SENATE—*Thursday, January 24, 1991*

(Legislative day of Thursday, January 3, 1991)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada.

PRAYER

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

Let us pray:

Blessed are the peacemakers: for they shall be called the children of God.—Matthew 5:9.

Eternal God, whose name is synonymous with love, as the violence of war rages in the Middle East help us think of peace. As multitudes demonstrate for peace, help us to hear the word, "Blessed are the peacemakers * * *", we sue for peace, we march for peace, we demand peace. But are we peacemakers? Do we make peace in our homes with our families? Do we make peace with our neighbors? Do we make peace with our peers? Do we make peace wherever we can?

Forgive us, Lord, for demanding peace somewhere else when we refuse to make peace where we are. Help us to see that violence and war begin in the human heart. Save us, Lord, from being peace theorists only. Help us to practice peace—to be peacemakers.

In His name who was the Prince of Peace. 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, January 24, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

CONDEMNING IRAQ'S UNPROVOKED ATTACK ON ISRAEL—SENATE CONCURRENT RESOLUTION 4

The ACTING PRESIDENT pro tempore. The Senate will now proceed to the consideration of Senate Concurrent Resolution 4 which the clerk will now report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 4) condemning Iraq's unprovoked attack on Israel.

The Senate proceeded to consider the concurrent resolution.

The ACTING PRESIDENT pro tempore. The Chair will inform the Senate there is 20 minutes of debate equally divided.

The Chair recognizes the Senator from Rhode Island [Mr. PELL].

Mr. PELL. Mr. President, I am very pleased to cosponsor this resolution putting the Congress clearly on record in support of Israel at this very trying time and commending Israel for its restraint in adversity.

As television reports from Tel Aviv so graphically remind us, Saddam Hussein's decision to attack Israel has brought about saddening casualties and destruction and has even precipitated the regrettable deaths of innocents.

As I have reminded this body many times, Saddam Hussein is a self-aggrandizing and monumentally callous despot. His current attacks upon Israel are a continuation of his habitual conduct well beyond the pale of civilized behavior. His acts against Israel represent another step in a long continuum of misbehavior, including the illegal use of chemical weapons in the Iran-Iraq war, the gassing of his own citizens, the destruction of Kuwait, and his violation of the 1949 Geneva Conventions on behavior in war.

For months, our thoughts and prayers have been with the thousands of our men and women of the Army, Navy, Air Force, Marines, and Coast Guard we have sent to confront Saddam Hussein. Now, we extend our deepest sympathy to the citizens of Israel, who now find themselves the targets of Saddam Hussein's aggressions.

Mr. President, I hope very much that the Patriot missiles we have deployed to Israel will prove as effective there in defending against attacks as they have in Saudi Arabia. Moreover, I wish our military every success in seeking out and destroying all of the Scud missile launchers in Iraq. I am convinced that the President and the military leaders are acting courageously and effectively to deal with these very terrifying weapons.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent the time be equally divided between each side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. 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.

Mr. PELL. I yield to the Senator from Minnesota for 1 minute.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Minnesota [Mr. WELLSTONE] for 1 minute.

Mr. WELLSTONE. Thank you, Mr. President. I wish to thank the Senator from Rhode Island.

I rise to support the resolution condemning Iraq's unprovoked attack on Israel. I want to condemn this attack in no uncertain terms. I want to condemn this attack as the Senator from Minnesota. I want to condemn this attack as an American citizen. And I want to condemn this attack as the son of a Jewish immigrant from the Soviet Union.

My heart goes out to the Israeli people. Upon hearing of this attack, chills ran down my spine, Mr. President, and I believe it is very important at this moment that we express our full support for the State of Israel.

Let me also at this moment, at this time, express my concern about an ever-widening war. Let me also appeal to all those who are involved in this hostility that every effort be made to make sure that innocent civilians do not become the casualties of this war, innocent civilians wherever they live.

Thank you, Mr. President.

Mr. ADAMS. Mr. President, I rise today to express my great admiration for, and a shared sense of anguish with the citizens of Israel, who are now living under the nightly threat of missile attacks from Iraq. Of all the cruelty being inflicted in the Persian Gulf war, there is no more graphic example of the suffering of innocents than the recent attacks on Tel Aviv. Today, we mourn for the three Israelis killed in Tuesday's Scud attack on Tel Aviv, and commend Israel for its courage and perseverance in the face of continued attacks by Iraq.

Because we share a common respect for democratic institutions and an open society, the United States and Israel have a common bond that transcends the current climate of hostilities. Those of us who remember the

horrors of World War II are fully aware that the founders of the State of Israel pledged "Never again." Israeli leaders over the past 40 years should be commended for keeping that pledge.

In the interest of maintaining the coalition allied against Saddam Hussein, Israel has avoided being dragged into the war. The Israelis are not a party to the conflict that began when Iraq invaded Kuwait. Saddam Hussein's reckless effort to break up the allied coalition by inflicting casualties on Israel's civilian population is a measure of his own corruption. The past week's missile attacks represent war crimes, for which the leadership in Baghdad must ultimately be held responsible.

Mr. President, Israel has shown great courage in its forbearance in the face of Saddam Hussein's unconscionable aggression. For that, the civilized world allied against Iraq owes Israel a debt of gratitude, and whatever assistance is needed to repair the damage done by the Scud missile attacks. We all know that forbearance and restraint are a sign of strength, not a sign of weakness. Israel has reserved its right to respond to the Iraqi attacks against its innocent civilian population. The right to defend oneself against this type of aggression is a fundamental right of a sovereign nation.

With this resolution, we assure the Israeli people that the Congress and the American people are united in support of Israel's security and freedom. We also understand that no one can realistically expect the citizens of Israel to endure this suffering in silence for an indefinite period of time. In the meantime, we not only offer the citizens of Israel our prayers, we must recommit ourselves to providing Israel the means to maintain its security.

Mr. McCAIN. Mr. President, I rise in support of this resolution out of concern for the State of Israel in this moment of grave peril, out of respect for the courage of the Israeli people, and in appreciation of the statesmanship and wisdom of her leaders.

Not too long ago, when the relationship between Israel and the United States was experiencing some problems, I expressed my strong confidence that our friendship would prevail over all challenges. Now, in this moment of crisis, the bond between Israel and America is as strong as it has ever been. This does not surprise me, for it is always in moments of crisis that true friends become closer. And in this moment, our friendship with Israel is our most valuable asset in our campaign to rid the world of Saddam Hussein.

The restraint Israel has shown in the face of unprovoked aggression is an extraordinary testament to Israel's devotion to the cause of peace and stability in the region. But let no one mistake this restraint as a lack of Israeli will or ability to defend herself against Saddam Hussein's treachery. Let no one misinterpret this restraint as undermining Israel's right of self-defense. Israel has the right, the ability and the will to defend herself. And Saddam Hussein will pay a dear price for his cowardly attacks on the people of Israel. Let there be no doubt about that.

All that has occurred in this crisis has served to confirm the value of our relationship with Israel. This natural alliance of strong, responsible democracies in an area of the world where hostility to our interests is commonplace has served the security of the world. As the world considers the global consequences of Iraqi empire building, it will come to appreciate United States-Israeli friendship as much as Americans do.

When this conflict has ended and Saddam has finally recognized the consequences of his reckless challenge of America and Israel, I hope that the entire world will gain a new appreciation of the remarkable story of the State of Israel. For me, it is one of the most compelling stories in modern times. It is the story of a small unfinished nation that endured bloody conflicts and enormous obstacles to its survival to gain a purchase in a very inhospitable world and emerge a remarkably durable democracy.

Neither the enmity of her neighbors nor the sustained confrontation of regional hostilities proved insurmountable to Israel. She has defeated her enemies in all encounters. Together, Israel and America will prevail in this crisis and defeat this enemy who threatens the interests of the world. And the world—the often ungrateful world—will be a better place for our courage, our leadership, and our friendship.

Mr. DURENBERGER. Mr. President, I rise to express my abhorrence at the continued Iraqi missile attacks on Israeli civilians. I am utterly repulsed at Saddam's callous brutality. He continues to demonstrate his total disregard for innocent human life.

All members of the community of civilized, decent nations condemn these attacks. Our thoughts and prayers are with the Israeli victims and their families as well as with all the people of Israel.

The resolution before us today expresses the outrage and condemnation we all feel in the aftermath of these attacks. It expresses our praise for Israel's courage in the face of these attacks. And it reaffirms our strong commitment to Israel's security.

The people and leadership of Israel have demonstrated remarkable restraint. To withstand the pressures brought on by Saddam has required self-restraint on the highest order, and Israel deserves the praise it has received thus far.

Nevertheless, we all recognize that Israel has every right to retaliate in a manner and at a time of its own choosing. It is a fundamental principle of the sovereignty of nations that every state has the basic right of self-defense. And that decision on responding can only be made by Israel.

Mr. President, these Scud missile attacks are Saddam's preferred instruments of terror against Israeli and other civilian populations. Israel is not a participant in this war. It does not want to be a part of it. The Scuds have no military significance whatsoever, especially in the manner Saddam has used them. Saddam is waging a deadly serious political war against Israel. He is a master of terror, and we have to be prepared for more such horrors.

Saddam's ploy to draw Israel into the conflict is as predictable as it is detestable. We stand by Israel in this struggle. We support her, and will continue to assist in any way we can to ensure her security. Saddam will not succeed in his dream of destroying Israel.

In a certain sense, Saddam is a man of his word. He said he would attack Israel, and he did. He said he would ignite the oil fields of Kuwait, and he has. He has also said he will use poison gas against Israel and against the allied forces arrayed against him. We have to be prepared for the possibility.

Mr. President, in a most contemptible way, Saddam has once again put his political agenda ahead of the lives of innocent civilians. These latest attacks demonstrate yet again why the international coalition had to take the action it has.

It remains my view that sanctions alone never would have worked in compelling Saddam to comply with the U.N. resolutions. It is more clear than ever to this Senator that force was, and remains, the only way to get Saddam out of Kuwait.

The more outrageous Saddam's actions, the more committed and resolved we will become to achieve our objectives. Our forces deserve our strong and unyielding support. They deserve our highest praise and admiration. I am proud of each one of them. And I am proud of their families back home. They, too, need and deserve our support.

We all hope and pray that this war will end as quickly as possible. But it will take time. And we will remain committed. The days ahead will require perseverance, endurance, and most of all, unity. Saddam will likely continue his war of terror against civilians in Israel and Saudi Arabia. The international community will not permit Saddam to succeed.

Mr. MACK. Mr. President, I would like to commend the Senate leadership for submitting Senate Concurrent Resolution 4, of which I am a lead cosponsor. No resolution can express the horror and disgust we feel, as Americans and as Senators, regarding the Iraqi Scud missile attacks against Israeli

cities. Still the Congress is right to speak out against this atrocity and in full support of the State and people of Israel.

On January 14, 3 days before the war in the gulf began, I sent a letter to Israeli Ambassador Zalman Shoval to express our heartfelt support and solidarity with our most stalwart and democratic ally in the region, the State of Israel. I am proud that 60 Senators signed that letter, and since then 19 more Senators have added their names.

The letter also states and I would like to reemphasize, that we share Israel's hope that after this crisis our Nations can work together toward our common goal of direct talks leading to peace treaties between Israel and her neighbors. Direct talks, like those that lead to the historic Camp David accords, not an international conference, are the way to true peace.

The invasion of Kuwait taught the world what it means when one nation does not recognize another. No Arab nation, except Egypt, has recognized Israel's existence since her founding in 1948. Iraq's unprovoked attack against Israel shows us what the real Arab-Israeli conflict is: The Arab States at war with Israel still seek her destruction; Israel seeks not to be destroyed.

After this war, the United States should say to Syria, Jordan, Saudi Arabia, Iraq, and other Arab nations: Now is the time to make peace with Israel. We must stop accepting this state of war as normal or justified in any way. When, and only when, these States decide to end their war against Israel's existence will peace treaties become possible. Only then can the Palestinian problem be addressed.

I ask unanimous consent that the letter to Israeli Ambassador Zalman Shoval, signed by 79 Senators, be printed in the RECORD at the conclusion of my remarks.

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

U.S. SENATE,
Washington, DC, January 14, 1991.

His Excellency ZALMAN SHOVAL,
Embassy of Israel, Washington, DC.

DEAR MR. AMBASSADOR: At this time of danger and uncertainty, we write to express our heartfelt support for and solidarity with our most stalwart and democratic ally in the region, the State of Israel.

We recognize that as the United States contemplates putting her sons and daughters at risk, that now is also a special moment of concern to the people of Israel. We wish to reaffirm our commitment to help Israel defend herself and maintain her freedom and security.

At few times has Israel's situation—a small nation surrounded by nations that do not accept her very existence—been brought so vividly before the eyes of the world. We share your hope that, in the aftermath of this crisis, our nations can work together toward our common goal of direct talks leading to peace treaties between Israel and her neighbors.

We appreciate your assistance in conveying this message to the government and people of Israel, and look forward to our great democracies working together in the future.

Sincerely,

Ted Stevens, Pete V. Domenici, Connie Mack, Slade Gorton, Phil Gramm, Warren B. Rudman, Dan Coats, Al D'Amato, Thad Cochran, Conrad Burns, Bob Dole, Bob Smith, Larry E. Craig, John Heinz, Kit Bond, Jack Danforth, John McCain, Orrin G. Hatch, J. Lieberman, Mitch McConnell.

Larry Pressler, Hank Brown, Don Nickles, Bob Kasten, Nancy Landon Kassebaum, Richard G. Lugar, Jake Garn, Steve Symms, Harry M. Reid, Strom Thurmond, Jesse Helms, Arlen Specter, John Seymour, Trent Lott, Richard D. Bryan, John Breaux, Malcolm Wallop, Dave Durenberger, Al Simpson, Bill Cohen.

Frank H. Murkowski, Jim Jeffords, Quentin Burdick, J. Bennett Johnston, Alan Cranston, Bob Graham, John Glenn, John Warner, Brock Adams, Bill Roth, John Chafee, Jeff Bingaman, Dennis DeConcini, Chuck Grassley, Max Baucus, Bill Bradley, Bob Packwood, Howard M. Metzenbaum.

Herb Kohl, Frank R. Lautenberg, Lloyd Bentsen, Daniel P. Moynihan, Tim Wirth, Paul Sarbanes, Jay Rockefeller, Richard Shelby, Paul Simon, John F. Kerry, J.J. Exon, Alan J. Dixon, Kent Conrad, Joe Biden, Tom Harkin, Carl Levin, Barbara A. Mikulski, Tom Daschle, Ted Kennedy, David L. Boren, Howell Heflin.

Mr. AKAKA. Mr. President, I rise today to condemn Iraq's unconscionable missile attacks on Israel's major population centers. As recently as yesterday, Iraq launched another round of missiles into Israel, leaving 3 dead and nearly 100 wounded. By this action, Saddam Hussein has once again ignored the call of the community of nations to cease his senseless acts of terrorism and aggression.

I also condemn Saddam Hussein's shameful political manipulation of captured American and allied airmen which is in direct violation of the Geneva Conventions of 1949.

As you know, Mr. President, the United States and Israel have long enjoyed a special economic, political, and security relationship. Through decades of conflict in the Middle East, Israel has been a valued and trusted United States ally. Furthermore, the courageous determination of Israel to survive as an independent Jewish state in the midst of regional forces aligned against it is a remarkable testament to the collective will of this small democratic nation.

Israel is not a member of the multinational forces engaged in offensive military action against Iraq. There is no reason why her civilian population—both Arab and Israeli—should be a target in this war. Although Saddam promised that he would attack Israel, his actions only serve to heighten our resolve in ending his brutal reign of terror in the Middle East.

With ruthless resolve, Saddam directed his military forces against Iran. Then he turned his guns and bayonets on Kuwait. Now we find him indiscriminately lobbing missiles into Israel. He has even used chemical weapons to eliminate pockets of opposition within his own borders.

What kind of man is this?

During the debate on the war authorization resolution, I asked that sanctions and diplomacy be given more time to work. But that debate is behind us. We are now at war. We are united in our desire to force Saddam Hussein to withdraw from Kuwait. And we are united in our support for the people of Israel.

In the face of Saddam's treachery, the Israeli Government and her people have shown great courage. I expect that Saddam Hussein's deplorable effort to fracture the Middle East alliance by drawing Israel into the war will only strengthen this alliance against him.

Moreover, the parading of POW's before TV cameras for political and propaganda purposes—and his threat to use these brave men as human shields—is yet another example of Saddam Hussein's outrageous and reprehensible behavior. These acts are clear violations of the 1949 Geneva Conventions approved by representatives of 58 countries and eventually signed by 164—including Iraq.

The political use of prisoners of war is just one more piece of evidence that Saddam Hussein is a man devoid of moral guidance who places himself above the law. He is an individual who refuses to submit himself or his country to the legal authority of the United Nations and its international conventions.

Mr. President, we must not let Saddam Hussein dictate the course of events unfolding in the Middle East as we search for an end to hostilities. As long as he is allowed to commit such wanton acts of aggression, no one in range of his missiles is safe.

In conclusion, Mr. President, I am pleased to cosponsor and support both Senate Concurrent Resolution 4 and Senate Concurrent Resolution 5.

Thank you, Mr. President.

Mr. GRASSLEY. Mr. President, I rise in strong support of Senate Concurrent Resolution 4.

It is said that in times of trouble, you find out quickly who your friends really are. Israel's response in the face of terror has shown to the United States that it is a most loyal kind of friend and ally that any country could want.

Israel has made the ultimate sacrifice. Frankly, its a sacrifice no nation should be asked to make—for it is the inherent right and responsibility of every sovereign nation to protect its people.

But, in the midst of Iraqi missiles terrorizing the citizens of Israel, Israel has shown courage, strength and loyalty: The courage to stand strong in the face of terror, the wisdom to think with its head instead of its heart, and the loyalty to stand by its friends.

Saddam Hussein is trying to draw Israel into a conflict that it has and wants no part of. Out of desperation, Saddam Hussein is trying to shift the focus of his own brutality in Kuwait. We all know that only a barbarian thinks he will shift the focus or round up support by terrorizing innocent civilians.

My heart goes out to the people of Israel. None of us can really understand what it is like to live with the fear of missiles and poison gas raining down upon our cities and homes; the sound of air-raid sirens waking us in the middle of the night; the horror of fitting our children with gas masks and securing our infants in plastic tents.

It is remarkable that in the face of all that, it is Israel's policy to try and return to a life of normalcy. This policy just reflects the resolve and strength of the people of Israel.

It is the kind of strength and resolve that Saddam has not seen before.

I suspect that it is a resolve and a strength that he will be sorry he messed with.

I join in the condemnation of Iraq's unprovoked attacks on Israel. My prayers go out to the people of Israel. I commend Israel for its restraint, but I understand and recognize Israel's right and duty to defend itself. Finally, I am proud to join in this resolution as a reaffirmation of America's commitment to its friendship with, and the security of, the State of Israel.

Thank you, Mr. President.

Mr. MITCHELL. Mr. President, the attacks by Scud missiles are outrageous acts of terror against Israeli civilians and have no place in the civilized world.

Repeated launches of Iraqi Scud missiles at the civilian population of a nation that is not a party to the gulf conflict, these actions are simply unacceptable.

They are immoral.

They are acts of cowardice.

The world shares the fear and feels the loss of the Israeli people.

We in the United States, spared the horror of Iraqi missiles, admire the courage and determination that Israelis have demonstrated during the past 5 days.

This resolution represents Congress' attempt to express, on behalf of the American people, our deepest condolences for the deaths and injuries, for the pain and fear, that has been inflicted upon the people of Israel by Iraq.

The United States Government has asked Israel to do the most difficult of all—nothing.

Israel has a proud and successful record of self-defense.

Israelis have never failed to respond to an attack on their nation.

Israel rightly feels that its credibility and the deterrent value of its military might hinge upon consistent and immediate retaliation against aggression.

Therefore, the United States request that Israel not respond to unprovoked Iraqi aggression is a difficult request to honor.

This resolution acknowledges that fact.

The resolution notes the horrifying threats and attacks that Saddam Hussein has made against Israel, despite the fact that Israel is not a party to the current conflict in the Persian Gulf.

The resolution notes that Israel has exhibited exceptional restraint in the face of these threats and attacks.

Most important, the resolution commends the Government of Israel for its restraint in the current crisis.

Israel's decision reflects its steadfast focus on the longer term, a rational calculation of the risks and benefits of its action, and an objective analysis of the larger situation and objectives.

Nonetheless, restraint under the circumstances requires enormous strength.

It is strength which not all countries would be able to demonstrate.

This is an extremely painful and difficult time for Israel.

It is important for the people of Israel to know that America appreciates their brave and controlled response to this crisis.

The United States recognizes the important contribution that Israel thereby has made to the success of the coalition efforts to implement the U.N. Security Council resolutions.

The United States will do everything possible to ensure that Iraq's missile attacks will be stopped.

Israel of course remains what it has been for so many years—a close friend and trusted ally of the United States.

In some respects, this crisis had made the United States-Israeli friendship and alliance all the more apparent.

The relationship between our two countries is based on mutual respect and understanding, and upon shared interests.

The United States supports Israel because it is in our interest to do so.

We will, as this resolution makes plain, continue to do everything we can to ensure that Israel has the necessary means to maintain its security and freedom.

We express our solidarity with the people of Israel who suffer from Saddam Hussein's cruel and cowardly acts.

We will continue to do all we can to prevent Saddam Hussein from further threatening the security of Israel.

Mr. BOND. Mr. President, the civilized world has reacted in revulsion over the past week to Saddam Hussein's unprovoked attacks on innocent civilians in Israel. Of course, when one considers his record, there is no reason for anyone to be surprised that he would resort to a tactic such as targeting innocent people—women, elderly and children—living in a country which is trying very hard to stay out of the current conflict. It is just the latest example of his total disregard for human life and international law.

The people of the United States and the rest of the coalition states owe the people of Israel their thanks and appreciation for the unprecedented restraint they have shown in withholding any retaliation for the attacks. Certainly no one could disagree that Israel has a right to respond to the attacks it has sustained, and I believe we would all understand if they decided to do so. That they have chosen to withhold for the moment simply illustrates one more time Israel's strong desire for peace and her desire to stand with the United States as our strongest ally in the region.

It is important to note that Saddam has not been able to achieve the goals behind the missile attacks—splitting the coalition aligned against him and drawing Israel into the conflict. All members of the coalition—even Syria—recognize Saddam's efforts for what they are and have made it clear that they will not be sidetracked in their determination to remove him from Kuwait.

I support this resolution, Mr. President. I commend the brave people of Israel for their resolve in facing what is only the most recent of decades of unprovoked attacks on their nation, and I stand with my colleagues in saying to Saddam Hussein, we will put an end to your crimes against innocent people throughout the Middle East.

Mr. LEVIN. Mr. President, it is clear to all Americans that our Nation is at war with an enemy of extraordinary viciousness, one who attacks innocent people in his own country and throughout the region.

History will judge the wisdom of the decision to begin an early military offensive. But that is not the issue now. The natural divisions of democracy have been transformed into unity and resolve. The issue now is how best to prevail with minimum casualties and with an eye to the most stable outcome for the Middle East, including a Middle East free of a threatening Saddam Hussein.

To those families whose loved ones are now in danger—our determination and prayers are with you—particularly to families of our POW's so shamelessly paraded and coerced—we are specially thinking of you.

And the thoughts of all Americans are with the people of Israel who are

enduring for the time being the terrorism of Saddam Hussein.

Anyone familiar with the history of Israel should understand why Israel justifiably feels a strong need to respond promptly and hard to any attack.

Israel's self-restraint in not responding to the purposeful attack on Israeli civilians was a major contribution to the world's effort against the regime of Saddam Hussein.

Israel's willpower and self-discipline have never been clearer. Saddam Hussein has tried to widen the war. He will try to weaken the alliance. He will not succeed, even if Israel decides to retaliate.

Israel has the uncontested right to retaliate and I am confident she will at a time of her choosing. When she chooses to do so, the world will hopefully remember the origin of her action.

Mr. LUGAR. Mr. President, yesterday the Iraqi military launched modified Scud surface-to-surface missiles at civilian targets in Tel Aviv and other nonmilitary sites in Israel. This was the fourth separate missile strike against Israel by Iraq. None of the attacks was provoked by Israeli activity. They were acts of terror. The Scud missile strikes served little or no military purpose in the week-old war in the gulf. They were part of Saddam Hussein's political calculation to split the international coalition by creating fissures between the Arab participating members and the other countries in multinational force assembled in Saudi Arabia and the region.

It will not work. Israel is not a belligerent in the gulf war. It has not acted to implement Security Council Resolution 678 authorizing the use of force to dislodge Iraqi occupation forces in Kuwait. Mr. President, attacking Israel is an act of desperation by Saddam; it is a strategy of weakness, not strength, that is destined to fail. The Israeli people have long memories and will, I assume, respond at an appropriate time and place of their choosing. Saddam Hussein, by initiating this unprovoked attack, has in effect issued the Israeli defense forces a written invitation to strike back.

In a remarkable show of restraint, Israel has refrained from engaging in reciprocal military strikes at Iraq with its own formidable forces. It has every right to do so in defense of its land and its people. I can think of no historical parallel or precedent for such restraint. Israel's behavior has been admirable in the face of such terror. Israel's strategy is clearly one of strength, of courage, and of self-confidence and is a strategy that is destined to prevail.

President Bush's decision to rush Patriot missiles and batteries to Israel, have them deployed and operational in short order is commendable and justified. This quick and unambiguous decision has been vindicated as yesterday's Scud attack on Israel was destroyed by these quickly deployed antimissile systems.

Mr. President, in the gulf crisis beginning last August and continuing through today, there have been countless miscalculations and misjudgements by Saddam and the leadership coterie that surrounds him. His political decision to use a military weapon against Israel in order to bring about a political splintering of the multinational coalition force is another gross miscalculation on his part and one that will fail.

Iraq is a potentially wealthy and influential country. It enjoys abundant oil reserves, arable land, and a reasonable climate, a manageable population size, adequate rainfall, and sufficient water supply. The Iraqi people are talented, literate, and industrious. These are the ingredients for economic growth, prosperity, stability, and influence. The one element lacking in Iraq has been leadership. Until responsible leadership emerges in Iraq, I fear the Iraqi people will be victimized by the brutal and aggressive dictator now in Baghdad.

We are on the right course in the gulf war. We will defeat Iraq and expel Iraqi forces from Kuwait. While there are many uncertainties of this crisis, the ultimate defeat of Iraq is not one of them.

I therefore urge all Members to support Senate Concurrent Resolution 4 which commends Israel for its behavior in the face of unprovoked military attack.

Mr. GRAHAM. Mr. President, I am proud to cosponsor this resolution expressing our country's admiration for the restraint our long-time friend and ally Israel has shown in the face of outright Iraqi terrorism.

Israel has absorbed repeated Scud missile attacks during the last week. Despite the many casualties that have resulted, Israelis continue to exhibit the bravery, wisdom, and understanding that have been hallmarks of that nation since its creation.

Israelis have refused to play Saddam Hussein's cynical and cruel game—a game that would draw them into a gulf war in an attempt to split the coalition. The Israelis have refused to play, but the price has been steep.

Israel deserves the deep appreciation of all Americans who want to see this war brought to a successful end, with as few casualties as possible.

I believe we also should applaud the administration's quick response in providing Patriot missiles to Israel. Although just a week into the war, we have seen the Patriot's effectiveness tested again and again. The Patriot has come through with flying colors.

If there were any remaining questions about what kind of regime we are dealing with in Iraq, Saddam's Scud attacks on civilian populations in Israel should put them to rest.

Mr. President, in Saddam Hussein we face an implacable foe determined to use any weapons at his disposal to preserve his hold over Kuwait.

At the same time, we must put the immediate crisis in the Persian Gulf in a longer range context. After resolution of this crisis—and we will win this war—how do we serve our long-range interests in this region?

It would be a mistake, an oversimplification, to personalize this crisis to one person: Saddam Hussein.

To personalize the Persian Gulf to one man hides other important factors that helped shape the current crisis:

The rise of fundamentalism;

The rise of populism against a regime that was seen as privileged; and

Competition for scarce resources, particularly water.

To personalize this crisis means that we would be satisfied if Saddam Hussein leaves Kuwait. Our objectives must be broader—to move toward stability in the Middle East. That means the deadly Iraqi military threat must be reduced, by both military action and long-term embargo when this war ends.

Our objective must be to advance democracy in a region of tyranny. In that effort, Israel is the model.

Our long-time ally deserves our full support in this time of crisis. I thank the leadership for addressing this important and timely resolution of thanks to the Israeli people.

Mr. WARNER. Mr. President, I rise today to voice my strong support for Senate Concurrent Resolution 4. During these extremely trying and difficult times in Israel, it is very important that the United States step forward and reaffirm its support for that nation.

Since Iraq invaded Kuwait on August 2, 1990, Israel has shown admirable restraint in its handling of the Middle East crisis. This restraint was made at the risk of its own defense and security and in the past few days we have all seen the terrible consequences of that restraint. Saddam Hussein has launched death and destruction on Israeli cities in a random display of terror tactics. His actions have had no military significance and are solely designed to terrorize the Israeli populace. I personally condemn these indiscriminate attacks on Israel and her people.

The Israeli people have shown incredible courage and defiance in the face of the Iraqi missile attacks and I wish to express my concern and support for them. They are living in constant fear of a missile attack that may contain not only conventional warheads, but possible chemical or biological warheads. It is my hope that the recent transfer of additional Patriot air defense systems to Israel will protect Israel against further such attacks.

In closing, I would again like to express my strong support for Israel and her people. They are to be greatly commended for their strength and restraint during these very trying times.

Mr. DODD. Mr. President, I rise to express my strong support for Senate Concurrent Resolution 4, the resolution condemning Iraq's unprovoked attack on Israel. I commend the leadership of the Senate for quickly bringing it to the floor.

Mr. President, Saddam Hussein gave terrorism yet another new definition last week. His missile attacks upon residential neighborhoods in Tel Aviv and Haifa were unwarranted and unprovoked, and unprecedented for their naked brutality. His attack is further evidence of our need to stand in solidarity with the people of Israel and with our brave young men and women at war with Saddam Hussein today.

Mr. President, our hearts are with the families of the three elderly women killed in the most recent missile attack on Tel Aviv. Our hearts are with the 70 or more injured when Saddam Hussein's Scud missile rained terror down from the sky.

And Mr. President, today our hearts go out to all the people of Israel. Most Americans will never know the chilling wail of a screaming air raid siren, the stifling breaths taken through a gas mask, the deadly anxiety that the next missile attack could be the one with a chemical warhead.

For the Israelis, however, those worries have become all too common. That is why we stand in solidarity with Israel today. We stand together in our recognition that Saddam Hussein must not be permitted to terrorize Israel. We are united in our determination to protect and defend Israel with whatever means necessary. And we recognize that Israel has the right to defend herself when and how she should choose.

Mr. President, the United States has asked Israel to make the most difficult of decisions. The United States has asked Israel to break with one of the tenets most basic to its existence: that no attack on Israel shall go unpunished. And make no doubt about it: this unprovoked attempt to involve Israel in the war deserves punishment.

This resolution recognizes the difficulty of Israel's situation. Self defense is the fundamental right of all nations, and yet we are asking Israel not to exercise that right. Still, it is important to note that his resolution recognizes that it is Israel that must make the ultimate decision, and that the United States will continue to support Israel as she does what is best for the security of her people.

Mr. President, let me also take this opportunity to address at this time Senate Concurrent Resolution 5, regarding Iraq's treatment of United States prisoners of war. Iraq signed the Geneva Convention mandating rules for war prisoners; now Saddam Hussein openly violates it.

In the last few days the world has been subjected to yet another example of Saddam Hussein's disregard for human decency. The sight of those Air Force pilots being displayed on TV, making statements that were clearly coerced, sent a chill down the spine of everyone who supports the young men and women in our Armed Forces.

Our hearts and prayers go out to the families of those prisoners of war. And to those families, we also offer our reassurance. Saddam Hussein will not continue to terrorize allied prisoners of war. And if he does, he will pay for his cruelty.

No doubt Saddam Hussein believed that by parading allied fighter pilots on TV that he would somehow be able to weaken the will of the American people. But Mr. President, Saddam Hussein has once again sadly miscalculated. The American people are angry. They are angry at the physical abuse and mental humiliation to which he has subjected allied pilots. And they are angry that Iraq intends to send its prisoners to military targets, to be used as so-called human shields.

These callous acts of cruelty are clear violations of the Geneva Convention—violations that Saddam Hussein will one day have to answer for. And furthermore, Mr. President, they are violations of every standard of human dignity held by peaceful citizens the world over.

Mr. President, this resolution affirms to Saddam Hussein our commitment to those standards. His shameless mockery of the Geneva Convention will not weaken our resolve to abide by them. And they will not weaken our resolve to apply them to Saddam Hussein.

Mr. CONRAD. Mr. President, when I opened my newspaper yesterday morning and saw on the front page the picture of a young Israeli woman injured in a Scud attack, I thought again of what a terrible price Israelis have had to pay just for the right to exist in their troubled corner of the world.

Yesterday's news was particularly appalling because Israel is not a party to the gulf conflict. Indeed, despite months of increasingly hostile, outrageous threats from Saddam Hussein, Israel has exhibited careful restraint at our request. That must have been extremely difficult when, time and time again, Saddam boasted that he would burn half of Israel with chemical weapons. And now innocent Israelis are paying the highest price because Saddam Hussein has once again shown he has no compunction about launching indiscriminate attacks against civilian populations. His Scuds have become a deadly weapon in his terrorist arsenal.

Many times over the years we have said on this Senate floor that Israel is a most important and reliable ally. Ours has long been a special relationship, but the depth and strength of that friendship has never been more clear than in the past few days. In asking Israel to refrain from immediately responding to missile attacks on its cities, we have asked an ally to make the ultimate sacrifice. In essence, we have asked Israelis to waive for the moment just about the most fundamental right in human law—the right to self-defense.

I doubt the United States has many friends in this world who, in the face of indiscriminate attacks on their own people, would show such restraint. Indeed, would we in this country be able to do so if American cities were coming under repeated missile attacks? How would we react if American civilians had suffered like the people of Tel Aviv did this week?

Israel's restraint becomes all the more extraordinary when one considers that country's history, and its vulnerable geographic position. Any of us who have visited Israel have come away very chastened by the strategic challenge the Israelis face. Hostile neighbors are literally a stone's throw away. Baghdad is only minutes away by Scud missile. There is no margin for miscalculation.

Because its geographic and historic realities are so harsh, Israel has taken the firm position that it will trust its defense to no other party. And that strategic approach has served Israel well; it has gotten that country through some very hazardous times; its own military is of the highest caliber. One cannot then overstate how difficult it must be for Israel's leaders to agree for the time being to put the defense of their cities in our hands.

This presents us with an enormous responsibility, Mr. President. I commend the administration for its decision to provide additional Patriot batteries and crews. I trust we will see continued close communication and coordination between the administration and the Government of Israel as this war progresses.

Yesterday, during news coverage of the gulf crisis, I heard Israel's Deputy Foreign Minister say after the latest attack on Tel Aviv, "Our hearts are full, but we must act with our heads, not with our hearts."

Mr. President, that is very wise but very difficult counsel for a democratically elected government to take when its people are under attack. I hope that with the passage of this resolution, the Israeli people will know that the American people understand how agonizing their choices are. I hope this resolution sends the message that our hearts too are full. They are full with sympathy for the dead and injured, full with concern for the welfare of the people of Israel, full with gratitude for the wisdom and restraint the Israeli Government has shown in these dark hours.

Mr. PELL. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be counted evenly on each side.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. 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.

Mr. PELL. I ask unanimous consent the Senator from Pennsylvania be recognized for 2 minutes.

The ACTING PRESIDENT pro tempore. The Chair would inform the Senate that all time on Senate Concurrent Resolution 4 has expired, under the previous order, 20 minutes having been allocated to each side and the time the Senate was in a quorum call charged to each side.

DEMANDING THE GOVERNMENT OF IRAQ ABIDE BY THE GENEVA CONVENTION—SENATE CONCURRENT RESOLUTION 5

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate is to now consider Senate Concurrent Resolution 5, which the clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 5) demanding that the Government of Iraq abide by the Geneva Convention regarding the treatment of prisoners of war.

The Senate proceeded to consider the concurrent resolution.

Mr. MITCHELL. Mr. President, as warfare in the Middle East continues, members of the armed forces of the nations participating in the conflict will be captured by the opposing sides. The United States and the other members of the coalition fighting to enforce the United Nations Sanctions will, of course, treat any prisoners of war in a humane manner, according these prisoners all rights guaranteed by relevant international agreements.

In the past few days, regrettably, we have seen evidence that the Government of Iraq does not intend to abide by international law. The televised photos from Baghdad of captured pilots from the United States and other countries represented an improper abuse of the prisoners. The statements the pilots gave were clearly given under duress. The announced intention to move the captured airmen to military sites and to use them as human shields is further evidence of Iraq's improper treatment of prisoners of war.

The resolution Senator DOLE and I and others are introducing today condemns the inhumane treatment of prisoners of war by the Government of Iraq and demands that Iraq cease such treatment.

In 1949 the international community signed four conventions in Geneva regarding the rules of warfare. Both Iraq and the United States are parties to these accords. The Third Geneva Convention refers specifically to the treatment of prisoners of war, and it requires humane treatment.

Specifically, the Third Geneva Convention forbids the use of physical or mental torture to extract confessions or statements. It also forbids sending prisoners of war to areas where they may be exposed to hostile fire, or used as hostages or human shields to prevent certain zones or areas from being attacked.

These types of actions, expressly prohibited by the Third Geneva Convention, are precisely the types of actions which the Government of Iraq either has engaged in or has stated it intends to engage in.

All Americans are outraged by these types of statements and actions on the part of Iraq. They must be ended at once. This resolution represents a serious and sincere expression on the part of the Congress regarding the actions of the Government of Iraq, a demand that inhumane treatment of prisoners of war cease immediately.

The ACTING PRESIDENT pro tempore. The Chair further informs the Senate that under the previous order, 20 minutes have been allocated for debate on this resolution, equally divided.

Mr. PELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Rhode Island.

Mr. PELL. I yield 2 minutes to the Senator from Pennsylvania.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized for 2 minutes.

Mr. HEINZ. Mr. President, in the past week, we have seen our pilots, and their comrades in arms from other allied nations, paraded like trophies on Iraqi television. Their words, scripted by Saddam Hussein, mean nothing; their faces, however, speak volumes about the kind of brutal treatment they have received in Iraqi hands.

This week, we have also been witness to a rain of missiles in the Middle East, directed primarily at peaceful civilians in Israel. We have been treated to the surreal sight of Israelis donning gas masks while Scuds fall in the streets of Tel Aviv and Haifa.

And finally, while the world watches the Persian Gulf, an ignored tragedy has taken place in the Baltics, as Soviet special forces have laid siege to the democratic governments of Latvia and Lithuania, murdering their citizens and threatening yet more violence in other areas of the Soviet Union.

The Senate cannot remain silent. First, I urge the support of the measure before us, supporting our POW's and calling upon Iraq to abide by the Geneva Conventions. I also urge support for similar legislation, sponsored by Senator MCCONNELL and myself, of which we both spoke yesterday, calling for an investigation into Iraqi war crimes and the convening of an international tribunal.

Second, I also urge the support of the resolutions before us expressing support for the Baltic nations, and cutting off economic cooperation with the Soviet Union until it ends the violent attack on the Baltic democracies.

Finally, I will gladly support the resolution in support of Israel, and urge my colleagues to do likewise. Israel's restraint in the face of these attacks has been remarkable, and we must let them know that they do not stand alone against Saddam's missiles.

Mr. President, I believe that a peaceful and better world is within our reach within this decade. But we have not reached that goal yet, and until we do, it is our obligation to take a stand and let the world know that we will be steadfast in our support of liberty and peace, be it in Jerusalem, Vilnius, or the Persian Gulf.

Mr. President, I yield the floor.

Mr. PELL. Mr. President, we were all stunned by the television images of American and allied pilots, with bruised faces and halting speech, shown on Iraqi television. I share America's outrage at Iraq's announcement that it would hold the captured pilots at key military and economic installations, this is at places where they are in mortal danger.

Such conduct clearly violates the Geneva Convention relative to the treatment of prisoners of war. Article 17 prohibits the infliction of physical or mental torture for the purpose of coercing information or forcing POW's to make propaganda statements. It is certain that the statements attributed to American ans allied airmen were the product of extreme coercion. As with all such propaganda exercises, this coercion will backfire on the Iraqi regime. These coerced statements will be believed by no one but will remind everyone of Iraq's continued contempt for international law and all norms of human decency.

Article 23 of the Geneva Convention provides that a POW may not be detained in a place where he is exposed to the fire of combat and may not be used to try to render a target immune from military attack. Iraq's use of United States and allied POW's as human shields is a clear violation of article 23 and repugnant to all decent human beings.

Mr. President, we should not be surprised by Iraq's mistreatment of our prisoners of war. This is what the world has come to expect of a regime that uses poison gas on its own people, that tortures and executes children, that in-

vades, pillages, and destroys its peaceful neighbor.

Iraq should understand, however, that its conduct is intolerable and will be neither forgotten nor forgiven. After the war is over, there will be a time of reckoning. Should any American or allied POW be harmed as a result of Iraq's flouting of the relevant Geneva Conventions, then I believe we should convene a war crimes commission and mete out severe punishment.

In saying these words, I wish to pay a personal compliment to the International Committee of the Red Cross which has done for so long a superb job in relieving the suffering done to soldiers and POW's. I speak here as a former delegate of the Portuguese Red Cross who worked with the ICRC to relieve the suffering of British POW's early in World War II.

I now yield 3 minutes to the Senator from Arizona.

The ACTING PRESIDENT pro tempore. The Senator from Arizona [Mr. MCCAIN] is recognized for 3 minutes.

Mr. MCCAIN. Mr. President, all Americans, in fact people throughout the world, reacted with outrage and anger as we observed American, and allied pilots paraded before Iraqi television and rebroadcast throughout the world.

Mr. President, this hard-fisted propaganda ploy on the part of Saddam Hussein has clearly backfired. The American people are disgusted that American citizens should be mistreated so outrageously. We say to their families we are proud of them. We are proud of their behavior. They are in complete compliance with the Code of Conduct, and we hope to bring them home very soon.

Mr. President, "Character is what you are in the dark," wrote the evangelist, Dwight Moody. What he meant was that human virtue is not determined in moments of public attention to our behavior. Courage, devotion, and all the other noble qualities of humanity are not practiced in pursuit of public approval. Heroes, real heroes are not conceived in public adoration. They are alone, motivated by a devotion to duty, seeking a greater glory than self-gratification.

We can be certain that the Americans who are now held as prisoners of war of Iraq are heroes in the dark. Their obviously coerced statements serve no other purpose other than to alert the world that the Iraqis have no more respect for the third Geneva Convention governing the treatment of prisoners of war than they do for any other international convention to which they are a signatory.

The stilted, awkward manner in which the American pilots delivered the statements their captors prepared for them proves that despite the dangers confronting them and the brutal treatment they have endured, these brave men have kept faith with their code of conduct and their country by continuing to resist to the best of their ability.

John Hubbell, in this detailed account of American POW's in a previous war, told how the POW's, coerced through torture to make statements criticizing their government, would do so in a manner that would make abundantly clear that their remarks were made only under grave physical and mental duress. Hubbell referred to these statements as the "peculiar confessions." of American POW's and he described the behavior of one American who tried to reveal the emptiness of the words his captors had forced him to recite.

He looked straight ahead, but he really wasn't looking—his eyes never seemed to focus—he just wasn't there. It was like a robot—when they said something to him, he acted; if they said nothing, he did nothing.

That is an exact description of the behavior of the allied prisoners of war in Iraq on the videotapes we have all seen. It is powerful testament of the courage and the faithfullness these men possess even under the most difficult circumstances. It is compelling evidence that these men are heroes. They deserve the support and prayers of their countrymen.

"Heroism," wrote George Kennan, "is endurance for one moment more." These men have met and surpassed that qualification. They have my deepest respect.

Saddam Hussein has violated the Geneva protocols prohibiting the use of chemical weapons. He committed the gravest international crime of all, as he practiced genocide on the Kurdish population in Iraq. The United Nations, on numerous occasions, has condemned Saddam's invasion of Kuwait and the unspeakable brutality he has inflicted on Kuwaitis as despicable violations of international law.

The United States and our allies have now undertaken to hold Saddam accountable for his crimes. Let no one doubt that we will be successful in this endeavor.

Mr. President, it is widely reported that Saddam Hussein receives much of the information on which he bases his decisions from watching television. When he learns of this resolution he should know that it is not just an expression of the Congress, but a message from the American people. That message is clear. If Saddam harms American fighting men and other allied prisoners in any way; if he uses them as human shields at targeted military cities in direct violation of the third Geneva Convention and the norms of every civilized nation on Earth, then when this war is over—and that day is not far off—Saddam Hussein will be apprehended and punished.

Upon his apprehension, the allied nations who defeated him will convene an international tribunal to judge and punish the war crimes of Saddam Hussein and all of the political and military leadership of Iraq. They will experience justice similar to that meted out in the Nuremburg trials convened at the end of World War II. And their fates will be similar to the Nazis who were found guilty of war crimes by that honorable court. Mr. President, that is the price of their inhumanity. That is the cost of their brutality against American and allied prisoners of war. Do you get the message, Saddam?

Mr. MCCONNELL addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

The Chair recognizes the Senator from Rhode Island.

Mr. PELL. I yield 3 minutes to the Senator from Colorado.

OPERATION DESERT STORM AND SADDAM'S MISCALCULATIONS

Mr. WIRTH. Mr. President, Saddam Hussein has repeatedly miscalculated U.S. and world reaction to his ruthless acts of aggression and violence—and is doing so once again. Saddam grossly miscalculated our reaction to his invasion of Kuwait. Saddam also miscalculated the consequences for his own nation of that aggression.

And now, Mr. President, he has thoroughly miscalculated the intended political impact of his Scud missile attacks against Israel and his publicizing of brutalized prisoners of war. These desparate acts have served to strengthen, not weaken, our solidarity with Israel and our resolve as a nation.

In the week since Operation Desert Storm began, over 450,000 brave Americans—active duty and reservists, men and women, Army, Navy, Air Force, and Marine Corps—have performed with professionalism, bravery, and great patriotism. These are some of the very best trained, equipped, and motivated troops our country has ever deployed.

The courageous participants of Operation Desert Storm and their families deserve the support and thoughts and prayers of all Americans. I am proud of their valor and proficiency in executing the air mission against Iraq, and pray that they may all return home soon and safely.

The State of Colorado has to date sent over 5,000 men and women to the Persian Gulf. I have spoken and visited with many of the families of these soldiers, airmen, and sailors and take great strength from their enormous courage and valor.

Last weekend, the world watched in horror as Iraq released video of captured airmen from the United States, Great Britain, Italy, and Kuwait. There can be little doubt that these airmen were physically abused by their captors, nor can there be any doubt that they were forced to denounce U.S. pol-

icy in this conflict. The relief the families of these brave pilots felt upon knowing that their loved ones were alive was certainly accompanied by the incredible anguish of knowing the conditions under which they are being held.

Again, I believe that Saddam has miscalculated the intended political effect of publicizing these brutalized pilots. Rather than contributing to antiwar sentiment, the Iraqi propaganda effort has only served to strengthen the resolve in the United States, Great Britain, and elsewhere to deal with the menace posed by Saddam and his arsenal.

Mr. President, we have just learned today of yet another Iraqi missile attack on Israel. These vicious and unprovoked Scud attacks against Israeli civilian targets are clearly intended to have political, rather than military, effect. And they are having such an effect by making clear to the entire world the thoroughly brutal and desperate nature of Saddam Hussein's regime. To date, Israel has refrained from retaliating, while reserving the inherent right of self-defense. I commend the Shamir government for its forebearance, Mr. President, but continuing loss of life and casualties may make continued restraint considerably more difficult.

The Scud attacks on Tel Aviv and Haifa have been accompanied by Saddam's threats to turn Israel into a "crematorium"—an obviously conscious choice of words. The more vicious Saddam becomes, the more resolved we as a nation become in dealing with the threat he poses to Israel and to the entire region. Rather than weakening the coalition or undercutting United States-Israeli ties, the Iraqi missile attacks have strengthened the already considerable solidarity between the people of the United States and the people of Israel. All of the Arab coalition partners have acknowledged Israel's right to retaliate for these acts of unprovoked aggression.

In my visits to Israel, I have been impressed by the enormous courage and perserverance of her people. Sitting in Washington, it is difficult to imagine the terror these missile attacks—some possibly carrying lethal nerve gas—have brought to the people of Israel. The continuing faith and strength of Israelis in the fact of this crisis represents a real profile in courage.

Even as we continue what may be the early phase of the war in the gulf, we must turn our thoughts to the kind of postwar order we hope to see in that region. We certainly must strive to create a lasting peace in this volatile region, and one in which our relationship with Israel—and the security of this democratic ally of the United States—will be strengthened.

Mr. President, I am proud to be an original cosponsor of the pending resolutions on treatment of prisoners-of-war and United States-Israeli relations, and hope that my colleagues will support their adoption unanimously.

Mr. PELL. Mr. President, I ask unanimous consent that the time consumed by Senators MCCAIN and HEINZ be charged to the Republican manager's time.

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

Mr. PELL. I yield 2 minutes to the Senator from Kentucky from the Republican manager's time.

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

Mr. MCCONNELL. Mr. President, 41 years ago, 61 nations including the United States and Iraq, signed four treaties known collectively as the Geneva Conventions for the Protection of War Victims. Those treaties spelled out the rights of civilians and prisoners of war during a conflict.

For 41 years, no government has chosen to take another to task for violating the Geneva Conventions. Until now.

Beginning on August 2, eye-witness accounts of Iraqi military troops engaging in murder, mutilation, torture, rape, robbery, destruction of property and every other imaginable, senseless act of violence have choked international air waves and shocked the citizens and governments of the world. The systematic destruction of a small, defenseless nation has been reported in painful and considerable detail.

After seeking the approval of the United Nations and the U.S. Congress, the President did what needed to be done. As the Commander in Chief of American troops and the leader of an impressive international coalition of forces, President Bush launched Operation Desert Storm. While we are all worried about our soldiers and hopeful that we will expel Hussein from Kuwait in short order, we must also focus on events after the desert dust settles.

Even as we wage war, we must look for ways to preserve peace, security, and the humanitarian code of conduct embodied in the Geneva Conventions. We have a unique opportunity to define the post-cold-war world. We should do so by measuring nations and their leaders by their efforts to protect the invincible principles of human dignity and freedom.

Saddam Hussein and his forces have defiantly rejected these principles. The Iraqi leadership is directly responsible for holding hundreds of American and foreign nationals hostage for months. Iraqi forces have committed unspeakable acts of violence against Kuwait and its citizens. Now, in a last ditch effort to crack the coalition, Hussein has launched a barrage of Scud missiles against the neighborhoods, schools, and hospitals of Tel Aviv and Jerusalem.

With the war underway, Saddam Hussein's gruesome record of crimes against mankind must be dealt with. His is a record of intimidation, aggression, invasion, occupation, and terrorism against innocent civilians—and now, mistreatment of allied prisoners of war. We have already seen some of our captured soldiers appearing physically abused reciting pro-Iraqi propaganda—all in violation of the Geneva Conventions.

Fifteen Americans are currently considered missing in action. If captured, that is 15 Americans who are entitled to the full protection of their rights under the Geneva Conventions.

Mr. President, we know Saddam Hussein is a war criminal. We are seeing it unfold on television before us. The question is, What are we going to be able to do about it?

I would like to call the Senate's attention to legislation I introduced yesterday which directs the President to lay the legal foundation for any war crimes case that can be made against Saddam and his henchman.

I do not think we should be scrambling to create a case after the fact. We should be building the case right now as the crimes are committed. We also should have confidence that there is an appropriate legal forum to present that case.

Although the Geneva Conventions have been in effect for four decades, no enforcement mechanism has ever been established. While there is reference to signatories agreeing to an umpire to address the charges of convention violations, no nation has tried to enforce those provisions.

My legislation would direct the President to determine whether a U.S. court would be the appropriate legal forum for presenting charges of convention violations. If not, the President is urged to make the case to the U.N. Security Council to establish an international tribunal to adjudicate such cases. Such a tribunal does not exist today.

I have given the President as much flexibility as possible on how he should proceed in the development and prosecution of a case against Saddam.

Since the United Nations authorized the use of force which has served as the mandate for Operation Desert Storm, it seems reasonable once again to ask the international community to join together in making a legal judgment. However, there may be circumstances which would warrant the prosecution in the American court system instead. Congress should protect every legal option we have as the President advances the case against Saddam Hussein.

I have made the bill that I introduced yesterday binding because I want Saddam to know when the war is over and

the evidence is in, he and his forces will be held accountable, will be judged, and will pay a price for the atrocities they have committed.

We are a nation of laws. We embraced the principles of humane treatment of civilians and prisoners of war when we signed the Geneva Conventions.

We signed it in hope—we must now enforce it in strength.

Mr. President, I ask unanimous consent that the bill which I introduced yesterday to which I have referred be printed in the RECORD.

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

S. 253

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 "Geneva Conventions Enforcement Act of 1991".

SEC. 2. FINDINGS.

The Congress recognizes that—

(a) The United States and Iraq are High Contracting Parties to the Geneva Conventions for the Protection of War Victims;

(b) The High Contracting Parties have committed to respect and ensure that civilian noncombatants and prisoners of war are humanely treated in accordance with the articles of the Conventions;

(c) The Conventions explicitly hold a Detaining Power accountable and responsible for treatment of civilian and military prisoners;

(d) The Conventions prohibit taking of hostages, all violence to life and persons, including murder, mutilation, cruel treatment and torture and any coercion to obtain information from protected persons.

(e) The Conventions prevent any High Contracting Party from absolving itself from liability incurred in respect to breaches of the Convention;

(f) Iraq has rejected United Nations resolutions condemning violations of the Conventions, the Charter of the United Nations, the Vienna Conventions on Diplomatic and Consular Relations and international law; and

(g) No formal legal authority has been designated, entrusted or authorized to review any charges arising from violations of the Conventions.

SEC. 3. PURPOSES.

(a) The President shall direct the appropriate United States Government agency to collect and maintain records bearing on the treatment by Iraq of civilians and prisoners of war resulting from its illegal invasion of Kuwait on August 2, 1990.

(b) The President shall consult with the Attorney General, the Secretary of State, and the Secretary of Defense to determine the appropriate jurisdiction for the prosecution of Geneva Convention violations, including Federal and specially appointed courts of the United States.

(c) In the event that prosecution in the courts of the United States is deemed inappropriate, the President shall report to the Security Council of the United Nations his determination regarding the treatment by Iraq of civilians and prisoners of war.

(d) The President may recommend to the Security Council the establishment of an International Criminal Tribunal for the purposes of reviewing and prosecuting charges brought by High Contracting Parties regarding violations of the Geneva Conventions resulting from Iraq's illegal invasion and occupation of Kuwait.

(e) No later than ninety days after the cessation of allied military operations against Iraq, the President shall report on Iraqi violations of the Geneva Conventions to the United States Senate Foreign Relations Committee and the United States House of Representatives Committee on Foreign Affairs.

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

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

The bill clerk proceeded to call the roll.

Mr. PELL. 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.

Mr. PELL. Mr. President, I yield 3 minutes to the Senator from Ohio [Mr. METZENBAUM].

The ACTING PRESIDENT pro tempore. The Chair informs the Senator from Rhode Island that there are only 2 minutes remaining on the time allocated pursuant to the previous order.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that I may have 1 minute from the following matter.

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

The Senator from Ohio is recognized for 3 minutes.

Mr. METZENBAUM. Mr. President, I rise to say how proud I am, and all of us in Congress are, of the role that Israel has played as a staunch and strong ally of the free nations of the world and of the United States in particular.

Israel has always played a unique role in the community of nations of the world. Israel, since its inception, since it declared itself a free state, has never attacked its neighbors. but Israel has been attacked time and time again by its Arab neighbors. In instance after instance, it has had to defend itself. when Israel fights for its existence, it does so as a matter of survival, and it has never sought to destroy any of its Arab neighbors.

Israel has been a peculiar kind of nation. It is a nation that has been called upon to take actions that no other nation has been called upon to do. When Israel was attacked and its forces drove its Arab enemies all the way to the Suez Canal, it was prepared to take the Suez Canal. President Eisenhower, and others of the free world, asked them to pull back, and it did. And then we were all aware of the fact that, once again, 11 years ago, Israel was called upon and agreed to a historic agreement with Egypt, giving back the gains of war, giving back to Egypt the Sinai Desert, giving back the oilfields, which could be so almighty important to Israel now and could have been over the years, because of the production of that oil. But it gave it back in the interest of peace.

Israel has existed striving with the hope and concern to live at peace with its Arab neighbors. yet, Israel has been unable—with the exception of Egypt—to sit down with any of its Arab neighbors and to negotiate across the table with those neighbors.

Now Israel has been called upon once again and has met its responsibility so well not to retaliate. It is not easy to not retaliate when you have the strength with which to retaliate, but Israel has accommodated and worked with and been in partnership with the Western World, with the United States, and has worked with our President, in order not to retaliate, but under most difficult circumstances, when its people are being killed and wounded.

So I stand here today to say how proud I am to identify with the concerns of Israel, to indicate my pride in the fact that Israel, as our ally, as a nation to which I have a special kind of concern, is once again conducting itself so superbly and, once again, is standing up for freedom for the whole world. Israel seeks peace with its neighbors. Israel wants to live alone and let its neighbors live alone. At the appropriate time, I am certain Israel is prepared to sit down with its neighbors and negotiate a long-lasting peace.

I thank the Chair and I yield the floor.

Mr. DURENBERGER. Mr. President, it is difficult to express the anger and revulsion that all civilized people experience when we witness the American and allied prisoners paraded for propaganda purposes on Iraqi television showing clear evidence of brutal maltreatment by their captors. It is difficult for us to believe that any human being could treat other humans in such vicious and cruel ways.

It is a traumatic experience for the men, their families, and for us as a nation.

At the same time that we express our complete outrage at Saddam, we must also remember to express our love and compassion for the men and their families. They need our support. They need to know that we stand beside them in these trying times. That we suffer with them. That we draw strength and support from each other.

Mr. President, at the earliest possible time, this Senator believes that the international community must pursue war crimes trials against Saddam and his cadre of loathesome henchmen.

This Senator is convinced that sufficient evidence already exists to indict if not convict Saddam and his band of thugs for the egregious war crimes already committed.

This may be little consolation at the moment to the POW's and their families, but it should be reassuring to know that the international community, one way or the other, will not

permit Saddam to violate all rules of human decency and international law with impunity.

He will pay a price for his aggression against Kuwait. He will pay a price for his violations of international law. We remain firm and united in our purpose. We remain strong and committed to achieving our objectives. And we will win.

I thank the Chair and yield the floor.

Mr. DOLE. Mr. President, I commend the distinguished majority leader for his statement, and rise in support of the Mitchell-Dole resolution.

Over the past few days, we have seen blindfolded pilots dragged before cameras in Baghdad. We have seen these same pilots make obviously coerced statements. And we have heard the promises of Saddam Hussein that coalition prisoners of war would be moved to perceived military targets.

As I said Tuesday, Mr. President, Americans may have different views on our entrance into hostilities in the gulf crisis, but we are united in our revulsion of Saddam's treatment of prisoners of war.

While we are sickened by these actions, we are certainly not surprised. Saddam's history is one of torture, cruelty, and slaughter of innocent men, women, and children.

Saddam also has a history of misjudging the American people. And he's done it again. Perhaps Saddam thinks that by displaying and torturing POW's America's resolve will be weakened.

What a monumental blunder. Passage of this resolution will ensure that long after our mission in Iraq is complete, this body and the American people will remember Saddam's repulsive and cowardly behavior.

The rules for prisoners of war are cherished by all civilized nations. Unfortunately, under Saddam's leadership, the once proud country has ceased to be a civilized nation.

When Saddam's troops invaded Kuwait, President Bush said that the world would hold him accountable for his actions. And so we have.

President Bush has now said that you can count on the fact that we will also hold him responsible for his treatment of prisoners of war.

Passage of this resolution will send a clear message that the Senate is in full agreement with the President's promise.

Mr. BOND. Mr. President, the world has experienced universal revulsion over the past several days as we have watched Saddam Hussein parade American, British, and Italian pilots before his television cameras as if they were his personal prizes, won in battle. And we have all experienced the horror that comes from seeing the obviously tortured and brutalized faces of our brave men.

Saddam's action in parading our troops before the camera is not only a violation of the Geneva Convention, it is a message—a message that he has no intention of abiding by international law or even of showing human decency.

Well, Mr. President, today we are sending a message back to Saddam, and that message is that we will not stand by and allow him to get away with his crimes. If he persists in his criminal behavior, if he fails to adhere to the Geneva Convention—we will defeat him, we will pursue him, we will try him, and we will punish him for his crimes.

Last September, the Senator from Pennsylvania and I introduced a resolution urging the President to make clear to Saddam that his crimes will not go unpunished. It also urged the President to explore with our allies an appropriate forum for pursuing any war crimes trial. We passed that resolution without dissent, and today I again ask the President to make clear his intention to act so that Saddam and his henchmen can have no misunderstanding of our position.

Finally, I add my prayers to those of the family and friends of the men being held in Baghdad. We share their anguish and we join their prayers that their loved ones will soon return safely to them.

Mr. LAUTENBERG. Mr. President, I rise in support as a cosponsor of Senate Concurrent Resolution 5, demanding that Iraq abide by the Geneva Convention regarding the treatment of prisoners of war.

The Congress cannot stand still in the face of the outrageous Iraqi treatment of United States and allied prisoners captured thus far by its forces. The forced parade of American and allied prisoners and their obviously coerced statements on Iraqi television are a flagrant violation of the Third Geneva Convention on the treatment of prisoners of war.

The fact that Iraq itself is a signatory to this Convention only makes Iraq's actions more outrageous. It shows Saddam Hussein's cynical and blatant disregard for international law and world opinion.

No one who has seen or heard the captured officers, like Navy Lt. Jeffrey N. Zaun of New Jersey, can have any doubt that these brave and courageous men have been beaten, mistreated, and coerced.

The United States should hold Saddam Hussein personally accountable for Iraqi treatment of allied prisoners of war, including his intolerable plans to use them as human shields.

As our officers are held and mistreated by their brutal captors, I strongly support this resolution on behalf of the brave American and allied forces waging this internationally sanctioned war against Iraq.

We also owe it to the anxious families and loved ones of prisoners of war to take every possible step to ensure internationally mandated benevolent treatment for them. We stand united in our condemnation of Iraq's cruel treatment of prisoners and demand that it abide by its civilized international responsibilities.

Mr. THURMOND. Mr. President, on Sunday, January 20, Saddam Hussein once again showed his lack of basic human decency. Although Iraq is a signator of the Geneva Convention on the Treatment of Prisoners of War, Saddam Hussein totally disregarded the convention when he paraded our pilots and those of three other nations before the television cameras. He further showed his callous disregard of human decency and the convention by announcing that he intends to locate American and other prisoners of war at perceived military targets of the coalition forces.

Mr. President, we must not allow this wanton disregard of the Geneva Convention to go unchallenged. The resolution before us places Saddam Hussein on notice that the United States will not tolerate the mistreatment of the brave pilots of the coalition forces. I urge my colleagues to demonstrate once again our support for our men and women in uniform and vote in favor of the concurrent resolution.

Mr. President, Saddam Hussein has again misjudged the solidarity of the American people and their support for our forces. I hope he will take notice of the action we are taking today and live up to the terms of the Geneva Convention relative to the treatment of prisoners of war.

Mr. SMITH. Mr. President, this past week the world has again witnessed Saddam Hussein's blatant disregard for international law.

Already, he has refused to acknowledge 12 United Nation's resolutions calling on Iraq to withdraw from Kuwait. And now, his treatment of our POW's is in direct violation of the Geneva Convention which Iraq signed in 1949.

Today, the United States Senate is sending a clear signal to Iraq that it had better live up to provisions in the Geneva Conventions concerning our POW's. As President Bush has repeatedly stated, this will not be another Vietnam. I commend the President for his resolve and determination on this matter.

The mistakes we made in Vietnam taught us many lessons from which we can learn. The most tragic mistakes concern the POW/MIA question, which sadly enough, still haunts us today.

During my 6 years in the House of Representatives, I devoted considerable time and energy to the POW/MIA question. I plan to do the same now that I am in the Senate.

For now, I will limit my remarks to summarizing what our objectives should be in the gulf region concerning

POW's. First and foremost, we must make it perfectly clear to Saddam Hussein that our forces will not leave the gulf until not only Kuwait is liberated, but all our POW's are returned unharmed.

Second, Saddam Hussein must know that the United States and its allies will pursue any Iraqi officials responsible for the mistreatment of our POW's. Under the Geneva Conventions, we have a right to pursue these officials and I believe we should. There can be no conditions or agreements with Hussein or his army—they will be held accountable for their actions.

Mr. President, this week Iraq said it would consider abiding by international conventions on the treatment of war prisoners if the same principles applied to Palestinians in Israel. This is a continued pitiful attempt at linkage and the world knows it.

Saddam Hussein and especially Tariq Aziz know full well that under article 131 of the Geneva Conventions, Iraq cannot absolve itself from any liability concerning treatment of Allied POW's. It has signed the Conventions and is obligated to comply. Thus far, it has failed to comply. It has paraded our captured pilots through the streets and has physically and mentally coerced propanganda statements from them. Again, Iraq has miscalculated the effect of these actions on Arab and world opinion.

Mr. President, Saddam Hussein should know that his actions will only result in the justifiable expansion of United States military and political objectives in the gulf region. In short, we should settle for nothing less than Iraq's unconditional compliance with all international resolutions and conventions. Moreover, the United States and its allies should exercise all of its rights under these laws to the fullest extent possible.

Saddam Hussein's cruel treatment of prisoners of war and his unprovoked attacks on Kuwait and now Israel are repulsive. These actions will not go unpunished. He has forced us to sacrifice American lives in the region. These lives will not be lost in vain.

Again, let the message go out loud and clear to Iraq that we will not let up and we will not leave the gulf region until all our objectives are accomplished.

Mr. CONRAD. Mr. President, I rise today to express my strong support for Senate Concurrent Resolution 5. This resolution condemns the Government of Iraq for its treatment of allied prisoners of war and demands that it abide by both the spirit and the obligations of the Third Geneva Convention governing the treatment of POW's.

Mr. President, the Geneva Conventions were adopted in 1949 and signed by 164 countries, including the United States and Iraq, in order to bring a measure of humanity to the otherwise inhuman practice of war. In particular, the Conventions prohibit physical and mental abuse, public display, and coercion of prisoners; they also prohibit the use of prisoners as human shields. Essentially, the Geneva Conventions require that prisoners of war be treated in a humane manner. The Iraqis have refused to do this.

We have all seen the pictures of allied prisoners on Iraqi television. There is not an American who does not share the outrage that I felt when I saw those prisoners. They were visibly beaten, obviously reluctant to speak. Now we are told by Saddam Hussein that the prisoners will be used as human shields for Iraqi targets, just as the thousands of hostages were used 4 months ago.

I have few illusions that a ruthless terrorist like Saddam Hussein will change his ways and his treatment of our prisoners. Clearly, a man who gases his own people and launches missile attacks against civilian populations has no moral standards. My guess is that he has as much respect for the Geneva Conventions as he did for the sovereignty of Kuwait. However, I hope that with the adoption of this resolution, we will make it abundantly clear to him that America will not stand for these injustices and that, in the end, he will have to pay the price for his actions.

The ACTING PRESIDENT pro tempore. The Chair informs the Members of the Senate that all time has expired on Senate Concurrent Resolution 5.

REVIEW OF ECONOMIC BENEFITS PROVIDED TO THE SOVIET UNION—SENATE CONCURRENT RESOLUTION 6

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will move to the consideration of Senate Concurrent Resolution 6.

The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 6) to express the sense of the Congress that the President should review economic benefits provided to the Soviet Union in light of the crisis in the Baltic States.

The Senate proceeded to consider the concurrent resolution.

Mr. PELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair informs the Senate that under the previous order, 20 minutes has been allocated for debate on this resolution, equally divided.

The Chair recognizes the Senator from Rhode Island [Mr. PELL].

Mr. PELL. Mr. President, yesterday, Soviet President Gorbachev called for a complete investigation of the bloody crackdown in Lithuania and Latvia. Mr. Gorbachev and other Soviet leaders must be put on notice that the world is watching closely. An investigation of the violence is only the first step. The next step must be peaceful and productive negotiations with Lithuania, Latvia, and Estonia.

In response to the rape of Kuwait, the world was—and continues to be—united in its condemnation of Iraq. I believe that we draw a lesson from the Perisan Gulf example and apply it to the Baltics. Namely, a united international response is more effective than going it alone. Accordingly, I welcome the language in this resolution that calls upon the President to consult with our allies and work toward a coordinated approach on sanctions. Some have called for CSCE to take up the Baltics issue, and I believe that this is one appropriate forum where the subject can be discussed.

Some of our allies have already taken action in response to the brutal repression in the Baltics. Yesterday, the European Parliament voted to suspend $1 billion in food aid to the Soviet Union. It is incumbent upon the United States, in consultation with our allies, to review what options we have to demonstrate our outrage with Soviet behavior.

Mr. President, another analogy—in addition to the Persian Gulf situation—is appropriate. I have in mind the brutal 1989 Chinese massacre of protesters in Tiananmen Square. The U.S. administration responded to the crackdown with strong words, but weaker actions. While we continue business as usual, including a normal trading relationship with China, China is taking advantage of the Persian Gulf crisis to prosecute some of the leading dissidents in the pro-democracy movement and to maintain its brutal repression of Tibet. We cannot ignore the effects of our nonactions in China, and we cannot afford to make the same mistake with regard to the Soviet Union.

Mr. MURKOWSKI. Mr. President, the United States is in the Persian Gulf to fight for a deep-rooted American ideal, the freedom of a people's right to self-determination. We will never lose sight of this basic American belief. The Baltic States deserve the same attention to their freedom that we have given the Kuwaitis.

The Soviet Government has recently seen fit to use military force against the first freely elected democratic parliament in Lithuania in 50 years. On January 13, Soviet troops opened fire in Vilnius killing 14 people and wounding more than a hundred. On January 20 in Latvia, the Soviet special forces, known as the Black Berets assaulted the headquarters of the Latvian Interior Ministry in Riga, leaving four dead, and at least 11 injured. The freedom of the Baltic peoples, and their courageous attempts to forge democracies are at stake. As Americans we cannot, should not, and will not, stand for it. If Gorbachev and the Soviet Military think that the United States

is too preoccupied with the Persian Gulf war to adequately deal with these actions, they are sadly mistaken.

The Soviet Union desires to be included in international political and economic organizations. However, there is a standard of moral action that states have to follow before they can reap the benefits of these international institutions. Although the Soviet Union has taken a positive path of reform these last few years, through perestroika and glasnost, they are straying dangerously from that path. They need to continue to concentrate on the economic and political reforms in which they were making great strides.

Mr. President, I would like to refer to a insightful editorial written by Dr. Henry Kissinger in the January 22 "Washington Post." He points out that the Soviet Union is struggling with three challenging domestic obstacles. They need to remedy their ailing domestic economy, establish their political legitimacy to the world and deal with the potential disintegration of their surrounding republics. Gorbachev, encountered with these difficulties, has apparently turned to the same comfortable but unacceptable solutions used by Soviet leaders before him, relying on the security of the traditional Soviet power structure, and enforcing his demands through military means.

The United States was given a warning when the former Soviet Foreign Minister Edward Shevardnadze resigned from his post on December 19. He advised the Soviet Government of the impending dictatorial stance Gorbachev would take on the pro-independence movements in the republics. He was apparently disappointed with Gorbachev's retreat from the Soviet's progressive economic and political reforms. Americans are equally disappointed.

We should also be heeding Boris Yeltsin, the popular president of the Russian republic. He has emerged as the leader among the republics, against the repressive moves of the central government in the Baltics. Yeltsin has accused the Gorbachev government of "toppling constitutional bodies" in the Baltics.

The United States should heed the messages of these prominent Soviets and take a definitive stand against the central government's aggressive actions. The United States should strongly consider suspending the one billion dollars in credits for agricultural purchases and medical supplies. We should also look at other economic benefits being considered for the Soviet Union such as the offered technical assistance with the International Monetary Fund.

It is my belief that the Soviet Union must be urged to follow a course which would include the Soviet troops ceasing their threat of use of force. They should also refrain from obstructing the democratic governments of the Baltic republics and withdraw the additional Soviet troops deployed on January 7 from the republics. They should return the Lithuanian media facilities and the occupied buildings. Also, an effort needs to be made to restore the parliaments elected by the Baltic peoples, and conduct negotiations with these elected officials to bring a peaceful end to this conflict.

Mr. President, I ask unanimous consent that Dr. Kissinger's article be printed in the RECORD.

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

NO ILLUSIONS ABOUT THE U.S.S.R.

(By Henry Kissinger)

The crackdown in Lithuania, if consolidated, may in time turn out to be even more significant for the prospects of international order than the Gulf crisis, which has obscured it. As we witnessed the collapse of communism in Eastern Europe, Germany's first steps toward unification and an apparent Soviet movement toward political pluralism and market economics, there was a fleeting moment when it was possible to believe that history was somehow working inexorably in the direction of some kind of universal peace.

Now the opposite trend is developing. Excessive optimism may be on the verge of being supplanted by an equally excessive pessimism. But the democracies can no longer afford these oscillations between intransigence and conciliation. We need a stable concept of East-West relations—a concept not based either on personalities or on overly simple historical projections but on a cold analysis of the national interest and of the requirements of the international order.

If the present turn toward autocracy in the Soviet Union succeeds, the world will face a Russian state such as it has not seen in seven decades. It will not be democratic. Nor will it be Stalinist. It will in fact be most similar to czarist Russia. The United States must then ask itself some fundamental questions: What is the future of U.S.-Soviet relations? Are there foreign policy objectives that have to be safeguarded toward the Soviet state even in the face of unpalatable domestic events? What balance, if any, must be struck between coexistence and conversion?

Until recently, the prospect of conversion was the fashionable conviction. Gorbachev was treated as the ultimate guarantor of the eventual triumph of democracy and market economics. "Helping Gorbachev" became the principal objective of policy, overriding all other considerations. In fact, Gorbachev turned out to be less benign, and the reform process proved more complex than conventional wisdom allowed. We must face the fact that despite the West's deeply held preferences, the probable outcome of the Soviet evolution is either chaos or repression or both.

It was always naive to stake East-West relations on the presumed conversion to Western values of a leader whose entire career has been in the leadership of the Communist Party. It would be equally dangerous to treat Gorbachev's recent action as a personal aberration and to base policy on personal disappointments. Leaders are driven by the dynamics of their system and the history of their society. Any realistic policy must be based on these factors.

Gorbachev deserves enormous credit for recognizing the weaknesses of the system in which he was reared and for having sought to remedy them. His decision to permit the collapse of the Soviet satellite orbit in Eastern Europe, the liquidation of the war in Afghanistan and the loosening of domestic tyranny will surely earn him a place in history. These actions, however, can be explained by the need to preserve the essence of the Soviet system in a crisis and not dissipate the dwindling strength in imperialist adventures. No doubt, this is how it was justified to the Soviet military.

Whatever Gorbachev's motives, the process of domestic reform has so far proved elusive. In foreign policy, it was possible to make progress by liquidation; at home there was a need for new structures. There Gorbachev has been torn between the realization that established institutions must be modified and his lifelong commitment to Leninist orthodoxy in government.

The Soviet Union faces three domestic problems: remedying the disastrous state of the Soviet economy, establishing a sense of political legitimacy and dealing with the looming disintegration of the empire founded by Peter the Great some three centuries ago. Gorbachev's dilemma is that the remedies for one set of problems are likely to be incompatible with equally pressing solutions to other problems—for example, the decentralization needed for economic progress also encourages the drive toward independence in the constituent republics. Above all, the domestic power structure, which must implement reform, is threatened by reform and tends to sabotage it.

That command economies produce stagnation and corruption has become conventional wisdom, even in Communist societies. Still, none has yet succeeded in the painful transition to the market system they all avow. The move toward market economies inevitably evokes the embittered opposition of vested interests while the reformers lack adequate levers of power to impose their views.

A market economy dooms to irrelevance the millions of bureaucrats who establish prices, production, quotas and accountability. When prices are permitted to find their own levels, a period of inflation becomes inevitable, because Communist systems typically have too much money chasing too few goods. And insistence on productivity tends to shut down inefficient enterprises and raise unemployment.

In Eastern Europe, the new leaders were able to use the prestige acquired during the struggle for national freedom to sustain their authority amidst the austerity imposed by the transition to market economics. But in the Soviet Union the vested interests have been elaborated over three generations by an extraordinarily brutal political system.

For a while, Gorbachev tried to circumvent the vested interests—in the Communist Party, the government administration, the secret police and the military—by encouraging greater popular participation outside the system. But like previous revolutionaries, he has found that democratic reform has its own momentum independent of the priorities of the leader—especially if that leader is as closely identified with the previous power structure as Gorbachev. Forced to choose between irrelevance and order, Gorbachev is increasingly opting for discipline and growing reliance on the traditional Soviet power structure.

This course is all the more tempting to Gorbachev because the historical context for

democratization is largely lacking in Russia. Russia never had a church that emphasized a concept of justice independent of temporal authority, it knew no Reformation with its commitment to individual conscience; no Enlightenment that emphasized the power of reason; no age of exploration and no free enterprise that stressed individual economic initiative. So in the Soviet Union, centuries of state control have produced a different set of values; the historic processes of Western Europe become compressed and distorted, dividing the reformist elements into many competing factions and producing phenomena that appear chaotic to a people inexperienced in pluralism.

But the most important problem is that even limited forms of democracy are becoming less and less compatible with the preservation of the existing Russian state within its present borders. Since the time of Peter the Great, the most consistent theme of Russian history has been expansion from the area around Moscow to the center of Europe, the shores of the Pacific, the gates of India and inside the world of Islam. As a result, only about 50 percent of the population of the Soviet Union is Russian. Moreover, the subject populations have always been governed from the center and by representatives of the center; little effort was made to create an indigenous leadership group with emotional ties to the imperial power.

Having loosened the reins, Gorbachev is reaping the whirlwind of centuries of imperialism misrule. Even limited democratization produces demands for independence in many of the constituent republics or for various forms of autonomy indistinguishable from independence. Ideas of turning the Soviet Union into a confederation based on voluntary association are likely to prove stillborn. Historically, confederations have moved in the direction of either greater centralization or of eventual disintegration.

Gorbachev and the traditional power structures have apparently come to believe that they have to choose between maintaining their state within present boundaries, by force, if necessary, or eventual dismemberment. What is less certain is whether they have the means or, in the end, the staying power. But the present Soviet course, even if applied with less brutal methods than the historic Soviet norm and more indirectly, is likely to turn more violent, not only between the center and the constituent republics but between the various nationalities, especially in the Caucasus.

In the effort to maintain the integrity of the state, Gorbachev probably has the emotional support of even some of the reformist elements in the Russian republic, unwilling to give up the legacy of Russian history. In the end, Russian nationalism may outweight liberalism and provide the motive for cohesion that communism seems to have lost.

When this becomes apparent, the West will be faced with an autocratic state stretching over two continents and possessing 30,000 nuclear weapons. The Utopian image of Gorbachev single-handedly reversing 500 years of Russian history will emerge as a mirage. At that point, the West will have to decide whether it has objectives with respect to the Soviet Union other than to promote its internal evolution.

Disillusionment must not drive the West into equating the new Russia with its Stalinist predecessors. Even if the repression succeeds fully or partially—which is far from certain—what emerges will be most comparable to imperial Russia of Czarist times. That state was often uncomfortable of its neighbors and generally expansionist. But it did not have the ideological fervor of its Communist successors, and it proved possible for long period to deal with it as an important member of the European concert of powers.

Of course America's moral commitment is to pluralism and self-determination and remains so. The issue is what weight should be given to requirements of national security. The self-righteous find it easy to deny that national security is a moral value too. Responsible leaders, however, cannot afford so doctrinaire an attitude. In a world of sovereign states of comparable strength, peace depends on either domination or equilibrium. And America has neither the power nor the stomach for domination. It is possible to construct an equilibrium based on mutual necessity, or must there first be a transformation of all societies toward democratic ideas?

My view is that there are some national interests that need to be safeguarded even in relations with states that do not share our fundamental values. But there need to be criteria distinguishing the legitimate and moral pursuit of the national interest from opportunistic collaboration with tyranny and encouragement of it.

The following principles seem to me crucial:

(1) We must stop basing policy on Soviet personalities. We know too little of Soviet dynamics and even less about how to affect them to make strengthening any leader a cardinal principle of Western policy. Focusing relations on balancing fundamental interests rather than on psychological speculation will in fact bring greater stability to the relationship.

(2) The Western security interest in the Soviet Union is its peaceful conduct outside its borders. The moral objective of the West is compatible domestic institutions. What we need is a definition of coexistence and an agenda for its achievement even as we disapprove of some Soviet domestic actions. Coexistence should not be lightly abandoned. But we should recognize that it is based on self-interest and not delude ourselves into believing that it is a means to help Gorbachev promote democracy inside the Soviet Union.

(3) An analysis must be made of those areas of common action that are necessary for a structure of peace and those which are undertaken to promote democratic values. The latter—including economic aid—are subject to modifications if Soviet internal conduct becomes too offensive. In any event economic aid should generally be given for political and economic, not psychological, reasons except in periods of humanitarian emergency. It is sure to be wasted without appropriate economic reforms.

(4) On the issue of self-determination, the United States needs to stick to its historic position with respect to the independence of the Baltic states. The situation is more complex with respect to the other republics, especially in the Caucasus, where different ethnic populations have been mixed over centuries and intercommunal violence is a permanent threat. On the other hand, Soviet leaders must understand that even when we continue to deal with them on the security agenda, other areas of cooperation are narrowed by the convictions of our people should Moscow's conduct offend America's deepest values.

(5) The changes in Moscow should recall the West to the importance of strengthening the ties within the Atlantic area and above all between Eastern and Western Europe. While the Soviet Union is dealing with its internal problems, the West should give the highest priority to reestablishing as rapidly as possible the historic Europe. Eastern Europe—especially Hungary, Poland and Czechoslovakia—should be given the opportunity to join the West European political and economic system on an urgent basis.

The West is presently in danger of neglecting the countries of Eastern Europe, whose successful struggle for freedom inspired us only yesterday. Two steps are needed. First, the West—and especially Western Europe—must move quickly to integrate Eastern Europe into the European Community and other Atlantic institutions (with the exception of NATO). Second, we must give Eastern Europe an economic breathing space. As a step in that direction, the European Community should take immediate steps to open its markets to East European agricultural products.

The end of the Cold War permitted the West to stop treating the Soviet Union as a permanent adversary; the return to autocracy in the Soviet Union should cause us to abandon the illusion of considering it a permanent partner. The task now is to find a method for dealing with it as a major power with sometimes compatible and occasionally clashing interests, promoting our basic values and giving new impetus to reconstructing the historic Europe.

Mr. McCAIN. Mr. President, while the world is preoccupied with the crisis in the Middle East, the people of the Baltic States are proving once again that the will to freedom is eternal. And the leadership of the Soviet Union demonstrates that despite all the remarkable democratic advances of recent months they have not yet abandoned the mistaken notion that with force and lies they can forever suppress the will of a people to be free.

Let us be clear, Mr. President, the dynamics unleashed by perestroika and glasnost will not be restrained for long by Moscow's return to violence and tyranny. The people of Lithuania, Latvia, and Estonia will be free. They are paying a dear price for that freedom now in the streets of their capitals. And the United States cannot refrain from supporting their brave resistance to tyranny out of concern for the welfare of Mikhail Gorbachev. The heart of the world's leading democracy belongs in the streets of Vilnius, Riga, and Tallinn, not in the halls of the Kremlin.

This is not the time to withhold or even restrain our enthusiasm and support for the Baltics' determination to be free. That is their God-given right, and as citizens of the free world we are bound in solidarity with those courageous nations.

Let us show our solidarity by denying the Soviets normal economic relations with the United States until they conclude their repression of the Baltic States and return to the path of political reform. We should suspend all economic benefits provided by the United States Government to the Soviet Union; withhold our support for Soviet membership in international lending

institutions and the GATT; and decline to confer most-favored-nation status upon the Soviet Union.

Moreover, Mr. President, I do not think it is appropriate for the United States to participate in a summit conference with the Soviets or to conclude arms control agreements with them while Soviet tanks persist in crushing democracy in the Baltics.

Mr. President, the primary object of U.S. foreign policy should not be the preservation of foreign regimes that do not share our values. The United States should not be concerned with supporting the careers of foreign leaders who do not support the success of our ideals. The purpose of U.S. policy must be to protect and promote those ideals. We do that best by supporting the legitimate aspirations of the peoples of the Baltic States as they fight for freedom in their homelands.

Mr. DECONCINI. Mr. President, I rise in strong support of the Baltics resolution and encourage my colleagues to do likewise. I am sure they will. Events of the last few weeks in the Baltics and the Soviet Union demand that we do so. We have witnessed a callous and cynical attempt on the part of the central Soviet authorities to repress brutally the freely elected democratic governments in Lithuania and Latvia, and there are fears the same will happen in Estonia. Twenty innocent people are dead, and scores have been injured. Once again we are treated to the sight of Soviet tanks and troops taking over Lithuanian and Latvian Government buildings. Once again we hear appeals from the freely elected representatives of the Baltic people for support from the West.

Our attention and concern in the last few days has, quite naturally, been focussed on events in the Persian Gulf. We must, however, not allow these momentous and tragic events to blind us to other momentous and tragic events that are occurring in the Baltics. The United States has a moral obligation to register its outrage at the behavior of the Soviet Government in Latvia and Lithuania and, beyond this, to back up expressions of outrage of the people who are witnessing and suffering under these tactics of the Soviet Government.

Yesterday's Washington Post carries a report on an unscheduled meeting between President Bush and a group of Baltic Americans. The President was quoted by Baltic American sources, and I confirmed this yesterday at a press conference they held, to be disinclined to cancel the February summit in Moscow. Further, it is reported that President Bush suggested that the United States has "Little leverage that could substantially effect Soviet actions in the beleaguered Baltic States."

I sincerely hope the President was misquoted. Whether the United States can effect Soviet action in the Baltics does not prevent us from standing on principle and speaking out forcefully against what is occurring. The President should be urging Gorbachev to, at a minimum, return to the status quo of early December. The President should consider whether or not to attend the summit, and if he does attend the summit, the only thing on the agenda should be the actions of the Soviet Union in the Baltic States.

Why should he give Gorbachev photo opportunities which makes the United States appear to give tacit approval to Gorbachev's policies. Why should we be committing American lives and billions of taxpayers dollars to the restoration of a gulf monarchy if we cannot afford even these minor gestures in support of freely elected democracies?

Europe has already moved swiftly. The European Community has voted to withhold a billion dollars in credits and is further ready to restrict technological assistance to the Soviet Union. Canada, likewise, has suspended credits because of events in the Baltics. Even formally allied nations with the Soviet Union have taken bold steps. Hungary and Czechoslovakia, for example, have, among other measures, called for the dissolution of the Warsaw Pact based on Gorbachev's aggression in the Baltics. Where, we are asking, is the United States? It is incumbent on us to support our words of outrage with actions. Let us begin by passing this resolution with unanimous support and call on our administration to go beyond words and to act.

Mr. DOLE. Mr. President, I am pleased to offer this resolution, and to have the distinguished majority leader as the principal cosponsor.

At this point, there is not much need for a long speech.

Soviet tanks and troops rolling into Lithuania and Latvia have pretty well shattered any rose-colored glasses anyone was still wearing. Glasnost and perestroika might not be dead, but they are certainly on life support—and there's every reason to wonder whether and when Gorbachev, or whoever is in charge, is going to pull the final plug.

We passed a resolution very much like this one several days ago. There's no sign that message got through to the Kremlin.

But it is worth the effort to try again. Maybe with a recorded vote Gorbachev and his Kremlin colleagues will get a better understanding of how strongly we in the Senate feel about the tragedy in the Baltics, and will see that we mean what we say.

There will be no business as usual with Gorbachev—unless he returns to the path of reform and reason on which he had so impressively embarked.

There will be no American life preserver—in the form of aid and credits and international legitimation—no American life preserver for Gorbachev's tottering regime, unless Gorbachev returns to principles and policies that are worth preserving.

Mr. President, let's talk turkey. The United States has benefited by Gorbachev's relatively responsible and reformist policies. And it would certainly be preferable to be able to continue working with a responsible Soviet regime.

But Gorbachev needs us a lot more than we need him.

His country is the one falling apart at the seams.

His economy is the one flat on its back.

His society is the one rent with severe national and ethnic tensions and violence.

We have a strong hand to play—and we ought to play it.

Mr. President, I hope it is not too late for Gorbachev to pull back from the very principles of reason and reform he has so impressively championed. I hope he has not already irrevocably cast his lot with the repressive elements still so strong in the Soviet Union, or been rendered politically impotent to do anything but accede to their policy dictates.

Mr. President, let us try once again to send this message to the Soviet Union—and, in the interests of both our Nation and the Soviet Union, let us pray that it is not too late for this message to get through.

Mr. LAUTENBERG. Mr. President, I rise as a cosponsor in support of Senate Concurrent Resolution 6 to condemn the Soviet Government's harsh crackdown on the Baltic States and urge the President to immediately review the economic benefits provided to the Soviet Union in light of that crackdown.

This resolution urges the President to immediately suspend all ongoing technical exchanges, and consider withdrawing United States support for Soviet membership in the International Monetary Fund, the World Bank, and the General Agreements on Tariffs and Trade, known as the GATT.

It also urges the President not to proceed with the provision of most favored nation trade treatment until Soviet troops stop obstructing the functioning of the democratic governments of the Baltic States; the Soviet Black Beret forces are withdrawn from the Baltic States; Soviet authorities stop interfering with the telecommunications, print, and other media in these states: good faith negotiations between the Baltic States and the Soviet Union on the restoration of the sovereignty of those states have begun; and concrete assurances are received from President Gorbachev that grain bought with United States credits will not be used to coerce the Baltic States, or any republic, to sign the union treaty.

Mr. President, as this resolution makes clear, the plight of the Baltic States has not been forgotten. While

the world's attention is focused on the war in the Persian Gulf, President Gorbachev's brutal actions have not gone unnoticed. This resolution seeks to assure both those brave freedom fighters in the Baltic States, who seek nothing more than to live in democracy and freedom, and all of their supporters here in America, that the world knows exactly what President Gorbachev is doing in the Baltics. And we don't like what we see.

This resolution puts President Gorbachev on notice that we will not overlook the brutal and senseless attacks by Soviet troops on the people, government, and communications facilities of Lithuania and Latvia—attacks which results in at least 20 civilian deaths and over 200 civilian injuries.

There can be no excuse for the savage and senseless murders of at least 13 Lithuanian civilians defending their democratically elected government by Soviet military forces on January 13. There can be no justification for the Soviet internal security forces murder of at least four, and the injuring of countless others, in a January 20 attack on the Latvian Interior Ministry.

These events are the culmination of months of increasingly provocative and intimidating actions by Soviet officials toward the Baltic States. Over the past several months, Moscow has called for the dissolution of the duly elected parliaments of the Baltic States, and for the imposition of rule by Presidential decree. President Gorbachev has sharply intensified his anti-independence rhetoric, and ominously replaced the relatively moderate Interior Minister Bakatin with the widely feared and hated former Latvian KGB Chief Pugo.

These blatant assaults on the peaceful and democratic governments of the Baltic Republics represent a dramatic reversal of recent Soviet progress on human rights and democracy. They may signify a return to business as usual in the Soviet Union.

President Gorbachev's attempts to shift responsibiity for the Soviet security forces attacks in Lithuania and Latvia to the democratically elected Baltic governments do not convince this Senator, and I doubt they will persuade the American people.

Although President Gorbachev has reportedly condemned any attempt to seize power unconstitutionally from democratically elected Baltic parliaments, he has failed to repudiate the Soviet paratroop announcement January 13 that a self-proclaimed National Salvation Committee had replaced the legal Lithuanian Government.

President Gorbachev cannot evade responsibility for the deadly results of his policy of confrontation and repression in the Baltics. Nor should our Government shrink from expressing our strong concern to President Gorbachev.

President Gorbachev must be made to realize that American credits, cooperation, and trade are not based on his charisma or personality. They must be earned by concrete and continual steps toward liberalization and reform. The Soviets must pay a heavy price for their steps backward along the road to reform in the Baltics.

Our Government must take a strong stand on this brutality. We must make it clear, in no uncertain terms, that the repression and violence in the Baltics seriously threaten and undermine recent improvements in Soviet American relations. That the American people and the Congress are outraged by Soviet behavior.

We have influence with the Soviet Union. They want our technology, our trade, and our help. They want our support for their admission into the world economic community. Now is the time to reaffirm that those benefits of American friendship will not be forthcoming if Soviet brutality continues.

Congress has a special responsibility to express the outrage the American people feel at witnessing the Soviet assaults on the Baltic States. The United States has never recognized the forcible incorporation of the Baltic States into the Soviet Union in 1940.

Mr. President, I am pleased that the Senate is acting on this resolution today. It is critical that we act now, while we have a chance to make an impact on events in the Baltic States. While we have the chance to save lives, and possibly a way of life—democracy and freedom.

Mr. LEVIN. Mr. President, the world is undergoing profound change; we stand at the crossroads of history in both the Mideast and in Europe. In the true and literal definition of crisis, the world is at a turning point where the future course of events will be determined.

America is united in purpose and cause in the Persian Gulf. Today Desert Storm dominates the Nation's attention. We must do all in our power to support our men and women now fighting in the Mideast, knowing that we will prevail.

But of profound importance, with immeasurable impact on our future and the future of the world, are the events unfolding in Lithuania, Latvia, and Estonia. We must not allow the news of war to cloak our awareness of the ongoing struggle of the Baltic nations to reassert their freedom and independence.

There appears to be a determining struggle underway in the Soviet Union between reform or repression, freedom or tyranny. The thawing of the cold war has been chilled by the recent brutal suppression of unarmed civilians seeking their freedom and independence in both Lithuania and Latvia.

These Stalinist tactics cannot be accepted. The United States cannot offer the Soviet Government improved cooperation, or continue with business-as-usual relations, if the Soviet military and central government persist in their apparent determination to crush the democratically elected governments in the Baltic nations. The United States and the current Government of the Soviet Union are at a crossroads, and the future of our relations and the tensions in the world hang in the balance. We must not and cannot abandon the people of the Baltic nations, and we must not and cannot abandon our Nation's 50-year-old commitment to our policy toward the Baltics based on the principle of self-determination and independence.

Mr. President, I am a cosponsor of this resolution. It is appropriate that the United States reexamine its economic, cultural, and political relations with the current Soviet Government in light of the ongoing repression in the Baltic nations.

Mr. President, I have hope that the forces of reform and freedom will prevail in Moscow. It is inevitable that in the long-run, in our increasingly interconnected and increasingly electronic world, that freedom will prevail. The global village is wired together, and the technology of communication has outrun the ability of despots to isolate and repress the yearning for freedom in people throughout the world.

The crisis before us is in the immediate response by the Soviet Government, however, and whether it can and will continue on its remarkable path of the past few years of glasnost and perestroika, or revert to the dark and futile repression of the past.

The Baltics were illegally annexed by the Soviet Union in 1940. The Soviet Government even admits the annexation was illegal. There is an historic struggle occurring currently in the Soviet Union; in the government, in the society, and throughout its republics. It is our duty and responsibility to the cause of freedom that we do all that we can to encourage and strengthen the forces of enlightenment in the Soviet Union, and do all we can to resist and obstruct the forces of repression.

Mr. President, brave men and women throughout the Baltic nations are this day putting their lives on the line for freedom, as are our men and women in Desert Storm. We should do what is necessary to support both in their brave and selfless defense of liberty.

CONTINUING VIOLENCE IN THE BALTIC STATES

Mr. BYRD. Mr. President, last Wednesday the Senate adopted Senate Resolution 14 in response to the Soviet military crackdown in Lithuania. That resolution expressed the sense of the Senate that President Bush should review economic benefits provided to the Soviet Union in light of events in the Baltic States. Over the weekend the violence spread to Latvia, and may soon

include Estonia. This continuing brutality cannot be ignored.

We must take every opportunity to express our outrage at this resurgence of repression in the Soviet Union. The resolution now before us includes all of the elements of Senate Resolution 14 with updated language on the expanding violence, and with a stronger condemnation of Soviet action. This resolution also clarifies the Senate position that the status of events in the Baltic States will be an important factor when this body considers any and all future agreements with the Soviet Union, and urges the President to explore means of increasing diplomatic ties with the Baltics.

Mr. President, the Soviet leader, Mr. Gorbachev, has denied that he ordered the violence in Lithuania and Latvia, that they were military actions taken without his knowledge or order. This is extremely disturbing, if true, because it suggests that Mr. Gorbachev is not fully in control of his military establishment. Soviet behavior in the so-called new international order is looking suspiciously like Soviet behavior in the old international order. If we are to make progress in the Soviet relationship and if we are to assume that agreements reached with the Soviet Union will be complied with in good faith, then we have to have some confidence that the civilian Soviet leadership is fully in control of its military establishment. Given recent events, I believe there is some room for doubt on this point and it is a matter of genuine concern. If there are growing sources of independent power of action in the Soviet Union, we certainly have to take that into account in our various policies, including the extension of economic benefits to the Soviet Union at this time. While we cannot directly influence events there, it is dangerous to sit quietly while events like those which are occurring in the Baltic States continue, because that may well fuel the growth of such independent sources of power. All of this merely points to the need for the United States to be consistent in its policies, stand up visibly for what standards of behavior are acceptable and not acceptable, and not indulge in the practice of tailoring our policies on some clever calculation of what is in Mr. Gorbachev's particular interest. Such calculations are a quicksand, removing the foundations for consistent policy, and their effects on Soviet behavior are totally speculative.

I was disturbed by a report in yesterday's Washington Post concerning a meeting held Tuesday between President Bush and the leaders of the Baltic American communities. The President rightly condemned the violence in Luthuania and Latvia, but he then explained that he felt any strong action by the United States might help the hard-line conservative faction in the Soviet Union. One participant even commented that she thought they had "a better chance of convincing Gorbachev than the President of the United States to change his policy on the Baltics."

American policy cannot hinge on our desire to see certain individuals or factions continue in power. We must remain firm in our longstanding insistence on Baltic sovereignty. We must make it clear to whoever is in power in Moscow that we unwaveringly support Baltic independence, and that a peaceful resolution to the crisis in the Baltic States is critical to the continuing improvement of relations between the United States and the Soviet Union.

Mr. DODD. Mr. President, I rise in strong support of Senate Concurrent Resolution 6, of which I am a cosponsor.

Within a week I have spoken twice before the Senate on this subject and I do not now want to take the Senate's time to repeat everything I said on those occasions. I want, however, to reiterate the anger I feel over Soviet attempts to terrorize these peaceful little nations and express my strongly felt opinion that words of condemnation are insufficient response to this outrage.

The reason I so strongly favor the concurrent resolution before us is that it urges the President to apply sanctions to the Soviet Union in response to their outlaw behavior.

The Soviets have never been overwhelmed by moral condemnation. Unless they are given tangible evidence of the deep revulsion the American people feel over these attacks, they will not take us seriously.

This resolution gives an opportunity for the President to provide leadership in this matter. I also want to state, though, that if the President is not willing to apply actual sanctions in this matter, Congress will have to step in and do it.

I urge my colleagues to adopt this concurrent resolution unanimously.

Mr. JEFFORDS. Mr. President, while the world was preoccupied with the nearing United Nations' January 15 deadline for Saddam Hussein's withdrawal from Kuwait, the Soviet military took advantage of international preoccupation and staged a classic invited invasion in Lithuania and later in Latvia, allegedly at the request of local Committees for National Salvation. The resulting conflict between Soviet troops and civilians left at least 20 people dead and Soviet troops in control of government buildings, post offices, and communication establishments. There is considerable worry that the same thing may happen in Estonia.

President Gorbachev shocked the Soviet people with his statement that he was not exactly sure what had happened in Lithuania and that no military order had come from the Kremlin. In a strict, centrally controlled system, it is hard to believe that the President was not at least fully aware that grave trouble was brewing in the Baltics and that the Soviet military was preparing to strike. Whether President Gorbachev was left out of the decisionmaking process or purposefully stepped back from his responsibility is unclear and perhaps irrelevant. What matters is that the United States condemns with strong and unequivocal language the military crackdown upon the people and democratic governments of the Baltic States.

Over the past 4 years, President Gorbachev presided over the unprecedented dissolution of the Soviet bloc. His insistence that force not be used in an attempt to stop the drive to democracy in Eastern Europe is directly responsible for the amazingly peaceful transition. Now similar processes of self-determination and striving for democracy are shaking the very foundation of the Soviet Union. Great strides toward far-reaching economic reform and revitalization of a failed economy must be accomplished in the near term if total collapse of the system is to be avoided. Simultaneously, the Soviet leader must balance the demands of nationalist movements that could shake apart the Soviet federation and plunge the nation into civil war. Gorbachev has continually made clear his strong commitment to reform and to peaceful transition. And the United States has supported him in these efforts.

The military repression of the Baltics now seems to represent a drastic change in course. Threatened by strong opposition to his economic and political reforms from many sides and hoping that the world was distracted by the impending war in the gulf, Gorbachev seems to have crossed a critical threshold. He must be told in no uncertain terms that any further repression will be answered by swift American retaliation in terms of economic sanctions, termination of exchanges and loss of support for international economic integration. Because we must not doom the struggling efforts at perestroika, we have an obligation to speak out now and make clear what our reaction to any further violent repression will be. There can then be no doubt in the mind of the Soviet leader or any of the forces surrounding him about the consequences of a further military crackdown.

The long-suffering Soviet people are looking to the American people and to the United States Congress for support in this critical time. Particularly as we commit ourselves to war in the Persian Gulf to stop oppression, we must reiterate our opposition to repression of democratic movements in the Soviet Union. We must support Mr. Gorbachev's efforts at perestroika and glasnost, and must speak out clearly

when things threaten to go terribly awry.

I strongly support this resolution and urge all my colleagues to do likewise.

CRISIS IN THE BALTIC STATES

Mr. THURMOND. Mr. President, I rise today to voice my strong support for Senate Concurrent Resolution 6. This resolution conveys the heartfelt belief of the Senate that recent events in the Baltic States require the United States to reevaluate its support of and aid to the Soviet Union.

Mr. President, our country has never recognized the forcible annexation of Lithuania, Latvia, and Estonia. Thus, Soviet violence against the citizens of these states is particularly reprehensible. At the current time, at least 20 Lithuanian and Latvian citizens have lost their lives at the hands of Soviet troops.

I concur with the call for a review of all economic benefits provided by the United States to the Soviet Union. I particularly applaud the withdrawal of consideration for Soviet most-favored-nation status until negotiations on restoration of Baltic sovereignty have begun. I am also pleased the resolution encourages our allies to follow a similar policy in regard to the Baltic States.

I urge swift adoption of this important measure.

BALTIC REPRESSION

Mr. METZENBAUM. Mr. President, I am appalled by the continuing violent repression of the people of the Baltic States by the Soviet Union. During the past week, attacks on unarmed civilians in Lithuania and Latvia have resulted in 20 deaths and hundreds of injuries.

We cannot allow this repression to go on unchecked. While much of the world's attention is focused on events in the Middle East, President Gorbachev is attempting to stifle the legitimate democratic movements of the Baltic States. It is time that we show President Gorbachev that we are deeply committed to the cause of freedom everywhere.

Today, the Senate overwhelmingly approved a resolution calling on President Bush to reexamine economic assistance to the Soviet Union, in light of the crisis in the Baltics. I believe that American aid policy toward the Soviet Union must change to reflect our condemnation for Soviet actions in the Baltics.

The Soviet Union must reject the use of force toward the democratically elected governments of the Baltic States. We must continue to stand behind the Baltic peoples in their struggle for independence.

Mr. CONRAD. Mr. President, I want to add my voice to those speaking in support of this resolution which strongly condemns the Soviet Government's violent crackdown in Lithuania, Latvia, and Estonia.

While our thoughts are necessarily focused on hostilities in the gulf and the threats to our forces on the front lines, we cannot forget the brave men and women in the Baltic States who are waging their own struggle for freedom and the principle of self-determination.

The violent reaction of the Soviet Government to events in the Baltics is troubling and disheartening. Just months ago, we rejoiced as the winds of democracy swept across Eastern Europe. We applauded the promise of domestic and international reform inherent in the policies of glasnost and perestroika. It is all the more abhorrent then to watch the Soviet Government revert in the last few weeks to a policy of force and terror against unarmed civilians waging a peaceful campaign for democracy and freedom.

Mr. President, we recognize that President Gorbachev faces a daunting array of economic, political, and social problems throughout the Soviet Union. There is much the United States and the West can do to help, but we cannot help if the forces of repression are again ascendant in the Soviet Union. Nor will we stand by silently if the response to democratic movements in the Baltics continues to be violence and intimidation.

President Bush put it exactly right when he said:

> Legitimacy is not built by force; it's earned by the consensus of the people, and by the protection of human and political rights. It would be tragic if the difficult but very real progress toward democratization in the Soviet Union in the past few years were to be undone by an ill-considered return to the methods of the police state.

I urge President Bush to continue to impress upon Mr. Gorbachev our deep revulsion at events in the Baltic States. And if the situation continues to deteriorate in Latvia, Lithuania and Estonia, I hope the President will work with our allies and through the United Nations to devise an appropriately tough international response.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Rhode Island.

Mr. PELL. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

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

The clerk will call the roll.

The bill 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 (Mr. AKAKA). Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I yield back the remainder of our time on the resolution.

Mr. SPECTER. On behalf of this side of the aisle, Mr. President, we yield back the remainder of our time.

The PRESIDING OFFICER. All time is yielded back.

VETERANS COMPENSATION AMENDMENTS

The PRESIDING OFFICER. The Senate will now proceed to H.R. 3, which the clerk will report.

The assistant legislative clerk read as follows.

> A bill (H.R. 3) to amend title 38, United States Code, to revise, effective as of January 1, 1991, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans.

The Senate proceeded to consider bill.

Mr. MITCHELL. Mr. President, the Senate is now considering legislation to provide disabled veterans and the survivors of veterans who died as a result of their service-connected injuries a 1991 cost-of-living increase.

This legislation is necessary because in the closing days of the 101st Congress, legislation that would have provided cost-of-living increase in the veterans disability compensation and survivors benefits programs were derailed in both Houses over controversy with agent orange.

As a result of the dispute, disabled veterans and their survivors were the only recipients of Federal entitlement programs who did not receive a cost-of-living adjustment prior to the adjournment of the 101st Congress.

That situation requires immediate correction by this Congress through enactment of legislation to increase the monthly rates of disability compensation and of dependency and indemnity compensation [DIC] by 5.4 percent, effective retroactively to January 1, 1991.

Disabled veterans and their survivors should expect to see the cost-of-living adjustment and a lump sum retroactive payment reflected in their April checks, according to sources in the Department of Veterans Affairs.

Mr. President, expedited consideration and passage of this COLA bill is one of my highest priorities. On January 14, I introduced legislation, S. 1, that would have provided the retroactive compensation and DIC COLA's and said it would be the first piece of legislation to be considered in the Senate. Designating the first bill is one of the prerogatives that I have as majority leader and I felt that this bill deserved that designation and the importance which goes with that designation.

S. 1, would have mandated an independent review of the health effects of veterans exposure to agent orange or

other herbicides while serving in the Republic of Vietnam.

Today the Senate is going to consider a clean COLA bill. That does not mean that those who have consistently pushed for a resolution of the agent orange compensation and research issues have given up the fight. Indeed, just the opposite is the case.

As was discussed in introductory statements for S. 1, negotiations on the agent orange provisions have been taking place for the past several weeks.

I am pleased that those negotiations have proved fruitful, as evidenced by the companion agent orange compromise legislation introduced concurrently by Representative MONTGOMERY, the chairman of the House Veterans' Affairs Committee, and Senator TOM DASCHLE, who has been among the most active Senators on this issue.

Under the terms of the agreement, the Senate next week will consider legislation to provide compensation for veterans suffering from three diseases associated with agent orange exposure and to help resolve the scientific questions about the health effects of veterans' exposure to agent orange or other herbicides.

I am pleased that these issues, both important and deserving of immediate consideration, can be taken up so quickly by the Senate.

I believe the situation more than justifies my statement on January 14 that the provisions in S. 1 related to agent orange by themselves were not impediments to the timely passage of the retroactive cost-of-living adjustment and that the agent orange provisions, if interested Senators worked in good faith to reach agreement on the consideration of both issues, could be worked out.

I am pleased that Senator ALAN CRANSTON, the distinguished chairman of the Veterans' Affairs Committee, has been able to work with his counterparts in the House and other interested Senators on both sides of the aisle to reach such an agreement.

Mr. President, since S. 1 was introduced, thousands of American troops have been sent to duty stations in the Persian Gulf and are now engaged in combat there.

We have in the Middle East the best, most modern military hardware and technology. But more important, we have the morale, the spirit and the courage of the American men and women who serve us in the Armed Forces, for it is they who operate the hardware and understand the technology.

The fact is that every military organization, indeed every human society, rises or falls on human will, human resolve, human courage. If our Nation fails to meet its obligation to those who served in times of crisis in the past, it will be unable to summon those needed to serve in times of crisis in the future.

As my colleagues know, the U.S. Government provides compensation benefits to service-disabled veterans and to the survivors of veterans who die as a result of their service-connected injuries in order to compensate them for the loss of earning capacity due to those disabilities.

The monthly compensation paid to each veteran is based on the degree of disability and the number of dependents. In the case of a veteran's survivors, compensation benefits are based on the veteran's service rank.

The compensation and DIC programs are not indexed to any inflation factor as are most other Federal entitlement programs. The 2.1 million disabled veterans and the 323,000 survivors depend on Congress to enact annual cost-of-living adjustments or COLA's to prevent the erosion of their benefits.

So, in addition to providing a measure of economic relief and justice to those who have served before, enactment of this legislation should also serve as a signal to those who serve in today's Armed Forces today that this country recognizes and will meet its most fundamental and sacred obligation to them now and in years to come.

In closing, Mr. President, I am pleased that swift enactment of a veterans compensation and DIC COLA bill has been accomplished by this Senate. I congratulate all of my colleagues who have worked together to that end, including the distinguished managers of the bill, Senator DECONCINI and Senator SPECTER, and as I noted earlier, Senator DASCHLE, who has played a leading role in the enactment of this and the agent orange legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I thank the majority leader for his swift action on H.R. 3, the Veterans Cost of Living Adjustment Act of 1991.

As the ranking Democratic member on the Committee on Veterans' Affairs I am very pleased and honored to respond to the request from the distinguished chairman, Senator CRANSTON, to serve as floor manager for this important legislation with my good friend and colleague from Pennsylvania, Senator SPECTER.

As many of my colleagues know, Senator CRANSTON is unable to be here because of health. We wish him a speedy recovery and certainly wish him well. He certainly would have liked to have been here today for the final action on this bill to provide the fiscal year 1991 cost-of-living increase in compensation paid by the Department of Veterans Affairs to service-disabled veterans and to survivors of veterans who died from service-connected disabilities.

Senator CRANSTON has been a leader in this for the 14½ years that I have been in this body, and he has been a constant, persistent advocate of all veterans benefits, but he has worked so long and hard on this. In the waning days of the last Congress it was a big disappointment to him, that he shared with me before he went to California. So I know he will be especially pleased today, having recently undergone surgery, to see this pass.

As my colleagues will recall, we sought in vain last year to have the Senate consider a bill providing a veterans cost-of-living increase. Unfortunately there was objection to the agent orange and certain other provisions of the bill that also were included in the COLA bill, then S. 2100. In the waning days of the 101st Congress the Senate consideration of S. 2100 was blocked. I am sorry to say, as a result, veterans did not receive their annual COLA's. It is most regrettable that these deserving individuals, alone among all the Federal beneficiaries, have not yet received a fiscal year 1991 COLA.

I am advised today that once this bill is passed it will be several months before that COLA is retroactively delivered and provided to the veterans. So, quite frankly, I think we owe them an apology. Maybe it was justifiable under somebody's standards, understanding how this place operates, but I think it indeed was very unfortunate.

Since our last attempt in October to pass S. 2100, America has once again called upon our men and women in uniform to answer the call to arms. At great risk to themselves and great hardship to their families, they have once again selflessly answered the call.

Given their dedication to duty, we in Congress must do ours. We must lay aside the differences between individual Members and between the respective Houses of Congress in order to meet the urgent needs of our veterans who served in prior conflicts and to restore the confidence of those veterans of tomorrow who are serving right now, today.

I trust we are about to cure the last Congress' omission by passing and sending to the President immediately H.R. 3, which the House passed earlier, yesterday, by a unanimous rollcall vote. This measure will provide a cost-of-living increase retroactive to January 1, 1991. The increase, 5.4 percent, is the same as the Social Security COLA for fiscal year 1991.

H.R. 3 is identical to title I of Senate bill 1, the proposed Veterans Compensation Cost-of-Living Increase and Agent Orange Act of 1991. Senate bill 1 was introduced by the distinguished majority leader who is a member of the Veterans' Committee.

As the majority leader made clear in introducing S. 1 in his statement today which contained the COLA and agent orange provisions from last session's omnibus veterans legislation, S. 2100, the swift enactment of both the fiscal

year 1991 veterans COLA and the agent orange legislation are among the Senate's highest priorities.

I think it is very rewarding that the Democrats and Republicans have no dispute in this body about enacting both of these pieces of legislation at this time.

While there was little question that a COLA increase would have been passed early this Congress, the battle in the Persian Gulf certainly has caused each of us to reflect upon the importance of this legislation to those who have served and are serving in combat today.

The dispute between the House and the Senate on the agent orange legislation was quickly resolved and 2 days after the commencement of hostilities an historic agreement was reached on this important legislation dealing with agent orange.

Substantially identical bills containing the provisions of the proposed Agent Orange Act of 1991 were introduced in both Houses of Congress. S. 238 was introduced in the Senate by the distinguished Senator from South Dakota [Mr. DASCHLE], who has worked tirelessly on this issue even before he came to the Senate 4 years ago with the dedication that I have not seen too many times around here. I am sure he is pleased that finally he has been able to put this together, both in the House and the Senate.

On the House side, H.R. 556 was introduced by the chairman of the Veterans' Committee, SONNY MONTGOMERY.

Both bills enjoy strong bipartisan support, including support from those who opposed the agent orange legislation that we sought to enact last year.

Senator DASCHLE and the committee members and the staff members have worked hard to build a coalition here that 3 months ago, quite frankly, I did not think was possible. Thanks to the leadership of Senator MITCHELL, Senator CRANSTON, and many others, disabled veterans and their survivors finally will receive the COLA they so greatly deserve. And Vietnam-era veterans and their families can now be confident Congress will soon act favorably on the agent orange measure as well.

On behalf of this Senator and Chairman CRANSTON, I know, I would like to congratulate and thank the chairman of the House committee, SONNY MONTGOMERY, the ranking minority member of the Senate and House committee, Senator SPECTER now—it was Senator MURKOWSKI—and Representative BOB STUMP, the ranking minority Member in the House, who played critical roles in obtaining enactment of this legislation.

I also want to pay special tribute to the majority and minority staff of both the Senate and House Committees on Veterans' Affairs, especially Ed Scott who is here, the majority staff director, and Bill Brew, general counsel from the Senate, and also Tim Gearan of my staff who has done a great deal of work on veterans' legislation over the years. I, frankly, do not think we would be here if these staff people were not able to put together the necessary compromise agreement and bring the parties together, because there were some very, very strong feelings in the waning days of the last Congress.

Mr. President, as I mentioned, Senator CRANSTON deserves a great deal of credit for this legislation as he does any veterans legislation that goes through this body. I only wish he was here.

I ask in his absence that a statement by him be printed in the RECORD at this point.

The statement of Mr. CRANSTON follows:

H.R. 3—THE VETERANS' COMPENSATION AMENDMENTS OF 1991

• Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I am very pleased that the Senate finally is about to take final action on a bill to provide a fiscal year 1991 cost-of-living increase in compensation paid by the Department of Veterans Affairs to service-disabled veterans and to survivors of veterans who died from a service-connected disability.

Mr. President, prior to the end of the last Congress, I took every step I could to have the Senate consider a bill, S. 2100, providing the fiscal year 1991 compensation COLA. Unfortunately, as my colleagues will recall, objection was raised on the other side of the aisle because of opposition to the agent orange and certain other provisions of that bill. Because of those objections, Senate consideration of S. 2100 was precluded. As a consequence, veterans and survivors of veterans did not receive their COLA for fiscal year 1991. I was profoundly disappointed that these deserving individuals did not receive a fiscal year 1991 COLA, unlike all other Federal beneficiaries.

Mr. President, I am genuinely pleased that today we will remedy the situation with passage of H.R. 3, which I expect the President to sign immediately. The House passed this bill yesterday by a unanimous vote and the Senate, I am sure, will do the same today. This measure will provide a 5.4-percent COLA effective retroactively to January 1, 1991, thereby ensuring that veterans and survivors will get the full increase they would have received if we had enacted S. 2100 last year. The percentage increase is the same as the Social Security COLA for fiscal year 1991, consistent with our prior practice.

Mr. President, H.R. 3 is identical to title I of S. 1, the proposed Veterans' Compensation Cost-of-Living Increase and Agent Orange Act of 1991. I was an original cosponsor of S. 1, which was introduced by the distinguished majority leader, Mr. MITCHELL, who is a member of our committee. Using S. 1 for this veterans legislation represented recognition of the extremely high priority Senator MITCHELL and I and others attached to quick enactment of both the fiscal year 1991 COLA and agent orange legislation at the outset of this Congress.

As I indicated in my January 17 statement on the introduction of S. 238, the proposed Agent Orange Act of 1991, I am very pleased that we finally have reached an historic agreement on agent orange legislation. At the same time that Senator DASCHLE introduced S. 238 in the Senate, House Veterans' Affairs Committee Chairman MONTGOMERY introduced a substantively identical bill, H.R. 556, in the House. Both bills have the support of those who opposed the agent orange legislation that we sought to enact last year. Thus, I am certain this measure will be enacted very soon. In fact, yesterday the majority leader received unanimous consent to take up S. 238 at any time following consultation with the minority leader and announced his intention to bring that bill up next week. I understand that House action on the counterpart measure, H.R. 556, also is being planned for early next week.

I congratulate and thank House Committee on Veterans' Affairs Chairman SONNY MONTGOMERY, and the ranking minority members of the Senate and House committees, Senator MURKOWSKI and Representative BOB STUMP, as well as the chairman, Mr. APPLEGATE, and the outgoing ranking minority member, Mr. MCEWEN, of the House Committee's Subcommittee on Compensation, Pension, and Insurance, who all have played critical roles in obtaining enactment of this extremely important measure.

I also thank our committee's ranking Democratic member, Senator DECONCINI, for managing this bill in my absence. With the excellent help of his staff members who assist on veterans' issues, especially Mary Hawkins and Tim Gearan, Senator DECONCINI consistently has been a very strong and effective advocate for our Nation's veterans over the years.

I also would like to express my gratitude for their fine work on this legislation to the House committee's majority staff members, John Brizzi, Pat Ryan, and Mack Fleming, and minority staff members, Kingston Smith and Carl Commenator, and to the Senate committee's minority staff, Todd Mullins and Alan Ptak, and, for all their help to me on this measure, majority staff members Kim Morin, Michael Cogan, Bill Brew, and Ed Scott.

Mr. President, I want to take special note of the efforts of Chris Yoder, who left our committee's minority staff earlier this month. Chris served as a professional staff member on the Re-

publican side, responsible for benefits legislation and oversight, for 6 years. He was a very talented, dedicated worker here, and I know I speak for all committee members and staff in wishing him well in his new position at the Department of Veterans Affairs.

Mr. President, I urge all my colleagues to support this important legislation.●

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I am pleased to participate in the consideration of this important legislation as the first of my duties as ranking Republican on the Senate Veterans' Affairs Committee. I extend my congratulations to my colleague, Senator MURKOWSKI, who has assumed the vice chairmanship of the Intelligence Committee. It is a pleasure to be working with the distinguished Senator from Arizona, Senator DECONCINI. I associate myself with his remarks in support and praise for the staff and others who have worked on this important legislation.

The reasons it is especially pleasing to me to have this as the first matter on which I am working as ranking Republican is the first veteran whom I ever knew was a disabled war veteran from World War I, my father, Harry Specter. As a disabled veteran, he was the recipient of disability payments which, as I recall as a young child, was all that kept the wolf from the door when I was growing up in Wichita, KS.

My father was a man who came to the United States at the age of 18 from the Ukraine in Russia before there was a Soviet Union. He was honored to serve his country in World War I. He served with the lofty rank of buck private. He fought in the Argonne Forest. He was severely wounded and carried shrapnel in his legs until his dying day. In that capacity, as a disabled war veteran, he did receive a check.

I remember as a youngster the trauma which gripped the country and this city on the veterans bonus march. I know how important it is for disabled veterans to be able to receive the compensation which is due to them.

It certainly is an anomaly and a very regrettable fact that of all those Federal beneficiaries who received cost-of-living adjustments in 1991, the one group omitted were the disabled veterans. If you could have picked any group less deserving to be omitted, it would have been the disabled veterans. Because of the way that the Congress of the United States works when there is a controversy on a piece of legislation, and an included item was benefits to the disabled veterans, they have been severely disadvantaged. So I think it is entirely fitting and proper that an early order of business is to correct this item.

Considering my position as ranking Republican, I have prepared legislation myself which was introduced on the first day that legislation could be introduced, January 14. My bill number was S. 41. I did not receive as low a bill number as the distinguished majority leader, who had it marked as S. 1.

On preliminary calls, there were some 38 cosponsors who immediately signed on to S. 41. I am reasonably confident that this will be a unanimous vote.

I ask unanimous consent at the conclusion of my remarks that a list of the original cosponsors of S. 41, my legislation, identical to S. 1, also identical to H.R. 3, be printed in the RECORD.

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

(See exhibit 1.)

Mr. SPECTER. Mr. President, I have a few more words on the subject, because a good bit of what I planned to say has already been covered by the distinguished majority leader and the distinguished Senator from Arizona [Mr. DECONCINI].

But I think it is important to focus on our duties in the Congress, in a representative democracy, our duties for American people to treat veterans appropriately. We owe a great deal to the veterans of America.

As I say, that is a very personal thing to me, because of my father's service in World War I. But we still have veterans from World War I, World War II, Korea, Vietnam, and veterans who have served and are entitled to these payments aside from the period of wartime service.

Now we have Desert Storm. As we speak, young Americans, fighting men and women, are risking their lives. It is very important that the U.S. Government treat veterans fairly, both as to those who have served and to those who are serving at the present time.

While the disability payments and the disability COLA may be far from the minds of those who are subjecting themselves to that kind of disability in the Persian Gulf today, this is a factor that ought to be taken into account. I am delighted to see this bill receive early attention.

We have a very tight time limit. There are other Senators on the floor who wish to speak. I yield the floor at this point.

EXHIBIT 1

VETERANS COMPENSATION RATES COST-OF-LIVING ADJUSTMENT ACT OF 1991—38 COSPONSORS TO S. 41

Senators Murkowski, Simpson, Thurmond, Jeffords, D'Amato, Warner, McCain, Packwood, Shelby, Kassebaum, Craig, Phil Gramm, Dole, Pressler, Symms, Cohen, Mack, Hollings, Lugar, Cochran, Kasten, Coats, Heinz, Bond, Smith, Durenberger, Hatfield, Nickles, Chafee, Ford, Danforth, Wallop, McConnell, Biden, Roth, Gorton, Grassley, and Lott.

The PRESIDING OFFICER. The Senator from Pennsylvania yields the floor. Who yields time?

Mr. DECONCINI. Mr. President, I yield whatever time the Senator from Nevada wishes.

Mr. BRYAN. Two minutes.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. I thank the Chair, and I thank my distinguished friend and colleague, the Senator from Arizona.

Mr. President, I strongly support veterans' cost-of-living allowances. I am pleased to rise today to support the immediate passage of H.R. 3 to retroactively provide the 1991 cost-of-living allowance for disabled veterans and their survivors.

It was most unfortunate that during the waning days of the 101st Congress actions were not taken to provide these cost-of-living adjustments. Disabled veterans and their families were the only Federal entitlement beneficiaries who did not receive a 1991 cost-of-living adjustment. This marked the first time that Congress failed to approve cost-of-living adjustments for disabled veterans while providing cost-of-living adjustments for other Federal beneficiaries. This was grossly inequitable.

Over 2 million disabled veterans, their surviving spouses and children depend on their disability compensation to live. Delaying their cost-of-living adjustments has caused them unnecessary worry and concern. We need to allay those fears immediately. The immediate passage of H.R. 3 will do just that.

The cost-of-living adjustment delay did force the reaching of an acceptable compromise on the agent orange issue, on which the majority leader and other of my colleagues have commented this morning. I am pleased to be a cosponsor of S. 238, the Agent Orange Act of 1991. The act is a big leap forward to resolving the long-standing issue of agent orange exposure and the compensation issues attendant to it. I am hopeful that my colleagues will also join me in the quick passage of this important act.

The Persian Gulf war amplifies the necessity of our immediate passage of the 1991 disability cost-of-living adjustment. When our military service personnel are asked to serve, they answer the call willingly and with distinction. When our veterans need assistance, Congress likewise must answer their call. Immediate passage of H.R. 3 will assure disabled veterans that Congress can, indeed, respond and answer.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI. I yield the floor to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. DASCHLE. Mr. President, let me commend the distinguished Senator from Arizona for his excellent statement.

Without reiterating all of those to whom we owe thanks this morning for the fact that we are here, let me endorse the distinguished Senator's list of those who deserve commendation for their efforts to pass this COLA legislation. Certainly without their support, especially that of the majority leader and the distinguished chairman of the Veterans' Affairs Committee, we could not be here this morning.

Another group that ought to be mentioned is certainly the staff for their incredible effort the last couple of months in resolving our differences and bringing us to this point. I share the sentiment expressed so well by the distinguished Senator from Arizona.

I will have much more to say about S. 238, my agent orange legislation, next week. In the limited time that I have today, I would prefer to limit my remarks to H.R. 3.

Mr. President, I rise in strong support of H.R. 3, a bill to provide a 5.4-percent cost-of-living adjustment, retroactive to January 1, 1990, to both disabled veterans and dependents of veterans who die of service-connected disabilities. It is only appropriate that this bill be the first bill sent to the President in the 102d Congress.

Today we are rectifying, at least in part, an unfortunate situation that was created last October when the Senate was prevented from considering S. 2100, the Veterans Benefits and Health Care Amendments of 1990. S. 2100 contained this 5.4-percent COLA—the same COLA that Social Security recipients, military retirees, and all other Federal beneficiaries received.

But that is behind us. The fact is, we are considering a new cost-of-living adjustment bill today.

I have said on this floor time and again that we owe those veterans and those who are currently serving—our soldiers, the men and women serving in the Persian Gulf, as others have served in past efforts—we owe them, every bit of support that we as a Congress can provide. And that support must come both during and after their service.

Last Monday, I was pleased to join Senator MITCHELL, the majority leader; Senator CRANSTON, chairman of the Senate Veterans' Affairs Committee; Senator KERRY, and several other Senators in introducing legislation that would also provide a 5.4-percent COLA for service-disabled veterans and their survivors.

The fact that we are considering the COLA bill today, during the first week of regular legislative business, reflects the importance all of us place on the commitment the United States owes the men and women who serve this country in the Armed Forces. The fact that the majority leader's first bill in the 102d Congress, S. 1, is the COLA bill reflects the strength of that commitment.

While I am pleased that we are considering this bill today, I am also saddened by the realization that our failure last year to act on S. 2100, which included this 5.4-percent COLA, caused undue pain and worry to many veterans and their families who depend on their disability checks to meet their basic needs. For many elderly, service-connected veterans in my State, their monthly VA disability check is the only way they can made ends meet.

The COLA is important to many service-connected veterans and their families—not only financially, but because to many veterans it symbolizes our Government's recognition of their service to our Nation.

Over the course of the past few years, veterans have witnessed a slow deterioration of VA services. They have witnessed countless veterans seeking VA health care only to be told that they no longer qualify for VA health care services. They have watched as entire wings of VA hospitals closed simply because the VA did not have enough doctors or nurses to staff additional beds. During the recent budget battle, veterans saw VA programs take more than their fair share of cuts in the deficit reduction measure approved by Congress. For many veterans, congressional failure to enact the COLA in October represented yet another failure of the system to meet veterans' legitimate needs.

Some veterans are even beginning to question our national commitment to the men and women who serve us so courageously in both war and peace. This is a tragic development, especially in light of the national challenge we currently face in the Persian Gulf.

As one veteran told me, "As a disabled Vietnam veteran who saw heavy combat while serving in the Riverene forces in Vietnam, this COLA is very little pay-back for the pain and suffering I have been through as have many other comrades in our ranks. I feel the passage of this most important bill would benefit the disabled veterans not only in a monetary amount, but will reflect that the American people have not forgotten about the service and sacrifices given by the disabled veteran."

I do not believe that our national commitment has waned. The American people and the vast majority in Congress are deeply committed to America's veterans. It is time for us to demonstrate that commitment in a meaningful way.

The first step in that process is to deliver veterans the COLA they deserve as expeditiously as possible. That is why we are here today, and I am pleased that we have finally overcome the obstacles to consideration of this bill.

The second step is to deal honestly and fully with the outstanding issues related to past wars. That entails a willingness to resolve the issues of agent orange and posttraumatic stress disorder. That entails a willingness to provide health care to every veteran who was promised that care. That entails a willingness to respond, in a timely way, to all veterans' legitimate needs.

I am pleased to report that an agreement has been reached on agent orange, and that legislation will be considered within the next few days in both the House and the Senate. I am hopeful that we will also be able to move to the other important provisions in S. 2100 in the very near future. But I hope everyone here today realizes that there is still much work to be done to address the real, legitimate, and sometimes immediate needs of our nation's veterans. We cannot become complacent in that regard.

The third step we must make to fulfill our obligations to veterans is to ensure that we provide for our future veterans. Nothing could drive that message home more clearly than the images of the men and women serving us right now in the Middle East. We must be prepared to meet their needs in education and employment. We must be prepared to treat and compensate them for their wounds, whether those wounds are apparent or hidden, physical or psychological. And, although the costs are sometimes high, we must be prepared to pay them, for it is what our veterans have earned.

In addressing veterans' needs, we are now at step one. I ask my colleagues to join me in reaffirming our commitment to our nation's veterans by giving our unanimous approval to this 5.4-percent COLA.

It is equally imperative that we work hard to see that veterans are not denied the other important health care and compensation benefits that were originally included in S. 2100. Passage of this COLA should not be seen as an end, but, rather, a beginning toward rectifying the injustices that have been dealt to our Nation's veterans.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI. Mr. President, I understand the time on this side has almost lapsed. The Senator from Florida has asked for additional time. I ask unanimous consent that 5 additional minutes be granted to this side of the aisle for Senator GRAHAM of Florida.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Florida is recognized.

Mr. GRAHAM. I thank the Chair. I thank the Senator from Arizona [Mr. DECONCINI]. I appreciate his courtesy.

Mr. President, I rise today in strong support of H.R. 3, legislation which will authorize a cost-of-living increase and benefits for service-connected disabled

veterans and certain survivors for the 1991 fiscal year.

This bill is identical to legislation which I introduced on January 14, S. 107, which was cosponsored by Senators MIKULSKI, AKAKA, SHELBY, MACK, LAUTENBERG, and BENTSEN.

Mr. President, I think we all agree that Congress made a serious mistake last year in allowing a deadlock over other issues to stand in the way of authorizing a cost-of-living increase for disabled veterans. We provided a cost-of-living increase for Social Security recipients, for military retirees, for Federal retirees, and for civil servants. All of those were afforded a 5.4-percent increase in benefits. But the 2.2 million service-connected disabled veterans and the over 300,000 families of those service men and women who died in combat were not. This bill will correct that. At a time when we have asked for over 400,000 American men and women to put themselves at risk in the Middle East, we should not forget those who have gone before them in defense of our freedom and our liberty. When the United States does not provide proper compensation for their service, we send the wrong message to today's troops and to those who may be considering careers in the armed services.

Mr. President, this bill is a simple issue of fairness. It is a matter of providing to veterans what they deserve.

Mr. President, over the recess period, in November and December, I met with groups of veterans in two communities in my State, in the Tampa Bay area and later in Pensacola. In those meetings I was struck by the extreme level of patriotism of those men and women who had already served and served at great personal sacrifice.

I was also struck, at the meetings in Tampa and in Pensacola, with the real need for this cost-of-living adjustment. Many of the men and women with whom I met were severely disabled, several in wheelchairs. Still others had lost a limb, had lost all or partial vision. They depend upon this veterans' disability payment to meet their basic needs. Like all other Americans, they have been facing a gradual increase in the cost of living. So denying this cost-of-living increase had real human consequences.

Mr. President, I am pleased today that we are recognizing those human consequences and are rectifying our failure to act last year.

Some have asked, including during the course of the meetings in Tampa and Pensacola, would this increase the Federal deficit. The answer to that question is "no." The issue in this particular debate is one of fulfilling the Nation's moral obligation. We have already dealt with the financial obligation because Congress provided for a cost-of-living increase in the reconciliation bill which we passed last October. Therefore, passage of this legislation will not count as new spending. We have already provided in our Nation's budget for our disabled veterans. We are now completing payment on that obligation.

Mr. President, I have joined the distinguished chairman of the Senate Veterans' Affairs Committee and others in cosponsoring a revised version of the omnibus veterans' benefit bill which this Senate passed last year. I am pleased that agreements have been reached on the agent orange legislation and trust that in the next few days we will enact that important legislation.

Disabled veterans should not pay the price for our inability to reach agreement on other veterans' services. Veterans are not political pawns. They are people. They are real men and women, men and women who have made a contract with their Government to support and defend the United States at great risk. This legislation is necessary for us to live up to our part of that contract.

I commend the majority leader and the chairman of the committee for ensuring early action on this bill and urge my colleagues to join in the passage of H.R. 3.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I ask unanimous consent that Senator RUDMAN be added as an additional cosponsor to the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. DECONCINI. How much time does the Senator from Pennsylvania still have?

The PRESIDING OFFICER. The minority has 17 minutes.

Mr. DECONCINI. And is 10 minutes of that included for Senator SIMPSON?

The PRESIDING OFFICER. Yes.

Mr. DECONCINI. Ten minutes. I thank the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I thank the Chair.

The PRESIDING OFFICER. Who yields time to the Senator?

Mr. SPECTER. I yield to the distinguished Senator from Alaska, former ranking Republican on the committee, as much time as he requires within the time available.

Mr. MURKOWSKI. Mr. President, I thank the Chair and I thank my colleague, the junior Senator from Pennsylvania. Let me take this opportunity to extend to him a welcome as the ranking minority member of the Veterans' Committee in the Senate. As ranking member on that committee for the last 4 years, I look forward to working with the Senator from Pennsylvania as he assumes that position. The Senator from Alaska has taken the vice chairmanship of the Intelligence Committee, but I still look forward to working on the important needs of our veterans.

I rise today in support of H.R. 3, legislation which would provide a 5.4-percent cost-of-living adjustment for the 2.2 million veterans who receive disability compensation for service-connected disabilities and to the 340,000 survivors who receive dependency and indemnity compensation.

Mr. President, this bill provides a 5.4-percent COLA for our veterans and would be retroactive to January of 1991.

Further, Mr. President, this legislation represents unfinished business for this body. Last year, Congress did not pass a veterans' COLA bill. I believe this was extremely unfortunate since America's service-connected disabled veterans have as high a priority on the Nation's resources as any group or any cause.

Last year the COLA bill ran aground as a consequence of attempts to take advantage, in the opinion of the Senator from Alaska, of its priority by using it as a vehicle to carry controversial and unrelated measures. America's disabled veterans were the victims unfortunately of this effort.

I ask that we delay no longer providing service-connected disabled veterans and their dependents the cost-of-living adjustment. We now have a chance to undo last year's confusion and political posturing that confounded well-intentioned efforts to pass a COLA for disabled veterans and their dependents.

My colleagues may be interested to know that last night I received a statement from the Office of Management and Budget which stated the administration's strong support for this legislation. The administration further noted that the cost of the COLA—which is estimated to be $412 million—is included in the budget baseline and is, therefore, not subject to the pay-as-you-go provision in the Budget Reconciliation Act.

Once again, I would like to commend my colleagues in the House for approving H.R. 3 yesterday. Specifically, I wish to applaud the fine efforts of Mr. MONTGOMERY and Mr. STUMP.

I urge prompt Senate approval of H.R. 3, a COLA bill with no extraneous provisions attached. I thank my colleagues who are working toward that end.

Mr. MURKOWSKI. Mr. President, I wish to acknowledge the outstanding work of Chris Yoder who recently left the staff of the Veterans' Affairs Committee. Chris served as a professional staff member for the Republican staff for over 5 years. His knowledge of veterans' benefits is extraordinary. He was a valued member of my staff.

Chris is now working in the Office of Congressional Affairs of the Department of Veterans Affairs.

I thank Chris for his loyalty, professionalism, and honesty. I wish him the best of luck in his new endeavors.

I yield the floor.

Mr. DECONCINI. Mr. President, I wonder if the Senator from Pennsylvania would yield me the time that they are not going to use on their side.

Mr. SPECTER. Mr. President, I would be glad to do that.

Mr. DECONCINI. On behalf of Chairman CRANSTON, myself, and others on this side of the aisle, I want to join with Senator MURKOWSKI in taking special notice of the efforts of Chris Yoder, who left our committee's minority staff earlier this month.

Chris served as a professional staff member on the Republican side with responsibilities for benefits legislation and oversight for 6 years.

He served our country with distinction in Vietnam, and has been a very talented and dedicated worker here in the Senate Veterans' Committee.

I know I speak for all committee members and staffers in wishing him well in his new position at the Department of Veterans Affairs.

Mr. GRASSLEY. Mr. President, I am very pleased that the Senate has made its first item of regular legislative business the consideration of a 5.4-percent cost-of-living increase, retroactive to January 1, 1991, for disabled veterans. As an indication of my support for providing this COLA, I have cosponsored COLA bills introduced by Senators SPECTER, DOMENICI, and MCCAIN.

This action is long overdue. The delay in its provision has been a hardship for many of the approximately 2.5 million disabled veterans and their survivors nationally who will receive this COLA. Many Iowa veterans have written to me to tell me that the COLA will be of great help in their individual circumstances.

It is also the case that COLA's were provided for Federal pension programs—Social Security and Federal retirement, for example—and the veterans' COLA's should have been provided on schedule.

It is very difficult to explain to deserving Iowa veterans why the Congress failed to provide this COLA on schedule. They were rightfully distressed that we failed to untangle the legislative snarl which arose last year when we tried to move this legislation.

I am thankful that this year, the parties to the dispute which held up this legislation last year were able to agree on the issues on which they disagreed so that we could move forward on both the COLA and on the agent orange legislation which was involved in last year's dispute.

I know that Iowa disabled veterans will be thankful that we have finally moved on this COLA adjustment.

Mr. PRESSLER. Mr. President, I urge the passage of H.R. 3, which will provide a retroactive 5.4-percent cost-of-living adjustment for disabled American veterans and spouses and children of veterans who died of service-related injuries. This legislation will have the same effect as S. 41, of which I am an original cosponsor.

The 101st Congress adjourned last October without approving a COLA for disabled veterans and their survivors. This modest benefit was denied to over 2.5 million Americans because of congressional inaction. This was the first time Congress has failed to grant a COLA increase for disabled American veterans while providing COLA adjustments for other Federal beneficiaries. We need to ensure that this will be the last time that happens.

Our veterans and their survivors should expect Congress to provide the benefits they justly deserve. Under H.R. 3, the 5.4-percent COLA disabled veterans will receive is the same percentage increase as Federal and military and Social Security recipients received on January 1, 1991. The increase for veterans will be retroactive to January 1, 1991. I urge my colleagues to restore this benefit through quick passage of this vital legislation.

Mr. THURMOND. Mr. President, I rise today in support of H.R. 3, the disabled veterans cost-of-living adjustment for 1991. This measure provides for a 5.4-percent increase in benefits to veterans with service-connected disabilities and their survivors which is retroactive to January 1, 1991. Of all the people in this great Nation, I cannot imagine any group more deserving of our support than our disabled veterans.

I have stated many times that the highest obligation of American citizenship is to defend this country in its time of need, and that this grateful Nation should provide for those who are disabled as a result of service to their country. We must never forget this obligation.

Accordingly, the House of Representatives has acted on this matter and the Senate must act promptly to ensure that our disabled veterans are provided with the benefits they so justly deserve. I urge my colleagues to support this important measure.

Mr. DURENBERGER. Mr. President, I am pleased to be a cosponsor of this extremely important piece of legislation. This bill will raise the Government assistance to disabled veterans and the survivors of veterans who have died from service-related disabilities.

The bill provides full compensation on cost-of-living adjustments for qualifying veterans and survivors. This COLA is necessary and well-deserved.

Mr. President, it is important for us to note that disabled veterans and their survivors were the only recipients of Federal entitlement programs who did not receive a COLA increase last year. I support Congress' prompt action here today to correct this inequity.

Mr. President, veterans and their families have earned our appreciation, our thanks, and our enduring gratitude for their service to this country. They have all made sacrifices on our behalf, and for that, we are eternally grateful.

The people of the United States have a responsibility to live up to our end of the bargain. The brave men and women who have served in our Armed Forces and suffered disabling injuries or wounds have earned the support that this bill provides.

And we must also look to our men and women currently serving in Desert Storm. This bill not only responds to those who have previously served, but also looks forward to those who are now serving the United States. We are very proud of them, and deeply thankful for their commitment and service to this country.

When we pass this legislation, we not only fulfill our end of the deal with current veterans, but we send a clear and unmistakable message of support to the men and women now in Desert Storm: You are appreciated; you are loved; you have earned our gratitude; and we will take care of you when you return.

This is a great country Mr. President. And we owe much of that greatness to the veterans of the U.S. Armed Services who have put themselves unselfishly in harm's way, and often paid a high price for doing so.

I am proud to have had a part in this legislation. Our veterans have earned it.

I thank the Chair and yield the floor.

Mr. AKAKA. Mr. President, I rise in strong support of H.R. 3, the Veterans Compensation Amendments Act of 1991, passed unanimously by the House yesterday. The measure will provide service-connected disabled veterans and their survivors with a 5.4-percent cost-of-living increase in their rates of compensation for this year. H.R. 3 makes payment of COLA's retroactive to January 1, thus ensuring that no disabled veteran will bear the cost in inflation.

Mr. President, veterans in my State—and throughout the Nation—are well aware that Congress failed to pass a disability compensation COLA bill prior to adjournment last year. This created an anomalous situation in which every other class of Federal annuitant—including Social Security and VA pension recipients—now receive 1991 COLA's with the exception of disabled veterans. This lamentable state of affairs exists as a result of last year's legislative impasse in which the compensation COLA was effectively held hostage by those who objected to legislation that would have codified and extended agent orange-related benefits.

I am glad to inform Hawaii veterans that both the disability COLA and an agent orange bill should be enacted this session. As I understand the legislative situation, the Senate will adopt the pending, clean COLA bill today, and, at a later date, perhaps a early as next week, debate and adopt compromise legislation on agent orange recently introduced in both Houses by Senator TOM DASCHLE and Representative SONNY MONTGOMERY.

Mr. President, the gulf conflict reminds us once again of our duty to care for our Nation's veterans. Therefore, adoption of this COLA measure could not have come at a more appropriate moment. For, unless we are very, very fortunate, many American soldiers are certain to be disabled in the war against Iraq. Passage of this bill will send a strong message to our men and women in the field that their Government supports their efforts and will continue to care for "he who has borne the battle."

In closing, I wish to commend all involved in working out this grand compromise, including the chairmen and ranking minority members of the House and Senate Veterans' Affairs Committee as well as Representative LANE EVANS, Senator DASCHLE, and Senator JOHN KERRY, who have carried the ball on agent orange for so many years. That agreement could be reached on such a controversial matter is a tribute to their leadership on this issue.

Thank you, Mr. President. I yield the floor.

Mr. HOLLINGS. Mr. President, I rise as a cosponsor of the veterans disability COLA bill. Since August the drums of war have beat with rising clamor, reminding the Congress and all Americans that our daily freedoms and the lifelong rights with which we are blessed in this country exist not only because of great leaders, great political thinkers, and a freedom-loving people at home, but also because great sacrifices have been made by soldiers at our most perilous moments. Unfortunately, this insistent clamor, rising like the ghost of Hamlet's father to remind him of his debts to the past, was seemingly drowned out by the din of political debate at the closing of the last Congress. Veterans did not deserve this cold shoulder, and today's troops must be assured that Congress will be more attentive when they return home. Thus, while I regret congressional inaction last October, I applaud the speed with which the Veterans' Committee and the leadership have brought this measure before us in this Congress. I have always supported COLA's for disabled veterans, and am pleased to vote to sustain our present veterans and to reassure those of the future.

Mr. CHAFEE. Mr. President, I rise to voice my support for two measures before the Senate regarding disabled veterans, namely the Disabled Veterans Cost-of-Living Adjustment [COLA] Act and the Agent Orange Act of 1991.

The COLA bill addresses a critical piece of unfinished business from the last session of Congress, the matter of a COLA for veterans and their dependents or survivors receiving disability compensation. Disabled veterans were the only individuals traditionally assured of a COLA for whom none was appropriated for this year. Adoption of this legislation will provide those eligible with a 5.4-percent COLA, an amount equal to that received in 1991 by Federal and military retirees and Social Security beneficiaries, retroactive to January 1, 1991.

I am pleased to be a cosponsor of the Senate version of H.R. 3, authored by the Senator from Pennsylvania [Mr. SPECTER]. Thanks in part to Senator SPECTER'S work, the COLA issue has been disentangled from more contentious matters facing the Department of Veterans Affairs and made a priority item in the Congress. With the adoption of COLA legislation, we can lay to rest the unfairness imposed upon our disabled veterans and their families, whose service to this country has not been nor will ever be forgotten.

Disabled veterans have paid a dear price in their service to our country. We owe it to those who live with the cost of freedom every day to approve this COLA in a timely way. We must also assure those who are being asked to face hostile fire today that, if they are disabled, their needs will not be neglected.

The same principle holds true for those Vietnam veterans disabled as a result of their exposure to agent orange. Agent orange, a herbicide used during the Vietnam conflict to defoliate large stretches of forest, is already recognized as a cause of soft-tissue sarcoma, non-Hodgkins lymphoma, and chlorance, and is suspected to be the source of several other diseases suffered by veterans exposed to it. Except for those veterans diagnosed with those first three conditions, troops exposed to agent orange and other herbicides used in Vietnam are not eligible for disability compensation, because the connection between exposure and afflictions has not been established.

For several years, I have worked to address this problem, and this year I have once again cosponsored legislation. S. 238, the Agent Orange Act of 1991, is, I believe, the long-sought-for compromise putting in place a procedure for establishing service connection for various diseases presumed to be linked to agent orange.

This bill has a number of strengths, a couple of which deserve special mention. The first is that the studies establishing links between agent orange and diseases suffered by veterans exposed to agent orange and other herbicides will be conducted by an objective group, the National Academy of Sciences. This independent research will then be placed in the hands of the Secretary for Veterans Affairs, who will be in position to evaluate the level of compensation that is appropriate. This formula—reliable information in the hands of a decisionmaker whose concern for those affected has been demonstrated in the past—is in my opinion the best means to tackle the agent orange issue.

I urge my colleagues to join in support of these measures, both appropriate and long overdue.

Mr. PACKWOOD. Mr. President, I am delighted we are proceeding expeditiously to the veterans' COLA bill that will provide a 5.4-percent cost-of-living increase to our disabled veterans, retroactive to January 1, 1991. As an original cosponsor of the Senate bill, I am particularly pleased that the House yesterday quickly passed the identical companion measure, H.R. 3, and that the Senate will follow suit today.

It was grossly unfair to our disabled veterans that their COLA got derailed in the closing days of the 101st Congress. And it is only fitting that this be the first bill signed into law in this 102d Congress. Many of the 2.5 million disabled veterans and their survivors call Oregon their home. Throughout Oregon, there are thousands of deserving veterans who would be shortchanged were Congress not to pass this legislation. I strongly urge my colleagues to support this fiscally responsible measure. It provides for a routine cost-of-living adjustment, an adjustment which is automatic for other entitlement programs.

There are many issues confronting American veterans that the Congress must address. However, none warrants such immediate attention as the COLA issue, particularly in light of the economic difficulties facing so many Americans during this period. For those who have risked life and limb to defend our country and its ideals, we must have compassion and understanding. Our American veterans deserve no less.

Mr. President, I am confident that this measure will pass and the President will sign it quickly. To the 2.5 million disabled veterans, rest assured that your concerns have been heard and will be addressed without further delay. I hope we will not again be witness to such inequity. The inability of the 101st Congress to pass this legislation created substantial hardship for these veterans and their dependents. These men and women should not have to wait any longer for the compensation they have earned.

Mr. KOHL. Mr. President, I rise in support of H.R. 3, the so-called clean COLA bill. It will provide a retroactive cost-of-living adjustment of 5.4 percent in rates of service-connected disability compensation and in dependency and

indemnity compensation for disabled veterans and their survivors. The House has already approved this measure, and with quick action by the Senate and the President, the March check veterans receive should contain the increases for January and February as well.

This is good news for veterans, although it would have been preferable to have passed this COLA last year. As is well known by now, a dispute regarding agent orange prevented consideration of a comprehensive veterans benefits package in the closing days of the last session. I am pleased that we now have an agreement to consider agent orange legislation. I am proud to be an original cosponsor of that compromise, S. 238, as well as a sponsor of S. 1, a Senate bill which would provide the COLA. By reaching an agreement on these two issues, we have found a proper way to continue to support the needs of veterans from all eras.

Mr. President, in light of the war we currently find ourselves in, I think it is very beneficial for this Congress and this country to be considering veterans legislation. It is at times like this, when we are asking young men and women to put their lives and bodies on the line for their country, that the need for topnotch medical care in DVA medical centers becomes most apparent. In times of peace, we are often reminded by our veterans of the commitment we have made to them. And I have tried to live up to that commitment during the 2 years I have served in the Senate by supporting strong funding for veterans health care. But in times of wars, Mr. President, the whole country wakes up to the debt we owe our warriors. I hope that through this conflict we will forge in our communities, in our Congress, and in our country, a stronger commitment to supporting veterans health care. Veterans who have been injured while fighting on our behalf deserve the best medical care possible, and it is our job to see that they get it. The COLA we consider today, and the agent orange bill we will consider next week, should only be a small sign of our continuing efforts on veteran's behalf.

Mr. ADAMS. Mr. President, we are all aware of the tremendous sacrifices being made by U.S. troops now serving in the Persian Gulf. As a veteran myself, I know that these sacrifices are predicated on an unshakeable belief in the values we hold dear as a Nation. I am proud of our troops, and particularly proud of the thousands of men and women from Washington State presently serving in the gulf. At this time, we stand united in prayer for their safety and well being.

It is appropriate, therefore, as we enter the second week of war with Iraq, that Congress work quickly to pass a cost-of-living-allowance increase for America's veterans disabled during our Nation's past wars. Our disabled veterans made incredible sacrifices for their country, and their sacrifices should be rewarded with continued care and appropriate compensation. Of equal importance, as we face the possibility of a whole new generation of veterans, we must send an unequivocal message to our troops in the Persian Gulf: That they have our full support, both during and after the present conflict, and that their efforts on behalf of the United States will not be forgotten. Our message to Washington State's veterans, over 594,000 men and women who served our country in past wars, must be equally strong.

I am proud to support H.R. 3, the Veterans Compensation Amendments. H.R. 3 will increase the monthly rates of disability compensation, and dependency and indemnity compensation, by 5.4 percent, a full COLA increase. This increase will be made retroactive to January 1, 1991, when all other Federal COLA increases went into effect. Nothing less is deserved by our veterans. Quick consideration and passage of this bill is incumbent on all of us here today.

The failure to pass a COLA increase for disabled veterans at the end of the 101st Congress, the result of controversy over agent orange provisions contained in the COLA bill, was a grave injustice. In order to avoid similar entanglements this year, and further delay the COLA increase, I have become an original cosponsor of S. 238, the Agent Orange Act of 1991. This bill will establish a presumption of service-connection for diseases found to be linked to agent orange exposure by the Secretary of Veterans Affairs, and gives the Secretary greater authority to determine such links. A clean bill for agent orange compensation and the COLA increase will ensure quick action on both issues. As we must act quickly to pass the COLA increase, we must also act to close this final and often divisive issue for Vietnam-era veterans.

We owe a tremendous debt to our Nation's veterans, past, present and future. I do not take that debt lightly. I have always believed that we should provide the highest quality health care to our Nation's veterans, and will make every effort to see that these bills are considered and passed as quickly as possible. Our Nation's veterans must be certain of our unwaivering support.

Mr. SARBANES. Mr. President, I want to outline my reasons for strongly supporting swift passage of H.R. 3, legislation providing a 5.4 percent cost-of-living adjustment [COLA] to disabled veterans, as well as to the families of those who died from service-related injuries. This legislation would provide the COLA retroactively.

The 101st Congress failed to pass the COLA due to an impasse over an agent orange provision. Now that the agent orange elements are being addressed separately, Congress must act quickly to provide our 2.5 million disabled veterans and their survivors with the cost-of-living adjustment. These veterans who served our Nation with honor have earned the respect of the American people and deserve this increase in their benefits.

The House of Representatives passed this legislation earlier this week, and now it is incumbent upon the Senate to acknowledge our country's obligation to its veterans. I praise Senator CRANSTON's efforts toward this end and join him in urging expeditious passage of this bill to rectify the inaction of the 101st Congress.

We must send an unequivocal message of support for those who have fought for our Nation. At a moment when so many young Americans risk injury and death in the gulf, now is the time to demonstrate our support for all Americans who serve in time of war. This legislation is a just and overdue tribute to their sacrifice and service.

Mr. PRYOR. Mr. President, I am happy to see that Congress is finally moving to set straight the injustice we committed last fall by not passing legislation to give disabled veterans a 5.4-percent adjustment in their compensation to reflect the effect of inflation.

The Senate Democratic leadership tried to pass the adjustment last fall but was thwarted by Members concerned about the inclusion of certain provisions in the bill. Due to these problems, veterans were the only group not to receive an inflation adjustment last year. This was wrong and it must be righted.

I cannot think of a group of more deserving Americans than those who fought for America and in the process lost some aspect of their health. The war in the Persian Gulf should serve to remind all of us of the incredible sacrifice our disabled veterans have made and of the value of the contribution they made to preserve our democratic ideals and freedom.

My colleagues who worked out the compromise that allows the so-called COLA legislation to go through Congress without any other legislation attached to it are to be commended. Legislation to deal with important issues relating to agent orange will be addressed separately.

Mr. President, one last issue. The disabled veterans cost-of-living adjustment is one of the few inflation adjustments that is not indexed—or adjusted automatically to reflect changes in the economy. I would like to ask my colleagues whether it is not time to consider making the disabled veterans adjustment automatic also.

Mr. President, Congress owes our veterans community an apology for not completing action on the COLA last fall. Let us hope that this untenable situation never again occurs.

Finally, let me honor all of our current veterans and honor all the men and women serving our Nation today who will be veterans in the future.

Mr. BYRD. Mr. President, as we consider H.R. 3, the Veterans' Compensation Cost-of-Living Adjustment Act, I am reminded of words uttered by Theodore Roosevelt more than 87 years ago in a Fourth of July speech at Springfield, IL. In 1903, Theodore Roosevelt stated,

A man who is good enough to shed blood for his country is good enough to be given a square deal afterwards.

I believe strongly in those words, and I have endeavored throughout my service in Congress to ensure that our Nation's veterans receive a "square deal."

Our veterans are men and women who have given much of their selves, their lives, and their families' lives to our country. Our Nation's veterans served in two world wars, the Korean war, Vietnam, Grenada, Beirut, Panama, and most recently the war in the Persian Gulf. These men and women may be disabled, traumatized, or ill in our veterans' hospitals.

Therefore, I am pleased that one of the first pieces of legislation that the 102d Congress sends to the President will be the measure before us. I am pleased that we are finally passing legislation that would give our veterans and their families a well-deserved 5.4-percent cost-of-living adjustment, retroactive to January 1 of this year. I support our Nation's veterans, and I support H.R. 3. The war in the Persian Gulf makes us especially aware of the risks and dangers that these men and women have taken in our behalf.

Mr. SASSER. Mr. President, I am pleased that after several months of waiting our veterans are going to receive their much deserved cost-of-living allowances, and that their COLA payments will be retroactive to January 1. It is most unfortunate that retirement benefits to such an elite group of our Nation's retirees have been delayed when all other retirees received their increases on time.

As part of our Armed Forces, Mr. President, our veterans were called on to put themselves in great peril, often making life-threatening sacrifices for the safety and betterment of our Nation. It is the least we can do, now that they are retired, to see that they receive the fair and just benefits they deserve.

Even as I speak, hundreds of thousands of our Nation's young men and women are serving their country in the Middle East. Let us be mindful that the veterans whose COLA's we are authorizing today have also served the United States of America in foreign lands from Europe to Asia to Africa, Vietnam, and Korea, as well as Grenada and Panama.

And let us send a signal to our troops serving today that when the fighting is over and they reach retirement age, they will be cared for by an appreciative nation that remembers and honors their dedication and sacrifice.

I know that a lot of hard work and compromise has gone into this bill on both sides of the aisle. My compliments to Chairman CRANSTON and his staff who have worked so diligently to get this final version before us.

The Senate Budget Committee has examined the budgetary implications of H.R. 3 both for compliance with Budget Act points of order and for any implications under the new pay-as-you-go procedures enacted in last year's reconciliation bill.

We concur with the cost estimate prepared by the Congressional Budget Office on January 4, 1991, which states that, "Since the compensation cost-of-living allowance was included in the existing baseline, this bill would have no cost relative to that baseline." The spending increases from the COLA are also included in the baseline which will be used for measuring changes relative to the new pay-as-you-go procedures. Therefore, there are no Budget Act points of order against this bill and the bill has no pay-as-you-go implications.

Mr. SYMMS. Mr. President, I rise in support of this legislation, which restores a 5.4-percent COLA to this country's veterans.

As we all know, the veterans were singled out last year as the only group who did not receive a COLA in the 1991 budget. I am pleased that this situation is being resolved at the earliest time in the 102d Congress, making it retroactive to January 1991.

I have always favored equal treatment among retirees, be they disabled veterans, military retirees, or Social Security recipients. To give a COLA to any one group and not the others is completely unacceptable, and I would like to extend my apology to the veterans as should the entire 101st Congress. They have served this country well and certainly deserve just treatment. To have neglected them during the budget process was intolerable.

I have heard from many veterans in my State of Idaho on this issue, as I am sure many Senators have, and I appreciate their comments and frankness. I believe all of us in Congress need a little nudge now and then to keep us on our toes and remind us of the sacrifices made by so many to protect the freedoms we civilians often take for granted. I am extremely proud of this country and the men and women who have served it in the past and those who serve it now.

I am pleased my colleagues have agreed to early passage of the COLA legislation so we may rectify this unfortunate situation as soon as possible.

Mr. MACK. Mr. President, I rise today as an original cosponsor of the "Veterans Compensation Rates Cost-of-Living Adjustment Act of 1991." This important legislation will provide a 5.4 percent cost-of-living adjustment [COLA], retroactive to January 1, 1991, for beneficiaries of service-connected disability compensation and the rates for dependency indemnity compensation [DIC] for the survivors of certain disabled veterans.

It is outrageous that this legislation is even necessary. It was the failure of Congress alone to do its job and approve the 1991 COLA for the more than 2 million service-connected disabled American veterans and DIC beneficiaries before the 101st Congress adjourned. My home State of Florida has the second highest population of individuals receiving these important benefits as well as more than 100 percent service-connected disabled veterans than any other State. These Florida veterans are stunned, and feel genuinely betrayed that Congress bungled the provision of the 1991 COLA. I certainly cannot blame them for these feelings. Indeed, they are justified.

As my colleagues will no doubt recall, the COLA for this purpose was included in a comprehensive veterans medical benefits bill which included provisions associated with housing, employment, salaries of VA physicians, and service-connected designation for exposure to agent orange and ionizing radiation. When this bill came to the floor, there was considerable political maneuvering which resulted in a stalemate, and the bill was not even voted upon.

Attempts were made to bring about a vote on a clean 1991 COLA bill for service-connected disabled veterans and DIC beneficiaries. While I would rather have completed action on the entire bill prior to adjournment, I supported efforts to vote on a clean COLA. But those efforts did not work, and Congress did not vote. Now is the time for Congress to correct the injustice it created by failing to approve this COLA during the closing days of the 101st Congress.

If Congress can grant a 5.4-percent COLA to Federal and other retirees, it surely should have been able to take the same action on behalf of the brave men and women who have risked their lives in the name of freedom. I wholeheartedly urge my colleagues to join me in correcting this injustice by cosponsoring this important legislative initiative.

Mr. SIMPSON. Mr. President, I rise today to voice my strong support for this bill, which would remedy a problem which arose in the waning hours of the last Congress—when Congress was unable to pass a bill to provide a cost-of-living adjustment for disabled veterans and their survivors.

I have cosponsored the Senate versions of this legislation, and I am pleased that we are able to take this up at this early date.

There has been considerable misunderstanding and posturing about how

it came to pass that the veterans did not get their cost-of-living adjustment, and I have even heard my name bandied about as the culprit, but I want to dispel that false impression one more time.

Last year, a bill to provide a cost-of-living adjustment for veterans never came up in the Senate. There were two reasons for that.

The first is that the bill which contained that COLA also contained a number of highly objectionable, wholly unnecessary, costly, and burdensome provisions. Efforts were underway to come to an accommodation and compromise on those provisions when time ran out.

The problem was that the veterans COLA bill has come to be regarded as a run-away freight train to which all sorts of other matters—some worthwhile and others less so—could be attached.

The time had come to stop the old fast freight and to unload some of its excess baggage.

That is exactly what happened, but the haulers of all that excess baggage preferred to let disabled veterans do without their COLA than to let the bill proceed with only slightly modified content.

The second reason that no COLA bill was ever considered in the Senate was because of action taken in the House.

My fine and longtime friend, Chairman SONNY MONTGOMERY made an earnest effort to bring up a bill that would have contained the cost-of-living adjustment and would have extended eligibility for VA medical care to veterans exposed to agent orange.

I had pledged my support for such a bill, but the Senate never had an opportunity to vote on it, because a certain single Congressman rose to object to any consideration of that measure.

Therefore, Mr. President, I am very pleased that we are taking up this measure at this time.

In the intervening months, agreement has been reached—and it is far from perfect, but it is a good compromise—on one of the more contentious issues which hindered our consideration of the veterans' COLA last year, and that is in regard to further agent orange legislation.

I am pleased to see that we are able to take up this bill to provide a COLA for veterans without having to consider any other extraneous matters.

I would also note, Mr. President, that I have introduced a bill, together with the Senator from Kansas [Mr. DOLE] and Senators SPECTER, MURKOWSKI, and eight of our colleagues, that would eliminate this kind of baffling uncertainty for veterans in the future.

My legislation would provide that disabled veterans and their survivors would receive a cost-of-living adjustment annually—automatically—based on the increase in the Consumer Price Index, without Congress having to pass this form of legislation each year.

This bill is very necessary at this time in order to remedy the unfortunate situation of veterans not having received a cost-of-living adjustment and that unfortunate result was not occasioned by the Senator from Wyoming. You could check on a certain House Member for any future information.

The bill I have introduced is necessary to see that veterans never again have to face that troubling indecision again.

Mr. DODD. Mr. President, these days when the whole Nation is united in support of our service men and women who are giving such an outstanding account of themselves in the gulf conflict, it is particularly timely and justified for Congress to take up legislation that provide for our soldiers on active duty, as well as for veterans of previous wars.

One shortcoming of our session that ended last October was the failure to pass important pieces of legislation that provide for veterans' care and for the updating of the tax and civil relief provisions of existing law for active duty personnel. The two bills before us, H.R. 3 and 4, rectify some of these omissions.

H.R. 3 makes up for our failure to raise the cost-of-living adjustment rate during last fall's session. This raise is now retroactive to January 1, and applies to veterans disability compensation, and dependency and indemnity compensation.

Mr. President, the last thing one of our service men or women should worry about while engaged in combat in the gulf area is tax obligations left behind. H.R. 4 provides extensive deferrals to ease the burden on our service personnel and their families at home.

Mr. President, our prompt passage of these two bills is just a small token of our Nation's well-founded gratitude to our soldiers, sailors, and veterans.

Mr. MCCONNELL. Mr. President, today the Senate is considering important legislation to many of our Nation's veterans and their families—the Veterans Compensation Amendments of 1991.

When Congress failed to provide disabled veterans and their dependents with a COLA prior to the adjournment of the 101st Congress, we were failing to provide for some of our most deserving citizens. I think I speak for all my colleagues in expressing regret for any difficulty or anxiety we may have caused these veterans and their families.

The bill before us is testament of the Senate's commitment to our vets. By voting today, we send a clear message to these citizens—we remember your sacrifices and unwavering dedication to the United States.

As we follow developments in Operation Desert Storm, let us not forget, Mr. President, that many of America's veterans have also seen the horror of combat. They are familiar with the fear and uncertainty of war. Let us never forget the sacrifices they have made for our great Nation.

Mr. JEFFORDS. Mr. President, I am pleased that one of the first orders of business in the 102d Congress will be a 5.4-percent cost-of-living adjustment for disabled veterans. Disabled veterans in Vermont, and across the country, were justifiably upset that a veterans COLA was not passed in the final days of the 101st Congress.

Veterans from all corners of Vermont have contacted me to express their outrage that, in a year when other Federal pensioners received COLA's, veterans did not. I want to work to maintain their confidence in Government and show that we are responsive to their needs.

In the past few months we have sent thousands of men and women to the Persian Gulf to carry out Operation Desert Shield. At this time, their wellbeing is uncertain and we can only guess when these troops will be brought home. We cannot imagine the fears and anxieties that run through their minds at this time. It is crucial that Congress demonstrate to these troops that their sacrifices will not be forgotten by this country in the future. This can best be done by caring for the veterans that have already given of themselves in the previous wars and conflicts that the United States has entered into.

I am hopeful that passage of this retroactive COLA will be the first of many initiatives in the 102d Congress recognizing the service of our veterans. In the months ahead, this body must address such issues as agent orange compensation for veterans who were exposed to the defoliant while in Vietnam and measures strengthening the VA health care system, ensuring prompt and sound health care for our veterans.

Mr. President, I strongly support the passage of this retroactive cost-of-living adjustment for disabled veterans.

Mr. SPECTER. Mr. President, how much time remains?

The PRESIDING OFFICER. Senator SIMPSON has 8 minutes.

Mr. SPECTER. Mr. President, there is no one else on this side of the aisle who wishes to speak. I contacted those Senators who had time reserved. It will not be necessary to use floor time. If there is no further business, I see that in just a moment or two we will pass the 45 minutes allotted. If all time can be yielded back, and conclude consideration of this bill, that would be the disposition of this Senator.

Mr. DECONCINI. The Senator from Arizona yields back any time, if there is any time left.

Mr. SPECTER. I yield the remainder of the time on this side of the aisle.

The PRESIDING OFFICER. All time is yielded back.

EXTENSION OF TIME FOR PERFORMING CERTAIN ACTS UNDER THE INTERNAL REVENUE CODE FOR DESERT SHIELD PERSONNEL

The PRESIDING OFFICER. The clerk will report H.R. 4.

The assistant legislative clerk read as follows:

A bill (H.R. 4) to extend the time for performing certain acts under the internal revenue laws for individuals performing services as part of the Desert Shield Operation.

The PRESIDING OFFICER. There will be 25 minutes for debate on H.R. 4, equally divided and controlled in the usual form; 22½ minutes for the majority and 22½ minutes for the minority.

The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, it is my understanding that the time is under the allocation of the chairman of the Finance Committee managing the piece of legislation and the minority member of the Finance Committee.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, yesterday the Finance Committee unanimously approved a bill to address a concern that may well be on the minds of many of our troops in the Middle East, and a concern that ought to be the last thing that they have to worry about at such a difficult time; that is, the question of taxes.

Tax time is coming up; April 15 is not long off. Can you imagine a fellow sitting there in the sand bunker trying to remember what the interest payments are on his home mortgage? Trying to think about what the medical bills were that his family has incurred in the past tax year? Can you imagine reservists who are small businessmen thinking about their businesses and the tax returns they would have to file? You know there is no friendly H&R Block in any of those bunkers. Being able to address their own bookkeepers or talk to their tax accountants becomes an extremely difficult thing to do.

So what you have here is a piece of legislation where Senator DOLE, the Republican leader, and Senator MITCHELL, the majority leader, have taken a very strong interest, along with some 70 Senators, who have cosponsored this piece of legislation.

Yesterday, we took it before the Finance Committee and passed it unanimously, without an amendment. Yes, I know that there are Members who would like to add an amendment for this and an amendment for that, but we were able to get unanimous consent that no amendments would be applicable. The majority leader has set up a task force to address the myriad concerns such as bankruptcy questions, small business tax filings, and other concerns of our troops involved in Operation Desert Shield and Operation Desert Storm. That task force that will be headed by Senator GLENN. I am very pleased to be a member of the task force will be particularly interested in those issues that come within the jurisdiction of the Finance Committee and I'll do everything I can to expedite their consideration. But what you are seeing before you now is a bill approved by the Finance Committee in a bipartisan way with cooperation between the Congress and administration. On the other side of the Capitol, Chairman ROSTENKOWSKI, Speaker FOLEY, and majority and minority Members, have also played key rolls in crafting this bill and helping to move it forward quickly.

The bill that is under consideration before the Senate is a House bill that is identical to the bill reported yesterday by the Finance Committee. Let me now describe that bill and urge the Members of this Chamber to approve the bill, without delay, without lengthy discussion, so that we can send the bill to the President for signature without having to go to conference or back to the House for another vote.

With our troops in the Persian Gulf facing significant hardship and great danger, the least we can do in this Congress is recognize the major disruption, the extraordinary disruption, and make sure that we do not add to their concerns and their problems regarding whether they take the short form or the long form, or whether they properly fill out their tax returns. This is one example of determination to unite behind our troops.

In the last week, war has broken out in the Persian Gulf. I have been able to work with the distinguished Members on both sides of the aisle, and in both bodies, in a bipartisan effort to modify Senator DOLE's original proposal to take account of the outbreak of that war. We have made every effort to see that new rules make sense in the light of what we have done for veterans of previous conflicts. We have tried to address the most immediate concerns of the Armed Forces personnel in the gulf area relating to their taxes and to provide for the most generous of treatments possible within the time limits and the budgetary constraints that we are facing.

So the bill before you is a result of that kind of effort. Here is what the current law does, insofar as Armed Forces are concerned: It says that if they are in a combat zone, we are going to suspend their tax obligations, including any time they are hospitalized abroad. What we have done in this one is to say, also, if they are hospitalized in this country, and they are then given the same suspension. Current law provides for a broad exemption for all of the combat pay of enlisted personnel and up to $500 a month for officers in combat. And in all candor, I think there are some inequities in limiting officers to $500 per month. But I think those will have to be addressed in the overall composite bill which we will be bringing out of the task force.

I am sure that the Senators are aware that the President issued his Executive order designating the Persian Gulf area and the surrounding waters as a combat area as of January 17. That triggered the deferral and exclusion rules that I have been describing. But what we have done in this specific piece of legislation is to go back to August 2 to include Desert Shield, in addition to Desert Storm, in qualifying military personnel in the Persian Gulf for the deferral in the filing of their tax returns and meeting other tax deadlines.

There is another specific provision that is different from current law which has been added to this bill. In case you have a tax refund, on April 15, the interest will begin to accrue to the taxpayer even if the tax return claiming the refund is filed later.

Finally, the bill continues to provide deferral relief, as I said, for those hospitalized in the United States, as well as in foreign countries.

I am delighted to say that we have all agreed to hold off on any additional amendments at this time in order that we can expedite this bill and get it through the Senate today and get it on the desk of the President tonight or tomorrow. And then, once again, we will have another opportunity to do what we can to take care of meritorious proposals to benefit our men and women in the gulf.

Mr. President, let me make one more point. I have stated that the bill that we passed through the Finance Committee is identical to the one that came over from the House and in turn is before us now. The reason for reporting a bill out of committee although the House bill will be taken up on the floor is that we have been now able to file a committee report, after consideration in the Finance Committee, that I think will give us important legislative history, which will be helpful in understanding and interpreting the House bill that we consider today.

Mr. President, I urge all Senators to approve this proposal without delay.

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. BENTSEN. 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. BENTSEN. Mr. President, I request that the quorum call time be charged equally to both sides.

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

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

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

Mr. BENTSEN. Mr. President, I allocate to the distinguished Senator from Ohio 4 minutes under the time allotted.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, we have all been amazed to watch on TV the technology involved in the gulf war, the so-called smart weapons. We have been seeing the Tomahawk that goes hundreds and hundreds of miles and hits a pin point. We have been seeing the Patriot missile intercept the incoming ballistic missile with amazing accuracy the first time out, with no adjustment, and doing it with amazing success.

Mr. President, behind all this robotic war are the men and women, the people who are over there, who are in harm's way and who will be more and more in harm's way as the air war continues and as we see it end undoubtedly in a ground conflict on the ground. Some of the high technology has yet to be exhibited, but no one thinks this technology will prevent there being an increase in casualties when the ground war occurs.

It is our men and women in the gulf to whom this legislation is addressed, those people who are over there on the ground, in the air, and afloat wherever they may serve, and we shall play fair with them while they are there.

So I rise to strongly support this bill as legislation which provides well deserved benefits to our men and women serving in Desert Shield, and in Desert Storm, the aftermath of Desert Shield, over in the Persian Gulf area.

I am particularly heartened that this bill includes not only the full 6 months suspension in Federal income tax filing proposed in S. 203 that I introduced on January 14, but it also adds two other important provisions. These two are payment of interest on tax refunds, and the continuation of suspension of the filing deadline for those members who are hospitalized in the United States because of combat wounds.

We hope the people who have to avail themselves of this provision are indeed kept to a bare minimum, but that is probably wishful thinking on our part.

I note that, on January 14, I also introduced S. 199, which provides for exclusion of all Federal income tax for enlisted personnel, and for exclusion of the first $2,000 per month for commissioned officers, of compensation realized while serving in the Persian Gulf. Current law, passed during the Vietnam era, provides for exclusion of all such enlisted compensation from taxes, but exclusion of only the first $500 per month for commissioned officers. I elected to boost the $500 amount up to $2,000 per month in S. 199 in recognition of the effects of inflation and the reduction in buying power of the dollar since the original legislation was passed.

So we will have to address that one later on. I understand the reason that this provision was not included in this legislation, and I certainly look forward to working with Senator BENTSEN and the Finance Committee as they address S. 199 as a separate but closely related issue to the bill we are addressing today.

As the Senator mentioned earlier, we do have a committee that is working on additional matters that we will be putting in legislation. I assure the people over there in the Persian Gulf area we will be addressing the other matters later on.

Mr. President, I compliment Senator BENTSEN and all of the members of the Finance Committee on the expeditious and highly competent way they have marked up and moved the tax filing extension bill to the floor for passage. I have high confidence that Members of the Senate will recognize the validity and time sensitivity of this legislation, and I urge its adoption.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I allocate 5 minutes of my time to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

Mr. KENNEDY. Mr. President, I strongly support this effort to provide relief from some of the tax burdens and tax deadlines as they apply to our forces serving in the Persian Gulf, and I commend the Finance Committee for expediting the action on this legislation.

The exclusion of combat pay from income tax is eminently justified. It is said there is no atheist in the foxholes. There should be no taxpayers, either.

I hope that we will treat this measure as a downpayment on additional relief to come for our service personnel overseas and for their families here at home.

One of our first priorities should be to restore the traditional balance between officers and enlisted personnel with respect to the tax exclusion. The current $500 a month ceiling on the exclusion applicable to combat pay is out of date. The ceiling was set at $200 during the Korean war, and was raised to its current level of $500 as of January 1, 1966, during the Vietnam war. Adjusted for inflation, the level would be $2,100 today.

I am particularly concerned by the hardships caused by the massive callup of Reserves to active duty. Over 160,000 members of the Reserves have been activated since August, when the crisis in the gulf began. This past weekend, President Bush signed an Executive order authorizing an increase in this number of 360,000.

The sudden conversion from civilian to military life is a difficult transition that is creating significant hardships for thousands of families across the country. Inevitably, they face the loneliness of separation. They must deal with the fear of injury or death for their loved ones in the war. We should do all we can to see that these inevitable burdens are not compounded by unnecessary financial and other hardships on the homefront.

A longstanding system of protections for Reserve families is contained in current law. But the last major reserve callup took place 30 years ago during the Berlin crisis, and it is not surprising that many of these protections are now obsolete or less effective than they should be.

Last week, I visited the family support centers at Westover Air Force Base, Fort Devens, and Hanscom Air Force Base, and met with members of a family support group at the Massachusetts Military Reservation on Cape Cod. In those visits it was clear the current system is failing these military families in many serious respects. It is not providing the protections that our reservists need, and it is not offering families the protections they deserve.

In visits to family support centers in Massachusetts, for example, it is clear the current system is failing these military families in many serious respects. It is not providing the protections that our reservists need, and it is not offering families the protections they deserve.

Current law provides a service member's family with protection against eviction or harassment by a landlord. But because this law has not changed in 25 years, that protection is available only if the family's rent is no more than $150 a month. The limit may have provided reasonable protection in 1966, but it provides far too little in 1991. We need to increase the rent ceiling significantly, to provide protection at least comparable to what it has been in the past. Reservists fighting to force Saddam Hussein from Kuwait should not have to wonder whether their families are being forced from their homes in the United States.

Second, we should relieve the burden of education loans and expenses for Reserve families. At the very least, pay-

ment of education loans should be deferred for all soldiers fighting in the gulf. Reservists who have been called to duty in midsemester should have their tuition refunded. Those who have interrupted their lives and their educations to fight for their country should have full relief from these financial burdens.

Third, we must provide more effective health care options for Reserve families. Many of these families have already shifted from their private sector health plans to CHAMPUS the military health-care system.

Under current law, they have the option to continue on their employer-based health plan, if they agree to pay the premiums or if their employer volunteers to carry them in the plan, as some employers are doing, and I commend these employers for this contribution they are making.

While CHAMPUS provides satisfactory coverage for some reserve families, many others would prefer to remain on their employer-provided plan if they can afford to do so, in order to reduce the disruption of this health care.

To avoid this disruption, we should offer reservists the option of retaining their employer-based health plan in lieu of receiving military health care under CHAMPUS. Rather than forcing families or businesses to bear the cost, it is reasonable to ask the Department of Defense to pay the premiums on the reservist's employer-based plan, since the Department will be spared the cost of the CHAMPUS coverage.

This reform will insulate reserve families from unnecessary medical risks, the inevitable disruption of care, and the frequent administrative headaches of shifting health coverage for what all of us hope will be a very brief period of military service.

Fourth, we need to improve the quality of family support services for reservists.

Many reserve families are unable to obtain access to military child care centers, counseling, and other support services because they live too far from a military base, or because the available services are already over-subscribed.

To relieve these problems, we need to make family support services more accessible to reserve families. Needed reforms should include vouchers for child care expenses and increased funding for school counseling.

We should also supplement military family support services by grants to appropriate nonprofit organizations, such as the Red Cross. And we should provide effective outreach programs to guarantee that families have access to food stamps and other benefits for which they are eligible.

The sudden addition of 360,000 reservists to the 2,000,000 active duty personnel is placing a heavy burden on existing military family support services. The reforms that I have suggested will help accommodate this new demand by expanding both the availability and the geographic coverage of these services.

Fifth, we must ensure that when reservists complete their active duty service, they are able to return to their civilian lives as easily as possible.

To assure this goal, the Veterans' Reemployment Rights Act, a World War II statute, must be updated to meet the demands of the 1990's. Its coverage should include temporary, as well as full-time, employees. It should require employers to provide reasonable retraining for returning reservists. And it should insist that employers make reasonable accommodations for disabled veterans.

Finally, we must offer some protections to reservists who return to find that their jobs have vanished because of the recession. At a minimum, we should extend health coverage for 60 days after discharge, and provide job and transition assistance to these veterans and their families.

Since the first days of the Republic when the Minuteman began America's fight for independence, we have relied on citizen armies to defend our freedoms and to oppose tryanny. Our national security has always relied on the willingness of American men and women to answer their country's call to arms.

We have an obligation to ensure that the families of these courageous men and women are protected from disruption and hardship to the greatest extent possible. Our Armed Forces fighting in the Persian Gulf should not have to wonder whether their families are adequately cared for at home.

The reforms that I have outlined are only a partial list of the steps that are necessary to meet this important obligation. The private sector clearly has a role to play as well. I am pleased to note, for example, that the American Bar Association is encouraging local bar organizations across the country to make legal services available on a pro bono basis to military families.

Many of us on both sides of the aisle of Congress are committed to achieving these reforms, and we intend to work closely with the Congressional Budget Office and the administration to refine these and other proposals and achieve them in the most cost-effective way.

As we meet with families in our States in the days ahead, we must do all we can to understand their needs and help them deal with the burdens they face. I look forward to working with others in Congress to see that any reforms which require legislative action are enacted as soon as possible.

Mr. President, I ask unanimous consent that a memorandum prepared by the Library of Congress on the issue of taxation of members of the Armed Forces during war time periods may be printed in the RECORD.

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

MEMORANDUM

JANUARY 24, 1991.

To: Honorable Edward M. Kennedy.
From: Louis Alan Talley, Research Analyst in Taxation, Economics Division.
Subject: Taxation of Members of the Armed Forces During Wartime Periods.

This memorandum examines Federal tax treatment of military compensation during wartime. President Bush on January 21 signed Executive Order 1277, which designates the Persian Gulf as a combat zone. This designation is effective as of January 17, 1991, and continues in affect until terminated by the President.

Members of the U.S. Armed Forces generally have the same liability for paying Federal income tax as other residents and citizens of the United States. Their pay, whether earned overseas or within the United States, is fully taxable. However, there are several provisions of the Internal Revenue Code which provide special tax advantages to those that serve in the military, particularly with regard to the determination of "gross income." For example, subsistence allowance and the quarters furnished to commissioned officers, chief warrant officers, or enlisted personnel of the Armed Forces, or amounts received by them as commutation of quarters, are not included in taxable income. In addition, since the enactment of the income tax law in 1918, for those in combat all or portions of military pay have been exempt from taxation during periods of war.

Under present tax law, specific amounts of compensation received in the Armed Forces for any month during any part of which the member served in a combat zone may be excluded from gross income. In the case of enlisted personnel the exclusion applies to the entire compensation for the specified months. For commissioned officers the exclusion applies to $500 a month for service in a combat zone. In both cases, the exclusion applies to prisoners of war and those missing in action. There is no comparable provision under present tax law to provide tax relief for civilian employees of the U.S. Government or contractors serving in a combat zone. However, disability income received by individuals for injuries received as a result of a terrorist attack while the individual was performing services as an employee of the United States outside the United States is excludable from gross income.

BRIEF HISTORICAL OVERVIEW

World War I

The first tax exclusion of military pay was provided by the Revenue Act of 1918 (P.L. 254, 65th Cong.) in response to World War I. That Act provided that salary or compensation up to $3,500 received from the United States by active military or naval personnel be excluded from Federal taxation. This exclusion was repealed by the Revenue Act of 1921 (P.L. 98, 67th Cong.) as of January 1, 1921, so that a member of the armed services was not entitled to the exemptions for salary received between January 1, 1921, and March 3, 1921, the date on which World War I was declared to be at an end.

World War II

It was not until World War II that a tax exemption was provided once again for members of the Armed Forces. Under the Revenue

Act of 1942 (P.L. 753, 77th Cong.) an exclusion was provided only to those persons below the grade of commissioned officer serving in the military or naval forces during the war. The exclusion from gross income was for salary or compensation for active service and could not exceed $250 for a single person. A $300 exclusion was provided to a married person or the head of a family.

In 1948 this provision was substantially liberalized. The Current Tax Payment Act of 1943 (P.L. 68, 78th Cong.) broadened the provision to allow all members of the military or naval forces (enlisted personnel and commissioned officers) of the United States performing active service in such forces during the war (subsequently extended to compensation received prior to January 1, 1949), or a citizen or resident of the United States who was a member of the military or naval forces of any of the other United Nations on active duty, to exclude so much of compensation as did not exceed $1,500 annually from gross income.

The provision was further amended by the Revenue Act of 1945 (P.L. 214, 79th Cong.). Under the amended provision all active services pay received by enlisted personnel (instead of the $1,500 allowable under prior law) after December 31, 1940, until the end of the war was to be excluded from taxable income. The Act also provided refunds for any overpayments of tax on income from active-service pay. The $1,500 exclusion from gross income was continued for commissioned personnel for taxable years after December 31, 1942, and until the war was terminated.

Korean Conflict

With the commencement of the Korean War a Federal tax exclusion for military personnel was once again adopted in the Revenue Act of 1950 (P.L. 814, 81st Cong.). Under that Act specific amounts of compensation received for active service in the Armed Forces for any month during any part of which the member served in a combat zone could be excluded from gross income. The Act provided two definitions: (1) the term "commissioned officer" does not include a commissioned warrant officer; and (2) a "combat zone" is any area which the President by Executive order designates as an area in which the Armed Forces of the United States are or have engaged in combat. In the case of enlisted personnel the exclusion applied to the entire compensation for the specified months. In the case of commissioned officers the exclusion applied to the first $200 a month.

The following year the exemption was modified by the Revenue Act of 1951 (P.L. 183, 82nd cong.). The previous exclusion applied to services performed after June 24, 1950, and prior to January 1, 1952. Under the Revenue Act of 1951 the exclusion was extended for a two-year period such that the new termination date was set at January 1, 1954. The date combat was considered to have commenced was set at June 25, 1950. Additionally, the exemption was extended to include compensation received by members of the Armed Forces while hospitalized as a result of wounds, disease, or injury incurred while serving in a combat zone. The exclusion was again extended by the Technical Changes Act of 1953 (P.L. 287, 83rd Cong.) until January 1, 1955, Combat activities in the Korean War were declared terminated by Executive order effective January 31, 1955.

A related development occurred with the adoption of the Revenue Act of 1951. Under that Act a new section was added to the Internal Revenue Code providing that no income taxes be imposed on a member of the Armed Forces who dies while serving in a combat zone or as a result of wounds, disease, or injury incurred while so serving. As such, the Act provides that no taxes are due the year of the service person's death or any taxable year ending on or after the first day served after June 24, 1950. The section has been amended and extended but remains substantially unchanged and can be found in the current Internal Revenue Code of 1986 as section 692.

Vietnam War

By Executive order the President designated Vietnam and adjacent waters as combat areas effective January 1, 1964. Thus, members of the armed services were eligible for the tax exclusion in the same amounts as during the Korean War under section 112 of the Internal Revenue Code.

A law entitled Armed Forces—Combat Pay Exclusion, Public Law 89-739, was enacted; it raised the amount of the exclusion for commissioned officers from $200 a month to $500 a month for service in a combat zone after December 31, 1965. The primary purpose of this increase was to restore the traditional balance between the combat pay exclusion for commissioned officers and enlisted men (senior noncommissioned officers). House Report No. 2270 stated:

"When these exemptions were last revised—during the Korean conflict—it was intended that the exemption would benefit commissioned and senior noncommissioned officers on an approximately equal basis. However, the seven military pay raises which have been enacted since the exemptions were last revised have upset the intended balance. Currently, some senior noncommissioned officers receive approximately $500 completely exempt from tax.

"This bill would raise the combat pay tax exemption for commissioned officers to $500 per month. Your committee believes that this increase would restore the traditional balance between the combat pay exclusion for commissioned officers and enlisted men. The bill will also remove any possible tax impediment to the acceptance of battlefield commissions by eligible enlisted personnel."

The Treasury Department amended regulations in November of 1970 which extended the combat zone tax benefits to military personnel serving outside Vietnam who (1) provide direct support for military operations in that country or (2) qualify for "hostile fire pay" such as those who served in Cambodia or Laos. Thus, under the amended regulations those members of the Armed Forces received the same income tax exclusion available to personnel in a designated combat zone.

U.S.S. Pueblo

Public Law 91-235, enacted April 24, 1970, provides that members of the crew of the U.S.S. Pueblo who were detained by North Korea are to be treated for purposes of the United States tax laws as if they had served in a presidentially designated combat zone during the period of their detention by North Korea.

Persian Gulf War

Executive Order 1277, signed on January 21, designates the Persian Gulf Area as a combat zone. In accordance with law, enlisted personnel will be exempt from Federal income tax while serving in the combat zone. The exclusion is limited to $500 per month for commissioned officers. Income tax returns by both enlisted and commissioned personnel are not due until 180 days after departure from the war region. During this period all interest and penalties will be waived. In the event of death in the combat zone, tax liability both for the year of death and the prior tax year are waived.

INFLATION ADJUSTMENT

As can be seen from the forgoing legislative history, the periods of exclusion of military pay from Federal taxation have occurred only during actual times of combat. The legislative history also shows a limit has generally been applied in the case of commissioned officers of the armed services.

You have requested that we adjust the $500 per month exclusion available to commissioned officers by use of the Consumer Price Index for All Urban Consumers (CPI-U). The CPI-U is published by the Department of Labor, Bureau of Labor Statistics. The $500 exclusion was provided for income earned after December 31, 1965. To update this exclusion, the CPI-U index numbers for January 1966 and December 1990 were used. If so adjusted, the exclusion would be $2,104 per month.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. 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. McCAIN. Mr. President, I take the floor to support this legislation. It is my understanding that it provides tax relief for Desert Shield personnel, that they will not have to file income tax for 6 months after leaving the theatre of operation; there is no interest or penalty on back taxes; they will also receive interest on tax refunds if hospitalized; and taxes will not be due until 6 months after arrival in the United States.

Mr. President, I have serious concerns about one provision in this bill, and I am glad the distinguished chairman of the Finance Committee is here. That concerns the officers' combat pay as tax exempt only to a level of $500 and enlisted pay is totally exempt—is my understanding of the legislation.

Mr. President, again I am in strong support of this legislation. I am grateful for the efforts of the chairman of the Finance Committee, who knows full well the rigors of combat and the financial sacrifices that have to be made, not only by those individuals, but by their families at home.

But, Mr. President, I would point out that the officers' combat pay exemption has not been adjusted for nearly 20 years of inflation. If we took inflation into consideration, this exemption would be well over $1,000. I also would like to point out that my understanding is that the average enlisted pay is roughly $15,000 a year. Of course that would translate into over $1,000 a month exemption for enlistees.

We clearly expect more of our officers. They are leaders. They have certain benefits that enlisted do not. But in this case I strongly suggest that we need to rapidly make some adjustment in the officers' combat pay exemption.

I understand that under the unanimous-consent agreement no amendments are in order. In fact, I would not have proposed an amendment until I had heard from the distinguished chairman of the Finance Committee who clearly has a deep understanding and commitment on this issue.

I will be glad to yield to the distinguished chairman if he, perhaps, could give us some answer.

The PRESIDING OFFICER. The Chair informs the Senator from Arizona we were treating him as a manager for purposes of managing time on his side. There are 14 minutes left. We will have to charge the question and answer period to the time of the Senator.

The manager of the bill is recognized to answer the question.

Mr. BENTSEN. Mr. President, I will try to keep it as short as I can. The distinguished Senator from Arizona is absolutely right. There is no question about that. I cited that problem in my opening comments. Senator GLENN was also referring to it.

The reason we could not address the problem in this bill is that if you get over the $50 million mark, then you get into a procedural question in the House that would have delayed the consideration of this bill.

The point the Senator has raised we are very aware of. It will be addressed as quickly as possible. But in trying to get this bill through, expedited, and put it in force, the issue was not addressed in this particular piece of legislation.

It is my full intention as chairman of the Finance Committee to address it early on and, whatever we do, to make it retroactive to take care of that kind of situation.

I know the chairman of the task force created by the majority leader, Senator GLENN of Ohio has great concern over the same issue. We will be working expeditiously on it, and I appreciate my colleague commenting on it.

Mr. MCCAIN. I would make one further comment. Having served in the House for 4 years, I have seen from time to time that rule vitiated by the House for certainly less compelling reasons. But I respect the decision of the chairman and his commitment to address this issue as soon as possible. That is certainly sufficient to me. He has always been a man of his word.

I repeat, the chairman of the committee clearly appreciates the hardships that are being endured by officers as well as enlisted. I appreciate his commitment, but I will say again, people all over America, wives, dependents, family members, will be watching very carefully in hopes we will redress this inequity as rapidly as possible.

I thank the chairman of the committee for bringing this legislation through in such rapid fashion. I know we will pass this immediately, and it will send another signal to the men and women in this combat zone, participating in Desert Shield, that we fully support them in every possible way.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. DIXON. Mr. President, I ask unanimous consent to suspend the present order of business to permit me to proceed as in morning business for 10 minutes for the purpose of introduction of several bills.

The PRESIDING OFFICER. Without objection, it is so ordered. The distinguished Senator from Illinois is recognized for 10 minutes.

Mr. DIXON. I thank the Chair.

(The remarks of Mr. DIXON pertaining to the introduction of S. 261, S. 262, and S. 263 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

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

Mr. DOLE. Mr. President, first of all I would like to thank the distinguished chairman of the Finance Committee and the distinguished majority leader for bringing this legislation to the Senate floor so promptly. Now that Desert Shield has become Desert Storm, it is even more important that we amend section 7508 of the Tax Code so that our Government does not profit from the inability of these men and women to file timely tax returns.

President Bush's designation of the Persian Gulf theater as a combat zone automatically extends the tax filing deadline and suspends the accrual of any tax interest and penalties for Desert Storm personnel until 6 months after the end of their combat service. However, men and women who served in Desert Shield before it became Desert Storm may not qualify for this relief.

Moreover, if the service man or woman is owed a refund, as is the case for as many as 70 percent of our Desert Storm troops, section 7508 does not provide for any interest until a return is actually filed. Thus, if a return is delayed because of the rigors of Desert Storm combat, the Government has the use of the soldier's money interest free. Clearly, this is not appropriate.

The legislation which I introduced last week and which is before us today provides for interest on refunds paid to Desert Shield or Desert Storm personnel and their spouses as of April 15, if their returns are filed within a 180-day grace period after their tour of duty ends.

Finally, this relief is extended to soldiers hospitalized within the United States as a result of their service in the Persian Gulf, with a maximum grace period of 5 years.

This legislation is plain common sense. Our men and women in the Saudi desert have more important things to worry about than compiling records, meeting paperwork deadlines, or being penalized by the country they are serving.

Mr. President, this legislation will send an important signal of support to our soldiers and their families. I am pleased that it will be enacted quickly.

Mr. GORTON. Mr. President, first and foremost, I rise today in support of our Armed Forces in the gulf. I suggest to you and my colleagues in the Senate that this vote on extending the tax filing deadlines for our forces in the gulf is an important statement of our support for their efforts.

On January 12, the Congress of the United States expressed its support for the President and the policy he is pursuing in the gulf. The President's policy, which we supported with our votes, is directed at maintaining an emerging world order based on a rule of law where the superior force of a nation will not determine its interactions with its neighbors.

Mr. President, while this measure is less lofty, we can do something very specific for our troops today. By extending the tax filing deadlines, we can take a concrete action which assists our forces and their families. The passage of this act will, in a very personal and positive way, affect each of our troops in the gulf and express our support for their service to our country.

Mr. President, we have disrupted lives, families, and careers with this call to service. The least we can do is show our support. I urge all of my colleagues to support our troops and support this measure.

DESERT STORM TAX LEGISLATION

Mr. MITCHELL. Mr. President, today when this Nation is engaged in armed conflict in the Persian Gulf, all Americans feel a deep sense of obligation and gratitude to the young men and women whose lives are on the line as part of the Desert Storm operation. They face many difficulties and dangers in the days ahead and it is important that they know the American people are fully behind them.

The legislation we consider today is a modest yet important effort to assist them in being secure with the knowledge that their tax obligations are being taken care of.

For personnel who have served in this operation—going back to August 2, with the beginning of Desert Shield—this legislation suspends until 180 days after the leave the operation the time for which tax return information is required to be filed. In addition, it provides for the payment of interest by the Internal Revenue Service on refunds that are owed from the date their return is otherwise required to be filed. Finally, this legislation expands the filing date extensions to personnel who leave the Desert Storm operation but are confined to hospitals in the United States.

I traveled to Saudi Arabia in November and in December and there I met with a great many American service men and women. They were busy preparing for war but they were also thinking about the lives they left behind and one matter of concern that they expressed to us was their obligation to file tax returns by April 15.

The President's Executive order declaring certain areas in the Middle East a combat zone triggers current law rules providing for the suspension of tax filing requirements, similar to those in this legislation.

But other issues remain, including the treatment of personnel prior to the start of hostilities, the payment of interest, and the application of these provisions to personnel transferred to hospitals in the United States.

These are matters which should not be of concern to our service men and women in the Persian Gulf. For that reason, I am pleased the Congress is moving expeditiously to approve this legislation and send it to the President.

DANGER PAY AMENDMENT

Mr. KASTEN. Mr. President, I was going to offer an amendment today which would have recognized the efforts of all troops in the gulf region.

Under current law, imminent danger pay is available only to troops in what the Pentagon calls the area of responsibility, or AOR. For the purposes of this war, the AOR is the Arabian Peninsula and surrounding bodies of water.

I believe this designation is too narrow. There are soldiers potentially in harm's way throughout the Near and Middle East. Specifically, Saddam Hussein threatens our troops in Egypt and Turkey every bit as much as he threatens Kuwait and Saudi Arabia.

My amendment recognizes the danger faced by those service men and women stationed in these countries currently left out of the AOR. I think the amendment should be noncontroversial—and I hope my colleagues will join me in showing our support for these troops. In the light of the danger they face, they really do deserve danger pay.

A couple of weeks ago, I was over in Egypt visiting some of the brave men and women who would be affected by this amendment. For these soldiers, money is not the issue. My amendment would raise their pay by $110 per month—and we all know that these days, $110 cannot buy a week's worth of groceries for a family of four.

So money is not the issue. The issue is whether America will give due respect to members of the Armed Forces who are standing in harm's way.

Some of my colleagues could argue that these men and women are not stationed close to combat operations. This allegation is not true. These soldiers are doing the same job as every air crew in Saudi Arabia—and under the same difficult conditions. They just want to be treated like the rest of the American men and women in the Arabian Peninsula.

Some might also argue that this amendment is not revenue neutral. To this I plead: Guilty.

I don't like to stand here on the Senate floor and support measures that are budget busters. But sometimes we have to step up to the plate and treat serious priorities with the seriousness they deserve.

It is my view that no one in our country right now deserves our help more than the men and women over there in the Persian Gulf theater, and their families back home that have to live with the ordeal of fear and worry on a daily basis.

If you do not believe me about the hardship these people face, let me give you a few phone numbers of people in Wisconsin who have close relatives in Egypt. These relatives are members of the 128th Refueling Group—and they and others like them have not gone away for a weekend exercise. They have gone to war—away from their friends and families. Some of them may never return.

My amendment would have taken a small step toward helping these families cope with this difficult and unexpected challenge.

Yes, this amendment would cost more than $110 when you add up the people and the months. But that cost would not add up to the heartache I have seen these families experience.

Mr. President, I am not going to offer this amendment today. I have already stretched the patience of a few of my colleagues. But let me make myself clear—I will keep irritating people around here until this gets done. It is not much. But it is deserved—and we ought to do it.

Mr. FORD. Mr. President, I commend the Senate for taking action today to pass H.R. 4, legislation to expand the deferral of Federal income tax filing, triggered earlier this week by Executive Order 12744, for our troops involved in Operation Desert Storm. Our brave service men and women are literally putting their lives on the line for us, and the least we can do is recognize the disruption they face in their lives and relieve them of a deadline that they realistically cannot make.

As an original cosponsor of S. 8, I fully support this legislation. However, I feel that this legislation does not go far enough because it fails to recognize the substantial hardship being placed on our reservists who have been activated but are serving outside the Persian Gulf area.

For Federal income tax filing purposes, geographic location does not determine hardship. In fact, for many reservists who are small businessmen, sole proprietors, or health care professionals serving in isolated areas, any deployment is a tremendous hardship. The fact that these men and women are away from their homes and offices, and so may not have ready access to needed tax files, creates the hardship—and that is true whether they are deployed 40, 400, or 4,000 miles away. The Department of Defense estimates that over 100,000 reservists have been activated and are serving outside the Persian Gulf area, at locations throughout the United States and overseas. An additional 60,000 are serving in the Persian Gulf area and will benefit from the action we are taking today.

Many of our reservists were deployed last August, long before they were able to make arrangements for Federal income tax filings for this year. With the President's announcement last week extending the tour of duty for reservists, many will not be returning home until well after the April 15 filing deadline. Although current law allows them to file for an extension, taxes remain due on April 15, and penalties and interest continue to accrue. For those who have faced business losses or downturns due to their deployment, an extension of filing time alone is of limited help.

Our Reserve and National Guard members are a vital part of Operation Desert Storm. Although the danger of their assignments may not be that of our personnel serving in the Persian Gulf, for tax filing purposes, the disruption in their personal and professional lives is the same, and in some cases, probably greater than for those in the Active Forces. At a time when this Nation is calling on reservists to leave their jobs and communities to serve us, we should not be adding the stress of having to make tax filing and payment arrangements by long distance.

I do not have to remind my colleagues how the pressure builds as we approach the Federal tax filing deadline and how most Americans find themselves scrambling to collect receipts and papers and to make arrangements for payment of taxes. And most

Americans, including some of us here, can go home every night and work on it. Our reservists stationed away from home cannot. They deserve the same considerations we are providing here today for our personnel stationed in the Persian Gulf.

I have received letters from both the National Guard Association and the Reserve Officers Association which outline the difficulties our reservists are experiencing as a result of their callup, and I ask that these letters be printed at the end of my remarks. Sadly, problems which started out as only difficulties are rapidly becoming hardships; some Reserve families cannot now maintain such basic necessities of life as food and shelter. Clearly, providing income tax filing relief for all personnel activated in support of Operation Desert Storm would provide needed relief, is only fair, and is the least we can do to show our support for those who are making sacrifices in support of this Nation.

I commend the chairman of the Finance Committee, and the majority and minority leaders for expediting this very important tax relief legislation. I look forward to working with the chairman and the task force on benefits for our military personnel in the upcoming weeks to expand this initiative to recognize the great contribution our reservists are making to Operation Desert Storm.

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

RESERVE OFFICERS ASSOCIATION
OF THE UNITED STATES,
Washington, DC, January 24, 1991.

Hon. WENDELL H. FORD,
U.S. Senate, Washington, DC.

DEAR SENATOR FORD: The Reserve Officers Association greatly appreciates your efforts to provide protection and relief for the many members of the Guard and Reserve who are being activated to support Operation Desert Storm. The Congress has been very supportive of the men and women called upon to serve in the Persian Gulf generally, and of Reservists particularly. I am concerned that Reservists and all members of the Total Force be treated equitably.

The Congress is to be commended for its actions to extend the time for filing income tax returns for members of the military. However, the legislation adopted by the House and the proposed Senate bill appears to provide an extension only for those individuals sent to the Persian Gulf. The legislation would discriminate against approximately 100,000 Reservists who, though not subjected to the dangers and rigors of the Gulf Region, are similarly displaced in overseas and Continental US locations, are separated from their personal and business records, and will face the same difficulties in filing their tax returns. Many of these Reservists will have suffered very real and severe hardships as a result of their being displaced to serve their country in its military and are deserving of the same consideration for tax purposes provided other members of the Total Force called upon to support Desert Storm.

Reservists, those serving in the Persian Gulf and those assigned elsewhere, have been activated, voluntarily and involuntarily, with little or no time allowed to rearrange their lives. While Reservists have, with very few exceptions, responded very willingly, the hardships experienced in their family and personal lives have been significant. Many were initially called up for 90 days, then extended to 180 days, and they may now have to serve for one year. There has been little opportunity to plan and provide order in their lives.

The Reserve Officers Association recognizes that many active personnel have also been displaced by Operation Desert Shield/Storm and some have experienced similar hardships. Because the Association supports equal treatment for all members of the Total Force, it would not withhold support for active-duty personnel who are equally affected, but we are immediately concerned with the failure of this legislation to treat all members of the Guard and Reserve with the same consideration.

Again, thank you for your efforts to recognize the contributions and the hardships of members of the Guard and Reserve who are participating in Operation Desert Storm. I hope my comments will be helpful in your deliberations.

Sincerely,

EVAN L. HULTMAN,
Major General, AUS (Ret.),
Executive Director.

NATIONAL GUARD ASSOCIATION
OF THE UNITED STATES,
Washington, DC, January 24, 1991.

Hon. WENDELL FORD,
U.S. Senate,
Washington, DC.

DEAR SENATOR FORD: The enthusiastic support of the Congress in providing protections for the members of the Armed Forces serving as a result of Operation Desert Shield is commendable and greatly appreciated. One such effort, which the Congress is dealing with in an expeditious fashion, is the extension of time for filing income tax returns.

The bills that are under consideration this week, H.R. 4 and S. 8, appear to have overlooked an important category of personnel, which is of concern to the National Guard Association of the United States. Of the approximately 166,000 National Guard and Reserve personnel activated in support of Desert Shield, only a little over 60,000 are currently in the Persian Gulf. The bill under review does not adequately address the problems of approximately 100,000 members of the Guard and Reserve who have been assigned to duty stations in Europe and the United States to fill the void of active component units being moved into the Gulf region. They are physically relocated, under pressing and restrictive schedules and unable to return home and, in many instances, incurring significant financial difficulties.

Members of the National Guard are proud to be serving their country in this time of crisis. Their commitment to the defense of our nation has routinely required adjustments in their life to accommodate training and readiness requirements. As a resut of the current call to active duty, a large portion of the 166,000 National Guard and Reserve personnel are experiencing financial difficulties. As the length of their duty has been extended from 90 days to one year, those difficulties that were manageable are quickly becoming genuine hardships. Families are facing problems in providing the basic necessities of life such as food and shelter.

An overwhelming majority of these individuals will experience significant difficulties in filing their income tax returns. Everyone fully recognizes the obvious problems for personnel in the Persian Gulf. However, the problems of National Guard members who have not yet deployed the Persian Gulf or have deployed to other areas have inadvertently been overlooked in the crafting of these bills.

Members, once activated, had to quickly reorganize their lives amidst post-mobilization training and unit deployment activities. The military system assisted them in putting their legal affairs in order, however, National Guard members are typical of the American public. Very few would have compiled and organized their income tax documents to such a degree that anyone else could step in and take over the process. Further, those personnel called in August for 90 days had no indication or reason to expect that they would still be on active duty beyond mid-February, much less beyond mid-April.

The family members left behind are having to make monumental adjustments to their life and they are continually faced with the problems of changes in family income and support. The original provisions for extension for members in a combat zone were crafted in the 1950s to address the Korean War. The Desert Shield mobilization by its size, the short amount of time prior to mobilization and deployment, and the uncertainty of the length of the commitment (90 days, then 180 days, and now 365 days) is unparalleled.

Expanding the provisions of the tax filing extension to cover all personnel activated in support of Desert Shield will, in actuality, cause little or no loss of any revenue to the federal government. The individual's tax situation will be unchanged. Even so, the lifting of this burden from families would signal the Nation's support for their sacrifices in support of our national interests.

Sincerely,

LA VERN E. WEBER,
Lieutenant General, NGUS (Ret.),
Executive Director.

Mr. FORD. If my distinguished colleague, the chairman of the Finance Committee, would yield, I would like to raise the issue of tax treatment for Reserve and National Guard personnel associated with Operation Desert Storm with him.

Mr. BENTSEN. I yield to my colleague from Kentucky for that purpose.

Mr. FORD. I thank the Senator. As the chairman knows, I am an original cosponsor of the Senate legislation, S. 8, to provide tax filing relief for our service men and women associated with Operation Desert Storm. I support the legislation before us today, and I commend him and the majority and minority leaders for bringing it before the Senate in an expedited manner.

However, I believe that the bill does not go far enough in recognizing the disruption this operation has had in the lives of those personnel, particularly reservists, who are deployed in areas other than the designated combat zone in the Persian Gulf.

The legislation before us does not extend to these personnel. And yet, their lives have been equally disrupted, and

their ability to timely file Federal income tax forms has been equally impaired.

I would ask the chairman if the committee considered this issue during their deliberations on S. 8, and whether he might be willing to review this issue with any eye toward extending these provisions to our reservists serving outside the Persian Gulf area but supporting Operation Desert Shield nevertheless?

Mr. BENTSEN. I appreciate the Senator raising this issue. He is quite right that this legislation does not extend to personnel activated and serving outside the Persian Gulf area. As the Senator knows, due to the timeliness of the issue, this legislation was placed on a very fast track, and we were operating under procedural and budgetary constraints that made it impossible to include proposals such as the Senator's. The Senator is correct that several additional issues and considerations have come to light which will necessitate further review by the committee. I can assure the Senator, that in the ongoing review of this issue by the committee, his specific concerns will be given full consideration.

Mr. FORD. I appreciate the interest and concern of the Senator. I would add that it would be my hope that the committee could act sooner, rather than later, on this issue, since the April 15 filing deadline will roll around very soon. In the meantime, the majority of our Reserve and National Guard members who have been called up will have that deadline hanging over their heads without the relief provided to similar personnel stationed in the Persian Gulf region. As cochairman of the Senate National Guard Caucus, I have heard from members of the Guard and Reserve who are facing hardships in complying with the April 15 filing deadline. I look forward to working with the chairman in the weeks ahead to resolve this issue. I thank him for his courtesies and commend him again for bringing this legislation to the Senate so quickly.

Mr. LEAHY. Mr. President, I strongly support legislation that provides tax benefits to our men and women in the Persian Gulf. H.R. 4 is similar to legislation that I cosponsored earlier this year.

United States troops are poised to remove the Iraqi Army from Kuwait. The President, as Commander in Chief, has called nearly 500,000 Americans to serve in the gulf. I support these brave men and women and pray for their quick and safe return.

I'm certain the Internal Revenue Service shares our support for these men and women—but they also have rules and regulations that they will relentlessly pursue unless some action is taken by this body.

Congress has already expressed its support for our troops in the Persian Gulf. Now, we must help them battle the IRS.

Needless to say, our troops' full attention should be on Desert Storm, uninterrupted by delinquent tax notices from the IRS, especially with the April 15 deadline rapidly approaching.

This bill will extend the filing deadline for every soldier serving in the gulf to 6 months after their return to the United States. The legislation also grants tax exemptions for all military pay earned by enlisted personnel in the combat zone, with officers receiving a $500 a month exemption.

H.R. 4 also includes a provision to accumulate interest on refunds claimed by servicemen and women after they return to the Untied States and file their tax statements.

Mr. President, this is a bookkeeping entry—but it will relieve additional burdens on our military. I hope we will be doing much more.

I have cosponsored legislation to increase hazardous pay and establish a savings plan for troops in the gulf. I will be urging the President and Congress to support these additional benefits as well in the days to come.

Mr. SYMMS. Mr. President, I want to commend our distinguished Republican leader, BOB DOLE, for acting so quickly in introducing this bill to give some tax relief to our men and women in the Persian Gulf. And I want to commend the majority leader for moving this bill so quickly to a vote in the Senate.

It is very impressive, sometimes, to watch how fast things can move around here given the right motivation.

No one wanted war. President Bush took every reasonable action to avoid war. But, once again, war has been thrust upon us as we, the greatest Nation on Earth, lead the free world toward a better world. And, once again, our Armed Forces have responded to the call with courage and sureness of purpose.

America is justifiably proud of her men and women fighting to free Kuwait from Iraqi domination, and to free the world from Iraqi terrorism. They have done a magnificent job in carrying out the President's policies.

And so it seems entirely appropriate as a reflection of our appreciaton for their sacrifice that we should lighten the tax burden of our men and women serving in the gulf.

The bill we will be voting on exempts from tax the military pay received by the members of our Armed Forces serving in the gulf as of the time their participation in Operation Desert Shield began.

The bill also relieves the pressure of filing tax returns by April 15. It does this by waiving any late filing penalties or interest if their tax returns are filed within 60 days of the end of their Desert Storm service. Consequently, our servicemen and women do not have to worry about fighting the Internal Revenue Service back home when they finish with Saddam Hussein in Iraq.

Finally, for those servicemen and women who file their returns after April 15, and who are owed refunds, the bill allows interest to be paid on the amount of the refund.

These are all excellent provisions and I am happy to be able to support them.

There are a couple of other provisions, however, which I would hope the Senate would consider at a later date. I understand the leadership wants to move this bill quickly, so I will not ask that my amendments be considered at this time. But I would like to take a moment to tell my colleagues of these other provisions so they may consider them and join me in supporting them when the time comes.

The first provision modifies the amount of income that may be excluded from taxable income. Under the bill before us, an enlisted man or woman who qualifies may exempt all of his military pay from tax. An officer, however, may exempt no more than $500 per month. This amount, $500, was set in 1966. As I understand it, the amount was chosen because it was the most that could be paid to an enlisted man or woman, the intent being to treat officers no better and no worse than enlisted personnel.

A lot has changed since 1966. Inflation has driven the price level up and military pay scales have been adjusted accordingly. It is only appropriate, it seems to me, that we raise the officers benefit from the tax exemption so that it's once again on a par with that of enlisted personnel. I am told the leadership is aware of this problem, as is the Office of Management and Budget, and that efforts will be made to resolve it. I hope we are able to do this sooner, rather than later.

The second provision is a problem that arose last year, but it is a problem for reservists and guardsmen yearround, in peace as in war.

Our citizen-soldiers are an integral part of our overall military forces, as the mobilization for Desert Shield and Desert Storm has shown. These men and women are able to play such an important role because they sacrificed their own time, month after month, to train with their units.

In many cases, they had to travel far from home for training and drills. And, of course, there were always costs involved, travel costs, housing costs, meals. Yes, they were paid as soldiers for their time on duty. But we all know that these men and women were motivated by love of country and a sense of duty. I doubt very many found the meager pay of the military to be adequate compensation for the time lost with family and friends at home.

Thanks to a recent IRS ruling, in many cases these families may not be able to deduct from their taxable in-

come those travel costs and the like associated with their military duty. The issue, as I understand it, is whether these costs are part of their regular costs of employment, or whether they are temporary, that is, not associated with their regular employment.

Mr. President, I do not think there is any question but that the men and women in the Reserves and the National Guard shouldn't have to pay tax on their expenses associated with their military duty. Their sacrifice of personal time for meager pay is already enough. We shouldn't ask them to pay tax for the opportunity to serve our country.

The last is a provision that, like those in S. 8, comes up solely as a result of Desert Shield. Many of our citizen-soldiers have turned their private lives upside down to heed the call to arms. In a great many cases, they are now receiving military pay that is only a fraction of what they earned in the private sector.

Recently, I have learned that employers across the country are helping the families of the citizen-soldier employees by continuing them on their payrolls at a rate of pay sufficient, when added to their military pay, to equal their regular private sector pay. In other words, if they get paid $45,000 in their home job, and the military pays $30,000, then the employer is making up the difference by paying $15,000. This just goes to show you what can happen when the American people are behind their troops and behind their President.

And these employers want to do more! They want to be able to contribute to their company profitsharing or section 401(k) savings plans as though their citizen-soldier employees were still at home. They are unable to make these contributions, in many cases, because under the rules of tax-qualified defined contribution plans, contributions cannot exceed 25 percent of employer-paid compensation. So a private employer can't make contributions to a savings plan to the extent the employee is paid by the military.

And so I would hope the Senate would consider at the appropriate time an amendment which would eliminate this technical roadblock to the payment of full benefits for reservists and guardsmen. The patriotism and spirit of these employers is a challenge to us all to find new ways to help.

I will be introducing bills shortly to help resolve these problems. I hope my colleagues will join me in supporting these measures as we support our troops in the field.

Mr. DURENBERGER. Mr. President, I am pleased to rise in strong support of S. 8 which provides tax filing relief for the men and women serving the United States in the Persian Gulf. This body has proclaimed its unwavering support for the members of the Armed Forces and their families during this difficult time. This legislation is a small downpayment on our Nation's debt to these people.

I believe most Americans are well aware of the blessings they enjoy and recognize the obligations associated with these liberties. Through this legislation, we as a Nation recognize our responsibility to the men and women defending our liberty, our security, and our principles.

The men, women, and families of Desert Shield and Desert Storm have many far-reaching needs which governments alone cannot fulfill. Many local support groups have been formed to minister to emotional and human needs resulting from the war in the gulf. While I applaud the invaluable contributions these groups make, they cannot do it alone.

Desert Storm has caused tremendous dislocation for many families and individuals. S. 8 is a small step toward easing the burdens associated with duty in the Persian Gulf. By delaying tax filing obligations and suspending deadlines for settling ongoing disputes, the Congress demonstrates our determination to hold financial disruptions to a minimum. American military personnel and their families should not suffer hardships as soldiers or citizens for their sacrifices.

In light of the service these people have given to the Nation and the world, this legislation represents a very modest accommodation. I wholeheartedly support S. 8 and the tax-filing extension for Desert Shield forces and their spouses.

Mr. THURMOND. Mr. President, I rise today to voice my strong support for Senate Concurrent Resolution 4. This resolution expresses the outrage of the Congress for the unprovoked bombing attacks of Israeli civilians by the Iraqis.

Mr. President, I salute the Israelis for their bravery in the face of this ordeal and commend them for the restraint which they have shown throughout. I implore them to continue to display the same restraint in the future.

Mr. President, I know that all Americans join us in conveying sympathy to the Israelis for all losses sustained by these people.

Saddam Hussein is truly the butcher of Baghdad. He has preyed upon his own countrymen, as well as the citizens of Kuwait, the Israelis, and American prisoners of war.

I hope the Senate will adopt this resolution and show Saddam Hussein how the American people feel about his unwarranted acts.

Mr. President, I rise today to support passage of H.R. 4, which extends the time for filing income taxes for our troops serving in the Persian Gulf.

Specifically, this measure amends current law to provide that all persons serving in the gulf before it was declared a combat zone have 6 months after they leave the Persian Gulf to file their tax returns. This extension is currently provided to troops serving in combat zones.

This bill also provides for the payment of interest on income tax refunds for the period of the filing extension. Lastly, this measure extends the suspension period for the filing of taxes to those service members hospitalized in the United States due to injuries received in the gulf. This suspension period remains in effect for up to 5 years of continuous hospitalization. Currently, the time for filing income taxes is suspended for hospitalization outside the United States.

Passage of this measure is extremely important because it recognizes the great sacrifices made by those brave men and women serving in the Persian Gulf. It will allow them to focus their attention on their military duties at hand rather than their tax matters back home.

We all are proud of those serving in the Persian Gulf and passage of this legislation will express our support. I was pleased to be an original cosponsor of S. 8, the Senate companion bill, and I urge swift passage of this most important measure now before us.

Mr. GRASSLEY. Mr. President, I yield back the remainder of time on this side on the bill the Senate is now on.

Mr. MITCHELL. Mr. President, I yield back the time on the majority side as well.

The PRESIDING OFFICER. All time being yielded back, the order reverts to the leader time, 30 minutes equally divided for each side.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the votes on passage of the resolutions and bills occur in the following order:

First, H.R. 4, the tax benefit for troops in the Persian Gulf bill; second H.R. 3, the veterans compensation COLA bill; third, Senate Concurrent Resolution 6 relating to the Baltics; fourth, Senate Concurrent Resolution 5, relating to prisoners of war; and fifth, Senate Concurrent Resolution 4, relating to Israel; that the votes begin at 12:20 p.m. with the first vote being a

15-minute vote and the succeeding votes 10 minutes each.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I now ask unanimous consent that it be in order to request the yeas and nays en bloc with one show of seconds.

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

Mr. MITCHELL. Mr. President, I now 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.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, it is my understanding that under the previous order time was to be divided between the majority and minority leaders. I will be using a portion of the time for the majority leader. How much time remains for each, the majority and minority leaders?

The PRESIDING OFFICER. The majority leader's time under the previous agreement regarding this period of time has expired. The majority leader has 10 minutes remaining under his original leadership time, and the Republican leader has 15 minutes under the leader time.

Mr. DOMENICI. Mr. President, I have spoken with the Republican leader and sought 5 minutes of his time. So I ask unanimous consent that I be allowed to speak for 5 minutes.

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

CALLING ON SADDAM HUSSEIN TO FULFILL HIS OBLIGATIONS TO PRISONERS OF WAR UNDER THE GENEVA CONVENTION

Mr. DOMENICI. Mr. President, I rise today in support of the concurrent resolution offered by the distinguished majority and minority leaders. This concurrent resolution calls upon Saddam Hussein and the Government of Iraq to fulfill their obligations under the auspices of the Geneva Convention relative to the treatment of prisoners of war.

Mr. President, it is not easy to understand what goes on in this man's head, but it is easy to understand from his latest deplorable actions that he has miscalculated once again. Article 13 of the Geneva Convention clearly states that prisoners of war must at all times be humanely treated. Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation, and against insults and public curiosity.

Saddam Hussein may think that he will be able to vindicate the suffering he has caused his people by parading American, as well as other allied soldiers, across Iraqi television screens. However, I stand today on the floor of the U.S. Senate to caution him that if he thinks that this kind of tactic will have any negative effect on the will of the American people, the soldiers involved in Operation Desert Shield, or the President of the United States to achieve our objectives, he is dead wrong. Mr. President the American people are outraged at this kind of treatment; more resolve will develop and we will hold Saddam Hussein personally responsible for any violation of the Geneva Convention.

Mr. President, the Government of Iraq has threatened to use these prisoners of war as human shields. I would just like to remind Saddam Hussein that article 23 of the Geneva Convention states that "no prisoner of war may at any time be sent to, or detained in areas where he may be exposed to the fire of the combat zone, nor may his presence be used to render certain points or areas immune from military operation."

The President has said that these threats will not deter us from pursuing the military objectives of our strategy, and they will not. But let this serve as a notice to Saddam Hussein that the world is watching very carefully and the nations that signed the Geneva Convention (163) will see that any violations of it are answered for.

I thank the Chair.

TROOPS TAX RELIEF

Mr. DOMENICI. Mr. President, I am pleased to join the President of the United States in providing both moral and material support for United States troops fighting in the Persian Gulf through tax relief measures.

The President has stated that our troops will not go into battle with one hand tied behind their back. By alleviating the burden of taxes on the troops, we are freeing their hands for the most immediate task.

I recently joined with many of my colleagues in cosponsoring S. 8, an effort to legislate tax relief for the troops. I am pleased that this endeavor has been complemented by the Presidential designation of the Persian Gulf area as a combat zone.

I would expect this gesture to be one of many portraying national gratitude to those who battle the barbarism of Saddam Hussein. The remarkable spirit demonstrated by hundreds of thousands of Americans in the gulf deserves no less reward than the finest attention to their needs.

The House unanimously passed H.R. 4 yesterday, the Senate will follow suit today. It will provide our Desert Shield forces with relief from IRS tax filing deadlines during their service in the Persian Gulf and for 180 days thereafter, protecting them from late filing penalties. Additionally, Desert Shield personnel who are owed refunds will receive interest on their money as of April 15, 1991, provided their returns are filed before the grace period closes. Finally, tax relief is extended to soldiers hospitalized in the United States as a result of their service in the Persian Gulf.

The Executive order, designating the Persian Gulf as a combat zone, exempts the Armed Forces enlisted personnel from having to pay income taxes on any of their military pay while serving in the combat zone. For officers, the first $500 a month is tax free. The designation also gives the military in the war zone an additional 180 days to file their income tax returns without penalty.

These provisions send an important signal to our brave soldiers and their families—that the U.S. Government is doing everything in its power to assist and compensate its troops for the sacrifices they are making.

U.S. military strength, dependent on the unified dedication of individuals, has been the indispensable pillar of the free world. Our ranks in the Persian Gulf include America's finest who have, once again, risen to the call for the restoration of human liberties.

With that said, Mr. President, I must also remind my colleagues of my role as ranking minority member on the Budget Committee. This piece of legislation results in a small revenue loss—estimated to be between $5 and $10 million over the next 2 years. There is no revenue or spending offset in the bill. This bill is the first that the Senate has considered in the 102d Congress that is covered under the pay-as-you-go provisions of last year's budget agreement, and the revenue loss, as beneficial as it is, will still be counted when it comes time to determine whether or not there will be a pay-as-you-go sequester. It is my place here to remind my colleagues that unless this is offset somewhere down the road, we could be faced with a small minisequester in entitlements next October.

I am pleased that this will be the first bill sent to the President for his signature in the 102d Congress because it reflects what is first and foremost on our minds—our troops in the Persian Gulf.

THE 1991 VETERANS COMPENSATION COLA

Mr. DOMENICI. Mr. President, I use the remainder of my time to discuss a measure which I consider to be most important.

I introduced as my first measure this year a bill I thought was absolutely necessary; COLA equity, I call it. At the end of the year we had a skirmish here on the floor of the Senate. While we gave everyone entitled to cost-of-

living adjustments their increases, we left out, believe it or not, the veterans of the United States. They were entitled to cost-of-living adjustments, but under the law you have to pass a separate law adding and approving that COLA. Well, unfortunately, because of other contentious issues attached to that COLA bill, the Senate didn't pass the legislation.

So we granted everyone in the United States who has a pension, such as people receiving Social Security, their cost-of-living adjustment but forgot the veterans of the United States who were entitled to the same.

I said to those in my State, and all others who would listen to me, that we would pass this COLA bill and it would probably be the first order of business this year. The Senate leadership and I introduced it as early as we could, and I commend the leadership. They made it part of H.R. 3, which we are voting on today.

That is what we are going to pass today, one of the measures; plain, pure, and simple fairness and equity. This will be the COLA the veterans of the United States are entitled to under the law of the land, and it will be retroactive to January 1, 1991.

I want to say those who might be worried about whether there is money for this increase, there is—we provided for it in the budget agreement and in the summit conference. We allowed for the cost of this bill and it should have been passed last year. I am glad we are going to do it today.

Mr. President, I am pleased that the Senate is devoting this time to discussing some of the issues that are of importance to our Nation's veterans.

At a time like this, when our thoughts and prayers are with the soldiers fighting over in the Persian Gulf, the memory of the sacrifices of those soldiers that have gone before them should not be far behind. When the Congress adjourned last year without approving a cost-of-living adjustment for the veterans, many veterans expressed concern that the Congress had forgotten them.

That is why the first bill I introduced this year was the Veterans Cost-of-Living Adjustment Act of 1991, to help get this matter resolved. As a strong supporter of COLA equity, I am pleased that we are now addressing this matter. I hope we can get this resolved soon because the veterans are rightly tired of waiting and, quite honestly, so am I. It is time to act.

As many of us have pointed out before, the veterans are the only recipients of Government-sponsored pensions who did not receive a COLA for 1991. The COLA had originally been provided for in S. 2100, the veterans omnibus bill. However, when S. 2100 became entangled in controversy over several other controversial—and costly—issues, the bill never came before the Congress for consideration. That means the money that will give veterans their COLA is locked away in the budget with no way of getting at it. And that, Mr. President, is grossly unfair and should be remedied immediately.

The bill we will be voting on is a clean COLA bill, with none of the controversial provisions that impeded the passage of the COLA in the previous Congress. And because under Gramm-Rudman-Hollings law we are required to include the cost of the veterans compensation COLA in our scorekeeping, this bill will not increase the projected 1991 spending levels.

Why is this clean COLA necessary? One of the main concerns I heard expressed from the veterans of New Mexico—and I am sure many of my colleagues heard the same—was that the COLA and the agent orange provisions should be separate issues. While that issue obviously remains debatable, I do agree that since Congress fumbled the last time around in bringing a COLA bill to the floor, it is imperative that we now provide the veterans with that COLA immediately.

Finally, I am pleased that the provisions of this bill will be retroactive. Frankly, I do not believe the veterans should lose one cent of benefits because of congressional inaction. This bill makes up for that lost time, and that is as it should be.

I am encouraged by the Senate's action on these matters, and in its willingness to work out the differences in opinion that prevented the original bill from coming to the floor of the Congress last year. These are issues that deserve our utmost time and attention, and I am committed to passing the best legislation that we possibly can. Our veterans have shown us their support by serving their country with honor; let's return the favor by showing our support for them.

To the extent I did not use my full 5 minutes, I yield it to the Republican leader for further use as he may see fit.

I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I ask for 2 minutes.

Mr. MITCHELL. Mr. President, on behalf of the distinguished Republican leader, I yield 2 minutes.

Mr. PACKWOOD. Mr. President, I am pleased to join my colleagues in support of our men and women serving in the Persian Gulf. This legislation, to delay the time in which they have to file their returns, may seem insignificant to many Americans, but it is not insignificant to those who are doing their first and primary duty of guarding us and our national interests in the Persian Gulf.

I would like to point out, that this legislation applies only to Federal law, not to State law. Fortunately, my State of Oregon follows the Federal rules. Oregonians serving in Desert Storm, should automatically receive an extension for filing their Oregon tax returns.

I hope, however, that other State legislatures—and they are all now in session—will very quickly enact laws similar to that which we will soon enact here, if their States do not automatically follow the Federal rules on these kinds of deadlines.

Just as our men and women serving in the Persian Gulf have a duty and obligation to protect our national interests, we have a responsibility to ease their burdens while they are performing that duty. I am delighted to support this bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

Mr. MITCHELL. Mr. President, with the authority of the Republican leader, I yield 2 minutes of his time to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. I thank the Chair.

(The remarks of Mr. STEVENS pertaining to the introduction of Senate Joint Resolution 46 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

VOTE ON H.R. 4

The PRESIDING OFFICER. Under the previous order, the question is on the third reading of the bill.

The bill was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been recorded and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from California [Mr. CRANSTON] is absent because of illness.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 4 Leg.]

YEAS—99

Adams	Fowler	Metzenbaum
Akaka	Garn	Mikulski
Baucus	Glenn	Mitchell
Bentsen	Gore	Moynihan
Biden	Gorton	Murkowski
Bingaman	Graham	Nickles
Bond	Gramm	Nunn
Boren	Grassley	Packwood
Bradley	Harkin	Pell
Breaux	Hatch	Pressler
Brown	Hatfield	Pryor
Bryan	Heflin	Reid
Bumpers	Heinz	Riegle
Burdick	Helms	Robb
Burns	Hollings	Rockefeller
Byrd	Inouye	Roth
Chafee	Jeffords	Rudman
Coats	Johnston	Sanford
Cochran	Kassebaum	Sarbanes
Cohen	Kasten	Sasser
Conrad	Kennedy	Seymour
Craig	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Smith
DeConcini	Leahy	Specter
Dixon	Levin	Stevens
Dodd	Lieberman	Symms
Dole	Lott	Thurmond
Domenici	Lugar	Wallop
Durenberger	Mack	Warner
Exon	McCain	Wellstone
Ford	McConnell	Wirth

NAYS—0

NOT VOTING—1

Cranston

So, the bill (H.R. 4) was passed.

The PRESIDING OFFICER. Pursuant to the previous order, the clerk will read the bill, H.R. 3, for a third time.

The bill (H.R. 3) was read the third time.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, may we have order in the Senate?

Mr. President, for the information of Senators, under the order, this vote and the succeeding four votes will be 10 minutes in length. Senators should be aware of that. This vote and the succeeding votes will be 10 minutes in length.

I thank the Chair and yield the floor.

VOTE ON H.R. 3

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered on this vote. As has been stated by the majority leader, this will be a 10-minute vote.

The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from California [Mr. CRANSTON] is absent because of illness.

The result was announced, yeas 99, nays 0, as follows:

[Rollcall Vote No. 5 Leg.]

YEAS—99

Adams	Bond	Bumpers
Akaka	Boren	Burdick
Baucus	Bradley	Burns
Bentsen	Breaux	Byrd
Biden	Brown	Chafee
Bingaman	Bryan	Coats
Cochran	Heinz	Nunn
Cohen	Helms	Packwood
Conrad	Hollings	Pell
Craig	Inouye	Pressler
D'Amato	Jeffords	Pryor
Danforth	Johnston	Reid
Daschle	Kassebaum	Riegle
DeConcini	Kasten	Robb
Dixon	Kennedy	Rockefeller
Dodd	Kerrey	Roth
Dole	Kerry	Rudman
Domenici	Kohl	Sanford
Durenberger	Lautenberg	Sarbanes
Exon	Leahy	Sasser
Ford	Levin	Seymour
Fowler	Lieberman	Shelby
Garn	Lott	Simon
Glenn	Lugar	Simpson
Gore	Mack	Smith
Gorton	McCain	Specter
Graham	McConnell	Stevens
Gramm	Metzenbaum	Symms
Grassley	Mikulski	Thurmond
Harkin	Mitchell	Wallop
Hatch	Moynihan	Warner
Hatfield	Murkowski	Wellstone
Heflin	Nickles	Wirth

NAYS—0

NOT VOTING—1

Cranston

So the bill (H.R. 3) was passed.

VOTE ON SENATE CONCURRENT RESOLUTION 6

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the concurrent resolution (S. Con. Res. 6) concerning the crisis in the Baltic States.

The yeas and nays have been ordered, with a 10-minute rollcall vote. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from California [Mr. CRANSTON] is absent because of illness.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 6 Leg.]

YEAS—99

Adams	Fowler	Metzenbaum
Akaka	Garn	Mikulski
Baucus	Glenn	Mitchell
Bentsen	Gore	Moynihan
Biden	Gorton	Murkowski
Bingaman	Graham	Nickles
Bond	Gramm	Nunn
Boren	Grassley	Packwood
Bradley	Harkin	Pell
Breaux	Hatch	Pressler
Brown	Hatfield	Pryor
Bryan	Heflin	Reid
Bumpers	Heinz	Riegle
Burdick	Helms	Robb
Burns	Hollings	Rockefeller
Byrd	Inouye	Roth
Chafee	Jeffords	Rudman
Coats	Johnston	Sanford
Cochran	Kassebaum	Sarbanes
Cohen	Kasten	Sasser
Conrad	Kennedy	Seymour
Craig	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Smith
DeConcini	Leahy	Specter
Dixon	Levin	Stevens
Dodd	Lieberman	Symms
Dole	Lott	Thurmond
Domenici	Lugar	Wallop
Durenberger	Mack	Warner
Exon	McCain	Wellstone
Ford	McConnell	Wirth

NAYS—0

NOT VOTING—1

Cranston

So the concurrent resolution (S. Con. Res. 6) was agreed to.

The preamble was agreed to.

The concurrent resolution and its preamble are as follows:

S. CON. RES. 6

Whereas the United States has never recognized the forcible annexation of Lithuania, Latvia, and Estonia into the Soviet Union.

Whereas Soviet troops have been engaged in brutal attacks against the people, government, and communications facilities of Lithuania and Latvia, resulting in the deaths of at least twenty civilians and injury to over 200 civilians.

Whereas Soviet troops appear to be preparing for similar military action against the people and government of Estonia.

Whereas the United States Government has repeatedly communicated to President Gorbachev that the use of force in the Baltic States could seriously jeopardize United States-Soviet relations and President Bush has publicly appealed to the leaders of the Soviet Union to "resist using force" in the Lithuania, Latvia, and Estonia: Now, therefore, be it

Resolved, That—

SECTION 1. The United States Congress condemns Soviet violence against the people and democratic governments of Lithuania, Latvia, and Estonia.

SEC. 2. The United States Congress urges the President to (i) immediately review all economic benefits provided by the United States Government to the Soviet Union, and report to the Congress on whether those benefits should be suspended in light of Soviet actions in the Baltic States, (ii) immediately suspend all ongoing technical exchanges, (iii) consider withdrawing United States support for Soviet membership in the IMF, World Bank or GATT, and (iv) not proceed with the provision of MFN trade treatment until the following events have occurred:

(a) Soviet troops refrain from obstructing the functioning of the democratic governments of Lithuania, Latvia and Estonia;

(b) Soviet "Black Beret" internal security forces are withdrawn from the Baltic States;

(c) Soviet authorities cease their interference with the telecommunications, print, and other media in these states;

(d) Good-faith negotiations between the democratically elected governments of the Baltic States and the Soviet Union on the restoration of the sovereignty of those states have begun;

(e) Concrete assurances are received from President Gorbachev that grain purchased with United States credits will not be used to coerce the Baltic States, or any republic of the Soviet Union, to sign the Union Treaty.

SEC. 3. The United States should consult with and encourage our allies to follow a policy similar to that outlined in Section 2.

SEC. 4. The United States Congress urges the President to explore means of increasing direct diplomatic ties with the Baltic States.

SEC. 5. The United States Senate will take the status of events in the Baltic States into account when considering any and all agreements with the Soviet Union in the future.

VOTE ON SENATE CONCURRENT RESOLUTION 5

The PRESIDING OFFICER (Mr. KOHL). The next question occurs on Senate Concurrent Resolution 5, demanding that the Government of Iraq abide by the Geneva Convention regarding the treatment of prisoners of war. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from California [Mr. CRANSTON] is absent because of illness.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 7 Leg.]

YEAS—99

Adams	Fowler	Metzenbaum
Akaka	Garn	Mikulski
Baucus	Glenn	Mitchell
Bentsen	Gore	Moynihan
Biden	Gorton	Murkowski
Bingaman	Graham	Nickles
Bond	Gramm	Nunn
Boren	Grassley	Packwood
Bradley	Harkin	Pell
Breaux	Hatch	Pressler
Brown	Hatfield	Pryor
Bryan	Heflin	Reid
Bumpers	Heinz	Riegle
Burdick	Helms	Robb
Burns	Hollings	Rockefeller
Byrd	Inouye	Roth
Chafee	Jeffords	Rudman
Coats	Johnston	Sanford
Cochran	Kassebaum	Sarbanes
Cohen	Kasten	Sasser
Conrad	Kennedy	Seymour
Craig	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Smith
DeConcini	Leahy	Specter
Dixon	Levin	Stevens
Dodd	Lieberman	Symms
Dole	Lott	Thurmond
Domenici	Lugar	Wallop
Durenberger	Mack	Warner
Exon	McCain	Wellstone
Ford	McConnell	Wirth

NAYS—0

NOT VOTING—1

Cranston

So, the concurrent resolution (S. Con. Res. 5) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 5

Whereas, the United Nations Security Council, in a series of resolutions, has demanded that Iraq withdraw its armed forces from Kuwait;

Whereas the United Nations has authorized member states to use all necessary means to achieve the objectives set out in the relevant Security Council resolutions;

Whereas the armed forces of the United States and other member states are involved in hostilities in order to achieve the objectives stated in the United Nations resolutions;

Whereas members of the Armed Forces of the United States, other coalition armed forces, and Iraq have been taken prisoner and are entitled to prisoner-of-war status until their final release and repatriation;

Whereas article 13 of the Geneva Convention relative to the treatment of prisoners of war, hereinafter referred to as the Third Geneva Convention, to which Iraq and the United States are parties, requires the humane treatment of prisoners of war, that they be protected against acts of violence or intimidation, and against insults and public curiosity;

Whereas article 17 of the Third Geneva Convention explicitly prohibits the infliction of physical or mental torture and other forms of coercion on prisoners of war to secure from them information of any kind whatever and provides that prisoners of war who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind;

Whereas article 23 of the Third Geneva Convention provides that a prisoner of war may not at any time be sent to, or detained in areas where he may be exposed to the fire of the combat zone, nor may his presence be used to render certain points or areas immune from military operations;

Whereas the Government of the United States has informed the Government of Iraq that it intends to treat captured members of the Iraqi Armed Forces fully in accordance with the Third Geneva Convention;

Whereas Iraqi television has broadcast what purport to be interviews with captured American and coalition military personnel and the Government of Iraq appears to have subjected these men to physical and mental torture;

Whereas it has been reported that the Government of Iraq intends to locate American and other prisoners of war in Iraq at likely military targets of the coalition forces: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress commends the bravery and professionalism of the men and women of the Armed Forces of the United States, and extends its heartfelt sympathy to the families and loved ones of those who are killed, missing in action, or taken prisoner by the Government of Iraq.

The Congress demands that the Government of Iraq abide by the principles and the obligations of the Third Geneva Convention concerning the treatment of prisoners of war.

The Congress condemns the failure of the Government of Iraq to treat prisoners of war in strict conformity with the Third Geneva Convention.

VOTE ON SENATE CONCURRENT RESOLUTION 4

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to Senate Concurrent Resolution 4.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from California [Mr. CRANSTON] is absent because of illness.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 8 Leg.]

YEAS—99

Adams	Brown	Conrad
Akaka	Bryan	Craig
Baucus	Bumpers	D'Amato
Bentsen	Burdick	Danforth
Biden	Burns	Daschle
Bingaman	Byrd	DeConcini
Bond	Chafee	Dixon
Boren	Coats	Dodd
Bradley	Cochran	Dole
Breaux	Cohen	Domenici
Durenberger	Kennedy	Pryor
Exon	Kerrey	Reid
Ford	Kerry	Riegle
Fowler	Kohl	Robb
Garn	Lautenberg	Rockefeller
Glenn	Leahy	Roth
Gore	Levin	Rudman
Gorton	Lieberman	Sanford
Graham	Lott	Sarbanes
Gramm	Lugar	Sasser
Grassley	Mack	Seymour
Harkin	McCain	Shelby
Hatch	McConnell	Simon
Hatfield	Metzenbaum	Simpson
Heflin	Mikulski	Smith
Heinz	Mitchell	Specter
Helms	Moynihan	Stevens
Hollings	Murkowski	Symms
Inouye	Nickles	Thurmond
Jeffords	Nunn	Wallop
Johnston	Packwood	Warner
Kassebaum	Pell	Wellstone
Kasten	Pressler	Wirth

NOT VOTING—1

Cranston

So the concurrent resolution (S. Con. Res. 4) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 4

Whereas Israel is a major ally and close friend of the United States;

Whereas Iraq, without provocation, has launched several SCUD surface-to-surface missile attacks on civilian targets in Israel;

Whereas some experts believe that Iraq may have the capability to arm its SCUD missiles with chemical warheads, dramatically increasing the potential that such missiles could do serious damage to Israel;

Whereas Iraq has threatened to "burn half of Israel" with chemical weapons;

Whereas every nation has the right to defend itself;

Whereas Israel has exhibited exceptional restraint in the face of Iraq's repeated threats and SCUD attacks, has absorbed all Iraqi SCUD attacks to date without military retaliation against Iraq, and continues to support implementation of United Nations Security Council Resolution 678 through the unprecedented international coalition of forces in the Persian Gulf; and

Whereas the United States has provided Patriot anti-missile missiles to Israel, to help that nation defend itself against further Iraqi attacks utilizing SCUD missiles: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) condemns the unprovoked attacks by Iraq on Israel, and declares that the purposeful use of SCUD missiles to conduct indiscriminate attacks against civilian targets is a form of terrorism;

(2) expresses profound sympathy for the loss of life, casualties, and destruction caused by the Iraqi attacks;

(3) recognizes Israel's right to defend itself;

(4) commends the Government of Israel for its restraint;

(5) commends the people of Israel for their brave and composed perseverance in the face of the Iraqi attacks;

(6) commends the Administration for its decision to provide Patriot missiles to Israel; and

(7) reaffirms America's continued commitment to providing Israel with the means to maintain its security and freedom.

Mr. MITCHELL. Mr. President, I move to reconsider en bloc the votes by

which the resolutions and bills were agreed to and passed.

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

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

The Senator from South Carolina is recognized.

Mr. THURMOND. I thank the Chair.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 265 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. I thank the Chair.

(The remarks of Mr. BIDEN pertaining to the introduction of S. 266 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

SHORING UP ARAB SUPPORT FOR THE GULF WAR

Mr. BIDEN. I rise today, Mr. President, to address an aspect of the gulf war that requires the immediate attention of this body, and I believe urgent action by President Bush.

Let me state at the outset, Mr. President, we had a debate on the floor of this body, a little more than a week ago. And the position that I argued for—as forcefully as I knew how—failed. But we had a legitimate debate. The debate was not about whether or not war against Saddam Hussein was justifiable; the issue was whether or not it was wise at this moment. The position I took failed. The President won. Therefore, his position won. Therefore, I believe, since I do not have any moral objection to what we are doing—I just thought it was less wise to do it this way than the way I preferred to do it—that it is my obligation to do all that I can to support the President and support the fighting women and men in the field. He is the Commander in Chief. We gave him the authority. We gave him the constitutional equivalent of a declaration of war. As the Commander in Chief, he is required to exercise that responsibility as he sees fit. I am not a military expert, and it would be presumptuous of me to suggest how that war, now that it is underway, should be conducted, and I will not. I will follow his lead and judgment on that.

Mr. President, I rise today not to speak about the conduct of the war but the prospect of maintaining the coalition to fight that war, about which we have spoken so many times. We heard so many times recently about the difficulty of maintaining the coalition of Arab and Western forces to force Saddam Hussein to respond as a consequence of our economic embargo. The difficulty of maintaining the coalition, as I suspect, as I have said previously, is likely to increase during war rather than diminish. It is going to be more difficult to hold the coalition together, in my view, in a shooting war than it was to hold it together in an economic embargo.

Reports from Egypt today indicate an extremely disturbing development along those lines. A segment of the population in Egypt is, according to the New York Times, "clearly shifting in favor of Iraq in the Persian Gulf war."

This development will not affect our ability to wage a war against Iraq, Mr. President, and defeat Saddam Hussein, but it does have profound implications for American policy in the region in the aftermath of an American and allied victory. If we want to prevent the United States from becoming the focus of Arab resentment, and we want to ensure the continued participation and support of the Arab States in the war, it is absolutely critical that this mindset that seems to be developing among the Egyptian population, not be allowed to take hold. All of us have recognized that we must ensure that Saddam Hussein's appeal to Arab nationalism does not take hold.

The President stated that as far back as early August. We must ensure that we not only win the war, but that we win the peace after the war is concluded.

In my first public comments supporting President Bush's decision to send troops in early August, I pointed to this danger and argued that we must work with the Saudis and other oil-rich countries to create an economic interest for the poor Arab States to stick with the coalition as opposed to going with Saddam Hussein. To use that old expression that is sometimes used in politics, Mr. President, we want to make sure that the Egyptians have a dog in this fight. The mere restoration of the Emir of Kuwait to the throne is not something that is likely to warm the cockles of the heart of the average Arab in the Arabian peninsula or in Egypt. There must be more of a stake for the Egyptians than merely that, in order for Mr. Mubarak to be able to maintain the support of his country in this effort.

I said then that the key was Egypt. We must ensure that Saudi Arabia commits—over the short and long term—to a greater investment of its oil resources in the poorer Arab States, particularly Egypt. Without such a Saudi commitment, I said then and I believe now, we risk losing support among Arab States, like Egypt.

This possibility raises the ominous specter of a backlash against the United States. Even after we win on the battlefield, and we will win, there is a grave danger that the latent anti-imperialistic, fundamentalist, and anti-Western hostility that exists will explode to the detriment of American interests for decades to come. All the Middle East experts who testified before the Foreign Relations Committee in a series of hearings which I chaired warned us of this danger. Whether they were for the early use of force or the late use of force, they all warned us of this danger.

The time for action, Mr. President, is now. As consumed as the White House understandably is, the time for action—to see to it that the rest of the Arab world has a stake in the outcome of this war that is going on—is now.

The reports coming out of Egypt specifically point to economic resentment against Saudi Arabia and Kuwait among the poorer Arabs. I suspect there are Egyptians walking the street of Cairo today who are wondering why they are paying to send forces into Saudi Arabia to ultimately fight in Kuwait or Iraq when tens of millions of dollars that were coming to them as a consequence of Egyptian workers working in Kuwait and in Iraq are no longer there, while the dollar costs for them continue to mount. Meanwhile, Saddam Hussein plays somewhat skillfully the tune of "Look at these Westerners, these barbarians out there just banging away at and destroying Muslims, your people, fellow Arabs."

So, Mr. President, it seems to me that the President should use all his efforts and all his diplomatic capability and all the resources of the State Department to now get ironclad commitments from the Saudis and the Kuwaitis and the Emirates that they will make a significant economic investment in Egypt, and in other poor Arab nations, but Egypt in particular.

Mr. President, there is much talk about the administration's failure to develop long-term planning for American policy in a postwar period. By contrast, during World War II, the United States was developing plans for the reconstruction of Europe, even as American troops were landing on the beaches of Normandy, a farsightedness that proved to be very well-founded.

Mr. President, I know we are in the midst of a war now, and that is our first priority. Winning that war is critical, and we will. But, Mr. President, I respectfully suggest that more attention must be paid now to what we are going to do after we win and what kind of action we will take to persuade the Saudis and the Kuwaitis to understand that their obligation extends beyond the immediate crisis in terms of giving the Egyptians a stake in the outcome,

a sufficient stake in the outcome that they believe it to be in their interest for the allied forces to prevail. That will help ensure that, once the allied forces prevail, the United States will not be a victim of the Arabs' resentment against the monarchies in the region, who continue to maintain such an overwhelming, disproportionate share of what many Arabs consider to be their birthright, that black gold that sits in the ground.

Long-term American interests in the Middle East require not only the support of President Mubarak, but also the support of many poor Arabs in Egypt and other nations. If we can maintain broad support in Egypt for the war against Iraq, we can help avoid the numerous dangers from the post-war Middle East. Careful attention to this problem today can help avoid myriad problems tomorrow. I am sure the administration is aware of the need to maintain Egyptian support. Obviously, Lawrence Eagleburger, one of the most talented men we have in government, has not been in Israel the past week trying to convince the Israelis not to retaliate merely because we do not want any help in retaliation.

He is requesting the Israelis not to retaliate—although they are fully within their rights if they were to retaliate—because we understand that it is not in the interests of the United States.

Therefore, Mr. President, I urge President Bush to contact King Fahd of Saudi Arabia and the Emir of Kuwait immediately and tell them they must make a long-term commitment to resources and investment to Egypt, lest we lose the support of this critical ally and risk damaging American interests after the war.

Further, Mr. President, I am not so arrogant as to suggest I know the answers to the problems in the Middle East, but I am confident of one thing, that unless a mechanism is provided to give all of the Arabs in the region a reason to believe that stability and maintenance of the present governments in power are in their interests, those governments will not remain in power.

I respectfully suggest exploring the possibility of setting up an Arab development bank, a bank that would be controlled by the Arab nations, that would have a large commitment of resources to deal with the problems that exist throughout the Arab world. If that is not feasible, then some variation should be considered.

I will say in conclusion, Mr. President, what the New York Times implied today. If the average Egyptian does not see—in the continued participation to victory in the gulf war—anything other than the restoration of the emir to the throne other than the maintenance of the Fahd family on the throne in Saudi Arabia, I fear the instincts of fundamentalism, the religious rivalries, the Western antagonism, all will take flight in a way which will cause us to lose support during the war and in maintaining the peace, both of which would be against the interests not only of the United States and the East but the whole world. Now is the time to act: before we have concluded the victory, not afterward.

I thank my colleagues for listening.

Mr. President, I ask unanimous consent that a copy of the article to which I referred be printed in the RECORD.

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

[From the New York Times, Jan. 24, 1991]

SENTIMENT FAVORING THE IRAQIS IS GROWING AMONG EGYPTIANS

(By Youssef M. Ibrahim)

CAIRO, January 23.—A segment of public opinion in Egypt, the largest Arab country and a key Arab ally of the United States, is clearly shifting in favor of Iraq in the Persian Gulf war.

The shift is evident enough to force the Government of President Hosni Mubarak to step back from its propaganda campaign against Iraq and to recast its stance as one dictated by the United Nations rather than Egyptian national interest.

Apparently taken aback by this rapidly growing shift in public opinion in favor of Iraq, the Government extended the mid-year vacation for high schools and universities, out of fear that public demonstrations in favor of Iraq might break out if students returned now and that other Egyptians might join in.

PRO-IRAQI RALLY CALLED

Fundamentalist Islamic forces as well as leftist secular opposition parties called for a pro-Iraqi rally this week.

The shift has been equally clear in the growing criticism by the Egyptian public of what they perceive as the callous behaviour of many Kuwaiti exiles, sitting out the war in luxury hotels in Egypt and "struggling in the discos," as some Egyptians have described it. And it is finding an echo in the apologetic comments by the Cairo Government about its military participation in the war, with 45,000 soldiers making up the second largest army contingent among the allied forces in Saudi Arabia.

Of equal significance is the visible and increasingly solitary role of Mr. Mubarak, who has made himself the central Egyptian and Arab figure in the overt anti-Iraqi campaign, in the same way President Anwar el-Sadat, shortly before his slaying, became a lone figure defending his signing of a peace treaty with Israel.

By contrast, other leaders of the Arab pro-Western alliance, including King Fahd of Saudi Arabia and the Emir of Kuwait, have kept a low profile, and limited their verbal assaults on the Iraqi President, Saddam Hussein, to occasional comments.

"Mubarak is committing a tactical mistake by making himself the center of all comments and positions about Iraq to the exclusion of other senior officials in Egypt," said Tahseen Bashir, a former close aide to Mr. Sadat and a former senior diplomat in Egypt.

This apparent change in Egyptian attitudes is in direct contrast to what seemed to be a total support for Mr. Mubarak in August, immediately after the Iraqi invasion of Kuwait. He took a very hard-line stand against Iraq and Mr. Hussein, as most Egyptians were aghast at the sight of Egyptian refugees streaming into Egypt from Jordan, penniless and jobless.

But over the last few months, the attitude of the Arab gulf nations that have not done much to alleviate Egypt's growing economic burdens, in addition to the killing of 21 Palestinians by Israelis at the Temple Mount in Jerusalem, have diluted enthusiasm for Mr. Mubarak's anti-Iraqi stand.

In addition, over the last few days, many Egyptians have been shocked by the force and breadth of the allied aerial bombing of Baghdad and Iraq, where nearly a million Egyptians continue to live and work, seeing in it a measure of carelessness for the value of Arab lives that exceeds what is necessary to force Iraq out of Kuwait. This has been aggravated by incidents that betray a growth of anti-Arab sentiment in Western Europe and the United States, which have been reported here.

In the six days since the war started, Egyptian professional groups of engineers, doctors, pharmacists and students as well as leading figures in the opposition and other Egyptains have been arguing that Egypt's troops stationed in the gulf region should not take part in any assault on Kuwait with allied troops led by the United States.

Instead, these voices call for the Egyptian military forces in Saudi Arabia to limit their mission to defending Islamic holy places in Mecca and Medina, close to the Red Sea and away from the borders of Kuwait on the Persian Gulf coast where allied attacks are expected.

In addition, there is an increasing skepticism among a widening segment of Egypt's public about the ability of the American-led troops to wipe out Iraqi defenses and score clear "surgical" strikes against Iraqi troops and a growing suspicion that Iraq is far from being down and out.

By far the most worrisome opposition for the Government has come from the militant ranks of Islamic fundamentalists.

A leading opposition weekly newspaper representing Islamic groups, Al Shaab, said in a fiery front-page editorial this week, "The blood being spilled in Iraq is our blood, and the bodies being torn on the land of Iraq, Saudi Arabia and Kuwait are our bodies." The editorial went on to ask the Egyptian Government whether "all this destruction being sowed across Iraq in the name of liberating Kuwait or out of love for the ruling Al Sabah family of Kuwait" could be justified by any other purpose.

Al Shaab said the lives of the million Egyptians still in Iraq were also endangered by the United States-led bombing campaign.

The growing opposition against the war and against Egypt's part in it is affected by three factors that in some ways bring even those who support the eradication of the Iraqi Government together with those who oppose any action against Iraq.

INSUFFICIENT REWARD SEEN

The most important factor is the view that Mr. Mubarak was feeble in negotiating the terms of his support for Saudi Arabia and the United States. This argument maintains that the country did not get much for its involvement save for some vague promises of financial support and the elimination of about $14 billion in debts owed to the United States for purchases of arms and to Arab oil-producing countries—debts that the country was not expected to pay anyway.

"Egypt's support for the multinational campaign is like a match," said Mohammad Farid, an Egyptian businessman. "It is valuable before you strike it, but it looses all its value once it has been lit." He opposed Iraq's invasion of Kuwait but argues that without Egypt's commitment of troops, it would have been impossible for the United States to put an Arab face on the international coalition.

"I think we should have sat down with the Saudis and insisted on a written commitment that after the war Egyptians will get an absolute priority in the reconstruction of Kuwait and Saudi Arabia in terms of expatriate labor as well as substantial financial assistance in real numbers," Mr. Farid added. "We have lost almost a million jobs in Kuwait and Iraq because of this invasion and the return of Egyptian expatriates without their money or possessions as unemployed persons here. The Syrians got cold cash from these regimes because they bargained hard. Mubarak has been too soft."

The second factor is the strong alliance of the United States with Israel that has resurfaced in the aftermath of Iraq's Scud missile attacks against Israel. That revived alliance has aroused the almost automatic reflex widely shared by many Egyptians of not wanting to appear to side with these two Westernized nations against an Arab country.

The Islamic Brotherhood party, a very strong political force, is banned from taking part in Egyptian politics as a religious institution but is allowed to play what turns out to be a big role as an instigator of pan-Islamic feelings against the West.

Finally, one of the principal sources of eroding support for Mr. Mubarak is the prospect that the gulf war will be long and bloody, a prospect that contradicts his repeated assertions that Iraq will crumble in the face of the superior technological and military might of the American-led forces in a matter of days.

Mr. Mubarak, undoubtedly feeling this mounting criticism, has scheduled an address to the nation in the form of a speech Thursday to a combined session of Parliament and the Shura, or consultative council.

But it is already clear that the longer the war lasts, the stronger the opposition to it here will become.

"I do not think it will reach the point of freezing Egypt's armed forces participation in the war effort, but the longer this goes on, the more it will arouse feeling of sympathy for the Iraqi people," Salamah Ahmad Salamah, the managing editor of Egypt's main daily newspaper, the Government-owned Al Ahram, said in an interview here today.

PRESIDENT BUSH RECEIVES MINUTEMAN AWARD

Mr. BYRD. Mr. President, last evening, the Reserve Officers Association of the United States, at its 1991 National Council midwinter banquet, represented by Maj. Gen. Robert C. Hope, national president, and Maj. Gen. Evan L. Hultman, executive director, presented the 1991 Minuteman of the Year Award to the President of the United States, George Bush. This award is presented annually by the Reserve Officers Association [ROA] to the citizen who has contributed most to national security in these times.

Mr. President, previous recipients of the ROA's annual Minuteman of the Year Award include, Presidents Ford and Reagan; Senators STENNIS, JACKSON, RUSSELL, THURMOND, NUNN, STEVENS, and WARNER; and Representatives VINSON, RIVERS, SIKES, HÉBERT, MCCORMACK, LAIRD, ALBERT, MAHON, MONTGOMERY, and others.

Mr. President, as last year's recipient of the Minuteman of the Year Award, I offer my sincere congratulations to the President.

I ask unanimous consent to have printed in the RECORD a list of previous recipients of ROA's annual Minuteman of the Year Award, along with the President's remarks on the occasion.

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

PREVIOUS RECIPIENTS OF ROA'S ANNUAL MINUTEMAN OF THE YEAR AWARD

1958—Brig. Gen. David Sarnoff.
1959—Senator Richard B. Russell.
1960—Colonel Bryce N. Harlow.
1961—The Honorable Hugh M. Milton II.
1962—The Honorable Carl Vinson.
1963—The Honorable Dennis Chavez (posthumously).
1964—The Honorable Margaret Chase Smith.
1965—The Honorable L. Mendel Rivers.
1966—The Honorable John C. Stennis.
1967—The Honorable Robert L.F. Sikes.
1968—The Honorable F. Edward Hebert.
1968—Francis Cardinal Spellman (posthumously).
1969—The Honorable John W. McCormack.
1970—The Honorable Melvin L. Laird.
1971—The Honorable Strom Thurmond.
1972—The Honorable Carl Albert.
1973—The Honorable Henry M. (Scoop) Jackson.
1974—The Honorable George H. Mahon.
1975—The Honorable Gerald R. Ford.
1976—The Honorable John L. McClellan.
1977—The Honorable Bob Wilson.
1978—The Honorable Charles E. Bennett.
1979—The Honorable Milton R. Young.
1980—The Honorable Samuel S. Stratton.
1981—The Honorable John Goodwin Tower.
1982—The Honorable G.V. (Sonny) Montgomery.
1983—President Ronald W. Reagan.
1984—The Honorable Sam Nunn.
1985—The Honorable William L. Dickinson.
1986—The Honorable Ted Stevens.
1987—The Honorable Bill Chappell, Jr.
1988—The Honorable Caspar W. Weinberger.
1989—The Honorable John W. Warner.
1990—The Honorable Robert C. Byrd.

REMARKS OF PRESIDENT GEORGE BUSH

Following is the text of President Bush's speech Monday night to the annual dinner of the Reserve Officers' Association of the United States:

I know tonight our thoughts go out to men and women earning the honor of a grateful nation at this very moment: The citizen-soldiers—100,000 strong—serving now with the coalition forces in the gulf. I salute them, each and every one.

Those American reservists are part of an allied force standing against the forces of aggression—standing up for what is right. They serve alongside hundreds of thousands of soldiers, sailors, airmen, Marines and Coast Guardsmen of 27 other nations, all united against the aggression of Saddam Hussein.

One week later: As we meet here tonight, we are exactly one week into Operation Desert Storm. But it is important to date this conflict not from Jan. 16—but from its true beginning: the assault of Aug. 2—Iraq's unprovoked aggression against the tiny nation of Kuwait. We did not begin a war seven days ago. Rather, we began to end a war—to right a wrong that the world could not ignore.

From the day Saddam's forces first crossed into Kuwait, it was clear that this aggression required a swift response from our nation and the world community. What was—and is—at stake is not simply our energy and economic security, and the stability of a vital region—but the prospects for peace in the post-Cold War era: The promise of a new world order, based upon the rule of law.

America was not alone in confronting Saddam. No less than 12 resolutions of the U.N. Security Council condemned the invasion—demanding Iraq's withdrawal, without condition and without delay. The U.N. put in place sanctions to prevent Iraq from reaping any reward from its outlaw act. Countries from six continents sent forces to the gulf to demonstrate the will of the world community that Saddam's aggression would not stand.

Appeasement no answer: Appeasement—peace at any price—was never an answer. Turning a blind eye to Saddam's aggression would not have avoided war—it would only have delayed the world's day of reckoning, postponing what would ultimately have been a far more dangerous and costly conflict.

Unfortunately—in spite of more than five months of sustained diplomatic efforts by the Arab League, the European Community, the United States and the United Nations—Saddam Hussein met every overture of peace with open contempt. In the end, despite the world's prayers for peace, Saddam brought war upon himself.

Tonight, after one week of allied operations, I am pleased to report that operation Desert Storm is right on schedule.

We have dealt a severe setback to Saddam's nuclear ambitions. Our pinpoint attacks have put Saddam out of the nuclear bomb-building business for a long time to come. Allied aircraft enjoy air superiority, and we are using that superiority to systematically deprive Saddam of his ability to wage war effectively.

Allied successes: We are knocking out many of their key airfields. We're hitting their early warning radars with great success. We are severely degrading their air defenses. The main danger to allied aircraft now comes from some 20,000 anti-aircraft guns in the Baghdad area alone. And let me say: I am proud of the way our aviators are carrying out their tasks. In head-to-head combat, our jet fighters have destroyed 19 Iraqi jets. They have hit—at most—one American jet in aerial combat.

Step by step, we are making progress toward the objectives that have guided the world's response since Aug. 2: the liberation of Kuwait, and the restoration of stability and security in the gulf. And there can be no doubt: Operation Desert Storm is working. There can be no pause now that Saddam has forced the world into war. We will stay the course—and we will succeed.

Tools of terror: Saddam has sickened the world with his use of Scud missiles—those inaccurate bombs that indiscriminately strike cities and innocent civilians in both Israel and Saudi Arabia. These weapons are nothing more than tools of terror, and they do nothing but strengthen our resolve to act against a dictator unmoved by human decency.

Prime Minister John Major said it well yesterday. Saddam, he said, "may yet become a target of his own people. It is perfectly clear . . . that this man is amoral. He takes hostages, he attacks population centers, he threatens prisoners. He's a man without pity, and whatever his fate may be, I for one will not weep for him."

No one should weep for this tyrant when he is brought to justice. No one—anywhere in the world.

The POWs: I watched, along with all of you, the repulsive parade of our American airmen on Iraqi television—one more proof of the savagery of Saddam. But I knew, as they read their prepared statements criticizing this country, that those were false words, forced on them by their captors. One American pilot was asked why he was sure the pilots were coerced—their statements false. And he said: "I know that . . . because these guys are Americans."

He could well have said the same thing about the other pilots being held—from Britain, Italy and Kuwait—all men of courage and valor.

Tonight, I repeat my pledge to you—and to all Americans: This will not be another Vietnam. Never again will our armed forces be sent out to do a job with one hand tied behind their back. They will continue to have the support they need to get the job done—get it done quickly, and with as little loss of life as possible. And that support is not just military but moral: Measured in the support our servicemen and women receive from every one of us here at home. When the brave men and women of Desert Storm return home, they will return to the love and respect of a grateful nation.

And that is where I will close—with the aim of protecting American lives, and seeing the heroes of Desert Storm return home safe and sound. All life is precious—whether it's the life of an American pilot or an Iraqi child. And yet if life is precious, so too are the living principles of liberty and peace—principles that all Americans cherish above all others, principles that you, and your comrades on duty tonight, have pledged to defend.

THE RETIREMENT OF NORM OTTO

Mr. EXON. Mr. President, today I rise to honor one of Nebraska's finest citizens. He is also one of America's finest public servants.

At the end of February my long-time State coordinator, friend and confidant, Norm Otto, will be retiring.

If anyone ever deserved to retire, Norm is that person. On the other hand, if anyone will be sorely missed, Norm is also that person.

Those of us who have responsibilities in high public office need the help of others in whom we can have complete trust and confidence in their competence and loyalty. We simply cannot do our jobs without good people to help us. No one could ever have asked for a more trusted and dedicated associate than I have had in Norm Otto.

Norm has had a long and distinguished career in public service. During World War II, he and I served together in the Armed Forces even though in different theaters. He served our country during its time of greatest need as a radar navigator in the U.S. Army Air Corps when our country's future truly hung in the balance and we were fighting the world's most savage dictators.

Following the war, Norm has spent more time in public service than in the private sector. He served as Governor Frank Morrison's top aide during the exciting early 1960's and as chief of staff during my 8 years as Governor. During that time, Norm Otto played a significant role in the nurturing and development of a better Nebraska and was a key architect of making and enhancing Nebraska's "good life."

Since I have been in the U.S. Senate, Norm has served as my State coordinator which means he is my eyes and ears when I cannot be home. It means he is my sounding board, traveling companion, counselor, and a person to whom literally thousands of Nebraskans have turned to help solve their problems. He has put together and held together a statewide staff which is second to none in the entire U.S. Senate.

And he has served as a shining example to every member of our entire staff as well as the scores of people who have worked on my five successful statewide campaigns.

Sometimes it is very difficult to put into words what another person means to you. This is one of those occasions. But I want Norm to know how much he has meant to Pat and I.

We respect him and treasure him as a friend. We want to thank him for all of his years of service and friendship.

Most of all, we wish Norm and Vera the best of retirements. While I want Norm to always be available as a trusted adviser, I am also glad he will have more time to spend with his wonderful family and more time to do what he wants since all of these years he has so unselfishly served others.

So, to Norm and Vera, we thank them for all they have done. We wish them good health, long life and Godspeed in the years to come.

SGT. LEO BLAIS, VERMONTER OF THE YEAR

Mr. LEAHY. Mr. President, Leo Blais, who has been with the Vermont State Police for 24 years, was recently honored by being named "Vermonter of the Year" by the Rutland Herald and Barre-Montpelier Times Argus.

The honor was richly deserved by Sergeant Blais, who I had the opportunity to work with while serving as State's attorney of Chittenden County almost two decades ago.

Usually, awards of this kind provoke a series of debates and endless quantitative analyses of other candidates.

In this case, Mr. President, there is no argument that it was Leo's year—or rather—the year that culminated previous years of dogged, and often ingenious, police work by this officer.

I will let the newspaper that honored him tell the story, Mr. President. And I ask that the story be printed in its entirety in the CONGRESSIONAL RECORD so that all Americans can read about Leo Blais, and get a better understanding of why Vermonters hold him in such high esteem.

For my part, I want to commend a man who has been a very special and close friend of me and my family for over 20 years. When I was State's attorney, I thought of him as a model police officer and still do.

I am proud of him as a professional police officer. I am also very happy to have him as a special and close friend.

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

[From the Sunday Rutland Herald and the Sunday Times Argus, Dec. 30, 1990]

SGT. LEO BLAIS IS NAMED VERMONTER OF THE YEAR

(By Yvonne Daley)

Sgt. Leo Blais, a 24-year veteran investigator with the Vermont State Police, takes his job seriously. Five years ago, when he was assigned to review a then six-year old case involving the disappearance of a Milton school teacher, he came to the conclusion other investigators before him had—that the woman's jilted boyfriend, Francis W. Malinosky, had murdered her.

But unlike his predecessors, Blais was determing to not rest until Malinosky, who had also vanished three weeks after the slain woman, had been located and prosecuted.

Last month, Malinosky was sentenced to three years in jail in a plea agreement that disappointed Blais because of the brevity of the sentence. What pleased Blais, however, was that, as part of the plea agreement, Malinosky was required to help police locate Leo-Coneys' remains so they could be properly buried by her parents.

Compassion for Leo-Coneys' family spurred Blais on when the investigation bogged down or when he had difficulty convincing his superiors to go forward with the case. Because of the level of compassion and persistence that he demonstrated, not just in this case but to his work in general, the Rutland Herald and The Barre-Montpelier Times Argus have chosen Leo Blais as the 1990 Vermonter of the Year.

William Sorrell had barely started his new job as Chittenden County State's Attorney when he was first warned about Leo Blais. For four years, Blais, a veteran Vermont State Police investigator, had been trying to see justice done in the case of a schoolteacher who disappeared without a trace. And now he was ready to proceed. Everywhere he went, Sorrell kept hearing he "had better deal with Leo Blais on that Malinosky case."

The new prosecutor already had heard of Sgt. Blais, well-known in Vermont's criminal justice network as a persisent—even obsessive—cop, who was not above sidestepping established protocol and office politics if either stood in the way of solving a case. Blais, 49, was said to be always one step away from being assigned to weighing trucks in Island Pond because of his predilection for doing something first and asking permission later.

In this case, Blais, a 24-year veteran, was threatening to go public with what he had on Francis W. Malinosky, the leading suspect in the disappearance of Judith Leo-Coneys, a young mother and Milton school teacher who had last been seen on Nov. 5, 1979.

Virtually everyone who had investigated the case had concluded that Leo-Coneys was dead and that Malinosky, a jilted boyfriend, had murdered her. But Malinosky had disappeared, and two previous state's attorneys, Kevin Bradley and Mark J. Keller, had opted not to prosecute a case in which there was no body.

The case was languishing on the back burner when Blais was assigned to it in 1985. He immediately travelled to North Carolina to meet with Leo-Coneys' family and the slain woman's young son, Shamus,

"Here was a family that knew something terrible had happened to their daughter, but no one would help them. They knew intellectually their daugher was dead, but the way it was left, it was like they had been in limbo for 10 years, that they were in a kind of prison and here was Malinosky out free, living the life of Riley. I wanted very much to be able to give them a little bit of justice," explains Blais.

He attempted to convince Bradley to allow him to find and interrogate Malinosky, but Bradley wanted more evidence first.

Blais, who has investigated dozens of murder cases, kept at it. He re-interviewed everyone connected with the case, recorded their statements, tied up the loose ends.

"I'm a pain in the ass when I'm on something. I keep bugging people. I have my style. I documented everything, interviewed everyone I could, even a cab driver who had picked up Malinosky the day of the murder and had since moved to Singapore," Blais said.

Finally, he felt he had a air-tight case against Malinosky. He hoped Sorrell would listen.

Sorrell knew Blais would not be ignored. He hadn't yet been sworn in in 1989 when he decided it would be wise to review the file Blais had put together on Malinosky. The file was so complete that Sorrell's response was, "Go for it."

Last spring, Blais tracked Malinosky down in Los Angeles. Last month, Malinosky pleaded guilty to voluntary manslaughter and was sentenced to three years in jail.

During the sentencing in Chittenden County District Court in Burlington, Blais, a tall man with seemingly endless arms and legs, folded himself onto a folding chair in the back of the court room. When Vermont District Judge Frank Mahady accepted the plea bargain, Blais put his face in his big hands and sobbed quietly.

He had wanted justice for Judith Leo-Coneys and her family. He had wanted the woman's body found for a proper burial. The body had been found, but Blais felt that three years was hardly punishment for what he knew this family had been through.

The Rutland Herald and Times Argus have chosen Leo Blais as the 1990 Vermonter of the Year not only because of his brilliant police work in solving this and two other difficult murder cases, where others before him had failed, but also for the compassion he showed to the families of the victims. He is a police officer who routinely performs his job beyond the call of duty.

The Malinosky sentencing wasn't the first time that tears had come to this cop's eyes after an unsatisfactory conclusion to a long and difficult investigation.

Carolyn Desmarais of Shelburne still remembers the day in 1988 when Blais walked out of a Rutland court holding the ax that had been used to bludgeon her 16-year-old son, Craig Jackman, to death in 1981.

"He had tears in his eyes that day. I don't know who was more upset, Leo or I" when a jury acquitted the accused, Brian L. Wimble, of her son's murder, remembers, Desmarais.

Mahady had instructed the jurors that they could only convict Wimble of a first-degree murder and declined the prosecutors' request to allow them to also consider a second-degree murder charge. Bradley had appealed Mahady's ruling, but Mahady rejected the appeal.

"As far as I'm concerned there is no justice in Vermont. The only comfort we got was from Leo (Blais), who has become like a member of our family," says Desmarais.

There are distinct parallels between the Jackman case and the Leo-Coneys case. Six year after the disappearance, Jackman's body had not been found, so there had been no prosecution, even though police had two strong suspects.

Then, on Nov. 19, 1985, Jackman's body was found by a hunter in Westford. A subsequent autopsy and investigation showed he had been bludgeoned to death, possibly with an ax.

Blais, who had been assigned to the case, brought the news to Desmarais that her son's body had been found and that homicide was suspected. In the intervening months as he investigated the crime, Blais often called or visited Desmarais to tell her of his progress and share his frustrations.

He soon suspected that the boy had been killed for a "really ridiculous reason—to cover up a theft of a check." Two men had been implicated in the killing, and Blais began to check into their whereabouts.

One of the men, Brian L. Wimble of Essex Junction, came forward with his attorney after Blais started looking for him. He told Blais he was at the scene of the crime, but that he stood by helplessly as another man, Timothy D. Crews, killed Jackman with an ax belonging to Wimble's family.

Blais tracked Crews to a Los Angeles jail, where he was serving time for stealing a car. He had tried to get Wimble to cooperate by writing a letter to Crews about the murder in the hopes that Crews would implicate himself. When Wimble refused, Blais wrote the letter himself, pretending that an undercover address and phone number were Wimble's.

Crews did not respond, so Blais traveled to Los Angeles, where he interviewed Crews' cellmate, who told him that Crews had become extremely agitated when he read the letter. The cellmate also told Blais that Crews had told him of his involvement in the murder.

After a three-hour interview with Crews, Blais had a confession in which Crews admitted taking part in the murder but also implicate Wimble.

As part of a plea agreement, Crews pleaded no contest to a reduced charge of second-degree murder in connection with Jackman's death and agreed to testify against Wimble. Wimble had told police he had stolen a check from Foodscience Inc., where he had been employed, and had convinced Jackman to cash it for him.

In court, the two men gave differing versions of the crime. Crews said both he and Wimble had struck Jackman with the ax; Wimble testified that he had not taken part in the bludgeoning. Jurors found there wasn't enough evidence to convict Wimble of first-degree murder and they were not allowed to consider lesser charges.

The acquittal came in the fall of 1988, but Blais still occasionally sees Mrs. Desmarais and her husband Raymond as well as Jackman's sister, Suzanne.

"I don't know how to explain it, but through the investigation and afterwards, Leo became a friend. I never felt so comfortable with anyone. He shares your pain, which must be awfully hard on him as a police officer," says Jackman's mother.

Blais offered to take the family to the scene of the crime if they ever felt they should go as a way of resolving their grief. Suzanne Jackman, the boy's sister, was the first to take him up on the offer.

Says Demarais, "It took me until this year to deal with going up there, but it was something I felt I needed to do. I asked him to take me there this fall. It's sometimes difficult to get the police to respond to something like a break-in, and here's this state police officer, busy with other murder investigations, willing to take time to help us out years after the trial is over."

Last Sunday, Jackman's family and Blais had brunch, together. Blais knew it as close to young Jackman's birthday, and he wanted to touch base with the family at this difficult time of year.

"That's what makes him so extraordinary," says Desmarais. "He has heart."

Blais has received a good deal of attention in recent months because of his investigative work in solving the Leo-Coneys and Jackman cases. But Sorrell says his best police work may have been in finding the murderer of Paulette Crickmore, the Richmond teenager whose body was found in Duxbury Nov. 19, 1986.

"Had he not been pushing in the Malinosky case, it wouldn't have been one of the first things on my plate, says Sorrell. "Really what Leo did in that case was to keep pushing and refusing to take 'no' for an answer. But the Crickmore investigation was more a case of classic detective work."

Blais had eliminated dozens of suspects before narrowing the field to Edwin Towne of Eden Mills, who had numerous previous convictions, including several involving sexual assault and kidnapping. Towne was convicted in January 1988 of murdering the girl.

There were many things that led Blais to suspect Towne—including the fact that he could have been on the road where she disappeared and that Towne had been on vacation the week of the disappearance—but it was Towne himself who inadvertently convinced Blais he had murdered the girl.

Towne knew Blais suspected him, but he also knew Blais didn't have any hard evidence on him. In late October, Blais arrested Towne on an outstanding fugitive warrant from a 1979 New Hampshire case.

At the time, he found a .32 caliber automatic pistol in Towne's car. He used the opportunity to talk about Crickmore. Towne was giving him one and two-word responses to questions. Blais tried a more direct tack.

"What would you say if I told you it was possible that someone had seen you" on the road where Crickmore was walking the morning she disappeared? he asked.

"Oh yeah. I was on the road that day to build my foundation. Didn't pick up no kid," Towne responded.

"That's when I said to myself, 'I've got a murderer,'" says Blais.

Proving it became an obsession. Blais learned that Towne had once told a probation officer that he would never again leave a witness alive.

A no-nonsense guy who seems unlikely to be receptive to messages from the supernatural, Blais volunteers that he thinks "Paulette helped us a little bit."

For one thing, her body was found the day before a heavy snowfall. A day later and it might never have been recovered. Without the body, prosecuting Towne would have been all but impossible.

Lodged in Crickmore's skull were three shells from an antique gun. Finding the weapon became the next task.

In talking about his search for the gun, Blais describes his mind as if it were a file cabinet.

"I hear something, I write it down. I file it away in my head," he says.

One pictures his mind like his notes, neatly written in narrow notebooks, each page a different notation, a question unanswered, a suspicion gnawing away.

"Notes to me are the most important thing in police work. Some officer don't like to write things down because they can be subpoenaed later and used by the defense. My feeling is I have nothing to hide. If we've got enough to prosecute, we've got enough to convict," he says.

One suspects his mind is like that, too. He admits that he often awoke during the night with a new thought or a new question during the Crickmore investigation.

"I couldn't sleep more than two hours at a time during that case. I lived that case trying to figure out what this guy would do," Blais recalls.

His fiancee, Jeanine Wheel, says that when Blais is obsessed with a case, he can't sleep. He gets up, goes downstairs and turns on the television, but "really what he's really doing is thinking about it until he works it out. He's very methodical," she says.

The germ of an idea took hold in Blais' brain: perhaps Towne had hidden the gun in a cinder block in the foundation that he was building in Eden Mills. Blais suspected that Towne would be the type to keep the gun; Towne's employer had described him as a pack rat. Towne also had told Blais that he was transporting cinder blocks the day Crickmore was abducted.

He put the two together—and Bingo.

"Towne was wrong," says Blais. "Paulette did convict him—with the three bullets in her head."

He long ago gave up trying to understand his intuition and the other psychic tools that help him solve cases. In the Malinosky case, he would be reading and re-reading the file, frustrated and stuck when Patricia Leo, the dead woman's mother, would call from Charlotte, N.C. Often, she would ask some pertinent question as if the two had been sitting together discussing the case, he recalls.

She has similar recollections. "We would be discussing Judy and he would call. He always promised to never rest until Malinosky was behind bars," Mrs. Leo says. "I used to be so down during those years when nothing would happen in the case. Then Leo was assigned to the case and he would call me every week to let me know how he was doing. It kept me going."

Blais readily admits getting emotionally involved in his cases. "I don't think I've been too emotionally involved in any case. By getting to know the family of a victim and, through them, the victim, the person becomes an individual rather just than another statistic," he explains. "You need that to keep going."

However, other officers interviewed criticized Blais for this, saying that emotions hamper one's ability to remain objective. In interviewing associates of Blais, some seemed resentful of the attention he has received and disdainful of his show of emotion during the Malinosky sentencing.

"No homicide (investigation) should have one hero," says a colleague, who did not want to be identified. "Leo was a hard worker, competent and aggressive, but he didn't solve this homicide alone. And what kind of police officer cries in court? Getting too close can be a liability.

Blais scoffs at the criticism. Emotions are the fuel that recharges his batteries when he gets stalled, he says.

And he is quick to point out that he does not work alone. He credits Sandra Holbrook, a dispatcher at the Burlington state police barracks, with helping him track down Malinosky.

"I believe in the team concept. I use my resources," like the officers at the Federal bureau of Alcohol, Tobacco and Firearms who helped break the case against Towne, and Sgt. James Ross who matched the murder weapon with the slugs that killed Crickmore. In the Malinosky case, he credited Bob McGraw, an investigator in Sorrel's office, who put in many long hours on the investigation.

Normally soft-spoken, Blais becomes even quieter when he points out that the bodies of Jackman, Leo-Coneys and Crickmore were found on November 19 of separate years: "I can't explain it, but I can't ignore it."

As part of his plea agreement, Malinosky was required to show police where he had buried Leo-Coney's body. Blais had been among those searching in a wooded area of Cabot for several days when, on Nov. 19, he was standing in a newly dug trench.

Suddenly he noticed what looked like a ripple in the trench, which was rapidly filling up with water. It looked like a plastic bag. Blais got into the hole on his hands and knees and reached down.

For a minute, he thought to himself: "Do I really want to be the one to find her?" But then "the instincts took over, and I reached down and there she was."

Blais said a prayer for the slain woman then and there. Then he called Mrs. Leo.

"When he called to say he had found her, he was crying. He told me it was as if she had said to him, 'Find me, Find me'," she says.

Shortly after the sentencing, with her family's ordeal nearly over, Patricia Leo realized she would "miss hearing from Leo." A few minutes later, Blais called on the phone to ask how the family was doing.

It doesn't surprise Leo Blais's mother, Loretta Bellemare, that her son is a successful police officer. "He always succeeded in everything he did and never gave up when he wanted something," say Bellemare.

But if it didn't surprise his mother, it did surprise him. Growing up in the hard-scrabble, working-class community of Lowell, Mass., Blais always thought of a cop as "a burly guy you didn't give any flak to."

Lanky as a youth, Blais had two loves: organized sports and individual sports. He was captain of the Catholic St. Joseph High School basketball team, which won many trophies. He also excelled in baseball.

After high school, Blais served in the Army from 1960 to 1963, after which he was among 20,000 candidates who took the Massachusetts State Police exam. With no political pull, he was not hired. After working as a mason, he came to Vermont with his wife to visit her uncle, Jake Maranville, a longtime Vermont State Police officer in Essex. He and his wife have since divorced.

In 1966, he took the Vermont State test and was among the first out-of-staters for whom a one-year residency period was waived. One of his first jobs was as an investigator, assigned to work for then-Chittenden County State's Attorney Patrick Leahy.

Quiet and introspective as a boy, Blais has turned into a quiet, introspective man, relutant to discuss his personal life. Murder investigations "take an awful toll," he says in typical understatement. He spent his Thanksgiving weekend investigating several untimely deaths, including two suicides.

Sports sustain him still. If it weren't for his hours on the golf link or at the bowling alley, he say's he'd be in trouble. During inclement weather, he relaxes in front of the TV, moaning or cheering for his favorite Boston sports teams.

He acknowledges that his emotional involvement exacerbates the "awful toll." On one hand, Blais tries to know the victims of crimes he is investigating, supposing that the knowledge will help him solve the case. At one point, he spent hours with Leo-Coneys' son, Shamus, looking at photographs of the boy's dead mother.

"Then all of a sudden you find these people and they're not beautiful anymore," he says. "They've been thrown somewhere, like Paulette Crickmore was, like a sack of potatoes, or like Craig Jackman, left for wild animals to devour. That's when you worry, 'Was he dead when they left him?' We see some awful things and you need to vent. Thank God I have people to vent to, someone with a good ear, always willing to listen."

Wheel is the person on whom Blais most often vents. Fortunately, she works as a legal secretary in the U.S. Attorney's office in Burlington and understands first hand the frustrations of dealing with the legal system.

"It helps that we're in the same line of work," she says. "I understand when he becomes enmeshed in a case. Leo involves himself in his job 100 percent. For the most part, he's able to separate himself from work.

"But he get to the point sometimes when he's very frustrated and then he has to talk. Talking it out makes it easier for him to see new approaches. It was the worst during the Leo-Coneys' case, which was the most consuming, but the Crickmore case was also very hard on him."

Sometimes, the sadness shows in his eyes; at other times, his steel-blue glare, fixed upon a suspect, is intimidating. Those eyes in the interrogation room would be hard to ignore.

His demeanor can be just as blunt as his stare. He pulls no punches and says what's on his mind. This, says Sorrell and others who know him, can be his best weapon but has also made some of the other officers resentful. Blais gets the job done. He follows the letter of the law, says Sorrell, and is careful with suspects to document everything and to play by the rules.

However, with his superiors, Blais is not afraid to express his displeasure with bureaucracy, red tape, paper work and budget restraints that slow down his progress.

Take the Malinosky case. As soon as Blais got a lead on Malinosky in California, he asked for permission to fly there. Sorrell, feeling the budget pinch, was reluctant to give Blais the go-ahead. Finally, they compromised: Blais could make the trip, but he had to track down Malinosky by telephone before he left. As it was, a frustrated Blais missed the actual arrest by several hours.

The perseverance that kept him going in the Malinsky case was recognized early on by his first boss, Patrick Leahy, now a U.S. Senator. Leahy was so impressed that he fought to keep Blais on his staff when Blais was scheduled for reassignment.

"We worked together on everything from drug to murder cases, and Leo became a very close personal friend," says Leahy, "It was clear early on that he was a superb investigator. He's simply not one to give up. No matter what, he just keeps going, which is

the most important thing for an investigator."

Leahy tells this story: "Leo and I used to go to major crime scenes together. We both had a reputation for getting there very rapidly and took some ribbing about it. One time, we're listening to the police radio and a lone officer had stopped a suspected armed robber.

"The car was just three or four miles ahead. Leo nearly put his foot through the floor board. He yells to me that his pistol is in the glove compartment and it's unloaded. He's roaring around corners and I'm loading his gun. I like to joke that I don't know who was in more danger, the officer up ahead or us in the car."

On a more serious note, he adds, "If needed him at 3 a.m., or 3 p.m. he was always there. He is the model of what a professional law enforcement officer should be. I think the world of him."

With all of his outstanding murder cases solved, Blais is threatening to retire next year after his 50th birthday. He and Wheel enjoy the weather in Arizona and hope to someday be able to divide the year between Vermont and the Southwest.

It's hard to imagine him making good on that threat. He chomps at the bit when others discuss unsolved homicides in other parts of Vermont. He admits he's gotten several offers to work as a private investigator. "It's hard to say whether I'd jump right into another job," he says.

In the same breath, he says, "I've paid my dues. I don't want to be a millionaire. I just want to go live my life. Then again, maybe I'm not ready to retire."●

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,140th day that Terry Anderson has been held captive in Lebanon.

Yesterday, I noted the beginning of Terry Waite's 5th year in captivity. Today, the 4th anniversary for American hostages, Alann Steen and Jesse Turner. These men have suffered at the whim of terrorists. Indeed. We must redouble our efforts to bring all of the hostages out of the Middle East.

According to Associated Press writer, Rima Salameh, Beirut's Al-Safir daily newspaper printed letters to Mr. Steen and Mr. Turner from their wives. Offering them hope. Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

TWO AMERICAN PROFESSORS MARK 4TH ANNIVERSARY IN CAPTIVITY

(By Rima Salameh)

BEIRUT, LEBANON.—Two kidnapped American professors marked a fourth year in captivity today and their wives urged them to keep the faith, in messages published in a Beirut newspaper.

Alann Steen and Jesse Turner were kidnapped Jan. 24, 1987 from the campus of the U.S.-affiliated Beirut University College by gunmen posing as Lebanese police.

"We love you and we miss you. The family is fine. Please keep up your strength and faith," Virginia Rose, Steen's wife, said in a message published in the Al-Safir daily. "We are working to see you soon. I'm always with you."

Turner's Lebanese wife wrote in the same newspaper: "We always pray for your return. Joanna loves you and knows you by picture. She's almost 3 years old. The family is all right and send you their love. Keep up your hope. We love you and are trying to help you."

Joanna, Turner's daughter, was born a few months after her father's abduction.

Steen, 51, of Boston, was a journalism professor at Beirut University College and Turner, 43, was a professor of mathematics and computer science.

The two are among 13 Westerners held captive in Lebanon, including six Americans, four Britons, two West Germans and one Italian. Most are believed held by pro-Iranian Shiite Muslim extremists.

Longest-held is Terry Anderson, 43, of Lorain, Ohio, chief Middle East correspondent for The Associated Press who was kidnapped March 16, 1985.

A group calling itself Islamic Jihad for the Liberation of Palestine has claimed the abduction of Steen and Turner, along with the kidnappings of Beirut University College professors Robert Polhill and Mithileshwar Singh.

Singh, an Indian and a resident alien of the United States, was freed Oct. 3, 1988. Polhill, 56, was among five Western hostages released in 1990 a record number of captives released in a single year.

Iranian officials had predicted in early 1990 that all Western hostages would be freed by the end of that year.

But the crisis that developed over Iraq's Aug. 2 invasion of oil-rich Kuwait and the subsequent U.S.-led air strikes on strategic targets in Baghdad have brought efforts to resolve the hostage issue to a standstill.

YUGOSLAVIA AND THE CSCE

Mr. DECONCINI. Mr. President, dealing with a very critical matter, although our attention is focused on the grave situation in the Persian Gulf, it is important that we not lose sight of the events elsewhere in the world.

Yugoslavia is a country that has received considerable attention in the United States Congress in recent years. This is primarily because of the oppression of the Albanian population of Kosovo by the Serbian Government. It is a sad situation that persists and undoubtedly needs to be a focus of our human rights concerns this year.

Today Yugoslavia is going through a major crisis of which Kosovo is only one tragic part of it. The conflict, based on national and ethnic hostilities in Yugoslavia, is one that we must be persistent in insisting on human rights.

To those who have followed Yugoslavia over the years, divisions are nothing new. But the prospects for a real breakup of the federation are now more immediate than ever before.

As of last December, each of Yugoslavia's six republics has held multiparty elections. They varied significantly in the extent to which they were free and fair, but the leaders of the republics can now claim a popular mandate with which to participate in talks which have just begun on the country's future.

The question now is whether these leaders can produce an agreement that is acceptable to all the peoples of Yugoslavia, or whether irreconcilable differences will lead down the road to violent uprisings and perhaps civil war.

Principled, responsible behavior is needed if Yugoslavia is to find a peaceful, just, and lasting solution to its current dilemma. The peoples of Yugoslavia have found their way through difficult times in the past and they hopefully will rise to the challenge now before them rationally, wisely, and peacefully.

Many who follow developments in Yugoslavia have suggested that the CSCE, or Helsinki process, can serve as an international forum through which the United States, along with Canada and Europe, can encourage a positive outcome.

As cochairman of the Helsinki Commission, I would like to submit, for the RECORD the following statement on the situation in Yugoslavia and how the CSCE can help ensure that a democratic result be peacefully achieved. I hope that my colleagues will find this statement useful.

I ask unanimous consent that a statement prepared by the Helsinki Commission, the Commission on Security Cooperation on the subject matter of the recent events in Yugoslavia and the different republics there be printed in the RECORD.

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

YUGOSLAVIA: FINDING A CSCE SOLUTION

In April, Slovenia and Croatia, the two northernmost of Yugoslavia's six constituent republics, held the first multi-party elections in that country since World War II. In November, more than six months later, Macedonia and Bosnia-Hercegovina did the same, followed by Serbia and Montenegro in December. Opposition parties with nationalist leanings were the winners in the first four, while the communists retained power in the latter two, including Serbia's President, Slobodan Milosevic.

The degree to which these elections were free and fair varied considerably, but these quarreling republics nevertheless have finally all crossed the line from the one-party state into the world of political pluralism. The question now is whether they will be able to work together peacefully in resolving the problems of Yugoslavia as a whole, or will instead sink into the depths of civil war. A six-hour meeting of the republic presidents on January 10 was a positive sign; it resulted in agreement to meet further, first in smaller groups and then again as a whole. However, the Yugoslav military, judging by its recent and ominous rumblings, is willing to come to the federation's rescue by cracking down on independence-minded republic governments, but the army can provide no long-term solution and may find that dissent in its own ranks and stubborn resistance among the population will deny it even short-term success. The economic reforms introduced last year by the federal Prime Minister, Ante

Markovic, created hopes for finding a more peaceful and lasting solution in renewed economic prosperity, but the reforms have, at best, stabilized the economy and are limited by opposition in republic governments from doing very much more. Given the poor performance of Markovic's political party, the Alliance of Reform Forces, in the republic elections in which it took part, the population seems more interested in first staking out their various national positions than in trying to cure the ills of the Yugoslav economy.

Why all the delay and trouble, at a time when most of Central and Eastern Europe has moved on to the greater challenges of building democratic institutions at home and pursuing integration into Europe? The main answer lies in the fact that, while other Central and East European states, except for Czechoslovakia, are essentially defined by one national group despite sizable minorities (whose accommodation adds to the complexities of building democracy), Yugoslavia is in essence a collection of many national and ethnic groups—none of them constituting a majority of the population—with tremendous historical, cultural, linguistic and religious diversity among them. This has turned Yugoslav politics into the Sisyphean task of achieving a balance among a myriad of peoples who seem to have little in common.

Compounding the problem is the fact that Yugoslavia is a victim of its own success in adapting to communism. Josip Broz Tito led his Partisans to power on their own accord and not with the help of Soviet tanks. His subsequent independence from Moscow and reformist course of communist development gave Yugoslavia's communists a certain legitimacy other communist regimes lacked. This has made a clean break with the past more difficult to achieve, even though, with the exception of Serbia and Montenegro, the recent elections have shown general dissatisfaction with communist government. As a result, Yugoslavia has been in the awkward state of being both in front of and behind the wave of political liberalization which swept through the region in 1989 and 1990.

Essentially, the republican elections have divided Yugoslavia into three camps. In the north, Slovenia and Croatia elected non-Communist, nationalist parties to power and are poised for outright secession if agreement cannot be reached on forming a new, loose confederation. The people of Slovenia have, in fact, overwhelmingly approved independence and sovereignty for their republic in a plebiscite on December 23. Serbia and Montenegro, alternatively, have chosen to stay with their current communist leaders who also have heavy nationalist overtones but insist on maintaining the present Yugoslav federation. The people of Bosnia-Hercegovina and, to a lesser extent, Macedonia have also voted for nationalist parties but are in a precarious middle position: they probably can accept almost any approach as long as it maintains the unity of Yugoslavia, which respects their territorial integrity.

A common thread of the elections is the heavy nationalist tilt in the programs of each of the victors, even the communists, in most cases outdone only by a few small fringe parties. While all of the newly formed governments should therefore have a popular mandate to negotiate terms for keeping Yugoslavia together while defending the interests of their respective nationalities, their animosity toward each other and unwillingness to suggest compromise make a serious attempt at maintaining Yugoslavia's unity questionable at best. The range of options seems narrow, and there is a strong possibility that the military will step in. Senior Yugoslav military officials and hardline communists have, in fact, organized a party with an apparent aim of doing just that.

The alternative—letting each republic peacefully go its own, independent way—seems, on the surface, the simplest course. After all, it could be argued, Yugoslavia, in all its diversity, was only created in 1918 as an expression of the national aspirations of the South Slav peoples who had finally and fully been liberated from centuries of division and domination by the Austro-Hungarian and Ottoman Empires. Spanning the divide between Central Europe and the Balkans geographically, historically and culturally, Yugoslavia was only able to function briefly under conditions of democracy and equality for its diverse national and ethnic groups. Furthermore, the experience of World War II, when internecine warfare led to more Yugoslav deaths at the hands of fellow Yugoslavs than of foreign invaders, has left deep scars and distrust that have yet to disappear. The source of the problem dividing the Yugoslavs today is that they cannot escape the historical circumstances in which they live.

While an attractive option to some, the dissolution of Yugoslavia into independent states is unlikely to happen easily or peacefully. One reason is that the two largest national groups, the Serbs and the Croats, live in sizable numbers in each other's and some of the other republics in addition to their own. Any proclamation of independent statehood will lead to dispute and conflict over present borders, especially in regard to Bosnia-Hercegovina, where a Slavic people officially considered to be ethnic "Muslims" make up only a plurality of the population. Similar fears of carving new borders exist among Macedonians, whose national identity has been recognized as such within the federation but is questioned if not denied by their larger Greek, Bulgarian and Serbian neighbors while they themselves contend with an expanding Albanian population within their own republic. Even Montenegro might seize upon an opportunity to annex parts of neighboring Hercegovina and that part of Kosovo province known as Metohia.

Moreover, even within the confines of the federation, the Albanians who make up the overwhelming majority of the population of Kosovo, one of two provinces in the Serbian republic, have experienced harsh repression and no longer want to remain part of Serbia. For this reason, they almost universally boycotted the recent Serbian elections. An attempt to gain complete independence is likely if the federation were to dissolve, but the Serbs view this province as the birthplace of their nation and culture and will not let it go. The situation there has already been violent, and a full-scale popular uprising, likely to be met by brute military force, would only be a matter of time outside the federation. Developments in neighboring Albania may exacerbate the tensions which now exist.

Given this rather dismal picture, the question of what the United States and other concerned members of the international community can do to encourage the most democratic, peaceful result is of immediate importance. Our historical support for human rights, democracy and the self-determination of peoples (ironically, reasons once used by Woodrow Wilson in advocating the formation of Yugoslavia) seems to be fundamentally at odds with our traditional policy of support for the unity and territorial integrity of Yugoslavia, and our own reasoned approaches to dispute resolution seems to have few ears in a place where anger and hatred have such deep-seated roots.

In addition, it may be true that a united Yugoslavia is of less importance to our own national and Western security interests, since there no longer appears to be a Soviet threat for which a buffer state like Yugoslavia is needed. It may also be true, since Tito's own brand of "self-management" communism is no longer a model for the best that can be hoped for from a communist state—we learned in 1989 that they can go one step further by ceasing to be communist. However, our support for a united Yugoslavia has been more than just a reflection of our narrow self-interests; it was and may continue to be what we would perceive as the most viable solution economically and politically for the peoples of Yugoslavia. Moreover, our international commitment to respect the sovereignty and territorial integrity of Yugoslavia, as of other countries with which we have relations, would preclude us from actively supporting the dissolution of Yugoslavia. After all, the future of their country is for the citizens of Yugoslavia themselves to decide.

The newly revamped Conference on Security and Cooperation in Europe, commonly known as the CSCE or Helsinki process, is viewed by many as a forum where Europe, along with the United States and Canada, might help Yugoslavia—a CSCE member—to find a way out of this quagmire. Developing CSCE mechanisms in conflict prevention and the peaceful settlement of disputes have been suggested for the task, but so far these mechanisms are considered to apply, in the CSCE context, more to peace and security between than within states. This does not have to be the case, but Yugoslavia may already be in flames by the time new institutions are set up and mandated to deal with the situation. In any event, given their history the Yugoslavs are unlikely to give the necessary consent to having their problems handled directly by anyone but themselves.

While the CSCE cannot provide immediate answers to the troubles plaguing Yugoslavia, it can provide the ground rules for constructive dialogue from within Yugoslavia itself. This can be accomplished by holding the main Yugoslav players—the republics—to strict compliance with the commitments contained in the Helsinki Final Act and subsequent CSCE accords, regardless of whether they keep the federation, negotiate a new confederation or simply go their own, separate ways. The leaders of the republics seem to share one common objective: to be integrated into the whole of Europe to which they feel they belong. None of them feel that their interests would be best served outside the community of free European nations, and joining this community can only be achieved by adherence to Helsinki's principles in their relations with each other.

Thus, if we are to have any role at all, we must not only hold the present Yugoslav federal government accountable to the CSCE commitments it has already undertaken, but also obtain the agreement of each of the constituent republics to abide by and be held accountable to these commitments in their relations with each other. In practice, this means first having the republic leaders in Yugoslavia express publicly a willingness to live by the same CSCE standards to which the Yugoslav federal government has committed itself. The government and assembly

of Slovenia has already taken steps in this direction. The following principles are of particular relevance to the Yugoslav situation:

Respect for Human Rights and Fundamental Freedoms. This includes the right to free association and expression, the latter of which has been particularly restricted by a new verbal crimes law in Serbia. It also includes the equal application of the cultural, religious and other rights of all national and minority groups, from the Albanians in Kosovo and Macedonia to the Serbs in Kosovo and Croatia.

Equal Rights and Self-Determination of Peoples. This could but does not necessarily mean secession and independence, a frequent and mistaken assumption. In fact, unlike the Soviet situation to which it is often compared, the essentially voluntary nature of the original joining of the Yugoslav peoples brings less sympathy to arguments for Yugoslavia's breakup. This principle certainly does include, however, the right of any of the democratically elected republic governments to suggest reshaping their relationships with the others if they feel the current political configuration does not reflect the will of the peoples they represent, and a subsequent commitment on all sides to sit together and work things out. The meetings of republic presidents are a fortunate first sign that this can happen. It also means that Albanians, the third most populous people in Yugoslavia, and other peoples in Kosovo as well as the mixed population of Vojvodina, Serbia's other province, must be allowed to participate in this process through their freely chosen representatives.

Territorial Integrity, Inviolabilty of Frontiers. Despite the minority and other problems which may result from the current borders of Yugoslavia, these borders exist, and they should not be altered except in cases when it can be done peacefully, with the full, free and mutual consent of everyone directly involved. Such cases rarely come about, and seeking instead to improve the situation for people within current borders combined with an opening of borders will be much easier to achieve.

Refraining from the Threat of Use of Force. Regardless of the eventual political configuration of Yugoslavia and its six republics, the result cannot be brought about by the threat or use of force. A solution brought about by force would not only be wrong but, as a practical matter, would be neither stable nor lasting.

Peaceful Settlement of Disputes. A clear, firmly stated commitment to resolve disputes within Yugoslavia peacefully through willing and mutual agreement to arbitration, mediation and other means for finding solutions to differences would add a degree of trust among the Yugoslav republics which is now absent.

Acceptance and adherence by the republics to these principles, and others which are spelled out in detail in numerous CSCE documents, are in a real sense prerequisites for Yugoslavia as a whole or the republics individually to remain—part of Europe. We cannot decide for the Yugoslavs what their future will be, but we can insist that if they wish to participate in Europe's affairs they must adhere to Europe's principles. Subsequent international calls to abide by CSCE standards could build confidence among the Yugoslav republics and provide a framwork for resolving differences through dialog, just as they have done for Europe as a whole.

Principled, responsible behavior is perhaps the best chance for Yugoslavia to go through a difficult but inevitable transition without the misery and suffering which has marked its past, If successful, Yugoslavia, which in its short history has already found practical answers to complex questions of national and ethnic identity, can serve as a model for resolving similar problems currently plaguing other countries in the region, not to mention the Soviet Union. The Yugoslavs will hopefully rise to the challenge before them rationally, wisely and peacefully.

CRISIS IN YUGOSLAVIA

Mr. DOLE. Mr. President, 2 days ago I came to the floor to bring attention to the worsening situation in Yugoslavia. Today, I am sorry to say, the situation is rapidly deteriorating; the non-Communist governments of Slovenia and Croatia are being intimidated and threatened by the Yugoslav Army.

This crisis was not created by these two Republic governments, rather it was provoked by the Yugoslav Central Government when it issued a Presidential decree with a deadline calling for certain military units—including police and national guard units in the Republics of Croatia and Slovenia—to disarm or be disarmed by the Yogoslav Army.

Although in the first hours after the deadline the Yugoslav Presidency seemed to have backed down from this threat. Yesterday the Yugoslav Defense Ministry took a different position and issued its own order for Croatian militia units to disarm and disband.

And the Yugoslav Army appears to be preparing to carry out this threat of military action. According to Government officials in the Croatian and Slovene capitals, there are indications of troop movements and equipment preparations. At some military facilities tanks and armored vehicles are being readied for deployment. In addition, the Yugoslav Army is restructuring by sending Croatian and Slovenian soldiers out of Croatia and Slovenia and into the Republic of Serbia.

Mr. President, we are seeing all the signs of preparation for a military crackdown on or takeover of the democratic Republics. We could be only hours away from a Yugoslav Army attempt to crush democracy and to replace it with hardline Communist rule, similar to what we have seen in the Province of Kosova.

Mr. President, once again, I am here to urge that the United States not sit quietly on the sidelines. We must make it absolutely clear to the Yugoslav Government and the Yugoslav Army that the Congress will not do business as usual with Yugoslavia if these democratic regimes are snuffed out. Indeed, I am confident that, in the event of a military crackdown or takeover, the Congress will react immediately and decisively.

Mr. President, I ask unanimous consent that the letters I have received from the Prime Minister of Slovenia and the President of Croatia be printed in the RECORD.

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

OFFICE OF THE PRIME MINISTER

January 25, 1991.

DEAR DISTINGUISHED SENATOR: I have great respect concerning your efforts for the establishment of democracy in the former communist Eastern European countries; especially Yugoslavia. I cannot tell you how much I appreciate your interest in and efforts for our country; this is a crucial and historic era for the Slovenian nation.

Furthermore, I share your views entirely regarding the relationship between the United States of America and Yugoslavia. The S. 9 "The Direct Aid for Democracy" act, which was submitted to the Senate on 14th January 1991 by the Senate Minority leader Sen. Dole, came as a pleasant and most welcome surprise. It would afford me the greatest pleasure to see this bill passed as law. This would undoubtedly strengthen those republics of Yugoslavia which have truly decided on a democratic future. Your bill represents the view that the United States is no longer willing to support a communist-Serbian-dominated Yugoslavia.

It is therefore with deep regret that I have to inform you of the current situation in Yugoslavia whereby we are witnessing serious and concentrated efforts by some political forces aiming to restore the Yugoslavia of old, undemocractic and communist, a state where the freedom of nations individuals was non-existent. It seems that the spontaneous development of events will in effect, render negotiations useless and jeopardize any possible agreement among Yugoslavia's republics.

Indeed the situation was exacerbated by the illegal printing of the Yugoslav currency by Serbia; the result of which will be a new wave of hyperinflation. In addition we also have to consider the alliance between the Serbian Communists and the Yugoslav army. There exists a powerful threat from the afore-mentioned that force will be employed in order to reestablished the old regime.

The latest information (highly confidential) which has been fully verified, is particularly worrisome; Yugoslav army is on "stand by" for an intervention. Moreover, soldiers of slovene nationality have been removed from Slovenia and deployed elsewhere while, simultaneously, special military courts have been organized.

As emerging democracies Slovenia and Croatia are threatening no one and demanding nothing from any other republic of Yugoslavia: on the contrary it is us who are living under the threat of military, economic and political takeover which would undoubtedly thrust us back into the cold communist years of economic and social depression and deprivation.

It is with deep regret therefore that I must confirm justified fears that the Gulf crisis would be taken advantage of by the regimes in the Soviet Union and Yugoslavia to exercise a military crack-down on democratic republics.

Being acquainted with your principles regarding Eastern Europe, I have to inform you that Slovenia is ready and willing to defend its young democracy where absolutely necessary.

Dear Congresssman thanks to your supreme efforts on our/Eastern Europe's behalf you have become a highly respected and esteemed friend of the Slovenian government and its people. It is therefore my duty and

pleasure to invite you, on behalf of us all, to visit Slovenia at earliest convenience. Your presence would be most encouraging while your influence and experience would be most beneficial to us in our time of need.

With great respect, I remain,

Yours sincerely,

Prof. LOJZE PETERLE,
Prime Minister.

REPUBLIC OF HRVATSKA,
January 24, 1991.

Hon. BOB DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I fully understand your focus and concern of the Gulf crisis. However, as you are by now aware, the situation in the republics of Slovenia, Croatia, and Bosnia-Hercegovina is unfortunately developing in the direction as events unfolded in Kosovo. At this time, we are on serious alert status.

It is absolutely critical that the Yugoslavian army stop its continued scenario of "threats, retractions, threats" interspersed with military tank, plane and manpower movement. They must also be cautioned not to move Croatian reservists out of Croatia. It is seriously destabilizing the democratic governments of the above named republics and prevents us from moving forward on vital issues enabling us to securely establish a long-term free and democratic society and an open, free market economy.

Senator DOLE, the road to stability has only one path and that is the success of a democratic society. Slovenia, Croatia, Bosnia-Hercegovina and Macedonia have all elected democratic governments. The election of the Marxist-Communist Slobodan Milosevic cannot be reconciled with the elected democratic governments to the north.

The message which can avert any disaster in Yugoslavia must make it absolutely clear that at this point in time the United States government supports the majority, meaning the newly democratically elected republics and advocates a peaceful resolution to ensure future stability, respect for internal borders and cooperation between those nation states.

Yugoslavia is not the Soviet Union; Serbia is not Russia; and the Yugoslavian army is not the Soviet army.

Any failure to act now is to allow the majority of Yugoslavia which is freely and democratically elected to be overtaken and ruled by a Communist dictator. This is not in the best interests of the United States government; it is avoidable with strong United States messages.

The continuation of this harrassment will have long-term detrimental effects if it does not discontinue immediately. We look forward to the support of the United States.

Sincerely,

Dr. FRANJO TUDJMAN,
President.

THE 1990 YEAR END REPORT

The mailing and filing date of the 1990 year end report required by the Federal Election Campaign Act, as amended, is Thursday, January 31, 1991. Principal campaign committees supporting Senate candidates file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records Office will be open from 8 a.m. to 9 p.m. on the filing date to accept these filings. In general, reports will be available to the public 24 hours after receipt. For further information, please contact the Public Records Office on (202) 224–0322.

UKRAINIAN INDEPENDENCE DAY

Mr. METZENBAUM. Mr. President, I join Ukrainians throughout the United States and the rest of the world in celebrating the 73d anniversary of Ukraine's Declaration of Independence, which was marked this week.

In 1918, the Ukrainian people proclaimed their freedom and self-determination by declaring an independent Ukrainian National Republic. This dream has been preserved for over 70 years, and has found a voice in the current Ukrainian democratic movement. I applaud the persistence of Ukrainians who are making a stand for their liberty and autonomy.

It is especially important to remember on this anniversary that the people of Ukraine continue to fight for their rights to freedom and democracy. The recent dispatch of Soviet troops to Ukraine threatens to repress the democratic movement.

I salute the proud people of Ukraine on the anniversary of their declaration of independence, with the hope that their dream of freedom will soon be realized.

ISRAEL'S MILITARY RESTRAINT LAUDED

Mr. PACKWOOD. Mr. President, I rise today with the utmost respect and admiration for one of our country's strongest allies—the State of Israel.

Shortly after Operation Desert Shield became Operation Desert Storm, Iraq made true on one of its prewar threats by launching a series of missile attacks against Israel. The enormous restraint Israel has demonstrated since these missile attacks by Iraq deserves praise and appreciation. Israel's diplomatic response has been invaluable to the United States and the allied coalition in our efforts to fulfill the objectives of the United Nations' resolutions—namely, the withdrawal of Iraqi forces from Kuwait.

I am especially incensed by Iraq's method of retaliating against Desert Storm. I am referring to the recent missile attacks on the civilian population of Tel Aviv. Instead of strategically targeting their missiles to avoid harming innocent civilians, as is the strategy of the allied coalition, the Iraqis employ Scud missiles, which terrorize civilian populations because of their imprecise targeting.

In trying to drag Israel into this conflict, Saddam Hussein hopes to divert attention away from the issue at hand—his invasion and occupation of Kuwait—and toward the longstanding conflicts in the region. All of this in hopes of undermining the allied coalition.

Israel has once again demonstrated its friendship and strong bond with the United States. My sympathy and good will go out to the Israeli people and especially to those families whose loved ones have been injured or tragically killed by Saddam's "missiles of terror."

In closing, I also want to applaud the Bush administration for its careful consideration of Israel's difficult position and its swift retaliation on behalf of the Israeli people. A country has every right to protect its citizens and the security of its nation. Israel has been a great ally in exercising restraint in response to these deplorable attacks.

MEASURES REFERRED

The following concurrent resolutions, previously received from the House of Representatives for concurrence, were read and referred as indicated:

H. Con. Res. 40. Concurrent resolution condemning the recent use of military force in the Baltic states; to the Committee on Foreign Relations.

H. Con. Res. 41. Concurrent resolution condemning the Iraqi attacks against Israel; to the Committee on Foreign Relations.

H. Con. Res. 48. Concurrent resolution condemning the brutal treatment by the Government of Iraq of captured service members of the United States and its allies in the Persian Gulf conflict; to the Committee on Foreign Relations.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–409. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals dated January 1, 1991; pursuant to the order of January 30, 1975, referred jointly to the Committees on the Budget and the Committee on Appropriations.

EC–410. A communication from the Secretary of Energy, transmitting, pursuant to law, the fifth biennial report on implementation of the Alaska Federal-Civilian Energy Efficiency Swap Act of 1980; to the Committee on Energy and Natural Resources.

EC–411. A communication from the Secretary of Energy, transmitting, pursuant to law, the Program Opportunity Notice for the fourth round of the Clean Coal Technology Demonstration Program; to the Committee on Energy and Natural Resources.

EC–412. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the fourteenth annual report on the Child Support Enforcement program; to the Committee on Finance.

EC–413. A communication from the Comptroller General of the United States, trans-

mitting, pursuant to law, a report on scorekeeping of lease-purchase contracts; to the Committee on Governmental Affairs.

EC–414. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC–415. A communication from the United States Special Counsel, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC–416. A communication from the Executive Director of the United States Holocaust Memorial Council, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC–417. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–300 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–418. A communication from the Chairman on the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–303 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–419. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–304 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–420. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–305 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–421. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–306 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–422. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–307 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–423. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–308 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–424. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–309 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–425. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–310 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–426. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–311 adopted by the Council on Governmental Affairs.

EC–427. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–312 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–428. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–313 adopted by the Council on December 4, 1990; to the Committee on Governmental Affairs.

EC–429. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–314 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–430. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–315 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–431. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–316 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–432. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–317 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–433. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–318 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–434. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–319 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–435. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–320 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–436. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–321 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–437. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–322 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–438. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–323 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–439. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–324 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–440. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–325 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–441. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–326 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–442. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–327 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–443. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–328 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–444. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–329 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–445. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–330 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–446. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–331 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–447. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–332 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–448. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–333 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–449. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–334 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–450. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–335 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–451. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–336 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–452. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–337 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–453. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–338 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–454. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8–339 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC–455. A communication from the Chairman of the Council of the District of Colum-

bia, transmitting, pursuant to law, copies of D.C. Act 8-340 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC-456. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-342 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC-457. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-343 adopted by the Council on December 18, 1990; to the Committee on Governmental Affairs.

EC-458. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the third triennial report entitled "Drug Abuse and Drug Abuse Research III"; to the Committee on Labor and Human Resources.

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-1. A resolution adopted by the Legislature of the Virgin Islands; to the Committee on Armed Services.

"RESOLUTION NO. 1433

"Whereas, pursuant to Title 32, Section 314, United States Code, the Adjutant General of the Virgin Islands National Guard is appointed by the President of the United States; and

"Whereas, in all of the 50 States and the Commonwealth of Puerto Rico, the Adjutant General is appointed by the Governor of that jurisdiction; and

"Whereas, over the last 20 years, the people of the Virgin Islands have been granted increased autonomy over their own affairs; including the right to elect their own Governor as opposed to being governed by a presidential appointee; and

"Whereas, under Virgin Islands law, the Adjutant General has additional territorial duties, one of the most important of which is heading the Virgin Islands Territorial Emergency Management Agency; and

"Whereas, it is the sense of the Legislature and people of the Virgin Islands that the nature of both his federal and local duties require the Adjutant General of the Virgin Islands to be well acquainted with the people, culture and geography of the Territory; and

"Whereas, it is also the sense of the Legislature and the people of the Virgin Islands that they would be best served by having the Adjutant General of the Virgin Islands National Guard appointed by the Governor of the Virgin Islands; Now, therefore,

"Be it resolved by the Legislature of the Virgin Islands:

"SECTION 1. The Legislature of the Virgin Islands, on behalf of the people of the Virgin Islands, hereby petitions the President and Congress of the United States to amend the United States Code to provide for the appointment of the Adjutant General of the Virgin Islands National Guard by the Governor of the Territory.

"SECTION 2. Copies of this Resolution shall be forwarded to the President of the United States and every member of the Congress of the United States."

POM-2. A resolution adopted by the Senate of the Legislature of Puerto Rico; to the Committee on Energy and Natural Resources:

"RESOLUTION OF THE COMMONWEALTH OF PUERTO RICO

"Whereas: The House of Representatives of the United States has approved a bill to make a plebiscite on its political status, viable for the People of Puerto Rico.

"Whereas: Committees of the Senate of the United States have approved a bill drafted with similar purposes.

"Whereas: Said bills provide reasonable grounds to initiate the process by which the People of Puerto Rico would choose their political status.

"Whereas: Said bills comply with the claims of the three political parties registered in Puerto Rico, and of the different groups that feel that the status problem demands an urgent solution.

"Whereas: The U.S. Congress shall recess soon and the legislation providing for the celebration of the plebiscite on the political status of Puerto Rico has not yet been approved by the Senate.

"Whereas: The existing time limitations for the celebration of a plebiscite require the Congress to act with the utmost urgency.

"Now therefore: be it resolved by the Senate of Puerto Rico:

"SECTION 1. To emphatically state the unequivocal endorsement of the Legislature of Puerto Rico for the celebration of a plebiscite, whereby the People of Puerto Rico will express their preference on their political status.

"SECTION 2. To urge of the Congress and the President of the United States, the prompt approval of legislation to make the celebration of a plebiscite on the political status of the People of Puerto Rico viable, as well as the implementation of the outcome thereof.

"SECTION 3. To request the specialized agencies of the U.S. Congress to furnish the Legislature of Puerto Rico all the information compiled during the Federal legislative process on the impact that each of the three political status formulas would have on Puerto Rico with regard to fiscal matters, taxes, commerce, citizenship, language, sports (international and Olympic representation), defense, social assistance programs, representation before international forums and institutions, terms and conditions during transition periods, and all other relevant matters. This information, in turn, shall be made available to all the legislators and the country's news media.

"SECTION 4. That a copy of the Resolution, translated into the English language, be sent immediately to the President of the United States, the President of the U.S. Senate, the Speaker of the U.S. House of Representatives and, in Spanish, to the Resident Commissioner of Puerto Rico in the United States, and to the Secretary General of the United Nations.

"SECTION 5. This Resolution shall take effect immediately after its approval and shall continue in effect until its purposes have been accomplished."

POM-3. A resolution adopted by the City Council of Sweetwater, Florida, relative to the political status of the people of Puerto Rico; to the Committee on Environment and Public Works.

POM-4. A resolution adopted by the City Council of Sweetwater, Florida, urging creation of a recycling markets resource task force; to the Committee on Environment and Public Works.

POM-5. A resolution adopted by the City Council of Sweetwater, Florida, seeing Federal fiscal assistance for basic municipal services; to the Committee on Environment and Public Works.

POM-6. A petition from citizens of Mayfield, Kentucky, asking for equal rights for school teachers to be given the right to teach school children creation as well as evolution; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SASSER, from the Committee on the Budget, unfavorably without amendment:

S.J. Res. 44: Joint resolution suspending certain provisions of law pursuant to section 258(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985.

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. LEVIN (for himself, Mr. COHEN, Mr. GLENN, and Mr. ROTH):

S. 260. A bill to provide for the efficient and cost effective acquisition of nondevelopmental items for Federal agencies, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DIXON (for himself, Mr. SANFORD, and Mr. WIRTH):

S 261. A bill to amend the Federal Deposit Insurance Act to provide for risk-based premiums for deposit insurance; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DIXON:

S. 262. A bill to provide for the use of the income on depository institution reserves at the Federal Reserve banks to protect and enhance the deposit insurance system; to the Committee on Banking, Housing, and Urban Affairs.

S. 263. A bill to modernize and reform the regulation of financial services, to strengthen the enforcement authority of depository institution regulating agencies, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. COCHRAN:

S. 264. A bill to authorize a grant to the national writing project; to the Committee on Labor and Human Resources.

By Mr. THURMOND:

S. 265. A bill to establish constitutional procedures for the imposition of the death penalty for terrorist murders and for other purposes; to the Committee on the Judiciary.

By Mr. BIDEN (for himself and Mr. DECONCINI):

S. 266. A bill to prevent and punish domestic and international terrorist acts, and for other purposes; to the Committee on the Judiciary.

By Mr. REID (for himself and Mr. BRYAN):

S. 267. A bill to prohibit a State from imposing an income tax on the pension or retirement income of individuals who are not residents or domiciliaries of that State; to the Committee on Finance.

By Mr. PACKWOOD (for himself, Mr. BENTSEN, Mr. DOLE, Mr. MOYNIHAN, Mr. CHAFEE, Mr. DURENBERGER, Mr.

HEINZ, Mr. RIEGLE, Mr. DECONCINI, Mr. MCCONNELL, and Mr. THURMOND):

S. 268. A bill to amend the Internal Revenue Code of 1986 to authorize a deduction for the expenses of adopting a special needs child and to amend title 5, United States Code, to establish a program providing assistance to Federal employees adopting a special needs child; to the Committee on Finance.

By Mrs. KASSEBAUM (for herself, Mr. HATCH, Mr. BUMPERS, Mr. HATFIELD, and Mr. BRYAN):

S. 269. A bill to amend the Employee Retirement Income Security Act of 1974 to require an independent audit of statements prepared by certain financial institutions with respect to assets of employee benefit plans; to the Committee on Labor and Human Resources.

By Mr. GRASSLEY:

S. 270. A bill to require regular reports to the Congress on the amount of expenditures made to carry out Operation Desert Shield and Operation Desert Storm and on the amount of contributions made to the United States by foreign countries to support Operation Desert Shield and Operation Desert Storm; to the Committee on Armed Services.

By Mr. ROTH:

S. 271. A bill to continue until January 1, 1995, the suspension of duty on o-Benzyl-p-chlorophenol; to the Committee on Finance.

By Mr. GORE (for himself, Mr. HOLLINGS, Mr. KENNEDY, Mr. PRESSLER, Mr. FORD, Mr. BREAUX, Mr. BINGAMAN, Mr. ROBB, Mr. KERRY, Mr. KASTEN, Mr. GLENN, Mr. JEFFORDS, Mr. KERREY, Mr. REID, Mr. DURENBERGER, Mr. HATFIELD, Mr. KOHL, Mr. CONRAD, and Mr. RIEGLE):

S. 272. A bill to provide for a coordinated Federal research program to ensure continued United States leadership in high-performance computing; to the Committee on Commerce, Science, and Transportation.

By Mr. STEVENS:

S.J. Res. 46. Joint resolution disapproving the action of the District of Columbia Council in approving the Assault Weapon Manufacturing Strict Liability Act of 1990; to the Committee on Governmental Affairs.

By Mr. EXON (for himself and Mr. BENTSEN):

S.J. Res. 47. Joint resolution proposing an amendment to the Constitution relating to Federal Budget Procedures; to the Committee on the Judiciary.

By Mr. SIMON (for himself and Mr. DIXON):

S.J. Res. 48. Joint resolution designating February 16, 1991, as "Lithuanian Independence Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. KERRY (for himself, Mr. KENNEDY, and Mr. MITCHELL):

S. Res. 18. Resolution to recognize the accomplishments of Lewis A. Shattuck; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN (for himself, Mr. COHEN, Mr. GLENN, and Mr. ROTH):

S. 260. A bill to provide for the efficient and cost-effective acquisition of nondevelopmental items for Federal agencies, and for other purposes; to the Committee on Governmental Affairs.

NONDEVELOPMENTAL ITEMS ACQUISITION ACT

• Mr. LEVIN. Mr. President, last year, S. 1957, the Nondevelopmental Items Acquisition Act of 1990, was reported unanimously to the Senate by the Governmental Affairs Committee and its Subcommittee on Oversight of Government Management. The bill was approved twice by the Senate and once by the House—all without a single dissenting vote.

Unfortunately, the House version of the bill, which differed slightly from the Senate version, was passed with only a few hours left in the session. Because the Senate did not have time to pass the bill again, the bill died with the Congress.

Mr. President, S. 1957 was approved unanimously by both Houses for good reason. This is a good government measure which would streamline the acquisition process and reduce the paperwork burden on Government and contractor officials without undermining vital procurement safeguards.

The nondevelopmental items bill is an important piece of unfinished work from the last Congress. I worked hard to pass the bill in the 101st Congress, and I am proud to reintroduce it now, with the cosponsorship of Senators COHEN, GLENN, and ROTH, in the 102d Congress.

Mr. President, it only makes sense that products that are already in use—known as nondevelopmental items or NDI's—are less expensive and easier to purchase than new, Government-unique items. Moreover, most NDI's have already been tried and tested and many carry their own warranties. For example, it is far more preferrable for an agency to order a standard heat pump from an existing manufacturer than it is to design and build a new one from scratch for a Federal agency alone.

For several years now, we have urged Federal agencies to stop spending taxpayer dollars to design and build new products when available products could meet agency needs. We have already succeeded in passing provisions requiring the Department of Defense to focus its attention on this issue; we must now expand these provisions to cover other Federal agencies as well.

The NDI bill would promote the use of commercial and off-the-shelf products by creating an acquisition preference and streamlining the system for purchasing such items. In particular, the bill would require Federal agencies to:

First, purchase NDI's to the maximum extent possible;

Second, simplify their product requirements, telling companies what they want, rather than how to build it;

Third, eliminate unnecessary and burdensome contract clauses that serve as an impediment to NDI contracts;

Fourth, tailor appropriate inspection requirements for NDI's;

Fifth, enhance training for acquisition personnel in the procurement of NDI's; and

Sixth, designate officials responsible for promoting the acquisition of NDI's.

Mr. President, these measures are already applicable to DOD under the 1987 and 1990 Defense Authorization Acts. The bill that we are introducing today would extend these measures to civilian agencies and restore the uniformity of the Federal procurement laws.

Mr. President, the Nondevelopmental Items Acquisition Act of 1991 is a commonsense proposal that will help save taxpayer dollars. It is a bill which should have been enacted into law in the last Congress. I hope that my colleagues will join me making up for this failure by enacting the bill into law early this year.•

• Mr. COHEN. Mr. President, I am pleased to join Senator LEVIN in introducing legislation to encourage more Federal civilian agencies to purchase commercial, or so-called off-the-shelf items.

Last Congress, Senator LEVIN and I held a series of hearings in the Subcommittee on Oversight of Government Management on how the Department of Defense and civilian agencies can save taxpayers' dollars by purchasing items that are already available or developed in the commercial marketplace, rather than requiring Government contractors to design and build new products from scratch. What we found time and time again was that it is often cheaper and easier for the Government to purchase products that are already in use in the private sector than to purchase items that are designed and built specifically to meet unique Government specifications.

While it seems only logical that buying what is already available can save money for the taxpayer, we found, unfortunately, that many obstacles to buying off-the-shelf exist in the Federal Government's current procurement practices. We found, for example, that complicated Government contract specifications and unnecessarily burdensome contract requirements often prevented many qualified commercial sellers from doing business with the Government. We also found that the Government requires sellers to submit excessive cost or pricing data for their products when there are far less complicated means of determining whether the Government is getting a fair price for the product it is buying.

Such Government contracting requirements and clauses go far beyond protecting the Government from unscrupulous sellers. To the contrary, they often have the effect of making fewer products available to the Government, thus impeding competition in contracting, because sellers cannot comply with the detailed specifications and the excessive data requirements. The subcommittee heard many stories of companies which could offer equal or superior products at lower prices than what the Government is specifying, but it is not worth the companies' time or effort to jump through all the hoops that are required to sell to the Government.

In recent years, the Congress has directed the Department of Defense to prefer nondevelopmental and commercial products in its contracts, develop a simplified uniform contract for the acquisition of commercial products, adopt streamlined inspection clauses, and revise its regulations on when "cost or pricing data" is required to be submitted. While these reforms are not yet in practice, they will go far in making DOD purchasing more efficient.

The bill we are introducing today will extend these reforms to civilian agencies. This bill contains many provisions of S. 1957, passed by the Senate last year, and incorporates amendments passed by the House of Representatives. Unfortunately, the final version of this legislation was not enacted during the press of business in the final days of the 101st Congress.

This legislation contains may valuable reforms for the Governmentwide procurement process that will result in cost savings for the taxpayer, while fully protecting the needs of the Government. It will also go far in removing obstacles that now discourage businesses, both large and small, from doing business with the Government.

I hope that my colleagues will support this legislation, that will increase competition in contracting and make our overall procurement system more efficient.●

By Mr. DIXON (for himself, Mr. SANFORD, and Mr. WIRTH):

S. 261. A bill to amend the Federal Deposit Insurance Act to provide for risk-based premiums for deposit insurance; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DIXON:

S. 262. A bill to provide for the use of income on depository institution reserves at the Federal Reserve banks to protect and enhance the deposit insurance system; to the Committee on Banking, Housing, and Urban Development.

S. 263. A bill to modernize and reform the regulation of financial services, to strengthen the enforcement authority of depository institution regulating agencies, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

DEPOSITORY INSTITUTIONS LEGISLATION

Mr. DIXON. Mr. President, fundamental reform of our deposit insurance system, recapitalization of the bank insurance fund, and structural reform of our financial services laws are all urgently needed. I am today introducing three pieces of legislation to help address these needs.

The first bill, which I am introducing with my distinguished colleagues, Senators WIRTH and SANFORD, addresses the deposit insurance issue. It is designed to eliminate the flaws of deposit insurance while building on its strengths.

The Deposit Insurance Reform Act of 1991, Mr. President, brings market-set, risk-based pricing to deposit insurance. Under this bill, taking greater risks will mean paying higher premiums. That is a basic principle of all insurance—riskier drivers, for example, pay higher auto insurance rates than safe drivers. That makes sense in the auto insurance business, and it makes equally good sense for Federal deposit insurance.

Under this legislation, the Federal Government will not determine risk-based prices. Instead, premiums for large banks and thrifts will be based on the prices charged by private insurance companies for reinsuring between 3 and 10 percent of the FDIC's risk that an individual large bank or thrift might fail. These private insurers—with their own money on the line—will guarantee that deposit insurance premiums reflect marketplace realities. A simplified risk-base system will be used to set premium levels for smaller banks and thrifts.

The bill has a number of other features designed to work with risk-based premiums to protect the taxpayer from risk of loss while discouraging imprudent banking. For example, it requires annual, on-site examinations by the Federal regulators of every bank, savings and loan, and credit union. It also requires the FDIC to change the way it handles large bank failures in order to deal with the too big to fail problem. After all, the purpose of deposit insurance is to protect small depositors and confidence in our banking system, not individual banks.

While the Deposit Insurance Reform Act cures the fundamental problems of deposit insurance, it seems clear that the FDIC's bank insurance fund is under serious stress and that transitional support for the fund is needed. The first place to look for this assistance must be the resources of the banking industry itself. However, we all need to be aware of the risk that asking too much from the industry will be counterproductive—that going too far could result in additional failures and a contraction in bank lending that would cause further damage to our economy.

Fortunately, by making better use of some of the banking industry's existing resources, it is possible to augment the resources of the bank insurance fund, and to ease the transition to a reformed deposit insurance fund in a manner that minimizes the risk of making the recession more severe or increasing the number of bank failures.

The Deposit Insurance Fund Assistance Act, the second bill I am introducing today, is designed to help accomplish these objectives. It makes use of what are commonly called the sterile reserves that banks and thrifts have on deposit at the Federal Reserve banks around the country.

For basically historical reasons, the Federal Reserve does not pay interest on the over $21 billion in sterile reserves depository institutions currently have on deposit at the Federal Reserve banks.

Frankly, Mr. President, I think a good case can be made for paying interest on reserves directly to banks and thrifts. However, my bill does not do that. What it does is to:

First, require the Federal Reserve to pay interest on the reserves to the FDIC at either the Federal funds rate, or the average rate of return on the Fed's securities portfolio, whichever is lower. This will produce as much as $1.5 billion per year in additional income for the FDIC;

Second, permit the FDIC to use the interest on reserves income stream to support additional borrowing. This would allow the FDIC to borrow as much as $15 billion to augment the resources of its insurance funds; and

Third, allow the Federal Reserve, in order to provide transitional assistance to qualified banks and thrifts, to require that up to the full amount of the $21 billion in sterile reserves be held at the Fed in the form of bank or thrift preferred stock or subordinated debentures, thus creating a kind of temporary capital funds.

The bill is not intended to help banks and thrifts that are headed for insolvency. Only banks and thrifts that could raise $1 in private capital for every $2 they receive in capital under this bill would be eligible for assistance. Further, in order to receive capital from this source, their stock warrants would be required, and debt covenants, such as dividend payment restrictions, growth restrictions and a variety of other limits, could be imposed.

I do not claim that this bill is the answer to the FDIC recapitalization question. I know this suggestion will be controversial in some quarters. Given the scope of the problems we are facing, however, it seems to me that we should be considering the widest range of alternatives possible, and this bill is offered in that spirit.

The third piece of banking legislation I am introducing this morning partially repeals the Glass-Steagal Act. This bill is only slightly different than the bill that was reported by the Senate Banking Committee in 1988 by an overwhelming vote of 18 to 2, and which passed the Senate that year by the even more overwhelming margin of 94 to 2.

Importantly, this bill does not deregulate. What the bill does is to permit bank holding companies—not banks themselves—to own affiliates that can engage in a variety of securities activities. These securities affiliates, however, are fully subject to every bit of securities regulation that applies to the rest of the securities industry. To provide further protection, the bill mandates tough statutory standards and regulations governing the transactions between a banking affiliate of a bank holding company and a securities affiliate. These standards will also ensure that only sound, well-capitalized bank holding companies are able to operate securities affiliates. These provisions are designed to protect banks—and thereby the deposit insurance fund—from the risks attributable to activities of the securities affiliate, and to ensure that banking organization securities affiliates do not have unfair competitive advantages over other securities firms.

I do not claim, Mr. President, that this bill represents some kind of economic pot of gold for the banking industry that will solve all their problems. I do believe, however, that this structural reform will help over the long term, that our financial services industry must be restructured if it is to compete effectively with its international competition, and that it is long past time to begin that restructuring process.

This could be the biggest year for banking legislation since the Great Depression. Congress has the opportunity to make the kind of fundamental reforms that will protect taxpayers from the risk of bail-outs, improve the health of our financial services industry, and help our economy get back on track again. The Deposit Insurance Reform Act, the Deposit Insurance Fund Assistance Act, and the Financial Modernization Act are designed to accomplish those goals. I urge their prompt enactment.

Mr. President, I ask unanimous consent that a copy of my full statement, each of the three bills, along with explanatory and supporting materials, be included at this point in the RECORD.

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

S. 261

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Deposit Insurance Reform Act of 1991".

(b) TABLE OF CONTENTS.—

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the collapse of the Federal Savings and Loan Insurance Corporation insurance fund was caused in part by fundamental flaws in Federal deposit insurance as it is currently structured;

(2) among the major contributing factors to the savings and loan crisis was the failure to close insolvent institutions in a timely manner;

(3) the Bank Insurance Fund of the Federal Deposit Insurance Corporation is under serious pressure and is well below the insurance fund to covered assets target ratio;

(4) Federal deposit insurance now covers more than 75 percent of all bank deposits;

(5) bank capital ratios are presently approximately half of what they were before Federal deposit insurance protection was first extended to depositors in 1933;

(6) insured depository institutions are no longer as insulated from market forces because of fundamental economic and technological changes;

(7) United States banks and savings associations now face ever-growing competition from less-regulated and non-regulated competitors;

(8) there is a "moral hazard" in Federal deposit insurance, an incentive for depository institutions to increase risk as their capital declines;

(9) under the present system, well-capitalized, soundly-run institutions cross-subsidize poorly-run, under-capitalized competitors; and

(10) because the Federal Deposit Insurance Corporation has fully protected uninsured depositors at large banks—those depositors with account balances in excess of the $100,000 insured amount—thus giving those banks, in effect, "too big to fail" status, large banks may have a competitive advantage in attracting deposits.

(b) PURPOSES.—The purposes of this Act are to—

(1) ensure that the Federal taxpayer will never again be asked to pay the price for Federal deposit insurance;

(2) ensure that insured depositors can be confident that their savings are fully protected;

(3) protect the safety and soundness of the United States banking and thrift system;

(4) end the "moral hazard" of deposit insurance by instituting a system of risk-based reinsurance for large banks and savings associations;

(5) provide soundly-run, well-capitalized small banks and savings associations with the benefits of a risk-based reinsurance system, without increasing their regulatory burden;

(6) ensure that the risk-based reinsurance system is workable, economical, and responsive to changes in markets and to conditions at covered institutions;

(7) ensure that "good" banks and savings associations will no longer have to cross-subsidize banks and savings associations that take risks beyond levels that their capital will support;

(8) use private reinsurers to help set risk-based premiums based on market forces, and to provide a mechanism to help identify problem institutions so that they are closed in a timely manner;

(9) end full protection for uninsured depositors;

(10) encourage banks and savings associations to increase their capital, and place partial reliance on market forces to help determine the necessity of capital increases; and

(11) provide sufficient time for banks and savings associations to raise additional capital and to make other appropriate changes needed to adjust to the new system.

TITLE I—BANK REINSURANCE PROGRAM

SEC. 101. SHORT TITLE.

This title may be cited as the "Bank Reinsurance Act".

SEC. 102. LARGE BANK DEPOSIT INSURANCE REFORM.

(a) LARGE BANK DEPOSIT INSURANCE REFORM.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 7 (12 U.S.C. 1817) the following new section:

"SEC. 7A. RISK-BASED INSURANCE FOR LARGE BANKS.

"(a) PURPOSE.—The purpose of this section is to establish a risk-based deposit insurance assessment rate system through reinsurance coverage for not less than 3 percent nor more than 10 percent of the risk of large bank failures.

"(b) COVERED BANKS.—This section shall apply to any member of the Bank Insurance Fund that—

"(1) has total assets of more than $1,000,000,000 on December 31, 1991, or thereafter;

"(2) is owned by a bank holding company that has total assets of more than $1,000,000,000 on December 31, 1991, or thereafter; or

"(3) was engaged, directly or indirectly, on December 31, 1991, in securities, insurance, or real estate activities other than those that were permitted for national banks or bank holding companies on August 10, 1987.

"(c) INTERIM RISK-BASED REINSURANCE FORMULA.—

"(1) IN GENERAL.—The Corporation shall establish an interim formula for calculating a risk-based assessment rate for each covered bank.

"(2) FACTORS TO BE INCLUDED IN FORMULA.—In establishing the formula under paragraph (1), the Corporation shall include as factors, covered banks'—

"(A) aggregate capital;

"(B) outstanding loans that are 90 days or more past due;

"(C) renegotiated 'troubled' debt;

"(D) the number and amounts of nonaccrual loans;

"(E) net charge-offs;

"(F) off-balance sheet risk;

"(G) portfolio diversification;

"(H) interest rate risk;

"(I) the completeness of loan portfolio documentation; and

"(J) any other factors the Corporation deems appropriate.

"(d) RISK-BASED FORMULA ASSESSMENTS.—Under the interim risk-based formula, each covered bank shall pay a deposit insurance assessment that is—

"(1) determined by applying the risk-based assessment rate for that bank to the bank's average assessment base, as determined under section 7(b)(2), subject to adjustments authorized by subsection (e);

"(2) after the bank enters into a reinsurance agreement under subsection (i), but prior to the date of the determination described in paragraph (3)—

"(A) determined by adding (i) the premium established by a reinsurance agreement under subsection (i) for that part of the average assessment base that is covered by a reinsurance agreement under such subsection, and (ii) the assessment determined under paragraph (1) for that part of the bank's average assessment base that is not covered by a reinsurance agreement; or

"(B) determined by applying the premium rate established by a reinsurance agreement under subsection (i) to the bank's average assessment base,

whichever is lower, subject to adjustments authorized by subsection (e); or

"(3) after the Corporation determines that 80 percent of covered banks are covered by reinsurance agreements—

"(A) determined by applying the risk factor for that bank to the bank's average assessment base, except where the bank fails to obtain reinsurance in a timely manner and is subject to subsection (*l*)(1)(B); or

"(B) determined by applying the premium rate established by a reinsurance agreement under subsection (i) to the bank's average assessment base,

subject to adjustments authorized by subsection (e).

"(e) BANK INSURANCE FUND ADJUSTMENTS.—The Corporation shall make proportionate adjustments to each bank's total deposit insurance assessment upwards or downwards, as necessary, to—

"(1) ensure to the extent practicable and consistent with the public interest that all such assessments, in the aggregate, are sufficient to maintain the Bank Insurance Fund designated reserve ratio required by section 7(b)(1)(B); and

"(2) maintain the Fund's operating budget, except for receivership expenses, at an appropriate level.

"(f) PHASE-IN OF REINSURANCE PROGRAM.—

"(1) BANKS REQUIRED TO PARTICIPATE.—The Corporation shall assign all covered banks to deciles, based on the assessment rates applicable under the interim formula. The Corporation shall require covered banks assigned to the decile subject to the lowest assessment rate to obtain reinsurance in the first year after the interim formula takes effect. In each subsequent year, banks assigned to the decile subject to the next lowest assessment rate shall be required to obtain reinsurance, as provided in the following table:

"Number of years Since Interim Formula Became Effective	Assessment Rate Decile Under Interim Formula
1	Lowest
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	Highest.

The Corporation shall notify each covered bank at least one year before the bank will be required to obtain reinsurance.

"(2) AMOUNT OF REINSURANCE.—The Corporation shall, in accordance with paragraph (3), establish a uniform reinsurance level that is not less than 3 percent nor more than 10 percent of the insured deposits of each covered bank.

"(3) LEVEL OF COVERAGE.—For purposes of paragraph (2), the Corporation shall establish a level of reinsurance coverage that is sufficient to ensure—

"(A) that the assessment rates charged by reinsurers can be accurately scaled up to reasonably reflect the total risk presented by each covered depository institution; and

"(B) that the reinsurer can reasonably be expected to raise the necessary capital over the transition period provided for in paragraph (4).

"(4) PHASE-IN.—(A) The Corporation shall—

"(i) require reinsurers to provide the level of reinsurance established under paragraph (2) not later than 5 years after notification is provided under paragraph (1); and

"(ii) establish interim reinsurance levels applicable during the 5-year transitional period established by clause (i).

"(B) The Corporation may permit variations from the phase-in schedules imposed by paragraph (1) and this paragraph where—

"(i) there has been a substantial change in a bank's circumstances which would alter its decile assignment under the interim formula; or

"(ii) a covered bank is unable to obtain reinsurance coverage at the specified time due to market availability.

"(g) REINSURER LIABILITY.—

"(1) IN GENERAL.—Each reinsurer shall be liable for the percentage share of the risk it assumes under its reinsurance agreement with a covered bank, not to exceed 10 percent of the Corporation's total case resolution costs for such bank.

"(2) LIMIT.—If in any year the Corporation's total case resolution costs exceed by more than 100 percent the highest total case resolution costs during any preceding year, the aggregate liability of reinsurers shall not exceed 20 percent of such preceding year's costs. Any payment made by a reinsurer which exceeds the limit set by this paragraph shall be reimbursed by the Corporation.

"(3) ADJUSTMENTS.—The Corporation may make adjustments to the limit on reinsurer liability to reflect inflation and banking industry asset growth.

"(h) ELIGIBLE REINSURERS.—

"(1) IN GENERAL.—For purposes of this section, an eligible reinsurer shall include any qualified insurer that—

"(A) meets appropriate criteria prescribed by the Corporation, subject to the requirements of any applicable State laws, for the qualification of reinsurers to offer risk-based reinsurance to covered banks;

"(B) offers reinsurance terms that permit adjustments to the negotiated reinsurance premium not more than—

"(i) on a quarterly basis, for a covered bank that remains above regulatory capital minimums; or

"(ii) on a monthly basis, if the covered bank falls below regulatory capital minimums,

subject to an appropriate limit established by the Corporation in accordance with paragraph (2), except that a covered bank may terminate coverage from one reinsurer and obtain coverage from another after 2 consecutive maximum premium increases under clause (i) or 4 consecutive maximum premium increases under clause (ii); and

"(C) offers reinsurance terms that will remain in effect for a term of not less than 2 consecutive years, except that the Corporation shall establish guidelines covering the length of reinsurance agreements designed to—

"(i) prevent simultaneous expiration and renewal of more than one-eighth of the total number of existing agreements in any one calendar quarter; and

"(ii) ensure that such terminations and renewals will be equally distributed throughout each calendar quarter.

"(2) LIMIT ON RATE INCREASES.—Reinsurers shall not increase a covered bank's reinsurance premium more than 10 basis points in any adjustment period, as provided in paragraph (1)(B).

"(3) BANK AFFILIATION.—An eligible reinsurer may be an affiliate of a bank holding company, except that an insurance affiliate may not offer reinsurance to any affiliated bank.

"(4) MODIFICATION OF REQUIREMENTS.—The Corporation is authorized to waive or modify the conditions of reinsurer eligibility if it determines that such action is necessary to develop reinsurance capacity in the private sector.

"(i) REINSURANCE AGREEMENTS.—

"(1) NEGOTIATIONS.—Eligible reinsurers shall negotiate directly with covered banks to establish—

"(A) the reinsurance premium for that portion of the risk of failure covered by the reinsurer; and

"(B) the rights of the reinsurer to have access to bank documents for assessing risk and determining the premium rate.

"(2) INSURANCE FOR UNINSURED DEPOSITS.—An eligible reinsurer—

"(A) may offer insurance coverage for deposits that are not Federally insured to any bank, whether or not it is covered by reinsurance in accordance with this section.

"(B) shall be solely liable for deposits that are not Federally insured but are covered by insurance under this paragraph.

"(3) ACCESS TO BANK INFORMATION.—Pursuant to a negotiated reinsurance agreement, the reinsurer shall have access to all reports filed with State or Federal banking regulatory authorities, and to all reports subsequently produced by such regulatory authorities relevant to the covered bank during the term of the reinsurance contract.

"(j) PAYMENTS.—The premium negotiated between a bank and a reinsurer in accordance with subsection (i) shall be paid by the Corporation to the reinsurer on a payment schedule established by the Corporation. Assessments under this section shall be paid by the bank to the Corporation in accordance with subsections (b)(2) and (c) through (h) of section 7.

"(k) PUBLIC DISCLOSURE OF ASSESSMENTS.—The Corporation shall publish in the Federal Register the amounts of all deposit insurance assessments applicable to covered banks.

"(l) FAILURE TO OBTAIN REINSURANCE.—

"(1) ASSESSMENT PENALTY.—Except as provided in subsection (f)(4)(B), upon failure of a covered bank to obtain reinsurance or renew a reinsurance agreement at the appropriate time, the Corporation shall make a deposit insurance assessment on that bank that is 8 basis points higher than the highest assessment for any covered bank with reinsurance having the same rating under the Uniform Financial Institutions Rating System (hereafter 'CAMEL rating'), derived from an evaluation of a bank's capital adequacy, asset quality, management, earnings, and liquidity.

"(2) SPECIAL EXAMINATIONS.—For banks subject to treatment under paragraph (1)(B), the Corporation shall—

"(A) make an immediate examination of such bank;

"(B) make semiannual examinations of such bank thereafter; and

"(C) make adjustments to the bank's CAMEL rating, where appropriate.

"(3) SPECIAL ASSESSMENTS.—If, after one year, a bank subject to treatment under paragraph (1)(B) is unable to obtain reinsurance, the Corporation shall make a deposit insurance assessment at least 15 basis points above what otherwise would be assessed under this section. In no event shall the Corporation provide deposit insurance to any bank that is unable to obtain reinsurance for more than 2 consecutive years.".

(b) EFFECTIVE DATES.—

(1) INTERIM FORMULA REGULATIONS.—As required by section 7A(c) of the Federal Deposit Insurance Act, as added by subsection (a), the Corporation shall—

(A) publish proposed regulations in the Federal Register not later than 12 months following the date of enactment of this Act establishing an interim risk-based reinsurance formula;

(B) provide for a 6-month public comment period for such proposed regulations; and

(C) publish final regulations in the Federal Register not later than 12 months following publication of the proposed regulations making such regulations effective on the first January 1 that follows the date of enactment of this Act by at least 2 full calendar years.

(2) LARGE BANK DECILE ASSIGNMENTS.—As required by section 7A(f) of the Federal Deposit Insurance Act, as added by subsection (a), the Corporation shall assign all covered banks to deciles, based on the assessment rates applicable under the interim risk-based formula, not later than 90 days after the interim formula takes effect.

(3) REINSURANCE COVERAGE LEVELS.—In accordance with the amendment made by subsection (a), the Corporation shall—

(A) set appropriate reinsurance coverage levels for all covered banks, as required by section 7A(f)(2) of the Federal Deposit Insurance Act; and

(B) establish interim phase-in reinsurance coverage levels, as required by section 7(A)(f)(4) of the Federal Deposit Insurance Act,

not later than 12 months after the date of enactment of this Act.

SEC. 103. SMALL BANK DEPOSIT INSURANCE REFORM.

(a) SMALL BANK DEPOSIT INSURANCE REFORM.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is further amended by inserting after section 7A the following new section:

"SEC. 7B. PARTIAL RISK-BASED SYSTEM FOR SMALL BANKS.

"(a) PURPOSES.—The purposes of this section are—

"(1) to establish a standardized assessment mechanism for small banks; and

"(2) to provide a risk-based deposit insurance system option for such banks.

"(b) COVERED BANKS.—

"(1) IN GENERAL.—This section shall apply to each member bank of the Bank Insurance Fund that has assets of $1,000,000,000 or less on December 31, 1991, or thereafter, and that does not obtain reinsurance in accordance with section 7A. For purposes of the preceding sentence, the assets of all banking subsidiaries of a holding company shall be aggregated, and all banking subsidiaries shall be treated as one bank.

"(2) REINSURANCE OPTION.—Any bank described in paragraph (1) may elect to obtain reinsurance in accordance with section 7A instead of paying assessments under this section.

"(c) STANDARDIZED ASSESSMENTS.—

"(1) IN GENERAL.—The Corporation shall establish a formula for assigning covered banks to a low- or normal-risk of failure category and shall establish appropriate assessment rates applicable to banks assigned to such categories.

"(2) FACTORS TO BE INCLUDED IN FORMULA.—In the formula under paragraph (1), the Corporation shall include the ratios of—

"(A) capital plus loan loss reserves to assets;

"(B) loans that are 90 days or more past due to assets;

"(C) non-accrual loans to assets;

"(D) renegotiated 'troubled' debt to assets;

"(E) net charge-offs to assets; and

"(F) net income to assets.

"(d) STANDARDIZED ASSESSMENTS.—

"(1) SPECIAL BANK ASSESSMENTS.—The Corporation shall assess each bank that has a CAMEL rating of 1, and is assigned to the low-risk category in accordance with the formula provided for in subsection (c), at the lower of—

"(A) a rate equal to the average assessment rate charged to the 3 banks with reinsurance coverage in accordance with section 7A(d) that have the lowest assessment rates; or

"(B) the rate established for low-risk category banks under subsection (c)(1).

"(2) AVERAGE BANK ASSESSMENTS.—Any bank not assessed under paragraph (1) shall be assessed at the lower of—

"(A) a rate equal to the overall average assessment rate for banks having reinsurance in accordance with section 7A(d); or

"(B) the rate established for the normal-risk category banks under subsection (c)(1).".

(b) SMALL BANK RISK ASSESSMENT.—As required by section 7B(c) of the Federal Deposit Insurance Act, as added by subsection (a), the Corporation shall—

(1) publish proposed regulations in the Federal Register not later than 12 months following the date of enactment of this Act establishing a formula for assigning banks to the appropriate risk category and establishing appropriate assessment rates applicable to banks assigned to such categories;

(2) provide for a 6-month public comment period for such proposed regulations; and

(3) publish final regulations in the Federal Register not later than 12 months following the date of publication of the proposed regulations, making such regulations effective on the first January 1 that follows the date of enactment of this Act by at least 2 full calendar years.

TITLE II—SAVINGS ASSOCIATION REINSURANCE PROGRAM

SEC. 201. SHORT TITLE.

This title may be cited as the "Savings Association Reinsurance Act".

SEC. 202. LARGE SAVINGS ASSOCIATION DEPOSIT INSURANCE REFORM.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is further amended by inserting after section 7B the following new section:

"SEC. 7C. RISK-BASED INSURANCE FOR LARGE SAVINGS ASSOCIATIONS.

"(a) PURPOSE.—The purpose of this section is to establish a risk-based deposit insurance assessment rate system through reinsurance coverage for not less than 3 percent nor more than 10 percent of the risk of large savings association failures.

"(b) COVERED SAVINGS ASSOCIATIONS.—This section shall apply to any member of the Savings Association Insurance Fund that—

"(1) has total assets of more than $1,000,000,000 on December 31, 1991, or thereafter; or

"(2) is owned by a savings association holding company that has total assets of more than $1,000,000,000 on December 31, 1991, or thereafter.

"(c) INTERIM RISK-BASED REINSURANCE FORMULA.—

"(1) IN GENERAL.—The Corporation shall establish an interim formula for calculating a risk-based assessment rate for each covered savings association.

"(2) FACTORS TO BE INCLUDED IN FORMULA.—In establishing the formula under paragraph (1), the Corporation shall include as factors, covered savings associations'—

"(A) aggregate capital;

"(B) outstanding loans that are 90 days or more past due;

"(C) renegotiated 'troubled' debt;

"(D) the number and amounts of nonaccrual loans;

"(E) net charge-offs;

"(F) off-balance sheet risk;

"(G) portfolio diversification;

"(H) interest rate risk;

"(I) the completeness of loan portfolio documentation; and

"(J) any other factors the Corporation deems appropriate.

"(d) RISK-BASED FORMULA ASSESSMENTS.—Under the interim risk-based formula, each covered savings association shall pay a deposit insurance assessment that is—

"(1) determined by applying the risk-based assessment rate for that savings association to the savings association's average assessment base, as determined under section 7(b)(2), subject to adjustments authorized by subsection (e);

"(2) after the savings association enters into a reinsurance agreement under subsection (h), but prior to the date of the determination described in paragraph (3)—

"(A) determined by adding (i) the premium established by a reinsurance agreement under subsection (j) for that part of the average assessment base that is covered by a reinsurance agreement under such subsection, and (ii) the assessment determined under paragraph (1) for that part of the savings association's average assessment base that is not covered by a reinsurance agreement; or

"(B) determined by applying the premium rate established by a reinsurance agreement under subsection (j) to the savings association's average assessment base,

whichever is lower, subject to adjustments authorized by subsection (e); or

"(3) after the Corporation determines that 80 percent of covered savings associations are covered by reinsurance agreements—

"(A) determined by applying the risk factor for that savings association to the savings association's average assessment base, except in the case of a savings association that has not obtained reinsurance in a timely manner and is subject to subsection (m)(1)(B); or

"(B) determined by applying the premium rate established by a reinsurance agreement under subsection (j) to the savings association's average assessment base,

subject to adjustments authorized by subsection (e).

"(e) SAVINGS ASSOCIATION INSURANCE FUND ADJUSTMENTS.—The Corporation shall make proportionate adjustments to each savings association's total deposit insurance assessment upwards or downwards, as necessary, to—

"(1) ensure to the extent practicable and consistent with the public interest that all such assessments, in the aggregate, are sufficient to maintain the Savings Association Insurance Fund designated reserve ratio required by section 7(b)(1)(B); and

"(2) maintain its operating budget, except for receivership expenses, at an appropriate level.

"(f) PHASE-IN OF REINSURANCE PROGRAM.—

"(1) SAVINGS ASSOCIATIONS REQUIRED TO PARTICIPATE.—The Corporation shall assign all covered savings associations to deciles, based on the assessment rates applicable under the interim formula. The Corporation shall require covered savings associations assigned to the decile subject to the lowest assessment rate to obtain reinsurance in the first year after the interim formula takes effect. In each subsequent year, savings associations assigned to the decile subject to the next lowest assessment rate shall be required to obtain reinsurance, as provided in the following table:

"Number of years Since Interim Formula Became Effective	Assessment Rate Decile Under Interim Formula
1	Lowest
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	Highest.

The Corporation shall notify each covered savings association at least one year before the savings association will be required to obtain reinsurance.

"(2) AMOUNT OF REINSURANCE.—The Corporation shall, in accordance with paragraph (3), establish a uniform reinsurance level that is not less than 3 percent nor more than 10 percent of the insured deposits of each covered savings association.

"(3) LEVEL OF COVERAGE.—For purposes of paragraph (2), the Corporation shall establish a level of reinsurance coverage that is sufficient to ensure—

"(A) that the assessment rates charged by reinsurers can be accurately scaled up to reasonably reflect the total risk presented by each covered depository institution; and

"(B) that the reinsurer can reasonably be expected to raise the necessary capital over the transition period provided for in paragraph (4).

"(4) PHASE-IN.—(A) The Corporation shall—

"(i) require reinsurers to provide the level of reinsurance established under paragraph (2) not later than 5 years after notification is provided under paragraph (1); and

"(ii) establish interim reinsurance levels applicable during the 5-year transitional period established by clause (i).

"(B) The Corporation may—

"(i) permit variations from the phase-in schedules imposed by paragraph (1) and this paragraph where—

"(I) there has been a substantial change in a savings association's circumstances which would alter its decile assignment under the interim formula;

"(II) a covered savings association is unable to obtain reinsurance coverage at the specified time due to market availability; or

"(III) the Savings Association Insurance Fund falls below the designated reserve ratio required by section 7(b)(1)(B), and

"(ii) when it determines that at least 80 percent of banks covered under section 7A have obtained reinsurance, in the case of a savings association that previously elected to provide the Corporation with a written guarantee of reimbursement in the case of failure in accordance with subsection (g)(2) and that obtains reinsurance in accordance with subsection (g)(1), require compliance with the reinsurance requirements of paragraph (2) not more than 5 years after the date of such reinsurance election pursuant to a schedule established by the Corporation.

"(g) REINSURANCE OPTION.—Until such time as the Corporation has determined that 80 percent of covered savings associations have obtained reinsurance, each savings association shall make an election either—

"(1) to obtain reinsurance in accordance with subsection (f); or

"(2) in the year during which it would otherwise be required to obtain reinsurance in accordance with subsection (f)(1), to provide the Corporation with a written guarantee that, in the case of failure, the failed savings associate's affiliates will reimburse the Corporation for not less than 20 percent of the resolution costs associated with such failure.

"(h) REINSURER LIABILITY.—

"(1) IN GENERAL.—Each reinsurer shall be liable for the percentage share of the risk it assumes under its reinsurance agreement with a covered savings association, not to exceed 10 percent of the Corporation's total case resolution costs for such savings association.

"(2) LIMIT.—If in any year the Corporation's total case resolution costs for savings associations exceed by more than 100 percent the highest total case resolution costs incurred during any previous year, the aggregate liability of reinsurers shall not exceed 20 percent of such previous year's costs. Any payment made by a reinsurer which exceeds the limit set by this paragraph shall be reimbursed by the Corporation.

"(3) ADJUSTMENTS.—The Corporation may make adjustments to the limit on reinsurer liability to reflect inflation and savings association industry asset growth.

"(i) ELIGIBLE REINSURERS.—

"(1) IN GENERAL.—For purposes of this section, an eligible reinsurer shall include any qualified insurer that—

"(A) meets appropriate criteria prescribed by the Corporation, subject to the requirements of State laws, for the qualification of reinsurers to offer risk-based reinsurance to covered savings associations;

"(B) offers reinsurance terms that permit adjustments to the negotiated reinsurance premium not more than—

"(i) on a quarterly basis, for a covered savings association that remains above regulatory capital minimums; or

"(ii) on a monthly basis, if the covered savings association falls below regulatory capital minimums,

subject to an appropriate limit established by the Corporation in accordance with paragraph (2), except that a covered savings association may terminate coverage from one reinsurer and obtain coverage from another after 2 consecutive maximum premium increases under clause (i) or 4 consecutive maximum premium increases under clause (ii); and

"(C) offers reinsurance terms that will remain in effect for a term of not less than 2 consecutive years, except that the Corporation shall establish guidelines covering the length of reinsurance agreements designed to—

"(i) prevent simultaneous expiration and renewal of more than one-eighth of the total number of existing agreements in any one calendar quarter; and

"(ii) ensure that such terminations and renewals will be equally distributed throughout each calendar quarter.

"(2) LIMIT ON RATE INCREASES.—Reinsurers shall not increase a covered savings association's reinsurance premium by more than 10 basis points in any adjustment period, as provided in paragraph (1)(B).

"(3) SAVINGS ASSOCIATION AFFILIATION.—An eligible reinsurer may be an affiliate of a savings association holding company, except that an insurance affiliate may not offer reinsurance to any affiliated savings association.

"(4) MODIFICATION OF REQUIREMENTS.—The Corporation is authorized to waive or modify the conditions of reinsurer eligibility if it determines that such action is necessary to develop reinsurance capacity in the private sector.

"(j) REINSURANCE AGREEMENTS.—

"(1) NEGOTIATIONS.—Eligible reinsurers shall negotiate directly with covered savings associations to establish—

"(A) the reinsurance premium for that portion of the risk of failure covered by the reinsurer; and

"(B) the rights of the reinsurer to have access to savings association documents for assessing risk and determining the premium rate.

"(2) INSURANCE FOR UNINSURED DEPOSITS.—An eligible reinsurer—

"(A) may offer insurance coverage for deposits that are not Federally insured to any savings association, whether or not it is covered by reinsurance in accordance with this section.

"(B) shall be solely liable for deposits that are not Federally insured but are covered by insurance under this paragraph.

"(3) ACCESS TO SAVINGS ASSOCIATION INFORMATION.—Pursuant to a negotiated reinsurance agreement, the reinsurer shall have access to all reports filed with State or Federal savings association regulatory authorities, and to all reports subsequently produced by such regulatory authorities relevant to the covered savings association during the term of the reinsurance contract.

"(k) PAYMENTS.—The premium negotiated between a savings association and a reinsurer in accordance with subsection (j) shall be paid by the Corporation to the reinsurer on a payment schedule established by the Corporation. Assessments under this section shall be paid by the savings association to the Corporation in accordance with subsections (b)(2) and subsections (c) through (h) of section 7.

"(l) PUBLIC DISCLOSURE OF ASSESSMENTS.—The Corporation shall publish in the Federal

Register the amounts of all deposit insurance assessments applicable to covered savings associations.

"(m) FAILURE TO OBTAIN REINSURANCE.—

"(1) FDIC REMEDIES.—Except as provided in subsection (f)(4)(B), upon failure of a covered savings association to obtain reinsurance or renew a reinsurance agreement at the appropriate time, the Corporation shall make a deposit insurance assessment on that savings association that is 8 basis points higher than the highest assessment for any covered savings association with reinsurance having the same rating under the Uniform Financial Institutions Rating System (hereafter 'CAMEL rating'), derived from an evaluation of a savings association's capital adequacy, asset quality, management, earnings, and liquidity.

"(2) SPECIAL EXAMINATIONS.—For savings associations subject to treatment under paragraph (1)(B), the Corporation shall—

"(A) make an immediate examination of such savings association;

"(B) make semiannual examinations of such savings association thereafter; and

"(C) make adjustments to the savings association's CAMEL rating, where appropriate.

"(3) SPECIAL ASSESSMENTS.—If, after one year, a savings association subject to treatment under paragraph (1)(B) is unable to obtain reinsurance, the Corporation shall make a deposit insurance assessment at least 15 basis points above what otherwise would be assessed under this section. In no event shall the Corporation provide deposit insurance to any savings association that is unable to obtain reinsurance for more than 2 consecutive years.".

(b) EFFECTIVE DATES.—

(1) INTERIM FORMULA REGULATIONS.—As required by section 7C(c) of the Federal Deposit Insurance Act, as added by subsection (a), the Corporation shall—

(A) publish proposed regulations in the Federal Register not later than 12 months after the date of enactment of this Act establishing an interim risk-based reinsurance formula;

(B) provide for a 6-month public comment period for such proposed regulations; and

(C) publish final regulations in the Federal Register not later than 12 months following publication of the proposed regulations, making such regulations effective on the first January 1 that follows the date of enactment of this Act by at least 2 full calendar years.

(2) LARGE SAVINGS ASSOCIATION DECILE ASSIGNMENTS.—As required by section 7C(f) of the Federal Deposit Insurance Act, as added by subsection (a), the Corporation shall assign all covered savings associations to deciles, based on the assessment rates applicable under the interim risk-based formula, not later than 90 days after the interim formula takes effect.

(3) REINSURANCE COVERAGE LEVELS.—In accordance with the amendment made by subsection (a), the Corporation shall—

(A) set appropriate reinsurance coverage levels for all covered savings associations, as required by section 7C(f)(2) of the Federal Deposit Insurance Act; and

(B) establish interim phase-in reinsurance coverage levels, as required by section 7C(f)(4) of the Federal Deposit Insurance Act,

not later than 12 months after the date of enactment of this Act.

SEC. 203. SMALL SAVINGS ASSOCIATION DEPOSIT INSURANCE REFORM.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is further amended by inserting after section 7C the following new section:

"SEC. 7D. PARTIAL RISK-BASED SYSTEM FOR SMALL SAVINGS ASSOCIATIONS.

"(a) PURPOSES.—The purposes of this section are—

"(1) to establish a standardized assessment mechanism for small savings associations; and

"(2) to provide a risk-based deposit insurance system option for such savings associations.

"(b) COVERED SAVINGS ASSOCIATIONS.—This section shall apply to each member savings association of the Savings Association Insurance Fund that—

"(1) has assets of $1,000,000,000 or less on December 31, 1991, or thereafter, and

"(2) does not obtain reinsurance in accordance with section 7C.

For purposes of the preceding sentence, the assets of all savings association subsidiaries of a holding company shall be aggregated, and all savings association subsidiaries shall be treated as one savings association.

"(c) REINSURANCE OPTION.—Any savings association described in subsection (a) may elect to obtain reinsurance in accordance with section 7C instead of paying assessments under this section.

"(d) STANDARDIZED ASSESSMENTS.—

"(1) IN GENERAL.—The Corporation shall establish a formula for assigning covered savings associations to a low- or normal-risk of failure category and shall establish appropriate assessment rates applicable to savings associations assigned to such categories.

"(2) FACTORS TO BE INCLUDED IN FORMULA.—In the formula under paragraph (1), the Corporation shall include the ratios of—

"(A) capital plus loan loss reserves to assets;

"(B) loans that are 90 days or more past due to assets;

"(C) non-accrual loans to assets;

"(D) renegotiated 'troubled' debt to assets;

"(E) net charge-offs to assets; and

"(F) net income to assets.

"(e) STANDARDIZED ASSESSMENTS.—

"(1) SPECIAL SAVINGS ASSOCIATION ASSESSMENTS.—The Corporation shall assess each savings association that has a CAMEL rating of 1, and is assigned to the low-risk category in accordance with the formula provided for in subsection (d), at the lower of—

"(A) the average assessment rate charged to the 3 savings associations with reinsurance coverage in accordance with section 7C(d) that have the lowest assessment rates; or

"(B) the rate established for low-risk category savings associations under subsection (d)(1).

"(2) AVERAGE SAVINGS ASSOCIATION ASSESSMENTS.—Any savings association not assessed under paragraph (1) shall be assessed at the lower of—

"(A) the overall average assessment rate for savings associations having reinsurance in accordance with section 7C(d); or

"(B) the rate established for other savings associations assigned to the same risk category under subsection (d).".

(b) SMALL SAVINGS ASSOCIATION RISK ASSESSMENT.—As required by section 7D(d) of the Federal Deposit Insurance Act, as added by subsection (a), the Corporation shall—

(1) publish proposed regulations in the Federal Register not later than 90 days after the date of enactment of this Act establishing a formula for assigning savings associations to the appropriate risk category and establishing appropriate assessment rates applicable to savings associations assigned to such categories;

(2) provide for a 6-month public comment period for such proposed regulations; and

(3) publish final regulations in the Federal Register not later than 12 months following the date of publication of the proposed regulations, making such regulations effective not later than the effective date of the interim risk-based formula established pursuant to section 202(b)(1) of this Act.

TITLE III—BANK DEPOSIT REINSURANCE CORPORATION

SEC. 301. SHORT TITLE.

This title may be cited as the "Deposit Reinsurance Corporation Act".

SEC. 302. CONTINGENT DEPOSIT REINSURANCE CORPORATION.

Eight years following the effective date of the interim risk-based reinsurance formula established by section 7A(c) of the Federal Deposit Insurance Act, as added by section 202(a) of the Deposit Insurance Reform Act of 1991, the Federal Deposit Insurance Corporation (hereafter "the Corporation") shall—

(1) determine whether the insurance industry is capable of offering reinsurance to all covered banks in accordance with the phase-in schedule established for implementation of the interim risk-based formula; and

(2) if private reinsurance is available to 50 percent or less of banks required to obtain reinsurance due to capacity limitations on the insurance industry, as determined pursuant to paragraph (1), implement the incorporation of the Deposit Reinsurance Corporation as established under section 303.

SEC. 303. CONTINGENT ESTABLISHMENT.

Upon a determination of need under section 302, there shall be established the Deposit Reinsurance Corporation (hereafter "DRC"), which shall—

(1) provide reinsurance for deposits, in accordance with the requirements of sections 7A, 7B, 7C, and 7D of the Federal Deposit Insurance Act, as amended by the Deposit Insurance Reform Act of 1991;

(2) be operated as a for-profit corporation under the control and ownership of participating institutions, subject to the transfer of ownership by the Corporation pursuant to section 305(b), and repayment of the loan authorized by section 306(a); and

(3) be incorporated under the laws of the State of Delaware.

SEC. 304. PARTICIPATING BANKS.

For purposes of this Act, a participating bank is any bank that is required to obtain or voluntarily obtains reinsurance pursuant to section 7A, 7B, 7C, or 7D of the Federal Deposit Insurance Act, as amended by the Deposit Insurance Reform Act of 1991.

SEC. 305. BOARD OF DIRECTORS.

(a) IN GENERAL.—The management of the DRC shall be vested in a 9-member Board of Directors (hereafter "the Board"), which shall consist of—

(1) a Chairperson appointed by the President;

(2) 6 members selected by the Corporation; and

(3) 2 members selected by majority vote of the holders of the common stock, as specified in section 306(d).

(b) TRANSFER OF OWNERSHIP.—Of the 9 members of the Board, the holders of common stock, as specified in section 306(d), shall select by majority vote a total of—

(1) 4 members in the sixth year;

(2) 6 members in the eighth year; and

(3) 9 members in the tenth year

following the date of incorporation of the DRC. The Corporation shall select members

to fill the remaining seats on the Board in each of the specified years.

(c) ELECTION OF CHAIRPERSON.—Following transfer of all 9 seats on the Board to the control of the holders of the common stock under subsection (b), the Chairperson of the Board shall be elected by majority vote of the members of the Board.

(d) VACANCIES.—Vacancies on the Board shall be filled in the same manner as the original selection was made, subject to the provisions of subsection (b).

SEC. 306. CAPITAL STRUCTURE.

(a) CAPITALIZATION LOAN.—The Corporation shall make an initial capitalization loan of $5,000,000,000 to the DRC, which shall be—

(1) withdrawn from the Bank Insurance Fund; and

(2) repaid by all participating institutions under an assessment schedule developed by the Corporation.

(b) LOAN ASSESSMENTS.—The Corporation shall establish a loan repayment assessment schedule that—

(1) applies to all participating institutions; and

(2) is designed to ensure repayment of the loan authorized by subsection (a) in full over a period of not more than 10 years following the date of incorporation of the DRC.

(c) PREFERRED STOCK.—The Corporation shall—

(1) hold all preferred stock in the DRC;

(2) establish procedures for retiring a percentage of preferred stock in each of the 10 years of the loan repayment period proportionate to the amount repaid on the loan in that year;

(3) pay interest on preferred stock in the DRC at a rate equal to the applicable 1-year T-bill interest rate.

(d) COMMON STOCK.—The Corporation shall issue shares of common stock to each participating institution in proportion to such bank's loan repayment assessment established by subsection (b), subject to the Corporation's retirement of preferred stock under subsection (c).

SEC. 307. APPLICABILITY OF STATE LAW.

Except as otherwise provided in this Act, the DRC shall be operated and administered in accordance with the laws of the State of Delaware applicable to corporations.

SEC. 308. RESTRICTIONS.

(a) REINSURANCE OFFERINGS.—The DRC shall not offer reinsurance to any bank that holds more than 5 percent of its common stock.

(b) LIMITATIONS ON STOCKHOLDERS.—Until the loan authorized by section 306(a) has been repaid in full to the Corporation, common stock in the DRC shall not be—

(1) bought, sold, or otherwise transferred by any participating bank; or

(2) listed as an asset of any participating bank or savings association or holding company.

SEC. 309. CORPORATE HEADQUARTERS.

The DRC shall maintain its corporate headquarters in the city of Chicago, Illinois.

SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. ANNUAL EXAMINATIONS.

(a) FEDERAL DEPOSIT INSURANCE CORPORATION.—Section 10(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(2)) is amended—

(1) by striking "have power, on behalf of the Corporation, to" and inserting ", on behalf of the Corporation,"; and

(2) by striking "whenever" and inserting "annually and whenever".

(b) SAVINGS ASSOCIATION EXAMINATIONS.—Section 5(d)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(1)(B)) is amended—

(1) by redesignating clauses (i) through (vii) as clauses (ii) through (viii); and

(2) by inserting the following new clause:

"(i) Examiners appointed by the Director shall, on behalf of the Director, examine any savings association annually, and whenever the Director determines an examination of each such savings association is necessary.".

(c) FEDERAL CREDIT UNION EXAMINATIONS.—Section 204(a) of the Federal Credit Union Act (12 U.S.C. 1784(a)) is amended in the first sentence—

(1) by striking "shall have power, on its behalf, to" and inserting "shall, on its behalf,"; and

(2) by striking "whenever" and inserting "annually and whenever".

(d) COMPTROLLER OF THE CURRENCY.—The first sentence of section 5240 of the Revised Statutes (12 U.S.C. 481) is amended by striking "as often as the Comptroller of the Currency shall deem necessary" and inserting "annually and whenever the Comptroller of the Currency otherwise determines an examination is necessary".

(e) FEDERAL RESERVE SYSTEM.—The third paragraph of section 5240 of the Revised Statutes (12 U.S.C. 483) is amended by inserting after the first sentence the following: "The Board of Governors shall provide for annual examinations of all State member banks.".

SEC. 402. PROHIBITION AGAINST CERTAIN LOANS.

Section 13 of the Federal Reserve Act (12 U.S.C. 342) is amended by adding at the end the following:

"The Board shall prohibit any secured loan or secured advance to a member bank or other depository institution that does not meet the basic capital standard prescribed by the appropriate Federal banking agency, except that such loans or advances may be permitted by the Board if it determines, after consultation with the appropriate Federal banking agency and the Federal Deposit Insurance Corporation, that they are necessary to facilitate the orderly closure of the insured depository institution.".

SEC. 403. UNINSURED DEPOSITS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by redesignating subsections (g) through (o) as subsections (h) through (p), and inserting a new subsection as follows:

"(g) PAYMENT OF UNINSURED DEPOSITS.—

"(1) PAYMENTS SUBSEQUENT TO DEPOSITORY INSTITUTION CLOSURE.—Upon closure of an insured depository institution due to insolvency—

"(A) a depositor shall be paid an amount equal to his or her insured deposits, in accordance with subsection (f);

"(B) a depositor may, in any case where the insolvency is resolved other than by liquidation, elect to—

"(i) receive payment for not more than 85 percent of his or her deposit balances in excess of the insured deposit as a final settlement of any claim against such depository institution, except as provided in paragraph (2); or

"(ii) have his or her claim determined under the provisions of law that apply to depository institution liquidations due to insolvency; and

"(C) where such insolvency is resolved by liquidation, the Corporation may allow depositors to elect to receive payment in accordance with subparagraph (B), or as otherwise provided for under applicable bankruptcy laws.

"(2) PAYMENT SCHEDULE.—A depositor shall have access to 65 percent of his or her uninsured deposit balances on the first business day following the closure of an insured depository institution due to insolvency, and to an additional 20 percent of such balances 3 business days thereafter. If the Corporation determines that the payment schedule established by the preceding sentence would be impossible or impractical, it shall require payment of 65 percent of such balances not more than 10 business days after closure, and an additional 20 percent of such balances 3 business days after the first payment. Any withdrawal in excess of 65 percent of uninsured account balances shall constitute acceptance of the 85 percent settlement provided for in subparagraph (B)(i) of paragraph (1).

"(3) DISPUTE RESOLUTION.—

"(A) CAUSE OF ACTION.—Not later than 3 business days following closure of a depository institution due to insolvency, an affected reinsurer may bring an action in the United States Court of Appeals for the District of Columbia Circuit to preclude the Corporation from making uninsured deposits that exceed $100,000 by more than 65 percent of the account balance available to depositors. A reinsurer shall prevail on a showing that such payments would place a disproportionate share of the resolution costs on the Corporation and the reinsurer. All claims of uninsured depositors shall be settled under liquidation procedures established under section 11 if the Court finds in favor of the reinsurer.

"(B) 60-DAY TIME LIMIT.—The Court of Appeals shall make a ruling on an action brought in accordance with subparagraph (A) not later than 60 days after it is brought.

"(C) LIMITED ACCESS TO UNINSURED DEPOSITS.—During the pendency of an action brought in accordance with paragraph (1), uninsured depositors shall not have access to deposits which exceed $100,000 by more than 65 percent of their account balances.

"(4) NOTIFICATION OF CLOSURE.—The Corporation shall notify affected reinsurers of a depository institution closure not later than on the day of closure.".

SEC. 404. BANK HOLDING COMPANIES.

Section 4(c) of the Bank Holding Company Act (12 U.S.C. 1843(c)) is amended by inserting a new paragraph as follows and renumbering accordingly:

"(9) shares of any company, the activities of which are limited solely to providing reinsurance in accordance with the requirements of the Deposit Insurance Reform Act of 1991.".

SEC. 405. REPORT BY FDIC.

The Corporation shall submit a report to the Congress in each calendar quarter during which the average assessment charged to large banks, as defined in this Act, differs by more than 5 basis points from the average premium charged to large savings associations. Such report shall include—

(1) the amount of the difference;

(2) an explanation of the reasons for the difference;

(3) an assessment of whether there is any significant competitive impact on banks or savings associations as a result of the difference; and

(4) any recommendations by the Corporation for eliminating the difference if it shows signs of persisting or widening.

SHORT SUMMARY OF THE DEPOSIT INSURANCE REFORM ACT OF 1991

The bill—

Creates a risk-based premium system for large banks and thrifts (banks and thrifts over $1 billion in size). Importantly, the legislation utilizes the private insurance industry to set these premiums. The FDIC would sell, on a bank-by-bank basis, between 3 and 10 per cent of its insurance risk into the private insurance markets, and would use these prices to set the overall risk-based premiums;

Creates a simpler risk-based system, using an FDIC-created formula, for small banks and thrifts.

Mandates all the banking regulators to conduct on-site annual examinations, in order to ensure that any problems are uncovered before a bank or thrift becomes insolvent;

Changes the way FDIC handles large bank failures so that uninsured depositors are not fully protected in practice even though they are not technically covered by deposit insurance. The bill creates an expedited way for uninsured depositors to be partially paid (more in accordance with what the value of the insolvent institution's assets are actually worth). This also helps reduce the costs of resolving insolvencies for the insurance fund and helps deal with the so-called "too big to fail" problem.

EXPLANATION: DEPOSIT INSURANCE REFORM ACT OF 1991

RISK-BASED INSURANCE PREMIUMS FOR LARGE BANKS

Basic Concept—create a risk-sharing system, based on a reinsurance approach, under which the FDIC sells between 3% and 10% of its risk that a covered bank will fail to either private reinsurers or to a for-profit reinsurance subsidiary initially capitalized and owned by the banking industry. The FDIC then scales up the price it is charged so that the entire premium assessed the covered bank is based on the risk-based price set by the reinsurer.

Covered Banks—banks part of bank holding companies that have over $1 billion in assets, banks not part of a holding company with over $1 billion in assets, and any smaller bank that either directly or through a holding company is exercising insurance, security, real estate, or investment powers.

Note: All bank affiliates of a covered multi-bank holding company would pay the same premium. All banking assets and liabilities are aggregated for purposes of obtaining reinsurance or for calculating the premium under the interim risk-based formula.

Impact on Insured Depositors—no change. The FDIC is still the 100% guarantor of insured deposits.

Eligible Reinsurers—any qualified insurer. Bank holding companies would be permitted to establish insurance affiliates to offer this coverage. Bank insurance affiliates would not be able to offer insurance to banks they were affiliated with. The FDIC would establish financial criteria which all reinsurers would have to meet to be eligible to provide reinsurance (minimum capital requirements, etc. . . . However, there would be no preemption of state insurance laws).

Establishing a Risk-Based Premium—the FDIC would not negotiate with eligible reinsurers. Instead, covered banks would conduct the negotiations. Based on the price established in the negotiation, the FDIC would pay the reinsurer, and would scale up the premium so that it also covers the risk that the FDIC is not laying off, and assess that premium to the covered bank (the part of the premium based on the FDIC's risk would be adjusted upwards or downwards proportionately, so that the total revenue flowing to the FDIC is sufficient to maintain the insurance fund target ratio (currently 1.25% of domestic bank deposits). The premium paid by each covered bank would be the sum of: (the premium charged by the reinsurer) plus (((the appropriate multiple) x (the premium charged by the reinsurer)) x (the adjustment factor necessary to ensure, to the extent practicable and consistent with the public interest, that aggregate premiums are neither far below or far above the levels needed to meet the FDIC fund target ratio)).

Note: FDIC would have discretion to determine what level of reinsurance to require. It could select any level between 3% and 10%, using two factors to guide its decision:

(1) the level should be high enough to ensure that the rates charged by reinsurers can be accurately scaled up to reasonably cover the total risk presented by each covered depository institution; and

(2) the level should be low enough to provide insurance companies a reasonable opportunity to raise the necessary capital over the transition period.

Risk-Based Premium Contract Terms—insurance contracts would be for a maximum period of two years. However, the reinsurer would have the ability to adjust the premium rate charged on a quarterly basis (monthly, if the covered bank was below regulatory capital minimums), subject to an appropriate cap. However, four consecutive maximum premium increases (or two quarters) would trigger an option with the covered bank to terminate coverage with the one reinsurer and obtain coverage with another reinsurer. The insurance premium charge covered banks would have to be publicly disclosed by the FDIC.

Access to Bank Information—covered banks and eligible reinsurers would determine through negotiation what bank documents the reinsurer would have to have. However, once a bank has reached an agreement with a reinsurer on a price, that reinsurer would have access to call reports when filed with the appropriate banking regulator, and to all exam reports subsequently produced by the banking regulators covering that bank during the period insurance is in effect.

Cap on Private Reinsurer Liability—private reinsurers would be liable for between 3% and 10% of the FDIC's case resolution costs for any bank they cover. However, if the FDIC's case resolution costs in any year after this plan goes into effect are more than 100% higher than the FDIC's highest previous year total case resolutions costs, private reinsurers liability, in aggregate would be capped, based on that 100% higher level. The cap would be adjusted in future years based on inflation and banking industry asset growth. To the extent that FDIC's costs exceed that level, reinsurers would have to pay the FDIC for their portion of case resolution costs, but they would receive rebates from the FDIC in proportion to their share of all case resolutions during the year so that their costs, in aggregate, do not exceed the cap. The cap is to help ensure that the rates charged by reinsurers do not have to reflect catastrophic systemic risks, where the entire banking system is jeopardized by macroeconomic factors.

Example: Suppose that the FDIC's most expensive case resolution year is 1988, that it is selling off 10% of its risks on covered banks, and that its resolution costs that year were $6 billion. Also assume that there has been no inflation and no deposit growth since then. The cap for the reinsurers would then be $1.2 billion (100% more than $6 billion, or $12 billion, times their percentage share of coverage. 10% of $12 billion is $1.2 billion, which would then be the aggregate loss exposure to the reinsurance industry). If, in a subsequent year, FDIC's costs are $14 billion, so that the reinsurers' collective liability is $1.4 billion, $200 million would be rebated to the reinsurers by the FDIC on a pro rata basis.

Failure to Obtain Insurance—if a covered bank fails to obtain reinsurance (either when the new program becomes effective or at policy renewal time), the FDIC would have to charge that bank an insurance premium 8 basis points higher than the highest premium charged any covered bank with reinsurance with the same CAMEL rating. The FDIC would be required to examine any such bank immediately, and subsequently at least twice a year, and to adjust the bank's CAMEL rating, if appropriate, at that time, or at any intervening time that the FDIC believes an adjustment is needed (the insurance premium would change any time the CAMEL rating changes, or any time the highest rate charged a bank that does have reinsurance changes). If, after one year, the bank still cannot obtain insurance, the FDIC would have to charge a premium at least 15 points above what it otherwise would be under this provision. In no event, however, can the FDIC provide insurance to any bank that fails to obtain reinsurance for more than two years (Note: Once 80% of eligible banks have reinsurance, a bank could not argue that it was not able to obtain insurance on the ground that the rate charged was too high).

Effective Date—The interim risk-based formula system would would become effective on the January 1st of the year beginning two years after the date of enactment. The transition period to full participation by private reinsurers would begin three years after date of eanctment. However, the initial insurance contract lengths would be adjusted so that no more than 12 and ½% (one-eighth) of the contracts come up for renewal in any calendar quarter (adjustments would also be made to ensure that renewals were spread through the quarter, in order to avoid having a large block of renewals come up on a single day).

Interim Risk-Based Formula System—within 12 months of date of enactment, the FDIC would be required to publish a draft risk-based formula, based on the factors listed below. After a 6-month period for comments and an additional 6 months to make any necessary revisions, the interim formula would take effect on the January 1st of the year beginning two years after the date of enactment. The formula would be based on the following factors: (a) capital; (b) loans that are 90 days or more past due; (c) nonaccurual loans; (d) renegotiated "troubled" debt; (e) net charge-offs; (f) net income; (g) off-balance sheet risk; (h) portfolio diversification; (i) interest rate risk; and (j) a measure of the completeness of loan portfolio documentation.

Transition Rule—10-year transition rule, beginning once the interim risk-based formula system is in place. The FDIC would have to publish rules under which 10% of covered banks would have to get insurance in year 1, an additional 10% in year 2 etc. . . . ., in order to reach 100% by the end of year 10. The 10% of banks paying the lowest premiums under the interim risk-based

formula would be required to obtain private reinsurance in year 1, the 10% of banks paying the next-lowest premiums in year 2, etc. . . . . Reinsurers would have a 5-year transition period to reach the full amount of reinsurance coverage the FDIC decides is appropriate (i.e., some level between 3% and 10%).

If the scaled up price charged by the reinsurer is less than the premium called for under the interim risk-based formula, the bank would pay its entire premium based on the price charged by the reinsurer. If the price charged by the reinsurer is equal to or greater than the price called for under the interim formula, the bank would pay a premium that is the sum of: (the premium charged for reinsurance) plus ((rate charged under interim formula) x (the base the rate applies to [the domestic deposit base minus the percentage of that base that is being covered by the private reinsurer])).

Once 80% of covered banks have reinsurance, the FDIC would abandon the interim formula and scale up the prices charged by the reinsurers to calculate each bank's risk-based premium (adjusted proportionately upwards or downwards as necessary so that the premiums, in aggregate, are sufficient to maintain the 1.25% target ratio for the insurance fund (or whatever higher target ratio the FDIC would find is appropriate).

Contingent Bank-owned Reinsurance Corporation—if found necessary, it would be capitalized by the banking industry as a for-profit corporation. The FDIC would trigger formation of this bank-owned reinsurer if it found that, 8 years after the interim formula risk-based system takes effect, that 50% or more of the banking industry is not able to obtain private reinsurance because of lack of capacity. The corporation would be initially capitalized through a loan from the FDIC insurance fund (and the corporation would therefore, be initially owned by the FDIC, but ownership would be transferred to the banks over a 10-year period.

SIMPLIFIED PARTIAL RISK-BASED SYSTEM FOR SMALLER BANKS

Basic Concept—small banks, those not required to obtain reinsurance, would utilize an alternative, more mechanical, partially risk-based system. The FDIC would set the premiums for small banks without any reinsurance mechanism. The best small banks would be charged a special, low premium. All other small banks would be charged an average premium.

Premium Setting for the Best Banks—To qualify for the special, low premium, smal banks would have to show that they have: (1) the top CAMEL rating, and (2) are considered in the normal risk group under the risk assessment formula put forward by the FDIC staff in 1986, or a similar formula. The formula is based on six ratios: (a) the ratio of capital plus loan loss reserves to assets; (b) the ratio of loans that are 90 days or more past due to assets; (c) the ratio of non-accrual loans to assets; (d) the ratio of renegotiated "troubled" debt to assets; (e) the ratio of net charge-offs to assets; and (f) the ratio of net income to assets.

Qualifying banks would be charged the premium called for under this formula or a premium equal to the average premium charged the best three banks with reinsurance (that is, the three banks with the lowest rates), whichever is lower.

Other Small Banks—would be charged the premium called for under this formula or the average premium charged banks with reinsurance, whichever is lower.

Option for All Small Banks—banks would be given the option of either using this approach, or obtaining reinsurance.

Effective Date—the new premium system would take effect for small banks when the interim risk-based formula takes effect.

Transition Rule—during the period that the interim risk-based premium formula is in effect, the best large bank and average large bank premium will be calculated off the interim large bank formula.

RISK-BASED INSURANCE PREMIUM SYSTEM FOR LARGE THRIFTS

Covered Thrifts—thrifts with over $1 billion in assets, and thrifts part of unitary or multiple S&L holding companies with over $1 billion in assets.

Risk-based Formula—the FDIC is directed to develop a risk-based formula, using the same factors as for large banks, but making any modifications the Corporation believes are necessary to take into account the unique characteristics of thrifts. The formula would have to be available for comment within 12 months of date of enactment. After a 6-month period for comments and an additional 6 months to make any necessary revisions, the interim formula would take effect on the January 1st of the year beginning two years after the date of enactment.

Reinsurance—covered thrifts would have to obtain reinsurance in the same manner and under the same conditions as banks. However, during the transition period outlined below, thrifts would have the option to provide the FDIC with a guarantee that, in the case of failure of a covered thrift, the affiliates of that thrift will reimburse the FDIC for 20% of its resolution costs. In this case, the premiums would continue to be set under the formula.

Transition Rule—10 year transition rule, beginning once the formula goes into effect. Thrifts would be divided into deciles, in a manner similar to large banks, and would have to either get reinsurance or provide the 20% guarantee when their decile came up. When 80% of large thrifts have reinsurace, the remaining thrifts would lose the 20% guarantee option, and would have to either obtain reinsurance or have their premium set in the manner provided for large banks that fail to obtain reinsurance. When 80% of covered banks have reinsurance, the FDIC would have 5 years from that point to ensure that 80% of eligible thrifts obtain reinsurance. At that point, the 20% cross-guarantee option would be lost.

Reinsurance Corporation—if the FDIC triggers formation of the reisurance corporation, thrifts would also be members, and could be covered by the corporation.

ALTERNATIVE PARTIAL RISK-BASED SYSTEM FOR SMALLER THRIFTS

Identical to small bank program, except that the average and lowest premiums charged large thrifts are the references.

Effective Date—when the large thrift risk-based formula takes effect.

OTHER PROVISIONS

Required Annual Exams—all federal banking regulators would be required to examine each of the banks they are the primary supervisor of annually).

FDIC Pricing Adjustment—if the reinsurance pricing lowered the FDIC's income to the point where annual premium income is not sufficient to maintain the insurance fund at its designated target ratio, the FDIC can adjust every bank's premiums proportionately, so as to maintain that ratio. However, if the fund is below the target ratio, the FDIC would not have to raise premiums by an amount sufficient to bring the fund back to the target ratio in one year. The FDIC would have discretionary authority to bring the fund back over a period of years, should circumstances warrant. The FDIC could also raise premiums proportionately in order to cover its budget (administration, examinations, etc.). The FDIC could lower premiums proportionately, if income would otherwise be in excess of the amount needed to maintain the fund target ratio.

Note on FDIC Insurance Premium Rebates: Current law would not be changed. The FDIC, when statutory conditions are met, could rebate premiums to banks.

Insurance for Uninsured Deposits—eligible reinsurers could also offer insurance on uninsured deposits, if they so desire. However, the FDIC would not share any of the risks in this part of the program. Small banks could seek to obtain insurance on their uninsured deposits even if they did not have reinsurance.

Federal Reserve Discount Window Loans—the Fed would be prohibited from making secured loans to banks that are capital inadequate (below the basic capital standard), except for loans necessary to facilitate an orderly closure of a failed institution. All loans to such banks would have to be on an unsecured basis.

Treatment of Uninsured Deposits in Insolvencies—

FDIC Mandate—continue FDIC's mandate to resolve all cases in a manner least costly to the insurance fund.

Partial Payment—when a bank is closed as insolvent, insured depositors are credited with 100% of their deposits up to the $100,000 ceiling. Uninsured depositors would be given two options: (1) take 85% of their account balances in excess of $100,000 as a final settlement of any claim they have against the bank. If the bank reopens as a bridge bank the following day, if the bank's deposits are transferred to a new bank in a P&A transaction, or if the bank is merged with another bank in an assisted merger transaction, the uninsured depositors would have access to 65% of their balances in excess of $100,00 the first day, and the remaining 20% within 3 business days, subject to the exception noted below (note: making any withdrawal in excess of the 65% of uninsured account balances after the 3 business days would be deemed to be acceptance of the 85% settlement); or (2) refusing the settlement and having their claim settled under normal bankruptcy procedures. In this case, the FDIC would still get to handle the case resolution in the way it thinks best, but uninsured depositors would be free to try to show that an alternative case resoltion would return more value to uninsured depositors (with FDIC being liable for the difference).

Note: Uninsured depositors would have the right to choose one of the two options listed above when the failed institution is being resolved other than through liquidation. If the FDIC liquidates the resolution, the Corporation has the option of either letting uninsured depositors make elect an option, or handling the liquidation through existing procedures.

Exception to the Basic Partial Payment Rule—the FDIC would have to inform reinsurers the same day they close a bank. The reinsurer would have the option, within the next 3 business days, to file a suit in the D.C. Circuit Court of Appeals forbidding the FDIC from making the final 20% of account balances available to uninsured depositors, on the grounds that there is substantial reason to believe that the assets available in the

bank are not sufficient to make that payment without placing a disproportionate share of the resolution costs on the FDIC and the reinsurer (as claimants for the insured depositors). The Circuit Court would than have 60 days to determine whether there was a likelihood that the reinsurer would prevail on the merits. If the Court found in favor of the reinsurer, all claims of uninsured depositors would have to be settled under normal bankruptcy procedures. During the pendency of the case, uninsured depositors would not have access to the last 20% of their account balances.

BANKING INDUSTRY-OWNED REINSURER

Some Additional Details (assuming it is necessary, after, eight years, to create it because of inadequate private insurance capacity)—

Incorporation and Status—The corporation would be a for-profit corporation, incorporated under the laws of Delaware.

Initial capitalization—$5 Billion (from the FDIC fund; to be repaid through assessments on all banks required to obtain reinsurance over a 10 year period).

Capital Structure—

Common Stock—held by the banks in proportion to their assessments.

Preferred Stock—held by the FDIC and retired over the ten-year period as repaid by the banks ($5.0 billion face amount. The preferred stock pays interest at the one-year T-bill rate).

Principal Office—Chicago, Illinois.

Restriction on Corporation—the corporation may not insure any bank that holds more than 5% of the corporation's common stock.

Board of Directors—

Nine-member board (8 outside directors plus CEO). Initially, 6 of the 8 directors would be selected by the holders of the preferred stock and 2 by the common stockholders. In year 6, 2 of the seats held by the preferred stockholders would be transferred to the common stockholders. In year 8, another 2 seats would be transferred, and in year 10, the final 2 seats would be transferred.

Restriction on stock transferability. Until the FDIC is fully repaid, the common stock cannot be bought, sold, or otherwise transferred by holding banks.

Balance sheet treatment—the stock cannot appear on the balance sheet of any owning banks or bank holding companies as an asset until the FDIC is fully repaid.

SOME QUESTIONS AND ANSWERS TO THE DEPOSIT INSURANCE REFORM ACT OF 1991

RISK-BASED INSURANCE PREMIUMS FOR LARGE BANKS

Q. How many banks are covered?

A. Roughly 250 bank holding companies. These banking organizations account for approximately 90 percent of U.S. banking assets.

Q. Why apply risk-based premiums only to large banks?

A. Large bank failures pose a risk to the entire banking system that small bank failures do not. Further, the bill uses a simplified risk-based system for small banks.

Q. Why use private reinsurers to set premiums?

A. Using private reinsurers means that prices will be set in a marketplace, rather than through a federal rulemaking process or in a courtroom. A private marketplace reacts more quickly, can take into account factors that are difficult to quantify (like the strength of a bank's management and the quality of its management controls), and can make finer distinctions than the FDIC can. Under the risk-based capital standard, all lending is in the same risk category. Private markets will be able to determine, for example, that some kinds of loans are riskier than others, and that having too many of one kind of loan may also increase risk. Further, it makes pricing less legalistic and political. Instead, economic considerations will be the determining factors.

Q. Will depositors know what the risk-based premiums are, and should they care?

A. The FDIC will publish the premiums paid by every bank. Depositors can continue to be confident that their accounts up to $100,000 are fully protected. A low insurance premium will simply be a further sign that their bank is safe and sound.

Q. Will private insurance companies be willing to provide reinsurance?

A. Of course, not every insurance company will do so. Some companies have had problems with officers and directors liability coverage, and so are gunshy with respect to anything involving banks. Others say they don't have the capital to devote to this exercise. I have talked to some of the largest insurance companies and insurance brokerage firms in this country, and I am confident that the insurance capacity can be created over the transition period in the bill. Further, the bill contains a number of provisions designed to ensure that the capability is available: (1) it establishes an interim risk-based formula approach, to get the risk-based premium system up and running; (2) it allows for a 10-year transition period after the formula goes into effect, so that the capacity has time to develop; (3) it allows bank holding companies to form reinsurance companies as affiliates, and some bank holding companies have already expressed an interest in starting up such companies; and (4) it allows the FDIC to create, in the unlikely event that it is necessary, a private reinsurance corporation that would be collectively owned by the participating banks and thrifts.

Q. Will large banks have to pay higher insurance premiums under the risk-based system?

A. Once the system is fully phased in, well-capitalized, soundly-run large banks will likely pay lower premiums than they pay now. However, banks with capital problems, and banks that have high-risk loans not sufficiently supported by their own capital could pay higher premiums. Further, as banks add to their risk, their premiums will rise, unless the bank has its own capital to compensate for the increased risk.

Q. What is the relationship between capital and the risk-based premium a bank would pay?

A. Capital, in this context, can be thought of as an insurance deductible. Automobile collision coverage is cheaper, for example, if you take a $500 deductible, instead of a $200. Similarly, a bank that has 12 percent capital will pay lower premiums than a bank that barely makes the capital standard.

Q. What effect will the risk-based system have on banking industry capital?

A. It creates powerful incentives for banks to increase their capital. Most banks would likely have capital significantly above the current standard, because otherwise, their insurance premiums would be likely to rise. Banks will have to have enough capital to be able to weather most problems while still meeting the capital standard. The capital standard would become a true minimum acceptable level, rather than the target to shoot for, as it is now.

Q. Does allowing banks to own reinsurers present any problems?

A. Bank holding companies will be allowed to own reinsurers. However, a bank-owned reinsurer would not be allowed to insure the bank that owns it. Further, the insurance activities would have to be conducted in a fully separated and capitalized affiliate, so that deposit insurance would not be backing that activity. There would be a so-called "Chinese wall" between the reinsurance company and its affiliated banks, so that confidential information regarding other banks that the reinsurance company has access to is not passed to the banks affiliated with the reinsurance company.

Q. Doesn't using private insurers present some new risks?

A. It is true that private reinsurers will likely act in ways that are significantly different than the way the FDIC has acted, and there are major advantages to that, which is why the bill uses private reinsurers. However, there are also risks that insurers will panic and price insurance too high, or that insurers would withdraw from the market, leaving banks without reinsurance. The bill's incentives for banks to raise capital, and the long transition period are designed to minimize the risks involved. However, any private market overreacts from time to time. These overreactions are always self-correcting, but the bill has a number of features to guard against these risks: (1) it controls the timing and the amount of premium increases; (2) it allows the FDIC to adjust rates if reinsurance prices would result in giving the FDIC more income than it needs to maintain an appropriate insurance fund target ratio; (3) it caps reinsurance industry liability so that reinsurers are not attempting to reinsure systematic, catastrophic losses; (4) it ensures that uninsured depositors share in any losses, which tends to limit reinsurer risk exposure; (5) it makes it more difficult for the Fed to provide loans that simply keep a troubled institution open long enough for the uninsured depositors to leave; and (6) it provides a mechanism for the FDIC to allow banks to go without reinsurance for a limited period of time under very tight supervision.

Q. Why such a long transition period?

A. The transition period is long because the changes involved are fundamental. Banks (and thrifts) need an oportunity to raise the capital they will need to operate under the new system. Further, the necessary reinsurance capacity needs time to develop.

Q. What role does the interim risk-based formula play?

A. The interim proposal is designed to ease the transition to the private market, reinsurance risk-based system. It helps provide additional protection for the insurance fund while the permanent system is developing.

RISK-BASED INSURANCE PREMIUM SYSTEM FOR LARGE THRIFTS

Q. Is the system for large thrifts identical to the one for large banks?

A. No. The thrift system uses the same basic approach, but takes into account the differences between banks and thrifts, and the fact that thrift industry capital is not as strong as banking industry capital.

Q. What are the major differences?

A. There are four major differences: (1) FDIC has the discretion to make appropriate modifications to the interim risk-based formula for large thrifts to take into account the structural differences between banks and thrifts and their differing financial situations; (2) large thrifts spend a longer time under the interim formula than large banks; (3) large thrifts have the option of staying

under the formula (at least until 80% of large banks get reinsurance) by agreeing that their affiliates will assume 20 per cent of FDIC's losses if the thrift becomes insolvent; and (4) large thrifts have a longer transition period than large banks. They get 5 years after the time 80 per cent of large banks obtain reinsurance to get reinsurance coverage themselves. Only then do they lose the option in #3 above.

TREATMENT OF UNINSURED DEPOSITS IN INSOLVENCIES

Q. Does this give uninsured depositors an 85 per cent guarantee?

A. No. Uninsured depositors only get the opportunity for a quick settlement of their claims (covering their account balances in excess of $100,000) if the failed institution's assets are sufficient to cover it. If the institution's reinsurer does not believe the assets are there, the uninsured depositors do not get the quick, 85 cents on the dollar, settlement.

Q. Does this provision address "too big to fail?"

A. Yes, "too big to fail" is not really about insurance premium levels. Instead, what is at issue is the treatment of uninsured depositors, and this provision prohibits the FDIC from fully protecting them if a large bank or thrift becomes insolvent. Further, if private reinsurers believe the FDIC is continuing to try to provide some special assistance to uninsured depositors, they will adjust their rates upward for the affected institutions, which means that those banks and thrifts will be paying for the coverage.

S. 262

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 "Deposit Insurance Fund Assistance Act of 1991".

SEC. 2. INCOME ON DEPOSITORY INSTITUTION RESERVES.

(a) IN GENERAL.—Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended by adding at the end the following new paragraph:

"(12) EARNINGS ON RESERVES.—For each calendar quarter beginning on January 1, 1991, the Board shall assess the Federal Reserve Banks, and the Reserve Banks shall pay to the Board, an amount equal to the imputed earnings on reserves. Upon receipt of such assessment, the Board shall promptly pay to the Bank Insurance Fund, the Savings Association Insurance Fund, and the Credit Union Insurance Fund that portion of the assessment that is attributable to reserves held at Federal Reserve Banks for that quarter by the members of each fund as calculated by the Board. For the purposes of this paragraph, imputed earnings on reserves means the lesser of—

"(A) the average required reserve balances held with the Federal Reserve Banks pursuant to this section during the applicable calendar quarter by depository institutions that are members of such insurance funds multiplied by the average Federal funds rate during that quarter; or

"(B) the average return on the Federal Reserve Bank's securities holdings during the applicable calendar quarter.

as determined by the Board.".

(b) FEDERAL FINANCING BANK.—To carry out this subsection, the Federal Deposit Institution Corporation is authorized to borrow, and the Federal Financing Bank shall loan, not more than the lesser of—

(A) the amount that the Federal Financing Bank determines would be fully secured by a pledge of earnings on reserves paid to the Bank Insurance Fund and the Savings Association Insurance Fund in accordance with the amendment made by subsection (a); or

(B) $15,000,000,000,

whichever is less.

SEC. 3. CAPITAL INVESTMENTS IN FINANCIAL INSTITUTIONS.

Section 19 of the Federal Reserve Act (12 U.S.C. 461) is amended by adding at the end the following new subsection:

"(d) ALTERNATE FORM OF RESERVES.—

"(1) CAPITAL INVESTMENTS.—Notwithstanding any other provision of law, until the expiration of 5 years after the date of enactment of this subsection, the Board is authorized to require covered institutions to maintain up to the total amount of such institution's reserves required to be held under subsection (b) in the form of—

"(A) qualified cumulative preferred stock; or

"(B) qualified subordinated debentures, issued by one or more banks or savings associations selected by the Board.

"(2) DEFINITIONS.—For the purpose of paragraph (1)—

"(A) a 'covered institution' is a bank or savings association that—

"(i) has total assets of more than $1,000,000,000 on December 31, 1991, or thereafter, or

"(ii) is owned by a bank or savings association holding company that has total assets of more than $1,000,000,000 on December 31, 1991, or thereafter; and

"(B) cumulative preferred stock or a subordinated debenture is "qualified" if such stock or debenture was part of the new issue, at least one-third of which was distributed to the public.

"(3) WARRANTS FOR COMMON STOCK.—A bank or savings association in which a capital investment is made by a covered institution in accordance with paragraph (1) shall provide to the Board—

"(A) warrants for common stock; and

"(B) additional warrants that would become due 5 years from the time of such capital investment,

which shall be redeemable in the event that such bank or savings association is unable to redeem the cumulative preferred stock or subordinated debentures purchased in accordance with paragraph (1). All warrants received pursuant to this subsection shall be considered the property of the covered financial institutions required to participate in accordance with paragraph (1).

"(4) BANK OR SAVINGS ASSOCIATION INSOLVENCY.—In the event that a bank or savings association selected by the Board in accordance with paragraph (1) becomes insolvent within 5 years of a covered institution making a capital investment in such bank or savings association, the Federal Deposit Insurance Corporation shall pay to the covered institution's reserve accounts out of the Bank Insurance Fund or the Savings Association Insurance Fund, as appropriate, an amount equal to the oustanding principle balance on such securities.

"(5) CONSULTATIONS; PRIORITIES.—In selecting banks and savings associations in which covered banks may make capital investments under paragraph (1), the Board shall—

"(A) consult with the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act, with respect to such banks and savings institutions; and

"(B) in selecting capital investments, give priority to investments that facilitate institution mergers in a manner that is likely to reduce the merged institution's costs and improve its efficiency.

"(6) EXCESS EARNED INTEREST PAYMENTS.—The Board shall transmit to a covered financial institution the amount of interest, if any, earned on capital investments held in the name of the covered institution under paragraph (1) that exceeds the Federal funds rate.

"(7) NEGOTIATING AUTHORITY.—The Board is authorized to negotiate appropriate covenants and agreements with financial institutions issuing securities pursuant to paragraph (1) that are necessary to carry out this subsection.

"(8) ADVISORY COMMITTEE.—The Board shall establish a 9-member advisory committee to advise and consult with it in the exercise of its functions under this subsection. The membership of such committee shall consist entirely of individuals from the private sector, and in appointing members of the committee, the Board shall seek to achieve a fair representation of the interests of affected financial institutions. The committee shall meet from time to time at the call of the Board.

"(9) EXEMPTION FROM EXISTING PROHIBITIONS; DURATION.—Covered financial institutions shall be exempt from the enforcement of all Federal and State statutes and regulations prohibiting or restricting covered institutions from the acquisition or holding of securities authorized by the section. The exemption provided for in the preceding sentence shall expire—

"(A) not more than 5 years from the date of enactment of this subsection as it applies to the acquisition of securities authorized by this subsection; and

"(B) not more than 10 years after the date of enactment of this subsection as it applies to the holding of securities authorized by this subsection.".

EXPLANATION: THE DEPOSIT INSURANCE FUND ASSISTANCE ACT OF 1991

GENERAL SUMMARY

The bill has two major thrusts—

(1) to permit the Federal Reserve Board to pay interest on the reserve accounts depository institutions have on deposit at the Federal Reserve banks, and to pay this interest to the FDIC deposit insurance funds and the credit union insurance fund, and

(2) to provide a mechanism to make appropriate capital investments in selected banks and thrifts using private, not public, funds that are already on deposit at the Federal Reserve Banks.

ASSISTANCE TO THE DEPOSIT INSURANCE FUNDS

The bill—

Requires the Federal Reserve to pay interest at the federal funds rate, or the average rate of return on the Federal Reserve Banks' securities holdings, whichever is lower, on the reserve accounts depository institutions have at the Federal Reserve banks to the FDIC and credit union insurance funds. Banks, thrifts, and credit unions currently have roughly $21 billion on deposit at the Fed. The Fed does not currently pay them any interest on these funds; and

Authorizes the FDIC to borrow funds from the Federal Financing Bank up to the amount that can be repaid by using the funds it receives from the Fed. The bill puts a cap of $15 billion on this borrowing source.

TEMPORARY CAPITAL INVESTMENT FUND

Purposes of the Investment Fund—

To provide a *temporary* source of capital for institutions under stress that the regulators and the private capital markets believe will not become insolvent if they are recapitalized.

To work together with deposit insurance reform, and in particular, early intervention, by providing a *transitional* mechanism that helps minimize insurance fund losses and disruptions of the banking and thrift industries as the new deposit insurance system comes into effect.

Investment fund—

The Federal Reserve is authorized to require large banks and large thrifts (those banks and thrifts that would be subject to the full risk-based premium plan with private reinsurance under the Deposit Insurance Reform Act of 1991) to hold up to all of their reserves on deposit at the Fed in the form of either: (1) new issues of cumulative preferred stock, or (2) subordinated debentures of banks or thrifts that the Fed selects. Any such investments the Fed Directs would be held by all participating institutions at the Fed on a pro rata basis.

Some details of the Investments—

Require institutions receiving any investment to match any investment from the capital Investment Fund with private capital on a 2 for 1 basis (for every $2 investment by the Fund, $1 in matching new private capital).

Priority for capital investments to facilitate mergers that improve the efficiency of the merged institution.

Any institution getting a captital investment from the fund would have to provide common stock warrants to the Fed (which would be owned by the fund prticipants on a pro rata basis) which would significantly dilute its existing shareholders, and if the institution is unable to redeem the preferred stock or subordinated debentures within 5 years after receiving the capital investment, it would have to provide additional common stock warrants, further diluting its old shareholders.

Authorize the Fed to negotiate additional appropriate covenants with the banks issuing such securities Covenants could cover such things as growth limits, prohibiting use of brokered funds, cutting or eliminating common stock dividends, changing management, and any other areas the Federal Reserve believes are necessary and appropriate.

In order to prevent the investments from being used to keep insolvent institutions open to minimize insurance fund expenditures, if an institution receiving a capital investment under this program becomes insolvent within the first 5 years after receiving the investment, the FDIC will be required to pay the Investment Fund the value of the securities out of the insurance funds.

Require the Fed to consult with the FDIC, the primary federal regulator of the depository institutions involved, and a 9-member committee representing the institutions with funds on deposit with the Fed (the institutions that would end up owning the securities) before making an investment.

Sunset Date—

The Federal Reserve would have authority to make investments for 5 years. After 10 years, reserves at the Fed could no longer be held in the form of depository institution preferred stock or subordinated debentures.

For 10 years, restrictions on banks holding the stock of other depository institutions would be suspended, to the extent that violation of the restrictions would be caused through operation of this program.

Excess Interest—

To the extent that any capital investments would pay interest at a higher rate of interest than the federal funds rate, pay any interest over that amount directly to the large banks and thrifts on a pro rata basis.

REVITALIZE THE FEDERAL RESERVE SYSTEM

(By Felix G. Rohatyn and Lloyd N. Cutler)

When Willie Sutton was asked why he robbed so many banks, he replied: "That's where the money is." As Willie's answer suggests, the banking system is the beating, pumping heart of our economy.

In the winter of 1933, the nation's banking system suffered an almost fatal heart attack. In January several major Iowa banks failed. In February the largest banks in Detroit closed. People everywhere lost confidence in banks and tried to convert their desposits into cash.

In order to maintain capital ratios and raise cash to meet the demands of depositors, banks called in their loans and unilaterally restricted deposit withdrawals. Credit became unavailable to businesses and consumers, and state governors declared bank holidays. Although the metaphor had not yet been invented, an economic meltdown occurred.

When President-elect Franklin D. Roosevelt took office on March 4, his first action was to close all the banks. The national bank holiday lasted seven days, during which Congress passed the Emergency Banking Act of 1933. The act had three cornerstones: a federal deposit insurance program, a comprehensive system of bank regulation and an authorization for the Reconstruction Finance Corp. to invest in the equity capital of banks. The first two have remained as permanent parts of our banking system and account for much of its phenomenal growth and stability during the past 50 years. But the third—a government mechanism for infusing additional equity when required—has almost disappeared. The time has come to consider seriously whether this third cornerstone should be restored.

A general liquidity crisis feeds on itself. As loans go into default, banks must charge them off against reserves. Reserves must then be increased and charged against equity capital. A given amount of bank equity usually supports between 15 and 25 times as much in loans and other bank-grade investments. This is a bank's "gearing ratio." As capital is reduced by any given amount, a bank must reduce its loans and investments by 15 to 25 times that amount to maintain its capital ratio.

As loans are called in and new requests for loans are denied, borrowers must contract their business activities, and the values of their assets declines. This in turn drives down the quality of their existing bank loans and forces the banks to increase loan loss write-offs and reserves, thus lowering their equity capital still further and requiring a further contraction of their loan and investment assets.

When a bank's capital shrinks to the vanishing point, bank regulators are forced to put it into receivership or conservatorship. The federal deposit insurance system is forced to provide funds to new owners who will assume the bank's deposit obligations. In the worst cases, the regulators must pay off the insured depositors and sell the assets of the failed banks on an already depressed market, thus driving down the value of all similar assets even farther.

Much of this has already happened in the past few years to many of our savings and loan institutions at a cost of hundreds of billions of dollars to the taxpayers. It has already happened to a number of smaller commercial banks. The resulting contraction of credit has come at a time when our need for capital to revitalize our educational, transport and environmental infrastructure and remain effective competitors in world markets is increasingly urgent.

By 1991, urgent capital deficiencies may also strike many of our largest commercial banks. A portent of such a calamity is the fact that the market value of many large banks, which reached 150 percent of book value only a few years ago, is today between 40 percent and 65 percent of book value.

Should a general banking crisis occur, the deposit insurance system and the bank regulatory system are probably adequate to prevent another liquidity meltdown like 1933's, but the cost to the taxpayer could run many times the cost of the savings and loan debacle.

Rather than wait for more commercial bank failures to occur, it would be far more effective and produce much more bang for the buck to create a government mechanism to invest in the equity capital of banks as the RFC under Jesse Jones did in 1933. Because of the "gearing ratio," a federal dollar invested in equity capital of a still solvent bank will support from 15 to 25 times as much credit liquidity as a federal dollar used after a bank failure to reimburse an insured depositor or to dispose of a growing inventory of failed banks and depreciating bank assets.

The FDIC has this legal power, but its limited funds are already under great pressure to meet its insurance obligations. A more logical place to put a new mechanism might be in the Federal Reserve system. The capital stock of each of the 12 regional Federal Reserve Banks is owned not by the government but by the commercial banks in the region. These federal banks have more than $5 billion in capital and more than $35 billion in non-interest bearing reserve deposits that belong to their member commercial banks. The Federal Reserve Banks have aggregate assets exceeding their liabilities for issued Federal Reserve Notes by more than $50 billion. They make an annual profit of more than $20 billion, most of which the Federal Reserve Board requires them to pay to the U.S. Treasury after a small dividend to member banks, which, as the Fed's only stockholders, have an equitable claim to a larger share.

Some of these funds could be used to pay a market rate if interest to member banks on their reserve deposits, thus augmenting bank capital by up to 3 billion pre-tax dollars a year and to make direct equity investments in member banks that need more equity than they can now raise from the private markets. Because of the gearing ratio and the fact that most such investments could later be resold at little or no loss, they would be more efficient and less costly than having to put much larger amounts into the FDIC fund to pay off insured depositors after a number of large banks fail for lack of capital.

In the next year or two, Congress will take up legislation to rationalize our banking system and to reform the Federal Deposit Insurance system. As part of that effort, the Federal Reserve Board should encourage the formation of banking institutions of sufficient size and efficiency to enable our economy to grow and to compete worldwide. To accomplish this, not only mergers but infusions of additional capital will be required. The Federal Reserve could inject part of the needed capital through the purchase of new nonvoting bank securities. To provide an adequate capital base to maintain liquidity

and improve the efficiency of our banking system, an increase of $20 billion to $25 billion in bank equity capital from public and private sources would be appropriate.

As in 1933, many will ask why "taxpayer dollars" should be invested in bank equity to save bank managements and investors from their own mistakes. But the Fed's capital, its reserve deposits and arguably a larger share of its earnings are not taxpayer dollars; they are private dollars of the member commercial banks. In any event, the faults of private bank managements and investors have been no greater than the faults of the public officials who adopted the fiscal policies that have raised public and private debt to the highest percentages of GNP since the 1930s and who condoned a go-go financial market in which so many different kinds of regulated and unregulated financial institutions have been allowed to pay any interest rate to attract funds and to take any risk to re-lend them at still higher rates.

It will do us precious little good to point the finger at one another while creeping credit contraction creates a catastrophe for us all.

S. 263

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Proxmire Financial Modernization Act of 1989".

(b) TABLE OF CONTENTS.—

TITLE I—SECURITIES AFFILIATES OF BANK HOLDING COMPANIES

SEC. 101. AMENDMENTS TO THE BANKING ACT OF 1933.

Section 20 (12 U.S.C. 377) and section 32 (12 U.S.C. 78) of the Banking Act of 1933 are repealed.

SEC. 102. AUTHORIZATION FOR BANK HOLDING COMPANIES TO ACQUIRE SECURITIES AFFILIATES.

Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by adding at the end thereof the following new paragraph:

"(15)(A) SECURITIES AFFILIATES.—Shares of a securities affiliate which may, in accordance with this paragraph, do one or more of the following:

"(i) Engage in underwriting, distributing, or dealing in securities of any type.

"(ii) Engage in securities brokerage, private placement, investment advisory, or other securities activities permitted for brokers or dealers registered under the Securities Exchange Act of 1934 or for investment advisers registered under the Investment Advisers Act of 1940.

"(iii) Engage in, or acquire the shares of a company engaged in, any activity that is not described in clause (i) or (ii) of this subparagraph, if another provision of this section permits a bank holding company or subsidiary thereof to engage in that activity or acquire those shares, and—

"(I) the Board permits the bank holding company to engage in that activity or acquire those shares through the securities affiliate, or

"(II) that provision permits the bank holding company or a subsidiary thereof to engage in that activity or acquire those shares without the Board's approval.

"(B) APPLICATION REQUIREMENTS.—

"(i) Except as provided in subparagraph (D)(ii) of this paragraph, a bank holding company shall not directly or indirectly acquire or retain shares of a securities affiliate under this paragraph without complying with this subparagraph.

"(ii) The following provisions shall apply during the 4 years following the date of enactment of the Proxmire Financial Modernization Act of 1991:

"(I) A bank holding company shall not acquire or retain shares of a securities affiliate pursuant to this paragraph without the Board's prior approval.

"(II) In acting on an application under this paragraph, the Board shall apply the criteria specified in this subparagraph, in subparagraphs (C) and (D)(i) of this paragraph, and in paragraph (8)(B)(iv) of this subsection.

"(III) The Board shall not approve an application under this paragraph unless the Board is satisfied that the bank holding company possesses the managerial resources to conduct the securities activities safely and soundly. In making that determination, the Board shall take into account the experience of management and its record of successfully managing the bank holding company or enterprises engaged in activities that are the same as or similar to those authorized for securities affiliates under this paragraph.

"(iii) Beginning 4 years after the date of enactment of the Proxmire Financial Modernization Act of 1989, a bank holding company seeking to acquire or retain shares pursuant to this paragraph shall comply with paragraph (8)(B) of this subsection. In making a determination under that paragraph, the Board shall apply the criteria specified in clause (iv) of that paragraph and in subparagraphs (C) and (D)(i) of this paragraph.

"(C) CONCENTRATION OF RESOURCES.—

"(i) The Board shall disapprove any acquisition pursuant to this paragraph that would result in the affiliation of—

"(I) a bank holding company or bank that has, or had on average during any of the 8 calendar quarters preceding the date of the application, total assets of more than $30,000,000,000, with

"(II) an investment banking organization that has, or had on average during any of the 8 calendar quarters preceding the date of the application, total assets of more than $15,000,000,000.

"(ii) The dollar limitations in clause (i) of this subparagraph shall be adjusted annually after December 31, 1991, by the annual percentage increase in the Consumer Price Index as described in paragraph (8)(C) of this subsection.

"(D) INVESTMENT IN A SECURITIES AFFILIATE.—

"(i) A bank holding company shall not acquire control of a securities affiliate pursuant to this paragraph if the acquisition would reduce the bank holding company's capital below the minimum level established by the Board for bank holding companies.

"(ii) A bank holding company that has acquired control of a securities affiliate pursuant to this paragraph shall not directly or indirectly make any additional equity investment in the securities affiliate unless it gives the Board prior written notice of the proposed investment and—

"(I) the Board issues a written statement of its intent not to disapprove the notice; or

"(II) the Board does not disapprove the notice within 30 days after the notice is filed.

"(iii) The Board may disapprove a notice filed under clause (ii) if the Board finds that the investment would reduce the bank holding company's capital below the minimum level established by the Board or would otherwise be unsafe or unsound or inconsistent

with the bank holding company's obligation to serve as a source of strength to its subsidiary banks.

"(E) CAPITAL STANDARDS.—(i) In determining whether a bank holding company complies with the capital requirements or guidelines established by the Board for bank holding companies—

"(I) the bank holding company's capital and total assets shall each be reduced by an amount equal to the amount of the bank holding company's equity investment in any securities affiliate, and by an amount equal to the amount of any extensions of credit by the bank holding company to any securities affiliate that are considered capital for purposes of any capital requirement imposed on the securities affiliate pursuant to section 15(c)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(3)),

"(II) the assets and liabilities of the securities affiliate shall not be consolidated with those of the bank holding company, and

"(III) the bank holding company's total assets and total liabilities shall each be reduced by an amount equal to the amount of the bank holding company's extensions of credit to any securities affiliate, excluding extensions of credit described in subclause (I).

"(ii) Clause (i) of this subparagraph does not apply to the extent that the Board determines by order that an item described in that clause relates to activities that are not described in clause (i) or (ii) of subparagraph (A) of this paragraph.

"(F) LIMITATIONS ON SECURITIES AFFILIATES AND THEIR AFFILIATES.—

"(i) No bank or insured institution affiliated with a securities affiliate shall, directly or indirectly—

"(I) extend credit in any manner to the securities affiliate or a subsidiary thereof,

"(II) purchase for its own account financial assets of the securities affiliate or a subsidiary thereof,

"(III) issue a guarantee, acceptance, or letter of credit, including an endorsement or a standby letter of credit, for the benefit of the securities affiliate or a subsidiary thereof, or

"(IV) extend credit in any manner to any investment company advised by or the shares of which are distributed by the securities affiliate.

"(ii) Clause (i)(I) of this subparagraph does not apply to any extension of credit by a bank or insured institution made to acquire or sell any securities of the United States or its agencies or securities on which the principal and interest are fully guaranteed by the United States or its agencies if—

"(I) the extension of credit is to be repaid on the same calendar day,

"(II) the extension of credit is incidental to the clearing of transactions in those securities through that bank or insured institution, and

"(III) both the principal of and the interest on the extension of credit are fully secured by securities of the United States or its agencies or securities on which the principal and interest are fully guaranteed by the United States or its agencies.

"(iii) No bank or insured institution affiliated with a securities affiliate shall directly or indirectly extend credit, or issue or enter into a standby letter of credit, asset purchase agreement, indemnity, guarantee, insurance, or other facility, for the purpose of enhancing the marketability of a securities issue underwritten or distributed by the securities affiliate.

"(iv) No bank or insured institution affiliated with a securities affiliate shall knowingly extend or arrange for the extension of credit, directly or indirectly, secured by or for the purpose of purchasing any security while, or for 30 days after, that security is the subject of a distribution in which a securities affiliate of that bank holding company participates as an underwriter or a member of a selling group.

"(v) No bank or insured institution affiliated with a securities affiliate shall, directly or indirectly, extend credit to an issuer of securities underwritten by the securities affiliate for the purpose of paying the principal of those securities or interest or dividends on those securities. Nothing in this clause prohibits an extension of credit for a documented purpose (other than paying principal, interest, or dividends) if the timing, maturity, and other terms of the credit, taken as a whole, are substantially different from those of the underwritten securities.

"(vi)(I) No officer or director of a securities affiliate shall serve at the same time as an officer or director of any affiliated bank or insured institution.

"(II) Notwithstanding subclause (I) of this clause, an officer or director of a securities affiliate may serve at the same time as an officer or director of an affiliated bank or insured institution if the securities affiliate and the affiliated bank or insured institution are subsidiaries of a bank holding company that has total banking assets of not more than $500,000,000.

"(III) The dollar limitation in subclause (II) of this clause shall be adjusted annually after December 31, 1989, by the annual percentage increase in the Consumer Price Index as described in paragraph (8)(C) of this section.

"(IV) The Board may, by order or by regulation, grant exemptions from subclause (I) of this clause. In determining whether to grant such exemptions, the Board shall consider the size of the bank holding companies, banks, and securities affiliates involved, any burdens that may be imposed by subclause (I), the safety and soundness of the banks and securities affiliates, and other appropriate factors, including unfair competition in securities activities or the improper exchange of nonpublic customer information.

"(vii) Pursuant to regulations issued by the Securities and Exchange Commission, a securities affiliate shall prominently disclose in writing to each of its customers—

"(I) that the securities affiliate is not a bank or insured institution and is separate from any affiliated bank or insured institution; and

"(II) that securities sold, offered, or recommended by the securities affiliate are not deposits, are not insured by the Federal Deposit Insurance Corporation are not guaranteed by an affiliated bank or insured institution, and are not otherwise an obligation of such a bank or insured institution.

"(viii) No bank, insured institution, or subsidiary thereof shall express an opinion on the value of, or the advisability of purchasing or selling, securities underwritten, distributed, or dealt in by an affiliated securities affiliate unless the bank, insured institution, or subsidiary discloses to the customer that the securities affiliate is underwriting, distributing, or dealing in the securities.

"(ix) No bank, insured institution, or subsidiary thereof shall disclose to an affiliated securities affiliate, nor shall a securities affiliate disclose to an affiliated bank, insured institution, or subsidiary thereof, any nonpublic customer information (including an evaluation of the creditworthiness of an issuer or other customer of that bank, insured institution, subsidiary, or securities affiliate) without the consent of that customer.

"(x) A securities affiliate shall not underwrite or distribute securities secured by or representing an interest in mortgages or other obligations originated by an affiliated bank, insured institution, or subsidiary thereof unless those securities—

"(I) are rated by an unaffiliated, nationally recognized statistical rating organization;

"(II) are issued or guaranteed by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Government National Mortgage Association; or

"(III) represent interests in securities described in subclause (II) of this clause;

"(xi) Each appropriate Federal banking agency and the Securities and Exchange Commission shall establish a program for—

"(I) enforcing compliance with this paragraph by banks or insured institutions or securities affiliates under its supervision; and

"(II) responding to any complaints from customers about inappropriate cross-marketing of securities products or inadequate disclosure.

"(xii) Nothing in this paragraph limits—

"(I) any authority of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, or the Securities and Exchange Commission; or

"(II) any disclosure or registration requirements under the securities laws, as defined in section 21(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(g)).

"(xiii) Subparagraphs (i), (iii), (iv), and (v) shall not apply to any bank or insured institution affiliated with a securities affiliate that—

"(I) has reinsurance pursuant to the provisions of the Deposit Insurance Reform Act of 1991, and

"(II) is assessed deposit insurance premiums by the Federal Deposit Insurance Corporation at a rate less than or equal to the average of the assessment rates for all banks having reinsurance.

"(G) SECURITIES AFFILIATES APPROVED UNDER PARAGRAPH (8).—

"(i) Effective after the expiration of 180 days after the date of enactment of this paragraph, no bank holding company may engage in, or retain the shares of any company engaged in, activities of the type described in subparagraph (A)(i) of this paragraph on the basis of the Board's approval of an application under paragraph (8) of this subsection—

"(I) unless the bank holding company obtains the Board's approval to retain the shares of that company pursuant to this paragraph; or

"(II) except to the extent that those activities are specifically authorized by statute for a national bank and involve securities that are expressly described in that statute, or that a regulation promulgated by the Comptroller of the Currency pursuant to that statute before November 18, 1987, expressly describes as being authorized for a national bank to underwrite or deal in.

"(ii) The Board shall, after the date of enactment of this paragraph, disapprove any notice by a bank holding company under paragraph (8) of this subsection to engage in, or acquire the shares of a company engaged in, any activity that is described in subparagraph (A)(i), except to the extent that the activity is described in clause (i)(II) of this subparagraph.

"(H) ACTIVITIES PERMITTED FOR BANK AFFILIATES.—A bank holding company that acquires control of a securities affiliate under this paragraph shall not, after one year from the date of that acquisition, permit a bank or insured institution that it controls or any subsidiary thereof to engage, directly or indirectly, in the United States—

"(i) in activities described in subparagraph (A)(i) (except to the extent that those activities are described in subparagraph (G)(i)(II)); or

"(ii) in underwriting or distributing securities backed by or representing an interest in mortgages or other obligations originated or purchased by the bank or its affiliates.

"(I) COMPLIANCE WITH RISK-BASED CAPITAL STANDARDS.—

"(i) Notwithstanding subparagraph (A) of this paragraph, a securities affiliate shall not commence any of the following activities unless each of its affiliated banks is in compliance with any applicable risk-based capital standards issued by the appropriate Federal banking agency:

"(I) underwriting, distributing, or dealing in unsecured corporate debt securities that at the time of issuance have a maturity of one year or more; or

"(II) underwriting, distributing, or dealing in equity securities other than those issued by an investment company registered under the Investment Company Act of 1940.

"(ii) A bank is in compliance with the capital standards described in clause (i) if that bank is in compliance with a schedule for achieving compliance with those standards prescribed by the appropriate Federal banking agency.

"(J) DEFINITIONS.—For purposes of this paragraph—

"(i) a branch or agency of a foreign bank or a commercial lending company controlled by a foreign bank (as the terms 'agency', 'branch', 'commercial lending company', and 'foreign bank' are defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101)), shall be considered a bank;

"(ii) each shareholder of or participant in a company that controls a bank described in section 5169(b)(1) of the Revised Statutes (12 U.S.C. 27(b)(1)) or in a similar statute of any State, and each subsidiary of such a shareholder or participant, shall be treated as if it were a subsidiary of that company;

"(iii) the term 'appropriate Federal banking agency' means the agencies referred to in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) with respect to insured depository institutions;

"(iv) the terms 'deal in' and 'dealing in' do not include purchasing or selling securities for the account of another person; and

"(v) the term 'securities' does not include insurance and the term 'securities activities' does not include insurance activities.

SEC. 103. DEFINITION OF SECURITIES AFFILIATE.

Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end thereof the following new subsection:

"(n) SECURITIES AFFILIATE.—The term 'securities affiliate' means any company that—

"(1) is engaged in the United States pursuant to section 4(c)(15)(A) of this Act in one or more of the activities described in that section; and

"(2) is registered as a broker or dealer under the Securities Exchange Act of 1934.".

SEC. 104. NINETY-ONE DAY RULE FOR SECURITIES AFFILIATE APPLICATIONS.

(a) NINETY-ONE DAY RULE.—Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by striking out "paragraph (8)" in the penultimate sentence and inserting in lieu thereof "paragraph (15)".

(b) SUNSET PROVISION.—The penultimate sentence of section 4(c) of the Bank Holding Company Act of 1956 (as amended by this Act) is repealed, effective 4 years after the date of enactment of this Act.

SEC. 105. EFFECT ON STATE LAWS PROHIBITING THE AFFILIATION OF BANKS AND SECURITIES COMPANIES.

Section 7 of the Bank Holding Company Act of 1956 (12 U.S.C. 1846) is amended by inserting before the final period the following: ", except that no State may prohibit the affiliation of a bank or bank holding company with a securities affiliate solely because the securities affiliate is engaged in activities described in clause (i) or (ii) of section 4(c)(15)(A) of this Act.".

SEC. 106. AMENDMENT TO THE FEDERAL RESERVE ACT.

(a) Section 23B(b)(1)(B) of the Federal Reserve Act (12 U.S.C. 371c-1(b)(1)(B)) is amended by inserting "and for 30 days thereafter" after "during the existence of any underwriting or selling syndicate".

(b) Section 23A(b)(7) of the Federal Reserve Act (12 U.S.C. 371c(b)(7)) is amended by adding at the end thereof the following new subsection:

"(F) a loan or extension of credit to any company, or the issuance of or participation in a standby letter of credit, asset purchase agreement, indemnification, guarantee, insurance or other factility with any company, the purpose of which is to enhance the marketability of securities, other than those securities that member banks may underwrite pursuant to 12 U.S.C. 24, that are underwritten or distributed by any affiliate, unless there is substantial participation by other lenders in such loan, extension of credit, letter of credit, agreement, indemnification, guarantee, insurance or other facility."

SEC. 107. SECURITIES AFFILIATIONS OF FDIC-INSURED BANKS.

(a) SECURITIES AFFILIATIONS.—Section 18(j)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(3)) is amended to read as follows:

"(3) SECURITIES AFFILIATIONS.—

"(A) GENERAL RULE.—Except as provided in section 4(c)(15) of the Bank Holding Company Act of 1956, an insured bank shall not be an affiliate of any company that directly or indirectly acts in the United States as an underwriter or dealer of any security, other than a security that a national bank is specifically authorized by statute to underwrite or deal in and—

"(i) that is expressly described in that statute; or

"(ii) that a regulation promulgated by the Comptroller of the Currency pursuant to that statute before November 18, 1987, expressly describes as being authorized for a national bank to underwrite or deal in.

"(B) EXCEPTIONS.—This paragraph does not apply to—

"(i) an insured bank that is described in subparagraph (D), (F), (H), or (I) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)); or

"(ii) a foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)), solely because it has an insured branch in the United States.

"(C) GRANDFATHER PROVISION.—This paragraph does not prohibit—

"(i) the continuation of an affiliation that existed on March 5, 1987; or

"(ii) any affiliation by an insured bank that has an affiliation that would be prohibited if it were not covered by clause (i) of this subparagraph.

"(D) TRANSITION RULE.—An affiliation that becomes unlawful as a result of the enactment of the Proxmire Financial Modernization Act of 1989 may continue until the expiration of one year following the date of enactment of such Act.

"(E) ACTIVITIES CONDUCTED DIRECTLY BY INSURED BANK.—Nothing in this paragraph restricts an activity that is conducted directly by an insured bank and is subject to section 21 of the Banking Act of 1933 (12 U.S.C. 378).

"(F) DEFINITIONS.—As used in this paragraph—

"(i) The term 'affiliate' has the meaning given to that term in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)).

"(ii) The term 'company' has the meaning given to that term in section 2(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(b)).

"(iii) The term 'dealer' has the meaning given to that term in section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)).

"(iv)(I) Except as provided in subclause (II) of this clause or except in the case of a contract of insurance, the term 'security' has the meaning given to that term in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)).

"(II) The Board of Governors of the Federal Reserve System may by regulation exempt from the definition of 'security' a banking product that has been traditionally and customarily originated or handled by national banks (such as loan participations, mortgage notes, and certificates of deposit) if the exemption is consistent with the purposes of this paragraph and of section 4(c)(15) of the Bank Holding Company Act of 1956.

"(v) The term 'underwriter' has the meaning given to that term in section 2(11) of the Securities Act of 1933 (15 U.S.C. 77b(11)).".

(b) TECHNICAL AMENDMENT.—Section 18(j)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(4)(A)) is amended by striking "or any provision of section 20 of the Banking Act of 1933" and inserting "or any provision of paragraph (3) or (6) of this subsection".

(c) LIMITATIONS ON CERTAIN ACTIVITIES INVOLVING MUNICIPAL REVENUE BONDS.—Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended by adding at the end thereof the following new paragraph:

"(7) LIMITATIONS ON CERTAIN ACTIVITIES INVOLVING CERTAIN MUNICIPAL SECURITIES.—

"(A) UNDERWRITING OR DISTRIBUTION BY AFFILIATE OF INSURED BANK.—No affiliate of an insured bank shall underwrite or distribute securities described in subparagraph (C) of this paragraph unless that insured bank, as well as any affiliated savings association (as defined in section 2 of the Home Owner's Loan Act), complies with section 4(c)(15)(F)(iii) of the Bank Holding Company Act of 1956 in the same manner and to the same extent as if the insured bank were a bank and the affiliate were a securities affiliate for purposes of section 4(c)(15)(F)(iii).

"(B) UNDERWRITING OR DISTRIBUTION BY INSURED BANK.—An insured bank that underwrites or distributes securities described in subparagraph (C) of this paragraph shall not take any action with respect to those securities that would violate subparagraph (A) of this paragraph if those securities were underwritten or distributed by an affiliate of the insured bank.

"(C) CERTAIN MUNICIPAL SECURITIES DESCRIBED.—Securities are described in this

subparagraph for purposes of this paragraph if—

"(i) a national bank could underwrite those securities only pursuant to the sentence of paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) that refers to an obligation issued by or on behalf of or guaranteed by a State, territory, or possession of the United States, or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing; and

"(ii) no State, territory, or possession of the United States, political subdivision thereof, or the District of Columbia pledges its full faith and credit for payment of the entire principal of and interest on the securities.

"(D) DEFINITION OF 'AFFILIATE'.—For purposes of this paragraph, the term 'affiliate' has the meaning given to that term in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)).".

SEC. 108. AUTHORIZATION FOR NATIONAL BANKS TO UNDERWRITE MUNICIPAL REVENUE BONDS, SPONSOR UNIT INVESTMENT TRUSTS, AND DISTRIBUTE INVESTMENT COMPANY SECURITIES.

(a) AUTHORIZATION.—Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end thereof the following:

"The limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing for its own account, securities shall not apply to an obligation issued by or on behalf of or guaranteed by a State, territory, or possession of the United States, or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing. Notwithstanding the preceding sentence, such limitations and restrictions shall apply to a private activity bond (as defined in section 141 of the Internal Revenue Code of 1986) unless—

"(1) a State, territory, or possession of the United States or political subdivision thereof, or the District of Columbia, pledges its full faith and credit for payment of the entire principal of and interest on such bond; or

"(2) the interest on such bond is excluded from gross income under section 103(a) of the Internal Revenue Code of 1986, and the issuer, or the governmental unit on behalf of which such bond was issued, is the sole owner, for Federal income tax purposes, of the facility to be financed from the proceeds of such bond.

For purposes of the foregoing sentence, any bond described in section 1312(c)(2) of the Tax Reform Act of 1986 to which section 141(a) of the Internal Revenue Code of 1986 does not apply (by reason of section 1311, 1312, or 1313 of that Act), shall not be treated as a private activity bond.

"If the association is not an affiliate of a securities affiliate (as the terms 'affiliate' and 'securities affiliate' are defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841)), the limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing for its own account, securities shall not apply to—

"(1) the securities of unit investment trusts (as defined in section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-4(2)) holding only securities that the association is specifically authorized by statute to underwrite and that are expressly described in that authorizing statute, or expressly described as being authorized for a national bank to underwrite in a regulation promulgated before November 18, 1987, by the Comptroller of the Currency pursuant to that authorizing statute, and

"(2) the distribution of securities issued by investment companies (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) that are not sponsored, managed, or controlled by the association or any affiliate of the association.".

(b) TECHNICAL AMENDMENT.—The sixth sentence of paragraph Seventh of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended by striking out "or general obligations of any State or of any political subdivision thereof,".

SEC. 109. AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978.

(a) RESTRICTIONS ON UNITED STATES BANKING ACTIVITIES OF LARGE FOREIGN BANKS THAT ACQUIRE LARGE INVESTMENT BANKING ORGANIZATIONS WITH UNITED STATES OFFICES.—Section 8 of the International Banking Act of 1978 (12 U.S.C. 3106) is amended by redesignating subsection (e) as subsection (g) and by inserting after subsection (d) the following new subsection:

"(e)(1) No foreign bank or foreign company described in paragraph (2) of this subsection shall—

"(A) acquire or retain control of a bank,

"(B) establish or maintain a branch or agency in a State, or

"(C) acquire or retain control of a commercial lending company organized under State law.

"(2) A foreign bank or foreign company controlling a foreign bank is described in this paragraph for purposes of paragraph (1) if—

"(A) the foreign bank or foreign company became an affiliate of an investment banking organization (as that term is used in section 4(c)(15)(C)(i)(II) of the Bank Holding Company Act of 1956) after the date of enactment of the Proxmire Financial Modernization Act of 1991;

"(B) section 4(c)(15)(C) of the Bank Holding Company Act of 1956 would have required the Board to disapprove the transaction that resulted in the affiliation if the foreign bank or foreign company had been a bank holding company at the time of the transaction;

"(C) the affiliation has not been terminated; and

"(D) the investment banking organization maintains an office or subsidiary in a State.".

(b) RESTRICTIONS ON UNITED STATES INVESTMENT BANKING ACTIVITIES OF LARGE FOREIGN INVESTMENT BANKING ORGANIZATIONS THAT ACQUIRE LARGE BANK HOLDING COMPANIES OR BANKS.—Section 8 of the International Banking Act of 1978 (12 U.S.C. 3106) is amended by inserting after subsection (e) (as added by subsection (a)) the following:

"(f)(1) No foreign investment banking organization (including any of its subsidiaries or affiliates) described in paragraph (2) shall acquire or retain control of a securities affiliate.

"(2) A foreign investment banking organization (including any of its subsidiaries or affiliates) is described in this paragraph for the purposes of paragraph (1) if—

"(A) the foreign investment banking organization became an affiliate of a bank holding company or bank after the date of enactment of the Proxmire Financial Modernization Act of 1991;

"(B) section 4(c)(15)(C) of the Bank Holding Company Act of 1956 would have required the Board to disapprove the transaction that resulted in the affiliation if the foreign investment banking organization had been required to file an application or notice under section 4(c)(15); and

"(C) the affiliation has not been terminated.".

(c) TECHNICAL AMENDMENT.—Section 1(b)(13) of the International Banking Act of 1978 (12 U.S.C. 3101(13)) is amended by inserting "affiliate," after "(13) the terms" and by inserting "securities affiliate" after "control,".

SEC. 110. DIVERSIFIED FINANCIAL HOLDING COMPANIES.

(a) DEFINITION.—Section 2 of the Bank Holding Company Act (12 U.S.C. 1841) is amended by adding at the end thereof the following new subsection:

"(o) DIVERSIFIED FINANCIAL HOLDING COMPANY.—For purposes of this Act, the term 'diversified financial holding company' means a company that directly or indirectly controls any bank and that is described in each of the following paragraphs:

"(1) ENGAGES ONLY IN FINANCIAL ACTIVITIES.—The company engages only in activities that are—

"(A) permissible for bank holding companies under section 4 of this Act (12 U.S.C. 1843); or

"(B) permissible under section 4(i)(4).

"(2) 80-PERCENT TEST.—On average during the preceding calendar year, the company devoted 80 percent or more of its consolidated assets to activities that are permissible under paragraph (8), (13), (14), or (15) of section 4(c) of this Act, excluding—

"(A) activities conducted by any entity described in subparagraph (A) or (B) of paragraph (3) of this subsection; and

"(B) insurance activities that are permissible under section 4(c)(13) but not permissible under section 4(j), to the extent that those activities exceed 10 percent of the company's consolidated assets.

"(3) LIMIT ON FDIC-INSURED DEPOSITORY INSTITUTIONS, AND SUBSIDIARIES THEREOF AS PERCENTAGE OF ASSETS.—On average during the preceding calendar year, 20 percent or less of the company's consolidated assets consisted of insured depository institutions (as defined in section 3(c)) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) and any subsidiaries thereof.

"(4) GLOBAL LIMIT ON DEPOSITORY INSTITUTIONS AND THEIR SUBSIDIARIES AS PERCENTAGE OF ASSETS.—On average during the preceding calendar year, 40 percent or less of the company's consolidated assets consisted of the following entities in aggregate:

"(A) depository institutions (as defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) and any subsidiaries thereof;

"(B) foreign banks (as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)) and any subsidiaries thereof; and

"(C) other depository institutions, whether or not in the United States, and any subsidiaries thereof.

"(5) ELECTION.—The company has filed with the Board a written notice of its intent to be treated as a diversified financial holding company.".

(b) IN GENERAL.—Section 4 of the Bank Holding Company Act (12 U.S.C. 1843) is amended by adding at the end thereof the following new subsection:

"(i) DIVERSIFIED FINANCIAL HOLDING COMPANIES.—

"(1) STATUS.—A diversified financial holding company shall not be considered a bank holding company.

"(2) APPLICABLE LAW.—Except as provided in paragraph (4) or (6) of this subsection, a

diversified financial holding company shall be subject to any provision of the United States Code relating to bank holding companies in the same manner and to the same extent as if it were a bank holding company.

"(3) INTERMEDIATE HOLDING COMPANIES.—

"(A) A subsidiary of a diversified financial holding company is not a bank holding company because it controls a bank.

"(B) If a subsidiary of a diversified financial holding company controls a bank, that subsidiary shall be subject to any provision of the United States Code relating to bank holding companies in the same manner and to the same extent as if it were a bank holding company, except to the extent that the diversified financial holding company is not subject to that provision.

"(4) AUTHORITY TO CONTINUE TO ENGAGE IN NONCONFORMING FINANCIAL ACTIVITIES.—Notwithstanding subsection (a) of this section, a diversified financial holding company may engage in, or acquire or retain direct or indirect ownership or control of shares of any company engaged in, any activity described in paragraph (5) of this subsection (other than an activity described in subsection (c)(15)(A)(i) of this section) in which the diversified financial holding company was lawfully engaged in the United States, directly or through a subsidiary, as of February 1, 1989.

"(5) DEFINITION OF FINANCIAL ACTIVITIES.—The following activities are described in this paragraph for purposes of paragraph (4) of this subsection:

"(A) insurance underwriting activities;

"(B) insurance agency activities;

"(C) real estate brokerage activities;

"(D) real estate investment and development activities;

"(E) travel agency activities; and

"(F) any other activities that the Board has determined to be financial.

"(6) EXEMPTION FROM EXAMINATION AND CAPITAL REQUIREMENTS.—

"(A) Except as provided in subparagraph (B) of this paragraph, a diversified financial holding company, and any subsidiary (other than a bank) of that bank holding company, shall not be subject to inspection or examination or to reporting or capital requirements established by the Board under this Act or the International Lending Supervision Act of 1983.

"(B) The Board may examine or require reports of any company that has filed a notice under section 2(o)(5) of this Act, and any nonbank subsidiary thereof, in order to—

"(i) determine whether that company is a diversified financial holding company;

"(ii) assure compliance by that company or nonbank subsidiary with the provisions of this Act, the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972), and sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c, 371c-1); or

"(iii) assure that the safety and soundness of that company's subsidiary banks are not threatened by the activities or condition of that company or its nonbank subsidiaries whenever the Board determines that emergency conditions exist requiring such assurance.

"(7) RESTRICTIONS ON JOINT MARKETING.—No subsidiary bank of a diversified financial holding company shall—

"(A) offer or market products or services of an affiliate that are not permissible for bank holding companies to provide under subsection (c)(8) or (c)(15) of this section, or

"(B) permit its products or services to be offered or marketed in connection with products or services of an affiliate that are not permissible for bank holding companies to provide under subsection (c)(8) or (c)(15).

"(8) RESTRICTIONS ON LENDING TO AFFILIATES ENGAGED IN NONCONFORMING ACTIVITIES.—If a company engages in any activity pursuant to paragraph (4) of this subsection, subsection (c)(15)(F)(i) of this section shall apply with respect to that company in the same manner and to the same extent as if the company were a securities affiliate.

"(9) DIVESTITURE OF SUBSIDIARY BANKS.—

"(A) If a company that has filed a notice under section 2(o)(5) of this Act fails to maintain the capital of each of its subsidiary banks at or above the level established for that bank by the appropriate Federal banking agency, the Board shall notify the company of the capital deficiency and provide the company 30 days in which to restore the capital of the bank to the level required by the appropriate Federal banking agency.

"(B) If the Board determines that the company is unable to restore the capital of its subsidiary bank to the required level, the Board may issue an order requiring the company to terminate its ownership or control of the bank within 180 days of the date of the order.".

SEC. 111. STUDY ON HARMONIZING THE REGULATION OF BANKING AND SECURITIES ORGANIZATIONS.

(a) FINDING.—The Congress hereby finds that authorization for banks to be affiliated with securities firms pursuant to section 102 of this Act and the provision of banking-type services by firms affiliated with securities firms calls for steps to be taken toward the promotion of regulatory equity between such firms. Among the most important tasks necessary to achieve this goal are the development and harmonization of capital adequacy and financial condition reporting requirements applicable to such firms. To that end, the Board of Governors of the Federal Reserve System (hereinafter referred to as the "Board"), the Securities and Exchange Commission, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Commodity Futures Trading Commission shall review and coordinate their respective rules applicable to capital adequacy, reporting requirements, and transactions with affiliates on an ongoing basis in order to move in an orderly fashion toward greater compatibility and consistency.

(b) STUDY.—The agencies referred to in subsection (a) shall study the issues set forth below and prepare a joint report to the Congress within one year of the enactment of this Act setting forth the results of their study and any recommendations they may have for implementing their conclusions. The issues to be studied are—

(1) the advisability and effect of requiring the consolidated application of prudential standards and reports of financial condition on companies controlling banks or securities firms;

(2) the appropriate techniques, to the extent necessary, for supervision of financial interrelationships of banks and securities firms with their affiliates;

(3) the direction of efforts to achieve international harmony and convergence of capital adequacy and financial condition reporting standards for banks, securities firms, and companies controlling banks and securities firms;

(4) the effect of the conduct of financial activities across national borders on the provision of securities services within the United States and on the supervision of such services within the United States;

(5) the advisability of establishing a permanent international framework for developing and implementing global policies to better harmonize financial market regulation, including capital adequacy standards; registration and reporting standards for banks and securities firms (including associated activities in futures markets), and companies controlling banks and securities firms; direct trading, clearing, and funds transfer mechanisms; routine exchange of information to facilitate international market surveillance of capital positions, trading activity, intercompany transfers, and potential abusive practices; exchange of information to facilitate the investigation of individual enforcement cases; dealing with international market emergencies; and approval of new products and services;

(6) the nature and techniques used in the supervision of banks, securities firms, and companies controlling banks and securities firms; and

(7) the impact of financial services competition from firms that are neither banks nor securities firms.

(c) CONSULTATION.—With due regard for the existing agreement and understandings between bank supervisors on an international level regarding capital adequacy of banks, the agencies referred to in subsection (a) on an ongoing basis shall—

(1) each review their respective rules applicable to capital adequacy and reporting of financial condition;

(2) develop proposed revisions to those rules that would move toward the harmonization of such rules;

(3) provide such proposed revisions to the other for comment and discussion; and

(4) discuss in detail, in the report required by subsection (d), any proposed revisions on which the agencies disagree.

(d) REPORTING.—No later than September 30 of each year, the agencies referred to in subsection (a) shall submit a joint annual report to Congress covering their progress toward the goals set forth in subsection (a) and recommending amendments to law, if any, that they believe would be necessary or advisable in order to attain those goals.

SEC. 112. STUDY OF THE NATIONAL PAYMENTS SYSTEM.

(a) FINDING.—It is the finding of Congress that the continued smooth and efficient functioning of the large-dollar payments system of the United States, including systems that provide for the delivery of securities against payment, is essential to the growth and stability of the economy of the United States and other nations and that the recent growth in the volume of payments due to new technology and changes in the financial services industry suggest that consideration of the mechanism by which large-dollar payments in the United States are made is necessary.

(b) STUDY.—The Board of Governors of the Federal Reserve System is hereby directed to study and prepare a report on the steps necessary to ensure the integrity and reliability of large-dollar payments systems in the United States, including the current status of the mechanism by which large-dollar payments are made in the United States and the steps that appear necessary or advisable to strengthen the reliability and safety and soundness of that mechanism over time. Such report shall be presented to Congress within one year of the passage of this Act.

(c) CONSULTATION.—The Board is directed to consult with the providers of large-dollar payment services, the users of such services, the vendors of equipment used in the provisions of such services, and the regulators of all of the above in conducting the study.

TITLE II—EXPEDITED PROCEDURES

SEC. 201. EXPEDITED PROCEDURES FOR FORMING A BANK HOLDING COMPANY.

Section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended—

(1) by striking out "or (B)" and inserting in lieu thereof "(B)",

(2) by inserting before the period at the end of the second sentence the following: "; or (C) with 30 days prior notification to the Board, the acquisition by a company of control of a bank in a reorganization in which a person or group of persons exchange their shares of the bank for shares of a newly formed bank holding company and receive, after the reorganization, substantially the same proportional share interest in the holding company as they held in the bank except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law if, immediately following the acquisition, the bank holding company meets the capital and other financial standards prescribed by the Board by regulation for such a bank holding company and the holding company does not engage in any activities other than those of banking or managing and controlling banks. In promulgating regulations pursuant to this subsection, the Board shall not require more capital for the subsidiary bank immediately following the reorganization than is required for a similarly sized bank that is not a subsidiary of a bank holding company".

SEC. 202. EXEMPTION OF CERTAIN HOLDING COMPANY FORMATIONS FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933.

Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended by adding at the end thereof the following new paragraph:

"(7) transactions involving offers or sales of equity securities, in connection with the acquisition of a bank by a company under section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), if the acquisition occurs solely as part of a reorganization in which a person or group of persons exchange their shares of a bank for shares of a newly formed bank holding company and receive, after that reorganization, substantially the same proportional share interests in the bank holding company as they held in the bank, except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law.".

SEC. 203. EXPEDITED PROCEDURES FOR BANK HOLDING COMPANIES TO SEEK APPROVAL TO ENGAGE IN NONBANKING ACTIVITIES.

Paragraph (8) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) by redesignating clauses (i) and (ii) of subparagraphs (C), (D), and (E) as subclauses (I) and (II), respectively;

(2) by redesignating subparagraphs (A) through (G), and any cross references thereto as clauses (i) through (vii), respectively; and

(3) by striking out all that precedes "purposes of this subsection it is not" and inserting in lieu thereof the following:

"(8)(A) ACTIVITIES CLOSELY RELATED TO BANKING.—In accordance with the limitations and requirements contained in subparagraphs (B) and (C) of this paragraph, shares of any company whose activities the Board has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto, after taking into account technological or other innovations in the provision of banking or banking-related services.

"(B) NOTICE REQUIREMENTS.—

"(i) No bank holding company shall engage in any activity or acquire the shares of a company pursuant to this paragraph, either de novo or by an acquisition in whole or in part of a going concern, unless the Board has been given 60 days prior written notice of that proposal and, within that period, the Board has not issued an order—

"(I) disapproving the proposal, or

"(II) extending the time period in accordance with clause (iii) below.

"(ii)(I) An acquisition may be made prior to the expiration of the disapproval period if the Board issues a written statement of its intent not to disapprove the proposal.

"(II) The Board shall publish in the Federal Register notice of receipt of a notice under this paragraph involving insurance and provide a reasonable period for public comment. The Board shall issue an order involving any such notice.

"(III) No notice under this paragraph is required for a bank holding company to establish de novo an office to engage in any activity previously authorized for that bank holding company under this paragraph or to change the location of an office engaged in that activity.

"(iii) The notice submitted to the Board shall contain such information as the Board shall prescribe by regulation or by specific request in connection with a particular notice, except that the Board may require only such information as may be relevant to the nature and scope of the proposed activity and to the Board's evaluation of the notice under the criteria specified in clause (iv). If the Board requires additional relevant information beyond that provided in the notice, the Board may by order extend the time period provided in clause (i) of this subparagraph until it has received that information, and the activity that is the subject of the notice may be commenced within 60 days of the date of that receipt unless the Board issues a disapproval order as provided in clause (i). Such an extension order is reviewable under section 9 of this Act.

"(iv) In determining whether to disapprove a notice under this paragraph, the Board shall consider whether the performance of the activity described in the notice by a bank holding company or subsidiary thereof can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. In orders and regulations under this paragraph, the Board may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern.

"(v) The Board shall by order set forth the reasons for any disapproval or determination not to disapprove a notice under this paragraph.

"(C) INSURANCE ACTIVITIES NOT CLOSELY RELATED TO BANKING.—For".

SEC. 204. REDUCTION OF POST-APPROVAL WAITING PERIOD FOR BANK HOLDING COMPANY ACQUISITIONS.

Section 11(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)(1)) is amended by adding before the period at the end of the fourth sentence thereof the following: "or if no adverse comment has been received regarding section 4(c)(8)(C) or section 4(j) of this Act, such shorter period of time as may be prescribed by the Board with the concurrence of the Attorney General, but in no event less than 5 days".

SEC. 205. REDUCTION OF POST-APPROVAL WAITING PERIOD FOR BANK MERGERS.

Section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended by inserting before the period at the end of the last sentence thereof the following: "or such shorter period of time as may be prescribed by the agency with the concurrence of the Attorney General, but in no event less than 5 days".

SEC. 206. BANKERS' BANKS.

(a) BANKERS' BANKS AND BANK HOLDING COMPANIES.—

(1) Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by inserting "or their holding companies" after "is owned exclusively (except to the extent directors qualifying shares are required by law) by depository institutions".

(2) Section 5169 of the Revised Statutes (12 U.S.C. 27) is amended by inserting—

(A) ", directly or through a holding company," after "which is owned", and

(B) "or their holding companies" after "other depository institutions" each place it appears in paragraph (b)(1).

(b) TECHNICAL AMENDMENT ON BANKERS' BANKS AND DEPOSIT INSURANCE.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by striking "bank described in the last sentence of section 2(c)" and inserting "a bankers' bank as described in section 5169 of the Revised Statutes (12 U.S.C. 27)".

(c) LIMIT ON LOANS SECURED BY SECURITIES.—Section 11(m) of the Federal Reserve Act (12 U.S.C. 248(m)) is amended by striking "10 per centum" in each place it appears and inserting in lieu thereof "15 percent".

TITLE III—BROKERS AND DEALERS

SEC. 301. DEFINITION OF BROKER.

Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended to read as follows:

"(4) 'BROKER'.—

"(A) IN GENERAL.—The term 'broker' means any person engaged in the business of effecting transactions in securities for the account of others.

"(B) EXCLUSION OF BANKS.—Such term does not include a bank unless the bank publicly solicits such business or is compensated for such business by the payment of commissions or similar remuneration based on effecting transactions in securities (excluding fees calculated as a percentage of assets under management) in excess of the bank's incremental costs directly attributable to effecting such transactions (hereinafter referred to as 'incentive compensation').

"(C) BANK ACTIVITIES.—A bank shall not be deemed to be a 'broker' because it engages in one or more of the following activities:

"(i) Enters into a contractual or other arrangement with a broker or dealer registered under this title pursuant to which the broker or dealer will offer brokerage services on or off the premises of the bank if—

"(I) such broker or dealer is clearly identified as the person performing the brokerage services;

"(II) bank employees perform only clerical or ministerial functions in connection with brokerage transactions unless such employees are qualified as registered representatives pursuant to the requirements of a self-regulatory organization;

"(III) bank employees do not receive incentive compensation for any brokerage activities unless such employees are qualified as registered representatives pursuant to the requirements of a self-regulatory organization; and

"(IV) such services are provided by the broker or dealer on a basis in which all customers are fully disclosed.

"(ii) Engages in trust activities (including effecting transactions in the course of such trust activities) permissible for national banks under the first section of the Act of September 28, 1962 (12 U.S.C. 92a), or for State banks under relevant State trust statutes or law unless the bank—

"(I) publicly solicits brokerage business other than by advertising, in conjunction with advertising its other trust activities, that it effects transactions in securities, and

"(II) receives incentive compensation.

This clause does not apply to securities safekeeping, self-directed individual retirement accounts, or managed agency or other functionally equivalent accounts of a bank.

"(iii) Effects transactions in exempted securities, other than municipal securities, or in commercial paper, bankers' acceptances, or commercial bills.

"(iv) Effects transactions in municipal securities and does not have a securities affiliate as provided in section 4(c)(15) of the Bank Holding Company Act of 1956.

"(v) Effects transactions as part of any bonus, profit-sharing, pension, retirement, thrift, savings, incentive, stock purchase, stock ownership, stock appreciation, stock option, dividend reinvestment, or similar plan for employees or shareholders of an issuer or its subsidiaries.

"(vi) Effects transactions as part of a program for the investment or reinvestment of bank deposit funds into any no-load open-end investment company registered pursuant to the Investment Company Act of 1940 that attempts to maintain a constant net asset value per share and has an investment policy calling for investment of at least 80 percent of its assets in debt securities maturing in 13 months or less.

"(vii) Effects transactions for the account of any affiliate of the bank, as the term 'affiliate' is defined in section 2 of the Banking Act of 1933 (12 U.S.C. 221a), treating all banks as member banks for purposes of such definition.

"(viii) Effects sales (I) as part of a primary offering of securities by an issuer, not involving a public offering, pursuant to sections 3(b), 4(2), or 4(6) of the Securities Act of 1933 and the rules and regulations thereunder, and (II) exclusively to: a bank as defined in section 3(a)(2) of the Securities Act of 1933 whether acting in its individual or fiduciary capacity; an insurance company as defined in section 2(13) of the Securities Act of 1933; an investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of that Act; a Small Business Investment Company licensed by the Small Business Administration; an insured institution, as defined in section 401 of the National Housing Act; an employee benefit plan within the meaning of title I of the Employee Retirement Income Security Act of 1974, if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such Act, that is a bank as defined in section 3(a)(2) of the Securities Act of 1933, an insurance company as defined in section 2(17) of the Investment Company Act of 1940, or an investment adviser registered under the Investment Advisers Act of 1940, or if the employee benefit plan has total assets in excess of $5,000,000; an employee benefit plan as defined in section 3 of the Employee Retirement Income Security Act of 1974, established and maintained by a State, its political subdivisions, or any agency or instrumentality of a State or its political subdivisions exclusively for the benefit of its employees or their beneficiaries that is governed by fiduciary principles comparable to those contained in such Act, if (i) the plan has total assets in excess of $25,000,000, and (ii) investment decisions for the plan are made by a plan fiduciary, as defined in section 3(21) of such Act, that is a bank, as defined in section 3(a)(2) of the Securities Act of 1933, an insurance company as defined in section 2(17) of the Investment Company Act of 1940, or an investment adviser registered under the Investment Advisers Act of 1940; a corporation with total assets in excess of $50,000,000 and net worth in excess of $5,000,000, as reflected on financial statements prepared in accordance with generally accepted accounting principles; an organization described in section 501(c)(3) of the Internal Revenue Code with total assets in excess of $5,000,000; a foreign bank, broker, dealer, insurance company, or government or government agency; or a natural person with a net worth exceeding $5,000,000. The dollar limitations in this clause shall be adjusted annually after December 31, 1989, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published monthly by the Bureau of Labor Statistics.

"(ix) Effects fewer than 1,000 transactions per year in securities other than transactions referenced in clauses (i) through (viii) of this subparagraph, if the bank does not have a subsidiary or affiliate registered as a broker or dealer under section 15 of this title.".

SEC. 302. DEFINITION OF DEALER.

Section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)) is amended to read as follows:

"(5) 'DEALER'.—

"(A) IN GENERAL.—The term 'dealer' means any person engaged in the business of buying and selling securities for his own account through a broker or otherwise.

"(B) EXCEPTIONS.—Such term does not include—

"(i) any person insofar as that person buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business; or

"(ii) any bank insofar as the bank (I) buys and sells commercial paper, bankers' acceptances, or commercial bills, or exempted securities other than municipal securities; (II) buys and sells municipal securities and does not have a securities affiliate as provided in section 4(c)(15) of the Bank Holding Company Act of 1956; (III) engages in trust or fiduciary activities (including buying and selling securities for investment purposes in the course of such trust or fiduciary activities); or (IV) engages in the issuance or sale through a grantor trust or otherwise of securities backed by or representing an interest in obligations (other than securities of which the bank is not the issuer) originated or purchased by the bank, its affiliates, or its subsidiaries.".

SEC. 303. POWER TO EXEMPT FROM THE DEFINITIONS OF BROKER AND DEALER.

Section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) is amended by adding at the end the following:

"(e) The Commission, by rule, regulation, or order, upon its own motion or upon application, may conditionally or unconditionally exempt any person or class of persons from the definitions of 'broker' or 'dealer', if the Commission finds that such exemption is consistent with the public interest, the protection of investors, or the purposes of this title.".

SEC. 304. REQUIREMENT THAT BANKS FALLING WITHIN THE DEFINITIONS OF BROKER OR DEALER PLACE THEIR SECURITIES ACTIVITIES IN A SEPARATE CORPORATE ENTITY.

Section 15(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended to read as follows:

"(a)(1) It shall be unlawful for any broker or dealer that is either a person other than a natural person or a natural person not associated with a broker or dealer that is a person other than a natural person (other than such a broker or dealer whose business is exclusively intrastate and who does not make use of any facility of a national securities exchange) to make use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) unless such broker or dealer is registered in accordance with subsection (b) of this section.

"(2) It shall be unlawful for any bank to act as a broker or dealer, except in the course of an exclusively intrastate business. This section shall not preclude a subsidiary of a bank or an affiliate of a bank holding company, other than a bank, as those terms are defined in the Bank Holding Company Act of 1956, that is registered in accordance with subsection (b) of this section from acting as a broker or dealer to any extent otherwise permissible by law.

"(3) The Commission, by rule or order, as it deems consistent with the public interest and the protection of investors, may conditionally or unconditionally exempt from paragraphs (1) and (2) of this subsection any broker or dealer or class of brokers or dealers specified in such rule or order.".

TITLE IV—BANK INVESTMENT COMPANY ACTIVITIES

SEC. 401. CUSTODY OF INVESTMENT COMPANY ASSETS BY AFFILIATED BANKS.

(a) MANAGEMENT COMPANIES.—Section 17(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-17(f)) is amended by striking "trusts" the first place it appears and inserting in lieu thereof "trusts, but, where any such bank or an affiliated person thereof is an affiliated person, promoter, or sponsor of, or principal underwriter for, such registered company, only in accordance with such rules and regulations or orders as the Commission may from time to time prescribe for the protection of investors, after consulting in writing with the appropriate Federal banking agency as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))".

(b) UNIT INVESTMENT TRUSTS.—Section 26(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-26(a)(1)) is amended by inserting after "bank" the following: "not affiliated with such underwriter or depositor, or where such bank is so affiliated, only in accordance with such rules and regulations or orders as the Commission may from time to time prescribe for the protection of investors after consulting in writing with the appropriate Federal banking agency as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))".

SEC. 402. AFFILIATED TRANSACTIONS.

Section 10(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-10(f)) is amended by—

(1) inserting "(A)" immediately before "a principal underwriter"; and

(2) inserting ", or (B) the proceeds of which will be used to retire an indebtedness owed to a bank where the bank or an affiliated person thereof is an affiliated person, promoter, or sponsor of, or principal underwriter for, such registered company" after "for the issuer".

SEC. 403. BORROWING FROM AN AFFILIATED BANK.

Section 18(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-18(f)) is amended by adding at the end thereof the following:

"(3) Notwithstanding the provisions of paragraph (1) of this subsection, it shall be unlawful for any registered open-end company to borrow from any bank if such bank or any affiliated person thereof is an affiliated person, promoter, or sponsor of, or principal underwriter for, such company, except that the Commission may, by rules and regulations or order, permit such borrowing which the Commission finds to be in the public interest and consistent with the protection of investors.".

SEC. 404. INDEPENDENT DIRECTORS.

(a) INTERESTED PERSON.—Section 2(a)(19)(A)(v) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(19)(A)(v)) is amended by striking out "1934 or any affiliated person of such a broker or dealer, and" and inserting in lieu thereof "1934 or any person that, at any time during the preceding 6 months, has acted as custodian or transfer agent or has executed any portfolio transactions for, engaged in any principal transactions with, or loaned money to, the investment company, or any other investment company having the same investment adviser, principal underwriter, sponsor, or promoter, or any affiliated person of such a broker, dealer, or person, and".

(b) AFFILIATION OF DIRECTORS.—Section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-10(c)) is amended by striking "bank, except" and inserting in lieu thereof "bank and its subsidiaries or any one bank holding company and its affiliates and subsidiaries, as those terms are defined in the Bank Holding Company Act of 1956, except".

(c) The provisions of subsection (a) of this section shall become effective after one year following the date of enactment of this title.

SEC. 405. ADDITIONAL SEC DISCLOSURE AUTHORITY.

Section 35(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-35(a)) is amended to read as follows:

"SEC. 35. (a) It shall be unlawful for any person, in issuing or selling any security of which a registered investment company is the issuer, to represent or imply in any manner whatsoever that such security or company has been guaranteed, sponsored, recommended, or approved by the United States or any agency or officer thereof or has been insured by the Federal Deposit Insurance Corporation or is guaranteed by or is otherwise an obligation of any bank or insured institution. If a bank holding company, bank, or separately identifiable division or department of a bank, or any affiliate or subsidiary thereof, is an investment adviser, organizer, sponsor, promoter, principal underwriter or an affiliated person of a registered investment company, or a bank or an affiliated person of a bank is offering or selling securities of a registered investment company, or the name of an investment company is that of, or similar to that of, a bank, pursuant to regulations adopted by the Commission, after consultation in writing with the appropriate Federal banking agencies, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), any person in issuing or selling securities of such investment company may be required to disclose prominently that the investment company and any security issued by it is not insured by the Federal Deposit Insurance Corporation, is not guaranteed by an affiliated bank or insured institution, and is not otherwise an obligation of such a bank or insured institution.".

SEC. 406. DEFINITION OF BROKER.

Section 2(a)(6) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(6)) is amended to read as follows:

"(6) 'Broker' has the same meaning as in the Securities Exchange Act of 1934, but does not include any person solely by reason of the fact that such person is an underwriter for one or more investment companies.".

SEC. 407. DEFINITION OF DEALER.

Section 2(a)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(11)) is amended to read as follows:

"(11) 'Dealer' has the same meaning as in the Securities Exchange Act of 1934, but does not include an insurance company or investment company.".

SEC. 408. REMOVAL OF THE EXCLUSION FROM THE DEFINITION OF INVESTMENT ADVISER FOR BANKS THAT ADVISE INVESTMENT COMPANIES.

Section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11)) is amended—

(1) by striking "investment company" and inserting "investment company, except that the term 'investment adviser' includes any bank or bank holding company to the extent that such bank or bank holding company acts as an investment adviser to a registered investment company unless the bank performs such services through a separately identifiable department or division of the bank, in which case the department or division and not the bank itself shall be deemed to be the 'investment adviser'"; and

(2) by adding at the end thereof the following: "For purposes of this paragraph, a separately identifiable department or division of a bank shall mean a unit that—

"(A) is under the direct supervision of an officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank's investment adviser activities for one or more investment companies, including the supervision of all bank employees engaged in the performance of such activities; and

"(B) there are separately maintained in or extractable from such unit's own facilities or the facilities of the bank, all of the records relating to such investment adviser activities and such records are so maintained or otherwise accessible as to permit independent examination thereof and enforcement of the Act and rules and regulations thereunder.".

SEC. 409. DEFINITION OF BROKER.

Section 202(a)(3) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(3)) is amended to read as follows:

"(3) 'Broker' has the same meaning as in the Securities Exchange Act of 1934.".

SEC. 410. DEFINITION OF DEALER.

Section 202(a)(7) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(7)) is amended to read as follows:

"(7) 'Dealer' has the same meaning as in the Securities Exchange Act of 1934, but does not include an insurance company or investment company.".

SEC. 411. NOTIFICATION AND CONSULTATION.

The Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) is amended by inserting after section 210 the following new section:

"NOTIFICATION AND CONSULTATION

"SEC. 210A. (a) IN GENERAL.—The Commission, prior to the examination of, the entry of an order of investigation of, or the commencement of any disciplinary or law enforcement proceedings against, any bank holding company, bank, or department or division of a bank that is a registered investment adviser shall give notice to the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), of the identity of such bank holding company, bank, or department or division and the nature of such proposed action and shall consult in writing with such appropriate Federal banking agency concerning any such proposed action, unless the protection of investors requires immediate action by the Commission and prior notice or consultation is not practical under the circumstances, in which case notice shall be given and the appropriate Federal banking agency shall be notified and consulted as promptly as possible thereafter.

"(b) EXAMINATION RESULTS.—The Commission and the appropriate Federal banking agency shall exchange the results of any examination of any bank holding company, bank, or department or division of a bank that is a registered investment adviser.

"(c) EFFECT ON OTHER AUTHORITY.—Nothing herein shall limit in any respect the authority of the appropriate Federal banking agency with respect to such bank holding company, bank, or department or division under any provision of law.".

SEC. 412. PUBLICITY.

Section 210(b) of the Investment Advisers Act of 1940 is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(3) by adding the following paragraphs after paragraph (2):

"(3) in the case of any State or Federal Government official or agency or any self-regulatory organization, as defined in section 3(a)(26) of the Securities Exchange Act of 1934, for law enforcement or regulatory purposes; or

"(4) in the case of any foreign government official or agency for law enforcement or regulatory purposes.".

TITLE V—INSURANCE ACTIVITIES

SEC. 501. SHORT TITLE.

This title may be cited as the "Bank Holding Company and National Bank Improvements Act of 1989".

SEC. 502. AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956 RELATING TO INSURANCE ACTIVITIES.

(a) DEFINITION.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end thereof the following new subsection:

"(p) INSURANCE ACTIVITIES.—For the purposes of this Act, the term 'insurance activities' means providing insurance as principal, agent, or broker.

(b) INSURANCE ACTIVITIES.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended—

(1) by adding at the end thereof the following subsection:

"(j) INSURANCE ACTIVITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section or section 3 of this Act (but subject to paragraphs (2) and (3)), a bank holding company or any bank or nonbank subsidiary or affiliate thereof shall not engage in insurance activities in the

United States, except that a bank holding company or any bank or nonbank subsidiary or affiliate thereof may provide insurance—

"(A) pursuant to subsection (c)(8) of this section;

"(B) through a State bank or subsidiary thereof to the extent permissible under clause (i), (ii), (iii), (v), or (vi) of subsection (c)(8)(C) and under State law;

"(C) if—

"(i) the insurance is provided by a State bank subsidiary of a bank holding company, or by a subsidiary of that State bank;

"(ii) that bank or subsidiary thereof is located in the one State where the operations of that bank holding company's banking subsidiaries are principally conducted for purposes of section 3(d) of this Act;

"(iii) the insurance activities engaged in by the bank or subsidiary thereof are authorized by State law; and

"(iv) the insurance is provided only to residents of that State, natural persons employed in that State, or natural persons otherwise present in that State; or

"(D) pursuant to section 5136 or 5136B of the Revised Statutes.

"(2) EXCLUSIONS.—Paragraph (1) shall not apply to insurance activities of any company or institution pursuant to section 3(f) or the proviso to subsection (a)(2) of this section.

"(3) AUTHORITY TO CONTINUE CERTAIN ACTIVITIES.—Notwithstanding any other provision of this section, a bank holding company may continue to—

"(A) engage in any insurance activity through a State bank or subsidiary thereof if—

"(i) the bank was acquired after December 31, 1984, and before March 2, 1988, pursuant to Board approval under section 3(d) of this Act;

"(ii) the bank provides insurance only to residents of that State, natural persons employed in that State, or natural persons otherwise present in that State; and

"(iii) such insurance insures against the same types of risks as insurance provided by the bank or subsidiary as of the day before its acquisition by the out-of-state bank holding company or as of March 2, 1988, or against functionally equivalent risks;

"(B) provide title insurance coverage through a State bank or subsidiary thereof if the bank was required to be empowered to provide title insurance as a condition of its initial chartering under State law;

"(C) continue to engage in any insurance activity lawfully engaged in prior to the date of enactment of this subsection, in the State of Indiana and in any State contiguous thereto, if the bank holding company or subsidiary thereof is located in the State of Indiana and was acquired on June 30, 1986, pursuant to Board approval under section 3(d) of this Act issued on May 28, 1986;

"(D) engage in any insurance activity through a State bank or subsidiary thereof if—

"(i) the bank is described in clauses (i) and (ii) of subparagraph (A); and

"(ii) the insurance activity of the State bank or subsidiary thereof is limited (I) to life, accident, and health insurance activities for which it has been licensed prior to March 2, 1988, pursuant to State law enacted after July 20, 1987, and in effect prior to September 28, 1987, and (II) to the State in which it has been licensed; or

"(E) provide through a State bank, or subsidiary thereof, pursuant to authorization by the appropriate State banking regulator prior to March 2, 1988, financial guaranty insurance. For purposes of this subparagraph, the term 'financial guaranty insurance' means insurance against the risk of default on State and local government debt obligations, corporate debt and other monetary obligations, pass-through securities (other than those secured by mortgages on real property which are insurable by a mortgage guaranty insurer), and installment purchase agreements executed as a condition of sale, but such term does not include life, property, or casualty insurance. This subparagraph does not preclude any interested party from challenging the legality of these described activities under section 4(c)(8) of the Bank Holding Company Act of 1956, as in effect on March 2, 1988.

"(4) DEFINITIONS.—

"(A) INSURANCE.—For purposes of this subsection and subsections (c)(8) and (c)(15)(J)(iv) of this section, the term 'insurance' means—

"(i) traditional insurance products and services;

"(ii) variable annuity contracts; and

"(iii) variable life insurance contracts.

"(B) RESIDENT.—For purposes of this subsection, the term 'residents of that State' includes natural persons who are residents of the State and—

"(i) companies incorporated in, or organized under the laws of, the State,

"(ii) companies licensed to do business in the State, and

"(iii) companies having an office in the State."; and

(2) in subsection (c)(8)(C)(iv), by inserting immediately before the semicolon at the end the following: ", except that—

"(I) the authorization to provide insurance pursuant to this clause shall terminate if control of the company providing the insurance is acquired by a bank holding company—

"(a) on or after October 15, 1982, in a transaction requiring Board approval under section 3(d) if the bank holding company did not obtain board approval to engage in such insurance activities under this section prior to March 2, 1988; or

"(b) on or after March 2, 1988;

unless such acquiring company is a successor or is and continues to be a bank holding company with total assets of $50,000,000 or less; and

"(II) no company that is an affiliate of a company providing insurance pursuant to this clause shall provide insurance pursuant to this clause on or after March 2, 1988, unless such affiliated company itself meets the requirements of this clause.".

SEC. 503. AMENDMENTS TO THE NATIONAL BANK ACT.

(a) Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended—

(1) by inserting "(a) IN GENERAL.—" immediately before "Upon duly making and filing"; and

(2) by adding at the end thereof the following new subsection:

"(b) LIMITATION ON INSURANCE POWERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a national bank, or subsidiary (as defined in section 2(d) of the Bank Holding Company Act of 1956) of a national bank, may not engage in insurance activities in the United States except to the extent that the insurance is limited to assuring the repayment of the outstanding balance due on any specific extension of credit by the national bank in the event of the death, disability, or involuntary unemployment of the debtor and except to the extent provided in section 5136B of this title.

"(2) EXCEPTIONS.—Paragraph (1) does not prohibit (A) any company engaged in municipal bond guarantee insurance activities pursuant to authorization by the Comptroller of the Currency on or before May 2, 1985, from continuing to engage in such activities, or (B) any company lawfully engaged in title insurance activities as of March 2, 1988, from continuing to engage in such activities, if such activities are limited to the State in which the bank is located, and if the bank is not acquired after March 2, 1988, by a bank holding company the principal banking operations of which are conducted in another State.

"(3) INSURANCE DEFINITION.—The term 'insurance' has the meaning given to that term in section 4(j)(4) of the Bank Holding Company Act of 1956.

"(4) INSURANCE ACTIVITIES DEFINED.—The term 'insurance activities' means providing insurance as principal, agent, or broker.".

(b) Chapter 1 of title LXII of the Revised Statutes is amended by inserting after section 5136A the following new section:

"SEC. 5136B. LIMITED INSURANCE POWERS FOR NATIONAL BANKS LOCATED IN RURAL AREAS.

"(a) IN GENERAL.—In addition to the powers vested by law in national banking associations, any such association located in a place that has a population not exceeding 5,000 (as shown by the preceding decennial census) may sell insurance as defined in section 5136(b)(3) so long as such insurance activities are confined to that place, and the insurance is sold only to residents of the State in which the association is located or to natural persons employed in that State. For purposes of this subsection, the term 'residents of that State' includes natural persons who are residents of the State and (1) companies incorporated in, or organized under the laws of, the State, (2) companies licensed to do business in the State, and (3) companies having an office in the State.

"(b) ADDITIONAL LIMITATIONS.—No national banking association described in subsection (a) may—

"(1) assume or guarantee the payment of any premium on insurance policies issued through the agency of the association by the insurance company for which such association is acting as agent pursuant to subsection (a); and

"(2) guarantee the truth of any statement made by an assured in filing such person's application for insurance.".

(c) EFFECT ON CERTAIN COMPANIES.—This section shall not affect the ability of—

(1) a national bank or a subsidiary thereof, located in Oregon or Washington, to continue to engage in insurance activities lawfully engaged in as of March 2, 1988, within the State in which the main office of such national bank is located; or

(2) a national bank chartered in 1882 (or a subsidiary thereof) to continue to engage in insurance activities in which it was lawfully engaged as of March 2, 1988, within 30 miles of such bank's main office if such main office is not within 30 miles of any city that had a population exceeding 150,000 under the 1980 census.

EXPLANATION: THE PROXMIRE FINANCIAL MODERNIZATION ACT OF 1991

GENERAL SUMMARY

The Proxmire Financial Modernization Act of 1991 includes five titles of the bill by the same name which the Senate approved in 1988. Those titles deal with bank and bank affiliates' powers and their regulation. The bill authorizes a bank holding company to operate securities affiliate under strict regulation by the Federal Reserve Board and the

Securities and Exchange Commission. The bill also implements the concept of functional regulation for securities of bank holding companies.

SECURITIES AFFILIATIONS OF BANKS

Title I repeals the two provisions of the Glass-Steagall Act of 1933 that prohibit affiliations between banks and securities firms. Bank holding companies would be allowed to offer most securities underwriting services through a separately organized and capitalized affiliate. The securities affiliate would be permitted to underwrite mutual funds, corporate bonds and corporate equity securities. Also, securities firms engaged in corporate equity underwriting would be able to purchase and operate a commercial bank through the holding company format.

The SEC would be given enforcement authority over the new securities activities authorized in the legislation as well as over many of the existing securities activities that are already being conducted by commercial banks under current law. A bank holding company must conduct any underwriting, dealing or distribution activities through the securities affiliate—with the only exceptions being certain activities permissible to national banks (e.g., underwriting government securities). The securities affiliate must be registered with the SEC as a broker or dealer and is fully subject to SEC regulation.

Only bank holding companies whose banks meet capital standards may establish securities affiliates. The capital that a holding company invests in a securities affiliate must be in addition to the capital necessary for it to satisfy minimum bank holding company capital requirements. Further, the bill strengthens sections 23A and 23B of the Federal Reserve Act, which already significantly regulate transactions between banks and their affiliates within a bank holding company. The bill also reinforces these protections and with additional disclosure requirements and various firewalls.

The firewalls are designed to promote impartial credit decisions by the bank and to prevent any losses by the securities affiliate from coming under the umbrella of deposit insurance protection. If a bank's risk assessment under the Deposit Insurance Reform Act of 1991 is above average, a bank would be prohibited from doing the following:

lending to its securities affiliate;

from purchasing financial assets from its securities affiliate;

from providing credit enhancement for the benefit of securities underwritten by its affiliate;

from lending to purchasers of securities underwritten by its affiliate during the underwriting and for 30 days thereafter; and,

from lending to an issuer of securities underwritten by its affiliate for the purpose of paying off those securities.

Additionally, the bill requires the following disclosures and other measures designed to protect customers of the bank and the securities affiliate:

The securities affiliate must make certain written disclosures emphasizing that the securities affiliate is separate from any affiliated bank and that securities handled or recommended by the securities affiliate are not insured deposits.

The bank may not express any opinion on the value of securities that are being handled by the securities affiliate without informing the customer of the securities affiliates' role.

Nonpublic information about a customer may not be shared between the bank and its securities affiliate without the customer's consent.

The securities affiliate may not underwrite or distribute securities that are secured by loans originated by the bank unless the securities are rated by a nationally recognized rating organization.

The banking regulatory agencies and the SEC must establish a program for ensuring compliance by the banks and securities affiliates it supervises and for responding to any customer complaints about inappropriate cross-marketing or inadequate disclosure.

To protect against undue concentration, the bill bars Federal Reserve approval of new affiliations between any bank holding company with more than $30 billion in assets and any securities firm with more than $15 billion in assets. (In the case of U.S. firms, this would bar mergers between any of the 15 largest banking and securities firms.) In addition, other antitrust laws would continue to apply.

EXPEDITED PROCEDURES

Title II of the bill sets up an expedited procedure under which qualified banks may establish bank holding companies. In addition, the procedure for allowing bank holding companies to engage in eligible nonbanking activities is changed from an application procedure to a notice procedure. In acting on such notices, the Board must consider a technological or other innovations in the provision of banking or banking-related services. Smaller banks may join to form a so-called bankers' bank holding company for the purposes of operating a securities affiliate.

BROKER-DEALER REGULATION

Together with Title III defines the authority of the various bank regulatory agencies and the Securities and Exchange Commission (SEC) in policing securities activities of banking organizations. Brokers, who make securities transactions for clients, and dealers, who trade for the firm's account, will generally be required to conduct their activities outside of banks in affiliates or subsidiaries subject to SEC regulation. However, banks may themselves offer brokerage services subject to regulation by the banking agencies if they do not publicly solicit this business or pay brokerage employees volume incentives.

Special rules apply for securities transactions in trust departments and other traditional banking areas. In addition, banks may themselves act as dealers if they trade as fiduciaries, or when they trade commercial paper and other specific securities.

INVESTMENT COMPANY REGULATION

Title IV deals with investment companies, which include mutual funds, closed-end investment companies and unit investment trust. The SEC oversees investment companies, and the bill provides the SEC with additional authority over certain situations involving banks affiliated with investment companies. In addition, the bill requires the SEC to register and oversee investment advisers; and, it subjects banks and bank holding companies that advise investment companies to the Investment Advisers Act restrictions on performance fees, as well as agency cross and principal transactions.

Title IV also restricts certain transactions between investment companies and their banking affiliates. An investment company may not borrow from an affiliated bank, except in accordance with SEC rules. An investment company may not purchase securities during an underwriting if the proceeds help the seller pay off any obligations to an affiliated bank. And, investment companies may not suggest in any way that their products enjoy any kind of Federal bank insurance.

INSURANCE

Title V places limits on the ability of bank holding companies to engage in insurance activities across state lines by acquiring state-chartered banks. A bank would not be permitted to provide insurance as authorized by State law in its parent holding company's home State. Current interstate insurance activities that do not conform to this requirement are grandfathered. National banks may continue to engage in insurance agency activities in towns of 5,000 or less, provided the sales are confined to the town and its environs. Other national bank insurance activities are limited to credit-related insurance.

By Mr. COCHRAN:

S. 264. A bill to authorize a grant to the National Writing Project; to the Committee on Labor and Human Resources.

NATIONAL WRITING PROJECT

• Mr. COCHRAN. Mr. President, the United States faces a crisis in writing both in our schools and in the workplace. "The Writing Report Card," the Nation's assessment of student writing ability, conducted by the U.S. Department of Education, recently reported that fewer than 25 percent of our high school juniors can write an adequate letter. Universities and colleges across the country report increasing numbers of entering freshmen who are unable to meet the writing demands of college work. Lack of writing skill also contributes to the unfavorable comparisons of American students with those in other countries in many academic subjects. In testimony before the Senate Labor and Human Resources Committee, business leaders expressed serious concern about the basic skills of entry level workers. They indicated that the lack of writing ability is a key element of our Nation's illiteracy problem.

Today, I am introducing important legislation to improve the quality of student writing and learning, as well as the teaching of writing in the Nation's classrooms. This legislation authorizes $10 million in Federal support for the national writing project, which currently provides training to teachers to enhance the teaching of writing at 143 sites in 44 States, most of which are associated with universities. Last year, 87,000 teachers voluntarily sought training in one of the national writing project intensive summer and school-year workshops.

The national writing project is a "teachers-teaching-teachers program" which identifies and promotes productive techniques used in the classrooms of our best teachers. It is a positive program celebrating good teaching practice, one which through its work with schools, increases the Nation's corps of successful classroom teachers. When the project was funded for an un-

precedented 10th year by the National Endowment for the Humanities, a spokesman said:

I have no hesitation in saying that the National Writing Project has been by far the most effective and "cost effective" project in the history of the Endowment's support for elementary and secondary education programs.

In Mississippi, national writing project sites have contributed greatly to the remarkable improvement in the quality of teaching. Program participants include not only English teachers but also teachers of history, geography, math, reading, science and elementary schools. The result has been a measurable improvement in student performance and a rekindling of teachers' enthusiasm, confidence and morale.

Over the past 17 years, the national writing project has received numerous national awards and has been generously funded by private foundations such as the Carnegie and Mellon Foundations, as well as State and local agencies. However, program needs have far exceeded the funding potential of these organizations. Each year more and more teachers seek training from one of the existing sites. In light of the need for approximately 250 regional sites to establish a network to serve all the Nation's teachers, it is discouraging to note that 13 sites in 8 States have become inactive within the past year due to inadequate funding.

This legislation would authorize the funding of 50 percent of the cost of existing sites and 50 percent of the cost of establishing new sites, with a maximum of $40,000 per site on a dollar-for-dollar matching basis. It would fund matching grants to teachers to conduct research on effective classroom practices and to the national writing project to disseminate information on effective teaching of writing. The Office of Educational Research and Information in the U.S. Department of Education would receive $500,000 to conduct research on the teaching of writing and on methods to use as a learning tool to improve the quality of education.

In light of the widespread problems described in the "Writing Report Card," this legislation could not be more timely. As Union Carbide warned in its report "Undereducated, Uncompetitive USA," "Without improvements, we have, at best, an undereducated population which keeps this Nation from reaching its highest economic potential." Since the ability to put thoughts into words is fundamental to learning, it is unfortunate that many teachers are not prepared to teach writing as part of basic education and consequently fail to concentrate on their students' writing abilities. By improving writing instruction as part of a basic education, I believe this legislation will provide a very high return for a modest investment and will take us further toward our goal of improving the quality of education in our Nation.

During the last session, I introduced an identical bill, which was cosponsored by 40 Senators and adopted by the Senate Labor and Human Resources Committee as part of the National Teacher Act (S. 1676). Unfortunately, the bill did not become law. In addition, national writing project legislation passed the other body unanimously as part of the Equity and Excellence in Education Act (H.R. 5932) but because there was no comparable Senate passed bill, the legislation died.

However, the Appropriations Committees of both Houses agreed to a $2 million appropriation for the program in fiscal year 1991. In order for the national writing project to use those funds, we must pass this authorizing legislation before September 30, 1991.

In closing, I would like to read a poem written by Alisha Burkett, a third grade student of Judy Sandlin, a teacher at the Brian Elementary School in Birmingham, AL. Ms. Sandlin participated in the national writing project's summer writing institute and now her students write on a daily basis. This poem is an example.

I used to be a letter
but now I'm a word;
I used to be a word
but now I'm a sentence;
I used to be a sentence
but now I'm a poem;
I used to be a student
but now I'm a writer.

I urge other Senators to join me in supporting this legislation with the intention of moving it forward early this session.

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

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

S. 264

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

SECTION 1. FINDINGS.

The Congress finds that—

(1) the United States faces a crisis in writing in schools and in the workplace;

(2) only 25 percent of 11th grade students have adequate analytical writing skills;

(3) over the past two decades, universities and colleges across the country have reported increasing numbers of entering freshmen who are unable to write at a level equal to the demands of college work;

(4) American businesses and corporations are concerned about the limited writing skills of entry-level workers, and a growing number of executives are reporting that advancement was denied to them due to inadequate writing abilities;

(5) the writing problem has been magnified by the rapidly changing student populations in the Nation's schools and the growing number of students who are at risk because of limited English proficiency;

(6) most teachers in the United States elementary schools, secondary schools, and colleges, have not been trained to teach writing;

(7) since 1973, the only national program to address the writing problem in the Nation's schools has been the National Writing Project, a network of collaborative university-school programs whose goal is to improve the quality of student writing and the teaching of writing at all grade levels and to extend the uses of writing as a learning process through all disciplines;

(8) the National Writing Project offers summer and school year inservice teacher training programs and a dissemination network to inform and teach teachers of developments in the field of writing;

(9) the National Writing Project is a nationally recognized and honored nonprofit organization that recognizes that there are teachers in every region of the country who have developed successful methods for teaching writing and that such teachers can be trained and encouraged to train other teachers;

(10) the National Writing Project has become a model for programs in other academic fields;

(11) the National Writing Project teacher-teaching-teachers program identifies and promotes what is working in the classrooms of the Nation's best teachers;

(12) the National Writing Project teacher-teaching-teachers project is a positive program that celebrates good teaching practices and good teachers and through its work with schools increases the Nation's corps of successful classroom teachers;

(13) evaluations of the National Writing Project document the positive impact the project has had on improving the teaching of writing, student performance, and student thinking and learning ability;

(14) the National Writing Project programs offer career-long education to teachers, and teachers participating in the National Writing Project receive graduate academic credit;

(15) each year approximately 85,000 teachers voluntarily seek training through word of mouth endorsements from other teachers in National Writing Project intensive summer workshops and school-year inservice programs through one of the 141 regional sites located in 43 States, and in 4 sites that serve United States teachers teaching overseas;

(16) 250 National Writing Project sites are needed to establish regional sites to serve all teachers;

(17) 13 National Writing Project sites in 8 different States have been discontinued in 1988 due to lack of funding; and

(18) private foundation resources, although generous in the past, are inadequate to fund all of the National Writing Project sites needed and the future of the program is in jeopardy without secure financial support.

SEC. 2. NATIONAL WRITING PROJECT.

(a) AUTHORIZATION.—The Secretary is authorized to make a grant to the National Writing Project (hereafter in this section referred to as the "grantee"), a nonprofit educational organization which has as its primary purpose the improvement of the quality of student writing and learning, and the teaching of writing as a learning process in the Nation's classrooms—

(1) to support and promote the establishment of teacher training programs, including the dissemination of effective practices and research findings regarding the teaching of writing and administrative activities;

(2) to support classroom research on effective teaching practice and to document student performance; and

(3) to pay the Federal share of the cost of such programs.

(b) REQUIREMENTS OF GRANT.—The grant shall provide that—

(1) the grantee will enter into contracts with institutions of higher education or other nonprofit educational providers (hereinafter referred to as "contractors") under which the contractors will agree to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of writing;

(2) funds made available by the Secretary to the grantee pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating teacher training programs as provided in paragraph (1); and

(3) the grantee will meet such other conditions and standards as the Secretary determines to be necessary to assure compliance with the provisions of this part and will provide such technical assistance as may be necessary to carry out the provisions of this part.

(c) TEACHER TRAINING PROGRAMS.—The teacher training programs authorized in subsection (a) shall—

(1) be conducted during the school year and during the summer months;

(2) train teachers who teach grades kindergarten through college;

(3) select teachers to become members of a National Writing Project teacher network whose members will conduct writing workshops for other teachers in the area served by each National Writing Project site; and

(4) encourage teachers from all disciplines to participate in such teacher training programs.

(d) FEDERAL SHARE.—(1) Except as provided in paragraph (2) or (3) and for purposes of subsection (a), the term "Federal share" means, with respect to the costs of teacher training programs authorized in subsection (a), 50 percent of such costs to the contractor.

(2) The Secretary may waive the provisions of paragraph (1) on a case-by-case basis if the National Advisory Board described in subsection (f) determines, on the basis of financial need, that such waiver is necessary.

(3) The Federal share of the costs of teacher training programs conducted pursuant to subsection (a) may not exceed $40,000 for any one contractor, or $200,000 for a statewide program administered by any one contractor in at least 5 sites throughout the State.

(4) For the purposes of paragraph (1), the costs of teacher programs do not include the administrative costs, publication cost, or the cost of providing technical assistance to the grantee.

(e) CLASSROOM TEACHER GRANTS.—(1) The National Writing Project may reserve an amount not to exceed 5 percent of the amount appropriated pursuant to the authority of this section to make grants, on a competitive basis, to elementary and secondary school teachers to enable such teachers to—

(A) conduct classroom research;

(B) publish models of student writing;

(C) conduct research regarding effective practices to improve the teaching of writing; and

(D) conduct other activities to improve the teaching and uses of writing.

(2) Grants awarded pursuant to paragraph (1) shall be used to supplement and not supplant State and local funds available for the purposes set forth in paragraph (1).

(3) Each grant awarded pursuant to this subsection shall not exceed $2,000.

(f) NATIONAL ADVISORY BOARD.—(1) The National Writing Project shall establish and operate a National Advisory Board.

(2) The National Advisory Board established pursuant to subsection (a) shall consist of—

(A) national educational leaders;

(B) leaders in the field of writing; and

(C) such other individuals as the National Writing Project deems necessary.

(3) The National Advisory Board established pursuant to subsection (a) shall—

(A) advise the National Writing Project on national issues related to student writing and the teaching of writing;

(B) review the activities and programs of the National Writing Project; and

(C) support the continued development of the National Writing Project.

(g) EVALUATION.—The National Writing Project may reserve up to $100,000 from the amount authorized to be appropriated pursuant to the authority of this section to evaluate the teacher training programs conducted pursuant to this Act. The results of such evaluation shall be made available to the appropriate committees of the Congress.

(h) RESEARCH AND DEVELOPMENT ACTIVITIES.—(1) From amounts available to carry out the provisions of this subsection, the Secretary, through the Office of Educational Research and Improvement, shall make grants to individuals and institutions of higher education to conduct research activities involving the teaching of writing.

(2)(A) In awarding grants pursuant to paragraph (1), the Secretary shall give priority to junior researchers.

(B) The Secretary shall award not less than 25 percent of the funds received pursuant to subsection (i)(2) to junior researchers.

(C) The Secretary shall make available to the National Writing Project and other national information dissemination networks the findings of the research conducted pursuant to the authority of paragraph (1).

(i) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated for the grant to the National Writing Project, $10,000,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994 and 1995 to carry out the provisions of this section.

(2) There are authorized to be appropriated $500,000 for each of the fiscal years 1991, 1992, 1993, 1994 and 1995 to carry out the provisions of subsection (h).

(j) DEFINITION.—As used in this Act—

(1) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(2) the term "junior researcher" means a researcher at the assistant professor rank or the equivalent who has not previously received a Federal research grant; and

(3) the term "Secretary" means the Secretary of Education.●

By Mr. THURMOND:

S. 265. A bill to establish constitutional procedures for the imposition of the death penalty for terrorist murders, and for other purposes; to the Committee on the Judiciary.

PROTECTION AGAINST TERRORISM ACT OF 1991

Mr. THURMOND. Mr. President, today I rise to introduce a measure which responds to the increased threat of terrorism against the United States and its citizens. This bill would authorize the death penalty for terrorist murders—committed either here in the United States or abroad. The measure also enhances penalties for terrorism in cases where death does not result. In addition, this bill would enhance the Government's ability to remove known terrorist aliens from the United States.

Saddam Hussein, in the first days following Desert Storm, called for the international network of terrorists to strike out against the United States and its people. Congress must respond to this threat. Acts of international terrorism against the citizens of the United States must not be permitted to go unpunished. Terrorism—the heinous, politically motivated acts carried out against the world's innocent—must be brought to an end. We must not allow these vicious murderers to hide behind a veil of political struggle and spill innocent American blood without facing severe punishment.

Mr. President, this bill would amend title 18 to authorize a sentence of death for a terrorist murder committed against any person inside the United States or committed against U.S. nationals outside the United States. In order for the death penalty to be sought, the Attorney General would have to certify that the murder was a terrorist act intended to coerce, intimidate, or retaliate against a government or a civilian population.

Currently, numerous Federal statutes provide that a sentence of death may be imposed if a person is found guilty. However, the reality is that the death penalty may not be imposed for these offenses because constitutional procedures for imposing such a sentence have not existed. On the first day of this Congress, I introduced a measure which would establish the necessary constitutional procedures for the implementation of a comprehensive Federal death penalty. Although I strongly believe that Congress should pass a comprehensive death penalty measure, the unique situation which confronts this Nation dictates that we move swiftly to pass a terrorism death penalty bill. Congress should ensure that those who respond to Saddam's calls for terrorism pay the ultimate price.

Mr. President, this measure also enhances the penalties for other terrorist acts. For example, the maximum penalty for those who engage in an attempted act of terrorism is increased from 20 to 35 years imprisonment. In addition, if an individual engages in physical violence with the intent to cause serious bodily injury and such injury does result, then that individual will face up to 10 years imprisonment.

Mr. President, according to the Federal Bureau of Investigation, there are numerous known operatives for international terrorist organizations cur-

rently residing in the United States. Congress must respond to this threat by ensuring that these individuals pay the ultimate price if they choose to act. Furthermore, Congress should assist the administration in its efforts to remove these aliens from our soil. I have included in this bill a measure which the FBI has requested that will amend current law to facilitate the removal of known terrorists from the United States. Under current law, the Federal Government finds it difficult to remove these terrorists from our country due to cumbersome deportation procedures. Meanwhile, these dangerous individuals are permitted to roam our streets and plan their vicious cowardly acts. This bill also includes a provision requested by the FBI which amends current law to enhance its ability to identify the subscriber to a phone company or other communications facility if he or she has been in contact with a foreign power or agent of a foreign power. In other words, it will facilitate the FBI's ability to learn the identity of individuals who have been in telephone contact with known terrorists.

Mr. President, the FBI has responded well to the threat of terrorism, both domestically and abroad. Congress must strengthen the ability of the FBI to deter terrorist activity. This bill would give those responsible for protecting America from terrorism the tools they need to remove known terrorists—those who have previously committed vicious acts in other countries—from our soil.

In summary, terrorism has plagued the world for many years. Increasingly, the United States has been the focus of such acts. For example, no one can forget the 241 United States military servicemen killed in Beirut by a suicide truck bomber in October 1983 or the innocent Americans killed in the December 1988 bombing of Pan Am Flight 103 over Scotland. Just last week, a terrorist accidentally detonated a bomb, killing himself, on his way to plant it in a U.S. Government building in Manila. All of these incidents, combined with the butcher of Baghdad's call to terrorism, clearly illustrate the fact that there is, indeed, an increased threat of terrorism against our people.

Mr. President, this bill will send a strong signal to those international terrorist groups that choose to make victims of innocent Americans. That message is, "If you choose to prey upon innocent Americans, you will pay the supreme price—your life." We simply cannot hesitate any longer to ensure that terrorist acts will be dealt with harshly.

In closing, Saddam Hussein has made it clear that he is unmoved by human decency and encourages acts of terrorism. His amoral acts of gassing his own people, dropping Scud missiles on Israeli civilians, and threatening to use American POW's as human shields illustrate his barbarism. Congress must act to deter and punish those who commit terrorism and take the lives of innocent Americans. Those who are known terrorists must not be permitted to lurk among us. Instead, they must be removed from our soil. In addition, those who would commit vicious, brutal acts must pay the ultimate price. We must treat terrorists for what they are, murderers, who should face the death penalty for their heinous crimes.

For these reasons, I urge my colleagues to support this legislation.

Mr. President, I send the bill to the desk and ask unanimous consent that it be printed in the RECORD.

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

S. 265

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

This Act may be cited as the "Protection Against Terrorism Act of 1991".

TITLE I—"TERRORISM DEATH PENALTY ACT OF 1991".

SEC. 101. DEATH PENALTY FOR TERRORIST ACTS.

(a) OFFENSE.—Subsections 2331 (a) through (c) of title 18 of the United States Code are amended to read as follows:

"(a) HOMICIDE.—Whoever kills a person while such person is inside the United States, or kills a national of the United States, while such national is outside the United States, shall—

"(1)(A) if the killing is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, or be fined under this title, or both; and

"(B) if the killing is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title or imprisoned for any terms of years or for life, or both so fined and so imprisoned;

"(2) if the killing is a voluntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than thirty years, or both; and

"(3) if the killing is an involuntary manslaughter as defined in section 112(a) of this title, be fined under this title or imprisoned not more than ten years, or both.

"(b) ATTEMPT OR CONSPIRACY WITH RESPECT TO HOMICIDE.—Whoever attempts to kill, or engages in a conspiracy to kill, any human being inside the United States or any national of the United States while such national is outside the United States shall—

"(1) in the case of an attempt to commit a killing that is a murder as defined in this chapter, be fined under this title or imprisoned not more than thirty-five years, or both; and

"(2) in the case of a conspiracy by two or more persons to commit a killing that is a murder as defined in section 1111(a) of this title, if one or more of such persons do any overt act to effect the object of the conspiracy, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned.

"(c) OTHER CONDUCT.—Whoever engages in physical violence—

"(1) with intent to cause serious bodily injury to a person inside the United States, or a national of the United States while such national is outside the United States; or

"(2) with the result that serious bodily injury is caused to a person inside the United States, or to a national of the United States while such national is outside the United States; "Shall be fined under this title or imprisoned not more than ten years, or both."

(b) DEATH PENALTY.—Section 2331 of title 18 of the United States Code, is amended by adding at the end thereof the following:

"(f) DEATH PENALTY PROCEDURES.—

"(1) SENTENCE OF DEATH.—A defendant who has been found guilty of an offense described in subsection (a)(1)(A), if the defendant, as determined beyond a reasonable doubt at a hearing under paragraph 3—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(C) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(D) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in paragraph (2) in the course of a hearing held pursuant to paragraph (3) it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 16 years of age at the time of the offense.

"(2) FACTORS TO BE CONSIDERED IN DETERMINING WHETHER A SENTENCE OF DEATH IS JUSTIFIED.—

"(A) MITIGATING FACTORS.—In determining whether a sentence of death is justified, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(i) the defendant's mental capacity was significantly impaired, although the impairment was not such as to constitute a defense to prosecution;

"(ii) the defendant was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; and

"(iii) the defendant was an accomplice whose participation in the offense was relatively minor.

The jury, or if there is no jury, the court, shall consider whether any other mitigating factor exists.

"(B) AGGRAVATING FACTORS.—In determining whether a sentence of death is justified, the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(i) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoner serving life term), section 1201

(kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (ii) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(ii) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(iii) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(iv) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(v) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(vi) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(vii) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(viii) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(ix) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(x) the victim was particuarly vulnerable due to old age, youth, or infirmity; the defendant committed the offense against—

"(I) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(II) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(III) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(IV) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(aa) while he is engaged in the performance of his official duties;

"(bb) because of the performance of his official duties; or

"(cc) because of his status as a public servant.

For purposes of this subparagraph a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(3) SPECIAL HEARING TO DETERMINE WHETHER A SENTENCE OF DEATH IS JUSTIFIED.—

"(A) Notice by the government.—If the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall at a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant a notice—

"(i) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(ii) setting forth the aggravating factor or factors that the government if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(B) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant if found guilty of or pleads guilty to an offense described in paragraph (1) the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(i) before the jury that determined the defendant's guilt;

"(ii) before a jury impaneled for the purpose of the hearing if—

"(I) the defendant was convicted upon a plea of guilty;

"(II) the defendant was convicted after a trial before the court sitting without a jury;

"(III) the jury that determined the defendant's guilt was discharged for good cause; or

"(IV) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(iii) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (3)(b)(2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(C) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under paragraph (1), no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under paragraph (2).

Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of his admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(D) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return a special finding as to each mitigating and aggravating factor, concerning which information is presented at the hearing, required to be considered under paragraph (2). The jury must find the existence of an aggravating factor by a unanimous vote although it is unnecessary that there be a unanimous vote on any specific aggravating factor if a majority of the jury finds the existence of such a specific factor. A finding with respect to a mitigating factor may be made by one or more members of the jury and any member of the jury who finds the existence of a mitigating factor may consider such a factor established for purposes of this section, regardless of the number of jurors who consider that the factor has been established.

"(E) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If an aggravating factor required to be considered under subparagraph (2)(c) is found to exist, the jury, or if there is no jury, the court, shall then consider whether all the aggravating factors found to exist sufficiently outweigh all the mitigating factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court shall return a finding as to whether a sentence of death is justified.

"(F) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subparagraph (E), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, national origin, creed, or sex of the defendant. The jury, upon return of a finding under subparagraph (E), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, national origin, creed, or sex of the defendant was not involved in reaching the juror's individual decision.

"(4) IMPOSITION OF A SENTENCE OF DEATH.—Upon a finding under subparagraph (3)(E) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under subparagraph (3)(E) that a sentence of death is not justified, or under subparagraph (3)(E) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"(5) REVIEW OF A SENTENCE OF DEATH.—

"(A) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of ap-

peal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(B) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(ii) the information submitted during the sentencing hearing;

"(iii) the procedures employed in the sentencing hearing; and

"(iv) the special findings returned under subparagraph (3)(D).

"(C) DECISION AND DISPOSITION.—

"(i) If the court of appeals determines that—

"(I) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(II) the information supports the special finding of the existence of an aggravating factor required to be considered under paragraph (2);

it shall affirm the sentence,

"(ii) in any other case, the court of appeals shall demand the case for reconsideration under paragraph (3).

"(iii) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(6) IMPLEMENTATION OF A SENTENCE OF DEATH.—A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law. A sentence of death shall not be carried out upon a woman while she is pregnant.

"(7) USE OF STATE FACILITIES.—

"(A) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(B) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

TITLE II—TERRORIST ALIEN REMOVAL

SEC. 201. This Act may be cited as the "Terrorist Alien Removal Act of 1991."

SEC. 202. The Congress finds that—

(a) Terrorist groups have been able to create significant infrastructures and cells in the United States among persons who are in the United States either temporarily, as students or in other capacities, or as permanent resident aliens.

(b) International terrorist groups that sponsor these infrastructures were responsible for—

(1) conspiring to bomb the Turkish Honorary Consulate in Philadelphia, Pennsylvania in 1982;

(2) hijacking TWA flight 847 during which a United States Navy diver was murdered in 1985;

(3) hijacking Egypt Air Flight 648 during which three Americans were killed in 1985;

(4) murdering an American citizen aboard the Achille Lauro cruise liner in 1985;

(5) hijacking Pan Am Flight 73 in Karachi, Pakistan, in which 44 Americans were held hostage and two were killed in 1986;

(6) conspiring to bomb an Air India aircraft in New York in 1986;

(7) attempting to bomb the Air Canada cargo facility at the Los Angeles International airport in 1986; and

(8) numerous bombings and murders in Northern Ireland over the past decade.

(c) Certain governments and organizations have directed their assets in the United States to take measures in preparation for the commission of terrorist acts in this country.

(d) Present immigration laws have not been used to any significant degree by law enforcement officials to deport alien terrorists because compliance with these laws with respect to such aliens would compromise classified intelligence sources and information. Moreover, appellate procedures routinely afforded aliens following a deportation hearing frequently extend over several years resulting in an inability to remove expeditiously aliens engaging in terrorist activity.

(e) Present immigration laws are inadequate to protect the national security of the United States from terrorist attacks by certain aliens. Therefore, new procedures are needed to remove alien terrorists from the United States and thus reduce the threat that such aliens pose to the national security and other vital interests of the United States.

SEC. 203. (a) Subsection 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)) is amended by adding at the end thereof a new paragraph 21 as follows:

"(21) either prior or subsequent to entry is engaging in or has engaged in terrorist activity.".

(b) Subsection 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end thereof the following new paragraphs:

"(43) The term 'terrorist activity' means any activity which is unlawful under the law of the place where it is committed, or which, if committed in the United States would have been unlawful under the laws of the United States or of any State and which involves—

"(A) the hijacking of an aircraft, vessel, or vehicle;

"(B) the sabotage of an aircraft, vessel, or vehicle;

"(C) the seizing or detaining and threatening to kill, injure, or continue to detain another person in order to compel a third person or governmental organization to do or abstain from doing any act as an explicit or implicit condition for the release of the person detained or seized;

"(D) a violent attack upon the person or liberty of an 'internationally protected person' as defined in 18 U.S.C. 1116(b)(4);

"(E) the use of any explosive, biological agent, chemical agent, nuclear weapon or device, or firearm with intent to endanger, directly or indirectly, the safety of people or cause substantial damage to property;

"(F) an assassination; or

"(G) any threat, attempt, or conspiracy to do any of the foregoing.

"(44) The term 'engage in a terrorist activity' means to commit an act of terrorist activity or to do an act which the actor knows, or reasonably should know, affords material support to any individual or enterprise in conducting terrorist activity at any time including, but not limited to—

"(A) the preparation and planning of terrorist activity;

"(B) the gathering of intelligence on potential targets for terrorist activity;

"(C) the providing of any type of material support including but not limited to a safe house, transportation, funds, false identification, weapon, or explosive to any individual who the actor knows or has reason to believe has committed or plans to commit an act of terrorist activity;

"(D) the soliciting of funds or other things of value for terrorist activity or for any organization which engages in or which has engaged in terrorist activity; or

"(E) the solicitation of any individual for membership in a terrorist enterprise;

The term does not include lawful speeches, writings, or attendance and participation in peaceful public assemblies; *Provided, however*, That evidence of any speech, writing, or participation in any public assembly may be used to show the actor's awareness of the unlawful methods of an individual or enterprise conducting terrorist activity.

"(45) The term 'individual' means a human being.

"(46) The term 'enterprise' means an organization or government.".

SEC. 204. The immigration and Nationality Act is amended by adding at the end thereof a new Title V as follows:

TITLE V—REMOVAL OF ALIEN TERRORISTS

§501. Applicability

"(a) The provisions of this title may be followed in the discretion of the Department of Justice whenever the Department of Justice has information that an alien described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)(21)) is subject to deportation because of that paragraph.

"(b) Whenever an official of the Department of Justice files, under section 502, an application with the court established under section 503 for authorization to seek removal pursuant to the provisions of this title, the alien's rights regarding removal and expulsion shall be governed solely by the provisions of this title. Except as they are specifically referenced, no other provisions of the immigration and Nationality Act shall be applicable. An alien subject to removal

under these provisions shall have no right of discovery of information derived from electronic surveillance authorized under the Foreign Intelligence Surveillance Act or otherwise for national security purposes, nor shall such alien have the right to seek suppression of evidence derived in such manner. Further, the government is authorized to use, in the removal proceeding, the fruits of electronic surveillance authorized under the Foreign Intelligence Surveillance Act without regard to subsections 106(c), (e), (f), (g) and (h) of that Act.

"(c) This title is enacted in response to findings of Congress that aliens described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)(21)) represent a unique threat to security of the United States. It is the intention of Congress that such aliens be promptly removed from the United States following—

"(1) a judicial determination of probable cause to believe that a person is such an alien; and

"(2) a judicial determination pursuant to the provisions of this title that an alien is removable on the grounds that he is an alien described in paragraph 21 of subsection 241(a) (8 U.S.C. 1251(a)(21));

and that such aliens not be given a deportation hearing and are ineligible for any discretionary relief from deportation and for relief under subsection 243(h) of the Immigration and Nationality Act.

§ 502. Special Removal Hearing

"(a) Whenever removal of an alien is sought pursuant to the provisions of this title, a written application upon oath or affirmation shall be submitted in camera and ex parte to the court established under section 503 for an order authorizing such a procedure. Each application shall require the approval of the Attorney General, the Deputy Attorney General, or the Associate Attorney General based upon his finding that it satisfies the criteria and requirements of such application as set forth in this title. Each application shall include—

"(1) the identity of the Department of Justice attorney making the application;

"(2) the approval of the Attorney General, the Deputy Attorney General, or the Associate Attorney General for the making of the application;

"(3) the identity of the alien for whom authorization for the special removal procedures is sought; and

"(4) a statement of facts and circumstances relied on by the Department of Justice to establish that

"(A) an alien as described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)(21)) is physically present in the United States; and

"(B) with respect to such alien, adherence to the provisions of Title II of this Act regarding the deportation of aliens would tend to harm the national security of the United States, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source of information.

"(b) The application shall be filed under seal with the court established under section 503. The Attorney General may take into custody any alien with respect to whom such an application has been filed and, notwithstanding any other provision of law, may retain such an alien in custody in accordance with the procedures authorized by this title.

"(c) In accordance with the rules of the court established under section 503, the judge shall consider the application and may consider other information presented under oath or affirmation at an in camera and ex parte hearing on the application. A verbatim record shall be maintained of such a hearing. The application and any other evidence shall be considered by a single judge of the court who shall enter an ex parte order as requested if he finds, on the basis of the facts submitted in the application and any other information provided by the Department of Justice at the in camera and ex parte hearing, there is probable cause to believe that—

"(1) the alien who is the subject of the application has been correctly identified and is an alien as described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a); and

"(2) adherence to the provisions of Title II of this Act regarding the deportation of the identified alien would tend to harm the national security of the United States, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source of information.

"(d)(1) In any case in which the application for the order is denied, the judge shall prepare a written statement of his reasons for his denial and the Department of Justice may seek a review of the denial by the Court of Appeals for the Federal Circuit by notice of appeal which must be filed within twenty days. In such a case the entire record of the proceeding shall be transmitted to the Court of Appeals under seal and the Court of Appeals shall hear the matter ex parte.

"(2) If the Department of Justice does not seek review, the alien shall be released from custody unless such alien may be arrested and taken into custody pursuant to Title II of this Act as an alien subject to deportation, in which case such alien shall be treated in accordance with the provisions of this Act concerning the deportation of aliens.

"(3) If the application for the order is denied because the judge has not found probable cause to believe that the alien who is the subject of the application has been correctly identified or is an alien as described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)) and the Department of Justice seeks review, the alien shall be released from custody unless such alien may be arrested and taken into custody pursuant to Title II of this Act as an alien subject to deportation, in which case such alien shall be treated in accordance with the provisions of this Act concerning the deportation of aliens simultaneously with the application of this Title.

"(4) If the application for the order is denied because, although the judge found probable cause to believe that the alien who is the subject of the application has been correctly identified and is an alien as described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)), the judge has found that there is not probable cause to believe that adherence to the provisions of Title II of this Act regarding the deportation of the identified alien would tend to harm the national security of the United States, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source of information, the judge shall release the alien from custody subject to the least restrictive condition or combination of conditions of release described in subsections 3142(b) and (c)(1)(B)(i)-(xiv) of title 18 that will reasonably assure the appearance of the alien at any future proceeding pursuant to this title and will not endanger the safety of any other person or the community, but if the judge finds no such condition or combination of conditions the alien shall remain in custody until the completion of any appeal authorized by this title. The provisions of sections 3145–3148 of title 18 pertaining to review and appeal of a release or detention order, penalties for failure to appear, penalties for an offense committed while on release, and sanctions for violation of a release condition shall apply to an alien to whom the previous sentence applies and—

"(A) for purposes of section 3145 an appeal shall be taken to the Court of Appeals for the Federal Circuit; and

"(B) for purposes of section 3146 the alien shall be considered released in connection with a charge of an offense punishable by life imprisonment.

"(e)(1) In any case in which the application for the order authorizing the special procedures of this title is approved, the judge who granted the order shall consider separately each item of evidence the Department of Justice proposes to introduce in camera and ex parte at the special removal hearing. The judge shall authorize the introduction in camera and ex parte of any item of evidence for which the judge determines that the introduction other than in camera and ex parte would tend to harm the national security of the United States, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source of information. With respect to any evidence which the judge authorizes to be introduced in camera and ex parte, the judge shall cause to be prepared and shall sign, and the Department of Justice shall cause to be delivered to the alien, either—

"(A) a written summary which shall be sufficient to inform the alien of the general nature of the evidence that he is an alien as described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)(21)) and to permit the alien to marshal the facts and prepare a defense, but which shall not tend to harm the national security, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source; or

"(B) if necessary to prevent serious harm to the national security or death or serious bodily injury to any person, a statement informing the alien that no such summary is possible.

"(2) The Department of Justice may take an interlocutory appeal of the United States Court of Appeals for the Federal Circuit of any determination by the judge pursuant to paragraph (1)—

"(A) concerning whether an item of evidence may be introduced in camera and ex parte;

"(B) concerning the contents of any summary of evidence to be introduced in camera and ex parte prepared pursuant to subparagraph (e)(1)(A); or

"(C) ruling that no summary of evidence to be introduced in camera and ex parte is possible pursuant to subparagraph (e)(1)(B).

In any interlocutory appeal taken pursuant to this paragraph, the entire record, including any proposed order of the judge or summary of evidence, shall be transmitted to the Court of Appeals under seal which shall hear the matter ex parte. The Court of Appeals shall consider the appeal as expeditiously as possible.

"(f) In any case in which the application for the order is approved, the special removal hearing authorized by this section shall be conducted for the purpose of determining if the alien to whom the order pertains should be removed from the United States on the

grounds that he is an alien as described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)(21)). In accordance with subsection (e), the alien shall be given reasonable notice of the nature of the charges against him. The alien shall be given notice, reasonable under all the circumstances, of the time and place at which the hearing will be held. The hearing shall be held as expeditiously as possible.

"(g) The special removal hearing shall be held before the same judge who granted the order pursuant to subsection (e) unless that judge is deemed unavailable due to illness or disability by the chief judge of the court established pursuant to section 503, or has died. A decision by the chief judge pursuant to the preceding sentence shall not be subject to review by either the alien or the Department of Justice.

"(h) The hearing shall be open to the public. The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent him. Such counsel shall be appointed by the judge pursuant to the plan for furnishing representation for any person financially unable to obtain adequate representation for the district in which the hearing is conducted as provided for in section 3006A of title 18, all provisions of that section shall apply, and for purposes of determining the maximum amount of compensation, the matter shall be treated as if a felony was charged. The alien may be called as a witness by the Department of Justice. The alien shall have a right to introduce evidence on his own behalf. Except as provided in subsection (j), the alien shall have a reasonable opportunity to examine the evidence against him and to cross-examine any witnesses. A verbatim record of the proceedings and of all testimony and evidence offered or produced at such a hearing shall be kept. The decision of the judge shall be based only on the evidence introduced at the hearing, including evidence introduced under subsection (j).

"(i) At any time prior to the conclusion of the hearing, either the alien or the Department of Justice may request the judge to issue a subpoena for the presence of a named witness (which subpoena may also command the person to whom it is directed to produce books, papers, documents, or other objects designated therein) upon a satisfactory showing that the presence of the witness is necessary for the determination of any material matter. Such a request may be made ex parte except that the judge shall inform the Department of Justice of any request for a subpoena by the alien for a witness or material if compliance with such a subpoena would reveal evidence or the source of evidence which has been introduced, or which the Department of Justice has received permission to introduce, in camera and ex parte pursuant to subsection (j), and the Department of Justice shall be given a reasonable opportunity to oppose the issuance of such a subpoena. If an application for a subpoena by the alien also makes a showing that the alien is financially unable to pay for the attendance of a witness so requested, the court may order the costs incurred by the process and the fees of the witness so subpoenaed to be paid for from funds appropriated for the enforcement of Title II of this Act. A subpoena under this subsection may be served anywhere in the United States. A witness subpoenaed under this subsection shall receive the same fees and expenses as a witness subpoenaed in connection with a civil proceeding in a court of the United States. Nothing in this subsection is intended to allow an alien to have access to classified information.

"(j) Evidence which has either been summarized pursuant to subsection (e)(1)(A) or for which no summary has been deemed possible pursuant to subsection (e)(1)(B) shall be introduced (either in writing or through testimony) in camera and ex parte and neither the alien, nor the public shall be informed of such evidence or its source other than through reference to the summary provided pursuant to subsection (e)(1)(A) or to the explanation that no summary could be provided pursuant to subsection (e)(1)(B). Notwithstanding the previous sentence, the Department of Justice may, in its discretion, elect to introduce such evidence in open session.

"(k) Evidence introduced at the hearing, either in open session or in camera and ex parte may, in the discretion of the Department of Justice, include all or part of the information presented under subsections (a) through (c) used to obtain the order for the hearing under this section.

"(l) Following the receipt of evidence, the attorney for the Department of Justice and for the alien shall be given fair opportunity to present argument as to whether the evidence is sufficient to justify the removal of the alien. The attorney for the Department of Justice shall open the argument. The attorney for the alien shall be permitted to reply. The attorney for the Department of Justice shall then be permitted to reply in rebuttal. The judge may allow any part of the argument that refers to evidence received in camera and ex parte to be heard in camera and ex parte.

"(m) The Department of Justice has the burden of showing by clear and convincing evidence that the alien is subject to removal because he is an alien as described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)(21)). If the judge finds that the Department of Justice has met this burden, the judge shall order the alien removed.

"(n)(1) At the time of rendering a decision as to whether the alien shall be removed, the judge shall prepare a written order containing a statement of facts found and conclusions of law. Any portion of the order that would reveal the substance or source of evidence received in camera and ex parte pursuant to subsection (j) shall not be made available to the alien or the public.

"(2) The decision of the judge may be appealed by either the alien or the Department of Justice to the Court of Appeals for the Federal Circuit by notice of appeal which must be filed within twenty days, during which time such order shall not be executed. In any case appealed pursuant to this subsection, the entire record shall be transmitted to the Court of Appeals and information received pursuant to subsection (j), and any portion of the judge's order that would reveal such information or its source, shall be transmitted under seal. The Court of Appeals shall consider the case as expeditiously as possible.

"(3) In an appeal to the Court of Appeals pursuant to either subsections (d) or (e) or this subsection, the Court of Appeals shall review questions of law de novo but a prior finding on any question of fact shall not be set aside unless such finding was clearly erroneous.

"(o) If the judge decides, pursuant to subsection (n), that the alien should not be removed, the alien shall be released from custody unless such alien may be arrested and taken into custody pursuant to Title II of this Act as an alien subject to deportation in which case, for purposes of detention, such alien may be treated in accordance with the provisions of this Act concerning the deportation of aliens.

"(p) Following a decision by the Court of Appeals pursuant to either subsection (d) or subsection (n), either the alien or the Department of Justice may petition the Supreme Court for a writ of certiorari. In any such case, any information transmitted to the Court of Appeals under seal shall, if such information is also submitted to the Supreme Court, be transmitted under seal.

"§ 503. Designation of Judges

"(a) The Chief Justice of the United States shall publicly designate five district court judges from five of the United States judicial circuits who shall constitute a court which shall have jurisdiction to conduct all matters and proceedings authorized by section 502. One of the judges so appointed shall be publicly designated as the presiding judge by the Chief Justice. The presiding judge shall promulgate rules to facilitate the functioning of the court and shall be responsible for assigning the consideration of cases to the various judges.

"(b) Proceedings under section 502 shall be conducted as expeditiously as possible. The Chief Justice, in consultation with the Attorney General and other appropriate federal officials, shall, consistent with the objectives of this title, provide for the maintenance of appropriate security measures for applications for ex parte orders to conduct the special removal hearing authorized by section 502, the orders themselves, evidence received in camera and ex parte, and other matters as necessary to protect information concerning matters before the court from harming the national security of the United States, adversely affecting foreign relations, revealing investigative techniques, or disclosing confidential sources of information.

"(c) Each judge designated under this section shall serve for a term of five years and shall be eligible for redesignation except that the four associate judges first designed under subsection (a) shall be designated for terms of from one to four years so that one term expires each year.

"§ 504. Miscellaneous Provisions

"(a)(1) Following a determination pursuant to this title that an alien shall be removed, and after the conclusion of any judicial review thereof, the Attorney General may retain the alien in custody, or if the alien was released pursuant to subsection 502(o) may return the alien to custody, and shall cause the alien to be transported to any country which the alien shall designate provided such designation does not, in the Attorney General's judgment, impair any treaty (including a treaty pertaining to extradition) obligation of the United States or otherwise adversely affect the foreign policy of the United States.

"(2) If the alien refuses to choose a country to which he wishes to be transported, or if the Attorney General determines that removal of the alien to a selected country would impair a treaty obligation or adversely affect foreign policy, the Attorney General shall cause the alien to be transported to any country willing to receive such alien.

"(3) Before an alien is transported out of the United States pursuant to paragraph (1) or (2) or pursuant to an order of exclusion because such alien is excludable under paragraph 34 of subsection 212(a) of this Act (8

U.S.C. 1182(a)(34)), he or she shall be photographed and fingerprinted, and shall be advised of the provisions of subsection 276(b) of this Act (8 U.S.C. 1326(b)).

"(4) If no country is willing to receive such an alien, the Attorney General may, notwithstanding any other provision of law, retain the alien in custody. The Attorney general shall make periodic efforts to reach agreement with other countries to accept such an alien and shall submit a written report on his efforts to obtain such an agreement to the alien at least every six months. Any alien in custody pursuant to this subsection shall be released from custody solely at the discretion of the Attorney General and subject to such conditions as the Attorney General shall deem appropriate. The actions of the Attorney General pursuant to this subsection shall not be subject to judicial review, including application for a writ of habeas corpus except for a claim that his rights under the Constitution are being violated by continued detention. Jurisdiction over any such challenge shall lie exclusively in the Court of Appeals for the Federal Circuit.

"(b)(1) Notwithstanding the provisions of subsection (a), the Attorney General may hold in abeyance the removal of an alien who has been ordered removed pursuant to this title to allow the trial of such alien on any federal or State criminal charge and the service of any sentence of confinement resulting from such a trial.

"(2) Pending the commencement of any service of a sentence of confinement, by an alien described in paragraph (1), such an alien shall remain in the custody of the Attorney General, unless the Attorney General determines that temporary release of the alien to the custody of State authorities for confinement in a State facility is appropriate and would not endanger national security or public safety.

"(3) Following the completion of a sentence of confinement by an alien described in paragraph (1) or following the completion of State criminal proceedings which do not result in a sentence of confinement of an alien released to the custody of State authorities pursuant to paragrah (2), such an alien shall be returned to the custody of the Attorney General who shall proceed to carry out the provisions of subsection (a) concerning removal of the alien.

"(c) For the purposes of sections 751 and 752 of title 18, an alien in the custody of the Attorney General pursuant to this title shall be considered as being committed to the custody of the Attorney General by virtue of an arrest on a charge of felony.

"(d)(1) An alien in the custody of the Attorney General pursuant to this title shall be given reasonable opportunities to communicate with and receive visits from members of his or her family, and to contact, retain, and communicate with an attorney.

"(2) An alien in the custody of the Attorney General pursuant to this title shall have the right to contact an appropriate diplomatic or consular official of the alien's country, or an official of any country providing representation services for that country. The Attorney General shall notify the appropriate embassy of the alien's detention.".

SEC. 205. Subsection 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) is amended by adding at the end thereof a new paragraph 34 as follows:

"(34) Aliens with respect to whom the consular officer or the Attorney General knows or has reasonable ground to believe are engaging in, have engaged in, or probably would, after entry, engage in terrorist activity.".

SEC. 206. (a) Subsection 235(c) if the Immigration and Nationality Act (8 U.S.C. 1225(c)) is amended by striking out "or (29)" and inserting in lieu thereof "(29), or (34)".

(b) Section 106(b) (8 U.S.C. §1105a(b)) of the Immigration and Nationality Act is amended by adding at the end thereof the following sentence: "Jurisdiction to review an order entered pursuant to the provisions of section 235(c) of this Act concerning an alien excludable under paragraph 34 of subsection 212(a) (8 U.S.C. 1182(a)) shall rest exclusively in the United States Court of Appeals for the Federal Circuit."

SEC. 207. Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by inserting "(a)" before the phrase "Any alien who" at the beginning thereof and by adding a new subsection (b) as follows:

"(b) Any alien who has been excluded from the United States pursuant to subsection 235(c) of the Immigration and Nationality Act (8 U.S.C. 1225(c)) because such alien was excludable under paragraph 34 of subsection 212(a) of said Act (8 U.S.C. 1182(a)(34)) or has been removed from the United States pursuant to the provisions of Title V of the Immigration and Nationality Act and who thereafter, without the permission of the Attorney General, enters the United States or attempts to do so shall be imprisoned for a period of ten years which sentence shall not run concurrently with any other sentence and fined in accordance with the provisions of title 18, United States Code.".

SEC. 208. Subsection 106(a) (8 U.S.C. 1105a(a)) of the Immigration and Nationality Act is amended by—

(1) striking from the end of paragraph 8 "; and" and inserting a period; and

(2) striking paragraph (9).

TITLE III—COUNTERINTELLIGENCE ACCESS TO TELEPHONE TOLL AND TRANSACTIONAL RECORDS

SECTION 301.—Section 2709 of Title 18 of the United States Code is amended by—

(1) Striking out Subsections (b) and (c); and

(2) Inserting the following new subsections (b) and (c):

"(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation (or an individual within the Federal Bureau of Investigation designated for this purpose by the Director) may:

(1) request any such information and records if the Director (or the Director's designee) certifies in writing to the wire or electronic communication service provider to which the request is made that—

(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

(B) there are specific and articulable facts giving reason to believe that the person or entity about whom information is sought or pertains is a foreign power or an agent of a foreign power as defined in Section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 USC 1801); and

(2) request subscriber information regarding a person or entity if the Director certifies in writing to the wire or electronic communications service provider to which the request is made that—

(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

(B) that information available to the FBI indicates there is reason to believe that communication facilities registered in the name of the person or entity have been used; through the services of such provider, in communication with a foreign power or an agent of a foreign power as defined in Section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)."

"(c) PENALTY FOR DISCLOSURE.—No wire or electronic communication service provider, or officer, employee, or agent thereof, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information under this section. Violators of this section shall be subject to penalty under Section 3571 of this Title."

By Mr. REID (for himself and Mr. BRYAN):

S. 267. A bill to prohibit a State from imposing an income tax on the pension or retirement income of individuals who are not residents or domiciliaries of the State; to the Committee on Finance.

LIMITATION ON STATE INCOME TAXATION OF PENSION OR RETIREMENT INCOME

Mr. REID. Mr. President, the issue of taxation without representation was supposedly resolved by the Revolutionary War. Most Americans would be shocked to discover that the same injustice exists today—more than 200 years after our forefathers successfully fought for independence, fairness, and freedom.

Today, Mr. President, unfair taxation has another name: State source income tax. Regardless of euphemism, it is the same injustice our ancestors fought. And today, Senator BRYAN and I are introducing legislation that prohibits what should be a moot point in post-Revolutionary America: Taxation without representation.

In the late 18th century, American colonists dumped tea into Boston Harbor because the King of England was unfairly taxing them. Living an ocean away from England, the colonists did not benefit from British roads, bridges, or services, nor were they invited to participate in British elections. In short, the colonists paid for goods they did not receive.

Today it is not a distant monarch, but nearby State governments that expect something for nothing. Governments that cross State lines, collect taxes, and retreat, offering their nonresident taxpayers nothing in return.

The men and women they tax cannot use the social services, infrastructure, or State parks that they pay for. They cannot even vote in the States they pay to run. The situation is particularly grievous for many new Silver State residents in their golden years.

Retirees come to Nevada because our climate is pleasant and our cost of living is low. These men and women had productive working lives and are responsible citizens. They planned for financial security, but are being robbed by their former States of residence.

The legislation I offer with Senator BRYAN prohibits taxing the pensions of nonresidents. Simply put, it prohibits once again taxation without representation.

This injustice is not unique to Nevada. Retirees in many States are being robbed by source tax levied by others States. Sometimes retirees wind up paying two State income taxes and Federal income tax. This is grossly unfair and must be stopped.

I invite my colleagues to join Senator BRYAN and me in the fight against source tax and once and for all end taxation without representation in America.

I ask unanimous consent that the bill be printed in full at this point and I yield the floor.

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

S. 267

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

LIMITATION ON STATE TAXATION OF PENSION OR RETIREMENT INCOME

SECTION 1. (a) IN GENERAL.—Chapter 4 of title 4 of the United States Code is amended by adding at the end thereof the following new section:

"§ 114. Limitation on State income taxation of pensions or retirement income

"(a) No State may impose an income tax [as defined in section 110(c)] on the pension or retirement income of any individual who is not a resident or domiciliary of such State.

"(b) For purposes of subsection (a), the term 'State' includes any political subdivision of a State, the District of Columbia, and the possessions of the United States."

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 4 is amended by adding at the end thereof the following new item:

"114. Limitation on State income taxation of pension or retirement income."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Mr. BRYAN. Mr. President, I rise today in support of legislation just introduced by the senior Senator from Nevada which will prohibit the collection of State source income taxes from pensioners.

As we all know, many individuals choose to retire to States other than that where they spent their working life. There are many reasons for such moves, and I think we all agree that retirees have the right to live wherever they choose.

As Senator REID has just described, however, many American retirees are not allowed to break their ties to their former State. While these individuals are not allowed to vote in their former State or enjoy any of the services their former State may offer, they are forced to pay State income taxes on their retirement income to their former State.

While this problem is especially acute for retirees who move to States like Nevada, which collects no State income tax, the injustice of this "taxation without representation" should offend and outrage us all.

No one likes to pay taxes, but most of us understand the benefit we receive from the taxes we pay. What benefit do my constituents receive from the taxes they pay to California?

All of us will someday be dependent on pension income. Why should our investment in pensions tie us forever to any particular State? Many pensioners move to Nevada with no regard, or awareness, of the tax status of their pensions. One of the most distressing stories I have heard regarding these taxes has been reported in a Nevada newspaper. Quoting from the Las Vegas Review Journal:

Perhaps the saddest case is that of 72 year old Gertrude Eberly of Fallon [Nevada]. Nine years after moving to Nevada, she suddenly was hit with a bill for $4,000 in delinquent California income taxes. Unable to pay it all out of her $13,000 annual income, Eberly agreed to pay $50 a month to California. If she lives long enough, she might be able to pay off the debt.

How can we justify such misuse of the power of taxation? These pensioners do not vote in California, and thus have no vehicle to convey their opposition to the tax. Nevada's elected officials have no power over California taxes. The only solution is Federal legislation to ban State source taxes; therefore, the need for our legislation.

Source taxation of pension income is especially troubling since, for the most part, pensions cannot be removed from the offending State. Pensioners may transfer all their other assets to whatever State they desire, but their pensions are held hostage by the State in which they were earned.

Considering the longer lives we all hope to enjoy, this fact becomes especially shocking; 85-year-old retirees are no longer uncommon: such an individual may well be paying taxes to a State from which he has derived no benefit for the past 20 years.

I have spent most of my 26 years of public service at the State level. I value the right of States to govern themselves as much as any other Member of this distinguished body. Nevertheless, these rights stop at the State border.

Senator REID and I introduced this legislation during the 101st Congress, and concluded the session with 15 cosponsors. Similar legislation introduced in the House of Representatives attracted 94 cosponsors.

I urge my colleagues in the Senate to cosponsor this legislation and to help us put an end to this unfair practice.

By Mr. BIDEN (for himself and Mr. DECONCINI):

S. 266. A bill to prevent and punish domestic and international terrorist acts, and for other purposes; to the Committee on the Judiciary.

COMPREHENSIVE COUNTER-TERRORISM ACT OF 1991

Mr. BIDEN. Mr. President, as you just heard a moment ago, and as we heard the last several days and we will hear for some days to come, the specter of terrorism, the rise of terrorism on our soil, has prompted a number of Members of this body, myself included, to take a closer look at the laws that are presently on the books that regulate and deal with terrorism.

Mr. President, there are few. As the distinguished senior Senator—not only from South Carolina, but the senior Senator, Senator THURMOND, just indicated, there is a need to deal more directly and more harshly with the prospect of terrorism and terrorists.

The crisis in the Persian Gulf has once again raised the specter of terrorist attacks against U.S. citizens, both here and abroad.

Although the past several years have been marked by a steady decline in the number of terrorist attacks against U.S. targets, the bombing of Pan Am flight 103 that took 270 lives is a tragic reminder that terrorism is a real threat to Americans.

The U.S. Government has an extensive counter-terrorism program in place. However, in recent discussions with terrorism experts from the Federal Bureau of Investigation and other law enforcement agencies, I discovered that several gaps exist in our current antiterrorism laws.

It may come as a surprise to my colleagues and the public that there is no Federal domestic terrorism law on the books. Although several types of terrorist crimes are punishable under Federal law—such as airline hijacking or hostage taking—many terrorist acts are only punishable under State law. For example:

A series of murders committed by a terrorist that are aimed at forcing the withdrawal of U.S. troops from the gulf;

Providing material support and financing to the Abu Nidal organization, a leading international terrorist group;

Sabotaging the water supply of a major U.S. city unless the President orders the release of prisoners of the gulf war.

None of these crimes would be punishable under current Federal law. And in States that do not provide capital punishment, even these brutal acts would not be punishable by the death penalty.

The bill I am introducing today, the Comprehensive Counter-Terrorism Act of 1991, would fill many of the gaps in our current antiterrorism laws.

First, the bill creates the first-ever domestic terrorism law. Under this new law, violent crimes such as murder that are committed by an agent of a foreign power with the intent to intimidate or coerce the U.S. Government would be a Federal crime.

Second, the bill provides the death penalty for terrorist acts—whether committed in the United States or

against U.S. citizens abroad—that constitute first degree murder.

Third, the bill makes it a criminal offense to knowingly provide material support—weapons, financing, and other physical assets—to terrorist groups. Under this new law, the FBI would be authorized to seize and forfeit the assets of terrorist groups.

Fourth, the bill makes the willful violation of Federal Aviation Administration security regulations a crime punishable by up to 1 year in prison. According to the Presidential commission that investigated the bombing of Pan Am flight 103, the breach of FAA security rules was one of the factors that contributed to the downing of flight 103.

Finally, the bill authorizes $75 million in new funds to boost the counterterrorism efforts of the FBI, the U.S. Secret Service, and State and local law enforcement agencies.

Mr. President, this legislation should significantly enhance the authority of Federal law enforcement agencies to prevent terrorist acts before they occur and provides stiff penalties—including the death penalty, in limited circumstances—to punish terrorist acts that do occur.

What the bill does not do, however, Mr. President, is authorize the FBI or any other law enforcement agency to violate the civil rights of American citizens in the name of fighting terrorism. Fears of terrorism do not justify treating any American—no matter what his or her ethnic background may be—as second-class citizens.

Let me emphasize that again. Fears of terrorism do not justify any law enforcement agency to treat any American, regardless of their ethnic backgound, as second-class citizens.

The last 20 years have seen terrorism become one of the most common and destructive weapons leveled against democratic governments. This bill allows U.S. law enforcement agencies to strike back against terrorists, making Americans safer by providing a credible deterrent to terrorist acts, attacking the infrastructure and financing of terrorist groups, and boosting the number of counter-terrorism agents in Federal, State, and local law enforcement agencies.

Notwithstanding this tough budgetary time, that is needed. The best weapon against terrorism is sound intelligence, knowing in advance what is likely to occur; having information about the prospect of the terrorist act.

The agencies that handle counterterrorism now are doing a fine job, but in my view they need more help.

Mr. President, I ask unanimous consent that a copy of the bill that I am introducing and the detailed, section-by-section analysis be printed in the CONGRESSIONAL RECORD at this point.

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

FACTSHEET ON BIDEN COMPREHENSIVE COUNTER-TERRORISM ACT OF 1991

TITLE I—PUNISHING TERRORIST ACTS

Provides the death penalty for terrorist acts committed within the United States or against U.S. citizens abroad.

Establishes the first-ever federal criminal law for acts of domestic terrorism committed by agents of a foreign power, punishable by up to life imprisonment.

Significantly boosts existing penalties for terrorist acts committed against U.S. citizens that result in serious bodily injury.

TITLE II—PREVENTING DOMESTIC AND INTERNATIONAL TERRORISM

Establishes a new criminal offense for providing material resources or support to terrorist organizations or concealing the assets of such organizations.

Authorizes the FBI to seize and forfeit material resources provided to, or used in support of, terrorist organizations.

Authorizes the Attorney General to grant permanent residency status to aliens that significantly cooperate in U.S. terrorism investigations.

TITLE III—PREVENTING AVIATION TERRORISM

Establishes a new criminal offense for knowing and willful violations of FAA security regulations.

TITLE IV—PREVENTING ECONOMIC TERRORISM

Creates a new criminal offense for counterfeiting U.S. currency outside the territorial United States.

Creates an Economic Terrorism Task Force, including experts from the Departments of Defense, Justice, State and Treasury, to assess the threat of terrorist acts against the U.S. economy and to recommend preventive measures.

TITLE V—AUTHORIZATIONS FOR COUNTER-TERRORIST AGENCIES

Boosts funding for the counter-terrorist activities of the FBI, State Department, the U.S. Secret Service, and state and local law enforcement agencies by $75 million.

SECTION-BY-SECTION ANALYSIS OF THE COMPREHENSIVE COUNTER-TERRORISM ACT OF 1991

Sec. 1101. Short title.

This section provides that title I of this Act may be cited as the "Terrorist Death Penalty Act of 1991."

Sec. 1102. Terrorist death penalty offense; terrorist acts abroad.

18 U.S.C. 2331 makes it a federal offense, punishable by up to life imprisonment, for terrorist acts committed against U.S. nationals outside the territorial United States. This section amends 18 U.S.C. 2331 to authorize the death penalty for terrorist acts committed against U.S. nationals where the act results in first degree murder (as defined in 18 U.S.C. 1111(a)).

Sec. 1103. Death penalty procedures.

This section provides procedures to implement the death penalty in a manner that satisfies the constitutional requirements established by the Supreme Court in *Furman* v. *Georgia* and its progeny. These requirements include bifurcated trials for establishing the defendant's guilt and sentence, pretrial notice to the defendant, and the return of special findings by the jury where capital punishment is sought by the prosecution. The procedures are substantially similar to the capital punishment procedures that passed the Senate Judiciary Committee on October 20, 1989, as part of S. 32, as amended.

Sec. 1201. Criminal offense for domestic terrorist acts.

This section establishes the first-ever federal terrorism law for acts committed within the United States. Although several types of terrorism-related crimes are currently punishable under federal law—such as hostage taking (18 U.S.C. 1203) and airline hijacking (18 U.S.C. 32)—many terrorist acts are punishable only under applicable state law. For example, a series of murders committed by an Iraqi terrorist aimed at forcing the withdrawal of U.S. troops from the Gulf is not a federal offense under existing law.

The proposed new section 2236 of title 18, United States Code, would create a new federal offense for murder and other serious violent crimes that are committed by an agent of a foreign power with the intent to coerce or intimidate the United States or another government. The language is aimed at terrorist acts constituting the greatest threat to Americans—crimes committed in the United States by international terrorist groups. Specifically, the penalties under the new section 2336 are limited to terrorist acts committed by agents of a foreign power (as that term is defined in section 101(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)). The bill would not expand the FBI's authority to investigate offenses by domestic political groups that have no connection with foreign terrorists. Such offenses, of course, would remain punishable under state criminal laws.

The new section 2336 would authorize the death penalty for domestic terrorist acts that result in first degree murder, and up to life imprisonment for acts that result in death that does not constitute first degree murder. Substantial penalties are also provided for conspiracies to commit terrorist acts.

Finally, subsection (d) of the new section 2336 provides that a person possesses the intent to commit a terrorist act if such person intends to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the policy of a government by assassination, kidnapping or other violent act. This definition is consistent with the definition of terrorism under existing federal and international laws, see, e.g., 18 U.S.C. 1203 (relating to hostage taking), and is virtually identical to the definition of terrorism endorsed by the Departments of Justice and State in testimony before the Senate Judiciary Committee on S. 2465, the "Anti-Terrorism Act of 1990." See Anti-Terrorism Act of 1990: Hearings on S. 2465 Before the Subcommittee on Courts and Administrative Practice of the Senate Committee on the Judiciary, 101st Cong., 2nd Sess. (1990) (statements of Rick Valentine, Deputy Asst. Attorney General, U.S. Department of Justice, and Alan Kreczko, Deputy Legal Adviser, U.S. Department of State).

Sec. 1301. Penalties for international terrorists acts.

This section amends 18 U.S.C. 2331 to increase significantly the penalties for terrorist acts committed against U.S. nationals abroad. For example, the maximum prison sentence for manslaughter would be increased from ten to twenty years; other violent acts against U.S. nationals abroad that result in serious bodily injury would now be punishable by up to ten years in prison. The increases are aimed at demonstrating the seriousness of terrorist attacks against U.S. nationals and the need for a credible deterrent to terrorist attacks.

Sec. 1302. Clerical amendments.

This section would make purely technical amendments to title 18, United States Code.

TITLE II—PREVENTING DOMESTIC AND INTERNATIONAL TERRORIST ACTS

Sec. 2101. Providing material support to terrorists.

This section creates a new section 2337 of title 18, United States Code, making it a federal criminal offense for providing material support or resources to a terrorist group knowing that such resources or support are intended to be used to commit a terrorist act. Again, the application of this section is limited to terrorist acts committed by agents of a foreign power. Material resources and support includes money and financing, weapons, communications equipment, personnel and other physical assets; providing information and other non-tangible assets would not be covered by the new section 2337.

Sec. 2102. Forfeiture of assets used to support terrorists.

This section would amend 18 U.S.C. 981 and 982 to provide for the civil and criminal seizure and forfeiture of any property, real or personal, used to commit terrorist acts.

Sec. 2201. Cooperation of telecommunications providers with law enforcement.

This section expresses the sense of the Congress that providers of telephone and other electronic communications equipment should design and engineer such equipment in a manner that allows law enforcement agencies to obtain the plain text contents of voice, data and other communications when appropriately authorized by law. The use of sophisticated communications equipment—particularly cellular telephones—by terrorists and other organized criminal organizations has frustrated the ability of law enforcement agencies to conduct lawful surveillance activities.

This section would not amend existing wiretap laws or otherwise expand the authority of law enforcement agencies to conduct electronic surveillance. Rather, it encourages electronic communications equipment providers to design such equipment to allow law enforcement agencies, when duly authorized by law, to more easily conduct surveillance activities. Without such cooperation from private providers, U.S. law enforcement agencies will be forced to spend tens of millions of dollars for research and development of communications intercept equipment; money that could be saved through cooperative law enforcement-public sector cooperation.

Sec. 2301. Short title.

This section provides that this subtitle may be cited as the "Alien Witness Cooperation Act of 1991."

Sec. 2302. Waiver of immigration admission requirements for cooperating alien witnesses.

Section 2302 amends title 18, United States Code, to authorize the Attorney General to grant permanent resident status for alien witnesses who cooperate in the prosecution of international terroism and drug trafficking cases. This amendment is needed to address the serious problem that the Department of Justice has been experiencing in inducing foreign witnesses to testify at federal trials against international terrorists and drug traffickers. Without the ability to remain in the United States, alien witnesses frequently refuse to cooperate with U.S. prosecutors because upon return to their homeland they are exposed to retaliation for cooperating with U.S. authorities. Section 232 authorizes the Attorney General to grant permanent resident status for cooperating alien witnesses and their immediate families, with the number of aliens granted such status limited to 100 in any one year.

Sec. 2303. Conforming amendment.

This section makes purely technical amendments.

TITLE III—PREVENTING AVIATION TERRORISM

Sec. 3001. Preventing acts of terrorism against aviation.

This section amends title 49, United States Code, to make the willful violation of any Federal Aviation Administration regulation under parts 107 and 108 of title 14, Code of Federal Regulations (relating to airport and airline security), a misdemeanor punishable by up to one year imprisonment. This section was drafted in response to downing of Pan Am Flight 103 over Lockerbie, Scotland, which took the lives of 270 persons. The President's Commission on Aviation Security and Terrorism, which investigated the Flight 103 tragedy, concluded that "there were severe shortcomings in the screening of baggage" on Flight 103 by airline officials, that "passenger/baggage reconciliation is a bedrock component of any heightened [aviation] security system," that "Pan Am employees did not follow even the FAA's written reconciliation requirement for interline baggage at Frankfurt," and that the "shortcomings in the screening of baggage, and of passengers, * * * *could* have contributed to the terrorist act that placed the bomb on board the plane." (Emphasis in original). See "Report of the President's Commission on Aviation Security and Terrorism," May 15, 1990.

Although this legislation does not attempt to resolve the exact cause of the bombing of Flight 103, the amendments to title 49, United States Code, should ensure that FAA security regulations are strictly adhered to and to provide that willful violations of FAA security rules will subject airport and airline officials to criminal sanctions.

TITLE IV—PREVENTING ECONOMIC TERRORISM

Sec. 4001. Counterfeiting U.S. currency abroad.

The new section 4001 would create a criminal offense for counterfeiting United States securities abroad. There is some concern that under current federal law, the mere act of counterfeiting U.S. securities outside the territorial United States is not punishable under the counterfeiting provisions of chapter 25 of title 18, United States Code (although passing counterfeit U.S. securities is clearly covered). Although the better interpretation is that the mere counterfeiting of U.S. securities is currently covered, the new section 4001 will leave no doubt that such acts are punishable under federal law.

Foreign counterfeiting of U.S. securities is a major threat to the stability of the U.S. economy. The increasing sophistication of photographic and printing technology has concerned U.S. officials. According to the United States Secret Service, more than $300 million in counterfeit U.S. currency has been seized in foreign countries during the past five years. Moreover, the counterfeiting of U.S. treasury checks, the majority of which occurs in foreign countries, totalled almost $200 million in fiscal 1990 alone—an increase of more than 700 percent in one year. Although the shear dollar amount of overseas counterfeiting, alone, does not threaten the U.S. economy, increased counterfeiting efforts could undermine confidence in U.S. currency, which would pose a serious threat to the United States. Moreover, terrorist threats in this area are not unprecedented—Nazi officials attempted to counterfeit U.S. dollars in order to destabilize the U.S. economy in World War II.

Sec. 4002. Economic Terrorism Task Force.

This section creates an Economic Terrorism Task Force, chaired by the Secretary of State or his senior-level designee. The task force would be charged with assessing the threat to the U.S. economy of economic terrorism efforts, including the threat from counterfeiting efforts, and to recommend actions that can be taken to prevent such attacks. The task force would include high-ranking officials from the U.S. Secret Service, FBI, CIA, the Departments of Treasury and Justice, and the Board of Governors of the Federal Reserve.

TITLE V—AUTHORIZATIONS TO EXPAND COUNTER-TERRORIST EFFORTS BY LAW ENFORCEMENT AGENCIES

Sec. 5001. Authorizations of appropriations.

This section authorizes $75 million in new funding to expand counter-terrorism efforts at the fedeal, state and local levels. The proposed funding levels would allow the FBI—the lead counter-terrorism agency in the United States—to add approximatley 150 new special agents to its existing counter-terrorism program. Significant increases would be provided to the other federal agencies with important counter-terrorism efforts, including the Department of State, U.S. Customs Service, U.S. Secret Service, Bureau of Alcohol, Tobacco and Firearms and the Federal Aviation Administration.

This section earmarks $25 million in anti-terrorism funding for state and local law enforcement agencies. State and local agencies play a critical role in our national counter-terrorism program.

S. 266

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 "Comprehensive Counter-Terrorism Act of 1991".

TITLE I—PUNISHING DOMESTIC AND INTERNATIONAL TERRORIST ACTS

Subtitle A—Terrorist Death Penalty Act of 1991

SEC. 1001. SHORT TITLE.

This subtitle may be cited as the "Terrorist Death Penalty Act of 1991".

SEC. 1002. TERRORIST DEATH PENALTY OFFENSE: TERRORIST ACTS ABROAD.

Paragraph (1) of subsection 2331(a) of title 18, United States Code, is amended to read as follows:

"(1) if the killing—

"(A) is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, fined under this title, or both; or

"(B) is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title, imprisoned for any term of years or for life, or both;".

SEC. 1003. DEATH PENALTY PROCEDURES.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, as added by this Act, is amended by adding at the end thereof the following:

"§ 2338. Death penalty procedures

"(a) PROCEDURES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if a defendant is found guilty of an offense for which a sentence of death is provided under section 2331(a) or 2336(a) of this title, that defendant shall be sentenced to death if, after consideration of the factors set forth in subsection (b), and, after a hear-

ing held pursuant to subsection (c), it is determined that imposition of a sentence of death is justified.

"(2) EXCEPTION.—No person shall be sentenced to death who was less than 18 years of age at the time of the offense.

"(b) FACTORS TO BE CONSIDERED.—

"(1) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider any mitigating factors, including the following:

"(A) DEFENDANT'S CAPACITY.—The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(B) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(C) PRINCIPAL.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(D) UNFORSEEABLE CONSEQUENCES.—The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(E) YOUTH.—The defendant was youthful, although not under the age of 18.

"(F) LACK OF CRIMINAL RECORD.—The defendant did not have a significant prior criminal record.

"(G) MENTAL OR EMOTIONAL DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(H) OTHER DEFENDANTS.—Another defendant or defendants, equally culpable in the crime, will not be punished by death.

"(I) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

"(J) OTHER FACTORS.—That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"(2) AGGRAVATING FACTORS.—In determining whether a sentence of death is justified for an offense described in section 2331(a) or 2336(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(A) DEATH OCCURRED DURING COMMISSION OF ANOTHER CRIME.—The death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(B) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(C) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(D) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(E) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim;

"(F) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(G) PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(H) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(I) TWO FELONY DRUG OFFENSES.—The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(J) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity;

"(K) SERIOUS FEDERAL DRUG OFFENSES.—The defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(L) CONTINUING CRIMINAL ENTERPRISE.—The defendant violated section 408(c) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(M) PUBLIC OFFICIALS.—The defendant committed the offense against—

"(i) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(ii) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(iii) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(iv) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(I) while he is engaged in the performance of his official duties;

"(II) because of the performance of his official duties; or

"(III) because of his status as a public servant.

For purposes of this clause, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, prosecution, or adjudication of an offense, and includes those engaged in corrections, probation, or parole functions.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) DEATH PENALTY PROCEDURES: HEARING.—

"(1) NOTICE BY THE GOVERNMENT.—If the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under subsection (a), he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(A) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(B) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(2) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under paragraph (1) and the defendant is found guilty of, or pleads guilty to, an offense described in section 2331(a) or 2336(a), the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(A) before the jury that determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury;

"(iii) the jury that determined the defendant's guilt was discharged for good cause; or

"(iv) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to subparagraph (B) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(3) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of, or pleads guilty to, an offense under section 2331(a) or 2336(a), no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under subsection (b). Information

presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, subject to the Federal Rules of Evidence. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(4) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in subsection (b) found to exist and any other aggravating factor for which notice has been provided under paragraph (1) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this subsection regardless of the number of jurors who concur with the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in subsection (b) is found to exist, the court shall impose a sentence other than death authorized by law.

"(5) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If an aggravating factor required to be considered under subsection (b) is found to exist, the jury, or if there is no jury, the court, shall then consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(6) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under paragraph (5), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"(d) DEATH PENALTY PROCEDURES: IMPOSITION OF A SENTENCE OF DEATH.—Upon a finding under subsection (c) that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without possibility of release.

"(e) DEATH PENALTY PROCEDURES.—

"(1) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(2) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(A) the evidence submitted during the trial;

"(B) the information submitted during the sentencing hearing;

"(C) the procedures employed in the sentencing hearing; and

"(D) the special findings returned under section 3593(d).

"(3) DECISION AND DISPOSITION.—

"(A) The court of appeals shall address all substantive and procedural issues raised on the appeal of a sentence of death, and shall consider whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor and whether the evidence supports the special finding of the existence of an aggravating factor required to be considered under subsection (b).

"(B) Whenever the court of appeals finds that—

"(i) the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(ii) the admissible evidence adduced does not support the special finding of the existence of the required aggravating factor; or

"(iii) other legal error requires reversal of the sentence of death,

the court shall remand the case for reconsideration under subsection (c)(5) or impose a sentence other than death. In any other case, the court of appeals shall remand the case for reconsideration under subsection (c).

"(4) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(f) IMPLEMENTATION OF A SENTENCE OF DEATH.—

"(1) IN GENERAL.—A person who has been sentenced to death pursuant to the provisions of this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(2) PREGNANT WOMAN.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(3) MENTAL DISABILITY.—A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(A) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(B) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"(g) USE OF STATE FACILITIES.—

"(1) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(2) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) AMENDMENTS TO SECTION ANALYSIS.—The table of sections for chapter 113B of title 18, United States Code, is amended by adding at the end thereof the following:

"2338. Death penalty procedures.".

Subtitle B—Terrorist Acts Committed in the United States

SEC. 1201. CRIMINAL OFFENSE FOR DOMESTIC TERRORIST ACTS.

Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter 113B:

"CHAPTER 113B—TERRORIST ACTS COMMITTED IN THE UNITED STATES

"Sec. 2336. Terrorist acts committed in the United States.

"Sec. 2337. Providing material support to terrorists.

"§ 2336. Terrorist acts committed in the United States

"(a) HOMICIDE.—Whoever, acting as an agent of a foreign power, acting as an agent of a foreign power, kills another person, with the intent specified in subsection (d) of this section, shall

"(1) if the killing—

"(A) is a first degree murder as defined in section 1111(a) of this title, be fined under this title, punished by death or imprisonment for any term of years or life, or both; or

"(B) is a murder other than a first degree murder as defined in subsection 1111(a) of this title,

be fined under this title, imprisoned for any term of years or for life, or both;

"(2) if the killing is a voluntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned for not more than twenty years, or both; and

"(3) if the killing is an involuntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than ten years, or both.

"(b) ATTEMPT OR CONSPIRACY WITH RESPECT TO HOMICIDE.—Whoever, acting as an agent of a foreign power, with the intent specified in subsection (d) of this section, attempts to kill, or engages in a conspiracy to kill—

"(1) in the case of an attempt to commit a killing that is a murder as defined in section 1111(a) of this title, shall be fined under this title, imprisoned for any term of years or life, or both; and

"(2) in the case of a conspiracy by two or more persons to commit a killing that is a murder as defined in section 1111(a) of this title, if one or more of such persons do any overt act to effect the object of the conspiracy, shall be fined under this title or imprisoned for any term of years or for life, or both.

"(c) OTHER VIOLENT TERRORIST ACTS.—Whoever, acting as an agent of a foreign power, with the intent specified in subsection (d) of this section, engages in physical violence that results in serious bodily injury shall be fined under this title or imprisoned for not more than ten years, or both.

"(d) INTENT TO COMMIT TERRORIST ACTS.—For the purposes of this section, a person possesses an intent to commit a terrorist act, if such person intends—

"(1) to intimidate or coerce a civilian population;

"(2) to influence the policy of a government by intimidation or coercion; or

"(3) to affect the conduct of a government by assassination, kidnapping, or other violent act.

"(e) DEFINITION.—For purposes of this section and section 2337 of this title, the term 'agent of a foreign power' shall have the same meaning as in section 101(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)).".

Subtitle C—Increasing Penalties for International Terrorist Acts

SEC. 1301. PENALTIES FOR INTERNATIONAL TERRORIST ACTS.

Section 2331 of title 18, United States Code, as amended by subtitle A of this title, is further amended—

(1) in subsection (a)—

(A) in paragraph (2) by striking "ten" and inserting in "twenty"; and

(B) in paragraph (3) by striking "three" and inserting "ten".

(2) in subsection (c) by striking "five" and inserting in "ten".

SEC. 1302. CLERICAL AMENDMENTS.

The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 113A the following new item:

"113B. Terrorist Acts Committed in the United States ..... 2336".

TITLE II—PREVENTING DOMESTIC AND INTERNATIONAL TERRORIST ACTS

Subtitle A—Attacking the Infrastructure of Terrorist Organizations

SEC. 2101. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

Part I of title 18, United States Code, as amended by title I of this Act, is further amended by adding a new section 2337 as follows:

"§ 2337. Providing material support to terrorists

"Whoever knowingly, acting as an agent of a foreign power, with the intent to further a violation of section 1203, 2331, or 2336 of this title—

"(1) provides material support or resources; or

"(2) conceals or disguises the nature, location, source or ownership of material support or resources,

that are used or intended to be used to violate section 1203, 2331, or 2336 of this title shall be fined under this title or imprisoned for not more than ten years, or both. For the purposes of this section, material support or resources shall include, but not be limited to, currency or other financial securities, communications equipment, facilities, weapons, personnel and other physical assets.".

SEC. 2102. FORFEITURE OF ASSETS USED TO SUPPORT TERRORISTS.

Chapter 46 of title 18, United States Code, is amended—

(1) in section 981(a)(1) by inserting at the end thereof the following:

"(D) Any property, real or personal, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of section 1203, 2331, 2332, 2336, or 2337 of this title."; and

(2) in section 982(a) by inserting at the end thereof the following:

"(3) Any property, real or personal, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of section 1203, 2331, 2336, or 2337 of this title.".

Subtitle B—Electronic Communications

SEC. 2201. COOPERATION OF TELECOMMUNICATIONS PROVIDERS WITH LAW ENFORCEMENT.

It is the sense of Congress that providers of electronic communications services and manufacturers of electronic communications service equipment shall ensure that communications systems permit the government to obtain the plain text contents of voice, data, and other communications when appropriately authorized by law.

Subtitle C—Cooperation of Witnesses in Terrorist Investigations

SEC. 2301. SHORT TITLE.

This subtitle may be cited as the "Alien Witness Cooperation Act of 1991".

SEC. 2302. ALIEN WITNESS COOPERATION.

Chapter 224 of title 18, United States Code, is amended by—

(1) redesignating section 3528 as 3529;

(2) adding at the end of section 3529, as redesignated, the following new paragraph:

"As used in section 3528, the terms 'alien' and 'United States' shall have the same meanings given to them in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).";

and

(3) inserting after section 3527 the following new section 3528:

"§ 3528. Aliens; waiver of admission requirements

"(a) IN GENERAL.—Upon authorizing protection to any alien under this chapter, the United States shall provide such alien with appropriate immigration visas and allow such alien to remain in the United States so long as that alien abides by all laws of the United States and guidelines, rules and regulations for protection. The Attorney General may determine that the granting of permanent resident status to such alien is in the public interest and necessary for the safety and protection of such alien without regard to the alien's admissibility under immigration or any other laws and regulations or the failure to comply with such laws and regulations pertaining to admissibility.

"(b) ALIEN WITH FELONY CONVICTIONS.—Notwithstanding any other provisions of this chapter, an alien who would not be excluded because of felony convictions shall be considered for permanent residence on a conditional basis for a period of two years. Upon a showing that the alien is still being provided protection, or such protection remains available to the alien in accordance with provisions of this chapter, or such alien is still cooperating with the government, and has maintained good moral character, the Attorney General shall remove the conditional basis of the status effective as of the second anniversary of the alien's obtaining the status of admission for permanent residence. Permanent resident status shall not be granted to an alien who would be excluded because of felony convictions, unless the Attorney General determines, pursuant to regulations which shall be prescribed by him, that granting permanent residence status to such alien is necessary in the interests of justice, and comports with safety of the community.

"(c) LIMIT ON NUMBER OF ALIENS.—The number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed one hundred persons in any one fiscal year. The decision to grant or deny permanent resident status under this section is at the discretion of the Attorney General and shall not be subject to judicial review.".

SEC. 2303. CONFORMING AMENDMENT.

The analysis for chapter 224 of title 18, United States Code, is amended by—

(1) redesignating the item for section 3528 as section 3529; and

(2) adding after the item for section 3527 the following:

"3528. Aliens; waiver of admission requirements.".

TITLE III—PREVENTING AVIATION TERRORISM

SEC. 3001. PREVENTING ACTS OF TERRORISM AGAINST CIVILIAN AVIATION.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Violations of federal aviation security regulations.

"Whoever willfully violates a security regulation under part 107 or 108 of title 14, Code of Federal Regulations (relating to airport and airline security) shall be fined under this title or imprisoned for not more than one year, or both.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"36. Violation of Federal aviation security regulations.

TITLE IV—PREVENTING ECONOMIC TERRORISM

SEC. 4001. COUNTERFEITING U.S. CURRENCY ABROAD.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding before section 471 the following new section:

"§ 470. Counterfeit acts committed outside the United States.

"Whoever, outside the United States, engages in the act of—

"(1) making, dealing, or possessing any counterfeit obligation or other security of the United States; or

"(2) making, dealing, or possessing any plate, stone, or other thing, or any part thereof, used to counterfeit such obligation or security,

if such act would constitute a violation of section 471, 473, or 474 of this title if committed within the United States, shall be fined under this title, imprisoned for not more than 15 years, or both.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 25 of title 18, United States Code, is amended by adding before section 471 the following:

"471. Counterfeit acts committed outside the United States.".

(c) TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item for chapter 25 and inserting the following:

"25. Counterfeiting and forgery ..... 470".

SEC. 4002. ECONOMIC TERRORISM TASK FORCE.

(a) ESTABLISHMENT AND PURPOSE.—There is established an Economic Terrorism Task Force to—

(1) assess the threat of terrorist actions directed against the United States economy, including actions directed against the United States government and actions against United States business interests;

(2) assess the adequacy of existing policies and procedures designed to prevent terrorist actions directed against the United States economy; and

(3) recommend administrative and legislative actions to prevent terrorist actions directed against the United States economy.

(b) MEMBERSHIP.—The Economic Terrorism Task Force shall be chaired by the Secretary of State, or his designee, and consist of the following members:

(1) the Director of Central Intelligence;

(2) the Director of the Federal Bureau of Investigation;

(3) the Director of the United States Secret Service;

(4) the Administrator of the Federal Aviation Administration;

(5) the Chairman of the Board of Governors of the Federal Reserve;

(6) the Under Secretary of the Treasury for Finance; and

(7) such other members of the Departments of Defense, Justice, State, Treasury, or any other agency of the United States government, as the Secretary of State may designate.

(c) ADMINISTRATIVE PROVISIONS.—The provisions of the Federal Advisory Committee Act shall not apply with respect to the Economic Terrorism Task Force.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the chairman of the Economic Terrorism Task Force shall submit a report to the President and the Congress detailing the findings and recommendations of the task force. If the report of the task force is classified, an unclassified version shall be prepared for public distribution.

TITLE V—AUTHORIZATIONS TO EXPAND COUNTER-TERRORIST OPERATIONS BY FEDERAL AGENCIES

SEC. 5001. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated in each of the fiscal years 1992, 1993 and 1994, in addition to any other amounts specified in appropriations Acts, for counter-terrorist operations and programs:

(1) for the Federal Bureau of Investigation, $25,000,000;

(2) for the Department of State, $10,000,000;

(3) for the United States Customs Service, $7,500,000;

(4) for the United States Secret Service, $2,500,000;

(5) for the Bureau of Alcohol, Tobacco and Firearms, $2,500,000;

(6) for the Federal Aviation Administration, $2,500,000; and

(7) for grants to state and local law enforcement agencies, to be administered by the Office of Justice Programs in the Department of Justice, in consultation with the Federal Bureau of Investigation, $25,000,000.

Mr. THURMOND. Mr. President, I want to compliment the able chairman of the Judiciary Committee for his interest in this subject, the subject of terrorism. It will be a pleasure for me to work on this subject with him in the Judiciary Committee. There are many features of his bill that resemble features of my bill. I have some features I believe he does not have in his bill.

At any rate, we can work together, I think, and bring a good bill out. And it will be a pleasure for me to work with him in that respect.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. Mr. President, I, too, look forward to working together with my colleague from South Carolina. As I said at the outset, in the last several days, because of what has happened in the gulf, because of the threats made by Saddam Hussein, and because of terrorist activities that have occurred in other parts of the world, a lot of us have proceeded in ways we ordinarily might not have proceeded.

Ordinarily, time permitting, what would have happened is the Senator from South Carolina and I would have sat down ahead of time and said, "Hey, we ought to put together a bill." I do not want our colleagues to think, nor anyone in the public to think the fact that the Senator from South Carolina introduced a bill and the fact that I introduced a bill means anything other than we both have an interest in this, and it reflects the overwhelming prospect we will probably be able to work out a bill that is satisfactory to both of us, and hopefully satisfactory to the President and beneficial to the Nation.

I might also add that although the major part of the bill I have introduced does relate to the death penalty for terrorists—the Senator from South Carolina has been concerned about that for some time, not just this year, but for many years going back, as has the Senator from Pennsylvania—this bill I have introduced is designed to go beyond that.

But I am sure we can work something out. We have never failed to be able to do that, the Senator from South Carolina and myself, and I look forward to us getting underway to provide a solid, promising piece of legislation for our colleagues to consider.

I yield the floor.

Mr. THURMOND. Mr. President, it is my hope, in view of the urgency of the situation and the announcement by Saddam Hussein that he is setting this international terrorism apparatus in action, that we act as quickly as we can in the Judiciary Committee.

I feel certain the chairman will do that.

Mr. BIDEN. I agree.

By Mr. PACKWOOD (for himself, Mr. BENTSEN, Mr. DOLE, Mr. MOYNIHAN, Mr. CHAFEE, Mr. DURENBERGER, Mr. HEINZ, Mr. RIEGLE, Mr. DECONCINI, Mr. MCCONNELL, and Mr. THURMOND):

S. 268. A bill to amend the Internal Revenue Code of 1986 to authorize a deduction for the expenses of adopting a special needs child and to amend title 5, United States Code, to establish a program providing assistance to Federal employees adopting a special needs child; to the Committee on Finance.

SPECIAL NEEDS ADOPTION ASSISTANCE ACT

• Mr. PACKWOOD. Mr. President, I am pleased to be joined by the distinguished chairman of the Finance Committee, Senator BENTSEN, and several other Members on both sides of the aisle, in introducing the Special Needs Adoption Assistance Act of 1991.

Right now there are approximately 40,000 American children available for adoption. Most of these children are special needs children. A special needs child is one who, because of special conditions such as age, physical or mental handicap, race, or other characteristics, is difficult to place for adoption.

A significant number of these children end up being cared for in one foster home after another or in public institutions. Due to their special needs these children may never get out of this system. I believe that if each special needs child is given the opportunity to be placed in a loving adoptive family, the odds are increased that he or she will be a successful, happy human being.

The legislation I am introducing today recognized the additional emotional and financial commitment re-

quired of families adopting children with special needs by providing for:

First, a tax deduction of up to $3,000 to help families with the one-time costs of adopting a special needs child; and

Second, a demonstration project under which Federal employees could be reimbursed for up to $2,000 for expenses incurred in the adoption of a special needs child.

The one-time costs of adopting a child can be high, with adoptions through agencies averaging around $5,000. Adoptions through private parties cost even more. There are many families who may wish to adopt a special needs child, but find the court costs, legal fees, social service reviews, and other related costs overwhelming. This legislation will help these families with these up-front expenses.

I am confident this legislation can encourage more adoption of special needs children. A few years ago, the Defense Department offered their employees a program providing a $2,000 reimbursement of expenses incurred in adopting a special needs child—this resulted in almost 3,000 adoptions.

I hope many of my colleagues will join me and help promote the adoption of these very special children who desperately need permanent and loving families. Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 268

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 "Special Needs Adoption Assistance Act of 1991".

SEC. 2. ADOPTION EXPENSE DEDUCTION.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. SPECIAL NEEDS ADOPTION EXPENSES DEDUCTION.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year the amount of the qualified adoption expenses paid or incurred by the individual for such taxable year.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The aggregate amount of adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $3,000.

"(2) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No deduction shall be allowable under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

"(B) REIMBURSEMENTS.—If a taxpayer is reimbursed for any qualified adoption expenses for which a deduction was allowed under subsection (a), the amount of such reimbursement shall be includable in the gross income of the taxpayer in the taxable year in which such reimbursement was received.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ADOPTION EXPENSES.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which—

"(A) are directly related to the legal adoption of a child with special needs by the taxpayer,

"(B) are not incurred in violation of State or Federal law, and

"(C) are of a type eligible for reimbursement under the adoption assistance program under part E of title IV of the Social Security Act.

"(2) CHILD WITH SPECIAL NEEDS.—The term 'child with special needs' means any child determined by the State to be a child described in paragraphs (1) and (2) of section 473(c) of the Social Security Act. Such term may, at the option of the State, also include any child who, as a result of prenatal drug or alcohol abuse, is likely to manifest developmental or functional delays."

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES DEDUCTIONS.—Subsection (a) of section 62 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (13) the following new paragraph:

"(14) ADOPTION EXPENSES.—The deduction allowed by section 220 (relating to deduction for expenses of adopting a child with special needs)."

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 220 and by inserting the following new items:

"Sec. 220. Special needs adoption expenses deduction.
"Sec. 221. Cross reference."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 3. REIMBURSEMENT OF SPECIAL NEEDS ADOPTING EXPENSES TO FEDERAL EMPLOYEES.

(a) REIMBURSEMENT OF SPECIAL NEEDS ADOPTION EXPENSES.—Chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5597. Reimbursement of special needs adoption expenses

"(a) For purposes of this section—

"(1) the term 'qualifying adoption expenses' means reasonable and necessary adoption and court costs, attorney fees, and other expenses, as determined appropriate under regulations prescribed by the Office of Personnel Management, which expenses are directly related to the legal adoption of a child with special needs; and

"(2) the term 'child with special needs' means a child who would be difficult to place with adoptive parents because of a factor or condition, such as ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical condition or physical, mental, or emotional handicaps.

"(b)(1) The Office of Personnel Management shall establish a demonstration program under which an Executive agency shall, in accordance with the provisions of this section, reimburse an employee for qualifying adoption expenses incurred by the employee in connection with the adoption of a child with special needs.

"(2) An Executive agency, in order to determine whether or not an adoptive child is a child with special needs, may require an employee who applies for reimbursement under this section to obtain certification from a State or a public or nonprofit private adoption agency that the adoptive child is a child with special needs, and the Executive agency may rely upon such certification in determining whether the employee is entitled to reimbursement of qualifying adoption expenses.

"(3) An employee may not be paid more than $2,000 under this section in connection with the adoption of each child, or more than $5,000 under this section in any calendar year if the employee adopts more than 2 children.

"(c) Payment may not be made under this section—

"(1) in any adoption in which one of the adopting parents is the biological parent of the adopted child;

"(2) in any adoption of a child 18 years of age or older;

"(3) in any adoption of a child who, immediately prior to the adoption, was not a citizen or legal resident of the United States;

"(4) in any adoption in which the employee separates from the service before the adoption is final; or

"(5) for any expenditure for which the employee has been reimbursed under any other adoption program of the United States or of a State or local government.

"(d) Payments under this section shall be made from the same appropriation or account that is available for the payment of the basic pay of the employee to whom payment is to be made.

"(e)(1) The Office of Personnel Management shall prescribe any necessary regulations and provide assistance to Executive agencies in the administration of this section.

"(2) The Office of Personnel Management shall transmit a report to the President and the Congress on the operation of this demonstration program under this section by October 1, 1992.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The subchapter heading of subchapter IX of chapter 55 of title 5, United States Code, is amended to read as follows:

"SUBCHAPTER IX—MISCELLANEOUS PROVISIONS".

(2) The table of sections of chapter 55 of title 5, United States Code, is amended—

(A) by striking out the item relating to subchapter IX and inserting in lieu thereof the following: "SUBCHAPTER IX—MISCELLANEOUS PROVISIONS"; and

(B) by adding after the item relating to section 5596 the following new item:

"5597. Reimbursement of special needs adoption expenses.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be applicable with respect to adoption expenses incurred on or after January 1, 1991, and before January 1, 1995.●

By Mrs. KASSEBAUM:

S. 269. A bill to amend the Employee Retirement Income Security Act of 1974 to require an independent audit of statements prepared by certain financial institutions with respect to assets of employee benefit plans; to the Committee on Labor and Human Resources.

AUDIT OF CERTAIN EMPLOYEE BENEFIT PLANS

• Mrs. KASSEBAUM. Mr. President, today Senator HATCH, Senator BUMPERS, Senator HATFIELD, Senator BRYAN, and I are introducing legislation to eliminate a provision that permits pension funds to receive less than comprehensive audits.

Our private pension system is based on the concept of fiduciary responsibility and full disclosure. The integrity of our private pension system is essential. For example, in 1988, private pensions paid the Nation's retirees more than $222 billion in benefits, compared to $148 billion paid to retirees by Social Security. Independent audits play an important role in securing full disclosure for plan beneficiaries.

Currently, under the Employee Retirement Income Security Act, pension funds are only required to receive limited-scope audits. A limited-scope audit means that pension fund managers are allowed to instruct auditors not to examine assets held in Government-regulated entities, such as banks or insurance companies. The bottom line is that some pension plans are currently receiving less than thorough audits. Absent thorough and comprehensive audits, the integrity and assurance intended by ERISA for pension beneficiaries will not be achieved. This is becoming an increasingly important issue because of the trend of deregulation of our financial institutions and the growing size of private pension funds. As our society ages, these funds will take on an even greater significance.

The importance of full disclosure is not solely limited to plan beneficiaries. All taxpayers have a very real interest in assuring that private pension plans receive thorough and independent audits. Under ERISA, the majority of private pension plans are insured by the Pension Benefit Guaranty Corporation. Like a variety of other Federal insurance plans, the PBGC is a Government-sponsored enterprise. Over the past decade, we certainly have learned the importance of maintaining tight regulation and requiring full disclosure to industries and enterprises enjoying Federal insurance.

Our pension insurance system is strong today. It is only with the type of continued vigilance provided by thorough audits and meaningful regulation that we can assure the integrity of the private pension system for future beneficiaries. Requiring thorough audits is not something that should be put off until tomorrow or considered only in the future as part of some pension reform package. Common sense dictates that audits should be comprehensive and thorough. It is my hope that this straightforward legislation can be swiftly enacted to ensure the integrity and thoroughness of independent audits.•

By Mr. GRASSLEY:

S. 270. A bill to require regular reports to the Congress on the amount of expenditures made to carry out Operation Desert Shield and Operation Desert Storm and on the amount of contributions made to the United States by foreign countries to support Operation Desert Shield and Operation Desert Storm; to the Committee on Armed Services.

REPORT ON COST OF OPERATION DESERT SHIELD AND OPERATION DESERT STORM

Mr. GRASSLEY. Mr. President, today I rise to introduce a bill to require regular reports to the Congress on the amount of expenditures made to carry out Operation Desert Shield and Operation Desert Storm, and on the amount of pledges and contributions made to the United States by foreign countries to support these operations. A companion bill, H.R. 586, was introduced in the other body earlier this week by Representative SCHUMER and Chairman PANETTA of the House Budget Committee.

This bill is a cost accounting bill, a burden-sharing bill, and a good government bill.

It is a cost accounting bill because it would help us get a handle on the moving target of cost estimates that float about rather freely in this town. It will assist us in this body, and in the Budget Committee in particular, as we monitor progress on controlling the deficit. And, it is certainly a prerequisite to a vote on any supplemental bill to pay for the war that will be before us within the next 2 months.

It is a burden-sharing bill because it would track the progress of our allies meeting their obligations and pledges of support, and in particular their fair share of contributions to the cost of the war.

And, it is a good government bill because it sends a very clear signal that Congress is interested in this information, wants this information, and places a very high priority on having this information. The administration has issued figures from time to time on the contributions and pledges of our allies, but in the midst of international turbulence, the administration has hardly assigned the reporting of this information a high priority. That is not the administration's job. That is the job of Congress. And that is why this bill is necessary.

On December 13 of this recent year, I sent a letter to the President along with my distinguished colleague from Delaware, Senator ROTH, requesting periodic updates of contributions pledged and received for Operation Desert Shield. Now that war has been engaged, the costs will indeed spiral upward which, in my view, is sufficient and compelling enough reason to enact legislation in this regard.

The fact of the matter, Mr. President, is that we cannot afford to pay for this war by ourselves. America's contribution of human and military resources is much more than ample. It is a great sacrifice. For this, our Persian Gulf allies, as well as Germany, Japan, and other nations, are benefiting directly, substantially, and quantifiably. While we have defended the oil and territorial interests of our allies, they have received an overwhelming share of the windfall benefits. Recent estimates showed, for instance, that our gulf allies were receiving up to $5 billion per month in windfall oil profits, not to mention the security of their well-defended borders by U.S. troops.

Let me briefly describe this bill, Mr. President. It would require that the Director of the Office of Management and Budget specify each month in a report to Congress the costs incurred and spent by the Defense Department for Operation Desert Shield, to include costs to date for Operation Desert Storm.

These figures would not include those costs that would have been incurred anyway, without these two operations.

Specifically, the costs to be identified in the report would include the following:

First, airlift costs;

Second, sealift costs;

Third, medical costs;

Fourth, costs associated with the call-up of Reserves;

Fifth, operations and maintenance costs;

Sixth, personnel costs;

Seventh, costs of logistical support;

Eighth, fuel cost increases;

Ninth, military construction costs; and

Tenth, all other costs.

In addition to these categories of costs, the report will list the following, by country:

First, contributions pledged as cash payments;

Second, contributions pledged as in-kind payments;

Third, contributions received as cash payments;

Fourth, contributions received as in-kind payments.

The first report would be submitted not later than 14 days after the date of enactment of the law, and it would cover the period beginning on August 1 of last year.

Mr. President, I would urge my colleagues to support this bill and hope we can put it on a fast track so we can begin to get this information before the supplemental appropriations bill reaches the floor.

By Mr. GORE (for himself, Mr. HOLLINGS, Mr. KENNEDY, Mr. PRESSLER, Mr. FORD, Mr. BREAUX, Mr. BINGAMAN, Mr. ROBB, Mr. KERRY, Mr. KASTEN, Mr. GLENN, Mr. JEFFORDS, Mr. KERREY, Mr. REID, Mr. DURENBERGER, Mr. HATFIELD, Mr.

KOHL, Mr. CONRAD, and Mr. RIEGLE):

S. 272. A bill to provide for a coordinated Federal research program to ensure continued U.S. leadership in high-performance computing; to the Committee on Commerce, Science, and Transportation.

HIGH-PERFORMANCE COMPUTING ACT

• Mr. GORE. Mr. President, today I rise to introduce the High-Performance Computing Act of 1991, a bill to ensure that the United States stays at the leading edge in computer technology. I am especially pleased that more than 16 of my colleagues, both Democrats and Republicans, from all parts of the country and all ends of the political spectrum, have joined me as cosponsors of this critically important legislation.

During the last 30 years, computer technology has improved exponentially, faster than technology in any other field. Computers just keep getting faster, more powerful, and more inexpensive. According to one expert, if automobile technology had improved as much as computer technology has in recent years, a 1991 Cadillac would now cruise at 20,000 miles per hour, get 5,000 miles to a gallon, and cost only 3 cents!

As a result of these amazing advances, computers have gone from being expensive, esoteric research tools isolated in the laboratory to an integral part of our everyday life. We rely on computers at the supermarket, at the bank, in the office, and in our schools. They make our life easier in hundreds of ways.

Yet the computer revolution is not over. In fact, according to some measures, the price performance of computers is improving even faster now than it has in the past.

Anyone who has seen a supercomputer in action has a sense of what computers might be capable of in the future. Today, scientists and engineers are using supercomputers to design better airplanes, understand global warming, find oilfields, and discover safer, more effective drugs. In many cases they can use these machines to mimic experiments that would be prohibitively expensive or downright impossible in real life. With a supercomputer model, engineers at Ford can simulate auto crash tests and test new safety features for a fraction of the cost and in much less time than it would take to really crash an automobile. And they can observe many more variables, in much more detail, than they could with a real test.

The bill I am introducing today is very similar to the first title of S. 1067, the High-Performance Computing Act of 1990, which passed the Senate unanimously last October. Unfortunately, the House was unable to act on the bill before we adjourned. It is my hope that we will be able to move this bill quickly this year. There is widespread support in both the House and the Senate. Today, in the House, Congressman GEORGE BROWN, the new chairman of the House Committee on Science, Space, and Technology, is introducing the bill, along with Congressmen TIM VALENTINE, SHERWOOD BOEHLERT, and NORM MINETA. I am looking forward to working with them to move this bill as soon as possible.

This legislation provides for a multiagency high performance computing research and development program to be coordinated by the White House Office of Science and Technology Policy [OSTP]. The primary agencies involved are the National Science Foundation [NSF], the Defense Advanced Research Projects Agency [DARPA], the National Aeronautics and Space Administration [NASA], and the Department of Energy [DOE]. Each of these agencies has experience in developing and using high-performance computing technology. NSF funds four university supercomputer centers and is a major source of Federal funding for university research in advanced computing. NASA helped develop some of the first supercomputers and uses them extensively to help design and improve spacecraft like the space shuttle and the national aerospace plane. DARPA has been a real innovator, providing the research funding needed for computer designers to develop the next generation of supercomputers and the advanced software needed to use them. And for more than 20 years, DARPA has been at the leading edge in computer networking, developing ARPANET, the first national computer network, in the late 1960's, and now working on networks that are millions of times faster. DOE has dozens of supercomputers at the national labs, like Los Alamos, Oak Ridge, and Lawrence Livermore, and is constantly finding new, exciting ways to use them.

The High-Performance Computing Act will provide for a well-planned, well-coordinated research program which will effectively utilize the talents and resources available throughout the Federal research agencies. In addition to NSF, NASA, DOE, and DARPA, this program will involve the Department of Commerce—in particular the National Institute of Standards and Technology—the Department of Health and Human Services, the Department of Education, the U.S. Geological Survey, the Department of Agriculture, the Environmental Protection Agency, and the Library of Congress, as well. The technology developed under this program will find application throughout the Federal Government and throughout the country.

This bill will roughly double funding for high-performance computing at NSF and NASA during the next 5 years. Additional funding—more than $1 billion during the next 5 years—will also be needed to expand research and development programs at DARPA and DOE. Last year, I worked closely with Senators JOHNSTON and DOMENICI on the Energy Committee to pass legislation to authorize a DOE High-Performance Computing Program, and I hope to work with them and the other members of the Energy Committee to see that program authorized and funded in fiscal year 1992. In addition, I worked with Senators NUNN and BINGAMAN and others on the Armed Services Committee to authorize and appropriate additional funding for DARPA's high-performance computing program, money that has been put to good use developing more powerful supercomputers and faster computer networks. Because this program involves many agencies, it necessarily involves several congressional committees and subcommittees. Fortunately, everyone has an important contribution to make to this effort. I look forward to working with my colleagues to make this program a reality.

Today, we are focused on the war in the Persian Gulf where we are seeing how important computer technology is to our national security. The amazing smart weapons being used in Iraq and Kuwait today are a direct result of past Federal investment in computer technology. The Patriot missile that are protecting our troops and Israeli and Saudi civilians from Saddam Hussein's Scud missiles rely upon powerful, advanced computers unavailable 10 years ago. Similarly, the laser-guided bombs and the Tomahawk cruise missiles are able to find their targets because they contain some of the more sophisticated computer technology available today.

The High-Performance Computing Act will help ensure the technological lead in weaponry that is helping us win the war with Iraq and which will improve our national security in the future.

This same technology is improving our economic security by helping American scientists and engineers develop new products and processes to keep the U.S. competitive in world markets. Supercomputers can dramatically reduce the time it takes to design and test a new product—whether it is an airplane, a new drug, or an aluminum can. More computing power means more energy-efficient, cheaper products in all sectors of manufacturing. And that means higher profits and more jobs for Americans.

Perhaps the most important contribution this bill will make to our economic security is the National Research and Education Network, the cornerstone of the program funded by this bill. By 1996, this fiber-optic computer network would connect more than 1 million people at more than 1,000 colleges and universities in all 50 States, allowing them to send electronic mail, share data, access supercomputers, use research facilities such as radio telescopes, and log on to

data bases containing trillions of bytes of information on all sorts of topics. This network will speed research and accelerate technology transfer, so that the discoveries made in our university laboratories can be quickly and effectively turned into profits for American companies.

Today, the National Science Foundation runs NSFNET, which allows researchers and educators to exchange up to 1.5 million bits of data—megabits per second. The NREN will be at least a thousand times faster, allowing researchers to transmit all the information in the entire Encyclopedia Brittanica from coast to coast in seconds. With today's networks, it is easy to send documents and data, but images and pictures require much faster speeds, they require the NREN, which can carry gigabits, billions of bits, every second.

With access to computer graphics, researchers throughout the country will be able to work together far more effectively than they can today. It will be much easier for teams of researchers at colleges throughout the country to work together. They will be able to see the results of their experiments as the data comes in, they will be able to share the results of their computer models in realtime, and they will be able to brainstorm by teleconference. William Wulf, formerly Assistance Director for Computer and Information Science and Engineering at NSF, likes to talk about the "national collaboratory"—a laboratory without walls—which the NREN will make possible. Researchers throughout the country, at colleges and labs, large and small, will be able to stay on top of the latest advances in their fields.

The NREN and the other technology funded by this bill will also provide enormous benefits to American education, at all levels. By most accounts, we are facing a critical shortage of scientific and technical talent in the next 10 years. By connecting high schools to the NREN, students will be able to share ideas with other high school students and with college students and professors throughout the country. Already, some high school students are using the NSFNET to access supercomputers, to send electronic mail, and to get data and information that just is not available at their schools. In this way, the network can nurture and inspire the next generation of scientists.

Today, most students using computer networks are studying science and engineering, but there are more and more applications in other fields, too. Economists, historians, and literature majors are all discovering the power of networking. In the future, I think we will see computers and networks used to teach every subject from kindergarten through grade school. I was recently at MIT, where I was briefed on Project Athena, a project to integrate computers and networks into almost every course at MIT. Students use computers to play with the laws of physics in computer models, to test airplane designs in wind tunnel simulations, to improve their writing skills, and to learn foreign languages. Many of the ideas being developed at Project Athena and in hundreds of other experiments elsewhere could one day help students and teachers throughout the country.

The library community has been at the forefront in using computer and networking technology in education. For years, they have had electronic card catalogs which allow students to track down books in seconds. Now they are developing electronic text systems which will store books in electronic form. When coupled to a national network like the NREN, such a digital library could be used by students and educators throughout the country, in underfunded urban schools and in isolated rural school districts, where good libraries are few and far between.

I recently spoke to the American Library Association annual meeting in Chicago and heard many librarians describe how the NREN could transform their lives. They are excited about the new opportunities made possible by this technology.

The technology developed for the NREN will pave the way for high-speed networks to our homes. It will give each and everyone of us access to oceans of electronic information, let us use teleconferencing to talk face-to-face to anyone anywhere, and deliver advanced, digital TV programming even more sophisticated and stunning than the HDTV available today. Other countries, Japan, Germany, and others, are spending billions of install optical fiber to the home, to take full advantage of this technology.

I hope that my colleagues will join me in supporting this bill. With this bill we can help shape the future—shape it for the better. This is an investment in our national security and our economic security which we cannot afford not to make.

I ask unanimous consent that a summary of the bill and the bill in its entirety be printed in the RECORD.

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

S. 272

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 "High-Performance Computing Act of 1991".

SEC. 2. FINDINGS AND PURPOSE.

(a) The Congress finds the following:

(1) Advances in computer science and technology are vital to the Nation's prosperity, national and economic security, and scientific advancement.

(2) The United States currently leads the world in the development and use of high-performance computing for national security, industrial productivity, and science and engineering, but that lead is being challenged by foreign competitors.

(3) Further research, improved computer research networks, and more effective technology transfer from government to industry are necessary for the United States to fully reap the benefits of high-performance computing.

(4) Several Federal agencies have ongoing high-performance computing programs, but improved interagency coordination, cooperation, and planning could enhance the effectiveness of these programs.

(5) A 1989 report by the Office of Science and Technology Policy outlining a research and development strategy for high-performance computing provides a framework for a multi-agency high-performance computing program.

(b) It is the purpose of Congress in this Act to help ensure the continued leadership of the United States in high-performance computing and its applications. This requires that the United States Government—

(1) expand Federal support for research, development, and application of high-performance computing in order to—

(A) establish a high-capacity national research and education computer network;

(B) expand the number of researchers, educators, and students with training in high-performance computing and access to high-performance computing resources;

(C) develop an information infrastructure of data bases, services, access mechanisms, and research facilities which is available for use through such a national network;

(D) stimulate research on software technology;

(E) promote the more rapid development and wider distribution of computer software tools and applications software;

(F) accelerate the development of computer systems and subsystems;

(G) provide for the application of high-performance computing to Grand Challenges; and

(H) invest in basic research and education; and

(2) improve planning and coordination of Federal research and development on high-performance computing.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "Director" means the Director of the Office of Science and Technology Policy; and

(2) "Council" means the Federal Coordinating Council for Science, Engineering, and Technology chaired by the Director of the Office of Science and Technology Policy.

SEC. 4. MISCELLANEOUS PROVISIONS.

(a) Except to the extent the appropriate Federal agency or department head determines, the provisions of this Act shall not apply to—

(1) programs or activities regarding computer systems that process classified information; or

(2) computer systems the function, operation, or use of which are those delineated in paragraphs (1) through (5) of section 2315(a) of title 10, United States Code.

(b) Where appropriate, and in accordance with Federal contracting law, Federal agencies and departments shall procure prototype or early production models of new high-performance computer systems and subsystems to stimulate hardware and software development.

SEC. 5. NATIONAL HIGH-PERFORMANCE COMPUTING PROGRAM.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.) is amended by adding at the end the following new title:

"TITLE VII—NATIONAL HIGH-PERFORMANCE COMPUTING PROGRAM

"NATIONAL HIGH-PERFORMANCE COMPUTING PLAN

"SEC. 701.(a)(1) The President, through the Federal Coordinating Council for Science, Engineering, and Technology (hereinafter in this title referred to as the 'Council'), shall, in accordance with the provisions of this title—

"(A) develop and implement a National High-Performance Computing Plan (hereinafter in this title referred to as the 'Plan'); and

"(B) provide for interagency coordination of the Federal high-performance computing program established by this title.

The Plan shall contain recommendations for a five-year national effort and shall be submitted to the Congress within one year after the date of enactment of this title. The Plan shall be resubmitted upon revision at least once every two years thereafter.

"(2) The Plan shall—

"(A) establish the goals and priorities for a Federal high-performance computing program for the fiscal year in which the Plan (or revised Plan) is submitted and the succeeding four fiscal years;

"(B) set forth the role of each Federal agency and department in implementing the Plan; and

"(C) describe the levels of Federal funding for each agency and department and specific activities, including education, research activities, hardware and software development, establishment of a national gigabits-per-second computer network, to be known as the National Research and Education Network, and acquisition and operating expenses for computers and computer networks, required to achieve the goals and priorities established under subparagraph (A).

"(3) The Plan shall address, where approrpriate, the relevant programs and activities of the following Federal agencies and departments:

"(A) the National Science Foundation;

"(B) the Department of Commerce, particularly the National Institute of Standards and Technology, the National Oceanic and Atmospheric Administration, and the National Telecommunications and Information Administration;

"(C) the National Aeronautics and Space Administration;

"(D) the Department of Defense, particularly the Defense Advanced Research Projects Agency;

"(E) the Department of Energy;

"(F) the Department of Health and Human Services, particularly the National Institutes of Health and the National Library of Medicine;

"(G) the Department of Education;

"(H) the Department of Agriculture, particularly the National Agricultural Library; and

"(I) such other agencies and departments as the President or the Chairman of the Council considers appropriate.

"(4) In addition, the Plan shall take into consideration the present and planned activities of the Library of Congress, as deemed appropriate by the Librarian of Congress.

"(5) The Plan shall identify how agencies and departments can collaborate to—

"(A) ensure interoperability among computer networks run by the agencies and departments;

"(B) increase software productivity, capability, portability, and reliability;

"(C) expand efforts to improve, document, and evaluate unclassified public-domain software developed by federally funded researchers and other software, including federally funded educational and training software;

"(D) cooperate, where appropriate, with industry in development and exchange of software;

"(E) distribute software among the agencies and departments;

"(F) distribute federally funded software to State and local governments, industry, and universities;

"(G) accelerate the development of high performance computer systems, subsystems, and associated software;

"(H) provide the technical support and research and development of high-performance computer software and hardware needed to address Grand Challenges in astrophysics, geophysics, engineering, materials, biochemistry, plasma physics, weather and climate forecasting, and other fields;

"(I) provide for educating and training additional undergraduate and graduate students in software engineering, computer science, and computational science; and

"(J) identify agency rules, regulations, policies, and practices which can be changed to significantly improve utilization of Federal high-performance computing and network facilities, and make recommendations to such agencies for appropriate changes.

"(6) The Plan shall address the security requirements and policies necessary to protect Federal research computer networks and information resources accessible through Federal research computer networks. Agencies identified in the Plan shall define and implement a security plan consistent with the Plan.

"(b) The Council shall—

"(1) serve as lead entity responsible for development of the Plan and interagency coordination of the program established under the Plan;

"(2) coordinate the high-performance computing research and development activities of Federal agencies and departments and report at least annually to the President, through the Chairman of the Council, on any recommended changes in agency or departmental roles that are needed to better implement the Plan;

"(3) review, prior to the President's submission to the Congress of the annual budget estimate, each agency and departmental budget estimate in the context of the Plan and make the results of that review available to the appropriate elements of the Executive Office of the President, particularly the Office of Management and Budget; and

"(4) consult and coordinate with Federal agencies, academic, State, industry, and other appropriate groups conducting research on high-performance computing.

"(c) The Director of the Office of Science and Technology Policy shall establish a High-Performance Computing Advisory Panel consisting of prominent representatives from industry and academia who are specially qualified to provide the Council with advice and information on high-performance computing. The Panel shall provide the Council with an independent assessment of—

"(1) progress made in implementing the Plan;

"(2) the need to revise the Plan;

"(3) the balance between the components of the Plan;

"(4) whether the research and development funded under the Plan is helping to maintain United States leadership in computing technology; and

"(5) other issues identified by the Director.

"(d)(1) Each appropriate Federal agency and department involved in high-performance computing shall, as part of its annual request for appropriations to the Office of Management and Budget, submit a report to the Office identifying each element of its high-performance computing activities, which—

"(A) specifies whether each such element (i) contributes primarily to the implementation of the Plan or (ii) contributes primarily to the achievement of other objectives but aids Plan implementation in important ways; and

"(B) states the portion of its request for appropriations that is allocated to each such element.

"(2) The Office of Management and Budget shall review each such report in light of the goals, priorities, and agency and departmental responsibilities set forth in the Plan, and shall include, in the President's annual budget estimate, a statement of the portion of each appropriate agency or department's annual budget estimate that is allocated to each element of such agency or department's high-performance computing activities.

"(e) As used in this section, the term 'Grand Challenge' means a fundamental problem in science and engineering, with broad economic and scientific impact, whose solution will require the application of high-performance computing resources.

"ANNUAL REPORT

"SEC. 702. The Chairman of the Council shall prepare and submit to the President and the Congress, not later than March 1 of each year, an annual report on the activities conducted pursuant to this title during the preceding fiscal year, including—

"(1) a summary of the achievements of Federal high-performance computing research and development efforts during that preceding fiscal year;

"(2) an analysis of the progress made toward achieving the goals and objectives of the Plan;

"(3) a copy and summary of the Plan and any changes made in such Plan;

"(4) a summary of appropriate agency budgets for high-performance computing activities for that preceding fiscal year; and

"(5) any recommendations regarding additional action or legislation which may be required to assist in achieving the purposes of this title.".

SEC. 6. NATIONAL RESEARCH AND EDUCATION NETWORK.

(a) In accordance with the Plan developed under section 701 of the National Science and Technology Policy, Organization and Priorities Act of 1976 (42 U.S.C. 6601 et seq.), as added by section 5 of this Act, the National Science Foundation, in cooperation with the Department of Defense, the Department of Energy, the Department of Commerce, the National Aeronautics and Space Administration, and other appropriate agencies, shall provide for the establishment of a national multi-gigabit-per-second research and education computer network by 1996, to be known as the National Research and Education Network (hereinafter referred to as the "Network"), which shall link government, industry, and the education community.

(b) The Network shall provide users with appropriate access to supercomputers, computer data bases, other research facilities, and libraries.

(c) The Network shall—

(1) be developed in close cooperation with the computer, telecommunications, and information industries;

(2) be designed and developed with the advice of potential users in government, industry, and the higher education community;

(3) be established in a manner which fosters and maintains competition and private sector investment in high speed data networking within the telecommunications industry;

(4) be established in a manner which promotes research and development leading to deployment of commercial data communications and telecommunications standards;

(5) where technically feasible, have accounting mechanisms which allow, where appropriate, users or groups of users to be charged for their usage of the Network and copyrighted materials available over the Network; and

(6) be phased into commercial operation as commercial networks can meet the networking needs of American researchers and educators.

(d) The Department of Defense, through the Defense Advanced Research Projects Agency, shall be the lead agency for research and development of advanced fiber optics technology, switches, and protocols needed to develop the Network.

(e) Within the Federal Government, the National Science Foundation shall have primary responsibility for connecting colleges, universities, and libraries to the Network.

(f)(1) The Council, within one year after the date of enactment of this Act and consistent with the Plan developed under section 701 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.), as added by section 5 of this Act, shall—

(A) develop goals, strategy, and priorities for the Network;

(B) identify the roles of Federal agencies and departments implementing the Network;

(C) provide a mechanism to coordinate the activities of Federal agencies and departments in deploying the Network;

(D) oversee the operation and evolution of the Network;

(E) manage the connections between computer networks of Federal agencies and departments;

(F) develop conditions for access to the Network; and

(G) identify how existing and future computer networks of Federal agencies and departments could contribute to the Network.

(2) The President shall report to Congress within one year after the date of enactment of this Act on the implementation of this subsection.

(g) In addition to other agency activities associated with the establishment of the Network—

(1) the National Institute of Standards and Technology shall adopt a common set of standards and guidelines to provide interoperability, common user interfaces to systems, and enhanced security for the Network; and

(2) the National Science Foundation, the National Aeronautics and Space Administration, the Department of Energy, the Department of Defense, the Department of Commerce, the Department of the Interior, the Department of Agriculture, the Department of Health and Human Services, and the Environmental Protection Agency are authorized to allow recipients of Federal research grants to use grant monies to pay for computer networking expenses.

(h) Within one year after the date of enactment of this Act, the Director, through the Council, shall report to the Congress on—

(1) effective mechanisms for providing operating funds for the maintenance and use of the Network, including user fees, industry support, and continued Federal investment;

(2) plans for the eventual commercialization of the Network;

(3) how commercial information service providers could be charged for access to the Network;

(4) the technological feasibility of allowing commercial information service providers to use the Network and other federally-funded research networks;

(5) how Network users could be charged for such commercial information services;

(6) how to protect the copyrights of material distributed over the Network; and

(7) appropriate policies to ensure the security of resources available on the Network and to protect the privacy of users of networks.

SEC. 7. ROLE OF THE NATIONAL SCIENCE FOUNDATION.

(a) The National Science Foundation shall provide funding to enable researchers to access supercomputers. Prior to deployment of the Network, the National Science Foundation shall maintain, expand, and upgrade its existing computer networks. Additional responsibilities may include promoting development of information services and data bases available over such computer networks; facilitation of the documentation, evaluation, and distribution of research software over such computer networks; encouragement of continued development of innovative software by industry; and promotion of science and engineering education.

(b)(1) The National Science Foundation shall, in cooperation with other appropriate agencies and departments, promote development of information services that could be provided over the Network established under section 6. These services shall include, but not be limited to, the provision of directories of users and services on computer networks, data bases of unclassified Federal scientific data, training of users of data bases and networks, access to commercial information services to researchers using the Network, and technology to support computer-based collaboration that allows researchers around the Nation to share information and instrumentation.

(2) The Federal information services accessible over the Network shall be provided in accordance with applicable law. Appropriate protection shall be provided for copyright and other intellectual property rights of information providers and Network users, including appropriate mechanisms for fair remuneration of copyright holders for availability of and access to their works over the Network.

(c)(1) There are authorized to be appropriated to the National Science Foundation for the purposes of this Act, $46,000,000 for fiscal year 1992, $88,000,000 for fiscal year 1993, $145,000,000 for fiscal year 1994, $172,000,000 for fiscal year 1995, and $199,000,000 for fiscal year 1996.

(2) Of the monies authorized to be appropriated in subsection (c)(1), there is authorized for the research, development, and support of the Network, in accordance with the purposes of section 6, $15,000,000 for fiscal year 1992, $25,000,000 for fiscal year 1993, $55,000,000 for fiscal year 1994, $50,000,000 for fiscal year 1995, and $50,000,000 for fiscal year 1996.

(3) The amounts authorized to be appropriated under this subsection are in addition to any amounts that may be authorized to be appropriated under other laws.

SEC. 8. THE ROLE OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

(a) The National Aeronautics and Space Administration shall continue to conduct basic and applied research in high-performance computing, particularly in the field of computational science, with emphasis on aeronautics and the processing of remote sensing and space science data.

(b) There are authorized to be appropriated to the National Aeronautics and Space Administration for the purposes of this Act, $22,000,000 for fiscal year 1992, $45,000,000 for fiscal year 1993, $67,000,000 for fiscal year 1994, $89,000,000 for fiscal year 1995, and $115,000,000 for fiscal year 1996.

(c) The amounts authorized to be appropriated under subsection (b) are in addition to any amounts that may be authorized to be appropriated under other laws.

SEC. 9. ROLE OF THE DEPARTMENT OF COMMERCE.

(a) The National Institute of Standards and Technology shall adopt standards and guidelines, and develop measurement techniques and test methods, for the interoperability of high-performance computers in networks and for common user interfaces to systems. In addition, the National Institute of Standards and Technology shall be responsible for developing benchmark tests and standards for high performance computers and software. Pursuant to the Computer Security Act of 1987 (Public Law 100-235; 101 Stat. 1724), the National Institute of Standards and Technology shall continue to be responsible for adopting standards and guidelines needed to assure the cost-effective security and privacy of sensitive information in Federal computer systems.

(b)(1) The Secretary of Commerce shall conduct a study to—

(A) evaluate the impact of Federal procurement regulations which require that contractors providing software to the Federal Government share the rights to proprietary software development tools that the contractors used to develop the software; and

(B) determine whether such regulations discourage development of improved software development tools and techniques.

(2) The Secretary shall, within one year after the date of enactment of this Act, report to the Congress regarding the results of the study conducted under paragraph (1).

SUMMARY OF MAJOR PROVISIONS

The High-Performance Computing Act would authorize a five-year program for research and development on supercomputers, advanced computer software, and computer networks. The provisions are:

Section 1 is the title of the bill.

Section 2 contains the findings and purpose of the bill.

Section 3 provides definitions.

Section 4 contains miscellaneous provisions to make clear that computer systems for classified information are not affected by this bill. In addition, Federal agencies and departments are encouraged to purchase prototype and early production models of new high-performance computer systems.

Section 5 amends the National Science and Technology Policy, Organization, and Priorities Act of 1976, which established the White

House Office of Science and Technology Policy (OSTP). The section establishes an interagency national High-Performance Computing program involving the National Science Foundation (NSF), the National Aeronautics and Space Administration (NASA), the Department of Energy, and the Department of Defense, and other relevant agencies. Interagency coordination and planning for the program would be provided by OSTP's Federal Coordinating Council for Science, Engineering, and Technology (FCCSET), which shall work closely with industry. The program would be a comprehensive one, dealing with high-performance computing hardware and software, networking, and the education and training in high-performance computing.

Section 6 requires NSF to work with other agencies to establish a a multi-gigabit National Research and Education Network (NREN) by 1966. This network would be capable of transmitting several billions of bits of data per second and would link hundreds of thousands of researchers in government, industry, and universities around the country. The Defense Advanced Research Projects Agency will be lead agency for developing the networking technology needed for the NREN. NSF will have primary responsibility for connecting colleges, universities, and libraries to the NREN. The FCCSET shall provide for the planning and oversight needed to coordinate the efforts of the agencies contributing and using the NREN. The National Institute of Standards and Technology (NIST) will be responsible for standards and security for the NREN. The FCCSET shall prepare a report on how commercial information providers and network companies can contribute to and use the NREN.

Section 7 defines several specific roles for the NSF, including providing supercomputer access and networking services to researchers, enhancing development of information services available on the NREN, and promoting development and distribution of research software for supercomputers.

AUTHORIZATIONS FOR NSF

[In millions of dollars]

	Fiscal year—				
	1992	1993	1994	1995	1996
NREN	15	25	55	50	50
Other	31	63	90	122	149
Total	46	88	145	172	199

Section 8 mandates NASA to conduct basic and applied research in high-performance computing, particularly in the field of computational science, with emphasis on aeronautics and the processing of remote sensing and space science data.

AUTHORIZATIONS FOR NASA

[In millions of dollars]

	Fiscal year—				
	1992	1993	1994	1995	1996
Total	22	45	67	89	115

Section 9 defines the role of the Department of Commerce in high-performance computing. The Department's NIST shall adopt standards and guidelines for interoperability of high-performance computers, so that different types of computers could effectively exchange data over networks. NIST will also be responsible for developing benchmark tests for evaluating high-performance computer systems. In accord with the Computer Security Act, NIST will provide for computer security and the privacy of information for Federal computer systems. This section also instructs the Secretary of Commerce to evaluate the impact of Federal procurement rules for software on development of new, improved software technology.●

● Mr. BINGAMAN. Mr. President, as you know, last year the Senate passed the High-Performance Computing Act of 1990, which was similar to the legislation introduced today. Unfortunately, the House of Representatives did not act on this legislation in the 101st Congress. Today, as Senator GORE reintroduces this important legislation, I rise to urge my colleagues to once again support this bill.

Mr. President, I would like to briefly outline why I believe this legislation deserves our support.

First, it is clear to me that there is a consensus on the importance of high-performance computing. Last year we received the Department of Commerce Emerging Technologies report and the second annual Department of Defense critical technologies plan, reports which identified the technologies most critical to national security and economic competitiveness.

The Commerce Department identified high-performance computing as a critical emerging technology for the United States. High-performance computing was also a factor in five of the technologies identified as critical by the Department of Defense: Software producibility, parallel computer architectures, simulation and modeling, data fusion, and computational fluid dynamics. High-performance computing has been identified by industry and academia as a critical area, and shows up on critical technologies lists prepared by Japan and the European Community. There is no doubt about the importance of high-performance computing. The only thing in doubt is whether we will act now to foster the development of this technology.

Second, it is clear to me that a national policy in support of high-performance computing is needed. The Department of Commerce reports that, while the United States currently holds a lead in high-performance computing, it is losing ground to Japan. And the Department of Defense reports that many aspects of high-performance computing are critical to our national defense.

To address the policy issues involved with fostering this technology, the President's science adviser and the Office of Science and Technology Policy, through the Federal Coordinating Committee on Science, Engineering, and Technology, developed an implementation plan for a national high-performance computing initiative.

The FCCSET panel did an excellent job of garnering industry input in developing the plan, and that can be seen in the support industry has shown for this initiative. Industry groups such as the Council on Competitiveness are pointing to this as a model for support of other critical technologies.

Finally, last year the Senate approved similar legislation establishing a national policy and authorized funding which would have leveraged the resources and expertise of our mission agencies to support high-performance computing in America. I hope that the Senate will once again support this initiative.

Mr. President, the final point I would like to make is that this legislation, and the manner in which it was developed, can serve as a model for policies to foster critical technologies. We need to do a better job of soliciting and acting on industry views in the promotion of other critical technologies. The interagency consultation which resulted in the identification of lead agencies for certain missions is another process that should be undertaken for each of our critical technologies. Each technology would most likely require a different structure, and a process such as the one which led to this legislation should be undertaken for each.

I hope that we can move quickly on this bill. As I said, I believe that it can serve as a model for other critical technologies, and I urge my colleagues to support swift passage.

I yield the floor.●

● Mr. JEFFORDS. Mr. President, I want to commend my colleague, Senator GORE, for his efforts in keeping America a leader in computer technology. The High-Performance Computing Act of 1991 represents a strong step toward maintaining America's strength in this area. I strongly support this bill.

Education is one area that will immediately benefit from this bill. Sharing of software and greater access to computer facilities will help American scientists advance the boundaries of our knowledge. For example, many environmental models are becoming increasingly complex as our understanding of the world improves. Supercomputers are needed to perform the billions of calculations these models require. This legislation, I believe, will increase scientists' access to supercomputers. Scientists in fields ranging from astrophysics to engineering to weather forecasting will benefit. Some of the fruits of their research will undoubtedly help all mankind.

I also believe this legislation will help America maintain its lead in this vital technology. Whereas in the past we could take it for granted that we were the leaders in computer technology, we can be complacent no longer. Other countries develop national strategies and plans for becoming leaders in specific technologies. It is time we did the same.

I urge my colleagues to support this bill and work for its rapid passage.

Let's keep America the leader in supercomputers.●

By Mr. STEVENS:

S.J. Res. 46. Joint resolution disapproving the action of the District of Columbia Council in approving the Assault Weapon Manufacturing Strict Liability Act of 1990; to the Committee on Governmental Affairs.

DISAPPROVAL OF DISTRICT OF COLUMBIA ASSAULT WEAPON LEGISLATION

Mr. STEVENS. Mr. President, I support and introduce a joint resolution to disapprove the action of the District of Columbia Council in approving the Assault Weapon Manufacturing Strict Liability Act of 1990. An identical resolution has been introduced in the House of Representatives by Representative THOMAS BLILEY of Virginia.

That District of Columbia act imposes strict liability on the manufacturers, importers, or dealers of assault weapons—without regard to fault or proof of defect—for all direct and consequential damages that arise from bodily injury or death if the injury or death results from the discharge of the assault weapon in the District of Columbia.

The rationale for strict liability doctrine is to ensure that manufacturers are held accountable for the costs of injuries which result from defective products. In general, a person has a right of action under strict tort liability if the injury from a defect is forseeable. The application of strict liability without regard to fault or proof or defect to manufacturers of assault weapons for the criminal activity of D.C. residents is unwarranted.

The sale of these firearms is expressly prohibited in the District under the law. The District should ensure that the possessors of firearms, who are engaging in illegal activity by owning and using such weapons, are held accountable for their actions. Out-of-the-District firearms manufacturers who operate legitimate businesses should not be held responsible.

The purpose of this act is, in effect, to shift the burden to firearms manufacturers out of the District. The constitutional rights of the makers and owners of firearms who have complied with all applicable Federal, State, and local laws outside the District have been ignored by the District. It cannot hold the firearms industry liable for the injury caused by guns which were lawfully sold to purchasers but misused in the District. Firearms manufacturers should not be held liable for the actions of persons over whom they have no control.

The end result, should this act become effective, will be that manufacturers might be held responsible for the drug-crazed, violent murders that have become daily occurrences in the District of Columbia.

It should be noted that today's Washington Post has reported that Mayor Dixon plans to ask the D.C Council to repeal the Assault Weapon Manufacturing Strict Liability Act of 1990.

If that does not occur, Congress should disapprove the recent action of the D.C. Council. I ask unanimous consent that the text of this joint resolution and the Washington Post article be printed at the conclusion of my remarks.

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

S.J. RES. 46

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby disapproves of the action of the District of Columbia Council described as follows: The Assault Weapon Manufacturing Strict Liability Act of 1990 (D.C. Act 8-289), signed by the Mayor of the District of Columbia on December 17, 1990, and transmitted to Congress pursuant to section 602(c) of the District of Columbia Self-Government and Governmental Reorganization Act on January 11, 1991.

[From the Washington Post, Jan. 24, 1991]

DIXON PREPARED TO SCUTTLE GUN LAW TO SECURE HILL AID

(By Rene Sanchez)

Mayor Sharon Pratt Dixon, in a move to win favor in Congress for emergency aid for the District, said yesterday she will ask the D.C. Council to repeal a bill passed last month that makes assault-weapon merchants liable for shooting injuries or deaths in the city.

Dixon's decision, relayed by a top aide, came amid further signs of congressional opposition to the gun-liability measure, and it followed a signal from D.C. Council Chairman John A. Wilson (D) yesterday that a council majority is prepared to overturn the measure.

Dixon met yesterday with Rep. Thomas Bliley (R-Va.), the ranking minority member of the House District of Columbia Committee, in part to discuss the gun-liability bill's impact on her request for an additional $100 million in federal aid.

Bills passed by the council and signed by the mayor are subject to congressional review. Bliley has introduced a resolution opposing the law.

After her meeting with Bliley, Dixon warned that congressional displeasure with the gun bill could harm the city's chances of receiving emergency aid to reduce its budget deficit.

"I think we'd all prefer for [Bliley's] resolution not to take on a life of its own," Dixon said, adding that the D.C. Council "knows the resolution is looming."

Wilson said later that he believes a majority of the council's members are prepared to sacrifice all or parts of the gun-liability bill if it improves the chances of getting $100 million in federal assistance.

"If the mayor asks for a repeal of the legislation, I think a majority of the council is amenable to it if it's going to help solve our budget problem," Wilson said. "I've had some conversations on Capitol Hill, and that's led me to believe they could be a lot more helpful with money if we made some accommodations."

Told of Wilson's remarks, Paul Costello, a spokesman for the mayor, said: "If that's a directive to move on a repeal, that's what she intends to do. She will take whatever steps are necessary to resolve this matter."

Council members had anticipated strong objections to the bill from Congress even before approving it in December. The measure, which Mayor Marion Barry signed just before leaving office, is the first of its kind in the country and has been praised by gun-control advocates.

It allows any District shooting victim, or his or her family, to file damage claims against gun manufacturers or dealers. A council majority, led by then-Chairman David A. Clarke, said it hoped the bill would reduce the District's homicide rate by deterring the sale of a variety of assault weapons.

In his resolution, Bliley said the gun-liability law is unconstitutional and violates the Home Rule Act. While noting the severity of violence in the city, he said Congress should intervene because District officials cannot have jurisdiction over gun merchants in other states.

"There is no question that the District's level of violence is devastating," Bliley wrote. "But violating the commerce clause of the Constitution, threatening legal, private enterprises, and violating the Home Rule Act are not the solution to controlling the violence."

Bliley told reporters that he was encouraged that efforts had begun to reach a compromise on the gun-liability issue.

"There is a problem, and I think they're working on it," he said. "We don't need to get Congress and the city in another confrontation."

The National Rifle Association's powerful Capitol Hill lobby had vowed to fight the bill, but gun-control groups have said they wanted the council's action to serve as a model for other cities.

A repeal also would be a serious disappointment for Clarke, who left the council last month. Clarke pushed for the legislation and persuaded seven other members to support it. Later, he called the bill one of his greatest achievements in 16 years on the council.

Clarke, who has joined the faculty of the District of Columbia School of Law, said last night he had written a letter to council members urging them not to rescind the measure, especially since they have no assurance of receiving the $100 million from Congress. "We ought not abandon public safety for what may be an illusory promise of assistance," he said.

Clarke also said he believes the bill could survive congressional scrutiny, noting that the Senate voted last year to ban the same kind of assault weapons the D.C. proposal covers.

By Mr. EXON (for himself and Mr. BENTSEN):

S.J. Res. 47. Joint resolution proposing an amendment to the Constitution relating to Federal Budget Procedures; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT ON FEDERAL BUDGET PROCEDURES

Mr. EXON. Mr. President, I rise to introduce legislation for a proposed constitutional amendment to require the President to submit and the Congress to enact a balanced Federal budget.

As I have in past years, I chose the balanced budget amendent to be a priority bill becasue deficit reduction remains the Nation's most serious chal-

lenge. The huge deficits and reckless economic policies of the Reagan-Bush era have left the Nation deeply in debt.

According to the Congressional Budget Office, within the next 2 or 3 years, gross interest expense will be the single largest Federal spending program. It will cost the American people more to pay for past economic excesses in the mid-1990's than it will cost to defend the country. This irresponsibility can not be tolerated much longer.

In spite of all the tumult and anxiety exhibited in the last Congress of the budget, the deficit next year will set an all-time record. The continuing decay of the financial sector, the costs of going to war, and effects of a recession all promise to make Disney's "Fantasia" look closer to reality than does last year's budget resolution and its promise of declining deficits.

Deficits threaten America's economic future. Deficits push up the cost of capital, make American assets more easily acquired by foreign interests, hurt our export sector, and make our Nation dependent on foreign lenders to finance our Nation's fiscal excess.

Make no mistake, a constitutional amendment to require a balanced budget will not magically solve our Nation's fiscal problems.

It will, however, force some degree of political leadership and make real not false deficit reduction a national priority.

What is needed is political leadership willing to be honest with the American people, leadership which will ask the American people for their patriotic support for a fiscal plan of shared sacrifice.

As Governor of the State of Nebraska, I had to balance eight budgets in a row. It was tough. There were many negotiations and political compromises. Balancing a budget is hard work. Fortunately, I had the benefit of a State constitutional provision which required a balanced budget. Nebraskans knew then and know now the benefits of fiscal discipline and by and large supported the tough decisions I had to make as Governor of the great State of Nebraska.

Mr. President, it is time that the Federal Government follows Nebraska's good example.

Over the years I ahve authored and supported comprehensive budget proposals which would have balanced the Federal budget. Yes, these proposals were tough and certain groups may have been upset with individual provisions of these budget proposals: however, these alternative budget proposals illustrated that a fair program of shared sacrifice can be crafted and that deficits can be reduced.

The balanced budget constitutional amendment is one tool that can assist our efforts and restore fiscal discipline to the Federal budget. It will give the President and the Congress the backbone to make those tough decisions.

Mr. President, I ask unanimous consent that the text of the constitutional amendment which I propose be printed in the RECORD as if read.

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

S.J. RES. 47

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, the President shall submit to the Congress a proposed statement of revenues and appropriations for the coming fiscal year and shall recommend to the consideration of Congress such measures as the President shall judge necessary to assure that appropriations do not exceed revenues for that fiscal year.

"SECTION 2. Prior to each fiscal year, the Congress shall approve a proposed statement of revenues and appropriations for the coming fiscal year and shall adopt measures necessary to assure that appropriations do not exceed revenues for that fiscal year.

"SECTION 3. No bill which causes appropriations to exceed revenues for a fiscal year shall become law unless passed by two-thirds of the Senate and House of Representatives.

"SECTION 4. The Congress may waive the provisions of this article for any fiscal year in which a declaration of national emergency is in effect.

"SECTION 5. The Congress shall have the power to enforce this article by appropriate legislation.

"SECTION 6. This article shall become effective beginning with the later of—

"(1) the second fiscal year to begin after its ratification, or

"(2) fiscal year 1993.".

By Mr. SIMON (for himself and Mr. DIXON):

S.J. Res. 48. Joint resolution designating February 16, 1991, as "Lithuanian Independence Day"; to the Committee on the Judiciary.

LITHUANIAN INDEPENDENCE DAY

• Mr. SIMON. Mr. President, today Senator ALAN DIXON and I are introducing a joint resolution commemorating February 16, 1991, as Lithuanian Independence Day. We have done so together for 5 years now, and we do so again this year. The importance of this resolution at this time is apparent to all.

Last year we hoped, although we had no illusions, that the Lithuanian people's bold declaration of independence would be met with reason and a sense of justice, after 50 years of unreason and injustice. Not much positive happened. Last week, it became even clearer that there is still a long way to go, not just for the Baltic people but for the Russians, Armenians, Moldavians, Ukrainians, and all the other peoples under Moscow's domination. The Soviet reform effort is stalled. It needs to be reinvigorated, and quickly.

We have now passed two resolutions on the situation in the Baltics. These resolutions rightly condemn the brutal killings in Lithuania and Latvia. We can send another message at this time, that the people of the United States stand shoulder to shoulder with the brave people of Lithuania who are now resisting Soviet military occupation. Let's send that message.

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

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

S.J. RES. 48

Whereas the United States has never recognized the forcible and illegal annexation of Lithuania into the Soviet Union;

Whereas the Soviet Union, in January 1991, continued the violation of Lithuanian sovereignty by attacking the Lithuanian people in their peaceful protest of Soviet military actions;

Whereas the State of Lithuania has declared the right to veto legislation passed by Moscow;

Whereas the declaration of Lithuanian sovereignty reaffirms the passionate desire of the Baltic states to regain their independence;

Whereas February 16, 1991, which marks the seventy-third anniversary of the free and independent State of Lithuania, is an appropriate day to remember the continuing struggle of the Lithuanians to gain complete and total independence from the Soviet Union: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 16, 1991, is designated as Lithuanian Independence Day. The President is called on to issue a proclamation calling on the people of the United States to observe that day with appropriate programs, ceremonies and activities.•

ADDITIONAL COSPONSORS

S. 1

At the request of Mr. MITCHELL, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1, a bill to amend title 38, United States Code, to increase the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of those who died from service-connected disabilities; to provide for independent scientific review of the available scientific evidence regarding the health effects of exposure to certain herbicide agents, and for other purposes.

S. 78

At the request of Mr. DOMENICI, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 78, a bill to provide a 5.4-percent increase in the rates of compensation for

veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; and for other purposes.

S. 81

At the request of Mr. LOTT, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Virginia [Mr. WARNER], the Senator from Florida [Mr. MACK], the Senator from Washington [Mr. GORTON], the Senator from North Carolina [Mr. HELMS], the Senator from Idaho [Mr. SYMMS], the Senator from Delaware [Mr. ROTH], the Senator from South Carolina [Mr. THURMOND], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of S. 81, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 143

At the request of Mr. MCCONNELL, the names of the Senator from Wyoming [Mr. WALLOP], the Senator from New York [Mr. D'AMATO], the Senator from Mississippi [Mr. LOTT], the Senator from Florida [Mr. MACK], the Senator from Utah [Mr. GARN], the Senator from Idaho [Mr. SYMMS], the Senator from Missouri [Mr. BOND], and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 143, a bill to amend the Federal Election Campaign Act of 1971 to reduce special interest influence on elections, to increase competition in politics, to reduce campaign costs, and for other purposes.

S. 199

At the request of Mr. GLENN, the names of the Senator from Hawaii [Mr. AKAKA] and the Senator from California [Mr. SEYMOUR] were added as cosponsors of S. 199, a bill to amend the Internal Revenue Code of 1986 to exclude from income the compensation received for active service as a member of the Armed Forces of the United States in a dangerous foreign area.

S. 203

At the request of Mr. GLENN, the names of the Senator from Hawaii [Mr. AKAKA] and the Senator from California [Mr. SEYMOUR] were added as cosponsors of S. 203, a bill to provide for periods of military, naval, or air service in the Persian Gulf region in connection with Operation Desert Shield to be disregarded in determining the time for performing certain acts required by the Internal Revenue Code of 1986.

S. 204

At the request of Mr. GLENN, the names of the Senator from Hawaii [Mr. AKAKA] and the Senator from California [Mr. SEYMOUR] were added as cosponsors of S. 204, a bill to amend title 10, United States Code, to provide for certain recalled retired members of the Armed Forces to serve in the highest grade previously held while in active duty.

S. 205

At the request of Mr. GLENN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 205, a bill to amend title 5, United States Code, to equalize the treatment of members of the Armed Forces of the United States and former employees of the Federal Government for purposes of eligibility for payment of unemployment compensation for Federal service.

S. 221

At the request of Mr. GLENN, the names of the Senator from Hawaii [Mr. AKAKA] and the Senator from California [Mr. SEYMOUR] were added as cosponsors of S. 221, a bill to require the Secretary of Defense to authorize members of the Armed Forces serving outside the United States under arduous conditions pursuant to an assignment or duty detail as a part of Operation Desert Shield to participate in a savings program for members of the Armed Forces assigned for permanent duty outside the United States.

S. 237

At the request of Mr. NUNN, the names of the Senator from Kentucky [Mr. FORD] and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 237, a bill to amend title 37, United States Code, to increase the rate of special pay for duty subject to hostile fire or imminent danger.

S. 239

At the request of Mr. SARBANES, the names of the Senator from Texas [Mr. BENTSEN] and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors 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.

SENATE JOINT RESOLUTION 36

At the request of Mr. PRESSLER, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 36, a joint resolution to designate the months of November 1991, and November 1992, as "National Alzheimer's Disease Month."

SENATE JOINT RESOLUTION 40

At the request of Mr. THURMOND, the names of the Senator from Maryland [Mr. SARBANES], the Senator from Texas [Mr. GRAMM], the Senator from Tennessee [Mr. SASSER], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Virginia [Mr. WARNER], the Senator from Alabama [Mr. HEFLIN], the Senator from Georgia [Mr. NUNN], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Joint Resolution 40, a joint resolution to designate the period commencing September 8, 1991, and ending on September 14, 1991, as "National Historically Black Colleges Week."

SENATE CONCURRENT RESOLUTION 4

At the request of Mr. MITCHELL, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Washington [Mr. ADAMS], the Senator from Connecticut [Mr. DODD], the Senator from Oregon [Mr. PACKWOOD], the Senator from Minnesota [Mr. WELLSTONE], the Senator from New Hampshire [Mr. RUDMAN], the Senator from New Mexico [Mr. DOMENICI], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Concurrent Resolution 4, a concurrent resolution condemning Iraq's unprovoked attack on Israel.

At the request of Mr. DOLE, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of Senate Concurrent Resolution 4, supra.

At the request of Mr. SEYMOUR, his name was added as a cosponsor of Senate Concurrent Resolution 4, supra.

SENATE CONCURRENT RESOLUTION 5

At the request of Mr. MITCHELL, the names of the Senator from Colorado [Mr. WIRTH], the Senator from Connecticut [Mr. DODD], the Senator from Oregon [Mr. PACKWOOD], the Senator from Oklahoma [Mr. NICKLES], the Senator from Washington [Mr. GORTON], the Senator from New Hampshire [Mr. RUDMAN], the Senator from New Mexico [Mr. DOMENICI], the Senator from Wisconsin [Mr. KASTEN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Indiana [Mr. LUGAR], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Concurrent Resolution 5, a concurrent resolution demanding that the Government of Iraq abide by the Geneva Convention regarding the treatment of prisoners of war.

At the request of Mr. DOLE, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of Senate Concurrent Resolution 5, supra.

At the request of Mr. SEYMOUR, his name was added as a cosponsor of Senate Concurrent Resolution 5, supra.

SENATE CONCURRENT RESOLUTION 6

At the request of Mr. MITCHELL, the names of the Senator from Colorado [Mr. WIRTH], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Concurrent Resolution 6, a concurrent resolution to express the sense of the Congress that the President should review economic benefits provided to the Soviet Union in light of the crisis in the Baltic States.

At the request of Mr. DOLE, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Nebraska [Mr. EXON], the Senator from Michigan [Mr. RIEGLE], the Senator from Maine [Mr. COHEN], the Senator from New Hampshire [Mr. RUDMAN], the Senator from New Mexico [Mr. DO-

MENICI], the Senator from Wisconsin [Mr. KASTEN], the Senator from Indiana [Mr. LUGAR], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Concurrent Resolution 6, supra.

At the request of Mr. DECONCINI, his name was added as a cosponsor of Senate Concurrent Resolution 6, supra.

At the request of Mr. SEYMOUR, his name was added as a cosponsor of Senate Concurrent Resolution 6, supra.

SENATE RESOLUTION 18—RECOGNIZING THE ACCOMPLISHMENTS OF LEWIS A. SHATTUCK

Mr. KERRY (for himself, Mr. KENNEDY, and Mr. MITCHELL) submitted the following resolution; which was considered and agreed to:

S. RES. 18

Whereas Lewis A. Shattuck has worked diligently to make the voice of small business heard in the United States business community;

Whereas Lewis A. Shattuck, a respected Massachusetts businessman, is President of the Smaller Business Association of New England;

Whereas the Smaller Business Association of New England has grown from a staff of 2 with 300 members to a staff of 12 with almost 2,000 members under the leadership of Lewis A. Shattuck;

Whereas Lewis A. Shattuck played an instrumental role in the organization and passage of the White House Conference on Small Business; and

Whereas Lewis A. Shattuck has been a strong and effective advocate in creating the Small Business Innovative Research program which extends Federal grant money to small businesses: Now, therefore, be it

Resolved, That the accomplishments of Lewis A. Shattuck, reminding entrepreneurs to strive and work diligently to make the voice of small business heard, are hereby recognized and honored.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Lewis A. Shattuck.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON CHILDREN, FAMILIES, DRUGS, AND ALCOHOLISM

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Children, Families, Drugs, and Alcoholism of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, January 24, 1991, at 10 a.m., for a hearing on "Balancing Work and Family: S. 5, the Family and Medical Leave Act."

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

ADDITIONAL STATEMENTS

CELEBRATION OF UKRAINIAN INDEPENDENCE

• Mr. BIDEN. Mr. President, it is my pleasure to join with Ukrainians throughout the world this week in celebrating the 73d anniversary of independence. Although the independent state created in 1918 survived only a few years, its philosophical and political goals stand as a tribute to its founders. It should also stand as an example for the current leader of the Soviet Union.

Ukraine's 1918 declaration of independence called for freedom, democracy and self-determination. In the past year, courageous Ukrainians have fought yet again to reestablish these ideals as the basis for their state. Last July the Ukrainian Government issued a declaration of sovereignty, as did many other republics. These efforts have been met with resistance and coercion from Moscow. In Ukraine, the Kremlin has arrested and imprisoned democratic activists, intimidated democratically elected local governments and threatened to send in paratroopers under the pretext of restoring order.

We have seen from the events in Lithuania and Latvia that the Kremlin has not hesitated to go much further in its use of brutal, repressive tactics. I use this opportunity, then, not only to congratulate Ukraine on its anniversary, but to express my admiration and to offer praise for the courage of those working for basic freedoms in Ukraine and throughout the Soviet Union.•

CONGRESS-BUNDESTAG STAFF EXCHANGE

• Mr. LUGAR. Mr. President, among the many exchange programs in which the United States Government participates, none is more unique than the Congress-Bundestag Staff Exchange Program between the United States and the Federal Republic of Germany. This program has allowed for annual exchanges between professional staff members in the United States Congress and the German Parliament.

This year's program will mark the first exchange with the Parliament of a unified Germany. We look forward to sending a highly qualified group of staff members from the Congress to Germany this spring and to receiving a group of Bundestag staff members here in Washington later in the year.

In an effort to attract the most qualified staff members of the Congress to the program, Mr. President, I attach the announcement of the 1991 Congress-Bundestag Staff Exchange that will provide interested staff members with many of the particulars of the program.

ANNOUNCEMENT OF THE 1991 CONGRESS-BUNDESTAG STAFF EXCHANGE

Since 1983, the United States' Congress and the West German Parliament, the Bundestag, have conducted an annual exchange program in which staff members from both countries observe and learn about the workings of each other's political institutions and convey the views of members from both sides on issues of mutual concern.

This exchange program has been one of several sponsored by both public and private institutions in the United States and West Germany to foster better understanding of the institutions and policies of both countries.

This year will mark the first exchange with a reunified Germany and a parliament consisting of members from both the west and the east. Eight staff members from the U.S. Congress will be chosen to visit Germany from April 8 to 21. They will spend about 10 days in Bonn attending meeting conducted by members of the Bundestag, Bundestag party staffers, and representatives of political, business, academic and media institutions.

They also will spend a weekend in the district of a Bundestag member. The program will conclude with a visit to Berlin.

A comparable delegation of German staff members will come to the United States in late June for a 3-week period. They will attend similar meetings here in Washington and will visit the districts of Members of Congress over the Fourth of July recess.

The Congress-Bundestag Exchange is highly regarded in Germany. Accordingly, U.S. participants should be experienced and accomplished Hill staffers so that they can contribute to the success of the exchange on both sides of the Atlantic. The Bundestag sends senior staffers to the United States and a number of high ranking members of the Bundestag take time to meet with the U.S. delegation. The United States endeavors to reciprocate.

Applicants should have a demonstrable interest in European affairs. Applicants need not be working in the field of foreign affairs, although such a background is helpful. The composite U.S. delegation should exhibit a range of expertise in issues of mutual concern to Germany and the United States, such as, but not limited to, trade, security, the environment, immigration, economic development, and other social policy issues.

In addition, U.S. participants will be expected to help plan and implement the program for the Bundestag staffers when they visit the United States. Among the contributions participants should expect to make is the planning of topical meetings in Washington. Moreover, participants are expected to host one or two staff people in their Member's district over the Fourth of July, or to arrange for such a visit to another Member's district.

Applications for participation in the United States delegation will be reviewed initially by the Congressional Staff Group on German-American Affairs. Final selection of the delegation will be made by the United States Information Agency.

Senators and Representatives who would like a member of their staff to apply for participation in this year's program should direct them to submit a resume and cover letter only in which they state why they believe they are qualified, what positive contributions they will bring to the delegation, and some assurances of their ability to participate during the time stated. Applications may be sent to Connie Jones, Office of Rep.

Ralph Regula, 2207 Rayburn, by Friday, February 15.●

BICENTENNIAL OF THE DISTRICT OF COLUMBIA

● Mr. ADAMS. Mr. President, today marks the bicentennial of the selection of a parcel of swampy land on the eastern shore of the Potomac River between Georgetown in Maryland and Alexandria in Virginia to be the capital of a new nation.

On January 24, 1791 President George Washington issued a proclamation specifying this site for the Federal district. At the time the site was covered by tobacco and corn fields, orchards and woods. A cherry orchard covered present day Lafayette Square.

A decade later, in the late spring of 1800 the documents of the new Federal Government arrived at a wharf on the Potomac River, from New York, in the new national capital. Pennsylvania Avenue was a brush covered swamp dotted with three stumps. The Executive Mansion was a painted sandstone structure on a marshy estuary. A mile to the east one wing of the new Capitol Building occupied a commanding position on Jenkins Hill.

The new inhabitants of the Nation's Capital could hardly imagine the beauty and grandeur of present day Washington, the District of Columbia. Predictably the location of the Capital was born of controversy and was settled in discussion with Members of Congress over Secretary of State Thomas Jefferson's dinner table.

In the 2 months following President Washington's proclamation, surveyor Andrew Ellicott came from Baltimore with his chief assistant Benjamin Banneker, a free black man, to map out the new city. A French war hero and engineer, Major Pierre L'Enfant, arrived to design the wide avenues and great vistas for the Nation's Capital.

Over the coming months the District will celebrate the bicentennial of the laying of the first boundary stone of the new Federal district at Jones Point in Alexandria; as well as the selection of the name District of Columbia and the naming of the city of Washington as its Capital. I hope that my colleagues will take note of these anniversaries and take the opportunity to establish a new relationship with the city government and the new Mayor.●

THE PRESIDENT'S JUDICIAL NOMINEES: JUSTICE OR JUST US?

● Mr. SIMON. Mr. President, as we begin the 102d Congress and judicial appointments are sent over for the advice and consent of the Senate, I rise to share with my colleagues some very disturbing statistics about the President's nominees.

In his first, 2 years as President, George Bush submitted 77 nominations—one for the U.S. Supreme Court, 23 for circuit courts of appeal, 51 for Federal district courts and 2 for the claims courts. Fully 85 percent of Bush judicial nominees were white males. According to a recent article in Legal Times, one third of the males belonged to clubs with a history of discriminatory admission policies. Among the circuit court nominees, almost half were millionaires.

These figures send a discouraging signal to people who come before the courts as well as to the general public. America is growing increasingly diverse and that is one of the things that makes our society strong. Our courts should recognize that growing diversity and better reflect it. When they do not, they help lead the average American to feeling that our legal system is working for someone else.

Of the 77 nominations made by the President in 1989 and 1990, 4.3 percent were African-American, 2.9 percent were Hispanic and there were no Asian-Americans. While this is an improvement for African-American appointments as compared to President Reagan's record, it is a step back for the growing Hispanic and Asian-American populations.

There are those who justify this poor record of appointments on the relative lack of minority attorneys within the Republican Party or who agree with the President's legal philosophy. Yet party membership has never been a sole prerequisite for appointment by previous Presidents. This argument also belies the fact that the President nominated only seven women and there is no shortage of women attorneys in the President's party.

I will soon be writing the Attorney General to urge him to change this trend. Last year, Congress passed legislation to expand the judiciary and create 85 new judgeships. The President, therefore, will have the opportunity to make up to 125 appointments, 15 percent of the entire judiciary.

Federal judicial posts are lifetime appointments and many of the individuals the President nominates and the Senate confirms will serve well into the 21st century. As the legal profession adds more and more women and minorities to its ranks and they become more experienced, they should not be shut out of the judiciary. We, as Senators, should also do our best to reach out to black, Hispanic, Asian-American and women's bar associations so that our recommendations for judicial vacancies will similarly reflect the recent advances in the bar.

Mr. President, I ask that the previously mentioned news article be printed in the RECORD.

The article follows:

IN HIS OWN IMAGE BUSH JUDICIARY: WHITE, MALE, AND CAUTIOUS

(By Terence Moran)

After two years and more than 75 appointments, President George Bush has begun to leave his mark on the federal judiciary, sketching through his nominees to the bench a profile very much to his image: white, male, patrician, and cautious.

The president's low-key approach to staffing the courts has brought a measure of peace to an issue that had been consumed by controversy for nearly a decade, ever since Ronald Reagan pledged to pack the courts with conservatives. The cannons of ideological conflict no longer roar over the battlefield of judicial nominations, and President Bush has thus had a free hand to solidify the Republican grip on the courts.

"It's a matter of sheer numbers—there's less urgency and less at stake with each successive appointment a Republican president makes," observes Thomas Jipping, director of the Center for Law and Democracy, a conservative advocacy group. "Liberals have had to shift their focus away from the judiciary to other battles."

But while the ideological conflicts surrounding the Bush judiciary may be less sharp than those around the Reagan courts, the thrust of the appointments process remains the same—conservative to the core.

Bush judges—many of whom served as lower-court judges or administration officials under President Reagan—have articulated in their confirmation proceedings and in their rulings bedrock conservative doctrine: literal interpretation of statutory and constitutional texts, deep skepticism of claims for new rights, reluctance to reach questions not presented by the case at hand, and regular deference to executive and law-enforcement power.

"When it comes to issues involving individual rights, there's not that much difference between Reagan judges and Bush judges," laments George Kassouf, director of the Judicial Selection Project of the Alliance for Justice, a liberal interest group. "The rhetoric is less heated, but the results are basically the same."

SIMMERING DOWN

Few of President Bush's judges wear their conservative hearts prominently on their sleeves. The kinder, gentler rhetoric of the president and his judicial appointees has moved the shape of the federal judiciary to the back burner of domestic debate and contributed to a marked lessening of tensions surrounding the Senate confirmation process.

Kassouf, in a report issued by the Alliance for Justice earlier this month, estimated that the Senate Judiciary Committee spent about 25 percent less time investigating, considering, and voting on nominees in the 101st Congress than in the 100th Congress.

The full Senate during the 101st Congress debated and held roll-call votes on only two judicial nominees—David Souter to the Supreme Court (confirmed 90–9) and Clarence Thomas to the U.S. Court of Appeals for the D.C. Circuit (confirmed 98–2). The other two appointees on the D.C. Circuit—Karen LeCraft Henderson and A. Raymond Randolph Jr.—breezed through without opposition.

For those involved in the process of judicial selection, the lower temperature comes as a relief.

"There was a lot of contention, a firestorm of controversy out there" during the Reagan administration, notes Ralph Lan-

caster Jr., chairman of the American Bar Association's Standing Committee on the Federal Judiciary, which rates judicial nominees.

"It's always better to do your job without contention," adds Lancaster, a name partner in Portland, Maine's Pierce, Atwood, Scribner, Allen, Smith & Lancaster.

The quiet progress the Bush administration has made on the courts will accelerate next year, when the president will have the opportunity to appoint 85 new judges under the Federal Judgeship Act, passed by Congress in the waning days of the 1990 session. That group, together with existing vacancies, gives the president the chance in the coming year to appoint 126 new judges, roughly 15 percent of the federal judiciary.

Who these judges will be might best be gauged by looking at those the administration has already named to the courts. The statistical profile of the Bush judiciary, culled from Senate questionnaires and independent inquiries by two liberal interest groups—the Alliance for Justice and People for the American Way—describes a relatively young, partisan, and prosecutorial group with limited experience in *pro bono* work.

The archetypal Bush judicial nominee is a white man in his mid-40's, active in Republican politics, removed from academic debate, with a net worth of upwards of $1,000,000 and some experience in government. He probably has served either as a prosecutor or as a state court judge, federal district judge, or magistrate. One would stand a fair chance of meeting this man at a discriminatory club.

Almost 85 percent of President Bush's judges are white and male. At the time of their nomination, more than a third of these men belonged to clubs that had a history of discriminatory policies or practices—a figure that seems bound to decline. Last summer, the Senate judiciary panel declared in a nonbinding resolution that membership in such clubs is "inappropriate" for nominees, and the ABA has changed its Code of Judicial Conduct to prohibit membership in clubs that practice 'invidious discrimination."

The controversy over club memberships has merely spotlighted the Bush administration's inability to recruit more women and minorities for judgeships. Despite promising to increase diversity on the federal bench, President Bush has made only seven women judges and five minority judges in 77 opportunities over the last two years.

This track record enrages liberals.

"As time goes by and there is an increasing pool of minorities and women who could be good judges, it becomes more and more egregious that the judiciary stays white and male," says Jan Levine of People for the American Way.

To be sure, there are not legions of Republican minority and women candidates for judgeships, a point the administration often makes in its defense. And President Bush—in keeping with a steady policy of increasing opportunity for the disabled—did appoint a disabled lawyer, G. Thomas Van Bebber, to the U.S. District Court in Kansas.

For liberal critics like Kassouf of the Alliance for Justice, the point of counting judges by their physical characteristics is that the progress women and minorities have made in the law should be reflected in the distribution of judicial power—else the experiences these people possess will not get translated into the "felt necessities" of society that inevitably shape the law.

"It's not that you've got to have proportional representation to the population as a whole," says Kassouf. "But you've got to have more representation as the country changes."

WHERE'S THE PRO BONO?

If Bush judges do not present a wealth of diversity in background, their lives in the law have frequently not given them much broader perspectives. Coming from an administration with a commitment to volunteerism, to the shinning forth of "a thousand points of light," the Bush judiciary seems to some critics a little dim.

The Senate Judiciary Committee asks in its formal questionnaire for "specific instances" of *pro bono* work. The answers from President Bush's nominees are often vague, and the activity they describe is characterized more by sitting on boards of directors than by hands-on participation.

For example, William Shubb, confirmed in September to the U.S. District Court for the Eastern District of California, listed his wife's volunteer efforts on behalf of the Sacramento Braille Transcribers as indicative of his commitment to the disadvantaged.

"A room in our house has been set aside for [translation] activities, and she spends about 30 hours a week in connection with that work," Shubb related.

In addition, many of the administration's nominees cited the *pro bono* programs of their law firms as evidence of their volunteerism, without specifying their involvement in the programs. Paul Niemeyer, confirmed to the 4th Circuit last August, described his firm's efforts in exceedingly general terms: "When with my former law firm, the firm actively supported *pro bono* work. We opened the first neighborhood law office in East Baltimore and cooperated with the University of Maryland in operating a clinic, all at firm expense." Niemeyer was a partner at Piper & Marbury before being named to the U.S. District Court for Maryland in 1988.

Finally, the Bush judges have tended to serve on boards and commissions rather than to take cases or participate in other *pro bono* programs. For instance, Joseph McLaughlin, confirmed in October, cited "*pro bono* activities" service on 10 mayoral commissions, bar committees, and civic boards, including the New York State Law Revision Commission.

DETACHED AND REMOVED

These kinds of *pro bono* records dismay the liberal watchdogs, who see in the slim résumés a lack of connection to the wider communities over which judges hold power.

"If you're looking to find people who are the pillars of their legal communities to fill the courts with, then there's more to look for than just who you campaigned for or where you went to school," says Kassouf of the Alliance for Justice.

Conservatives are suspicious of that kind of talk. They sense in the calls for more judges with strong *pro bono* records a subtle demand that certain political views be represented on the bench.

"The move toward finding people who are 'in touch with the community' has little to do with the law," says Jipping of the Center for Law and Democracy. "We need judges who are in a sense detached and removed, who can look at the law as the law and not get what they're doing as a judge from some in-touch experience they've had."

Beyond the debates over the value of *pro bono* work and over the need for more diversity on the federal bench, the key questions about Bush judges remain: What do these people believe in? What will the law look like when they're through with it?

The answers, of course, will come only with the passage of the years, as the young judges to whom President Bush is entrusting the federal bench render decisions. But a few general indications of intent—revealed in testimony before the Senate and in a couple of recent appeals court cases—show that these judges can be counted solidly, if somewhat uninspiringly, in the conservative camp.

THE EFFICIENCY OF BUSINESS

President Bush, in sharp contrast to both Reagan and Jimmy Carter, has appointed only one academic to the federal courts. What academics bring to the bench—a high level of intellectual ambition and a fondness for literary rhetoric and mischievous wordplay in opinion-writing—may be replaced by a more workmanlike, perhaps more predictable, judging from many of the administration's 22 appointees to the circuit courts.

Take Stanley Birch Jr. of the U.S. Court of Appeals for the 11th Circuit. An Atlanta lawyer and major Republican donor who scored big in private practice when he represented the company that developed Cabbage Patch Kids dolls, Birch won the lowest approval rating from the ABA's committee on the judiciary.

During his confirmation proceedings, Birch, whose corporate practice was concentrated in the copyright area, offered the Senate panel a description of his judicial philosophy that reflected both his basic conservative beliefs and his business background.

"The concept of 'judicial activism' is antithetical to the basic tenets of our constitutional form of government," Birch wrote in his Senate questionnaire. "The role of the courts is to settle disputes. At this task they are relatively efficient. However, they become cost-ineffective when undertaking to re-engineer social structures and reorganize social priorities."

Since joining the 11th Circuit, Birch has had few chances to put his views into practice. He did, however, use a favorite campaign line of George Bush's when he dissented from a panel ruling that allowed the Justice Department to appeal a sentence imposed on a cross-burner; Birch believed the department had not properly filed its appeal.

"[T]his court's constitutional role is to interpret law and is not to make it," Birch wrote.

CONSERVATIVE SPLITS

The differences between Ronald Reagan's and George Bush's judges could become more pronounced in the years ahead, particularly in cases that bring out the libertarian streak in some of the intellectual conservatives whom President Reagan named to the courts. The potential for such a split has been dramatically drawn in a case from the 9th Circuit, *Geary* v. *Renne*. Reversing an earlier panel decision, the full court held in August that an amendment to the California state constitution prohibiting political parties from endorsing candidates for judgeships and other local non-partisan offices was unconstitutional under the First Amendment.

Reagan appointees—including ideological conservatives Alex Kozinski and John Noonan—joined the majority, seeing in California's effort to rid some elections of partisan influence a straightforward muzzling of political speech.

The dissent was written by Pamela Rymer and joined by Ferdinand Fernandez—both named to the court by President Bush. Rymer believed that "there is no reason inhering in the state's interest in the structure of its government that inhibits California from justifying its restriction on endorsements."

Such cases may not amount to much, however, for the plain fact is that conservatives of all stripes have embraced a more or less coherent vision of judging, and Bush appointees are unquestionably conservative. The president's slightly more establishment bias may mean fewer fireworks on the bench, but the results—conservatives hope and liberals fear—will be the same.

"It's true Bush talks more in terms of credentials and objective qualifications than Reagan, who emphasized theory and philosophy," says Jipping of the Center for Law and Democracy. "But the people he has picked and the judges he has made are as good or better than the Reagan appointees. This is a huge group of solid conservatives."

PRESIDENT BUSH'S APPOINTMENTS TO THE U.S. COURTS OF APPEALS

Name, law school, and previous job	Circuit	Age	Net worth
Samuel Alito, Jr., Yale, U.S. attorney	3d	40	$308,400
Rhesa Barksdale, University of Mississippi, Butler, Snow, O'Mara, Stevens & Canada.	5th	46	417,880
Stanley Birch, Jr., Emory, Vaughn & Murphy.	11th	45	207,527
Raymond Clevenger III, Yale, Wilmer, Cutler & Pickering.	Federal	53	10,980,000
Conrad Cyr, Yale, U.S. district judge	1st	59	639,658
Joel Dubina, Cumberland (AL), U.S. district judge.	11th	43	1,371,000
Ferdinand Fernandez, USC, U.S. district court.	9th	53	362,925
Karen LeCraft Henderson, UNC, U.S. district judge.	DC	46	277,862
James Loken, Harvard, Faegre & Benson	9th	50	1,792,000
Alan Lourie, Temple, V.P. SmithKline Beecham.	Federal	55	2,123,000
Joseph McLaughlin, Fordham, U.S. district judge.	2d	57	2,100,000
Thomas Nelson, University of Idaho, Nelson, Rosholt, Robertson, Tolman &Tucker.	9th	54	361,500
Paul Niemeyer, Notre Dame, U.S. district judge.	4th	49	1,458,000
S. Jay Plager, University of Florida, OMB Administrator.	Federal	59	1,083,000
Randall Rader, George Washington, U.S. Claims Court judge.	do	41	214,337
A. Raymond Randolph, Jr., University of Pennsylvania, Pepper, Hamilton &Scheetz.	DC	47	652,830
Pamela Rymer, Stanford, U.S. district judge.	9th	49	650,445
David Souter, Harvard, State supreme court justice.	1st	51	621,250
Richard Suhrheinrich, Detroit College of Law, U.S. district judge.	6th	54	1,419,000
Clarence Thomas, Yale, EEOC Chairman	DC	42	91,978
John Walker, Jr., University of Michigan, U.S. district judge.	2d	50	1,449,000
Jacques Wiener, Jr., Tulane, Wiener, Weiss, Madison & Howell.	5th	56	7,853,000

Source: Senate Judiciary Committee questionnaires. Net worth reported at time of nomination.•

COSPONSORSHIP OF BILLS TO EXTEND PERMANENTLY THE MORTGAGE REVENUE BOND PROGRAM AND THE LOW INCOME HOUSING TAX CREDIT

• Mr. KOHL. Mr. President, I rise today to cosponsor S. 167, the Riegle-Chaffee bill to make the Mortgage Revenue Bond Program permanent, and to announce my intention to cosponsor the soon to be introduced Mitchell-Danforth bill to extend the low-income rental housing tax credit permanently. These two bills that provide solid and much needed investment incentives. They are exactly the sort of measures we need in these times of recession and high budget deficits.

Both of these programs are well-targeted to low-income families. They both encourage investment in a vital national need: affordable housing. Both give our creative State governments a central role in managing the programs.

And both of these programs are proven. For example, in my home State of Wisconsin, the Wisconsin Housing and Economic Development Authority's Home Ownership Mortgage Program uses mortgage revenue bonds to channel below market rate mortgages to 6,000 qualified buyers a year. WHEDA estimates that, without MRB's, there would have been 3,600 less low-income families able to buy homes in Wisconsin last year.

As the United States enters a recessionary cycle, there is no doubt that Congress must pursue economic policies that encourage investment. But, because of our enormous budget deficit, we cannot afford slap-shot or overly broad investment incentives. We need to rely on proven programs that are accurately focused on investment in meeting pressing national needs—programs like the MRB's and the low-income housing tax credit.

Extending these two programs permanently will eliminate a yearly reauthorization ritual that has diminished the effectiveness of these incentives. Both MRB's and the low-income rental housing tax credit encourage long-term investment—the former, in homes; the latter, in low-cost rental housing. Our annual debate on these programs—a debate that traditionally includes a down-to-the-wire decision on their fate—creates an uncertainty that works counter to the long-term investment incentives we are trying to provide.

Of course, this annual debate serves a purpose—budget obfuscation. By authorizing these programs annually, Congress only has to figure out how to account for 1 year of the programs' costs. If we make MRB's and the low-income housing tax credit permanent, we would have to plan to pay for them beyond this fiscal year.

And that is another reason to support these two bills—truth in budgeting. It is not fair to the States and people who rely on these programs to keep them on an artificial, annual authorization simply in order to fudge our budget numbers. These programs have costs that should be accounted for rationally. Those of us who are in support of the goals and structure of these incentives need to admit those costs and work together to devise a way to meet them.

I look forward to working with the distinguished sponsors of these bills—Senators MITCHELL, DANFORTH, RIEGLE, and CHAFEE—to devise an offset to cover the permanent extension of the incentives. Doing so, of course, is the responsibility of Congress under the new "pay-as-you-go" budget rules. However, we should have taken that step a long time ago. It's good budget policy, and it would have ended the destructive uncertainty that now surrounds two very productive programs.•

ANGOLA

• Mr. SIMON. Mr. President, in the Weekly Mail, a respected journal in South Africa, there was an article by an American citizen by the name of Vicki Finkel. I have no idea who she is or of her reliability, but the story she relates is one that is, unfortunately, not too uncommon from Americans who visit Angola.

I ask that her article, "Words of hate like landmines for an American in Angola" be printed in the RECORD.

I hope and trust that the current efforts to resolve the dispute between Angola and Unita will be successful, not just on paper but in reality.

If for some reason they are not, we should seriously reconsider our involvement in the internal situation in Angola. The irony is that United States dollars are purchasing the weapons on both sides of this civil war in Angola.

Again, I hope we do not need to reconsider our policy because the situation has been worked out in Angola. But if it is not, we certainly should reconsider the policy.

The article follows:

[From the Weekly Mail, Nov. 16–22, 1990]

WORDS OF HATE LIKE LANDMINES FOR AN AMERICAN IN ANGOLA

(By Vicki Finkel)

Beneath the plaster-chipped ceiling, about 20 Angolan orphans huddled on the floor. Most had limbs missing, silent testimony to the raging war which also shattered the institution's windows.

The grim orphanage in southwestern Huila Province is one of the many throughout Angola striving to provide for the more than 50,000 children orphaned in the devastating war waged against the government by the United States-backed rebels of the National Union for the Total Independence of Angola (Unita).

I was introduced as an American journalist and Jo Da Silva, the orphanage director, clearly wanted the full impact of each child's traumatising and horrific experience to be recorded. She had each child describe how they lost their parents and how they were injured. The emotional stories were all variations on a disturbing theme, each accompanied by teary eyes reliving brutal treatment.

At the end Da Silva looked at me and her bitter words exploded like a wellplaced landmine, "I hate the United States."

Her burning words of enmity for the country emblazoned in gold letters on my passport haunted me throughout my month-long stay in Angola. I constantly identified the crippling effects of the 15-year civil strife with America's contradictory involvement with the oil-rich country.

Despite the MPLA government's new commitment to forming a multiparty system, holding open elections and undergoing economic liberalisation, the U.S. House of Representatives intelligence committee last month approved $50-million above the $60-million already budgeted for Unita for the present fiscal year. The increased aid was

ratified by the Congressional House last week.

"I am very sorry to hear that," said Jack Blackshire, president of the Angolan operations of the American oil giant Continental Oil Corporation (Conoco), when I told him about this action to bolster aid to Unita.

"The Angolans just need to be left alone," he said in a Texan drawl, unseasoned by 10 years in Africa.

Blackshire and I strolled through the grounds of Conoco-Angola's headquarters to a towering baobab tree, under which he said he wished to be buried.

Looking over the deep blue waters of Luanda Bay, Blackshire pointed through the wire fence down to a fishing village complete with 10 outboard motor boats and recently constructed fish-drying racks. It is one of the 36 development projects Conoco has financed with a total of $4-million during their five years in Angola.

"It is in our interest to work in a stable environment, the worst thing is to have the country in turmoil," said Blackshire, whose amiable relations with the Angolan government have caused him to be denounced as a communist by United States congressmen who visited the Conoco-Angola base.

Ironically, U.S. Dollars purchase 80 to 90 percent of Angola's total oil production and in turn finance the MPLA government's defense against the Unita rebels.

When invariably questioned about my place of origin, I found myself tempted to give the misleading, "I am coming from Zimbabwe," but could not avoid the truth that I was an American.●

UKRAINIAN INDEPENDENCE DAY—1991

● Mr. DECONCINI. Mr. President, today as Ukrainians the world over commemorate the 73d anniversary of the 1918 proclamation of Ukrainian independence, Ukraine faces an uncertain future. The dynamic events of the last year, especially the assertion of Ukraine's political identity as manifested in the July 16 adoption of state sovereignty by the Ukrainian Parliament, have provided new hope for the Ukrainian people. Possibilities, unthinkable a few years ago, for genuine Ukrainian self-determination are rapidly emerging. The decades-long tide of Russification is beginning to be reversed. The Ukrainian churches are vigorously renewing their activity, and a vibrant democratic opposition movement committed to the goal of real freedom of Ukraine is rapidly gaining momentum. On the international arena, Ukraine is also trying to assert itself by requesting participation in the Conference on Security and Cooperation in Europe.

Despite these positive developments, the road to freedom and self-determination is a rocky one. Among the looming roadblocks are the continuing detention of Stepan Khmara, a leading opposition deputy from western Ukraine, the detention of democratic student leader Oles Doniy, and a decree imposing restrictions on demonstrations and public meetings. More disturbing, especially from the perspective of Ukraine's drive for control over its own destiny, is Moscow's stepped-up attack on the Republics and attempts to reassert control. The reprehensible Soviet actions in Lithuania and Latvia have provoked strong reaction and expressions of support for the Balts even among—I stress even among—the Communist-controlled Ukrainian Republic Government. The battle between Ukraine and the Kremlin, as between each of the Republics and the center, will only intensify in the coming months. Ukraine, encouraged by Rukh and other democratic forces, undoubtedly will continue the concrete efforts to consoldiate its declared sovereignty, while the Central Government will likely resist in an attempt to maintain the vestiges of a declining Soviet Empire.

Mr. President, nobody is certain where events in the Soviet Union, specifically in Ukraine, will take us. This lack of certainty, however, should in no way deter us from supporting the right of every nation, including Ukraine, to democratically and peacefully determine its own fate.●

SUPPORT OF LEGISLATION TO CREATE A WAITING PERIOD BEFORE THE PURCHASE OF A HANDGUN

● Mr. SIMON. Mr. President, I rise in support of legislation, introduced yesterday by Senator METZENBAUM, to require a 7-day waiting period before the purchase of a handgun. While I generally believe gun control is best left to State and local governments, I believe certain issues require a national approach. One of these issues is a national waiting period.

The purpose of this legislation is severalfold. First, it allows law enforcement officers to perform a background check to determine whether the prospective purchaser is a convicted felon or has a history of mental problems. There is simply no reason that one who has been convicted of felony should have access to a handgun. In my own home State of Illinois, before the purchase of any firearm, the prospective gunowner must acquire prior approval by undergoing a criminal background check. In 1988, Gov. Jim Thompson reported that this system had caught 2,470 felons attempting to purchase a firearm. Can anyone argue that Illinois would have been better off if these individuals had been allowed to purchase a handgun?

Second, the legislation provides a cool-down period for those who attempt to purchase a handgun in a violent rage. All too often, people are killed because someone acted upon an impulse. If these rash reactions had been delayed and the gun purchaser had cooled down, perhaps the deaths could have been avoided.

Another important purpose of this legislation is to ensure that felons cannot go around State waiting period laws by simply purchasing their handgun in a neighboring State that does not have a waiting period. The possibility that felons could purchase a handgun by eluding State laws underscores why, in this instance, national legislation is required.

Some fear that waiting period legislation would create back-door registration of gunowners. Not with this legislation—no permanent record of the gunowner would be kept, as forms filed by the purchaser would be destroyed within 30 days.

The evidence is clear that thousands of people are murdered each year with handguns. In too many tragic instances in which a handgun is used to kill, maim, or wound, like in the shooting of former President Reagan and Jim Brady, a waiting period might have prevented the gun sale.

During the 101st Congress, the Constitution Subcommittee, which I chair, held a hearing on waiting period legislation. We listened to the testimony of many witnesses, including that of Mr. Brady, who as you know, was shot in the head during the attempted assassination of the President. His entire testimony is a dramatic illustration of the need for this legislation. At one point, Mr. Brady said:

> Those members of Congress who oppose a simple seven-day waiting period should try being in my wheels just for one day. * * * I am a southern Illinois boy who grew up hunting and at home with guns. I don't question the rights of responsible gun owners. That is not the issue. The issue is whether the John Hinkleys of the world should be able to walk into a gun store and purchase a handgun instantly.

Waiting period legislation is a reasonable attempt to try to combat this violence. Police organizations around the Nation strongly favor waiting period legislation. I urge my colleagues to do the same.●

RECOGNITION OF THE ACCOMPLISHMENTS OF LEWIS A. SHATTUCK

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 18, commending the accomplishments of Lewis A. Shattuck upon his retirement as president of the Smaller Business Association of New England, submitted earlier today by Senators KERRY and KENNEDY of Massachusetts.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 18) to recognize the accomplishments of Lewis A. Shattuck.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

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

TRIBUTE TO LEWIS A. SHATTUCK

Mr. KERRY. Mr. President, I rise today, along with my distinguished colleague Senator KENNEDY, to honor and pay special tribute to Mr. Lewis A. Shattuck. After 25 years with the Smaller Business Association of New England [SBANE], Lew Shattuck has retired as president of the organization. His accomplishments and contributions to the small business community have distinguished Lew Shattuck as one of the nation's leading small business advocates.

During his tenure at SBANE, Lew Shattuck was one of the Nation's most effective voices for small business. In the early 1980's, he was instrumental in securing passage of Small Business Innovation Research Act, and most recently, lent his support for the new White House Small Business Conference set for 1994. I believe these achievements help illustrate perhaps Lew Shattuck's most significant accomplishment—that small businesses can and should play an active role advancing their concerns and interests in the public policy process.

It is, therefore, with great honor that I submit today a resolution to recognize the accomplishments of this small business champion and to express the gratitude of the U.S. Senate for the important contributions he has made to the economic health of our Nation. Lew Shattuck's achievements serve as a reminder to entrepreneurs to strive and work diligently to make the voice of small business heard.

TRIBUTE TO LEWIS A. SHATTUCK—LEADERSHIP FOR SMALL BUSINESS

Mr. KENNEDY. Mr. President, it is a privilege to pay tribute to Lew Shattuck for his many years of outstanding leadership in the Smaller Business Association of New England. SBANE has benefited immensely from Mr. Shattuck's dedicated service and inspiring guidance for the past quarter century, and all of us who know him are proud of his many contributions.

Throughout his service, Lew has been a strong, respected and eloquent voice for small business in Massachusetts and the Nation. As an organizer of the White House Conference on Small Business, as a participant in the National Advisory Council of the Small Business Administration, and in many other ways, he has been one of the Nation's most respected and effective champions of small business. He has played a central role in helping Congress to address the priorities and concerns of this essential sector of the Nation's economy.

Although Lew Shattuck will leave SBANE at the end of this month, I am confident that his ability and commitment will be available to guide us in the future. Small business continues to be the backbone of New England and the Nation. All of us who have worked with Lew have valued both his leadership and his friendship, and we wish him well in the years ahead.

Mr. MITCHELL. I ask unanimous consent that I be added as a cosponsor of Senate Resolution 18.

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

The question is on agreeing to the resolution.

The resolution (S. Res. 18) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 18

Whereas Lewis A. Shattuck has worked diligently to make the voice of small business heard in the United States business community;

Whereas Lewis A. Shattuck, a respected Massachusetts businessman, is President of the Smaller Business Association of New England;

Whereas the Smaller Business Association of New England has grown from a staff of 2 with 300 members to a staff of 12 with almost 2,000 members under the leadership of Lewis A. Shattuck;

Whereas Lewis A. Shattuck played an instrumental role in the organization and passage of the White House Conference on Small Business; and

Whereas Lewis A. Shattuck has been a strong and effective advocate in creating the Small Business Innovative Research program which extends Federal grant money to small businesses: Now, therefore, be it

Resolved, That the accomplishments of Lewis A. Shattuck, reminding entrepreneurs to strive and work diligently to make the voice of small business heard, are hereby recognized and honored.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Lewis A. Shattuck.

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

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

The motion to lay on the table was agreed to.

MEASURE INDEFINITELY POSTPONED

Mr. MITCHELL. I ask unanimous consent that Calendar No. 3, S. 251, be indefinitely postponed.

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

JOINT SESSION OF THE TWO HOUSES TO RECEIVE A MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 46, now at the desk, to provide for a joint session of Congress to receive a communication from the President.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 46) resolving that the two Houses of Congress assemble in the Hall of the House of Representatives on Tuesday, January 29, 1991, at 9 o'clock post meridiem, for the purpose of receiving such communication as the President of the United States shall be pleased to make to them.

The PRESIDING OFFICER. Is there objection to the immediate consideration of House Concurrent Resolution 46?

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

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 46) was agreed to.

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

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

The motion to lay on the table was agreed to.

JOINT SESSION OF THE TWO HOUSES TO HEAR AN ADDRESS BY THE PRESIDENT OF THE UNITED STATES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join with the like committee on the part of the House of Representatives to escort the President of the United States into the House Chamber for a joint session to be held on Tuesday, January 29, 1991.

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

ORDERS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10:30 a.m., on Friday, January 25; that Friday's session of the Senate be pro forma with no business transacted; that at the close of the pro forma session the Senate stand in recess until 8:30 p.m. on Tuesday, January 29; that following the prayer on Tuesday, the Journal of Proceedings be deemed approved to date and the time for the two leaders be reduced to 5 minutes each; that at 8:40 p.m. the Senate proceed to the Hall of the House of Representatives to receive such communication on the State of the Union as the President of the United States shall be pleased to make to the two Houses of Congress; that dur-

ing the time the Senate is in session on Tuesday and ending when the Senate proceeds to the House at 8:40 p.m., Senators may introduce legislation and submit statements for the RECORD; and that at the conclusion of the joint session in the House Chamber the Senate stand in recess until 10:30 a.m. on Wednesday, January 30; that following the time reserved for the two leaders on Wednesday, there be a period for the transaction of routine morning business not to extend beyond 11 a.m. with Senators permitted to speak for up to 5 minutes each; and that the Senate stand in recess for the two party conferences from 12:30 p.m. until 2:15 p.m.

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

PROGRAM

Mr. MITCHELL. Mr. President, I would like to announce to my colleagues that I intend to proceed to the consideration of S. 238, the agent orange legislation, on which unanimous-consent agreement was obtained yesterday, and I intend to proceed to that legislation at 11 a.m. on Wednesday, January 30.

Mr. President, I ask unanimous consent that the vote on passage of Calendar No. 6, S. 238, the agent orange benefits bill, occur on Wednesday, January 30, beginning at 2:15 p.m.

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

Mr. MITCHELL. Mr. President, I now ask unanimous consent that it now be in order to request the yeas and nays on the passage of S. 238.

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

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

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

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the RECORD remain open today until 4 p.m. for the introduction of bills and statements.

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

Mr. MITCHELL. Mr. President, Senators therefore should now be aware and plan their schedules accordingly that we will take up the agent orange legislation at 11 a.m. on next Wednesday, and that a vote on that bill will occur at 2:15 p.m. on that day, immediately following the respective party caucuses.

RECESS UNTIL TOMORROW

Mr. MITCHELL. Mr. President, if the distinguished acting Republican leader has no further business, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess as under the previous order until 10:30 a.m. on Friday, January 25.

There being no objection, the Senate, at 2:16 p.m., recessed until Friday, January 25, 1991, at 10:30 a.m.