth of 1 percent of our GNP on helping the poor beyond our borders. Why? After World War II, the Schmidt's could say to the Members of the House and Senate, "What are you doing to help my relatives in Germany?" The Zagnelli's would say to their Members of Congress, "What are you doing to help my relatives in Italy."?

But now the people who need help live in places like Bangladesh, and no one comes up to us asking us to help their relatives.

The political sex appeal has gone out of assistance to the poor, both at home and abroad, but it is shortsighted of us to fail to recognize the need.

He urges that we pay attention to population growth, and who can fail to recognize that need, but we do fail to recognize that need in our policies.

Finally, he mentions the population effect on our environment:

More than half of Africa's arable land is at risk of becoming desert. One-third of Asia's and one-fifth of Latin America's land is in the same state. We know of the environmental catastrophe which exists in the Soviet Union and in much of Eastern and Central Europe.

In this connection, the legislation that I have pending that calls for greater research in finding inexpensive ways of converting salt water to fresh water must receive the attention of this Congress. I am pleased to have bipartisan support, but we need to act. The world's population is growing, and out water supplies are not growing. We live on less than one-half of 1 percent of the world's water, yet countries that are desperately in need of water live right on the ocean.

But I am now taking off on my own thoughts after reading the excellent remarks of Cyrus Vance.

I urge my colleagues to read his remarks which follow. I ask that his remarks be inserted into the RECORD at this point.

The remarks follow:

A NEW WORLD ORDER?

(Remarks by Cyrus Vance)

The two and one-half years since 1989 will unquestionably be remembered as a time when unprecedented and unexpected events took place at every turn. And, in the wake of those events, it will be remembered that literally dozens of people began offering definitions of something called "a new world order." A number of them seem to have in mind only enhanced military security.

For my part, I am convinced that a "new world order" cannot be confined to questions of military security, or based on notions of the United States as world arbiter.

In that spirit and recognizing that the new world situation encourages us to look for solutions that would have been previously impossible, let me offer a few ambitious suggestions.

A new world order, I believe, should be structured along the general lines of the recent Stockholm Initiative to meet the following imperatives:

International peace and security;

Sustained economic development;

Curbing uncontrolled population growth and environmental degradation;

Fostering democracy and human rights; and

Strengthening international institutions.

INTERNATIONAL PEACE AND SECURITY

The first and primary imperative of a new world order must be the maintenance of peace and security on both a global and regional scale.

Although the Cold War may be over, and no immediate major conflict seems likely to engage the United States, we need look no further than the nightly television network news to recognize that national, ethnic, religious, economic and other conflicts—both across and inside present national borders—posed potential threats to peace and security.

Beyond maintaining appropriate military capabilities, we should begin our search for peace and greater security by strengthening the mandate and the capabilities of the institution that has the widest and most potentially-effective reach—the United States.

The UN's collective security potential was at least partially demonstrated during the Gulf crisis. After Iraq's invasion of Kuwait, nations working within the UN framework impressively and effectively applied an unprecedented policy of embargo and containment. And, when the war ended, there was no choice but to turn to the United Nations to provide long-term stability and humanitarian aid.

Yet, with new thinking in mind, imagine for a moment what might ahve been possible had the UN possessed the capacity to head off or avert Iraq's aggression.

In this connection, Prime Minister Ingvar Carlsson's Stockholm Initiative recommends, among other things, the establishment of a global emergency system within the United Nations.

Under this proposal, which I enthusiastically support, permanent UN political offices would be established in key places, such as India/Pakistan, South Korea/North Korea, Iraq/Kuwait, and Iran, to provide early-warning of potential aggression. But that, alone, would be inadequate. the UN also needs its own collective security forces—by which I mean earmarked forces that are available on the call of the Security Council—to intervene, forcibly if necessary, when the Security Council so determines.

To make the global emergency system effective, the Secretary-General should be granted greater leeway to deploy the organization's diplomatic, monitoring, and dispute-resolution capabilities whenever requested by a member state.

Returning to the Gulf crisis, a UN with such capacity and authority could have posted intermediary forces on the Iraq-Kuwait border, could have facilitated peaceful discussion of the two countries' border disputes, and could have signaled that Iraqi aggression would trigger a collective response by the world community.

But the United Nations cannot be everywhere. To keep the peace, we also need to modernize regional security arrangements, particularly in volatile areas like the Middle East and South Asia, where no effective regional institutions now exist.

The Conference on Security and Cooperation in Europe—known as CSCE—has facilitated to a major degree the post Cold War thaw which has taken place in Eastern and Central Europe. NATO, of course, was the Western shield which kept a fragile situation stable until a thaw could take place. But it was CSCE, through treaties and confidence-building measures, which helped the West, the Soviets, and the Warsaw Pact countries work their way through an essentially peaceful transition to democracy and free-market economies.

In the wake of the Gulf war, this model should be considered for the Middle East. Obviously, on one level, a regional conference would discuss Arab-Israeli relations and the issue of a Palestinian homeland. But, on another level, affected nations both inside and outside the region could tackle a broader range of issues, including regional security arrangements, human rights, environmental degradation, economic cooperation, and restraints on all kinds of weapons.

As to the latter, there is a crying need to rid the Middle East of weapons of mass destruction and methods of delivery as soon as possible, but the limitation of conventional arms exports to the Middle East must also be addressed as an item of top priority.

Here at home, we regard it as quite normal that we should be beginning a major military build-down. With the presently fading Soviet threat, we are beginning to reduce strategic weapons and other expenditures and to reallocate the resources to domestic priorities. Yet, in the Middle East and much of the rest of the world, arms sales continue only slightly abated. Unfortunately, we and other arms-exporting nations persist in viewing such buildups as commercial opportunities rather than potential threats to regional and, as we have recently seen, our own security. We urgently need a convention limiting the sale of conventional arms, especially in the Middle East.

SUSTAINED ECONOMIC DEVELOPMENT

Correspondingly, peace and development will be served if a prospective new world order includes a recommitment to international economic cooperation and increased development assistance.

Both the United States and other countries have had recent bouts of protectionist flu as economic pressures and changing world trading patterns have endangered the previous worldwide consensus on access to good and money.

President Kennedy, when he signed the historic Trade Expansion Act of 1962, remarked that "a rising tide lifts all boats." The premise remains true but, sadly, its support is less widespread than one would hope.

The General Agreement on Tariffs and Trade needs to be reinforced, not weakened, as seems to be the drift today. When the International Monetary Fund and World Bank were created at Bretton Woods, the GATT was seen as the global trade organization which could accommodate the interests of both developed and developing countries while holding back the protectionist and mercantilist forces which were so destructive in the past. But protectionist forces now seem unfortunately to be gaining strength, rather than waning.

The GATT, World Bank, IMF and UNCTAD (the UN Trade Development organization) all are important global institutions. They are complemented by regional trade and financial entities ranging from the European Community to the Asian, African and Latin American development banks and, now, the new European Bank for Reconstruction and Development.

Over the past several years, fresh regional groups have taken on new life. That is good. But, it would be tragic for all of us if this were to end up dividing the world into European, Asian, and North American economic blocs pitted against each other, while leaving the world's poor nations on the outside looking in.

Have-not nations cannot prosper absent a free and open international economic and financial environment. But such an environment alone will not ensure sustained growth. No viable new world order can be based on a trickle-down theory.

We must not forget, however, that the history of the past 40 years has been replete with surprising economic-success stories. The development process, once begun, takes on a dynamic momentum that carries it forward at a self-sustaining rate. Certain interrelated factors can be identified as reasons for success.

Investments in human capital through better education, health, population planning, and training.

Investments in infrastructure and industry which have the long-term prospect of bringing success in international markets.

Development of domestic agricultural production, distribution, and processing.

By the same token, we have learned that grandiose projects such as dams, superhighways, steel mills and modern airport complexes often do not make sense unless they are part of sound, overall plans for sustainable economic development.

We must face the dual realities that slow growth in both developed and developing nations illustrates a down side of interdependence, namely that slow growth in each decreases demand for products of the other. Similarly, we must also recognize that debt service continues to consume a major share of developing country resources. Even resource-rich but heavily indebted potential powerhouses such as Brazil and Mexico will do well in the next decade not to lose ground. And it is evident that these issues are severely aggravated by problems of population, environment and refugees.

The common thread that links these complex and intersecting factors is evident: No nation can resolve all its own problems without the help of other nations. Common action is essential.

We have learned from hard experience that multilateral global action is the only way we can achieve widespread sustainable growth and expanding investment.

The United Nations estimates that one billion people—one-fifth of the world population—now live in extreme poverty. Yet the World Bank estimates that with sufficient investment, this number could be reduced by almost half by the end of the decade.

Such an effort would require that all nations commit themselves to simple and discrete targets.

The worldwide cost of meeting key social-development targets is estimated at $20 billion annually—the cost, if you will, of sustaining the recent Persian Gulf war for a fortnight.

It is all a question of priorities: do we care enough to make a similar investment in the future of humanity?

The long-cited target for development assistance is that each industrialized country provide seven-tenths of one percent of its GNP to international development. With slow world growth, this will be hard to achieve. As we know, a heavily indebted developing world will be hard pressed to borrow enough money or generate enough wealth internally unless direct assistance is forthcoming and spent wisely. This is a reality we cannot avoid.

CONFRONTING CRITICAL GLOBAL ISSUES

There are two commanding and sensitive issues which both rich and poor must confront if a successful new world order is to emerge. I am talking, of course, about population and environment. The relevance of these subjects has recently been graphically and tragically demonstrated, once again, in Bangladesh. But Bangladesh, although particularly heartwrenching, is not unique.

As to population, as nations develop, birth rates invariably recede—another reason why promoting economic development is in our long-term interest. Nonetheless, longstanding religious and social pressures will continue to make it difficult to curb population growth.

It is sobering to realize that, if current projections hold, the 1990s will produce the largest generation yet born—with some 1.5 billion children entering an already-crowded world.

Population growth, by definition, tends to reduce standards of living except in nations which enjoy remarkable economic growth. Population growth also adds to environmental pressure—most directly, in areas where new deserts are created as forests are destroyed to provide land for cultivation. Such growth encourages exploitation of children, migrants, and others in the workplace. It pits neighboring countries against each other as they feel the others' population pressures.

It will take political courage, but leaders of both developed and developing nations must commit themselves to population planning programs as an integral part of their plans for economic development. A good place to start would be for the United States to renew its funding of the UN Fund for Population Activities.

In contrast to population, the related issue of environment is on everyone's mind. But the question remains: Is the United States willing to invest the political and financial capital required?

In the rush to development humanity has already done irreversible damage to the planet. And both developed and developing nations are to blame.

More than half of Africa's arable land is at risk of becoming desert. One-third of Asia's and one-fifth of Latin America's land is in the same state. We know of the environmental catastrophe which exists in the Soviet Union and in much of Eastern and Central Europe.

We are aware, however, that further damage can be checked and some of the prior damage reversed, if we muster the political will to act.

One pattern of future progress is to be found in ideas such as Debt-for-Environment swaps, in which host countries receive debt relief in return for protecting vital environmental resources. The new Global Environment Facility created by the UN and World Bank, and the private International Foundation for the Survival and Development of Humanity, created three years ago, have helped to raise public consciousness and to offer practical alternatives. One is that environmental impact assessments be built into economic development plans at both national and international levels.

Issues of global warming and ozone depletion, already high on the international agenda, must not be shunned or postponed simply because they are politically difficult. To come to grips with these challenges the na-

tions of the Northern Hemisphere alone will need to reduce emissions of carbon dioxide from the combustion of oil, coal, and other fossil fuels by perhaps 50 percent in the next 25 years or so. And we must eliminate the use of CFCs and halons on a far more rapid and comprehensive scale.

The scope of the problem is illustrated by the stark fact that if just four industrializing countries, India, Brazil, China, and Indonesia, were to increase their use of CFCs and halons up to the limit now permitted under the 1987 Montreal Protocol, the annual release of CFCs would increase by 40 percent rather than diminish.

Let us hope that next year, at the landmark UN Conference on Environment and Development, the participants will move from rhetoric to action. And let us hope the United States will take the lead.

FOSTERING DEMOCRACY AND HUMAN RIGHTS

There is another issue which is all to often ignored. It is the erroneous belief that the internal affairs of other nations are not a proper subject for state-to-state discourse, and that internal events in other countries, such as human rights violations, are not our concern. I strongly disagree.

Although our options may at times be limited in dealing with such questions, we should never stop trying to apply diplomatic, economic, and political pressures that will help the human family continue its passage toward a more open, more democratic, and freer life.

Lech Walesa and Vaclav Havel, among others, would endorse that view. So would the black citizens of South Africa and other nations where international support and pressure is helping to bring about change. So would citizens of China, still awaiting the day when their time, too, will come.

Those countries which have attempted to create economic development in a totalitarian framework have found it does not work. The human spirit, liberated, is capable of productivity and achievement undreamed of under the deadening hand of conformist control. Just as we have seen that economic and social policy steps are necessary for development, we have also seen that political steps contribute to development—the establishment of constitutional government, the rule of law, accountability of governmental officials, openness, and respect for human rights.

Regarding the rule of law, I am encouraged by the current work of the "Permanent 5" members of the Security Council on an agreement to submit certain international disputes to the International Court of Justice. Such an agreement is one of several ways governments could commit themselves to respect international law and accept the jurisdiction of the World Court.

Moreover, I believe that, just as the United Nations should establish early-warning mechanisms to foresee and, if possible, forestall military conflict between nations, the UN should strengthen its machinery for monitoring and bringing pressure to bear on violations of political and human rights.

And, just as direct intervention should be an option for the UN in a military crisis, so should it be in situations where humanity is in crisis.

The past two and one-half years have been tumultuous. But they have demonstrated that the tide of history is not running in the wrong direction. Although often beyond our control, it is currently flowing toward openness and freedom of the individual—concepts that lie at the heart of much Western thought and certainly of our own American Revolution.

In the decade of 1980s, we have seen in our own country the common good often subordinated to a selfish search for individual gain. I hope and believe your generation can and will reverse this in the decade that lies ahead.

In the 1940s, the international community held historic summits in San Francisco and Bretton Woods which helped establish a basis for a more enlightened world order. The Stockholm Initiative, to which I have referred earlier, proposes that a comparable World Summit on Global Governance should be called to address the unprecedented challenges and opportunities which confront us today.

Such a Global Summit, which must be carefully prepared through a process of consultation and negotiation among the participants, would, I suspect, lead not only the United States but most nations to the realization that it is incumbent on us to modernize present structures of cooperation—and to create new or modified institutions where needed. I refer particularly to the United Nations, which needs to be modernized, streamlined, and strengthened to meet the tasks that face it. This will require a number of changes such as broadening the authority of the Secretary-General, and overhauling the UN financial system.

This morning, I have suggested several other structural changes which would be steps on the road to greater international peace and security . . . to shared and sustainable economic development . . . to curbing uncontrolled population growth and environmental degradation . . . to fostering democracy and human rights . . . and to creating a world order in which both law and justice become the norm, rather than the exception.

We have today an unparalleled chance to define the future. Let us seize the time.●

WORLD DIABETES DAY

● Mr. LUGAR. Mr. President, I rise today to bring to the attention of my colleagues "World Diabetes Day," which is being celebrated on June 27, 1991. Growing concern among national health officials about the rising toll of diabetes throughout the world led the International Diabetes Federation [IDF] and the World Health Organization [WHO] to proclaim this day.

An estimated 120 million people suffer from diabetes. Diabetes and diabetes-related ailments are the third leading cause of death in the United States. The Centers for Disease Control [CDC] reported that 37,138 deaths in 1988 were directly attributable to diabetes. The CDC recognizes that diabetes complications can also result in death—putting the actual toll for related deaths at closer to 156,000.

What is truly unfortunate is that early diagnosis and treatment of diabetes would prevent many of these deaths. The technology exists, but there is a need for greater availability of the latest treatments and for greater awareness. The goal of "World Diabetes Day" is to share this information and to help people identify and control their diabetes at the earliest stages.

In conjunction with the IDF's 14th Congress, being held in Washington from June 23–28, the IDF and WHO are mounting an historic week of diabetes-related events. Included will be scientific presentations by renowned diabetes experts, international and national health ministers, and well-known public figures who enjoy exciting lives despite their diabetes.

The Congress is expected to be attended by over 8,000 people from 120 countries. The Secretary of Health and Human Services, Louis Sullivan, plans to participate, and the results of a Gallup Poll on diabetes will be released.

Boehringer Mannheim Corp., a leading health care company based in Indiana, has joined with its sister company in Germany, Boehringer Mannheim GmbH, in generously underwriting significant portions of the costs associated with this educational effort. I commend the thousands of individuals who work for Boehringer Mannheim in the United States and throughout the world for their work toward helping others to lead better lives.

Mr. President, I hope that my colleagues will join me in supporting the activities associated with "World Diabetes Day," thereby increasing public awareness of the multinational efforts being made to fight this disease.●

POOR CHILDREN, IMPOVERISHED NATION

● Mr. SIMON. Mr. President, the Chicago Tribune had two related editorials on Sunday, June 9, 1991.

The first of these was titled, "Poor Children, Impoverished Nation." It calls on the Nation to lift our children out of poverty.

Closely related to it is an editorial titled, "Investing in Early Intervention." It calls on the State of Illinois to do more in early childhood education. And while its editorial is directed to the State legislature, that editorial could just as well be directed to the Federal Government.

We have to do much better. The evidence is just overwhelming that early intervention saves lives, saves money, and is an investment in the future of our country.

I ask that both editorials be printed in the RECORD.

The editorials follow:

[From the Chicago Tribune, June 9, 1991]

POOR CHILDREN, IMPOVERISHED NATION

One out of every five American children lives in poverty.

It's a disgraceful statistic, especially so because children—those 18 and under—are more likely to be poor now than any other age group in the nation.

And it's disheartening that the proportion of children in poverty swelled during the nation's longest period of peacetime economic growth and despite a variety of efforts to address the problem.

Children inevitably share the lot of their parents, and such phenomena as the growth in single-parent families, drug use and the social isolation of urban and rural ghettoes

have certainly contributed to the growth in child poverty.

But society has a special obligation to children and cannot write them off simply because their parents are in trouble. It also has a special interest in ensuring that its next generations are sufficiently educated and healthy to guarantee the nation's future strength.

If there is some popular indifference to the condition of poor children, it may be due in part to a widespread perception that poor children are of a singular type and environment—minorities in fatherless, innercity, welfare homes. The Children's Defense Fund, a lobbying group, has dissected this generalization in a new analysis of data on poverty among children and found it wanting:

Location? The majority of poor children live outside cities: 3 of every 10 live in suburbs; more than one-quarter live in rural areas.

Race or origin? Two of every five children in poverty—41 percent—are non-Hispanic whites; Hispanics account for 21 percent and blacks 35 percent.

Employment? One of five has a parent who works full time; nearly two-thirds live in a family where someone works at least part-time.

Parents? Two of five live in married-couple families.

Family size? Nearly two-thirds of poor families with children have just one or two kids.

As for the most prominent icon of poverty, the study uses government data and definitions to determine that the black, innercity, welfare child in a fatherless home represents only 1 of every 10 poor American children.

Still, it remains that black children, children of any race in fatherless families, those with the youngest parents and those whose parents did not finish high school are most likely to be poor.

Whatever the circumstance, the critical question is whether this nation can afford to keep raising new and larger generations of poor children.

Forty percent of the nation's poor are under age 18—a total of more than 12 million children. Inadequate education, nutrition and development opportunities for such vast numbers of children signal dangerous and costly consequences ahead.

The Reagan administration insisted that improving the overall economy would help people throughout the social system. "A rising tide lifts all boats,' Ronald Reagan said.

Some boats rose. The 1989 poverty rate for all Americans was the lowest in the decade: 12.8 percent.

But it didn't happen for children. From 1979 to 1989, while the gross national product grew by more than one-fifth, child poverty expanded at the same pace, after dramatically lessening in the 1960s and leveling off in the 1970s.

Now, at least, discussion about poor children is again coming to the forefront, with a number of proposals for further action developing on and off Capitol Hill. Many of them—such as expanded medical insurance, more day care and others—would be expensive and controversial. But some ought to win almost universal approval.

The Earned Income Tax Credit, which puts more money into the pockets of low-wage workers with children, could be further improved to bring the nation closer to the point where no one who works full-time would have an income below the poverty level. That fact—that a parent can work full-time and still be in poverty—is one of the most distressing aspects of the child poverty dilemma.

On another front, a 1988 federal law established some provisions for collecting child support from absent parents. But more than half of the child support owed via state and federal collection programs still goes unpaid.

A stricter system with penalties and improved enforcement needs to be developed. Government cannot legislate values and tradition, but it can make sure that parents cannot dismiss their obligations and that aid programs do not encourage family breakup.

Job training opportunities also must be assured. Abundant new jobs are being created every day, but they require higher levels of skill than the industrial jobs of yesterday. The best way for a parent in a poor household to increase the family income is to get a better job, and that means improving work skills.

The ongoing effort to improve the quality of schools, and to provide incentives for teens to say in school, can do much to prevent future poverty if real improvement is achieved. Preschool programs such as Head Start, early-childhood nutrition assistance and preventive-health plans have also proved effective for the children who get to participate.

None of these initiatives would completely eradicate poverty among children. But this wealthy nation cannot afford to give up the effort to alleviate it.

INVESTING IN EARLY INTERVENTION

The sooner children with developmental problems get help, the more likely they are to grow up healthy and normal. Moreover, the earlier the intervention comes, the fewer resources it takes and the less it costs. Those facts are well established.

Last week, the Illinois House took a small step toward making early help available for the state's babies and toddlers with developmental problems. By an almost unanimous vote, it passed the commendable Early Intervention Services System Act, which would set up a new interagency system to provide and coordinate services for vulnerable, high-risk youngsters under 3 years of age.

But, regrettably, it is only a token victory. The House did not provide any money for the early intervention effort. It merely set up a framework that can be used when the financially hard-pressed state of Illinois can find some funding. The Senate is expected to use the same tactic of appearing to be helpful by passing new legislation without providing the money it would cost to make it reality.

Advocates of early intervention say it would be better to have the program on the lawbooks than not, that even without funding the legislation would be a necessary first step, that approving the idea now would make legislators more comfortable about paying for the services in the future. There is also a possibility of getting some startup money from the state Department of Education.

But without money, a new law is small comfort to the families of babies and toddlers rapidly growing past the age when early intervention would make the most successful difference in their lives.

When in the future might money be available to pay for what is essentially a new entitlement program if it is also passed by the Senate and signed by Gov. Edgar? The outlook isn't promising. Even if the income tax surtax is made permanent, it will be difficult to stretch revenues to cover existing entitlements and necessary expenses.

Further, supporters of the early-intervention act aren't eager to talk about what the ultimate cost of the services is likely to be. They propose phasing it in over five years, with first-year costs of about $6 million and bills of about $15 million annually in new state spending for the rest of the startup period.

But ultimately, it's estimated that about 56,400 Illinois children younger than age 3 would be eligible for the services, which would average $4,000 per youngster per year. That would make the annual total tab about $225 million. Of that sum, the states would pay $92 million, the federal government $131 million and local government and private foundations and charities $2 million.

Once fully in place, this would be a huge new financial commitment for a state that's scrambling to pay its current bills and facing lawsuits that may result in big additional spending for Medicaid, the schools and other services for children.

What justifies the new program are two facts. It could make an enormous, permanent improvement in the lives of children born with developmental problems. And, in the long run, it would save the state far more than it would cost by reducing the need for subsequent special education and medical services and by preventing a big range of expensive social problems.●

PRECARIOUS ECONOMIC CONDITION OF THE "BIG THREE"

● Mr. BENTSEN. Mr. President, I rise to call the Senate's attention to an important article that appeared in Sunday's Washington Post, and I ask that a full 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. BENTSEN. In that article, Kevin Kearns, director of the automotive project at the Economic Strategy Institute, dramatically sets out the precarious economic condition of the Big Three U.S. auto makers. And while General Motors, Chrysler, and Ford sharply reduce their production, Japanese auto firms see new opportunities to increase their share of the American market, which already exceeds 30 percent.

There is no question that some American-made cars just were not up to the quality of the foreign competition. Beginning in the late seventies, it became chic to buy foreign; out-of-style to buy American.

But the U.S. auto industry has come a long way in recent years. Productivity is way up, product defects way down. Today, the Big Three are turning out cars that stand up to those made by anyone, anywhere. Quality and value have become realized objectives in much of the American automobile industry.

It's time Americans recognized these achievements and encouraged such results by buying more American cars.

The competition is tough and the playing fields hardly equal. As Kearns

points out, American automakers do not have the luxury of a closed home market, free of competition from imports. They face higher costs of capital than their foreign competitors. They are paying more in United States taxes than the Japanese transplant operations that some herald as the salvation for our declining domestic production. And, perhaps most seriously, they must try to rejuvenate their operations while competing with deep pocket companies that reap the benefits of Japan's keiretsu system of interlocking business cartels.

Japanese transplants do provide American jobs. But let's not kid ourselves: they are far from the equivalent of American-owned auto companies. Their plants and the machines that run them were made largely with Japanese products. Their profits are returned to the Japanese economy. They buy their supplies and utilize the services mainly of Japanese firms. And a recently completed Customs Service investigation reveals that at least one major Japanese automaker is not using nearly as much North American content at its plant here as it has been claiming.

The implications of the continued loss of production by the Big Three are disastrous. Autos represent more than 4 percent of our total GNP. The loss of auto production translates into losses for a long list of other key American industries, including steel, glass, and textiles—all industries themselves under siege today from sometimes-unfair foreign competition.

Fortunately, people finally are beginning to recognize just how much really is at stake, not just in auto production but also in all of those important supporting industries.

The answer, as Kearns correctly points out, is not more Government interference. But it also is not more of the benign indifference that characterized our economic policies for much of the 1980's. The Federal Government does have an important role to play. Our financial policies will dictate whether the Big Three and related industries have adequate capital to make new investments. Our trade policies will determine whether our automakers are able to sell in foreign markets, and whether the pervasive keiretsu networks will continue to distort the economic playing field through price-fixing and other unfair arrangements. And how well we enforce our tax laws and customs regulations will decide whether foreign automakers also must play according to the rules of the game.

Mr. President, those are some awfully tough policy challenges. With the right leadership, I am confident we can meet them. Without it, we will continue to see our basic industrial building blocks erode in the years ahead.

EXHIBIT 1

MEANWHILE, THE MELTDOWN IN MOTOR CITY

(By Kevin L. Kearns)

America's automakers are reeling, and the results this time may be catastrophic. Despite dramatic increases in investment, R&D, training, productivity and quality in the last 10 years, the Big Three lost an incredible $4.7 billion in the last two quarters—a record loss. More hard times lie ahead, and some analysts believe there is a very real possibility that Chrysler and even Ford may fail and that the mighty General Motors could be critically wounded.

What now threatens the very existence of the Big Three is an unusually potent combination of cyclical and structural factors. Part of the problem is the current recession: The auto industry is always disproportionately affected by economic downturns (in the first quarter the unemployment rate reached 6.5 percent for the general economy but 16 percent in autos). But a very substantial part of the problem is structural. Even when the recession ends, the industry will be left facing this ominous reality: an enormous worldwide excess of automaking capacity, most of it aimed at the rich U.S. market.

As sales have dropped, Detroit has been forced to respond with massive cuts in production. Yet as the Big Three retrenches, Japanese auto firms have viewed Detroit's difficulties as a period of great strategic opportunity. That's not surprising from rivals whose share of the U.S. market topped 30 percent this spring—and has almost tripled since 1978.

"So what?" ask many Americans. "Why should there be a government response? Poor quality and poor management are the real problems." In any case, that argument goes, the "transplants"—the new assembly plants built by Toyota, Honda and other Japanese producers in this country—will save us; they'll produce the cars America needs better and cheaper than the Big Three. And the transplants are becoming more "American" every day. There's really no difference between Toyota and General Motors.

Undoubtedly, past U.S. management and labor practices contributed substantially to the auto industry's decline; a forthcoming Brookings Institution study will point to a disturbing drop in brand loyalty to American cars and a corresponding rise in loyalty to Japanese brands.

But before punishing the Big Three for the lemons they sold in 1980, consider that the domestic product is vastly better than it was: The Big Three invested $170 billion in improving productivity and quality during the last decade. In 1981, the number of defects per U.S. vehicle was about four times the Japanese average. Today, the still-shrinking difference between the U.S. defect rate of 1.6 per car and the Japanese 1.2 per car is negligible. An extensive MIT study of the auto industry worldwide found that the top Big Three plant actually has fewer defects per car than the top plant in Japan. In addition, many industry analysts also believe that the value-to-price ratio of domestic cars substantially exceeds that of Japanese manufacturers.

The productivity of American-owned auto plants and their workers is also up significantly. According to another recent study, the four most productive auto facilities in America—and eight of the top 10—are Ford plants. Only two are Japanese transplants. American factories still trail plants in Japan in productivity, but here too the gap is narrowing. The conclusion is inescapable: Detroit got the message and is responding effectively to consumer needs.

It is worthwhile remembering that, unlike its Japanese rivals, Detroit achieved this without a closed home market that assured profits and without new plants subsidized by governments. The Big Three were also dealing with huge health and pension costs, the sky-high cost of capital and, in the early '80s, an exchange rate that crippled exports.

Consider also that the automobile industry employs 750,000 Americans directly in assembly and parts operations, plus millions more in related industries. In fact, automobiles account for 4.1 percent of GNP, an incredible chunk for a single industry. Transferring many of those jobs and much of that wealth-creating activity to foreign companies will have a devastating impact on America's economic future.

In addition, there remain the important linkages between the auto industry and other critical U.S. industries. Everyone knows that automobiles are huge consumers of steel, plastics, textiles, rubber and glass. But as cars have gone high tech, the auto industry has become the largest consumer of semiconductor chips and uses vast numbers of sophisticated machine tools, robots, computers and advanced materials. Thus the auto industry will increasingly serve as a more important market for the output of other key high-tech industries. Without Detroit, their future will also be at risk.

Won't transplants buy the same U.S. products as Detroit and, in that way, fill the same role? The evidence suggests otherwise:

The plants themselves were built largely by Japanese construction companies.

The machine tools and robots in the plants are imported from Japan.

High-paid jobs in management and R&D—those which potentially add most value to production—are retained in Japan.

The financial services associated with these plants were provided by Japanese banks and insurance companies.

Profits earned on the sales of the transplants are repatriated to Japan.

U.S. taxes paid by the Japanese auto companies and their Japanese suppliers are mysteriously far below amounts paid by equivalent U.S. firms.

The transplants have largely shunned American auto parts suppliers and have imported their own supplier networks from Japan.

The transplants have decreased significantly the number of auto jobs in America, with perhaps as many as 175,000 workers displaced in the traditional industry from 1983 to 1989.

The siting and hiring practices of transplants indicate that they are reluctant to employ minorities and women.

Yet, the argument continues, haven't the transplants attained a U.S. content almost as high as the Big Three?

In fact, while Honda, the acknowledged leader in "Americanization," alleges a U.S. content well in excess of 70 percent, impartial studies refute that claim. A 1989 GAO report concludes that Japanese automakers have reached 50.5 percent local content, as compared to an average of 87.3 percent for the Big Three. The University of Michigan Transportation Research Institute conducted an independent care study of the Honda plant in Maryville, Ohio, and estimates a domestic content of at most 62 percent, but the authors cite factors that could make it lower. A Canadian newspaper recently reported that a still-in-process U.S. Customs Service investigation has estimated actual North American content at less than 50 percent.

To inflate their U.S. content, the transplants use qustionable counting procedures: They include indirect costs that would be incurred whether or not manufacturing occurs here and arbitrarily counting parts imported from Japan as 100 percent American simply because they are purchased from a Japanese-owned supplier located here.

The transplants, in other words, are not American companies.

The Big Three today face enormous obstacles. Perhaps most worrisome are the market conditions skewed by Japan's economic system—in particular the interlocking business cartels known as keiretsu. The solution will require government-coordinated action.

A critical first step is simply to recognize that a significant structural problem exists. Vice President Quayle, during his recent trip to Tokyo, protested the Japanese government's continued protection of its automakers. In doing so, he became the rare administration official who will publicly say that the Japanese system of close government-business cooperation, closed home market and keiretsu distorts the global market to give Japanese manufacturers significant comparative advantages.

Thus, most Japanese auto manufacturers have been able to absorb the substantial losses associated with setting up shop here in pursuit of market share. This "patient capital" has brought the Japanese automakers to the verge of dominating an American industry.

And this is where the record losses of the last two quarters take their most serious toll. Since the Big Three are in financial distress, they cannot afford to make the range of investments in new products necessary to keep them fully competitive. At the same time, Japan is introducing an extraordinary proliferation of new models and options in the U.S. auto market, much faster than Detroit can match.

Meanwhile, worldwide production overcapacity—a result of deliberate Japanese overbuilding—is hammering Detroit. Big Three capacity has fallen from 15.6 million units in 1984 to 14.4 million in 1989. Industry analysts predict a further fall to 13.7 million units in 1991.

In spite of these cuts, worldwide excess capacity still runs at 8 million units—75 percent of which is targeted on the U.S. market. To make matters worse, the transplants continue to add capacity in ambitious increments: The number of cars and light trucks is set to rise from 1990's 2.54 million to 3.5 million by 1995. By adding to current levels of overcapacity, Japanese manufacturers can initiate fierce price competition—with the result that the Big Three will cede additional market share.

Whether the Japanese system is fair or not is irrelevant. Some believe Japan is too politically sensitive to seek the actual takeover of America's auto industry. The point nevertheless is that Japan's automakers are eager to increase significantly their hold here, and the current system favors that goal. So do such U.S. responses as an internal report prepared for the president by the Treasury Department (leaked to the Detroit News) that blamed automakers' poor performance on myopic management. This is the same Treasury Department that in 1989, over U.S. Customs Service and Big Three objections (and counter to standard industry practice worldwide) reclassified imported light trucks as passenger cars, thus allowing Japanese automakers to save over $500 million yearly in U.S. import duties.

The prevailing economic wisdom within the administration contends that assisting Detroit would be unwarranted interference with the market mechanism. That response is certainly ideologically pure, but will it work? In searching for an answer to the same problems facing U.S. automakers, the European Community decided to place numerical limits on the market share of Japanese cars until European automakers are strong enough to compete. Such a drastic solution is debatable, but it underscores the immensity of the problem.

What can be done without resorting to heavy-handed government interference? A chief ingredient of any rescue plan is providing stable financial conditions for the auto industry: ensuring that sufficient capital is available to the Big Three, the parts makers and the suppliers; ensuring that the cost of the capital is not exorbitantly high and ensuring that exchange rates remain sufficiently stable for rational long-term planning.

In addition, transplants must behave like U.S. companies, which means that *keiretsu* practices, which violate U.S. law, have to stop at the water's edge. The federal government must make an all-out effort to investigate and end dumping, vertical price-fixing among assemblers and suppliers, tax avoidance through transfer pricing and a host of other practices outlawed here years ago. And the Commerce Department and Customs Service should conduct a joint audit with the Japanese companies in order to establish a program for bringing their domestic content close to the level of the Big Three.

At the same time, the Japanese need to open their domestic market to exports from the Big Three and U.S. parts makers, as well as European and Asian competitors. An immediate "affirmative action" program must be implemented so that U.S. cars, light trucks and parts receive reciprocal treatment in the Japanese market.

In return, the Big Three, the parts industry and American labor must publish their own action plans to pursue additional excellence in quality, productivity and price. Excessive executive compensation and overly generous clauses in union contracts are likewise fair game.

We can quibble about details, so long as we don't delay until irreparable damage has been done to domestic auto manufacturers and parts suppliers. If the problems are not addressed now with autos, we will be facing the same situation in five years with the computer and other flagship industries, but we will be in a much weaker position to respond effectively.

Today, it is Washington, not Detroit, that is afflicted by myopic management.●

UNIVERSITY OF MAINE EXPANDS—IN BULGARIA

● Mr. SIMON. Mr. President, I was pleased to see a story in the Chicago tribune, written by Dusko Doder that the University of Maine has started an American university in Bulgaria.

The American universities in Cairo, Lebanon, and Turkey have all made significant contributions to the areas that they have served.

I hope there are some practical ways that we can encourage the University of Maine in this endeavor.

I would add that I hope we can encourage the development of an American university somewhere south of the Sahara in Africa, and an American university in Armenia, one of the Soviet Union Republics.

Each of these American universities, the one already developing in Bulgaria, and the ones that should be developed in Africa and Armenia, could contribute a great deal.

I commend the leaders of the University of Maine.

I ask that the Chicago Tribune article by Dusko Doder be printed in the RECORD.

The article follows:

[From the Chicago Tribune]

UNIVERSITY OF MAINE EXPANDS—IN BULGARIA

(By Dusko Doder)

BLAGOEVGRAD, BULGARIA.—Once the most faithful of Kremlin allies, Bulgaria is fast becoming the most America-loving country in Eastern Europe. People are clamoring for American movies, music, market economies and, now, education.

The last is soon going to be offered in a big way. Assisted by the University of Maine, the first American liberal arts college in Eastern Europe is to open its doors this fall in this provincial town near the Macedonian border.

The college will occupy the marble-and-glass former headquarters of the Communist Party, which dominates the town. Faculty members now being recruited will be offered accommodations in no less ironic a place: a spacious, three-story hunting lodge built for Todor Zhivkov, the Communist dictator of Bulgaria for 35 years until his ouster in 1989.

Zhivkov had homes and lodges built throughout the country to be used if he visited. He visited Blagoevgrad only once.

Soon, local officials hope, the university will be the institution that most influences life in the town. Many Bulgarians hope it will mark the resumption of strong American ties of all types with this Balkan country.

Some other U.S. universities have links with east European universities, but this would be the first completely American university, according to George Prohasky, director of the Open Society Fund in Sofia, the capital, which is providing part of the funding.

This fund was set up by George Soros, a Hungarian-born American businessman to further American-style freedom of intellectual inquiry—what he calls "the concept of an open society . . . that transcends frontiers."

In addition to Bulgaria, Soros has created similar foundations in Hungary, Poland, Czechoslovakia, Romania and Soviet Union.

The American University of Blagoevgard is hardly off the drawing boards, but already 1,600 people have signed up for the English and entrance tests.

Dale Lick, president of the University of Maine, visited Blagoevgrad last November, saw the buildings and "from that point on it has taken on a life of its own," according to an American closely involved with the project.

Lick had been interested in Bulgaria since his university began accepting students from that country.

A detailed plan was drawn up last winter by William Higdon, former president of Graceland College in Lamoni, Iowa, and a specialist in Third World education. Five University of Maine administrators came here in March to complete the planning.

Though initial funding is being provided by Soros through the foundation and the build-

ings are being provided by the town of Blagoevgrad, the university wants to raise additional money in the United States.

A modest opening is envisaged—just some 250 students this fall, with the number increasing to around 1,000 over four years. The aim is for 70 percent of the students to be Bulgarian, 10 percent from the U.S. and 20 percent from other countries.

The president of the university is to be an American, but no one has been named. Initially, most of the staff will be American, though eventually it will be half-American and half-Bulgarian. Prospective students will have to pass tough entrance exams.

The curriculum has not been worked out fully, but Stefan Chernokolev, the university's project director, said it would be "basically a liberal arts college with about 10 majors including various business courses, sociology, political science, American studies, Balkan studies, history and computer sciences."

Students also will be required to pay substantial charges for tuition and board—a new concept for Bulgarians. Though the amount hasn't been decided yet, Chernokolev said it will not be less than 10,000 leva, or about a year's wages for the average Bulgarian.

Despite the stringent entry requirements, the telephone has been ringing off the hook in the now-empty offices of Blagoevgrad's former Communist Party officials. Lyudmil Georgeyev, the university's local coordinator, said prospective students are phoning from all over the country.

"How they get the number I don't know," he said as he padded across the thick carpeting of the vast office once occupied by the local party chief.

U.S. Ambassador Kenneth Hill said there is an "enormous desire in Bulgaria to have American schools." Many Bulgarians, he said, still remember with nostalgia the pre-Communist days when there were several American high schools and colleges in the country. The most prestigious was the American College of Sofia, which the Communist government shut down in 1947.

Last summer a reception was held in Sofia for former graduates of American schools, many of which were started by missionaries.

"There were women in their 60s and 70s with tears in their eyes who said it was the first time they had spoken English in 40 years," said an American diplomat who attended the reception.●

1991 UTAH HUNTER EDUCATION CHAMPIONSHIP

● Mr. HATCH. Mr. President, I rise to recognize the 1991 Utah Hunter Education Championship competition that was held in Vernal, UT, on May 4, 1991. This competition provided young people between the ages of 12 and 18, the opportunity to exhibit their gun hunting and education skills and to further develop those skills.

The competition included rifle and shotgun shooting, archery, outdoor firearms handling, wildlife identification, and a general knowledge in resonsible hunting, wildlife management, survival, and first aid. The top contenders in this competition at the Hunter Education Invitational Challenge in July 1991, at the National Rifle Association's Wittington Center in Raton, NM. As you can see, Mr. President, these young people will likely be the future forerunners in wildlife conservation and management.

Mr. President, the State of Utah is recognized as having the most outstanding hunter education program on the North American continent because of their dedicated staff of volunteer instructors. It is the goal of the Utah Hunters Education Association to have an organization dedicated to educating the young people of Utah to become safe and ethical sportsmen. Their program consists of not only sending instructors to the far corners of the State but also to the densely populated areas. In addition, they have a program to educate disabled individuals so that they too may enjoy the same privileges as the members of this organization.

Mr. President, it is organizations such as this that we in the U.S. Senate should consider funding. As we are greatly concerned in promoting safety for the citizens of the United States, responsible organizations like the Utah Hunters Education Association deserve to be commended for their actions to teach gun safety and management. I applaud them for their efforts.●

A CREATIVE PRISON PROJECT

● Mr. SIMON. Mr. President, I would like to pay tribute to the inmates and staff of Vienna Correctional Center, to Southeastern Illinois College, and to the agencies contributing to their initiative in setting up and running an ethanol plant at the correctional center. I would also like to share with you their story. Their innovation and optimism reminds us that there are better ways to use both the human and environmental resources of our Nation.

Ethanol is a renewable fuel that can be added to gasoline to reduce the amount of carbon monoxide released into the air. By producing ethanol, the inmates at Vienna are making available a product that can help our Nation's cities meet the air quality requirements of the 1990 Clean Air Act.

Those associated with this project are not only contributing to antipollution efforts, they are also demonstrating that the production of ethanol can be integrated with the creation of greenhouses and with the production of feed for livestock. I ask that an article detailing the recent honors awarded to the project at the Vienna Correctional Center from the Southern Illinoisan be printed in the RECORD.

The article follows:

VIENNA CORRECTIONAL CENTER HONORED—INMATE-RUN ETHANOL PLANT CITED BY JUDGES

(By Phil Brinkman)

The Agricultural Research Project at Vienna Correctional Center is being honored by a national environmental group in Washington D.C. today for its inmate-run ethanol plant.

Renew America honored the project for producing a clean, renewable energy source that can be blended with gasoline for use in the state's car fleet. The center is the only recipient of the award for renewable energy projects. Altogether, awards were granted in 20 categories.

"This is an integrated system," Renew America Executive Director Tina Hobson said of the Vienna project. "It appealed to the group (judges) because it not only was conserving natural resources, but it was also productive for the human beings involved."

Ethanol is produced at the plant by fermenting grain crops. When the fermentation is complete and the liquid fuel is removed, the remaining organic matter is used as feed for livestock, ranging from beef and dairy cattle to poultry, catfish and freshwater shrimp.

The plant includes a greenhouse to take advantage of the excess heat produced in the manufacture of ethanol. Carbon dioxide produced during the fermentation process is circulated back into the greenhouse to stimulate growth. A 1,200-head cattle feeding operation also is planned to use the grain byproduct.

The operation is run entirely by inmates with help from Southeastern Illinois College near Harrisburg. Twenty-six state, federal and local agencies have contributed to the development of the project through financial or technical assistance.

Renew America issued the awards in conjunction with the National Environmental Awards Council, a coalition of 28 leading national environmental organizations. The project will be included in the Environmental Success Index, a 150-page directory that organizers say is the only comprehensive list of successful environmental projects nationwide.

Hobson said the directory is designed to provide individuals, public interest groups, industry and policy makers with access to a broad range of creative and effective environmental programs in their state.

"You read a story in a newspaper and you think, 'Gee, that's a good idea,' but then you lose it," Hobson said. "We're a center for those good ideas."●

BRAZIL'S PRESIDENT COLLOR BRINGS MESSAGE OF REFORM, PROGRESS

● Mr. CRANSTON. Mr. President, this morning I, along with many of my colleagues, met with Brazilian President Fernando Collor deMello.

For the last year and a half, President Collor has served as the Chief Executive of Latin America's most populous and most economically important country, a nation whose strategic cooperation with the United States reaches back to World War II and the fight against facism in Europe.

President Collor is the first President of Brazil to be chosen by direct elections in nearly three decades. He has been a strong and consistent advocate of free-market reforms, a sane nuclear energy policy and environmental protection. He deserves our support and our help.

Before he arrived, I—together with seven of my colleagues—sent a letter to President Bush, asking him to urge President Collor to establish territorial boundaries for the Yanomami Indians

as a means of assuring their survival and of giving legal protection to the Amazon Rain Forest.

We also urged the President to ask President Collor to help ease deforestation pressures in the Amazon—the world's "green lung"—by abolishing fiscal incentives for environmentally destructive cattle ranching and agribusiness in the region.

This morning I brought the issue directly to President Collor. He understood and was well aware of the plight of the Yanomami. I hope that the subsidies given to Amazon ranchers and agribusiness interests will be diverted by this Government to areas that need them the most, such as Brazil's impoverished northeast.

I also brought up the issue of nuclear energy. United States policymakers have long looked at Brazil's nuclear policy, which included efforts to make an atom bomb, with a jaundiced eye.

Brazil has refused to sign the 1968 treaty on nonproliferation of nuclear weapons, which would give the International Atomic Energy Agency the right to inspect its nuclear installations.

And, although Brazil signed and ratified the Treaty of Tlatelolco, which seeks to make Latin America a nuclear-free zone, it has not waived the entry-into-force requirement. Traditionally, Brazil's view is that such treaties are an attempt by the nuclear club members to exclude it from the club.

Despite this, President Collor has taken several steps to bring Brazil's position closer to that of the international community.

And, just this morning, he assured us that his Government will continue to cooperate internationally. He said he was aware of the need to regulate the use by former nuclear industry employees of their expertise in other countries.

President Collor evidenced great determination on the nuclear issue. He deserves not only our praise, but also our commercial and technological help, as he redirects Brazilian know-how in this area to exclusively peaceful means.

And, finally, Mr. President, I would like to say a word about United States-Brazilian relations in the counternarcotics area.

There has been growing concern in the United States about Brazil's role as a transshipment point for narcotics and as a supplier of precursor chemicals.

The escalation of the Andean drug war has caused narco traffickers to shift their shipping routes through Brazil's immense and largely unguarded borders.

There is also evidence that drug producers from Colombia, Peru, and Bolivia have used Brazilian territory as a safe haven from their own countries' security forces.

The administration appears to be pushing the idea, as they have in other South American countries, that the Brazilian military ought to take a more active counternarcotics role.

The military, for its part, have sought to escape such a function, arguing that—under Brazil's constitution—antinarcotics efforts form part of the Federal Police's functions.

On balance, and keeping in mind the horrible precedents being established by military involvement in places like Bolivia and Colombia, I think the Brazilian position is the more correct one.

If the administration wants to increase antinarcotics efforts with Brazil, I believe it would be wise for them to leave the delicate issue of civil-military relations for the Brazilians to resolve. And to channel United States support through the agency designed to receive it—the Brazilian Federal Police.

Mr. President, I ask that the letter I referred to earlier in my remarks be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, June 14, 1991.

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

DEAR MR. PRESIDENT: We are writing you today to urge you to include the plight of the Yanomami people in your discussions next week with Brazilian President Fernando Collor de Mello.

As you know, the Brazilian government has committed itself to undertaking major environmental policy reforms for the Amazon region. Since his inauguration, President Collor has given unprecedented attention to environmental issues. However, much remains to be done and this unfinished agenda is of vital concern to both our nations.

In particular, the demarcation of the Yanomami people's land rights is a critical test of the Brazilian government's willingness to live up to its commitments on the environment and human rights in the Amazon region.

Some 9.4 million hectares of pristine rain forest—home to nearly 10,000 Yanomami people—have been recognized by Brazil's federal courts as guaranteed to its original inhabitants by that country's Constitution. However, an invasion by gold and tin miners into the region has threatened the physical survival of the largest isolated indigenous group in the Americas. Disease, mercury pollution and siltation of watersheds are some of the worst manifestations of this unhappy clash between cultures.

Internationally recognized environmental and human rights groups say that the legal demarcation of the Yanomami territory fulfills the minimal necessary condition for protecting their physical survival. It is essential that President Collor ensure that entire, continuous Yanomami area be legally demarcated immediately.

Similarly, we believe the Brazilian government ought to be doing more to abolish the fiscal incentives and subsidies for cattle ranching and agribusiness in the Amazon. Such steps would help ease deforestation pressures in the region and would help create a level playing field for environmentally sustainable activities.

And, finally, we urge you to include the agenda the chronic rural violence which has resulted in the murders of hundreds of small holders and peasants in the last five years. If the Brazilian government does not stop large landowners from causing the murder of rural activists seeking sustainable livelihoods for the rural poor and the defense of Indian lands, it will also be clearly incapable of preventing them from destroying the forests.

In making these suggestions, we would again underscore our support for, and appreciation of, the many steps President Collor has already undertaken in the environmental area. However, the overwhelming pressure faced by the Amazon forests, and the people who call them home, is too great not to importune the Brazilian president for immediate action.

Sincerely,

Alan Cranston, Edward M. Kennedy, Paul Wellstone, Dennis DeConcini, Daniel Patrick Moynihan, Albert Gore, Jr., Tom Harkin, Tim Wirth.●

FORGIVING POLAND'S COMMERCIAL DEBT

● Mr. SIMON. Mr. President, recently the Paris Club agreed to forgive a minimum of 50 percent of Poland's $33 billion debt to Western governments. Thanks in large part to pressure from Congress, the U.S. Government took the lead in these talks and pressed hard for significant debt reduction. We are going to go beyond the 50 percent figure and will forgive 70 percent of Poland's debt to us, a move that ought to encourage other creditor governments to go further than the Paris Club agreement. The relief is expected to really help the Polish economy move from its current difficult situation to a prospering free market economy.

Today and tomorrow, June 18 and 19, the London Club is meeting in Frankfurt, Germany to decide on whether and how much to forgive of Poland's debt to commercial banks. Poland owes about $12 billion to commercial banks. I urge the commercial banks to show the same wisdom and flexibility displayed by the Paris Club and provide some breathing space to allow the bold reforms in Poland, which are the most far-reaching economic reforms underway anywhere in the world today, to succeed. Now that official debt has been halved, many potential investors are taking a fresh look at Poland. The signal that many Western investors are waiting for, commercial debt relief, will doubtless spur this much-needed investment.

Mr. President, the Polish reform program is exciting and holds great promise for a genuine economic breakthrough. We are all familiar with the great strides toward democracy already taken in Poland. We are perhaps less familiar with the progress already made in the economic sphere:

Poland now has a fully convertible currency and a liberalized trade system;

Inflation has been radically reduced;

A hard currency trade surplus of $3.8 billion was achieved in 1990, far better than anyone had predicted;

Food and consumer goods are now widely available, in part because prices have risen to market-clearing levels while wages have been controlled;

A stock exchange opened in April, the first one since World War II, and independence for the central bank in credit policy;

An ambitious privatization program has begun, aided in part by the Polish-American Enterprise Fund, and has already made some headway in privatizing Poland's 8,000 state-owned enterprises;

Cuts in state subsidies to industry and state enterprises;

Legislative changes necessary to promote the growth of the private sector.

These preliminary results are encouraging, even though there is a short-term price. Unemployment is now at 7.7 percent, as output has fallen. The fall in production is compounded by the loss of the Soviet and East German markets at preferential terms; the Soviets now charge world prices for energy, which clearly hurts. The cost of inputs other than energy has also risen, often substantially. It is clear that 1991 will be a hard year, even with the reduction in Poland's official debt burden.

Mr. President, I am confident that the Poles will use commercial debt relief wisely to further their march toward a free and open economy. The Polish Government has already suggested a plan to the Paris Club governments to reduce their officially-held debt by another 10 percent in a debt-for-nature swap, which would apply another $3 billion to cleaning up the overpolluted Polish environment. It seems to me that the commercial banks ought to consider this kind of swap, and other innovative arrangements, as a sound financial investment in a country that offers such great potential. I hope the Western commercial bankers will agree and work out a fair and equitable plan on debt reduction.●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the most recent budget scorekeeping report for fiscal year 1991, prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $0.4 billion in budget authority, and under the budget resolution by $0.4 billion in outlays. Current level is $1 million below the revenue target in 1991 and $6 million below the revenue target over the 5 years, 1991–95.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $326.6 billion, $0.4 billion below the maximum deficit amount for 1991 of $327.0 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 17, 1991.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1991 and is current through June 14, 1991. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Budget Enforcement Act of 1990 (Title XIII of P.L. 101–508). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S.Con.Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated June 11, 1991, the President has signed into law H.R. 2251, Emergency Supplemental for Humanitarian Assistance (P.L. 102–55). This action does not affect the current law estimates of budget authority, outlays or revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG. 1ST SESS. AS OF JUNE 14, 1991

[In billions of dollars]

	Revised on-budget aggregates[1]	Current level[2]	Current level +/− aggregates
On-budget:			
Budget Authority	1,189.2	1,188.8	−0.4
Outlays	1,132.4	1,132.0	−.4
Revenues			
1991	805.4	805.4	(3)
1991–95	4,690.3	4,690.3	(3)
Maximum deficit amount	327.0	326.6	−.4
Direct loan obligation	20.9	20.6	−.3
Guaranteed loan commitments	107.2	106.9	−.3
Debt subject to limit	4,145.0	3,405.9	−739.1
Off-budget:			
Social Security outlays:			
1991	234.2	234.2	
1991–95	1,284.4	1,284.4	
Social Security revenues:			
1991	303.1	303.1	
1991–95	1,736.3	1,736.3	

[1] The revised budget aggregates were made by the Senate Budget Committee staff in accordance with section 13112(f) of the Budget Enforcement Act of 1990 (title XIII of Public Law 101–508).

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. In accordance with section 606(d)(2) of the Budget Enforcement Act of 1990 (title XIII of Public Law 101–508) and in consultation with the Budget Committee, current level excludes $45.3 billion in budget authority and $34.6 billion in outlays for designated emergencies including Operation Desert Shield/Desert Storm; $.1 billion in budget authority and $.2 billion in outlays for debt forgiveness for Egypt and Poland; and $.2 billion in budget authority and outlays for Internal Revenue Service funding above the June 1990 baseline level. Current level outlays include a $1.1 billion savings for the Bank Insurance Fund that the committee attributes to the Omnibus Budget Reconciliation Act (Public Law 101–508), and revenues include the Office of Management and Budget's estimate of $3.0 billion for the Internal Revenue Service provision in the Treasury-Postal Service appropriations bill (Public Law 101–509). The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

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

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG. 1ST SESS. SENATE SUPPORTING DETAIL, FISCAL YEAR 1991 AS OF CLOSING OF BUSINESS JUNE 14, 1991

[In billions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			834,910
Permanent appropriations	725,105	633,016	
Other legislation	664,057	676,371	
Offsetting receipts	−210,616	−210,616	
Total enacted in previous sessions	1,178,546	1,098,770	834,910
II. Enacted this session:			
Extending IRS deadline for Desert Storm troops (H.R. 4, Public Law 102–2)			−1
Veterans' education, employment and training amendments (H.R. 180, Public Law 102–16)	2	2	
Dire emergency supplemental appropriations for 1991 (H.R. 1281, Public Law 102–27)	3,823	1,401	
Higher education technical amendments (H.R. 1285, Public Law 102–26)	3	3	
OMB Domestic Discretionary sequester	−2	−1	
Emergency supplemental for humanitarian assistance (H.R. 2251, Public Law 102–55)	(1)		
Total enacted this session	3,826	1,405	−1
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in revised on-budget aggregates	−8,572	539	
VI. Economic and technical assumption used by Committee for budget enforcement act estimates	15,000	31,300	−29,500
On-budget current level	1,188,799	1,132,014	805,409
Revised on-budget aggregates	1,189,215	1,132,396	805,410
Amount remaining:			
Over budget resolution			
Under budget resolution	416	382	1

[1] Less than $500,000.

Note.—Numbers may not add due to rounding.●

SOME STRAIGHT DOPE ON THE ANDEAN DRUG WAR

● Mr. CRANSTON. Mr. President, recently the Washington Office on Latin America [WOLA] issued a briefing paper on developments in the Andean drug war.

Unfortunately, not enough attention appears to be given to administration policy there—as wrong-headed an approach as could be found anywhere.

A single statistic in the WOLA report might serve to cause us to pay more attention—military assistance to Colombia and Bolivia jumped from less than $5 million in fiscal year 1988 to more than $140 million in fiscal year 1990, with military aid to these two countries exceeding all that given the governments of Central America that year.

As I have said before on this floor, our Andean policy is a tragedy waiting to happen. This latest WOLA report gives us a framework to ponder what is going wrong, and what might be done now.

I ask that the report, "Going to the Source: Results and Prospects for the

War on Drugs in the Andres," be printed in the RECORD.

The report follows:

GOING TO THE SOURCE: RESULTS AND PROSPECTS FOR THE WAR ON DRUGS IN THE ANDES

SUMMARY

The U.S. continues to face serious problems of drug abuse and drug-related violence for which there are no quick or easy solutions. However, the administration's "Andean strategy," which targets the cocaine supply coming from source countries, is not working. And overwhelming evidence exists that it cannot succeed.

Furthermore, in pursuing this strategy, the U.S. has trained and equipped forces engaged in widespread, egregious violations of human rights, strengthened militaries at the expense of fragile civilian rule, and threatened to spark armed resistance in Bolivia and fuel guerrilla movements in Peru. If the military component of the Andean strategy proceeds as planned, it is likely to have more serious negative consequences on human rights, democratization, and internal stability in the Andean region.

U.S. problems of drug use must ultimately be solved at home. The U.S. should redirect funding to reduce the demand for drugs in the U.S., and to meet development needs and offer debt relief in the region.

Such a shift in resources would use antinarcotics monies more effectively and would facilitate a more balanced foreign policy toward the Andes—one in which U.S. interests in human rights and democratization are not sacrificed to an unworkable source-country drug policy.

I. THE ANDEAN STRATEGY

The "Andean strategy" is the centerpiece of the administration's international drug policy. Announced in September 1989, the strategy is part of an overall effort to reduce cocaine supply in the U.S. by 60% by 1999, and includes eradication, low-level interdiction at the processing and trafficking stages, and efforts targeting high-level cartel leaders. Although the strategy proposes significant amounts of economic assistance as part of the five-year, $2.2 billion "Andean Initiative", it marks a sharp shift toward militarization:

(1) For the first time, U.S. antinarcotics policy views Andean militaries as essential to source-country efforts. U.S. military officials admit that the strategy endorses an internal security mission for Andean militaries which is denied the U.S. military under law because it would jeopardize U.S. democracy.

(2) The Andean strategy calls for a dramatic increase in U.S. military involvement in source-countries. Coincident with the announcement of the Andean strategy, Secretary of Defense Cheney upgraded the counternarcotics mission to a "high priority national security mission" for the Pentagon. He directed key commands, including the U.S. Southern Command (SouthCom) with responsibility for Central and South America, to draw up antinarcotics plans.

(3) Under the Andean strategy, economic and military aid are conditioned on host-country "performance," including involvement of Andean militaries in the drug war. Although Congress has mandated significant economic assistance the Andean Initiative called for only military aid and for FY 1990. In practice the administration has withheld economic and military assistance pending each Andean government assent to military participation in drug enforcement.

II. IMPLEMENTING THE ANDEAN STRATEGY: THE FIRST YEAR-AND-A-HALF

Three tendencies marked the first year-and-a-half of the Andean strategy: (1) the expansion of the U.S. military role, (2) the formal agreement of all three Andean governments to military participation in the drug war; (3) a sharp increase in security assistance following bilateral accords.

1. Expansion of the U.S. Military Role

As planned, in the first year-and-a-half of the Andean Stragegy, the U.S. military's role in the drug war has expanded dramatically:

In 1990 SouthCom's then-commander, Gen. Maxwell Thurman, ordered his commanders to make the anti-drug mission their "number one priority," and drugs remains the command's top priority.

While the direct U.S. troop presence in the Andes is only a few hundred, (the number is classified), this presence reportedly rose through 1990 and early 1991. With the recent U.S.-Peru bilateral accord, U.S. troop levels in that country are likely to rise over the next year.

SouthCom's anti-drug budget rose from $230 million in FY1990 to over $430 in FY1991.

The Persian Gulf War had little effect on training and security assistance activities "on the ground" in the Andes. The Pentagon diverted some of its most sophisticated equipment to the Gulf, including AWACS planes and some in-country radar, which had been used mainly for air and sea interdiction.

2. Formal Agreement from Andean Governments

Since late 1989, all three Andean governments have formally agreed to an expanded military role in the drug war.

Peru: After almost a year of negotiations, the Fujimori government signed a bilateral anti-drug accord with the United States in May 1991. In the accord, the two governments agreed to sign three annexes governing military, police, and economic assistance by the end of 1991. The U.S. proposal for the military annex includes the training of six strike battalions and refurbishing of twenty A–37 airplanes.

Boliva: Under intense U.S. pressure, the government signed an accord in May 1990 agreeing to expand military participation in the drug war. Since then the air force and navy participation in narcotics-support roles increased. However, the Paz Zamora government delayed inclusion of the army in antinarcotics operations for almost a year. In April 1991, the first of 112 Green Berets arrived in Bolivia to begin training the army.

Colombia: In 1989 the Colombian government agreed to a greater role for its armed forces in antinarcotics, and since then the U.S. has provided antinarcotics advice and training to the armed forces and the police.

3. Military and Economic Assistance

Following the bilateral accords, U.S. military assistance to the Andean nations shot up. Economic assistance, which has also increased, consists overwhelmingly of balance of payments support, not assistance for development projects.

Military assistance, including drawdown equipment, to Colombia and Bolivia jumped from less than $5 million in FY1988 to over $140 million in FY1990. Military aid to these two countries exceeded that to all of Central America in FY1990. Over $141 million was requested in military assistance for Colombia, Bolivia and Peru for FY1992.

Over $313 million was requested in economic aid for the three Andean countries in FY1992. However, 88% of that aid will be economic support funds (ESF), of which more than 85% will be for balance of payments support, rather than development projects.

The administration has requested only $22.5 million for Bolivia and $15.7 million for Peru in development assistance for FY1992, a decrease from FY1990 levels for both countries.

III. WILL THE ANDEAN STRATEGY WORK?

A. Results to Date

Thus far, the Andean Strategy has failed to achieve its goals. While cocaine use in the United States appears to have declined in 1990, indications are that supply has increased. The administration's main supply-side goals are to reduce cocaine supply by 60% within 10 years, and by 15% within two years. Since those goals were set in 1989, DEA agents report that production in South America increased in 1990 by 28%. Recently revised statistics of the State Department indicate that net coca leaf production in the Andean region—where U.S. efforts have been overwhelmingly focused—actually increased last year. According to those same figures, eradication efforts in 1990 destroyed only 4% of total production in the Andes, and none in the world's largest producer, Peru.

B. An Unworkable Strategy

Substantial evidence has been presented by Congressional and other sources that the Andean strategy cannot succeed because it ignores two fundamental realities in the region. First, Andean governments do not have the political will to pursue the drug war. They have shown disinterest or outright opposition to the militiary thrust of the Andean Strategy. Corruption is rampant within Andean governmental forces, and counterinsurgency is the top priority for the Colombian and Peruvian militaries.

Second, the Andean strategy ignores the market logic of the cocaine trade. In what's known as the "balloon effect," squeezing production and trafficking in one place simply forces operations to shift elsewhere. And even successful repression of supply would have little effect on the ultimate price, and thus the demand, of cocaine on U.S. streets.

1. Lack of Political Will

Despite having reached bilateral and multilateral accords with the United States, Andean governments have generally opposed the military thrust of the Andean strategy. One Member of the House Foreign Affairs Committee, based on meeting with the ambassadors of all three countries, reported that, "the governments of these countries have asked the United States not to provide this level of military assistance."

Peru: In negotiating the bilateral accord, Peruvian officials had resisted the U.S. proposal, which its ambassador termed a "military solution," favoring more socio-economic assistance for alternative crop development. However, U.S. law requires the U.S. to vote against any multilateral loans to Peru in international financial institutions if the government is not cooperating with the U.S. anti-drug efforts. The "stick" of legal sanctions and the "carrot" of desperately-needed foreign aid led President Fujimori to accept the military component in May 1991.

Bolivia: As in Peru, the Paz Zamora administration has resisted army involvement in antinarcotics. Even after the May 1990 accord, the Paz Zamora government delayed inclusion of the army in antinarcotics operations for almost a year. When U.S. training of the army began in April 1991 after a year-long delay, protests erupted from labor groups, opposition parties, and the Catholic church.

Colombia: Current events are likely to strain Colombia's cooperation with U.S. anti-drug efforts. Colombia has never actively sought military aid, and has offered to forego *all* foreign assistance in exchange for trade benefits. In late 1990, President Gaviria offered not to extradite and to reduce sentences for drug traffickers who turned themselves in and confessed to one drug-related crime. In addition, the Constituent Assembly, meeting from February to July 1991, is likely to ban extradition. Privately U.S. officials acknowledge that these developments are a big blow to the administration's antinarcotics strategy.

Corruption

Corruption is rampant within Andean military and security forces. Andean officials retain working alliances with drug traffickers in all three countries, largely because of the unrivalled rewards offered by traffickers.

SouthCom's Special Forces commander stated in February 1991 that there is "unbelievable corruption" among Peruvian state forces, and that "we know as a fact that the Army gets payments for letting traffickers use airstrips."

In two separate incidents during the second week of March 1990, Peruvian military personnel fired upon police units traveling in U.S.-owned helicopters.

In late 1989, the office of Colombia's Attorney General was investigating 4,200 cases of corruption by police and some 1,700 involving the armed forces.

According to the Washington Post, Colombian law enforcement officials confirmed in May 1991 that the three Ochoa brothers, who surrendered under the government policy of immunity from extradition to the United States and reduced prison sentences, continue to run "one of the largest narcotics networks in Latin America from a special prison . . . outside Medellin."

In March 1991, the Minister of the Interior and the recently-appointed head of Bolivia's anti-drug police resigned amid charges that they were involved in drug trafficking. The latter had been appointed by President Paz Zamora despite his well-known service in the cocaine-trafficking García Meza military regime of the early 1980s.

In April 1991, the Bolivian government announced that due to alleged corruption it would completely reorganize the "UMOPAR" antinarcotics police, replacing many of the officers. This unit has been the main recipient of U.S. training in the Andes, and the recent action signals the failure of four years of U.S. Special Forces training.

Conflicting Military Priorities

Both the armed forces and the police of the Andean region have long opposed an expanded military role in antinarcotics activities. Although the militaries of Colombia, Peru, and Bolivia welcome U.S. security assistance, any antinarcotics aid will undoubtedly be used for other missions of higher priority for the Andean armed forces. Counterinsurgency, viewed by Andean militaries as independent of the drug war, is chief among these other missions.

In Peru, where the Bush administration openly advocates using antinarcotics assistance for counterinsurgency efforts against the Shining Path, the military has been hostile to the anti-drug mission, impeding police operations in areas under their control. As then-commander of the Upper Huallaga Valley told WOLA in 1990, "If we attack drug trafficking, we will convert the local population into our enemy . . . Instead of one enemy, the Shining Path, we will have three: the Shining Path, the local population who will then support the Shining Path, and the drug traffickers who will then provide resources to the Shining Path."

In Colombia, the armed forces have faced armed insurgencies for 25 years and have failed to suppress a recent guerrilla offensive. High-ranking military officials have stated that $38.5 of $40.3 million in U.S. counternarcotics military aid for FY 1990 was to be used for an unrelated counterinsurgency operation. Although the military registered more drug confiscations and arrests in 1990 than in 1989, its priority continues to be fighting the FARC and the ELN guerrillas.

In Bolivia, the army has been reluctant to get involved in antinarcotics activities. At the same time that U.S. troops were preparing to fly to Bolivia to begin training the Bolivian army, SouthCom's top Special Forces commander told WOLA that for counternarcotics efforts to work in Bolivia, the armed forces "must have the intent to become successful, and I don't think they do."

2. The Market Logic of the Cocaine Industry

Even if Andean governments could carry out effective antinarcotics programs, U.S. cocaine use would not be significantly affected because of the flawed logic of U.S. antidrug policy. The Andean strategy assumes the following links between supply-side efforts and U.S. demand: (A) that supply-side efforts will reduce the availability of cocaine to U.S. consumers, and (B) that disruption of production and trafficking will drive up the price to the consumer, reducing demand.

This logic ignores two fundamental economic realities of cocaine trafficking: (1) that effective repression of production and trafficking in one locale will simply shift it to another, and (2) that even successful disruption of production and trafficking can have only very marginal influence on the final price of cocaine to the consumer.

The "Balloon Effect"

Even if current Andean suppression efforts are successful, DEA officials acknowledge that production is likely to simply spread to other countries. This dispersion, called the "balloon effect," (i.e., squeezing in one place produces expansion into others), has already occurred in the Andes.

In response to the crackdown in Colombia in late 1989 and early 1990, cocaine trafficking and production has increased in Brazil, Bolivia, Venezuela, and Ecuador according to the DEA. Cocaine trafficking continues through these countries and Argentina, Uruguay, Paraguay and Panama. Without suppressing production throughout the hemisphere, antinarcotics efforts are useless.

The Small Impact of Source-County Efforts on Demand

In testimony before Congress in early 1991, RAND corporation economist Peter Reuter stated that, "Source country programs, whether they be crop eradication, crop substitution or refinery destruction, hold negligible prospect for reducing American cocaine consumption in the long-run." Reuter's analysis shows that:

Coca leaf farmers receive less than 1% of the final retail price of cocaine.

Earnings of cocaine exporters and smugglers comprise less than 15% of the final price.

Because over 85% of cocaine profits are made outside the source countries, source-country efforts will not drive up the retail price in the U.S. enough to significantly reduce cocaine consumption. According to this analysis, even if interdiction efforts were able to stop the extremely unlikely figure of 50% of cocaine shipments from Colombia, the retail price of cocaine in the United States would rise by less than 3%. No one has presented data to refute Reuter's analysis.

IV. THE NEGATIVE CONSEQUENCES OF THE ANDEAN STRATEGY

The Andean strategy is not only unworkable but directly harmful to U.S. interests in the region. U.S. narcotics-related aid is directly contributing to counterinsurgency campaigns characterized by widespread and systematic human rights violations in Colombia and Peru. As the militarization of the drug war proceeds in 1991, U.S. policy is likely to exacerbate those abuses. The Andean strategy is also undermining civilan control of powerful militaries and cementing their impunity from prosecution for human rights violations. Ironically, the strategy appears to have already contributed to the Shining Path guerrillas recruitment in Peru, and poses the serious danger of sparking armed unrest in Bolivia's volatile Chapare coca-growing region.

A. Human Rights

U.S. antinarcotics training, assistance, and equipment is going to military and police forces in Colombia and Peru which engage in systematic human rights abuses including disappearances, torture, and extrajudicial executions. In Bolivia, government human rights violations, disturbingly reminiscent of previous dictatorships, increased last year.

Peru: Peru's civil war is a source of systematic and flagrant human rights abuses on both sides. Peruvian military and police forces are among the worst violators of human rights in the hemisphere. The 1990 State Department human rights report describes Peru's counterinsurgency campaign as one of "widespread and egregious human rights violations." The report notes "widespread credible reports of summary executions, arbitrary detentions, and torture and rape by the military, as well as less frequent reports of such abuses by the police." Rape by members of the security forces is reported to be so frequent that "such abuse can be considered common practice, condoned—or at least ignored—by the military leadership." For the fourth consecutive year, the United Nations Commission on Human Rights declared Peru the country with the most reported cases of disappearances in the world.

Colombia: While the sources of violence in Colombia are multiple and complex, statesanctioned political violence is widespread. The State Department reports that in 1990 Colombian security forces were responsible for "extrajudicial executions, torture, and massacres" against leftist politicans, human rights monitors, and labor and peasant leaders. Colombian human rights groups have documented the use of U.S.-furnished A-37 airplanes to bomb civilan populations as part of counterinsurgency operations. Right-wing paramilitary groups continue to work closely with the military and police in carrying out political killings and disappearances.

Bolivia: While of a far lesser scale than in Peru or Colombia, state-sanctioned human rights violations in Bolivia resurged late last year. In 1990, the State Department documented cases of extrajudicial executions of detainees, as well as torture and cruelty by police and army intelligence units. These abuses are more widespread than in previous years, and some Bolivian prisoners have been

used as slaves, beaten, tortured, and murdered.

U.S. antinarcotics policy contributes to human rights violations in a number of ways:

U.S. equipment and training is being used directly for Colombia's counterinsurgency campaign, characterized by consistent human rights violations against civilians. Colombia's fleet of A-37's, all of which were sold or given to Colombia by the U.S., has been used to bomb civilian populations. The link with counterinsurgency will be even more explicit in support to Peru's military.

U.S. military aid represents a vote of confidence in the military despite its human rights record.

Military aid will augment the institutional strength of the armed forces, decreasing the chances that civilian rulers will take them on and press for accountability for human rights violations.

B. Civilian Control of the Military

Congress has included provisions in the International Narcotics Control Act of 1990 and in the Defense Authorization Act of 1990 aimed at ensuring that U.S. antinarcotics assistance does not undermine the fragile civilian governments in the Andes. While military coups continue to be unlikely at the present time, military influence has increased in Peru and Bolivia, and the high levels of military assistance to Colombia threaten to cement impunity for human rights violations there.

In Peru, the increase in military autonomy is clearest. Since taking office in July 1990, President Fujimori has ceded great policy-making roles to the military. He has declared additional provinces "emergency zones," placing all civilian authorities under military control. These zones, in which human rights abuses are most concentrated, now, cover 42% of the national territory. Fujimori has also named active-duty officers to head the Interior Ministry and the Defense Ministry. Not a single military officer has been convicted for a human rights violation.

In Bolivia, according to one Bolivian government official, U.S. pressure to involve the armed forces in the war on drugs has already eroded the authority of Paz Zamora's government vis-a-vis the military. Although Bolivia does not face insurgencies like those in Colombia and Peru, the country has a longer history of military rule. The country has had 188 military coups in 166 years of independence, and most recently the brutal "cocaine regime" of Gen. Garcia Meza (1980–1981) dramatized the extent of the military's corruption and its tendency for political intervention.

Despite Colombia's history of civilian rule, the Colombian armed forces maintain great authority from civilian control. Colombia is the only country in South America whose police are institutionally part of the Defense Ministry. All military personnel are immune from prosecution in civilian courts for human rights violations. The military has acquired almost complete control over counterinsurgency policy in strategy in recent years.

C. Internal Political Stability

In Peru and Bolivia, the involvement of the army in drug-related law enforcement activities is extremely unpopular because of concerns that the military will abuse its expanded authority. The destabilizing effect of U.S. troops is of special concern. Peruvian analysts claim that, as peasants seek protecton from coca suppression programs, support for the Shining Path has increased. Growing nationalist resentment of the U.S. presence and influence could also help the guerrillas. Referring to U.S. anti-drug assistance, one high-ranking Peruvian military officer said, "It will allow Sendero to wave the nationalist banner and win legitimacy."

In Bolivia, militarization is occurring in a prticularly explosive situation. Sectors throughout Bolivia fear that army involvement will lead to political unrest. The Chapare coca-growing region is the most politically volatile in the country, and the coca growers the best organized workers where few profitable alternatives exist.

V. TOWARD AN ALTERNATIVE POLICY

One official of the U.S. Southern Command summed up his opinion of the drug war as of early 1991; "There's an increasing sense that this is a 'holding action'. We're not stopping durg supply because it moves. And we could never get the resources to shut down the whole hemisphere. The evidence is that we haven't affected price or supply. Is this the way we want to spend U.S. dollars? I think not."

Rather than sinking millions of dollars into expanding an unworkable strategy to the entire hemisphere, Congress should heed the expert testimony presented before it. The Defense Department has repeatedly told Congress that the Pentagon's role cannot be the decisive one in the war on drugs. Ultimately, this country's drug abuse problem must be solved at home.

Yet for the past three years the administration's National Drug Control Strategy has maintained a roughly 70/30 ratio in favor of supply control measures. Shifting resources to the demand side will be more effective in solving the problems of drug abuse and drug-related violence.

It will also remove a major factor undermining human rights, democratization, and political stability in the Andes. U.S. antinarcotics aid is now contributing to counterinsurgency campaigns characterized by abhorrent human rights violations—torture, murder, and bombing of civilian populations. By strengthening abusive and politicized Andean armed forces, that aid will further erode weak civilian rule.

Shifting away from military assistance will allow the United States to pursue a more balanced foreign policy in the hemisphere. Latin American governments are focused on improving economic performance and strengthening civilian rule. They have requested trade concessions and debt relief. Rather than militarizing anti-drug efforts throughout the region, the U.S. is in a position to repsond to their requests, to spend its antinarcotics monies more effectively, and to promote U.S. interests in human rights and democratization simultaneously.●

TRADING WITH JAPAN

● Mr. SIMON. Mr. President, I want to speak briefly today on the issue of United States-Japanese trade.

Recently, two accounts came to my attention which illustrate some problems which businesses in Illinois have experienced when exploring export opportunities in Japan.

In April 1989, an alfalfa marketing company based in Bushnell, IL, began to explore export opportunities for alfalfa with subsidiaries of the Mitsubishi Corp. An agreement was reached for a trial shipment of alfalfa from western Illinois to be donated to Japan. In exchange for the alfalfa, the Japanese subsidiary agreed to provide certain information on the condition of the alfalfa during the shipment to Japan, and upon its arrival.

The company encountered a number of problems after the alfalfa was shipped. The information on the alfalfa was provided by the Japanese a year later, and only after numerous requests. In addition, conflicting reports were given to the company about the condition of the alfalfa on arrival. One acount said the alfalfa arrived in a moldy condition. The company tried to continue a dialog, but eventually concluded that it was useless to try to establish a working relationship with the Japanese.

A second example involves the Canfield Co., an extremely successful soda bottling company in Chicago. The Canfield Co. sent free samples—100 cases of soda—to a Japanese company that showed interest in marketing Canfield products. The cases of soda were never delivered. Instead, they were stopped at the Japanese border and shipped back to the Canfield Co. Customs officials stated that the soda was returned because it contained ingredients which were barred from entry in Japan. Japanese customs officials have not yet provided the Canfield Co. with a list of the illegal ingredients in the soda.

I am dismayed by these two accounts. In town meetings across Illinois, my constituents bring up these types of unfair trading practices. I can understand why many working men and women do not really believe in free trade and its economic benefits. Free trade must provide a level playing field, free of the types of practices which are detailed in these two accounts. I urge my colleagues to read this material, and consider it carefully.

I ask that a story published in the Chicago Sun-Times regarding the Canfield Co. be printed in the RECORD.

The article follows:

CANFIELD SEES INTERNATIONAL BUSINESS FIZZ

The other day, 2,400 cans of pop arrived from Japan at the offices of the Canfield company on the South Side.

It was by way of being the end of a story. To start at the beginning, Alan Canfield, the energetic and creative leader of the Canfield family soft-drink company, had decided some weeks earlier to make another effort at cracking the Japanese market. He had located a Japanese company that indicated an interest in trying to sell Canfield products to the Japanese.

Accordingly, he had shipped his Japanese contact samples of Canfield beverages. He was serious. He didn't send a couple of cans but, 100 cases, 24 cans per case—the same 2,400 cans that arrived at the Canfield offices last week after making a 6,000-mile trip from Chicago to Tokyo and back. Japanese customs had treated the crate as if it contained heroin or some other substance calculated to infect Japan's culture. They dispatched the cases homeward, stamped the equivalent of "return to sender."

"Japan is unbelievable," Alan Canfield says, adding philosophically, "I guess we are just not smart enough to figure out how to get into that market."

On inquiry, Canfield was told that "ingredients" in the drinks were barred from entry into Japan. Canfield, astonished, asked for a list of the prohibited ingredients, but never got an answer.

Consul Ko Kodaira at the Japanese consulate in Chicago said Wednesday, "We are contacting Tokyo immediately to explore this matter."

Oh well, there's the rest of the globe.

Ten years ago, the Canfield company was considered "just" another regional bottler or should it be canner. Long since, however, it has burst out of the Midwest. Now Canfield products are found in all 50 states. Further, it bottles product in Canada, Ireland, England, Belgium and Amsterdam.

From the U.K. and Amsterdam, it ships to Belgium and Germany. It ships to Caribbean points from Miami and to Wake Island from Los Angeles.

This week, a gentleman armed with a bank draft will visit Alan and Art Canfield in their offices on East 89th Place to talk about producing one of the company's very new drinks in Poland. It's Uptown, a lemon-lime flavor in the Sprite/7 Up category but featuring a no-salt claim.

Assuming everything goes as planned, Poland will be the seventh country on Canfield's list of substantial foreign markets.

Wake Island needs a little explanation. Alan Canfield spent some time on the island before shipping out to Korea when he served as a private and then a corporal in the Army from 1960 through 1962. The company now does a good business with the military, and its distributor on Wake sells to other Pacific outposts.

The company sells its own versions of the cola drinks and specializes in finding profitable niches. For years, it has held the Midwest franchise for Canada Dry and Sunkist drinks.

Brand new on the shelves is a Sunkist lemonade "with just a touch of carbonation." The company's staff of chemists succeeded a few years back in conquering chocolate, and its carbonated chocolate fudge drink is a winner. Then there's Hubba Hubba, the flavor borrowed from Wrigley and Wrigley's bubble gum. And aimed successfully here and abroad at the gum's young market.

The company can make mistakes. Years back, the French representatives of Perrier asked the firm to act as a distributor here. Alan Canfield isn't 100 percent sure why the opportunity was turned down, but he's now happy with the outcome. Canfield's own entry in the field, Natural Seltzer, now has 68 percent of the market in the Midwest. And it has a good "still" water in the French Evian.

There's more ahead for this family owned, Chicago company.

"We're looking at Saudi Arabia now," Alan Canfield says. And the research department is working on what Canfield calls an "energy" drink that would compete with the phenomenon of Gatorade.

The talk of new products and adventures in foreign lands is very young, especially for a company that has been in business for 65 years and is dominated by one family. "I've never been to an annual meeting of the company," Alan says, That's because the dinner table conversations can suffice.

Alan, 50, thinks he's a vice president while his older brother, Arthur, 52, is president. Their father, also Arthur, keeps up with developments at age 75. Then there are Alan's two sons, Alan and Andrew, in their 20s, and Arthur's daughter, Kathleen, 24. All three are now out there selling Canfield products.●

RESPONSE TO BROADCASTING TO CHINA ACT

● Mr. BIDEN. Mr. President, last month I introduced legislation entitled the Broadcasting to China Act (S. 1093), legislation designed to pave the way for a new initiative in U.S. foreign policy: The support of radio broadcasting to the People's Republic of China of information about developments within that immensely large and troubled nation.

The legislation takes the first step in this initiative by establishing a commission to examine the feasibility, and the costs and benefits, of such a radio service, which would be modeled on two existing radio facilities of proven merit: Radio Free Europe and Radio Liberty.

For over 40 years, Radio Free Europe and Radio Liberty have disseminated news and information to the Soviet Union and Eastern Europe about developments in that region, helping to spread the message of freedom across the Iron Curtain. Through four tortured decades in the lives of those nations, these broadcasts heartened dissidents from Berlin to Bucharest and across the Soviet Union, inspiring hope and courage among those suffering under Communist tyranny.

Those radios helped maintain the flame of freedom in an era of darkness.

More recently, Radio Marti has provided accurate information to the people of Cuba, where the flow of news has been carefully restricted by a dictator who fears the truth. Radio Marti is a testament to our determination to promote the spread of information and ideas to those living under the rule of despots.

Mr. President, China's severe restriction on the flow of information is an unchallenged fact. Since coming to power in 1949, the Communist leadership in Beijing has maintained tight control over the dissemination of news, telling the Chinese people only what it wants them to hear.

This policy continues today. The State Department's annual report on human rights practices describes current Chinese policy clearly: "The Chinese Government maintains television and radio broadcasting under strict party and government control * * * continues to jam most Chinese-language broadcasts of the Voice of America and British Broadcasting Corporation."

These restrictions represent a denial of a fundamental right enshrined in article 19 of the Universal Declaration of Human Rights, which affirms that all people have the "right to seek, receive and impart information and ideas through any media and regardless of frontiers."

These restrictions are a repugnant manifestation of the communist idea—now fully discredited around the globle—that the party and the state must control not only the lives of the people, but their every thought as well.

Unfortunately, the Bush administration continues to believe that the United States must maintain close ties with the leadership in Beijing. I believe strongly that another channel of communication is more important, with the people of China. The democratic ideal is alive in China, and we should not shrink from encouraging those who embody it.

Currently, the Voice of America plays an important role in filling the information gap in China with nearly 20 hours of daily radio broadcasting. But this broadcasting focuses on international events rather than developments within China itself.

The service contemplated by this legislation could provide a critical complement to current Voice of America broadcasting, emphasizing not only Chinese events but also developments in neighboring states in east Asia, especially those where democracy is slowly taking root, such as the Philippines, South Korea, and Taiwan.

This legislation would create a temporary commission comprise of experts on China and on international broadcasting. The commission would have 6 months to review the many issues involved in expanding United States broadcasting to China and to present its recommendations. A similar procedure, I would point out, was followed in the early 1980's, when a commission established by President Reagan examined the question of radio broadcasting to Cuba.

Last week the foreign relations committee approved the "Broadcasting to China Act as a part of a comprehensive legislative package governing the State Department and foreign aid.

I was also pleased to note that last week deputy Secretary of State Eagleburger declared that the administration will not oppose the establishment of the Commission envisaged by this legislation.

The co-sponsorship of this initiative now includes Senators HATCH, PELL, HELMS, SARBANES, CRANSTON, DODD, KERRY, and DIXON. I urge my other colleagues to join in support of the Broadcasting to China Act.

Mr. President, I ask that there appear in the RECORD at this point the text of this legislation, along with a letter from the president of the Independent Federation of Chinese Students and Scholars and an editorial from the Washington Post, both of which express strong endorsement of this initiative.

The material follows:

S. 1093

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 "Broadcasting to China Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) according to the annual human rights report issued by the Department of State for 1990, the Government of the People's Republic of China maintains television and radio broadcasting "under strict party and government control" and "continues to jam most Chinese-language broadcasts of the Voice of America and the British Broadcasting Corporation";

(2) fundamental to long-standing United States foreign policy has been support for the right of all people to "seek, receive and impart information and ideas through any media and regardless of frontiers" as affirmed in Article 19 of the Universal Declaration of Human Rights.

(3) pursuant to this policy, the United States has for decades actively supported the dissemination of accurate information and the promotion of democratic ideals among citizens in countries of critical importance to United States interests;

(4) prominent in the implementation of this policy has been support for Radio Free Europe, Radio Liberty, and Radio Marti, which have broadcast accurate and timely information to the oppressed people of Eastern Europe, the Soviet Union, and Cuba, respectively, about events occurring in those countries;

(5) the introduction of similar radio broadcasting to the People's Republic of China could complement existing Voice of America programming by increasing the dissemination to the Chinese people of accurate information and ideas relating to developments in China itself; and

(6) such broadcasting to the People's Republic of China, conducted in accordance with the highest professional standards, would serve the goals of United States foreign policy by promoting freedom in mainland China.

SEC. 3. COMMISSION ON BROADCASTING TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) ESTABLISHMENT.—There is established a Commission on Broadcasting to the People's Republic of China (hereafter in this Act referred to as the "Commission") which shall be an independent commission in the executive branch.

(b) MEMBERSHIP.—The Commission shall be composed of 11 members from among citizens of the United States, who shall within 45 days of the enactment of this Act be appointed in the following manner:

(1) The President shall appoint 3 members of the Commission.

(2) The Speaker of the House of Representatives shall appoint 2 members of the Commission.

(3) The Majority Leader of the Senate shall appoint 2 members of the Commission.

(4) The Minority Leader of the House of Representatives shall appoint 2 members of the Commission.

(5) The Minority Leader of the Senate shall appoint 2 members of the Commission.

(c) CHAIRMAN.—The President, in consultation with the congressional leaders referred to in subsection (b), shall designate 1 of the members to be the Chairman.

(d) QUORUM.—A quorum, consisting of at least 6 members, is required for the transaction of business.

(e) VACANCIES.—Any vacancy in the membership of the commission shall be filled in the same manner as the original appointment was made.

SEC. 4. FUNCTIONS.

(a) PURPOSE.—The Commission shall examine the feasibility, effect, and implications for United States foreign policy, of instituting a radio broadcasting service to the People's Republic of China to promote the dissemination of information and ideas to that nation, with particular emphasis on developments in China itself.

(b) SPECIFIC ISSUES TO BE EXAMINED.—The Commission shall examine all issues related to instituting such a service, including—

(1) program content;

(2) staffing and legal structure;

(3) transmitter and headquarters requirements;

(4) costs; and

(5) expected effect on developments within China and on Sino-American relations.

(c) METHODOLOGY.—The Commission shall conduct studies, inquires, hearings, and meetings as it deem necessary.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the Commission shall submit to the President, the Speaker of the House of Representatives, and the President of the Senate a report describing its activities in carrying out the purpose of subsection (a) and including recommendations regarding the issues of subsection (b).

SEC. 5. ADMINISTRATION.

(a) COMPENSATION AND TRAVEL EXPENSES.—

(1) Members of the Commission—

(A) except as provided in paragraph (2), shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of the duties of the Commission; and

(B) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(2) Any member of the Commission who is an officer or employee of the United States shall not be paid compensation for services performed as a member of the Commission.

(b) SUPPORT FROM EXECUTIVE AND LEGISLATIVE BRANCHES.—

(1) EXECUTIVE AGENCIES.—Executive agencies shall, to the extent the President deems appropriate and as permitted by law, provide the Commission with appropriate information, advice, and assistance.

(2) CONGRESSIONAL COMMITTEES.—Congressional committees shall, as deemed appropriate by their chairmen, provide appropriate information, advice, and assistance to the Commission.

(c) EXPENSES.—Expenses of the Commission shall be paid from funds available to the Department of State.

SEC. 6. TERMINATION.

The Commission shall terminate upon submission of the report described in section 4.

[From the Washington Post, June 11, 1991]

TUNING UP RADIO FREE CHINA

Congress has inserted a welcome new element into the China debate—a proposal to study setting up a radio to broadcast to Communist China the sort of material bearing on internal affairs that totalitarian governments normally restrict. "Radio Free China" would follow the example of Radio Free Europe and similar stations that have won deserved credit for helping to open other closed Communist societies over the years. These radios differ from the official Voice of America, which deals mostly with news from the United States and abroad, in their attempt to take on the role of an absent domestic free press. Radio Free China is a good idea that should have been put into effect decades ago.

The Chinese authorities, needless to say, dissent. No doubt they realize that the new radio, by providing a means to inform a broad Chinese public of things now known only on a local and fragmentary basis or not at all, would tend to weaken their fiercely guarded monopoly on information; it would make it harder for them to wield power. Beijing's way of conveying its disapproval is not so much to argue against the proposal in terms like these. It is to vaguely threaten that the new station will spoil "the overall interests of U.S.-China relations." By this formulation China's aging and out-of-touch Communist rulers apparently mean their own political convenience.

Scarcely less out of touch, the American government has given the Radio Free China proposal a cold shoulder. It sees it as a further congressional intrusion into Mr. Bush's strangely coveted personal domination of China policy and, specifically, as a further complication in the raging debate over renewal of "most-favored-nation" trading status for Beijing. It is not just unfortunate but grotesque to see the Bush administration's reluctance to stand up to the Chinese leadership on the radio issue. President Bush is undermining the national interest, which is to encourage basic human rights in China by a tested and otherwise widely accepted method of communication. Radio is the ultimate democratic instrument: Each listener decides for himself whether to tune in. That the president of the United States should be denying Chinese citizens this choice is astounding.

INDEPENDENT FEDERATION OF CHINESE STUDENTS AND SCHOLARS (IFCSS),

Washington, DC, June 3, 1991.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senator, Washington, DC.

DEAR SENATOR BIDEN: We are grateful to you for taking the initiative in promoting free radio broadcast to China through the introduction of the China Broadcasting Bill. On behalf of the Chinese students and scholars in the U.S., we would like to extend our appreciation and express our support and endorsement of this bill.

Radio broadcast is critical to the dissemination of accurate and necessary information, particularly in China, where all mass media is under tight control and often used as a mere mouthpiece for government rhetoric. We believe that the freedom of access to information is a crucial step toward the democratization of the current political structure in China. In this respect VOA has proven to be both effective and essential in providing the Chinese people with an awareness of global developments. Our concern remains, however, that the citizens of China are being suffocated by an ignorance of what is happening within their own country.

The people of China have only fleeting access to the annals of freedom. In order for them to find the courage and perseverance to triumph over oppression, truth must be given full passage. Only an unabridged

knowledge of both international and domestic occurrences can provide for the citizens of China real verity, their only assurance to freedom, while at the same time paralyze the corrupt and decomposing legacy of communism.

We understand the risks that may be involved in establishing free radio broadcasting to China, particularly as it would threaten our government in it's attempt to exercise tyrannical control. However, we remain committed to our struggle and strive to offer encouragement to our people in China. We believe that this would best be accomplished through the establishment of free radio broadcasting to China, a crucial resource for accurate and complete information transmission to arm the people of China in their battle toward freedom.

We thank you so much for your commitment to life and liberty in our country and offer you our complete support.

With best regards,

XINGYU CHEN,
President.●

Mr. MITCHELL. Mr. President, I am about to propound a unanimous-consent request which would put us back on this bill tomorrow morning with the Senator from Mississippi [Mr. LOTT] to be recognized to offer an amendment and a vote on that to occur at 10:15 in the morning. This has been discussed with the Senator from Mississippi; the managers, Senator MOYNIHAN and Senator SYMMS; and the distinguished Republican leader. I believe there is not objection to this.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. on Wednesday, June 19; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that at 10 a.m., the Senate resume consideration of S. 1204 and that Senator LOTT be recognized to offer an amendment regarding non-Federal matching ratios, on which there will be 15 minutes of debate equally divided and controlled in the usual form on the amendment with no amendment to the amendment to be in order; that when the time is used or yielded back on the Lott amendment, the Senate, without any intervening action or debate, proceed to vote on or in relation to the Lott amendment.

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

Mr. MITCHELL. Mr. President, I ask unanimous consent that it be in order to now request the yeas and nays on the Lott amendment.

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

Mr. MITCHELL. I now ask for the yeas and nays on the Lott amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. MOYNIHAN. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as under the previous order, until the hour of 10 a.m., Wednesday, June 19, 1991.

There being no objection, the Senate, at 7:52 p.m., recessed until Wednesday, June 19, 1991, at 10 a.m.