



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 101<sup>st</sup> CONGRESS, SECOND SESSION

## HOUSE OF REPRESENTATIVES—Tuesday, January 23, 1990

The House met at 12 noon.

The SPEAKER. This being the day fixed by Public Law 101-228, 101st Congress, enacted pursuant to the 20th amendment of the Constitution for the meeting of the 2d session of the 101st Congress, the House will be in order.

The prayer will be offered by the Chaplain.

### PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful, O loving God, that we have been given another day to share in the responsibilities of our Nation, to do the works of justice, to seek the qualities of mercy, and to walk humbly with You on the path of life. For honesty to see the problems as they truly are, for courage to speak as we need to speak, for integrity to be what we profess to be, we ask for Your strength, Your pardon, and Your peace. Amen.

### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2364. An act to amend the Rail Passenger Service Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1949. An act to amend the Labor Management Relations Act of 1947 to permit parties engaged in collective bargaining to bargain over the establishment and administration of trust funds to provide financial assistance for employee housing;

S. 1998. An act entitled the "Medicaid Long-Term Care Demonstration Project Waiver Act of 1989"; and

S. 1999. An act to amend the Higher Education Act of 1965 to clarify the administrative procedures of the National Commission

on Responsibilities for Financing Postsecondary Education.

### RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following resignation from the House of Representatives:

HOUSE OF REPRESENTATIVES,  
Washington, DC, December 27, 1989.

Hon. THOMAS FOLEY,  
*Speaker of the House of Representatives,*  
Washington, DC.

DEAR MR. SPEAKER: As you know, I have been elected to the position of Borough President for the Borough of Staten Island, New York City, and will assume the duties of that office on January 1, 1990.

For your information, I am enclosing a copy of a letter of resignation I have sent this day to Governor Mario M. Cuomo. I have sent informational copies of the letter to the Clerk of the House and Sergeant at Arms.

Let me not pass up the opportunity to say that I was pleased to serve with you and that all Members of Congress, Democrats and Republicans, can be proud of the way you've handled yourself as Speaker.

I wish you good health and continued success.

Sincerely yours,

GUY V. MOLINARI,  
*Member of Congress.*

HOUSE OF REPRESENTATIVES,  
Washington, DC, December 27, 1989.

Hon. MARIO M. CUOMO,  
*Governor, State of New York, Albany, NY.*

DEAR GOVERNOR CUOMO: As you know, I have been elected to the office of Borough President of Staten Island and will assume the duties of that office on January 1, 1990.

For the above reason, I hereby resign my position as a Member of the United States House of Representatives from the 14th Congressional District as of midnight December 31, 1989.

Sincerely yours,

GUY V. MOLINARI,  
*Member of Congress.*

### RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following resignation from the House of Representatives:

HOUSE OF REPRESENTATIVES,  
Washington, DC, January 2, 1990.

Hon. THOMAS FOLEY,  
*Speaker of the House, U.S. House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: It is with the deepest regret that I announce my resignation as a Member of Congress representing the 18th Congressional District of New York effective midnight January 7th 1990.

Respectfully,

ROBERT GARCIA,  
*Member of Congress.*

HOUSE OF REPRESENTATIVES,  
Washington, DC, January 2, 1990.

Hon. MARIO CUOMO,  
*Governor, Albany, NY.*

DEAR GOVERNOR: It is with the deepest regret that I announce my resignation as a Member of Congress representing the 18th Congressional District of New York effective midnight January 7th 1990.

Respectfully,

ROBERT GARCIA,  
*Member of Congress.*

### RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following resignation from the House of Representatives:

HOUSE OF REPRESENTATIVES,  
Washington, DC, January 12, 1990.

Hon. THOMAS S. FOLEY,  
*Speaker, U.S. House of Representatives,*  
Washington, DC.

DEAR MR. SPEAKER: On January 16, 1990, at 12:00 noon, I will be sworn in as Governor of the State of New Jersey. I therefore announce my resignation from the House of Representatives effective at 12:00 noon on January 16, 1990.

A copy of this letter of resignation has been delivered to the Clerk of the House and the Sergeant at Arms. A letter of resignation has also been delivered to Governor Thomas Kean of New Jersey.

Sincerely,

JAMES J. FLORIO,  
*Member of Congress.*

HOUSE OF REPRESENTATIVES,  
Washington, DC, January 12, 1990.

Hon. THOMAS H. KEAN,  
*Governor, State of New Jersey, Trenton, NJ.*

DEAR GOVERNOR KEAN: On January 16, 1990, at 12:00 noon, I will be sworn in as Governor of the State of New Jersey. I therefore announce my resignation from

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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the House of Representatives effective at 12:00 noon on January 16, 1990.

A letter of resignation has also been delivered to the Honorable Thomas S. Foley, Speaker of the United States House of Representatives.

Sincerely,

JAMES J. FLORIO,  
Member of Congress.

#### CALL OF THE HOUSE

The SPEAKER. The Clerk will utilize the electronic system to ascertain the presence of a quorum.

Members will record their presence by electronic device.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 1]

Ackerman	de la Garza	Hayes (LA)	McCullum	Pursell	Smith, Robert
Akaka	DeFazio	Hiley	McCurdy	Rahall	(OR)
Alexander	DeLay	Heffner	McEwen	Rangel	Snowe
Anderson	Dellums	Henry	McGrath	Ravenel	Solazr
Andrews	Derrick	Herger	McMillan (NC)	Regula	Solomon
Annunzio	DeWine	Hertel	McMillen (MD)	Rhodes	Spence
Anthony	Dickinson	Hiler	McNulty	Richardson	Staggers
Applegate	Dicks	Hoagland	Meyers	Ridge	Stalings
Armeni	Dingell	Hochbrueckner	Mfume	Rinaldo	Stangeland
Aspin	Dixon	Hopkins	Michel	Ritter	Stark
Atkins	Douglas	Horton	Miller (CA)	Roberts	Stearns
Baker	Downey	Houghton	Miller (OH)	Robinson	Stenholm
Ballenger	Dreier	Hoyer	Miller (WA)	Roe	Stokes
Barnard	Dunean	Hubbard	Mintea	Rogers	Studds
Barton	Durbin	Huckaby	Moakley	Rohrbacker	Stump
Bateman	Dwyer	Hughes	Mollohan	Ros-Lehtinen	Sundquist
Bates	Dymally	Hunter	Montgomery	Rose	Swift
Beilenson	Dyson	Hutto	Moorehead	Rostenkowski	Synar
Bennett	Early	Hyde	Morella	Roth	Tanner
Bentley	Eckart	Inhofe	Morrison (CT)	Roukema	Tauzin
Bereuter	Edwards (CA)	Ireland	Morrison (WA)	Rowland (GA)	Taylor
Bevill	Edwards (OK)	Jacobs	Mrazek	Royal	Thomas (CA)
Bilbray	Emerson	James	Murphy	Russo	Thomas (GA)
Biley	Engel	Johnson (SD)	Myers	Sabo	Thomas (WY)
Boehlert	English	Johnston	Nagle	Saiki	Torricelli
Boggs	Eröreich	Jones (GA)	Oakar	Sangmeister	Traficant
Bonior	Evans	Jones (NC)	Oberstar	Sarpalius	Traxler
Boucher	Fascell	Jontz	Obey	Savage	Udall
Boxer	Fawell	Kanjorski	Pallone	Sawyer	Unsold
Brennan	Fazio	Kasich	Panetta	Saxton	Upton
Brooks	Feighan	Kastenmeier	Parker	Schaefer	Valentine
Broomfield	Fish	Kennedy	Patterson	Schiff	Vento
Browder	Flake	Kennelly	Payne (NJ)	Sangmeister	Viselosky
Brown (CA)	Ford (MI)	Kildee	Payne (VA)	Sarpalius	Volkmer
Brown (CO)	Ford (TN)	Kleczka	Pearce	Savage	Walgreen
Bruce	Frank	Kostmayer	Pelosi	Schroeder	Walden
Bryant	Frenzel	Kyl	Penny	Schutte	Walker
Buechner	Frost	LaFalce	Perkins	Shumer	Walsh
Bunning	Galligly	Lagomarsino	Petri	Skeen	Whittaker
Burton	Gallo	Lancaster	Pickett	Slatery	Whitten
Bustamante	Gaydos	Laughlin	Pickle	Slaughter (NY)	Williams
Byron	Gedjenson	Leach (IA)	Porter	Slaughter (VA)	Wilson
Callahan	Gekas	Leath (TX)	Price	Smith (FL)	Wise
Campbell (CA)	Gephart	Lehman (CA)		Smith (IA)	Wolf
Campbell (CO)	Geren	Lehman (FL)		Smith (NE)	Wolpe
Cardin	Gillmor	Lent		Smith (NJ)	Wyden
Carper	Gilman	Levin (MI)		Smith (TX)	Wylie
Chandler	Gingrich	Levine (CA)		Smith (VT)	Yates
Chapman	Gonzalez	Lewis (CA)		Smith, Denny	Yatron
Clarke	Gordon	Lewis (FL)		Pickle	Young (FL)
Clay	Goss	Lewis (GA)		Porter	
Clement	Gradison	Lightfoot		Smith, Robert	
Clinger	Grandy	Lipinski		Price	
Coleman (TX)	Grant	Livingston			
Collins	Gray	Lloyd			
Combest	Green	Long			
Condit	Guarini	Lowery (CA)			
Conte	Gunderson	Lukens, Thomas			
Conyers	Hall (OH)	Lukens, Donald			
Cooper	Hall (TX)	Machaley			
Costello	Hamilton	Madigan			
Courter	Hammerschmidt	Markey			
Cox	Hancock	Marlenee			
Coyne	Hansen	Martin (IL)			
Craig	Harris	Martin (NY)			
Crockett	Hastert	Matsui			
Dannemeyer	Hatcher	Mavroules			
Darden	Hawkins	Mazzoli			
Davis	Hayes (IL)	McCloskey			

□ 1226

The SPEAKER. On this rollcall, 376 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

#### PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair asks the distinguished gentleman from Texas [Mr. BROOKS] to come forward and lead the House in the Pledge of Allegiance.

Mr. BROOKS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

#### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,  
January 5, 1990.

Hon. THOMAS S. FOLEY,  
The Speaker, U.S. House of Representatives,  
Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the Certificate of Election received from the Honorable William P. Clement, Jr., Governor of Texas certifying that, according to the official returns of the Special Election held on December 9, 1989 the Honorable Craig A. Washington was elected to the Office of the United States Representative in Congress from the Eighteenth Congressional District of Texas.

With great respect, I am

Sincerely yours,

DONNAD K. ANDERSON,  
Clerk, House of Representatives.

#### CERTIFICATE OF ELECTION

In the name and by the authority of the State of Texas this is to certify, that at a special election held on Saturday, December 9, A.D., 1989, Craig A. Washington was duly elected United States Representative, District 18, Unexpired Term.

In testimony whereof, I have hereunto signed my name and caused the Seal of State to be affixed at the City of Austin, this the 13th day of December A.D., 1989.

W.P. CLEMENTS, Jr.,  
Governor of Texas.

#### SWARING IN OF THE HONORABLE CRAIG A. WASHINGTON OF TEXAS AS A MEMBER OF THE HOUSE

The SPEAKER. Will the gentleman from Texas [Mr. WASHINGTON] please face the Chair and raise his right hand.

Mr. WASHINGTON appeared at the bar of the House and took the oath of office.

The SPEAKER. I am delighted to welcome you as a Member of the U.S. House of Representatives.

□ 1230

#### APPRECIATION FOR PRAYER AND CONCERN

(Mr. BROOKS asked and was given permission to address the House for 1 minute.

Mr. BROOKS. Mr. Speaker, I want to thank all of you for the warmth of your reception this morning and also for your caring thoughts and kind words during my bout with pancreatic. I really can't adequately express to you how much your prayers and sympathetic concern have meant to me during this ordeal. Your friendship and words of encouragement were deeply appreciated.

I'm glad to be alive and am grateful to our Dr. Robert Krasner and to the surgical team and staff from Bethesda Naval Hospital, headed by Dr. Duncan Harviel and the dedicated day and night surgeons, Lt. Comdr. Steve Swartz and Lt. Comdr. Mike Nellestein.

INTRODUCTION OF CONGRESSMAN CRAIG  
WASHINGTON

Mr. Speaker, as dean of the Texas delegation, it is my very great honor and distinct privilege to introduce the newest Member of the House of Representatives, the Honorable CRAIG WASHINGTON.

The people of Houston's 18th Congressional District have chosen wisely and have sent to us a man of uncommon ability and enormous energy. He is a lawyer with broad experience who served with distinction, compassion, and judgment in the Texas State House and Senate. I know that his presence in this body will contribute immeasurably to our work on behalf of the people of this Nation.

It is my pleasure to present to you the Honorable CRAIG WASHINGTON.

## MY PLEDGE TO MEMBERS

(Mr. WASHINGTON asked and was given permission to address the House for 1 minute.)

Mr. WASHINGTON. Mr. Speaker, the circumstances, of course, which bring me here are not pleasant. I will spend the rest of my life attempting to make up for the fact that Members lost Mickey Leland. Mickey Leland was a wonderful person. I can never replace Mickey Leland. I am merely his successor. I realize that I live in the shadow of Barbara Jordan and Mickey Leland. However, with your help and with the grace of God, and your prayers, I promise as a 48-year-old man I will spend the rest of my life here as a Member of Congress so that one day we can make something come out of the tragedy that occurred on a side of the hill in Ethiopia.

I have five children, three of whom are here on the floor with me today; my son, Alexander; my daughter, Sydney; who is skirmishing around there somewhere; and my small son Christopher; together with my son Charig, who is 23 years old, and my daughter Shazau.

I want Members to know I am here for them, and I want to be a good Member of Congress. I am not smarter today than I was the day before I was elected, and I am not coming here to try to be king of the Hill. I am at the bottom of the Hill, and I need Members' help, to serve my district, and your prayers and advice, and if God leaves me on the planet and my constituents in the district, I promise to work with Members to make America a better place. God bless America, and God bless Texas.

COMMITTEE TO NOTIFY THE  
PRESIDENT

Mr. GEPHARDT. Mr. Speaker, I offer a privileged resolution (H. Res. 302) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

## H. RES. 302

*Resolved*, That a committee of two Members be appointed by the Speaker on the part of the House of Representatives to join with a committee on the part of the Senate to notify the President of the United States that a quorum of each House has assembled and Congress is ready to receive any communication that he may be pleased to make.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1240

APPOINTMENT AS MEMBERS OF  
COMMITTEE TO NOTIFY THE  
PRESIDENT, PURSUANT TO  
HOUSE RESOLUTION 302

The SPEAKER. The Chair appoints as members of the committee on the part of the House to join a committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled, and that Congress is ready to receive any communication that he may be pleased to make, the gentleman from Missouri [Mr. GEPHARDT] and the gentleman from Illinois [Mr. MICHEL].

## NOTIFICATION TO THE SENATE

Mr. WHITTEN. Mr. Speaker, I offer a privileged resolution (H. Res. 303) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

## H. RES. 303

*Resolved*, That the clerk of the House inform the Senate that a quorum of the House is present and that the House is ready to proceed with business.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## DAILY HOUR OF MEETING

Mr. MOAKLEY. Mr. Speaker, I offer a privileged resolution (H. Res. 304) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

## H. RES. 304

*Resolved*, That until otherwise ordered, the hour of meeting of the House shall be 12 o'clock meridian on Mondays and Tuesdays; 2 o'clock post meridian on Wednesdays; 11 o'clock ante meridian on all other days of the week; up to and including May 15, 1990; and that from May 16, 1990, until the end of the second session, the hour of daily meeting of the House shall be 12 o'clock meridian on Mondays and Tuesdays and 10 o'clock ante meridian on all other days of the week.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION TO INSERT IN THE  
RECORD

CORRESPONDENCE OF THE  
SPEAKER AND THE MINORITY  
LEADER TO THE PRESIDENT  
REGARDING VETO OF HOUSE  
JOINT RESOLUTION 390, AU-  
THORIZING HAND ENROLL-  
MENT OF H.R. 1278, FINANCIAL  
INSTITUTIONS REFORM, RE-  
COVERY AND ENFORCEMENT  
ACT OF 1989, ALONG WITH RE-  
SPONSE FROM THE ATTORNEY  
GENERAL

Mr. MICHEL. Mr. Speaker, I ask unanimous consent to insert in the Record correspondence of the Speaker and myself to the President regarding his veto of House Joint Resolution 390, and the response received from the Attorney General.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The correspondence referred to is as follows:

WASHINGTON, DC,  
November 21, 1989.

Hon. GEORGE BUSH,  
President of the United States, The White  
House, Washington, DC.

DEAR MR. PRESIDENT: This is in response to your action on House Joint Resolution 390. On August 16, 1989, you issued a memorandum of disapproval asserting that you would "prevent H.J. Res. 390 from becoming a law by withholding (your) signature from it." You did not return the bill to the House of Representatives.

House Joint Resolution 390 authorized a "hand enrollment" of H.R. 1278, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, by waiving the requirement that the bill be printed on parchment. The hand enrollment option was requested by the Department of the Treasury to insure that the mounting daily costs of the savings-and-loan crisis could be stemmed by the earliest practicable enactment of H.R. 1278. In the end, a hand enrollment was not necessary since the bill was printed on parchment in time to be presented to you in that form.

We appreciate your judgment that House Joint Resolution 390 was, in the end, unnecessary. We believe, however, that you should communicate any such veto by a message returning the resolution to the Congress since the intrasession pocket veto is constitutionally infirm.

In *Kennedy v. Sampson*, the United States Court of Appeals held that the "pocket veto" is not constitutionally available during an intrasession adjournment of the Congress if a congressional agent is appointed to receive veto messages from the President during such adjournment. 511 F.2d 430 (D.C. Cir. 1974). In the standing rules of the House, the Clerk is duly authorized to receive messages from the President at any time that the House is not in session. (Clause 5, Rule III, Rules of the House of Representatives; House Resolution 5, 101st Congress, January 3, 1989.)

Successive Presidential administrations since 1974 have, in accommodation of *Kennedy v. Sampson*, exercised the veto power during intrasession adjournments only by

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messages returning measures to the Congress.

We therefore find your assertion of a pocket veto power during an intrasession adjournment extremely troublesome. We do not think it constructive to resurrect constitutional controversies long considered as settled, especially without notice or consultation. It is our hope that you might join us in urging the Archivist to assign a public law number to House Joint Resolution 390, and that you might eschew the notion of an intrasession pocket veto power, in appropriate deference to the judicial resolution of that question.

Sincerely,

THOMAS S. FOLEY,  
*Speaker.*

ROBERT H. MICHEL,  
*Republican Leader.*

WASHINGTON, DC,  
January 4, 1990.

Hon. ROBERT H. MICHEL,  
*Minority Leader of the House, House of Representatives, Washington, DC.*

DEAR BOB: The President has asked me to respond to your letter of November 21, 1989, concerning the status of House Joint Resolution 390. While we appreciate your concerns, it is our view that under Article I, Section 7 of the Constitution, the joint resolution did not become a law because Congress, by its adjournment, had prevented the President from returning the resolution with his objections. Accordingly, the Archivist has been instructed not to treat it as a law.

This decision was based on the interpretation of the Pocket Veto Clause that the executive branch has held for many years. That interpretation rests on the Supreme Court's decisions in the *Pocket Veto Case*, 279 U.S. 655 (1929), and *Wright v. United States*, 302 U.S. 583 (1938). This is the position the executive branch espoused in *Burke v. Barnes*, 479 U.S. 361 (1987), although the Court did not reach the merits of the Pocket Veto Clause in that case. Our view on this subject was recently set forth in detail by the Assistant Attorney General for the Office of Legal Counsel. See Testimony Before the Subcommittee on the Legislative Process of the Committee on Rules, House of Representatives, Concerning H.R. 849 (July 26, 1989).

I understand that some confusion has arisen on this point as a result of *Kennedy v. Sampson*, 511 F.2d 430 (D.C. Cir. 1974), in which the court of appeals declined to follow the *Pocket Veto Case*. As the Solicitor General explained in *Burke v. Barnes*, the executive branch believes that *Kennedy v. Sampson* was incorrectly decided. While I realize that there can be good-faith disagreements as to the meaning of the Pocket Veto Clause, this Administration will continue to follow the executive's traditional interpretation, which is fully in accord with the Supreme Court's teaching on the subject.

Sincerely,

DICK THORNBURGH,  
*Attorney General.*

#### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,  
December 1, 1989.  
Hon. THOMAS S. FOLEY,  
*The Speaker, U.S. House of Representatives,  
Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit the returned enrollment of H.R. 2712, together with a memorandum from the President relating to said bill received in my office at 6:40 p.m. on Thursday, November 30, 1989.

With great respect, I am

Sincerely yours,  
DONALD K. ANDERSON,  
*Clerk, House of Representatives.*

#### EMERGENCY CHINESE IMMIGRATION RELIEF ACT OF 1989—MEMORANDUM OF DISAPPROVAL FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-132)

The SPEAKER laid before the House the following memorandum of disapproval from the President of the United States:

##### MEMORANDUM OF DISAPPROVAL

In light of the actions I have taken in June and again today, I am withholding my approval of H.R. 2712, the "Emergency Chinese Immigration Relief Act of 1989." These actions make H.R. 2712 wholly unnecessary.

I share the objectives of the overwhelming majority in the Congress who passed this legislation. Within hours of the events of Tiananmen Square in June, I ordered the Attorney General to ensure that no nationals from the People's Republic of China be deported against their will, and no such nationals have been deported. Since June, my Administration has taken numerous additional and substantive actions to further guarantee this objective.

Today I am extending and broadening these measures to provide the same protections as H.R. 2712. I am directing the Attorney General and the Secretary of State to provide additional protections to persons covered by the Attorney General's June 6th order deferring the enforced departure for nationals of China. These protections will include: (1) irrevocable waiver of the 2-year home country residence requirement which may be exercised until January 1, 1994; (2) assurance of continued lawful immigration status for individuals who were lawfully in the United States on June 5, 1989; (3) authorization for employment of Chinese nationals present in the United States on June 5, 1989; and (4) notice of expiration of nonimmigrant status, rather than institution of deportation proceedings, for individuals eligible for deferral of enforced departure whose nonimmigrant status has expired.

In addition, I have directed that enhanced consideration be provided under the immigration laws for individuals from any country who express a fear of persecution upon return to

their country related to that country's policy of forced abortion or coerced sterilization.

These further actions will provide effectively the same protection as would H.R. 2712 as presented to me on November 21, 1989. Indeed, last June I exercised my authority to provide opportunity for employment to a wider class of Chinese aliens than the statute would have required. My action today provides complete assurance that the United States will provide to Chinese nationals here the protection they deserve.

It has always been my view, and it is my policy as President, that the United States shall not return any person to a country where he or she faces persecution.

I have under current law sufficient authority to provide the necessary relief for Chinese students and others who fear returning to China in the near future. I will continue to exercise vigorously this authority. Waivers granted under this authority will not be revoked.

Maintaining flexibility in administering our productive student and scholar exchange program with China is important. As many as 80,000 Chinese have studied and conducted research in the United States since these exchanges began. I want to see these exchanges continue because it is in the national interest of the United States to promote the exchange of technical skills and ideas between Chinese and Americans. It is my hope that by acting administratively, we will help foster the continuation of these programs.

My actions today accomplish the laudable objectives of the Congress in passing H.R. 2712 while preserving my ability to manage foreign relations. I would note that, with respect to individuals expressing a fear of persecution related to their country's coercive family policies, my actions today provide greater protection than would H.R. 2712 by extending such protection worldwide rather than just to Chinese nationals. Despite my strong support for the basic principles of international family planning, the United States cannot condone any policy involving forced abortion or coercive sterilization.

I deplore the violence and repression employed in the Tiananmen events. I believe that China, as its leaders state, will return to the policy of reform pursued before June 3. I further believe that the Chinese visitors would wish to return to China in those circumstances, in which case I would hope that the knowledge and experience gained by the Chinese visitors temporarily in our country be applied to help promote China's reforms and modernization.

The adjournment of the Congress has prevented my return of H.R. 2712 within the meaning of Article I, section 7, clause 2 of the Constitution. Accordingly, my withholding of approval from the bill precludes its becoming law. *The Pocket Veto Case*, 279 U.S. 655 (1929). Because of the questions raised in opinions issued by the United States Court of Appeals for the District of Columbia Circuit, I am sending H.R. 2712 with my objections to the Clerk of the House of Representatives.

GEORGE BUSH.  
THE WHITE HOUSE, November 30, 1989.

**THE SPEAKER.** The objections of the President will be spread at large upon the Journal, and the memorandum of disapproval and the bill be printed as a House document.

The Chair recognizes the gentleman from Texas [Mr. Brooks].

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that further consideration of the veto of the bill, H.R. 2712, be postponed until Wednesday, January 24, 1990.

**THE SPEAKER.** Is there objection to the request of the gentleman from Texas?

There was no objection.

#### PARLIAMENTARY INQUIRY

Mr. MICHEL. Mr. Speaker, I have a parliamentary inquiry.

**THE SPEAKER.** The gentleman will state his parliamentary inquiry.

Mr. MICHEL. Mr. Speaker, the President in his memorandum of disapproval stated the following:

The adjournment of the Congress has prevented my return of H.R. 2712 within the meaning of article I, section 7, clause 2 of the Constitution. Accordingly, my withholding of approval from the bill precludes its becoming law.

□ 1250

The President then cites the pocket veto case, 279 U.S. 655 (1929), and then, going on quoting the President,

Because of the questions raised in opinions issued by the U.S. Court of Appeals for the District of Columbia circuit, I am sending H.R. 2712 with my objections to the Clerk of the House of Representatives.

Also the President headed his message a "Memorandum of Disapproval," and chose to return it to the Clerk in an unsealed envelope. It was not drafted as a message to the House of Representatives.

Mr. Speaker, I wonder if the Chair could enlighten the House as to the status of the veto.

**THE SPEAKER.** In responding to the parliamentary inquiry of the minority leader, the Chair would note that the enrollment of the bill H.R. 2712 was received at the White House on November 21, 1989, and that the memorandum of disapproval was signed by the President and returned

to the Clerk of the House on November 30, 1989. Thus, pursuant to article I, section 7, clause 2, of the Constitution, the enrolled bill was in fact returned by the President within 10 days—Sundays excepted—after it had been presented to him.

The bill was returned with the President's objections to the House in which it originated, his objections having been entered at large in the Journal, and the House is now in a position to proceed to reconsider the bill.

Both the Congress and the President have demonstrated that Congress did not prevent the return of the bill by its adjournment on November 22, 1989. The Congress demonstrated its position by adopting House Concurrent Resolution 239 on November 22, 1989, which included section 4 reaffirming that the adjournment of either House pursuant to that concurrent resolution shall not prevent the return by the President of any bill presented to him for approval. The President—who received a certified copy of House Concurrent Resolution 239—demonstrated that the Congress did not prevent the bill's return by in fact returning the bill to the originating House through its agent, the Clerk.

The Chair, therefore, is constrained by the mandate of the Constitution and the precedents of the House to permit the House to proceed to reconsider the bill, the objections of the President to the contrary notwithstanding.

The Chair is not ruling on the constitutional prerogatives of the Congress and the President with respect to the exercise of a pocket veto during an intercession sine die adjournment. The Chair is responding only with respect to the responsibility of the Chair and of the House at this time in proceeding to reconsider the bill.

#### EMERGENCY CHINESE IMMIGRATION RELIEF ACT OF 1989

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, as we have already agreed by unanimous consent, the House will consider as the first order of business tomorrow, Wednesday, January 24, disposition of the President's veto of H.R. 2712, the Emergency Chinese Adjustment of Status Facilitation Act.

Mr. Speaker, I intend to offer a motion to refer the bill and the message jointly to the Committee on Foreign Affairs and the Committee on the Judiciary with instructions that the committees consider the merits of the veto in light of events in China since passage of the bill and actions which the President has taken to protect Chinese students in the United States

and promptly report their recommendations back to the House.

The motion I intend to offer is as follows:

#### MOTION TO REFER H.R. 2712 TO TWO COMMITTEES

Mr. Michel moves to refer the bill, H.R. 2712, and the President's Memorandum of Disapproval jointly to the Committee on Foreign Affairs and the Committee on the Judiciary with instructions that the Committees consider the merits of the veto in light of events in China since passage of the bill and actions which the President has taken to protect Chinese students in the United States and promptly report their recommendations back to the House.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I happily yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, I would ask my distinguished friend, under that circumstance would there be 1 hour of time assigned to the gentleman's side?

Mr. MICHEL. The gentleman is correct.

Mr. BROOKS. Would the gentleman from Illinois be amenable to giving 15 minutes to the Committee on the Judiciary and 15 minutes to the Committee on Foreign Affairs?

Mr. MICHEL. Of course.

Mr. BROOKS. We would not take all that time, I imagine.

Mr. MICHEL. And I am sure we certainly will not be taking the whole time either.

Mr. BROOKS. I thank the gentleman from Illinois.

Mr. MICHEL. The questions raised by this measure, just very briefly, Mr. Speaker, go far beyond those of immigration, and go to other measures, and allow me then in my extension of remarks, as I will ask unanimous consent to extend my remarks, to outline the reasons which I believe are in the best interests of our country to refer the bill and the message to the committees for further review in light of the events that have taken place since the bill was passed.

#### REREFERRAL OF H.R. 1641 TO COMMITTEE ON THE JUDICIARY

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the bill (H.R. 1641) to amend the War Claims Act of 1948 to provide for compensation with respect to former members of the Armed Forces of the United States for each day spent during World War II avoiding capture by hostile forces or as underground fighters while unattached to a regular unit of the Armed Forces, be rereferred to the Committee on the Judiciary.

**THE SPEAKER.** Is there objection to the request of the gentleman from Florida?

There was no objection.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will now recognize five Members on each side of the aisle for 1-minute speeches, and then we will continue to recognize Members subsequently in the next hour.

## INTRODUCTION OF LEGISLATION TO OPEN UP ARMY POSITIONS NOW CLOSED TO WOMEN

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, have you seen the Army's latest commercial asking women to be all that they can be? The commercial portrays a woman in communications van obviously handling the communications for maneuvers. Assuming that our enemy is intelligent, that woman would be the first hit in a strike. It's always smart to destroy your enemy's lines of communications first. So let me see if I have this straight. Army policy allows women to be shot first, but they can't be the first to shoot. The logic eludes me.

Today I am introducing a bill that will open up, on a test basis, those Army positions that are now closed to women. The bill, which is based on a 1989 recommendation from the Defense Advisory Committee On Women In The Services [DACOWITS], directs the Army to allow women into all military occupational specialties currently closed to them. The Army will evaluate the effectiveness of the integrated units throughout the 4-year period. We can't know if the objections to women in combat positions are based on more than conjecture until we give women the opportunity to train for and request those assignments.

Over the past weeks, I believe I have heard all the objections to women holding combat positions. They vary from emotional to practical, but the competence of military women's performances as individuals has been already been acknowledged. At the same time, many World War II, Korea, and Vietnam combat veterans write me supporting my proposal. It is pure opinion, at this point, that women can't be effective in combat jobs. The fact is, however, that the combat exclusion policy tends to limit a woman's career opportunities. More importantly, the exclusionary policies deny the military the services of qualified personnel. It is time for military service to be based on qualifications, not gender.

## AMBASSADOR RUTH WASHINGTON

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, Ambassador Ruth Washington, one of my constituents, was a dynamic woman whose career personified devotion to public service. From 1979 until her return to private law practice in 1987, she was one of only two minority women on the Federal bench.

President Bush made a wise choice in appointing Ruth Washington as our Ambassador to Gambia. Ruth's extensive experience and dedication to public service would have been an asset to American diplomacy.

Tragically, this is not to be.

This past Saturday, just a few days before she was scheduled to leave for Africa, the dynamic life of Ruth Washington was snuffed out instantly in an auto accident caused by an intoxicated driver.

Ruth's many friends, admirers, and loved ones in the region of her home town of Hartsdale, NY, and throughout the Nation lovingly referred to Ruth as "the little General". Small in stature but big in heart, Ruth Washington touched many lives. Her untimely death, just as she was about to realize her dreams and apply her full potential, is a tragedy to the nation, and underscores the havoc imposed upon our society by drunk drivers.

I invite my colleagues to join with me in expressing our condolences to Ambassador Ruth Washington's family gathered in Hartsdale, NY.

## THE EDUCATION PRESIDENT IS OPERATING A POLICY OF NEGLECT

(Mr. VISCOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

(Mr. VISCOSKY. Mr. Speaker, in his inaugural address last year, President Bush said: "This is a time when the future seems a door you can walk right through—into a room called Tomorrow." Addressing a joint session of Congress, the President defined the most important "room" as the classroom. He described education as the most important program in terms of American competitiveness, and cited our Nation's drop-out rate and literacy levels as needing improvement.

Unfortunately, if one looks at recent education funding levels, the President's top priority looks like empty rhetoric. For example:

In fiscal year 1989, the Reagan administration education budget was \$18 billion.

In fiscal year 1990, Bush requested \$18.75 billion for education, while Congress appropriated \$19.85 billion.

What dollar value will the "Education President" place on education in this year's State of the Union.

A new study by the Economic Policy Institute concludes that Japan, West Germany, and other industrialized countries spend more on education than we do.

Money alone won't solve our country's problems, but President Bush is operating a policy of neglect.

Maybe there is an important message in the President's inaugural address. He said: "There are times when the future seems thick as a fog; you sit and wait, hoping the mists will lift and reveal the right path."

I urge the President to take decisive action instead of "sitting, waiting, and hoping."

□ 1300

## PETTY, PARTISAN POLITICS

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, here we are back after a nice recess, a chance to visit with our constituents and our families in our districts, a time when everybody is feeling good and we are expecting some comity in this body.

But what do we find? Here on the very first day we are supposed to take up a resolution to commend the fine job that our troops did and are doing in Panama and remember those who paid the ultimate price for liberty by giving their lives in that country. But because some on our side of the aisle felt that we ought to commend the Commander in Chief who had the courage and the resolve to send the troops in the first place, we find the resolution withdrawn. At least that is what we are told. I am hoping that is wrong.

Mr. Speaker, I am hoping that it will be brought back, because if it is any wonder why this body is held in such low esteem by the American public, it is actions such as this, petty, partisan politics.

The people expect us to get along and to carry out the Nation's business, not indulge in petty, partisan politics.

## STATE OF THE UNION MESSAGE SHOULD SHOW REAL COMMITMENT TO COMBATING DRUG CRISIS

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, the Congress is back to work. The President is preparing his State of the Union Message, and as he prepares to address the country next week, we can all look for-

ward to a stronger commitment to fighting drugs.

Yes, the demand side is vital. The Government spends billions of dollars on necessary law enforcement and drug interdiction, but quick treatment for those seeking help is also essential if this Government does not yet have a goal of a treatment slot for every person needing one.

Likewise, drug education must be a top priority since inoculating a child with education can prevent the widening of the drug epidemic.

I hope the President also addresses another great need in his State of the Union Message: spending billions means nothing without tight coordination of these resources, but efforts to fight the drug wars are still being undercut by the turf wars among Federal agencies.

Mr. Speaker, the American people need the State of the Union Message to show a genuine commitment to combating the growing drug problem, providing real aid to the Andean nations fighting coca growing, guaranteeing complete availability of treatment, beefing up education in schools.

The American people look to the State of the Union Message to show real commitment to combating a very real crisis.

#### COMMENDATION TO THREE MAJOR TV AFFILIATES IN DALLAS-FORT WORTH AREA

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, I rise today to commend the three major television affiliates in the Dallas-Fort Worth area: channel 8, ABC, WFAA; channel 4, CBS, KDFW; and channel 5, NBC, KXAS.

This evening they are going to jointly televise live in prime time a 2-hour special about the drug problems in the Fort Worth-Dallas area. There will be no commercial interruptions. They have all agreed to lose the revenue from commercials that they would have obtained had they televised their regular schedule.

Mr. Speaker, this idea is originally the idea of Dave Lane, general manager of channel 8 in Dallas, but the other two network affiliates agreed very happily to this proposal.

We do have a drug problem in this country. We do have a drug problem in the great State of Texas. We do have a drug problem in the Fort Worth-Dallas area. But we are doing something about our drug problem.

I want to commend the three major television affiliates in the Fort Worth-Dallas area for being part of the solution and not part of the problem.

#### PRESENT HONEST PROPOSALS TO THE AMERICAN PEOPLE

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute.)

Mr. TORRICELLI. Mr. Speaker, it is as if the American people and President Bush have a special compact. The President pretends to tell us the truth about the economic, social, and fiscal state of our Union, and the American people pretend to believe him.

There are, after all, no substantive proposals from the administration to improve the quality of education in our Nation, but the public believes he is the education President. American health care is declining in access, but people are convinced that he is a caring and compassionate man. The administration proposes to oppose strengthening clean air in America, but the public believes that he is an education leader to be trusted.

As this second session of our Congress convenes again, many in the Congress will become frustrated, but our strategy must be clear. In the State of the Union, the President will once again practice the politics of promising. This Congress must practice the politics of a different sort. Perform. Practice honest proposals before the American people and trust that the American people will recognize the difference.

#### THE MAN-MADE DISASTER IN THE NORTHEAST

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, in December and earlier this month, a man-made disaster wreaked havoc on my region affecting some families as hurricane or earthquake would. It was a disaster that ripped at the necessities of life, forcing low-income people deeper into poverty and straining the family budgets of everyone.

This disaster was the unprecedented leap in prices of home heating oil. In 1 month, the price skyrocketed 52 percent in Massachusetts; 51 percent in Philadelphia; 45 percent in Baltimore; and 49 percent here in Washington, DC.

It was wanton greed, uncontrolled gluttony on the part of "Big Oil."

When elderly people and young families were struggling to heat their homes during a severe cold spell, "Big Oil" was engaged in a record-breaking price-gouging binge that was nothing less than immoral.

Despite the warmer weather, my people are still hurting. Fuel assistance allotments are running dry, and there's still no assurance that a similar disaster will not happen again.

In response to this disaster, I will introduce today, a comprehensive legislative package designed to address past actions, the present crisis, and the future.

Mr. Speaker, I urge all my colleagues to join me in cosponsoring this legislation. This crisis for many is not yet over.

Mr. Speaker, I might say that "Big Oil" made more money in 1 week on this raise of home heating oil than it would take to clean up the whole Valdez spill for Exxon. It is a crime.

#### BOOT CAMP LEGISLATION

(Mr. CHAPMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHAPMAN. Mr. Speaker, we are all interested in fighting the war against drugs, yet despite the billions of dollars in appropriations and authorizations, it seems we just keep losing. I think it is time that we explore new avenues to address the drug problem.

One of the things that we can do is to try to break the revolving door of arrests, convictions, and rearrests that we find with many youthful drug offenders. Therefore, today I am introducing legislation that will establish a new type of sentencing alternative, one that I hope will break this chain of recidivism and one that will be a cost-effective alternative to conventional prisons.

We are told that new prison beds cost \$50,000 apiece. I propose that, not unlike a military boot camp, we install a demonstration project at the Federal level in four locations in this country as a way to relieve the overcrowded prison situation and hopefully address the war on drugs. This would be an alternative for first-time offenders and youthful offenders, primarily drug offenders, that would have hopefully education, rehabilitation, and reconstruction of young lives as its primary alternative.

Mr. Speaker, the emphasis would not only be on punishment but also on creating self-esteem and values that would make youthful offenders again productive citizens of society. I believe this kind of boot camp, if you will, demonstration project at the Federal level can provide valuable experience for us as well as the States on one way to address constructively this drug problem.

Mr. Speaker, I invite my colleagues to cosponsor this legislation.

#### EDUCATION SPENDING

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, to paraphrase a popular saying, there are lies, "darn" lies, and statistics. And last week we saw plastered all over the media one of the most outrageous examples of statistical chicanery to come along in years. I refer to the so-called study that purported to show that the United States spends less money on elementary and secondary education than most other industrialized nations.

Now, there is just one little problem with that conclusion: it is false. Our actual spending per pupil is among the highest in the world, far ahead of Japan, West Germany, France, or England. It is true that our spending is lower as a percentage of our national income, as the so-called study said, but that is simply because we are richer than those other countries. It is an absurd standard of comparison. A richer country can spend a lower percentage of its income and still spend more actual dollars, as we do.

Now it is one thing to argue that we can not spend our dollars more efficiently so we need to spend even more for one reason or another. But you can not argue that other countries get better results because they spend more than we do when the truth is that they actually spend less.

□ 1310

#### REPORT OF COMMITTEE TO NOTIFY THE PRESIDENT

Mr. GEPHARDT. Mr. Speaker, the committee to report to the President is ready to report.

Mr. Speaker, the committee reports that the call was made to the President of the United States. We informed the President that a quorum has been formed in the House of Representatives and we are ready to do the business of the year.

The committee also received the message from the President that he intends to make his State of the Union speech on Wednesday, January 31, at 9 p.m.

Mr. MICHEL. Mr. Speaker, may I also say the President made a special point of saying, as we Republicans have to say in the minority, that we will be reaching across the aisle to attempt as best we can to work together on the very important issues that all Members have to deal with, and the President is looking forward to this upcoming session of the Congress.

The SPEAKER. The Chair thanks the committee for its report and service.

#### JOINT SESSION OF CONGRESS—STATE OF THE UNION ADDRESS

Mr. GEPHARDT. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 242) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 242

*Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Wednesday, January 31, 1990, 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 concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

#### DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON TOMORROW, WEDNESDAY, JANUARY 24, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order on Calendar Wednesday of this week may be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

#### ADJOURNMENT FROM THURSDAY, JANUARY 25, 1990, TO MONDAY, JANUARY 29, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Thursday, January 25, 1990, it adjourn to meet at noon on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

#### COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER laid before the House the following communication from the Chairman of the Committee on Public Works and Transportation, which was read and referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, U.S. HOUSE OF REPRESENTATIVES, Washington, DC, November 20, 1989.

Hon. THOMAS S. FOLEY,  
*The Speaker, U.S. House of Representatives,*  
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, the House Committee on Public Works and Transportation approved the following projects on November 17, 1989:

##### 11(B) RESOLUTIONS

San Diego/Orange County, California.  
Northwest, Indiana.

Pentagon, Arlington, Virginia.

##### EMERGENCY REPAIR RESOLUTION

Federal buildings damaged as a result of Hurricane Hugo and the Loma Prieta Earthquake.

##### CONSTRUCTION

Monterey, California.

#### LEASES

Department of Veterans Affairs, Anchorage, Alaska.

Multiple Agencies, 500 C Street, SW., Washington, DC.

National Labor Relations Board, Replacement for Penn 17 Building, Washington, DC.

Department of Justice—Immigration & Naturalization Service, Chicago, Illinois

Library of Congress, 1291 Taylor Street, NW., Washington, DC.

Department of State, Nash Street Building, Arlington, Virginia.

Multiple Agencies, Ballston Center Tower One, Arlington, Virginia.

The original and one copy of the authorizing resolution is enclosed.

Sincerely,

GLENN M. ANDERSON,  
*Chairman.*

#### INTRODUCTION OF EMERGENCY LOW-INCOME HEATING ASSISTANCE PROGRAM APPROPRIATIONS BILL

(Mr. BRENNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRENNAN. Mr. Speaker, I know my colleagues are aware of the recent home heating oil crisis—where prices doubled and tripled almost overnight during a severe cold wave. As temperatures fell, many families faced the difficult choice of whether to heat or eat.

I have received hundreds of calls and letters from people who are both scared and angry—people who have seen the price of home heating oil jump in my State of Maine from 52 cents to over \$1.50 per gallon.

These people are scared because they've spent all of their winter heating money, and it's only January. They are angry because it looks like someone has made a huge profit on their misery—indeed held them hostage to their basic need for heat.

What can we do to help?

One thing we can do is we can approve an emergency appropriation to the low-income heating assistance program, before another cold front hits. I am introducing a bill which would direct an additional \$200 million to those States hit hardest by cold weather and skyrocketing prices.

Please join with me as cosponsors of this important, emergency legislation.

#### ABORTION IS CHILD ABUSE

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, yesterday, 75,000 Americans marched for life here in Washington to end abortion on demand. About 300 pro-life marches were also held in the several States.

While it is true that the abortionists cloak their killing in the language of

humanitarianism and basic rights, the fact of the matter is that abortion is child abuse. Children who suffer this abuse are cut and dismembered and millions have been killed by injections of poison. This is not an issue of choice or "who decides." This is an issue of child abuse. And that is not a matter of choice in a civilized society.

Mr. Speaker, just as the Berlin Wall wasn't destroyed in a day, but instead was the result of years of prayer, fasting, activism, and dissent, the formidable wall of ignorance, apathy, and prejudice against unborn babies, likewise, will be toppled incrementally, and is even now coming down brick by brick. Like the wall in Berlin, this wall too shall fall. Just as it is the students in the Soviet Union and Eastern Europe who are in the vanguard of those fighting for freedom and democracy, yesterday's march made it clear that it is our youth who are in the lead in defending innocent life.

Mr. Speaker, I believe that the decade of the 1990's will be the decade of the unborn child. The weak and the vulnerable among us will be reenfranchised in law and give fresh meaning to the proposition that all men and women are created equal, endowed with the inalienable right to life.

As Congress begins a new session today, we are fully prepared for a bumpy ride. That's part of the process of reform. There may even be some setbacks along the way. That will only deepen our resolve and commitment. In the end social justice will prevail and we will win.

#### GRAMM-RUDMAN-HOLLINGS—A TURKEY THAT SHOULD BE SHOT DOWN

Mr. TRAFICANT. Mr. Speaker, we cannot see it, we cannot hear it, we cannot feel it. We cannot even detect it on radar. I am not talking about the B-2 bomber today, I am talking about Gramm-Rudman-Hollings. It is about as effective as placing a stop sign at the Indy 500. It has done absolutely nothing. Now it is beginning to rip off the Social Security trust fund.

Mr. Speaker, I plan to introduce legislation this week that would simply repeal Gramm-Rudman-Hollings. It is a turkey that should be shot down. The American people cannot vote for the Director of the Office of Management and Budget. They vote for us. It is our job to straighten this out.

Mr. Speaker, we started Gramm-Rudman with a \$200 billion deficit. Today we have a \$204 billion deficit and a bunch of IOU's in the Social Security account. Think about it.

#### THANKS, "COLUMBIA," FOR A JOB WELL DONE

(Mr. VOLKMER asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, it is with a great deal of pride that I congratulate the crew and all of NASA for the success of the just-completed flight of space shuttle *Columbia*. This record-setting flight ended Saturday with a remarkable night-time touchdown.

We can all be proud of the extraordinary recovery our space program has experienced in the last 3 years. And this latest flight adds another dimension to that success.

This was the longest flight by a shuttle—11 days. This was the heaviest load in shuttle history—115 tons at touchdown. But possibly the most remarkable aspect of this flight was the capture of an 11-ton satellite which was then returned to Earth in the shuttle's cargo bay.

Those of us who have been early and constant supporters of the space program and specifically the shuttle projects watched with pride as the five members of the shuttle crew performed perfectly.

My congratulations go to the crew members and those on the ground who once again have proven to the Nation and to the world that America's superiority in space has been regained. Thanks *Columbia* for a job well done.

□ 1320

#### PRESIDENT CRISTIANI STOOD UP TO BOTH THE LEFT AND RIGHT IN EL SALVADOR

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, when one thinks of all the developments which have taken place since we adjourned last November 22 there are many issues which could be discussed; of course successfully getting rid of that narco-military dictator Manuel A. Noriega in Panama, seeing the crumbling of the Eastern bloc and of course a wide range of domestic issues.

But I would like to on this first day of the second session of the 101st Congress say that I believe one of the most important developments which took place during the congressional recess was taken by the duly elected President of El Salvador, a man who represents the first transition from one democratically elected government to another in the history of that country. What he did, Mr. Speaker, was he very clearly stood up to both the left and the right by working to bring to justice those who are responsible for the tragic massacre of Father Ignacio Ellacuria and the five other Jesuits.

We need to provide firm and strong support to President Cristiani and this fledgling democracy.

#### THE HOUSE SHOULD OVERWHELMINGLY OVERRIDE THE PRESIDENT'S VETO

(Mr. MORRISON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORRISON of Connecticut. Mr. Speaker, tomorrow this House will vote on an override of the President's veto of legislation to provide protection for Chinese students here in the United States.

I urge my colleagues to overwhelmingly vote in favor of this legislation which passed the House in November by a vote of 403 to 0.

This is not just routine immigration legislation; this is human rights legislation and we must answer for America the question of which side are we on?

The President has lost his way. He has kowtowed to the killers in Beijing. He has forgotten that the proud flag of America stands for human rights and democracy. This legislation stands for that proud tradition and those proud values.

We, the Congress, must speak on behalf of the American people and teach the lesson that in a democracy wrong decisions by the leader can be redressed.

We have accountability; it is the accountability we were sent here to bring to our Government.

On behalf of the people of the United States the House should overwhelmingly say to the Chinese students and the Chinese people, "We believe that the future of China lies in democracy and freedom and we stand up for that future."

#### DECISION TO ORDER 27,000 ARMED TROOPS INTO PANAMA MAY HAVE BEEN AN ACT OF WAR

(Mr. BATES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BATES. Mr. Speaker, amid the debate on the President's decision to send troops to Panama we must, I think, question the manner in which that decision was carried out. Were the appropriate articles of the Constitution considered and followed when the decision was made to invade Panama? The power to declare war is granted solely to the Congress of the United States by the Constitution. If existing conditions protecting this right are inadequate, additional measures must be developed and certainly the War Powers Act is inadequate.

The decision to order 27,000 armed troops into a foreign nation I think clearly was an act of war. It is the type of situation the framers of the Constitution felt needed the caution and restraint of a legislative debate.

We as Members of Congress must examine the adequacy of these checks and balances to ensure that they are carried out.

#### CHINESE JUSTICE: SWIFT, HARSH, AND CONTROLLED BY PARTY

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous material.)

Mr. HOAGLAND. Mr. Speaker, a recent article that appeared in the Omaha World Herald, which I ask be made a part of the Record, describes a system of justice in China.

Let me tell you how that system of justice works. It tells of 31 men accused of crime being brought into a stadium in China full of 30,000 people. The charges were read with respect to each individual; he was pronounced guilty and a short while later in a field behind the stadium he was summarily executed with a bullet in his head by a policeman.

Now, colleagues, the observer who wrote the article relates that after the Tiananmen Square incident, scores of pro-democracy supporters were given justice in the same fashion and were executed.

Now by removing the statutory guarantee, President Bush's veto could require that thousands of Chinese students currently studying in America could be required to return to China to face this kind of justice, to face this kind of justice. His veto, colleagues, was inexplicable, absolutely inexplicable, as Congressman MORRISON said, he has lost his way.

Mr. Speaker, I would urge you to overwhelmingly vote to override the veto tomorrow.

The article referred to is as follows:

[From the Omaha World Herald, Jan. 21, 1990]

#### CHINESE JUSTICE: SWIFT, HARSH AND CONTROLLED BY PARTY

Beijing—More than 30,000 Chinese men, women and children looked on as 31 men in uniform paraded before them at a football stadium in the southern port city of Guangzhou.

The men were not football players, and this was no game.

The uniforms were drab prison garb, and what was taking place in this stadium Jan. 11 was a trial, what the Chinese call a "mass rally to pronounce judgment."

Each man stepped forward as his name was called out along with the charges against him: rape, murder, robbery. All were pronounced guilty.

Moments later, in a field behind the stadium, the men knelt and a policeman shot

them with a pistol, one by one, in the back of the head.

This exercise by the Guangzhou Intermediate People's Court was a dramatic example of criminal justice, Chinese-style. It is the method the Communist Party here has used for decades against common criminals.

#### LITTLE CHANGE

It took place on the same day that authorities in Beijing lifted martial law, which had been imposed last June at the time of the crackdown on China's pro-democracy movement. And it helps to explain why analysts believe that the lifting of martial law has little meaning.

"When you look at the power already in the hands of the party here, such as the death penalty, mass trial and the absence of the rule of law, you realize why so many people are saying that the martial law debate is purely superficial," a foreign scholar in Beijing said.

It is not clear how many criminals have been put to death in recent years. In its last official report on the subject, the New China News Agency said that 10,000 people had been executed in the four years ending in June 1987.

China's senior judicial official announced this month that 144,900 criminals had been given sentences ranging from life imprisonment to execution between January and November of last year. He did not specify how many had been executed.

Every month since then, the state news agency has reported at least one mass "people's trial" and execution for crimes ranging from petty theft to murder.

After the June massacre of pro-democracy demonstrators, scores of suspected leaders and supporters of the movement were brought before people's courts and executed.

#### SIX VICES

In recent weeks, dozens of people have been put to death as part of a nationwide crackdown on the so-called six vices: prostitution, pornography, gambling, drugs, selling women and children and "profiting through superstition."

The crackdown has been so sweeping that authorities have reportedly put to death the keepers of cricket-fighting dens in Shanghai. Cricket-fighting, as popular here as cockfighting elsewhere, is outlawed, yet it continues to flourish, and gamblers continue to wage huge sums on it.

Have China's harsh sentences had a deterrent effect?

The government boasted this month that China has the world's lowest crime rate, saying that there are six crimes per 10,000 people in China compared with 515 in the United States and 106 in the Soviet Union.

Most foreigners in Beijing support the claim that China is among the world's safest countries. A diplomat said he never locks his car "because anyone who tried to steal it would be blown away by the police within hours."

"Now I consider that a deterrent," he added.

#### HONORING THOSE WHO GAVE THEIR LIVES IN PANAMA

(Mrs. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LLOYD. Mr. Speaker I rise in respect for the military personnel who

lost their lives during Operation Just Cause in Panama.

It would be very easy to stand before this body and remark upon the cause for which 23 Americans gave their lives. They responded unselfishly to a call by the President and the American people to protect the lives of Americans in Panama, to bring a vicious, drug-running dictator to justice, and to advance freedom and democracy in Panama. These are all noble causes and those who fought and died for them deserve recognition for their most supreme sacrifice.

However, no matter how glorious the cause, no matter how willing the sacrifice, no matter how high the honor, there is no joy in death, only tragedy. Any time men and women must serve and die, even if such action and sacrifice are justified, is a time of sadness. Every human life is precious. Nowhere is this better understood than among the families of the 23 men who died in Panama. My prayers, and I am sure those of the Nation, are with them in their time of suffering.

The Nation must also recognize and pray for the speedy recovery of those who were wounded during Operation Just Cause.

#### PETROLEUM PROFITEERS RAISE PRICES AT EVERY LITTLE OPPORTUNITY

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, last Saturday my colleague, JIM TRAFICANT, and I met with 650 very angry truckers. These are independent owner-operators, entrepreneurs who are trying to make a living delivering America's productivity.

They are mad as hell because they have no control whatsoever over the price of oil and they are at the mercy of the petroleum profiteers who raise prices at every little opportunity and flimsy excuse.

Now I have seen the tax forms of some of these truckers who showed it to me and I can show you that some of them, for this past year and past two years, have netted maybe \$4,000, \$5,000, maybe \$6,000 or \$7,000.

They cannot raise their families, feed their families, or clothe them on that kind of money.

Now, Mr. Speaker, I have heard people say, "Get out of the business and get into something that you can make some money." Well, who is going to deliver the goods then?

If so, then watch the prices of your goods go up. You pay for the petroleum profiteers. What we need to look at perhaps is deregulation of that industry to try to stabilize the cost of fuel, rates, and safety standards.

**TAMPERING WITH THE SOCIAL SECURITY SYSTEM**

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, as we enter this new second part of the session I want to caution my colleagues to beware of those who want to once again tamper with the Social Security system. There is an effort on part of some to privatize Social Security.

Well, Social Security does not belong to them; it belongs to the people of this country. It is paid for by employers and employees and a trust fund that truly belongs to the people. It is the cornerstone of economic security for disabled and elderly people and has been for more than 50 years, and it now has a huge surplus.

□ 1330

Maybe that is why they want to privatize it. What we ought to be doing, Mr. Speaker, is take it out of the budget.

That is why today, because we want to defeat this effort, I am introducing a sense of the House, urging the House to resist and defeat recent efforts to privatize the Social Security Program. If Members want to protect Social Security, cosponsor my sense of the House resolution.

Mr. Speaker, I am introducing today a sense of the House resolution which urges the House to resist and defeat any proposal to privatize the Social Security Program. I urge all of my colleagues to cosponsor this important resolution.

As we all know, the debate over the misuse of the Social Security trust fund reserves to hide the true size of the Federal budget deficit has finally come to the forefront of public debate. Along with Congressman DORGAN, I have labored for almost 3 years to alert my colleagues to this impending budget and social policy disaster and to urge the Congress and the President to stop this dishonest practice. Make no mistake about it: We are lying to the American public when we tell them we are using money from their incomes to fund their retirement and, then, use that money for general Government operations instead. This hidden policy is wrong, it is dishonest and it is destabilizing to the most important, popular, and intelligent Government action of the last 50 years.

Mr. Speaker, efforts to take advantage of the Social Security debate to privatize the Social Security system will only serve to destroy the most important social contract between Government and the people. Privatization will weaken the public's faith in our ability to keep our word and to maintain a financially secure Social Security system.

The answer to the problem is the same today as it has been for the last 3 years—change the budget deficit calculations and leave the trust fund reserves alone. The 1983 bipartisan agreement to secure the funding of the Social Security system and create the all-important reserves for future generations was

the correct policy in 1983 and it is working today. In short, if it ain't broke, don't fix it.

Again, I urge all of my colleagues to cosponsor my resolution which resists the privatization of the Social Security system.

**IN MEMORY OF BRAVE SERVICEMEN**

(Mr. EVANS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS. Mr. Speaker, tomorrow we will consider a resolution saluting our brave servicemen who lost their lives or were wounded during the military operation in Panama.

One of the fallen was Pfc. Scott Roth. Scott was a military policeman at Fort Hood, TX, who was stationed in Panama. He was also my constituent, coming from the town of Milan, IL. Unfortunately, people too often forget about the sacrifices that soldiers like Scott Roth have made. Scott's father, Gary Roth, knows this fact too well.

Mr. Roth recently spoke about an incident that brought this fact particularly close to home. He said that two coworkers had complained to him about missing part of a college basketball game because the broadcast was interrupted by the news that General Noriega had been apprehended. It had only been 15 days since the death of Scott Roth. Yet, Mr. Roth's coworkers had already forgotten.

Because of this, Gary Roth has a dream to build a memorial to commemorate the servicemen who lost their lives in Panama. As we consider this resolution, I hope that we can all join in and help make Gary Roth's idea a reality. For all the soldiers who lost their lives in Panama, it is the least we can do.

**OPPORTUNITY TO EXTEND GOOD WILL**

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, since this House adjourned in November, just before Thanksgiving, and today, there has been an absolute revolution in the face of Eastern Europe, and indeed, in the face of the Soviet Union, with Mr. Gorbachev now saying that individual nationality groups can secede from the U.S.S.R.

This opens some marvelous, some breathtaking windows of opportunity for our country to extend the hands of good will, to extend some aid to those five countries in the Eastern bloc: Poland, Hungary, Czechoslovakia, Bulgaria, and Romania. They have finally followed our preachings for the last 40 years and have rejected communism and are espousing democratic free

market systems. What a glorious opportunity.

Yet, Mr. Speaker, when we have a President who says, "Read my lips, no new taxes," we are force constrained to react in a pusillanimous and faint-hearted way to these glorious opportunities. We have offered Poland and Hungary a little over \$600 million this year; West Germany, with one-fifth of our population has offered them \$2 billion, and Japan with just about half of our population has offered them \$1.4 billion. Therefore, we are in danger, as long as we stick to the business of saying "we cannot do it, we do not want to do it," we are in danger of trivializing ourselves.

Just after World War II during the Marshall Plan era we gave 3.2 percent of our GNP to foreign aid. It was a glorious era. Today we are giving one-tenth of that amount.

Shamefully, the United States is now 15th in the world in per capita overseas development assistance, at a paltry \$40 per person per year. By contrast, Norwegians give \$236 annually, more than five times the United States rate.

In fact, all the Scandinavian countries, and France too, give more than \$123 annually per capita, but the United States can manage less than a third of this rate. Canada, our neighbor to the north, gives foreign aid at more than twice the United States rate. Is it any wonder we are viewed around the world as a muscle-bound giant?

**IN SUPPORT OF CHINESE PRO-DEMOCRACY DEMONSTRATORS**

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, within days of the Tiananmen Square massacre last June, Congress placed itself squarely on the side of democracy and human rights in China. As reports of mass arrests and secret executions spread, the Congress moved to enact stringent sanctions against the hard-line government in Beijing.

President Bush, however, was moving in just the opposite direction, both publicly and privately. In public he rushed to relax his half-hearted sanctions, and in secret, he sent his top advisers to confer with the killers of the prodemocracy demonstrators.

The President's most shameful kowtow to the Chinese leadership was his veto of the bill introduced by the gentlewoman from California [Ms. PELOSI], a bill to protect Chinese students from sure persecution they will face if forced to return to China. He attempts to throw dust in the eyes of the American people by proposing an

insufficient administrative alternative to the congressional bill.

If President Bush believes that Congress has forgotten his callous disregard for these brave Chinese students, he will learn otherwise. Most certainly, his veto should be and will be overridden in the House tomorrow. I urge my colleagues to join the effort to reverse the President's wrong-headed policy in China by voting to override his veto.

#### **HALT ABUSES WITH LEVERAGED BUYOUTS**

(Mr. DARREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DARREN. Mr. Speaker, as we begin the 1990's, it is time for the corporate community to reject the old success at any price mentality which led many businesses to ruin and their employees to the ranks of the unemployed as the result of leveraged buyouts.

While some see LBO's as opportunities to increase profits and to restructure the company, in fact, these transactions have left thousands of workers without protection, incurred a huge debt, and placed related industries and financial markets at great risk.

These corporate acquisitions, which rely on loans secured by the stockholders' assets, have increased dramatically since 1981. There were 99 LBO's in 1981 with a reported total value of \$3 billion. In 1988 there were 318 LBO's with a reported total value of \$43 billion.

I do not believe our Government can continue to condone these large and risky transactions without serious damage to our economy. Over the next few weeks, I will be bringing to the House's attention the many offensive and destructive aspects of this so-called restructuring. I believe we must take prompt action to halt the abuses associated with leveraged buyouts.

#### **THE GROWING SOCIAL SECURITY TRUST FUND SURPLUS**

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, it seems appropriate at this time to ask the question—what is the biggest game this year? Here is a hint: It is not the football contest being waged on Sunday in New Orleans. It is the childish game that is being played daily here in Washington. Day after day, we continue to allow the Bush administration to hide behind the growing surplus in the Social Security trust fund rather than facing the reality that in all other accounts the budget deficit in 1990 is not \$141 billion but

closer to \$206 billion. It is clear that the administration intends to continue to allow Social Security revenues to mask the deficit and further use the Social Security payroll tax as an ongoing source of funding for the general budget. Those Social Security funds were not intended to be used for a purpose other than protecting the retirement income of upcoming generations of retirees.

We can put an end to this "great budget charade of the 1980's," and return to honest budgeting. We can move ahead with legislation, which I am introducing today, that rescinds the Social Security payroll tax increase that went into effect on January 1 and reduces the FICA tax to 5.1 percent in 1991. By returning the Social Security System to pay-as-you-go financing, we can remove the temptation to use those funds for other purposes. And we can put additional dollars in the pockets of American workers.

A reduction in the payroll tax is a dramatic and controversial step, but it sends a clear message to the President that the game is over and we all know the score. Unless we face the deficit honestly, American taxpayers—both now and in the future—will be the real losers.

#### **INDIVIDUAL SOCIAL SECURITY RETIREMENT ACCOUNTS**

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, the senior Senator from New York dropped a bomb on Congress when he announced his plan to eliminate surpluses in the Social Security trust fund by cutting the payroll tax rate. He's right that we have to make sure that Congress doesn't continue to use this money to cover its deficits or spend it on new programs. But he's dead wrong about cutting the tax rate. That would gut the trust fund and imperil the retirement benefits of today's workers.

What we need to do is to make the trust fund immune from political temptation and save the reserve for future retirees. The way to do this is to refund annually the portion of the reserve not needed for current benefits into individual Social Security retirement accounts for every American worker.

Workers would own these accounts, invest and reinvest them in safe investments and have them available upon retirement for a portion of their retirement benefits. Congress could not get its hands on the money, the retirement of future workers would be protected, and we would build a tremendous base of savings and investment under our economy that would

lower interest rates, promote economic expansion and give every American worker a financial stake in the success of our economy.

We should take Social Security out of the reach of Congress. But we should also protect the reserve, not consume it. This proposal will accomplish both.

#### **A TROUBLESOME DROP IN CORPORATE RESEARCH FUNDING**

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, the New York Times carries an interesting story today about corporate research funding. It is down by nine-tenths of 1 percent, 1989 from 1988. That is the first time there has been a drop in corporate research since 1975.

There is an interesting comment from a vice president of Xerox, and I quote from that comment:

We have moved from research and development as being a corporate asset to where it is what a corporate raider looks for first. They can make significant cuts and get cash flow. I haven't seen a takeover yet where they increased a research and development activities.

What is perhaps more troublesome here is that the trend here is very different than that in Japan. Since 1987, that is, the year for which we have the most recent figures, the rate of increase in Japan in research was three times that for the United States companies. There is some complexity in issue, but one thing is clear and simple—the drop in the rate of increase in corporate research is another warning flag to the United States that we had better wake up from our complacency.

#### **TRIBUTE TO MARTIN J. JOHNSON**

(Mr. CALLAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CALLAHAN. Mr. Speaker, I rise to extol the exemplary public service of my constituent, Martin J. Johnson, and to congratulate him on his recent retirement.

Martin Johnson began his service with the Federal Government in January, 1935, and retired in January, 1990—55 years of civil service that is probably a record. In 1936, Mr. Johnson transferred from the Veterans' Administration to the new Social Security Board. He assumed the position of District Manager in Tuscaloosa in 1937 and became District Manager in Mobile in 1947, the job he remained in until his retirement. He was the senior District Manager for the Nation for many years and has the longest period

of service as a District Manager in one location in the Social Security administration's history.

Martin Johnson represents everything a civil servant should be—he is dedicated, knowledgeable, and compassionate. I have always boasted that Mobile has the best Social Security office in the Nation, and that is because of the sincere personal attention Martin Johnson gave to all those with whom he came in contact.

I would be remiss if I did not mention the many, many non-Federal activities Martin Johnson undertook that have enhanced the well-being of our community in Mobile. In recognition of his charitable work, he received Mobile's highest honor—Mobilian of the year—some years ago. Although he has retired from office, I am confident that Mobile will continue to benefit from his selfless service to others.

Mr. Speaker, I would just like to say, "Thank you, Martin Johnson, for your contributions to every function you have undertaken and for the standard you have set for those who follow."

#### A PRAYER FOR DEMOCRACY AND HUMAN RIGHTS IN EL SALVADOR

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, today we began the second session of the 101st Congress with a prayer. We prayed for our Nation and the American people.

Mr. Speaker, here in 1990 we continue to marvel at the movement toward democracy in eastern Europe, and we pray that the steady march towards freedom will continue. We must also extend this same prayer for democracy and human rights in El Salvador.

Recent events in El Salvador have continued the pattern of human rights violations by the Salvadorean military—the very organization which should be the defender of those rights.

Mr. Speaker, the people of El Salvador need to be freed from the tragic cycle of violence which grips that nation. One step toward doing just that is to end all United States military aid to El Salvador so that the process of national reconciliation and reconstruction may begin.

#### THE SOCIAL SECURITY PAY-ROLL TAX INCREASE OUT OF HAND

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, in 1939, when our Social Security was created, an employee's maximum annual payroll was \$30. By 1969 that payroll tax

was \$374, and today the top payroll tax for Social Security is over \$3,900 a year. The dramatic increase in the payroll tax was designed to protect baby boomers when they retired. This forced savings through a higher payroll tax was to create a trillion-dollar reserve to care for today's 40-something when they reached 60-something.

But it did not work. The Social Security surplus has been borrowed out of the trust fund as fast as it has arrived in Washington. Instead of a reserve, today's payroll tax payees find only an IOU in the trust fund.

Mr. Speaker, it is time to tell President Bush and his budget wizards that the party is over. It is time to say, stop collecting higher Social Security payroll taxes if the Government is not going to honor its promise to preserve this reserve for future retirees. I would say to the President, Mr. Bush, when it comes to the Social Security payroll tax, "If you can't protect it, don't collect it."

#### IT IS GOOD TO BE BACK

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, since the Congress adjourned, the Berlin Wall fell, we invaded Panama and arrested Noriega, Communist governments collapsed in Romania, Czechoslovakia, and East Germany, Corazon Aquino survived another coup, Senator MOYNIHAN dropped a Social Security grenade, and the Mayor of Washington was busted for drugs. Other than that, nothing happened. How could the world do this to us while we were out of session?

Mr. Speaker, the point is that we should not take ourselves too seriously as we start this new year in Congress. The world can get along well without us. Nonetheless, it is good to be back.

#### A CRITICAL REVIEW OF RECENT FOREIGN AID PROPOSALS

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, one of the proposals that was made while we were away was by the Senator from Kansas about foreign aid. I read his remarks with great interest, and I must say that both on the substance and as well on the tone, they were wrong-headed.

On the substance, what Senator DOLE suggested is that we cut foreign aid from five countries by 5 percent and send the money to Eastern Europe. The trouble is that those five countries need the aid more than ever. There is no glasnost with Iran and

Syria and Libya, the Philippines still have the great problems that they had, and to rob Peter to pay Paul, to take the limited resources in the foreign aid budget and simply rearrange the deck chairs makes no sense.

Israel is still the only democracy in the Middle East. It is America's most reliable ally, and it is a pro-Western bastion in a sea of countries that vote against America in the U.N.

Now, meanwhile the GAO estimates that we spend \$170 billion defending Europe from the greatly weakened Warsaw Pact. If Senator DOLE were truly serious and wanted to get aid to Eastern Europe, something I support, why not take it out of some of the money we use to defend Western Europe? On the one hand, we are spending all this money to defend Western Europe from the onslaught from the East and on the other hand we want money to help the East. It does not make sense.

Finally, as to the tone of Senator DOLE's article, I cannot help but take offense at it, even though I do not think the Senator intended it. When he criticizes Israel's supporters for not being more concerned with America, this smacks of accusations of un-American loyalties in the days when Catholics were accused of taking orders from the Pope and Jews were accused of being loyal only to Israel. I do not believe Senator DOLE intended to use the same code words that many of a more base motive used freely, but his speech would give succor to their attempts, and I would hope he would rethink his proposal and clarify his comments.

□ 1350

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. (Mr. BRUCE). The Chair would admonish Members that reference to Senators by name or to their opinions is contrary to House rules.

#### LOOKING FORWARD TO FUTURE DECADES OF SECURITY

(Mr. McCURDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCURDY. Mr. Speaker, I rise today to join my colleagues in welcoming everyone back to this session. It truly was a remarkable end to 1989 with all the changes in Eastern Europe and the spread of democracy throughout the world.

Mr. Speaker, during the break I had the opportunity to tour Panama after the United States intervention there, and, Mr. Speaker, we heard often about the American heroes in that action, but many of the people, the men and women who served so valiant-

ly and professionally, have not been mentioned, and I wanted to take just a moment as we start to reflect this year in this session about the potential changes in the budget of the military, that we not overlook the factors that made that mission such a success.

Mr. Speaker, one of those factors, of course, was the readiness and training that was provided for our men and women in uniform. They were as highly trained as any troops have ever been in the American forces and in combat.

Second, some of those unsung heroes are men and women who flew over 115 missions to provide airlift, not only for the paratroopers, but the supply effort, in Panama.

Mr. Speaker, as we reflect on the potential changes in the budget, let us be mindful of the need to protect the readiness, the sustainability, the training of our forces and, most importantly, to continue to modernize our airlift capability as we look forward to the future decades and potential threat to U.S. security.

Mr. Speaker, we applaud the efforts of the military in Panama and are glad that the errors of Grenada were not repeated.

#### LEGISLATION TO CURB BANK MONEY LAUNDERING INTRODUCED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, today I am introducing the Depository Institution Money Laundering Amendments of 1990. This legislation is designed to give banks a powerful incentive not to take part in money laundering. That incentive is a simple one. Under the legislation, any bank convicted of money laundering will lose its charter. In simple English, any financial institution convicted of money laundering will suffer the death penalty.

Our Nation faces a huge drug problem. Every day, lives of Americans, whether they are rich or poor, famous or anonymous, are ruined because of illegal drugs. Drug dealers don't use checks or credit cards, they accept only cash. Ultimately, that cash works its way back into the banking system. This legislation is designed so that any bank which joins up with drug dealers in a criminal enterprise to launder money, will lose its charter.

We put the street pusher in jail, and we put the drug kingpin in the penitentiary, but no one has devised a way to do that to a bank. Fines and forfeitures are totally inadequate. All too often, it is merely a cost of doing business.

The way to take a criminal financial institution out of circulation is to revoke its charter. Without its charter, it cannot operate. For too long, corporate crooks have escaped the penalties imposed on common criminals. Revoking the charter of a bank convicted of criminal money laundering makes the institution pay

the ultimate price for its part in the destructive drug trade.

This legislation requires the appropriate Federal regulatory agency to revoke the charter of any federally chartered financial institution.

For national banks, the chartering agency is the Comptroller of the Currency. For federally chartered savings and loans, it is the Office of Thrift Supervision and for federally chartered credit unions, it is the National Credit Union Administration.

For State chartered banks, savings and loans, and credit unions, the State chartering agency would be required to revoke the charter or the institution would lose its Federal deposit insurance.

Some may think that this is a harsh measure. After all, money laundering is not a violent crime. No guns are used. No one is assaulted. But the money that is being laundered is the fruit of human tragedy. That money was paid to the drug dealers by persons enslaved to substances that will eventually kill them. Furthermore, the drug dealers themselves do not hesitate to use violence. In the Nation's Capital, 80 percent of the murders are estimated to be drug related. The dealers kill to protect their profitable business, and they hire people to kill for them. At the root of the slaughter is the money.

Banks that willfully take part in laundering this money stained with blood and human tragedy have forfeited their right to remain in business. Banks operate under license from the States or the Federal Government. A bank is granted a charter only after it has shown that it is worthy of receiving the right to accept deposits from the public.

An institution violates that trust when it participates in money laundering. A conviction for money laundering is a violation of an institution's duty to its chartering authority and a violation of the public's trust. The participation of a financial institution in drug trafficking through money laundering is conclusive proof that the institution has so seriously abused its charter that it should not have one.

The provisions of this legislation will only apply when the institution itself is convicted of money laundering. It does not apply should employees of the institution be convicted. This assures that the provisions only apply to corrupt institutions. Institutions which have adequate compliance programs to detect and deter money laundering in the institution will have nothing to fear from this provision. Only those financial institutions which set out to willfully violate the prohibitions on money laundering need to be concerned. And those are the kind of institutions that our financial system do not need.

I urge all Members to join with me in cosponsoring this legislation.

#### NEW LEGISLATION REGARDING HUD AND EL SALVADOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. YATES] is recognized for 30 minutes.

Mr. YATES. Mr. Speaker, today I filed three bills. The first relates to a fight with HUD over the financing of

a building in Chicago, in my district, at 850 Eastwood Avenue, and my bill would attempt to keep the financing alive by extending 1989 low-income tax credits through 1990.

The second bill, Mr. Speaker, would extend protection of prepaid mortgage buildings by seeking to make more permanent the position they now hold.

The third bill would repeal the 1990 appropriations entirely for El Salvador.

I want to address now, Mr. Speaker, the bill relating to 850 Eastwood Avenue in Chicago, IL.

Mr. Speaker, Catch-22 is Joseph Heller's humorous, sadly ironic story of the impossibility of dealing with the U.S. Air Force regulations during World War II. He could just as easily have written the same story about the trials of doing business with the Department of Housing and Urban Development today. Trying to do business with HUD is a catch-22. HUD has become a fortress, Fortress HUD. It is no longer open and accessible to the public or even to its own branches outside the central office. It has converted itself into a bastion like an ancient castle; it is remote and isolated. Its divisions are like battlements or parapets designed to keep everybody out and to maintain its interiors secure from encroachment.

Mr. Speaker, HUD's outer protective walls are an ever-thickening construction of regulations, and some of these are catch-22's. My constituents at 850 Eastwood Avenue in Chicago are caught in one of these.

Mr. Speaker, we all know and we all like Secretary Jack Kemp. We worked with him in the House where he was personable, articulate, able, and where he voted right occasionally. He is no longer accessible as he was then. He has been buffeted about so much by the revelations of HUD under Secretary Pierce and what he found out that he has withdrawn into Fortress HUD. Now he emerges occasionally to say how bad conditions are in HUD.

Last year Secretary Kemp was ecstatic about President Bush's new housing program, Project Hope he called it. That is the administration's plan to house America's people.

Mr. Speaker, for those of us who live in America's big cities with areas that are suffering decay and rot which need rehabilitation, Project Hope has offered no hope at all. It consists of nothing but words. There is no action to back it up. The Bush administration's words and promises mean nothing. Everything is locked up in Fortress HUD. For the big cities, Mr. Speaker, Project Hope should be called Project No Hope.

□ 1400

For those who try to deal with HUD, one can only remember the classic line from Dante's Inferno, "Abandon all hope ye who enter here."

850 Eastwood Avenue, Chicago, Mr. Speaker, is in my district; 230 families live there, families who live at risk there now because HUD, Washington, turned down their plan to refinance the mortgage on the building.

Last October the tenants' developer obtained low-income housing credits from the city of Chicago which enabled it to draft a refinancing proposal. It received the approval of HUD, Chicago, which sent the plan to Washington. October passed, November passed, December passed, until the last few days of that month were upon us.

I made appointments for the developer to go to Washington. He met with their officials. Delay ran into delay. Papers were demanded. Papers were furnished. Secretary Kemp's Assistant Secretary, Tim Coyle, and I were in conversation, and I believed him when he said he thought it would be approved.

Mr. Speaker, December 31 came, the last day, and we waited for HUD, Washington's, decision. It was a denial, a rejection of the plan. Why? HUD said it had not had enough time to review the application.

Mr. Speaker, months and months, and yet it said it could not complete the job. With the expiration of the 1989 tax credits on December 31, hope became despair for the 230 families who live in the building, because the tax credits upon which the refinancing plan was based were destroyed.

Mr. Speaker, taking HUD at its word that there was not enough time, that there still is a chance for approval, I filed a bill today to extend the 1989 tax credits that were made possible for 850 Eastwood Avenue, Chicago, into 1990. My bill would extend those tax credits for another year, which would certainly give HUD enough time to revise and plan even at HUD's snail's pace.

I filed that bill today, Mr. Speaker, and I told the developer for my constituents at 850 Eastwood Avenue to continue negotiating with HUD, and it was then that I learned that my constituents were in a catch-22. I called the developer yesterday to ask whether he had started the process again at HUD. I was told, Mr. Speaker, that he had taken the initiative only to have the door slammed in his face right at the start.

Mr. Speaker, he was told by HUD, Chicago, that HUD, Washington, had issued a directive for its branches not to do anything until they had received new criteria from HUD, Washington. Thus, the local offices cannot proceed to process applications. Everything is

held up while they wait for the new criteria.

Mr. Speaker, I also learned from HUD, Chicago, through my developer that such proposals as he has made for 850 Eastwood Avenue must be reviewed by the Office of Preservation at HUD Central in Washington. The difficulty with that course is that, in effect, there is no Office of Preservation. There is no staff in existence for the Office of Preservation. Talk about catch-22. Joseph Heller, where are you?

Fortress HUD has doomed Project Hope. I cannot believe that Secretary Jack Kemp knows what is going on in HUD. When one reads the interviews he has given in the press, one finds that he is only finding out what is going on in HUD.

In a recent statement he talked about the pervasiveness of poison in HUD. I would tell the Secretary to take a look at Mr. Loeb's office. That is the inner sanctum of HUD, and he will find plenty of poison there. That is where our plan for 850 Eastwood was killed. That is where the catch-22's are developed. I would ask Secretary Kemp to take a look at 850 Eastwood in Chicago. Two of Mr. Loeb's assistants were supposed to investigate it last week. When they heard that the tenants were coming out and the press would be there to question them, they canceled their trip, and they dashed back to Fortress HUD. I would ask Secretary Kemp to take a look at it. The 230 families, as I said before, are at risk there now because of HUD's unsympathetic, unrealistic action.

Project Hope? There is no hope there now, Secretary Kemp. There is despair. Let us hear from Secretary Kemp. Let us see what is going on.

#### EL SALVADOR

Mr. Speaker, with respect to the second bill that I filed relating to El Salvador, we know what is going on in El Salvador. We know that the funds are being misused. We know that the military is in control rather than the civilian government. We know that efforts are being made presumably for taking to trial people who have been named as the killers of the priests.

If the past is to be any precedent, if we are to judge the history of El Salvador by what has occurred with respect to the killing of the church women 6 years ago, it took 6 years for El Salvador to do anything.

There were no officers who were indicted or who were convicted. Six soldiers were indicted and sent to prison for a brief period. No officers at all.

We are afraid that is what is going to happen here. I think that until we can be assured that there will be justice in El Salvador, Mr. Speaker, the Congress ought to hold up those funds, and that is why I have offered my bill.

This bill will rescind all fiscal year 1990 military and economic assistance to El Salvador. I am doing this because the United States is a moral and decent country, and we are being disgraced by a murdering, corrupt military in El Salvador that cannot be controlled or influenced in any effective way either by the Governments of El Salvador or the United States.

The murder of the Jesuits, their cook and her young daughter is the latest chapter in a series of sickening military atrocities in that country. We are all familiar with the murders of the four American churchwomen, the two American labor leaders and the killings of thousands of innocent men, women, and children by the military death squads and by cowardly army attacks on El Salvador's poorest villages. The military, that is American trained and which we advise on a daily basis, has done these things, and our citizens and taxpayers are paying to support and maintain them.

The current rate of expenditures is running at \$1 million per day in El Salvador. Over the past decade over \$3 billion in United States assistance has gone to that tiny country. The policies and gross cruelties that these funds support in El Salvador are not worthy of our country.

Our support for that war must end. That is what my bill will do. When the very rich and influential element in San Salvador discovers that it must pay for the war with its own resources, we will see real negotiations and solid peace talks and prompt end to the violence in El Salvador. I hope for an early hearing by the House Committee on Appropriations.

#### PROJECT HOPE WITH RESPECT TO PREPAID MORTGAGES

Mr. Speaker, the third bill relates to trying to bring hope, Project Hope again, I would say to Secretary Jack Kemp, Project Hope again, with respect to the prepaid-mortgage situation.

We have learned that in cases where mortgages have been prepaid in HUD-controlled buildings, rents have doubled, in some cases have tripled, tenants have been required to move out in the face of these enormous increases.

We are trying to prevent that by this bill. There has been some relief until next September. A moratorium is in existence until that time, but we want to make it much more permanent.

The need for decent, affordable housing is a serious and growing problem in almost every part of this country. I think nearly everyone would agree that the need for housing stands as one of our most difficult and complex domestic problems.

We all know there is no single or easy answer. But there are ways to deal with the Nation's housing prob-

lems and I have introduced a bill, the Low-Income Housing Preservation Act, which I am convinced is a part of the answer.

The key word in the bill is preservation. Authority is provided in the bill to enable existing, assisted housing stock to continue operating as subsidized housing for thousands of low- and moderate-income families and individuals. In short, the bill is intended to preserve existing neighborhood housing that was created by wise Federal incentives.

As you know, in the 1960's we enacted a housing program that encouraged private investors to build low- and moderate-income housing. The private sector response to that law and the investment opportunity it created was a housing success. One of the provisions of that law, however, stated that after 20 years, owners could prepay their mortgages and relieve themselves of the need to maintain units of assisted housing. In certain parts of the country, and Chicago is one, the rapid increases in real estate prices have made many of these properties quite valuable and owners have begun to exercise their 20 years prepayment option. This has had a terribly distressing effect on the low- and moderate-income people in many neighborhoods across the country who live in these apartments. We have recognized the problem and passed legislation to delay the mortgage prepayment process. But that has been only a temporary solution.

My bill adds a new section to the housing law which will enable public and nonprofit organizations to purchase the existing subsidized buildings and then operate them as assisted housing for very low-, lower- and moderate-income families and individuals. A new HUD grant program is authorized which will provide the funds to enable the various agencies to purchase the buildings.

A second part of the bill provides complete relief from capital gains taxation on the sale of these properties by the current owners when they are sold to the public and nonprofit housing agencies. This provision, of course, is the incentive for the current owners to sell.

There are tax costs here as well as with the cost of the HUD grant program. But the advantages are real and compelling. Existing neighborhoods of low- and moderate-income people are preserved. Thousands of lives are saved from dislocation and a basic, successful element in our housing program is preserved. To me, it is a sound and practical way to deal with a part of our housing problem and I hope you will join me.

#### NEW SOLUTIONS FOR THE 1990'S

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I want to talk today about new solutions for the 1990's, and in a sense, I guess my symbol for this discussion is the best-selling toy of Christmas, which was the Teenage Mutant Ninja Turtle.

Mr. Speaker, I want to make a point or two to my colleagues. We are entering a new decade, the decade which I believe is the springboard to the 21st century.

I spent the 2-month break back home in Georgia thinking through the dramatic changes in the world around us. It was impossible to avoid the changes in the world outside the United States, Romania, East Germany, Bulgaria, Poland, Czechoslovakia, Hungary, Lithuania, Estonia, Latvia, the whole process of glasnost and perestroika that Gorbachev has unleashed in the East in response to Thatcher and Reagan and the rise of a confident, assertive West in the 1980's, but in addition, of course, the liberation of Panama from an extraordinarily deranged dictator, the defeat of the drug lords in what was for awhile a virtual civil war in Colombia, a tremendous process of change and turmoil in the outside world.

I was reminded that here at home changes are going on that are equally dramatic, but they are not highlighted as much because in the American tradition, we change a little bit every day instead of having 25 years of stability with a dictator like Ceausescu suddenly collapse in bloodshed or having a wall such as the Berlin Wall, which stands for 28 years and then suddenly crumbles virtually overnight. In America there is a constant, ongoing process of change. First when my 4½-year-old niece Lauren showed me one of her videotapes of teenage mutant ninja turtles and began to talk about Michaelangelo and Raphael and the process of what she watched on television. Then my 8-year-old nephew Mark got one of the plastic teenage mutant ninja turtles Christmas Day. His father was telling me this was the most popular single toy of 1989.

□ 1410

Now, it struck me that there is a lesson here for politicians, that we have certain assumptions about America and the American people that need to be challenged.

The first lesson I think for those of my generation is that the world has really changed. That the world we grew up in, the world of Howdy-Doody or the world of the Mickey Mouse Club has been replaced by a very different, a more complicated world. Not necessarily more sophisticated, not

necessarily any wiser, but very different.

That for those of us today active in politics, and this certainly is true of a whole generation who are rising to authority in the House, we were shaped by the fights of the late 1960's and early 1970's, by Vietnam, by Watergate, by a struggle in the 1970's with inflation and tremendous economic problems, with weakness militarily and the Ayatollah and the Iranian debacle. In that sense we represent a politics of 10 or 15 years ago.

But that world is also gone. When you realize, for example, that the youngest voter in 1992 when we vote for President next will have been 6 years old when Jimmy Carter left office, you begin to understand how much the world is changing, how much the assumptions that those of us who are active in politics may not match up with the assumptions of the American people.

The second lesson I think of this year's most popular Christmas toy is that people are a lot smarter than we tend to give them credit for. I cannot think of a single political analyst or think of a single advertising agent who would suggest that you have a campaign slogan anywhere near as complicated as the teenage mutant ninja turtle. They would say it is too difficult, it is hard to say. People will not understand it. Yet the fact is that 4-, 5-, 6-, and 7-year-olds understood it, and understood it in fact well enough to be able to ask their parent to go buy it and be able to ask consistently enough that they made it the single most popular toy of 1989 at Christmas.

I would argue that what we should learn from this is that the American people are quite intelligent enough to learn what they think they need to learn. They can learn fancy topics, they can learn complicated topics, they can learn big words, but they have to believe that it really matters to them.

In fact, I would say that former Speaker O'Neill's famous adage that all politics is local is only partially true. In fact, all politics is personal. That people are inclined to be very active and very involved if they think it will change their life and if they are involved in something they care about.

That is why people who will not stand in line to vote will go and stand in line at a toy store to buy precisely the toy their child tells them matters. That is why people who will never spend 3 or 4 or 5 hours running around trying to save their Government will spend 3 or 4 or 5 hours running around looking for a plastic toy that looks like a turtle carrying a ninja stick.

Let me suggest that the American people, when 50 percent of them did not vote in 1988, were sending us in

politics a signal. The signal I think is those of us in leadership have an obligation to be candid, to lower our assumptions about how the world works, and to reexamine what we think is politics.

I was just stuck by my good friend, the gentleman from Illinois [Mr. YATES], who talked about the catch-22's of trying to deal with Housing and Urban Development and its bureaucracy, because he pointed his finger I think to an example of why Americans do not vote, an example of why we have had such a hard time getting people to take politics seriously.

We have now built what I would call a system, a bureaucratic welfare system, so cumbersome, so filled with red tape, so tied up in its own processes, that any rational person looking at that would say it is not worth the effort, it is not worth the time to go and get involved.

That leads me to suggest that that is part of the message that the 50 percent of the American people who did not vote in 1988 were trying to send. They were suggesting to us as customers who could have shown up and decided not to, that we are offering a product line that is obsolete, that we are talking about problems that are not in their lives, and that we are talking about a world which they defined as government in a pejorative way and politics in a negative way in which they have said they cannot influence and cannot have an impact upon.

I think the answer is not for those of us in public life to now decide the American people are dumb or lazy or that the American people do not care. The answer is for us to have the moral courage to reexamine our assumptions, to look candidly and openly at how much change is going on around us, and maybe, frankly, to apply glasnost and perestroika to the United States. To recognize that the antibureaucratic, anticentral government way of emotion and energy that is shaking up Hungary and Czechoslovakia and Poland and the Soviet empire, maybe if we look at New York City's bureaucracy, a \$25 billion annual budget for the city of New York, maybe if you look at the process of bureaucracy and welfare in Detroit or Philadelphia, or for that matter Washington, DC, or maybe if you go down to the great Federal bureaucracy, you come to the conclusion we have to have some new approaches and we need to approach it with at least the same level of courage that we applauded in this House when we had Lech Walesa here from Poland and he spoke to us so eloquently.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank my friend for yielding. I think he has hit an important point in an impor-

tant message for this House as we start to go into the next session. The message is simply that freedom works. People around the world are escaping countries, climbing walls to get away from countries which have social agendas in which government bureaucrats literally have a program for everyone from cradle to grave.

I think this is an important message for this Congress to keep in mind as we develop our agenda. We do not want to move toward the same socialization, that cradle-to-grave social program structure, that people around the world are literally crawling over fences to get away from.

This is a very important message for the Members of this House. I hope as we move out we are going to look once again at the values and the goals and the ideals that really matter to people.

I think the gentleman hit the nail on the head. People care about politics when politics have personal meaning to them. The one compelling force that has had a personal meaning to more people in the world over the last 10 years have been freedom. The manifestations of that desire for freedom are spilling out over the walls in Berlin. They are spilling out of the massive demonstrations of 1 million plus people in Eastern European capitals.

Let us not as the U.S. Congress move down the road toward a social agenda that says the way to make the American people happy is to give them more government and more bureaucrats.

I thank the gentleman for yielding.

Mr. GINGRICH. Mr. Speaker, I think in a sense the choice of children at Christmas has made the point. I cannot imagine any bureaucrat that would have come up with the same kind of choice that happened to make kids happy this year.

Part of what we are really debating in America today is whether or not the average American deserves the right, should be empowered to pursue happiness in their own unique way, or whether they should be in effect assigned a bureaucracy to help them pursue happiness.

I am often surprised nowadays with some of my more liberal friends who say you cannot really be with Jack Kemp in favor of tenant ownership of public housing, because poor people cannot manage their own public housing.

My answer is that is exactly wrong. Of course poor people if given a chance to be empowered to do it, they can start with tenant management and can work their way up to tenant ownership. The history of America was a history of empowering poor people to become wealthy, the history of giving opportunity to people to become educated, and the history of giving people a chance to go out and

pursue their own particular version of happiness on their own terms.

Mr. Speaker, I do want to read one thing into the Record. It was striking to me how much change we are living through. This is an editorial in yesterday's *Wall Street Journal*, entitled "Past, Present, Future."

If we were constructing a brief allegory of the Democratic Party, Michael Dukakis would be the Past, Mario Cuomo the Present, and Douglas Wilder the Future. The Governors of Massachusetts, New York and Virginia all delivered summaries recently of their politics and programs. Read together, their remarks take you on a tour of what in various incarnations the Democratic Party has stood for in our recent political history.

Mr. Dukakis in his State of the State address apologized to Massachusetts for running a losing campaign for the presidency while letting the state's fiscal health fall apart. The Governor described his career—its fall, rise and final fall—as nearly a Greek tragedy, and in the speech's denouement spoke words relevant to the entire party: "Our ability to preserve the gains we've made in the '80s will require a commitment to the fundamental reform and restructuring of our most expensive obligations." He is not running for reelection.

We doubt that the lessons of the Massachusetts tragedy are very popular among the party's most active members. Their present mood was better captured by Mario Cuomo's speech to the people of New York, an almost mindboggling description of constituencies, causes and campaigns that are, or will be, receiving money from the state.

□ 1420

After delivering a seemingly comprehensive catalog of modern liberalism commitments, schools, college tuition, teachers, drug treatment, mental illness, housing, the homeless, AIDS, acid rain, an environmental bond issue, land acquisition, nearly \$50 billions' worth of bricks and mortar, transportation, children's health insurance, day care, in-home services for the elderly, veterans nursing homes, possibly a new bridge linking Buffalo and Canada, Governor Cuomo says, "There is more we must do for our future, more than I can detail this afternoon." Days later he announced a delay in the scheduled cut in the State's income tax.

Now comes Douglas Wilder. Mr. Wilder delivered his State of the Commonwealth speech that was widely described the next day as conservative; much was made of Mr. Wilder's conservative speech because it is seen as a political oxymoron. Mr. Wilder is not only a Democrat, he is a black, the first black elected to the governorship in U.S. history.

As has been recorded throughout history, Mr. Wilder said, "Freedom is nowhere to be found when people are overtaxed and overregulated." It is fine with us if conventional wisdom wishes to regard this as actions of conservatism and the antithesis of liberalism. We suspect that Douglas Wilder

merely regards it as the rational conclusion of any American politician still able to respond to a reality check.

Now, it may well be that it is easier for Douglas Wilder to resist tax increases and to support the death penalty in Virginia than it would be were he Governor of New York or Massachusetts. Still, the political differences are striking. We will leave it to the academic political scientists to decide whether Massachusetts and New York are in fiscal peril because their Governors merely responded to the desires of liberal electorates or because liberal Democrats tend to spend well beyond the electorate's desire.

The simple fact is that in New York one of the Democratic Party's most often-mentioned prospects for the U.S. Presidency is still saying "more" while the party's highest elective black politician is announcing an agenda that is being described as "conservative."

Now, the point of my reading this into the record is simple. I think there is a bipartisan evolution beginning among some politicians who recognize that more Government, more bureaucracy, more welfare State is a failure, that more taxes in fact would crush the economy and guarantee a severe recession and increase the deficit. I think to a surprising degree Michael Dukakis, when he said, "We'll require a commitment to the fundamental reform and restructuring of our most expensive obligations," was putting his finger on what the 1990's will be all about.

The 1990's will be about applying common sense to the process of solving our problems, going back out from the ground up and looking at what would common sense, what William James called "pragmatism" lead us to do? William James said it was the first basic American contribution to philosophy.

This idea, which originated in the frontier, is that what you ought to do is look at the facts and then do what common sense tells you to do. It evolved for a very practical reason: If you came from Europe with a lot of book learning and you ended up in western Pennsylvania or western Massachusetts in the 1690's, you starved to death, you froze to death or you were killed by Indians, because you had to adapt to a new country, to new conditions, to a new reality.

So Americans learned to value very highly the practical, everyday common sense, and I think part of what Douglas Wilder is suggesting, part of what Governor Dukakis, in his valedictory address, is suggesting is that we must rethink from the ground up, we must apply our own glasnost and perestroika to reexamining Government. In a sense I think what Congressman YATES was saying earlier in his discourse on HUD and the problems with the HUD bureaucracy in

Chicago is that if only we could apply common sense once again to Government, which means rethinking the bureaucracy.

I would be glad to yield to my friend from California.

Mr. HUNTER. I thank the gentleman for yielding. I think the gentleman has made a number of very excellent points. You know, he has told us about a number of leaders, some of them Democrat leaders, national Democrat leaders who have come to their senses in that they are now telling their colleagues in their own party and Americans what their priorities are not and where some of their priorities have in the past been misplaced. For example, taxes, some of the social programs.

I think it is interesting at the same time the American people, who my good friend has said have really excellent common sense, have stated what some of America's priorities should be.

I thought it was interesting that a few weeks ago, with all this talk of the peace dividend and how we were going to reciprocate to this 1½ percent real cut in defense that Mr. Gorbachev has made, the latest national poll that I saw that asked the American people if they should cut defense spending, was answered by a majority, in excess of 60 percent, saying that, "No, we should not cut defense spending." I think that is a real wisdom that the American people have shown even while they have been cajoled by some of the opinion leaders to not even consider whether or not there should be a peace dividend, but whether or not they should spend it. The American people have come back and said, "We don't want to cut defense."

I think one of the Vatican representatives hit the nail on the head as to why the American people do not want to cut defense when he was asked, "Why are we having glasnost and perestroika, and why are the Russians at the bargaining table as they have never been before?" This representative of the Vatican, who had been critical of Ronald Reagan and a number of his defense programs in the past, surprised everyone by saying that it was Ronald Reagan being strong and showing the Soviet Union that the military option was not a viable one that produced the spark of change that now is exploding in the Soviet Union itself and throughout the captive nations.

So I think that the American people do have a good sense of priorities, and if we make this next decade a decade of freedom and a decade of individual responsibility. You know, I think one thing every Member saw a lot of, no matter where we were in this world during the break, is a lot of airports. Members of Congress were literally all over the United States and indeed all over the world.

I had an opportunity, like my colleagues, to sit and listen to families and family members as they would sit in airports assessing where they were going and what they were doing and their family problems and how they were going to solve them.

It was an interesting lesson for somebody who comes from Washington to just sit there unobserved and listen to Americans talk about how, perhaps, Aunt Alice is not doing well right now and who is going to help her out and how she does need some help, and now can "she stay with you folks for a while, and she can come over and live at our house?" And people basically working out within the family unit their problems, which legislators and bureaucrats in Washington would immediately label as being social problems which should be handled by Government bureaucrats, by the State.

And yet these individuals who really cared about their family members were making a great deal of headway in solving those problems. It occurred to me that that is one reason why these millions and millions of people are spilling over the Berlin Wall and spilling out of those socialist systems which have literally social programs for every single individual who was born and some individuals who are not born, pursuant to forced abortions, literally from conception to grave. Yet people around the world have run from this social agenda which is complete.

If we go to the Soviet Union, you do not have to ask them about their State-run childcare program because it has been in place for a long time. You do not have to ask them about socialized medicine, because it has been in place for a long time. Yet the people are dying to get away from those systems.

So I hope that this decade is a decade in which the American people tell the representatives in this body what their priorities are not and also what their priorities should be.

I think that the American people want Government to win the drug war and to do the meaningful things that only Government can do to win the drug war, and yet we are not doing them.

I made a survey of how many American agents are on the border in the entire State of California at any given time as the first line of defense against the massive cocaine traffic that is moving up from Central America through northern Mexico and into California; how many agents are on the line at any given time during the day or night on that 150-mile border between San Diego, CA, and Yuma, AZ? The answer is less than 50 on their best day. That is one agent for every 3 miles. That means we have more agents by far protecting Con-

gressmen on Capitol Hill—talk about priorities—than guarding the entire land border between the United States and Mexico against the massive cocaine traffic that is moving northwards.

Now that is an example of the Federal Government moving off its agenda and doing a lot of things in the last year that it should not have been doing but neglecting one of its very, very important duties. I feel that the interdiction of narcotics is every bit as important as our national security activities around the world.

□ 1430

We have neglected that duty. That is one thing we should be doing. In every poll the American people have answered, they show they expect Government to do that.

The average convicted murderer, and this is an issue that my friend, the gentleman from Georgia [Mr. GINGRICH] is a leader on, the average convicted murderer in the United States, after being placed behind bars, does roughly as much time behind bars as the time that is spent in college by a young person, maybe 4 to 6 years, before he is taken by the State out of that institution and placed back in our neighborhoods, to interact with our children and our families.

We are literally not extracting the criminal element from our society as fast as a State justice system is moving this criminal element back into society.

Now, that is something the Government should handle. That is something the Government should be responsible for, and that is something we have neglected.

Mr. GINGRICH. Mr. Speaker, I appreciate the remarks of the gentleman from California [Mr. HUNTER].

The gentleman's last comment is an example of what the new approaches have to play.

Senator GRAMM of Texas and I are working on a bill to introduce next week, and we encourage any colleagues who would like to cosponsor this bill to get in touch with either Member. This is a bill to declare a national crime in drug emergency, a bill to say that we ought to be able to use temporary methods of housing violent criminals and drug dealers. There is no reason to say if a person does not have an air-conditioned cell with a color television, needing the number of square feet that an upper middle class judge says is appropriate for their teenage kids, that we cannot keep a murderer or rapist locked up. It also provides for requiring prisoners to work, and for deducting the cost of their prison stay from the salary they earn for working. It provides for a number of changes that basically sets the following premise: The Government owes citizens two primary things before any-

thing else. It owes citizens national security so that no foreigner will invade your neighborhood; and it owes citizens personal security so that no other person will invade your private property, your life, and your personal survival.

I just want to say that I think that Senator GRAMM and I are working on our bill, and we believe it is possible to develop new approaches that are effective.

Let me briefly quote from one other source, because I think it is important to recognize that although the gentleman from California [Mr. HUNTER] and I are Republicans, as I said earlier in quoting from Governor Wilder, and Governor Dukakis' closing thoughts on his tenure as Governor, I was impressed with a recent speaker, Alvin From, Director, Democratic Leadership Council, and his remarks to the National Economists Club on January 11, 1990. I recommend this speech to every citizen, Democrat or Republican, who is interested in being involved directly in the process of change, and of thinking things through.

I want to quote a couple of key paragraphs from Alvin From's speech, because I think they are so profound.

The 1990's will be a decade of change and transition from America and the world. As the old industrial order yields to a new one, so too does the political order that it shaped and sustained, a fabric of social and economic relationships woven largely in the 1930's.

From went on to say,

America faces a historic opportunity: to become preeminent in the new economic order of information and knowledge just as we dominated the previous industrial era.

Few nations have successfully undergone such a transformation. History is replete with examples of powerful states that refused to bend to the winds of change . . . that developed a deep bias against the uncertainties and disruptions of economic and social change.

And so they clung rigidly to the old ways—hoping to make time stand still—and, inevitably, were in time eclipsed by new and more dynamic societies.

Our nation stands at such a crossroads; we can either master economic change or be undone by it. So far, our response has been ambiguous.

My own view is that to block or retard economic change is ultimately to condemn our people to diminishing opportunities and our society to certain decline.

At the same time, we have an obligation to help our people adjust swiftly and smoothly to the wrenching effects of inevitable change. We can't simply let them founder helplessly in capitalism's gale of creative destruction.

Instead, we need to enlist all Americans in a new partnership for national prosperity.

We need to forge a new social compact . . . to make our capitalist system both more democratic and productive.

And we need to make the American economy once again a marvelous engine of growth and opportunity.

I point out that while after the longest period of economic growth in peacetime in American history, one

could quibble with the use of the phrase "Make the American economy once again a marvelous engine of growth and opportunity," but the central thrust of what Mr. From is saying is exactly right. Though we are in a position where we, together, Democrat and Republican, liberal and conservative, have an opportunity to look at some new approaches, have to develop some new answers, that we owe it to the country to make the 1990's the decade where we helped America change so Americans will succeed in the 21st century.

I want to say in closing, a number of Members are working to develop an opportunity for just that kind of new thinking. We will have on May 19 an American Opportunities Workshop by television across the whole country available to anyone who wants to tune in by using satellite dish receiver, going to a hotel or motel with a down-link, by using a school or church or other facility, or by convincing your local cable company to carry this workshop. The workshop will be a 90-minute workshop on television, followed by local breakout sessions of any person who wants to get involved. It will involve a workbook for the leader and workbooks for activists. It will be nonpartisan, inviting Democrats to participate.

The title will be "Developing 21st Century Citizenship by Focusing on New Solutions for the 1990's." It will have a lot of emphasis on the idea that if we ally common sense and focus on positive opportunities, we can develop in the inner city, in the suburbs, and small towns, and in rural America, better and more effective ways of solving our problems. I will talk more about the whole nature of the American Opportunities Workshop. Bo Callaway, former member of the House, is working at GoPAC at (202)-484-2282. He is going to be in charge of putting the whole thing together, and any Member who is listening on C-SPAN, or any person who reads this later in the CONGRESSIONAL RECORD who wants to see if they would like to be involved, there is no cost directly involved. If they would like to find out more about it, and possibly in their neighborhood or local organizations participate in the workshop on Saturday morning, May 19, the number is (202)-484-2282.

Our purpose is to begin a dialog for the 1990's in which we really develop a new set of issues, new set of solutions, in which we recognize, in a country which is capable of learning the phrase "Mutant Ninja Turtles" and capable of talking about a wide range of topics, and do not have to reduce the topics to 30-second politics, and symbols that are narrow and simplistic. I hope Democrats, Republicans, liberals, and conservatives, find a wide

range of interest in looking for and developing new approaches in the 1990's.

#### OVERRIDE PRESIDENTIAL VETO ON CHINA

The SPEAKER pro tempore (Mr. BRUCE). Under a previous order of the House, the gentlewoman from California. [MS. PELOSI] is recognized for 60 minutes.

Ms. PELOSI. Mr. Speaker, I brought this poster entitled "One Man in China." It says, "One man standing against madness kindles anew the sparks of freedom and elevates the spirit of man. How can we not stand with him?"

This is, of course, the photograph of the lone figure in Tiananmen Square in Beijing standing in front of the tanks that later would crush the student demonstrators in the Square and its environs.

Tomorrow, Members of Congress will have the opportunity to stand by this one man, this lone figure before the tanks, when the opportunity comes for Members in the form of the question of whether or not there is a need to override the President's veto of H.R. 2712, the bill to protect the Chinese students in America.

The answer, I believe, is an emphatic yes. We need to override the veto. The need exists for two reasons. First, we need to override the veto because of the continuing repression in China. Second, we need to override the veto because we can give statutory legal protection to the students only by changing the law.

First, the situation in China. In the spring of 1989, the Chinese people rekindled the spark of freedom by demonstrating for democratic reforms in China. Some of that spark spread through Eastern Europe, and we saw successful changes in the power structure there. In doing so in their own country, the Chinese demonstrated great courage. The symbol of the pro-democracy movement was the Goddess of Democracy. All of the world watched with joy as the students spoke out for democratic reform. It was no coincidence that the students had chosen out the Goddess of Liberty in following after the Statue of Liberty in America, because the United States has been a model of democracy for the Chinese and for the world.

On June 4, all the world watched in horror as the tanks rolled in to crush dissent and literally crushed the demonstrators. The Goddess of Democracy was toppled.

First the massacre, then the massacre raid.

□ 1440

Following the horrible slaughter in Tiananmen Square, the Chinese Government engaged in denial and repression. They had denied that many stu-

dents were killed. They say there were just a few hooligans. The truth is that many hundreds of thousands were killed, many thousands were imprisoned, and many thousands were sent to labor camps. I might add that they joined there hundreds of thousands, countless numbers of Chinese in labor camps in China.

At the same time the democracy movement that was sweeping through Eastern Europe threatened the Chinese rulers. The overthrow of Ceausescu, an ally of Deng Xiaoping, threatened even more repression in China.

In this past winter, in December and November, there were reports of the Chinese authorities taking handwriting samples at many of the universities in China to compare them with the handwriting on posters used in the demonstration in Tiananmen Square last spring. They were not taking these handwriting samples to improve the handwriting of the Chinese students. It was just a continuing of their intimidation and of their repression.

I am briefly touching on a situation which is well known to every person in America because we saw with our own eyes on television the crushing of the demonstration, and we can read in the daily papers some of the reports on the continuing repression.

However, the masquerade became even more grotesque. Li Peng, in lifting martial law, made this statement:

The People's Liberation Army performed immortal historic feats in maintaining order and security in the capital and defending the Chinese Communist Party leadership and the socialist system. For this period the people will never forget them. During the martial law period there were lots of moving deeds in which troops loved civilians and civilians supported troops in disregard for their own safety.

It appears that the troops loved the civilians so much that they loved them to death.

China, it is clear, is a place where people who have spoken out for freedom in a peaceful manner have been killed. The situation in China warrants the override of the President's veto.

I would like to refer to some remarks that were made this morning before the Senate Judiciary Committee by former Ambassador Winston Lord, and I will report these remarks just briefly. I would like to submit his complete statement for the record later, but I would first refer to two remarks he made this morning.

He said, and I quote:

In response to a series of major American initiatives, the Chinese regime has made only minimal moves while still pursuing its overall policy of suppression, rollback of reforms, and attacks on foreign influence. The passage of this legislation, H.R. 2712, would make clear Americans are not fooled by smoke and mirrors, that we are a serious people.

He added this further:

I don't believe we can fully resume our cooperation with China until that great nation turns once again toward true reform and opening to the outside world and the Chinese leaders leave the time warp of the world's Ceausescus and begin to catch up with history.

Mr. Speaker, I submit the full statement for the record, as follows:

SENATE JUDICIARY COMMITTEE, JANUARY 23, 1990

#### OPENING REMARKS—WINSTON LORD

Mr. Chairman, Members of the Committee:

Thank you for inviting me to comment on the Emergency Chinese Immigration Relief Act of 1989 (H.R. 2712).

Strengthening America's relations with China has been my mission for two decades. Thus I come to the debate concerning Chinese students in this country in the broader context of American policy toward China and our long range national interests. My journey to this Committee, I confess, has been a troubling one.

As a concerned citizen, I am generally against Congressional micromanagement of foreign policy and the rigidities often introduced by tactical legislation. As a bipartisan public servant for twenty years, my inclination is to support a President's foreign policy whenever I can. As a Republican who admires President Bush, served him and applauds his overall foreign policy, I particularly regret having to oppose this Administration.

Nonetheless, with considerable ambivalence and reluctance, I am here to urge the Congress to override the President's veto.

This I strongly believe: fairly or unfairly, the vote on this issue will be interpreted abroad and at home not just as a decision on how best to protect Chinese students in America, but more fundamentally as a referendum on our posture toward the current Chinese regime.

This is the reality: fairly or unfairly, the veto, if sustained, would reinforce the mindset and the mandate of those who have proceeded from massacre to repression; those who predict America will be lulled by cosmetic gestures and return to business-as-usual; those who dismiss the Chinese as a people apart from the global winds of change.

This, too, is the reality: the legislation, if enacted, would send a powerful message of encouragement to those in China whose voices have been silenced and to Chinese citizens everywhere who seek a freer, more open country.

As for the legal arguments, they are complex and difficult for the amateur to judge. On balance I think they also favor override.

Clearly the President shares the Congressional concern about the dangers to Chinese students and believes his means accomplish the same ends as the legislation at hand. Many lawyers as well as members of Congress assert, however, that his administrative action could be challenged in court. Furthermore, reliance on INS instructions carries less weight symbolically, if not legally, than an executive order or Presidential determination.

Whatever the ultimate legal judgments, there is no question that today Chinese students feel uncertain, uneasy—and vulnerable. It is best to remove all doubts through the unambiguous means of legislation. Those who have lived in China where laws

do not protect the individual seek security in the laws of the United States. Passage of legislation would fortify the students psychologically as well as legally.

The President's administrative action laudably extends protection beyond students. The Congress, if it cannot amend this bill, should urgently review this aspect to ensure that there is no risk to Chinese here who are not students.

The crucial consideration, however, remains the diplomatic context of the looming vote.

In response to a series of major American initiatives, the Chinese regime has made only minimal moves while still pursuing its overall policy of suppression, rollback of reforms and attacks on foreign influence. The passage of this legislation would make clear that Americans are not fooled by smoke and mirrors, that we are a serious people.

The Chinese people share the same aspirations as Eastern Europeans and others around the world. They, not the hardliners in Beijing, represent the future of China—and thus our long term national interest. Their day is not distant. I believe there will be a more moderate, humane government in Beijing before this legislation is due to expire. Whenever such a government does take hold and once again makes China inviting, the Congress should repeal this bill. We should then encourage the students to return to their homeland and work to lift its horizons.

Surely the President, through his veto, does not wish to send the wrong signals to China or to the students here. But this is the inescapable consequence of the recent pattern of Administration actions toward Beijing. If the veto and accompanying administrative instructions were carried out in the context of a firm, balanced policy of condemnation and connection, the President's position would probably not be misconstrued. But in the wake of the misguided Scowcroft missions and other unilateral Americans steps, defeat of this legislation would be assessed by both Beijing and the world as one more step toward unrequired normalization. Unfair perhaps, but reality.

This need not have been the case. Until the announcement of the December Scowcroft trip, the balance of our overall China policy seemed about right. I, for one, consistently supported the President for six months, including in my November testimony before the Senate Foreign Relations Committee. Although I sounded much harsher criticism of Chinese policies than the Administration, I thought that the President was correct to stress our long term concerns while maintaining selective sanctions.

In my view the Scowcroft journey—in substance and style—destroyed that balance. In the process it also shattered the broad bipartisan consensus on China policy that we had enjoyed for twenty years through five administrations. Rather than reiterate my reasoning I ask that my December 19, 1989 Washington Post article be included as part of the record. I wrote that editorial (and had previously supported the Administration) before I knew of the first Scowcroft visit only a few weeks after Beijing massacre. That earlier journey of course, only made starker the pattern that is the backdrop for your deliberations today.

Mr. Chairman, I don't believe we can fully resume our cooperation with China until that great nation turns once again toward true reform and opening to the outside world, until Chinese leaders leave the time

warp of the world's Ceaușescus and begin to catch up with history.

In the interim America does not have to choose between isolation and approbation. We should conduct a workmanlike dialogue on key issues, including international ones, while avoiding tawdry symbolism. We should maintain productive links with progressive Chinese forces. We should calibrate our actions with those of the Chinese regime. Above all, we should make clear what America stands for and where our sympathies lie.

I therefore recommend passage of H.R. 2712. In this way we will align ourselves with China's future and thereby serve American interests as well as values.

Thank you.

Mr. Speaker, the second reason the override is necessary is because the students can only have full legal statutory protection by the passage of a law. Because of the good work of the Immigration Subcommittee, the Committee on the Judiciary, and both houses of the Congress, current immigration law is very specific. The J-1 visa law is very specific about the return residency requirement. The law specifically prohibits the granting of blanket waivers. The only way to change the law is to pass a law, and since the Constitution states that Congress shall make all laws, an act of Congress is required. An administrative directive cannot change a prohibition in the law.

I am very proud that over 100 Members, with bipartisan support, I might add, signed our "Dear Colleague" letter supporting the override of the President's veto. I have been told that it is the largest number of signatures ever to appear on a "Dear Colleague." It reaches every region of the country and both parties.

I have submitted some of the information in that letter for the Record for our Members to read. In addition, I would like to call the attention of the Members to a memorandum from the Congressional Research Service which supports the statement made in the letter that a law is necessary.

Following the Tiananmen Square massacre, I worked with other Members of this House to write a bill which would protect the students and which would not be disruptive of our immigration policy. Congress responded unanimously in support of the bill. I pray that our colleagues will support the override and send a clear message to Beijing that they cannot curb freedom of speech in the United States by lobbying against the override of the veto. And we know they are actively supporting their case against the bill. They hope to punish those who speak out not only in China but also in the United States.

What we see in China is a situation that is very painful. We see a country which has repressive leadership, but a country which has also tasted freedom because of the age of technology we are in today.

The Great Wall of China may have been able to keep out troops in a previous era, but they cannot keep out communication about freedom, which stirs the hearts of men, because it is written in the hearts of men from our own Declaration of Independence, which stated that it is self-evident that all men are created equal and that they are entitled to certain rights.

So this is inevitable. It is just a question of time when the change will be made in China. But the genie is out of the bottle. The people know better. What we see is the painful exercise of a repressive government trying to put the genie back into the bottle. It is very difficult, it is very painful, and in fact it is impossible.

When we celebrated our own bicentennial, our former colleague, Claude Pepper, stood in the well in Independence Hall in Philadelphia and he talked about the foundations of our own country, and he said:

Since then in the 200 years, the United States of America and our democracy have been a bright and shining star to the rest of the world.

I believe that when we have the opportunity to override the veto and thereby stand by our principles and our ideals, we will add luster to that bright and shining star. I believe the Members of the House and indeed the Members of the other body will be true to our commitment to our own Declaration of Independence. I believe that we will pursue a policy which will be based on ideals and not business deals.

I do not believe that anyone who supports the Chinese student bill believes in isolating China. We have heard so much that has described those who support the bill as wanting to isolate China. The district I represent, in San Francisco, has nearly a third of its population as Asian Americans, many of them Chinese Americans. Much of the commerce of our community is with the Orient, and a large amount of it would be with China. It is not in our economic interest to cut off economic ties with China, but it is in our interest to stand firm in our commitment to our own Declaration of Independence, as I mentioned earlier.

So in any case I hope that as we take pride in the lone man standing alone and as we await to stand with him, the House will vote overwhelmingly in support of the override tomorrow, followed later in the week by the U.S. Senate, and send a very clear message not only to the students and to the authorities in Beijing but to the whole world that the United States is true to its commitment.

Mr. BURTON of Indiana. Mr. Speaker, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentlewoman for yielding, and I also thank her for taking this special order.

The Chinese students in the United States, I believe, as the gentlewoman has well explained, require protection. Many of them have been active in a democracy movement in China, and many of their relatives have been active, and they are afraid that they are going to be forced to go back and suffer the persecution that we witnessed in Tiananmen Square. And that repression continues.

I think everybody in the United States felt horrified when they saw those tanks go into Tiananmen Square, and they found out subsequently that they literally ground young Chinese students who were seeking democracy into meat on the streets.

□ 1450

In addition to that, Mr. Speaker, these young people used the United States as a model. Their Statue of Liberty that they showed in Tiananmen Square was modeled after our Statue of Liberty; their Statue of Democracy rather.

Mr. Speaker, we should feel a close kinship for those Chinese students who are here in this country studying, and who want democracy in their country, and who want to make sure that that happens at some point in the future and who do not want to have to go back prematurely and suffer the consequences of their call for democracy.

So, Mr. Speaker, I support the legislation of the gentlewoman from California [Ms. PELOSI]. I will vote to override tomorrow. We do not always see eye to eye. This issue cuts across party lines. It cuts across philosophical lines. On both sides of the aisle, whether we are liberal, conservative, Democrat, or Republican, I think that we are going to find tomorrow that there is going to be overwhelming support for the legislation of the gentlewoman from California [Ms. PELOSI] on overriding the President's veto.

So, Mr. Speaker, I congratulate the gentlewoman from California [Ms. PELOSI] for that.

I would like to say just one more thing, Mr. Speaker. I am a big supporter of President Bush and Vice President QUAYLE. I think my voting record will indicate that I support them as much, or probably more than, most people in the House, and I really support the administration and, like most people in this country, think that they are doing an outstanding job.

However, Mr. Speaker, I was a little bit chagrined when I saw the head of the NSC, Mr. Scowcroft, General Scowcroft, and one of our assistant secretaries, Mr. Eagleburger, go to

China and start working toward opening up a normal relationship so soon after the Tiananmen massacre when there have been no appreciable changes in the attitudes of the Chinese Government toward their people. The repression continues, and the repression will continue until the world brings pressure upon that Government to make positive change.

So, while I have great admiration and support for this administration and all the things they are doing, I would say this is one place where I take strong exception to the actions that have been taking place vis-a-vis our relations with China. We should let the Chinese Government know in no uncertain terms that this type of action is intolerable, that the people of the United States of America and the people of the world will not stand idly by and accept this kind of action and that we are going to do everything we can to bring pressure to bear upon it, economic pressure, or whatever it takes, for them to bring about positive change.

Mr. Speaker, we have seen in Eastern Europe countries that have been under the boot, the heel, of communism for 40 years move toward freedom and democracy, and we should be helping them, and we will be helping them, and at the time we are helping these countries, these fledgling democracies, head for full democracy and participation in the world community we should not be opening our arms to a repressive totalitarian Communist government in China.

Mr. Speaker, tomorrow I will be very, very happy to vote with the gentlewoman from California [Ms. PELOSI] to override this veto, and I appreciate her yielding this time to me.

Ms. PELOSI. Mr. Speaker, I appreciate the remarks of the gentleman from Indiana [Mr. BURTON]. I also thank him for signing the Dear Colleague in support of the override and for his help on this issue.

Mr. Speaker, this is not a partisan issue, as the gentleman from Indiana [Mr. BURTON] so ably pointed out. It has never been intended to be anti the President. It is an issue that passed the House and passed the Senate without one negative vote, 403 to 0 in the House of Representatives. I am very proud of the bipartisan support that we were able to gather for the bill because it is a reasonable bill, and it does precisely what it sets out to do, to protect the students. So, it is just a disagreement on tactics.

Mr. Speaker, I think we all would like to look forward to a brilliant future with China, a future bright with cultural, economic, and political ties, but it has to be done at least with some integrity from our standpoint, and I think that sending the message that this bill would send is a clearer message than the message that was

contained in the toast that General Scowcroft made when he visited China. Because the issue of safety is so critical and so fundamental to this bill that we must protect the students because they cannot go back unless it is safe. I was particularly concerned about the choice of words of General Scowcroft when he lifted his glass to toast the authorities in Beijing when he said, "There are forces in both of our societies which would strive to thwart or redirect our efforts to cooperation. We must take action to stop those negative forces."

Mr. Speaker, I found that toast frightening, equating us with them and that we must take action to stop those negative forces. I think a better message to the Chinese authorities is that when people speak out in the United States of America on behalf of democracy that we are not going to send them home to a situation where people get killed for speaking out for freedom, as the gentleman from Indiana [Mr. BURTON] described in his remarks.

Also I think the gentleman from Indiana [Mr. BURTON] mentioned Eastern Europe, and I think that is very relevant here because the day or two before the President left on his trip for Malta, taking with him all of our hopes and aspirations for peace in the world and all of our good wishes for that, the Secretary of State said in effect, and I think these are his exact words, but in effect he said that we must support the prodemocratic movement in Eastern Europe and help out so that it can proceed and succeed.

So, Mr. Speaker, that gave us hope that maybe the President would sign the Chinese student bill the next day because that is what we were doing—helping a prodemocratic movement proceed and succeed. However, as far as I know, the last official act the President performed was not to sign the Chinese student bill, and he sent it back to the House unsigned. It was a little disappointing.

Mr. Speaker, I think that one of the disadvantages that we have is that people are thinking in old ways. They are thinking, "Well, we've not had human rights as an item on the table in our relationship with China. It has been an issue in Europe, so it will continue to be an issue in Europe, but in China it isn't an issue."

I know that the President, and the Vice President, and the Secretary of State, and General Scowcroft all care about human rights throughout the world. There is no question about that. But I think that this has to be a recognition that history is in a hurry. It is in a hurry in Eastern Europe, it is in a hurry in China, and we cannot revert to old ways of dealing with China.

Mr. BURTON of Indiana. Mr. Speaker, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I just would like to make one brief followup comment, and that is that I share the feelings of the gentlewoman from California [Ms. PELOSI] about the administration, and General Scowcroft and Secretary Eagleburger. I think that they are fine people. I think that they are well-intentioned people. I think they do an outstanding job for our country.

However, Mr. Speaker, I do believe that the message that was sent by that visit was the wrong message. We in this country, the gentleman from New York [Mr. SCHEUER], the gentlewoman from California [Ms. PELOSI], and myself, we have been writing to the Soviet Union protesting their human rights abuses for years. We have been doing everything we could to put pressure on the torture tactics that have been taking place in that Government.

For us to go to China right after Tiananmen Square and to literally embrace them with the kind of toasts which the gentlewoman from California [Ms. PELOSI] is talking about clearly sends the wrong signal. We should have been sending signals like we have been sending to the Soviet Union, that we will not give them the kind of economic assistance or other assistance they are seeking or investments from the United States until they make positive changes, until they end those human rights abuses. That is the kind of message that should have been sent and I hope will be sent in the future.

Ms. PELOSI. Mr. Speaker, I appreciate the comments of the gentleman from Indiana [Mr. BURTON].

Mr. SCHEUER. Mr. Speaker, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Speaker, I wish to express my admiration, my enormous admiration, to the gentlewoman from California [Ms. PELOSI] for her great leadership in focusing the attention of Congress and the country on the pitiable human rights conditions in China and on the very questionable public policy underpinnings of the administration's decision to send the Scowcroft delegation. That secret delegation was sent to China to meet with the gerontocracy that runs that country, Deng Xiaoping and all of his colleagues who are in their eighties, in effect to embrace them, toast them and let them know that while we may have a few piddling problems with the events of June 4, that really God is in His heaven, and all is well with the world.

Mr. Speaker, that was just exactly the wrong message to send, and it places us, yea once again, on the side of the despots against the people. We

have done this all over the world. We have done it in Latin America; we have done it with painful regularity all over the world. We have sided with the despots, and ultimately, when history works its will and the people are liberated, we are vilified. We are hated. We are detested, especially by the young people, the students.

Mr. Speaker, it makes one wonder what kind of tea leaves were they reading in the White House to feel that the future of China lay in this small group of 80-year-old despots, octogenarians, who were controlling that country with a ruthless hand and who, to preserve their own power, unleashed military forces in a barbarous and barbaric way, slaughtering, slaughtering the flower of Chinese youth.

□ 1500

What makes us so sure that the future of China is with this small group of elderly aging despots? We should be more humble about our ability to appraise events. If one looks at recent happenings in Eastern Europe, one would find grounds for a great deal of humility on our part.

Yes, I was in Hungary last March. I was on the street at the time of that magnificent demonstration in Budapest on March 15. I met with our marvelous Ambassador Palmer, who is an embellishment to the American Foreign Service. I guess that many people felt that real progress was being made in Hungary, that the people really did want freedom. They were willing to demonstrate. They were willing to make themselves heard. I think the same is true of Poland.

But may I ask the gentlewoman from California a rhetorical question. Did anybody dream that beneath the smooth and calm surface, the quiet of the graveyard that existed in East Germany, there was this passion for freedom that we saw as East Germans exploded with joy, delight and exhilaration, to climb up on that wall and beat it with hammers and cross over into West Berlin without bothering to stop, in sheer exhilaration from breathing the air of freedom?

Did anybody expect that underneath the calm quiet of the graveyard that existed in Czechoslovakia, that coldest and bloodiest of Communist states in Eastern Europe, there existed this passion for freedom that was unleashed?

When Czechoslovakia finally elected Vaclav Havel, a novelist, a poet, a leader of the reform movement, as Chief of State did anybody dream that Bulgarians so quickly would topple their own Chief of State?

I was in Sofia in the last year. Nobody told me that anything like that was lurking under the surface.

Above all, in that most despotic, most abused country in Europe, Romania, did anybody in our State Depart-

ment, in our Intelligence Services, in our press, did anybody dream that this passionate desire for freedom was lurking beneath those calm quiet graveyard scenes in Romania?

Could anybody have conceived the passion, the outrage, the venom, the merciless taste for justice and retribution that the Romanian people exercised when freedom was within their grasp?

Could anybody have conceived that the army itself would turn against Ceausescu, would turn against the Securitate, that the army itself would side with the people when the chips were down?

Do not all these phenomena give us a degree of modesty in our efforts to penetrate the mysteries of China? Could one not postulate that in a world in instant telecommunications China is not isolated? Could one not postulate that the BBC, the Voice of America, Radio Free Europe and other means of instant communication are functioning, are alive and well, and that tens, yea, hundreds of millions of Chinese are listening and that they perhaps enjoy the same passion for freedom that we saw in East Germany, in Romania, in Bulgaria, in Hungary and Poland, the same passion for freedom which will burst through if it ever gets a chance?

Does anybody have the right to presume that the students in China do not care anymore, that the urban workers who are bitterly resentful of their treatment on the part of the Deng Xiaoping government, that they do not care, that they have no taste for freedom?

Does anybody have the right to assume that the farmers, the peasants, who are bitterly resentful of the terrible treatment they have received from the Deng Xiaoping administration, that they are incapable of reacting with outrage and with courage, given the time and the opportunity and the convergence of events?

Looking at what happened in the days and weeks preceding the massacre, when the press absolutely burst with sympathy and love at the desire for freedom and free speech they witnessed in China, can anybody believe that the press would not react?

Can anybody believe that the intellectuals are not hungering for freedom, as Vaclav Havel and other intellectuals in East Europe and Hungary were hungering?

My colleagues, I would suggest that we should act with a great deal more humility. We ought to show much more humility in writing off 1.2 billion people in China, writing off the students, writing off the intellectuals, writing off the peasants, writing off the urban workers. Let us just assume that they have the same instincts, the same thirst for freedom as the masses

in Eastern Europe who had not tasted a breath of freedom in 40 years; yet young kids who had never lived under conditions of freedom, they exhilarated, they burst forth. They seized it, they grabbed the moment.

What is to make us assume that the Chinese kids, the intellectuals, the students, the urban workers, the peasants, the intellectuals will not react in the same way, given the same opportunity?

One other thing, my colleagues. Yes, Deng Xiaoping was able to bring in peasant soldiers from a 1,000 or 2,000 miles away to perpetrate that outrage in Tiananmen Square on June 4, when other units of soldiers refused to fire on the Chinese people. Perhaps one of the reasons why they were able to get the soldiers to fire on their fellow citizens in Tiananmen Square was that there had never ever been a Tiananmen Square outrage before. They knew not what they were doing. They had never visualized, they were incapable of imagining such an atrocity, such a horror; but now they have seen it.

Can one assume that even top commanders in the army are not talking about how to prevent such an outrage of Chinese soldiers firing on the Chinese people should something remotely similar to the Tiananmen Square freedom movement appear again?

I do not think Chinese generals want to see a repetition of that. So I think that we can consider China not too different from East Germany, Poland, Hungary, Czechoslovakia, Romania and Bulgaria, that there is a pulsating thirst for freedom.

My colleagues, I would say that they are going to have an opportunity to demonstrate that thirst for freedom. I would say it is not a question of "if." It is only a question of "when," and that the signal we should send to them should be calm, collected, considered, but they should know that we are going to respect their opportunity, their chance for freedom, just as we have in Eastern Europe.

For us to put our eggs in the one basket of that aging gerontocracy in China I think is very bad gambling. Jimmy the Creek would say, "We ought to get out of the gambling business and get into another line of work," if we cannot size up the future better than that. We ought to send a wholly different signal to the people of China, and one way of doing it is to overwhelmingly affirm the gentleman's bill, I say to the gentlewoman from California. I congratulate her for her leadership. This is precisely the message we must send to the people of China.

As our former Ambassador to China, Winston Lord, testified only hours ago in the other body:

This is the reality: fairly or unfairly, the veto, if sustained, would reinforce the mind-

set and the mandate of those who have proceeded from massacre to repression; those who predict America will be lulled by cosmetic gestures and return to business-as-usual; those who dismiss the Chinese as a people apart from the global winds of change.

This, too, is the reality: the legislation, if enacted, would send a powerful message of encouragement to those in China whose voices have been silenced and to Chinese citizens everywhere who seek a freer, more open country.

Tomorrow I predict this House will override the President's veto by a huge majority on behalf of 250 million Americans, and more than a billion Chinese who yearn for freedom.

Ms. PELOSI. Mr. Speaker, I thank the gentleman very much for participating in this special order and for his kind remarks.

I would like to take up where the gentleman left off there, that it is not a matter of "if," it is a matter of "when." It is certainly inevitable that people will live free throughout the world. It is just a question of when.

I think this Congress has to see itself in an historical perspective. The year that we just lived through, 1989, the year of democracy in Eastern Europe, will be a year in history like 1776, a year like 1789, a year fraught with the spirit of the people speaking out for themselves, a year where democracy blossoms in history. It will be in Eastern Europe now and hopefully in China before this decade is out.

The immediate future for us is that we are in a new decade. At the end of this decade we will be in a new century. Indeed, we will be in a new millennium. By the year 2000 hopefully we will not have to talk about whether a tank is going to roll over a person.

□ 1510

I believe that when the Chinese authorities killed their young people in the grotesque fashion in which they did and the fact that however they did it is irrelevant, but the barbaric fashion they did it, they drew themselves outside the circle of civilized human behavior. I think we have to make them understand that. It is not in keeping with how we regard the dignity and worth of every person to roll over them in a tank, and hundreds of them at that.

I believe that when the gentleman talks about the gerontocracy in China that it has to be clear, of course, that very old people, people in their eighties, are capable of very new thinking and very young thinking. This group does not happen to be among those.

To our young people who might be listening and who care about this, and to the Chinese students to be sure, the message from this Congress has to be that we recognize that the old older changeth yielding place to new, as Tennyson said, and there is nothing more powerful than an idea whose

time has come. The idea of democracy in the world is rampant, and as I said earlier, history is in a hurry, and democracy is the engine driving it.

We have important work to do in the next 10 years to make sure that when we turn over the year 2000, the new century and the millennium to our children and our grandchildren that we will be doing it having done everything we could to make the world a freer place in which to live.

Our country is a place that people want to come to because we have a great Constitution guaranteeing freedom and independence for all Americans and all who live within our borders. If it is right for us, if we encourage it for Eastern Europe, why is it not right for China? I believe, of course, that it is, and that when we meet tomorrow that the Members of this House of Representatives will make every person in America very proud by voting almost unanimously, I hope, but certainly attaining the two-thirds necessary to override the veto so that while we say that between the executive branch and the legislative branch that certainly our goals for peace and freedom throughout the world are the same, how we get there might be a little bit different, and we have to exert our independence, too, in this House to say that our policy has to proceed not based on deals but based on ideals, not based on the old way but giving our children the hope that we are prepared to have new attitudes about what is going on in the world, recognizing that communication and technology make independence and democracy a worldwide known phenomenon, and no secret just for the Western Hemisphere and Europe.

I look forward to tomorrow. I know we will be true to what Claude Pepper said, that we were the bright and shining star of democracy, and that we will not lead people on; we will not encourage them to go out on a limb for democracy and then saw off that limb, that we will encourage them, that we will assist to assure that democracy will prevail.

People who see this earlier, the change earliest, are called leaders. Tomorrow I believe the House of Representatives will exert its leadership on this issue.

Mr. Speaker, I thank the gentleman from New York for participating in this special order and the gentleman from Indiana who was with us and those Members who are submitting statements for the RECORD and to all Members for their cooperation with the overriding of the veto tomorrow.

#### GENERAL LEAVE

Ms. PELOSI. Mr. Speaker, I ask unanimous consent that all Members

may have 5 legislative days in which to revise and extend their remarks on the subject of my special order of today.

The SPEAKER pro tempore (Mr. BRUCE). Is there objection to the request of the gentlewoman from California?

There was no objection.

#### THE REBIRTH AND REVITALIZATION OF ALLENDALE, IL

The SPEAKER pro tempore (Ms. PELOSI). Under a previous order of the House, the gentleman from Illinois [Mr. BRUCE] is recognized for 60 minutes.

Mr. BRUCE. Madam Speaker, I want to take this time today to talk about an event which occurred a year ago in my district.

Madam Speaker, in January 1989 a tornado struck the town of Allendale, IL. On January 7, 1990, I had a chance to return to that community and celebrate the rebirth and revitalization of Allendale, IL.

I remember a year ago when I came into Allendale after I had heard and had been contacted about the disaster that occurred late one evening. As I drove into the town of Allendale, and saw one part of the community, I thought, "Gee, it was not as bad as I had been told," but as I came across the top of a railroad bridge and looked down the main street of Allendale, I saw the disaster that had occurred in that town and realized immediately the problems that we faced as a Federal Government, State government, and all units of government which were going to have to pull together to restore that community, and, more importantly, the people in that community were going to have to pull together.

As I pulled onto the scene and got out of my car that morning, I realized that the process of rebuilding had already started. Lt. Roy Stock of the Salvation Army was there serving meals. They had already come to that community to make sure that people had something hot to drink and that preparations were being made to house those who had lost their homes.

In fact, as I looked at the city of Allendale, a church was standing, the school was nearly destroyed, the bank was standing, and that was about it.

By a strange set of circumstances, the National Guard unit from Lawrenceville, IL, was returning from its weekend maneuvers on the very highway on which Allendale is located, and they sprang into action instantly. They knew that the National Guard would be called out, but before they ever got that official call, they started helping, and they helped throughout the night. A lot of other people started immediately.

The sheriff of that county, Wabash County, Randy Grounds, when I met

him, had been up all night long making sure that people got the services they needed from county government, and Jack Loeffler, the mayor of that community, and the fire chief, Gary Buchanan had been up all night working. We sat and talked in the bank office. Rob Coleman, the president of the bank, and the chairman of that bank, Keith Loeffler, had said, "Look, the major structure that is remaining in Allendale is the bank. If you need it, we are going to open up the bank to the people. We are going to help solve this disaster." So the Illinois State Police and the disaster relief people were inside with no lights, inside a bank, and we were trying to plug into a small portable generator to get lights into that facility. Not only had the Salvation Army gotten into action that day and the National Guard, but almost every agency in the U.S. Government, the Emergency Services Disaster Administration, FEMA, HUD, Farmers Home Administration, the Small Business Administration. Even the IRS sent people in over the last year to make sure that people understood the tax consequences of a disaster. The State government started working rapidly with a visit from the Governor of the State of Illinois, Jim Thompson. There was the speedy work of our two State legislators, State Senator Bill O'Daniel and State Representative Larry Hicks. They knew the problem and they made sure new money was made available so that Allendale could build a new school.

Other people pitched in and made sure that the streets were clean. That morning there was more than 8 feet of debris on the main street of Allendale, IL, and almost no houses standing.

□ 1520

The American Red Cross, John Hughes and his father, Tom, made sure that there was some way of moving all that material and cleaning the streets.

At the post office all the windows had been blown in and the building had been severely damaged. The postmistress moved all the mail to her own garage on the other side of town, and the post office, at a little after 9 o'clock in the morning the day after the disaster, was open and functioning.

The school had been destroyed, but neighboring schools opened their schools to make sure that the kids were soon back in the classroom. One of the nicest touches in this whole event was when the schoolchildren went from their school to the neighboring schools, they made provisions to put a sign over the door in which they were going in that said, "Welcome, Allendale students."

Trooper Iles from the State police made sure there were communications.

When people called in, they found out whether their loved ones had been injured. Through a lot of good luck not a single person died in this incident.

Schoolteachers and school board members made sure that schools functioned. The media pitched in immediately. The Mount Carmel Republican-Register put reporters there making sure that the paper almost became a community bulletin board of those who had been injured, what services were being provided, and what additional help was on the way.

One of the television stations, WFIE of Evansville, IN, put on a telethon and raised more than \$60,000 to make sure that people had money for clothing and immediate shelter.

Radio Station WFER in Mount Carmel broadcast ways people could get assistance.

Insurance companies sent people in immediately to start settling claims. The Illinois Employment Service counseled people very quickly. Fire departments from adjoining communities made their equipment available and put in the community in case there were any fires.

Churches opened up and made emergency shelters. One of the churches in Mount Carmel realized that this was such a short time after Christmas and that many children had lost all of the Christmas presents. One of the nice things was one afternoon shortly after the tornado, we took presents to schoolchildren down at a church and we opened up Christmas presents again.

Labor organizations said "Look, if there is anything you need, call, because we can help. We have the skilled craftsmen."

I received a call in a couple of days from a person that used to deliver packages for United Parcel in the community of Allendale. He now works in Louisville, KY.

He said, "Terry, we just built a new facility for United Parcel Service in Louisville, but we have three trailers that can be used as temporary schools or the city hall or a community center."

Local people from not only Allendale but other communities donated their time and got those trailers. For \$1 we got thousands and thousands of dollars worth of emergency trailers, still used in Allendale, and which will be used later by the National Guard in disasters that may occur in the State of Illinois in the future.

Not only did we get to use those trailers in Allendale, but the good works of United Parcel Service will go on and on.

There were many people. John Spitz of my staff went down and felt he needed to be on the site all the time. John stayed there and represented me and my office and made sure that all

January 23, 1990

Federal agencies coordinated their efforts. We are proud of the kind of people that Allendale had. We are proud of the kind of people that helped them.

In this last year we have seen a lot of interesting big headlines. Big headlines about Hurricane Hugo, about the San Francisco earthquake, about international incidents in Hungary and Poland, the Berlin Wall, Romania, Gorbachev, Noriega, and Panama.

Those are big stories. But the big story for me last year was the fact that in 1 short year Allendale and its neighbors rebuilt their community. They were tested, and tested severely, but got an A. It was a year in which there was a catastrophe that was turned into caring and making sure neighbors had what they needed.

This was really a year in which Allendale went from a tornado to triumph. Allendale and the people in Allendale, we are proud of you, proud of Allendale's commitment to the community, to the schools, to the churches, to the governmental system, to the senior citizens, and we are all proud of the neighbors who helped in time of need.

It was an excellent story for America to see the rebuilding and rebirth of Allendale in 1 short year.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MANTON (at the request of Mr. GEHPARDT) for today on account of illness in the family.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. YATES, for 30 minutes, today.

(The following Members (at the request of Mr. Cox) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 60 minutes, today, January 24, and January 25.

(The following Members (at the request of Ms. PELOSI) to revise and extend their remarks and include extraneous material:)

Mr. OWENS of New York, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today. Mr. OWENS of New York, for 5 minutes each day, on January 24 and January 25.

Mr. LIPINSKI, for 5 minutes each day, on January 30, February 6, February 20, and February 27.

Ms. PELOSI, for 60 minutes, today.

Mr. BRUCE, for 60 minutes, today.

Mr. SKELTON, for 30 minutes, on January 24.

Mr. MANTON, for 60 minutes, on January 31.

Mr. FEIGHAN, for 60 minutes, on February 7.

Mr. LIPINSKI, for 60 minutes each day, on January 31, February 7, February 21, and February 28.

Mr. CLEMENT, for 60 minutes, on March 15.

Mr. FAZIO, for 60 minutes, today.

#### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Cox) and to include extraneous matter:)

Mr. BROOMEFIELD.

Mr. SAXTON.

Mr. PURSELL.

Mr. SHUMWAY.

Mr. DICKINSON in two instances.

Mr. SCHAEFER.

Mrs. MORELLA.

Mr. SKEEN.

Mr. BILIRAKIS.

Mr. MILLER of Ohio in three instances.

Mr. RINALDO.

Mr. GILMAN.

(The following Members (at the request of Ms. PELOSI) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mrs. LLOYD in five instances.

Mr. HAMILTON in 10 instances.

Mr. DE LA GARZA in 10 instances.

Mr. ASPIN.

Mr. TRAFICANT in three instances.

Mr. FRANK.

Mr. MILLER of California.

Mr. SOLARZ.

Mr. BATES.

Mrs. LOWEY of New York.

Mr. MINETA.

Mr. GUARINI.

Mr. TRAXLER.

Mr. LIPINSKI.

Mr. APPLEGATE.

Mr. JOHNSON from South Dakota.

Mr. DOWNEY.

Mr. FAZIO.

Ms. PELOSI.

Mr. McMILLEN of Maryland.

Mr. WILLIAMS in two instances.

Mr. LANTOS in three instances.

Mr. LEHMAN of Florida.

Mr. RICHARDSON in two instances.

Mr. CLEMENT in two instances.

#### BILLS PRESENTED TO THE PRESIDENT AFTER SINE DIE ADJOURNMENT OF THE FIRST SESSION OF THE 101ST CONGRESS

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the follow-

ing dates present to the President, for his approval, bills of the House of the following titles:

On December 13, 1989:

H.R. 3299. An act to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990.

On December 18, 1989:

H.R. 901. An act to amend title 38, United States Code, to provide a 4.7-percent-cost-of-living adjustment in rates of disability compensation for veterans with service-connected disabilities and in rates of dependency and indemnity compensation for survivors of veterans dying from service-connected causes and to improve certain veterans health care, education, housing, and memorial affairs programs; and for other purposes.

#### BILLS AND JOINT RESOLUTIONS APPROVED AFTER SINE DIE ADJOURNMENT

The President, subsequent to the sine die adjournment of the first session of the 101st Congress, notified the Clerk of the House that on the following dates he had approved and signed bills and joint resolutions of the House of the following titles:

On October 21, 1989:

H.R. 3385. An act to provide assistance for free and fair elections in Nicaragua.

On October 23, 1989:

H.J. Res. 400. Joint resolution designating October 27, 1989, as "National Hostage Awareness Day."

H.R. 1300. An act to amend the Head Start Act to increase the amount authorized to be appropriated for fiscal year 1990; and

H.R. 2788. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1990, and for other purposes.

On October 24, 1989:

H.R. 2987. An act to name the Department of Veterans Affairs medical center in Leavenworth, KS, as the "Dwight D. Eisenhower Department of Veterans Affairs Medical Center."

On October 25, 1989:

H.J. Res. 392. Joint resolution designating October 1989 as "Italian-American Heritage and Culture Month;"

H.J. Res. 401. Joint resolution to designate the month of October 1989 as "Country Music Month;"

H.R. 2087. An act to transfer a certain program with respect to child abuse from title IV of Public Law 98-473 to the Child Abuse Prevention and Treatment Act, and for other purposes; and

H.R. 2088. An act to revise and extend the programs established in the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986.

On October 26, 1989:

H.J. Res. 423. Joint resolution making further continuing appropriations for the fiscal year 1990, and for other purposes.

On October 30, 1989:

H.J. Res. 380. Joint resolution designating October 18, 1989, as "Patient Account Management Day;" and

H.R. 801. An act to designate the United States Court of Appeals Building at 56 Forsyth Street in Atlanta, GA, as the "Elbert P. Tuttle United States Court of Appeals Building."

On November 3, 1989:

H.R. 2989. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1990, and for other purposes; and

H.R. 3281. An act to reauthorize the National Flood Insurance Program, the Federal Crime Insurance Program, and the Defense Production Act of 1950, to extend certain housing programs, and for other purposes.

On November 8, 1989:

H.J. Res. 131. Joint resolution to designate May 25, 1989, as "National Tap Dance Day."

H.J. Res. 241. Joint resolution designating October 25, 1989, as "National Arab-American Day;" and

H.J. Res. 220. Joint resolution increasing the statutory limit on the public debt.

On November 9, 1989:

H.R. 2916. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes.

On November 10, 1989:

H.R. 24. An act to amend the Child Nutrition Act of 1966 and the National School Lunch Act to revise and extend certain authorities contained in such acts, and for other purposes; and

H.R. 3012. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes.

On November 15, 1989:

H.J. Res. 35. Joint resolution designating November 5-11, 1989, as "National Women Veterans Recognition Week;"

H.J. Res. 435. Joint resolution making further continuing appropriations for the fiscal year 1990, and for other purposes; and

H.R. 3318. An act to redesignate the Federal building in Houston, TX, known as the Concorde Tower, as the "George Thomas 'Mickey' Leland Federal Building."

On November 17, 1989:

H.J. Res. 425. Joint resolution designating November 12, through 18, 1989, as "Community Foundation Week."

H.R. 2710. An act to amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes; and

H.R. 3287. An act to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of District of Columbia revenue bonds.

On November 21, 1989:

H.J. Res. 278. Joint resolution to designate the period commencing on November 20, 1989, and ending on November 26, 1989, as "National Adoption Week."

H.J. Res. 282. Joint resolution designating November 19-25, 1989, as "National Family Caregivers Week;"

H.R. 2883. An act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1990, and for other purposes;

H.R. 2991. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes;

H.R. 3014. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1990, and for other purposes;

H.R. 3015. An act making appropriations for the Department of Transportation and

related agencies for the fiscal year ending September 30, 1990, and for other purposes;

H.R. 3072. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes;

H.R. 3566. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1990, and for other purposes;

H.R. 3743. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1990, and for other purposes; and

H.R. 3746. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes.

On November 22, 1989:

H.R. 2642. An act granting the consent of the Congress to amendments to the Southeast Interstate Low-Level Radioactive Waste Management Compact; and

H.R. 3544. An act to authorize the transfer of a specified naval landing ship dock to the Government of Brazil under the leasing authority of chapter 6 of the Arms Export Control Act.

On November 27, 1989:

H.J. Res. 291. Joint resolution designating November 16, 1989, as "Interstitial Cystitis Awareness Day"; and

H.R. 215. An act to amend title 5, United States Code, with respect to the method by which premium pay is determined for irregular, unscheduled overtime duty performed by a Federal employee.

On November 28, 1989:

H.J. Res. 357. Joint resolution providing for the reappointment of Samuel Curtis Johnson as a citizen regent of the Board of Regents of the Smithsonian Institution;

H.J. Res. 358. Joint resolution providing for the reappointment of Jeannine Smith Clark as a citizen regent of the Board of Regents of the Smithsonian Institution;

H.J. Res. 393. Joint resolution to grant the consent of Congress to the boundary change compact between South Dakota and Nebraska;

H.R. 569. An act for the relief of Maurice G. Hardy;

H.R. 1020. An act to permit reimbursement of relocation expenses of William D. Morger;

H.R. 1310. An act to redesignate a certain portion of the George Washington Memorial Parkway as the "Clara Barton Parkway";

H.R. 2120. An act to amend the Deep Seabed Hard Mineral Resources Act to authorize appropriations to carry out the provisions of the act for fiscal years 1990, 1991, 1992, 1993, and 1994;

H.R. 3402. An act to promote political democracy and economic pluralism in Poland and Hungary by assisting those nations during a critical period of transition and abetting the development in those nations of private business sectors, labor market reforms, and democratic institutions; to establish, through these steps, the framework for a composite program of support for East European Democracy (SEED); and

H.R. 3532. An act to extend the U.S. Commission on Civil Rights.

On November 29, 1989:

H.R. 2461. An act to authorize appropriations for fiscal years 1990 and 1991 for military activities of the Department of Defense, for military construction, and for de-

fense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

On November 30, 1989:

H.R. 2748. An act to authorize appropriations for fiscal year 1990 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes;

H.R. 3660. An act to amend the Rules of the House of Representatives and the Ethics in Government Act of 1978 to provide for Governmentwide ethics reform, and for other purposes.

On December 6, 1989:

H.J. Res. 448. Joint resolution making supplemental appropriations for the fiscal year 1990, and for other purposes;

H.R. 481. An act to designate the building located at 2562 Hylan Boulevard, Staten Island, New York, as the "Walter Edward Grady United States Post Office Building"; and

H.R. 3294. An act to authorize distribution within the United States of the U.S. Information Agency film entitled "A Tribute to Mickey Leland."

On December 7, 1989:

H.R. 972. An act to amend section 3724 of title 31, United States Code, to increase the authority of the Attorney General to settle claims for damages resulting from law enforcement activities of the Department of Justice;

H.R. 1312. An act to revise and extend the programs of the Domestic Volunteer Service Act of 1973;

H.R. 2134. An act to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to authorize the distribution of wholesome meat and poultry products for human consumption that are not in compliance with the acts to charity and public agencies; and

H.R. 3720. An act to amend provisions of the National Consumer Cooperative Bank Act relating to the payment of interest on and the redemption of Class A notes issued by the National Consumer Cooperative Bank.

On December 11, 1989:

H.J. Res. 429. Joint resolution to designate the week of December 10, 1989, through December 16, 1989, as "National Drunk and Drugged Driving Awareness Week";

H.R. 422. An act to amend the Department of Transportation Act to reauthorize local rail service assistance;

H.R. 875. An act to expand the boundaries of the Fredericksburg and Spotsylvania County Battlegrounds Memorial National Military Park near Fredericksburg, VA;

H.R. 1495. An act to amend the Arms Control and Disarmament Act to authorize appropriations for the Arms Control and Disarmament Agency, and for other purposes;

H.R. 3620. An act to clarify the Food Security Act of 1965; and

H.R. 3696. An act to provide survival assistance to victims of civil strife in Central America.

On December 12, 1989:

H.J. Res. 175. Joint resolution to authorize entry into force of the Compact of Free Association between the United States and the Government of Palau, and for other purposes;

H.J. Res. 449. Joint resolution providing for the convening of the second session of the 101st Congress;

H.R. 91. An act to prohibit exports of military equipment to countries supporting international terrorism, and for other purposes; .

H.R. 1502. An act to authorize the appropriation of funds to the District of Columbia for additional officers and members of the Metropolitan Police Department of the District of Columbia, to provide for the implementation in the District of Columbia of a community-oriented policing system, and for other purposes;

H.R. 1668. An act to authorize appropriations for certain ocean and coastal programs of the National Oceanic and Atmospheric Administration;

H.R. 2459. An act to authorize appropriations for the Coast Guard for fiscal year 1990, and for other purposes;

H.R. 3275. An act to implement the steel trade liberalization program;

H.R. 3614. An act to amend the Drug-Free Schools and Communities Act of 1986 to revise certain requirements relating to the provision of drug abuse education and prevention programs in elementary and secondary schools, and for other purposes; and

H.R. 3629. An act extending the authority of the Secretary of Commerce to conduct the quarterly financial report program under section 91 of title 13, United States Code, through September 30, 1993.

H.R. 1727. An act to modify the boundaries of the Everglades National Park and to provide for the protection of lands, waters, and natural resources within the park, and for other purposes;

H.R. 2178. An act to designate lock and dam numbered 4 on the Arkansas River, AR, as the "Emmett Sanders Lock and Dam;"

H.R. 3607. An act to repeal medicare provisions in the Medicare Catastrophic Coverage Act of 1988;

H.R. 3611. An act to combat international narcotics production and trafficking; and

H.R. 3670. An act to authorize the expansion of the membership of the Superior Court of the District of Columbia from 50 associate judges to 58 associate judges.

On December 15, 1989:

H.R. 1. An act to amend Federal laws to reform housing, community and neighborhood development, and related programs, and for other purposes; and

H.R. 3671. An act to amend the Federal Aviation Act of 1958 to extend the civil penalty assessment demonstration program.

On December 18, 1989:

H.R. 901. An act to amend title 38, United States Code, to provide a 4.7 percent cost-of-living adjustment in rates of disability compensation for veterans with service-connected disabilities and in rates of dependency and indemnity compensation for survivors of veterans dying from service-connected causes and to improve certain veterans health care, education, housing, and memorial affairs programs; and for other purposes; and

H.R. 3259. An act to amend the Immigration and Nationality Act to provide for adjustment of status, without regard to numerical limitations, for certain H-1 nonimmigrant nurses and to establish conditions for the admission, during a 5-year period, of nurses as temporary workers.

On December 19, 1989:

H.R. 2494. An act to reauthorize the Export-Import Bank tied-aid credit fund and pilot interest subsidy program, to provide for the participation of the United States in a replenishment of the Inter-American Development Bank and in the en-

hanced structural adjustment facility of the International Monetary Fund, to improve the safety and soundness of the U.S. banking system and encourage the reduction of the debt burdens of the highly indebted countries, to encourage the multilateral development banks to engage in environmentally sustainable lending practices and give greater priority to poverty alleviation, and for other purposes; and

H.R. 3299. An act to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990.

#### COMMUNICATION FROM THE CLERK—MESSAGE FROM THE SENATE

The Clerk received a message from the Senate after the sine die adjournment of the first session of the 101st Congress announcing the approval of the President on the following dates, of the bills and joint resolutions of the Senate of the following titles:

On November 3, 1989:

S.J. Res. 86. Joint resolution designating November 17, 1989, as "National Philanthropy Day;" and

S.J. Res. 120. Joint resolution to designate the period commencing November 12, 1989, and ending November 18, 1989, as "Geography Awareness Week."

On November 8, 1989:

S.J. Res. 19. Joint resolution to designate November 3, 1989, as "Montana Centennial Day."

On November 9, 1989:

S.J. Res. 131. Joint resolution to designate November 1989 as "National Diabetes Month;" and

S.J. Res. 209. Joint resolution to designate November 1, 1989 as "Washington Centennial Day."

On November 13, 1989:

S.J. Res. 73. Joint resolution to designate the week beginning October 29, 1989, as "Gaucher's Disease Awareness Week;" and

S.J. Res. 194. Joint resolution designating November 12 through 18, 1989 as "National Glaucoma Awareness Week."

On November 14, 1989:

S.J. Res. 198. Joint resolution designating November 1989 as "An End to Hunger Education Month."

On November 15, 1989:

S. 750. An act to extend the deadlines under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Washington.

On November 16, 1989:

S. 1827. An act to revise and clarify the authority of the Administrator of General Services relating to the acquisition and management of certain property in the city of New York.

On November 17, 1989:

S.J. Res. 215. Joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 20, 1989, as "National Military Families Recognition Day."

On November 27, 1989:

S. 931. An act to protect a segment of the Genesee River in New York; and

S.J. Res. 184. Joint resolution to designate the periods commencing on November 26, 1989, and ending on December 2, 1989, and commencing on November 25, 1990, and ending on December 1, 1990, as "National Home Care Week."

On November 28, 1989:

S. 818. A act to commemorate the contributions of Senator Clinton P. Anderson to the establishment of the National Wilderness Preservation System, and for other purposes;

S. 978. An act to establish the National Museum of the American Indian within the Smithsonian Institution, and for other purposes;

S.J. Res. 159. Joint resolution to designate April 22, 1990, as Earth Day, and to set aside the day for the public activities promoting preservation of the global environment;

S.J. Res. 207. An act approving the location of the memorial to the women who served in Vietnam; and

S.J. Res. 218. An act to designate the week of December 3, 1989, through December 9, 1989, as "National American Indian Heritage Week."

On November 29, 1989:

S. 338. An act to authorize the Secretary of the Interior to provide for the development of a trails interpretation center in the city of Council Bluffs, IA, and for other purposes;

S. 737. An act to adjust the boundary of Rocky Mountain National Park; and

S. 1390. An act to provide for the construction of biomedical facilities in order to ensure a continued supply of specialized strains of mice essential to biomedical research in the United States, and for other purposes.

On December 5, 1989:

S. 974. An act to designate certain lands in the State of Nevada as wilderness, and for other purposes;

S.J. Res. 16. Joint resolution designating November 1989 and November 1990 as "National Alzheimer's Disease Month;" and

S.J. Res. 205. Joint resolution designating December 3 through 9, 1989, as "National Cities Fight Back Against Drugs Week."

On December 6, 1989:

S. 892. A act to exclude agent orange settlement payments from countable income and resources under Federal means-tested programs; and

S. 1960. An act to authorize the food stamp portion of the Minnesota family investment plan.

On December 7, 1989:

S. 1164. An act to authorize appropriations for fiscal year 1990 for the Office of the U.S. Trade Representative, the U.S. International Trade Commission, and the U.S. Customs Service;

S. 1877. An act to improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes;

S.J. Res. 164. Joint resolution designating 1990 as the "International Year of Bible Reading;"

S.J. Res. 202. Joint resolution providing for the appointment of Robert James Woolsey, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution; and

S.J. Res. 203. Joint resolution providing for the appointment of Homer Alfred Neal as a citizen regent of the Board of Regents of the Smithsonian Institution.

On December 11, 1989:

S. 488. An act to provide Federal assistance and leadership to a program of research, development, and demonstration of renewable energy and energy efficiency technologies, and for other purposes.

On December 12, 1989:

S. 1793. An act to make technical and correcting changes in agriculture programs.

On December 13, 1989:

S. 804. An act to conserve North American wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats.

**BILL DISAPPROVED AFTER SINE DIE ADJOURNMENT OF THE FIRST SESSION OF THE 101ST CONGRESS**

The President announced his disapproval of the following bill with a memorandum of disapproval as follows:

H.R. 2712

**MEMORANDUM OF DISAPPROVAL**

In light of the actions I have taken in June and again today, I am withholding my approval of H.R. 2712, the "Emergency Chinese Immigration Relief Act of 1989." These actions make H.R. 2712 wholly unnecessary.

I share the objectives of the overwhelming majority in the Congress who passed this legislation. Within hours of the events of Tiananmen Square in June, I ordered the Attorney General to ensure that no nationals from the People's Republic of China be deported against their will, and no such nationals have been deported. Since June, my Administration has taken numerous additional and substantive actions to further guarantee this objective.

Today I am extending and broadening these measures to provide the same protections as H.R. 2712. I am directing the Attorney General and the Secretary of State to provide additional protections to persons covered by the Attorney General's June 6th order deferring the enforced departure for nationals of China. These protections will include: (1) irrevocable waiver of the 2-year home country residence requirement which may be exercised until January 1, 1994; (2) assurance of continued lawful immigration status for individuals who were lawfully in the United States on June 5, 1989; (3) authorization for employment of Chinese nationals present in the United States on June 5, 1989; and (4) notice of expiration of nonimmigrant status, rather than institution of deportation proceedings, for individuals eligible for deferral of enforced departure whose nonimmigrant status has expired.

In addition, I have directed that enhanced consideration be provided under the immigration laws for individuals from any country who express a fear of persecution upon return to their country related to that country's policy of forced abortion or coerced sterilization.

These further actions will provide effectively the same protection as would H.R. 2712 as presented to me on November 21, 1989. Indeed, last June I exercised my authority to provide opportunity for employment to a wider class of Chinese aliens than the stat-

ute would have required. My action today provides complete assurance that the United States will provide to Chinese nationals here the protection they deserve.

It has always been my view, and it is my policy as President, that the United States shall not return any person to a country where he or she faces persecution.

I have under current law sufficient authority to provide the necessary relief for Chinese students and others who fear returning to China in the near future. I will continue to exercise vigorously this authority. Waivers granted under this authority will not be revoked.

Maintaining flexibility in administering our productive student and scholar exchange program with China is important. As many as 80,000 Chinese have studied and conducted research in the United States since these exchanges began. I want to see these exchanges continue because it is in the national interest of the United States to promote the exchange of technical skills and ideas between Chinese and Americans. It is my hope that by acting administratively, we will help foster the continuation of these programs.

My actions today accomplish the laudable objectives of the Congress in passing H.R. 2712 while preserving my ability to manage foreign relations. I would note that, with respect to individuals expressing a fear of persecution related to their country's coercive family policies, my actions today provide greater protection than would H.R. 2712 by extending such protection worldwide rather than just to Chinese nationals. Despite my strong support for the basic principles of international family planning, the United States cannot condone any policy involving forced abortion or coercive sterilization.

I deplore the violence and repression employed in the Tiananmen events. I believe that China, as its leaders state, will return to the policy of reform pursued before June 3. I further believe that the Chinese visitors would wish to return to China in those circumstances, in which case I would hope that the knowledge and experience gained by the Chinese visitors temporarily in our country be applied to help promote China's reforms and modernization.

The adjournment of the Congress has prevented my return of H.R. 2712 within the meaning of Article I, section 7, clause 2 of the Constitution. Accordingly, my withholding of approval from the bill precludes its becoming law. *The Pocket Veto Case*, 279 U.S. 655 (1929). Because of the questions raised in opinions issued by the United States Court of Appeals for the District of Columbia Circuit, I am sending H.R. 2712 with my objections

to the Clerk of the House of Representatives.

GEORGE BUSH.  
THE WHITE HOUSE, November 30, 1989.

**ADJOURNMENT**

Mr. BRUCE. Madam Speaker, I move that the House do now adjourn. The motion was agreed to; accordingly (at 3 o'clock and 25 minutes p.m.) the House adjourned until tomorrow, Wednesday, January 24, 1990, at 2 p.m.

**EXECUTIVE COMMUNICATIONS,  
ETC.**

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2067. A letter from the Acting Administrator, Farmers Home Administration, Department of Agriculture, transmitting the report on the Department's Certified State Agricultural Loan Mediation Program, pursuant to 7 U.S.C. 5105; to the Committee on Agriculture.

2068. A letter from the Acting Administrator, Farmers Home Administration, transmitting a report on the annual target participation rates for loans to socially disadvantaged groups to purchase or lease inventory farmland, pursuant to 7 U.S.C. 2003; to the Committee on Agriculture.

2069. A letter from the Secretary of Agriculture, transmitting a report identifying activities of the Food Safety and Inspection Service and the Agricultural Marketing Service, respective to residue sampling and testing of imported meat, meat food products, poultry, poultry products, and egg products, pursuant to 21 U.S.C. 1401nt.; to the Committee on Agriculture.

2070. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to give the Secretary of Agriculture authority, independently or in cooperation with the Government of any country of the world or with any international organization or association, to produce and sell sterile screwworms to the Government of any country of the world or to any international organization or association; to the Committee on Agriculture.

2071. A letter from the Acting Assistant Secretary of the Army (Financial Management), transmitting a report on the value of property, supplies, and commodities provided by the Berlin Magistrate for the quarter July 1, 1989, through September 30, 1989, pursuant to Public Law 99-190, section 8014 (99 Stat. 1205); Public Law 99-591, section 9010 (100 Stat. 3341-102); Public Law 100-202, title VIII, section 8010; to the Committee on Appropriations.

2072. A letter from the Deputy Assistant Secretary (Logistics), Department of the Air Force, transmitting notification that a decision to convert the aircraft maintenance function at Williams Air Force Base, AZ, to contractor performance is the most cost-effective method of accomplishment, pursuant to Public Law 100-463, section 8061 (102 Stat. 2270-27); to the Committee on Appropriations.

2073. A letter from the Secretary of Defense, transmitting a report of five violations of the Anti-Deficiency Act which occurred in the Department of the Navy and

the Defense Logistics Agency a number of years ago, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

2074. A letter from the Secretary of Housing and Urban Development, transmitting a report of violation of the Anti-Deficiency Act which occurred in the Department's Research and Technology Appropriation 85-0108-0-1-451 for fiscal years 1985, 1986, and 1987, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

2075. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of December 1, 1989, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 101-124); to the Committee on Appropriations and ordered to be printed.

2076. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of January 1, 1990, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 101-131); to the Committee on Appropriations and ordered to be printed.

2077. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notification of the discovery and emergency disposal of one M-134 chemical bomblet at the "Target S" grid area of Dugway Proving Ground, UT, on December 5, 1989, pursuant to 50 U.S.C. 1518; to the Committee on Armed Services.

2078. A letter from the the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notification of the discovery and emergency disposal of a chemical bomblet at the "Target S" grid area of Dugway Proving Ground, UT, on October 16, 1989, pursuant to 50 U.S.C. 1518; to the Committee on Armed Services.

2079. A letter from the the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notification of the discovery and emergency disposal of a chemical bomblet at the "Target S" grid area of Dugway Proving Ground, UT, on November 8, 1989, pursuant to 50 U.S.C. 1518; to the Committee on Armed Services.

2080. A letter from the Comptroller of the Department of Defense, transmitting the supplemental contract award report for the period November 1, 1989, to December 31, 1989, pursuant to 10 U.S.C. 2431(b); to the Committee on Armed Services.

2081. A letter from the Secretary of the Army, transmitting a copy of the inspection report of the U.S. Soldiers' and Airmen's Home for fiscal year 1988, pursuant to 24 U.S.C. 59, 60; to the Committee on Armed Services.

2082. A letter from the Director, Legislative Liaison, Department of Air Force, transmitting notification of the selection of certain bases as Rail Garrison bases; to the Committee on Armed Services.

2083. A letter from the Director, Congressional Budget Office and Director Office of Management and Budget, transmitting a report on the technical assumptions to be used in preparing estimates of national defense function outlays for fiscal year 1991, pursuant to Public Law 101-189, section 5; to the Committee on Armed Services.

2084. A letter from the Secretary of Agriculture, transmitting an interim report on the Rural Housing Guaranteed Loan Demonstration Program, pursuant to Public Law 100-242, section 304(d) (101 Stat. 1894); to the Committee on Banking, Finance and Urban Affairs.

2085. A letter from the Secretary of Housing and Urban Development, transmitting the Department's 1989 interim report on the Neighborhood Development Demonstration Program, pursuant to 42 U.S.C. 5312 nt.; to the Committee on Banking, Finance and Urban Affairs.

2086. A letter from the Chairman, National Advisory Council on International Monetary and Financial Policies, transmitting the annual report of the National Advisory Council on International Monetary and Financial Policies for fiscal year 1988, pursuant to 22 U.S.C. 284b, 285(b), 286b(b) (5), (6), 286b-1, 2901-3; to the Committee on Banking, Finance and Urban Affairs.

2087. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the Corporation's affirmative program for equal employment opportunity, pursuant to 12 U.S.C. 1833e; to the Committee on Banking, Finance and Urban Affairs.

2088. A letter from the Chairman and Vice Chairman, Interagency Council on the Homeless, transmitting the Agency's 1989 annual report on the homeless, pursuant to Public Law 100-77, section 203(c)(2) (101 Stat. 487); Public Law 100-628 (102 Stat. 3228); to the Committee on Banking, Finance and Urban Affairs.

2089. A letter from the President and CEO, Oversight Board, Resolution Trust Corporation, transmitting the Board's strategic plan for conducting the functions and activities of the Resolution Trust Corporation, pursuant to Public Law 101-73, section 501(a) (103 Stat. 367); to the Committee on Banking, Finance and Urban Affairs.

2090. A letter from the Chairman, Resolution Trust Corporation, transmitting a report on equal employment opportunity and minority outreach programs, pursuant to 12 U.S.C. 1833e; to the Committee on Banking, Finance and Urban Affairs.

2091. A letter from the President, transmitting a report that it is in the national interest of the United States to terminate the suspensions under subsection 103(a) of programs of the Export-Import Bank for the People's Republic of China, pursuant to Public Law 101-240, section 102(c); to the Committee on Banking, Finance and Urban Affairs.

2092. A letter from the Auditor, District of Columbia, transmitting a copy of the report entitled, "Follow-up on Contracts Awarded by the DHS to KOBA, ARE and PSI," pursuant to D.C. Code Section 47-117(d); to the Committee on the District of Columbia.

2093. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled, "Annual Audit to The Boxing and Wrestling Commission for Fiscal Year 1989," pursuant to D.C. Code Section 47-117(d); to the Committee on the District of Columbia.

2094. A letter from the Director, Fund Board, Department of Education, transmitting a report on projects funded by the Fund Board for improvements and reform of schools and teaching for fiscal year 1989, pursuant to Public Law 100-297, section 3231(c) (102 Stat. 342); to the Committee on Education and Labor.

2095. A letter from the Commissioner, Rehabilitation Services Administration, transmitting a report on the accomplishments of the supported employment programs for the fiscal year October 1, 1987, through September 30, 1988, pursuant to 29 U.S.C. 774; to the Committee on Education and Labor.

2096. A letter from the Secretary of Education, transmitting Final Regulations for

Training Personnel for the Education of the Handicapped-Grants to State Educational Agencies and Institutions of Higher Education Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2097. A letter from the Assistant Attorney General, Office of Juvenile Justice & Delinquency Prevention, transmitting the Departments 1988 annual report on missing children, pursuant to 42 U.S.C. 5773(a); to the Committee on Education and Labor.

2098. A letter from the Secretary of Labor, transmitting the annual report of enforcement activities under the Fair Labor Standards Act for the period October 1, 1986, through September 30, 1987, pursuant to 29 U.S.C. 204(d)(1); to the Committee on Education and Labor.

2099. A letter from the Chairman, Jacob K. Javits Fellowship Board, transmitting the second report on the Jacob K. Javits Fellows Program, pursuant to 20 U.S.C. 1134; to the Committee on Education and Labor.

2100. A letter from the Secretary of Education, transmitting the annual report of the International Research and Studies Program; to the Committee on Education and Labor.

2101. A letter from the Director, Communications and Legislative Affairs, U.S. Equal Employment Opportunity Commission, transmitting the annual report on the employment of minorities, women, and individuals with handicaps in the Federal Government, fiscal year 1988; to the Committee on Education and Labor.

2102. A letter from the Secretary of Commerce, transmitting the second report on the Liability Risk Retention Act of 1986, pursuant to 15 U.S.C. 3901 nt.; to the Committee on Energy and Commerce.

2103. A letter from the Secretary of Health and Human Services, transmitting the annual report for 1989 on compliance by States with personnel standards for radiologic technicians, pursuant to 42 U.S.C. 1006(d); to the Committee on Energy and Commerce.

2104. A letter from the Secretary of Health and Human Services, transmitting the annual report on the Health Care for the Homeless Program, pursuant to Public Law 100-77, section 601 (101 Stat. 515); to the Committee on Energy and Commerce.

2105. A letter from the Inspector General, Department of the Interior, transmitting a final audit report entitled "Accounting for Reimbursable Expenditures of Environmental Protection Agency Superfund Money, Office of Environmental Project Review, Office of the Secretary," Report No. E-OS-OSS-20-89, dated December 1989, pursuant to 31 U.S.C. 7501 nt.; to the Committee on Energy and Commerce.

2106. A letter from the Chairman, Federal Trade Commission, transmitting the 20th report concerning the impact on competition and small business of the development and implementation of voluntary agreements and plans of action to carry out provisions of the International Energy Program, pursuant to 42 U.S.C. 6272(i); to the Committee on Energy and Commerce.

2107. A letter from the Secretary, Interstate Commerce Commission, transmitting notice that the Commission has extended the time period for acting on the appeal in No. 38301S, *Cool Trading Corporation, et al. v. the Baltimore and Ohio Railroad Company, et al.*, to January 1, 1990, pursuant to 49 U.S.C. 10327(k)(2); to the Committee on Energy and Commerce.

2108. A letter from the Secretary, Interstate Commerce Commission, transmitting notification that it has extended the time period for acting on the appeal in No. 38301S, *Coal Trading Corporation, et al., v. the Baltimore and Ohio Railroad Company, et al.*, pursuant to 49 U.S.C. 10327(k)(2); to the Committee on Energy and Commerce.

2109. A letter from the Secretary, Interstate Commerce Commission, transmitting notice that the Commission in Finance Docket No. 31424, "Acquisition by Tampa Bay and Western Transp., Inc., of a CSX Transp., Inc., Line Between Sulphur Springs and Broco, FL," has extended the time period for issuing a final decision by 30 days, pursuant to 49 U.S.C. 11345(e); to the Committee on Energy and Commerce.

2110. A letter from the Acting Administrator, Agency for International Development, transmitting the Private Sector Revolving Fund's annual report for fiscal year 1989, pursuant to 22 U.S.C. 2151f(h); to the Committee on Foreign Affairs.

2111. A letter from the Deputy Secretary of State, Agency for International Development, transmitting his determination that it is in the national interest to grant assistance to Sudan, pursuant to 22 U.S.C. 2370(q); to the Committee on Foreign Affairs.

2112. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed license for the export of defense articles or defense equipment sold commercially to Japan (Transmittal No. MC-27-89), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2113. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed license for the export of defense articles or defense services sold commercially to Taiwan (Transmittal No. MC-26-89), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2114. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed license for the export of defense articles or defense services sold commercially to Intelstat (Transmittal No. MC-25-89), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2115. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of proposed antiterrorism assistance to the Yemen Arab Republic, pursuant to 22 U.S.C. 2349aa-3(g)(1); to the Committee on Foreign Affairs.

2116. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed lease of defense articles to Korea (Transmittal No. 2-90), pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

2117. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 06-89, concerning a proposed memorandum of understanding (MOU) with the Governments of France, the Federal Republic of Germany, the United Kingdom, and the United States regarding a cooperative project for the development of the next generation future tank main armament system, pursuant to 22 U.S.C. 2767(f); to the Committee on Foreign Affairs.

2118. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting a copy of the Acting Secretary's determination and justification

that it is in the national interest to grant assistance to Cameroon, pursuant to 22 U.S.C. 2370(q); to the Committee on Foreign Affairs.

2119. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting the quarterly report concerning human rights activities in Ethiopia, covering the period July 15, 1989–October 14, 1989, pursuant to Public Law 100-456, section 1310(c) (102 Stat. 2065); to the Committee on Foreign Affairs.

2120. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the December 4, 1989, abduction of Jack C. Warren, a United States civilian contract employee, by armed FMLN insurgents in El Salvador, pursuant to 22 U.S.C. 2751(c)(2); to the Committee on Foreign Affairs.

2121. A communication from the President of the United States, transmitting the bimonthly report, covering the period September 1 through October 31, 1989, on progress toward a negotiated settlement of the Cyprus question, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

2122. A communication from the President of the United States, transmitting a report on developments concerning the continuing national emergency with respect to Libya, pursuant to 50 U.S.C. 1622(d) (H. Doc. No. 101-129); to the Committee on Foreign Affairs and ordered to be printed.

2123. A letter from the Secretary of Commerce, transmitting notification that the Department intends to impose and expand foreign policy-based controls on certain precursor chemicals useful in the production of chemical weapons, pursuant to 50 U.S.C. app. 2405(f); to the Committee on Foreign Affairs.

2124. A letter from the Secretary of Commerce, transmitting the Export Administration's annual report for fiscal year 1989, pursuant to 50 U.S.C. app. 2413; to the Committee on Foreign Affairs.

2125. A letter from the Assistant Secretary of Defense (Force Management and Personnel), transmitting a report on the audit of the American Red Cross for the year ending June 30, 1989, pursuant to 36 U.S.C. 6; to the Committee on Foreign Affairs.

2126. A letter from the Acting Administrator, Agency for International Development, transmitting the Sahel Development Program: 1986-88 report, pursuant to 22 U.S.C. 2151s(b); to the Committee on Foreign Affairs.

2127. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting the 17th 90-day report on the investigation into the death of Enrique Camarena, the investigations of the disappearance of United States citizens in the State of Jalisco, Mexico, and the general safety of United States tourists in Mexico, pursuant to Public Law 99-93, section 134(c) (99 Stat. 421); to the Committee on Foreign Affairs.

2128. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2129. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2130. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2131. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2132. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2133. A communication from the President of the United States, transmitting a report on the coup attempt against the constitutional government of the Philippines, December 1, 1989 (H. Doc. No. 101-123); to the Committee on Foreign Affairs and ordered to be printed.

2134. A communication from the President of the United States, transmitting a report on the development concerning the deployment of United States Forces to Panama (H. Doc. 101-127) on December 20, 1989, to the Committee on Foreign Affairs and ordered to be printed.

2135. A letter from the Secretary of Agriculture, transmitting the semiannual report of the Office of Inspector General covering the period ending September 30, 1989, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2136. A letter from the Secretary of Agriculture, transmitting notification of a delay in submitting the management followup report on the activities of the Office of Inspector General, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2137. A letter from the Secretary of Education, transmitting the 19th semiannual report of the Office of Inspector General covering the period April 1, 1989 to September 30, 1989, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2138. A letter from the Secretary of Education, transmitting the Department's first semiannual report on the audit follow-up of the activities of inspector general for the period April 1, 1989 through September 30, 1989, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2139. A letter from the Secretary of Energy, transmitting the first semiannual report of the Office of Inspector General covering the period April 1, 1989 to September 30, 1989, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2515, 2526); to the Committee on Government Operations.

2140. A letter from the Secretary of Housing and Urban Development, transmitting the semiannual report of the Office of Inspector General covering the period April 1, 1989 to September 30, 1989, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2515, 2526); to the Committee on Government Operations.

2141. A letter from the Executive Director, Pension Benefit Guaranty Corporation, transmitting the first semiannual report of the Corporation's inspector general covering the period April 1, 1989 to September 30,

1989, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

2142. A letter from the Secretary of Transportation, transmitting the semiannual report of the Office of Inspector General for the period ended September 30, 1989, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2143. A letter from the Secretary of the Treasury, transmitting U.S. Government annual report for the fiscal year ended September 30, 1989, pursuant to 31 U.S.C. 331(c); to the Committee on Government Operations.

2144. A letter from the Comptroller General transmitting a list of all reports issued by GAO during October 1989, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

2145. A letter from the Acting Comptroller General, General Accounting Office, transmitting a list of all reports issued by GAO during November and a cumulative of the preceding 12 months, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

2146. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued by GAO during December 1989, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

2147. A letter from the Acting Secretary of the Treasury, transmitting a report of the Department's compliance with the requirements of the internal accounting and administrative control system, fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2148. A letter from the Acting Secretary of State transmitting a report of the Department's compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2149. A letter from the Chairman, Administrative Conference of the United States, transmitting a report of their compliance with the requirements of the internal accounting and administrative control system, fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2150. A letter from the Acting Administrator, Agency for International Development, transmitting the semiannual report of the Agency's inspector general for the period April 1, 1989, through September 30, 1989, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2151. A letter from the Acting Administrator, Agency for International Development, transmitting a report of the agency's compliance with the requirements of the internal accounting and administrative control system during fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2152. A letter from the Acting Federal Inspector, Alaska Natural Gas Transportation System, transmitting a report of the agency's compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2153. A letter from the Federal Cochairman Designate, Appalachian Regional Commission, transmitting its report on the implementation of section 8E of the Inspector

General Act of 1978, as amended, pursuant to Public Law 100-504, section 111 (102 Stat. 2529); to the Committee on Government Operations.

2154. A letter from the Federal Cochairman Designate, Appalachian Regional Commission, transmitting the first semiannual report of the Office of Inspector General covering the period April 1, 1989, to September 30, 1989, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

2155. A letter from the Director, ACTION, transmitting the first semiannual report of the inspector general for the period ending September 30, 1989; Agency's comments thereon, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

2156. A letter from the Director, ACTION, transmitting a report of the Agency's compliance with the requirements of the internal accounting and administrative control system during the year ended September 30, 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2157. A letter from the Chairman, Barry M. Goldwater Scholarship and Excellence to Education Foundation, transmitting a report in compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2158. A letter from the Chairman, Consumer Product Safety Commission, transmitting a report of the Commission's compliance with the requirements of the internal accounting and administrative control system, fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2159. A letter from the Chairman, Railroad Retirement Board, transmitting a report of the Board's compliance with the requirements of the internal accounting and administrative control system, fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2160. A letter from the Secretary, Commission of Fine Arts, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2161. A letter from the Chairman, Commodity Futures Trading Commission, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2162. A letter from the Comptroller General, transmitting a report on the Financial Integrity Act entitled, "Inadequate Controls Result in Ineffective Federal Programs and Billions in Losses" (GAD/AFMD-90-10, November 1989); to the Committee on Government Operations.

2163. A letter from the Director, Congressional Budget Office, transmitting a report entitled "Credit Reform: Comparable Budget Costs for Cash and Credit", pursuant to Public Law 100-119, section 212; to the Committee on Government Operations.

2164. A letter from the Director, Congressional Budget Office, transmitting a report on unauthorized appropriations and expiring authorization, pursuant to 2 U.S.C. 602(f)(3); to the Committee on Government Operations.

2165. A letter from the Chairman, Consumer Product Safety Commission, trans-

mitting the first semiannual report of the Office of Inspector General covering the period April 1, 1989 to September 30, 1989, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

2166. A letter from the Secretary, Department of Education, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2167. A letter from the Director, Division of Commissioned Personnel, Public Health Service, Department of Health and Human Services, transmitting the annual report on the financial condition of the Public Health Service Commissioned Corps retirement system for the year ending September 30, 1988, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

2168. A letter from the Attorney General, Department of Justice, transmitting the first semiannual report of the Office of Inspector General for the period April 14, 1989, through September 30, 1989; report on audit resolution, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2515, 2526); to the Committee on Government Operations.

2169. A letter from the Administrator, Environmental Protection Agency, transmitting the semiannual report of the Office of Inspector General covering the period April 1, 1989 to September 30, 1989, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2170. A letter from the Administrator, Environmental Protection Agency, transmitting a report of the Agency's compliance with the requirements of the internal accounting and administrative control system, fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2171. A letter from the President and Chairman, Export-Import Bank, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2172. A letter from the Chairman, Farm Credit Administration, transmitting the first semiannual report of the Office of Inspector General for the period January 22 through September 30, 1989, comments at later date, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

2173. A letter from the Chairman, Farm Credit Administration, transmitting a report of the agency's compliance with the requirements of the internal accounting and administrative control system, fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2174. A letter from the Chairman, Farm Credit Administration, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2175. A letter from the Chairman, Federal Communications Commission, transmitting the first semiannual report for the Office of Inspector General covering the period April 1, 1989, to September 30, 1989, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

2176. A letter from the Managing Director, Federal Communications Commission,

transmitting notification of two proposed new, and one altered, Federal records systems, pursuant to 5 U.S.C. 552(a)(r); to the Committee on Government Operations.

2177. A letter from the Chairman, Federal Election Commission, transmitting the first semiannual report of the Office of Inspector General during the 6-month period ending October 31, 1989, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

2178. A letter from the Acting Director, Federal Emergency Management Agency, transmitting the semiannual report of the Office of Inspector General covering the period April 1 to September 30, 1989, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2515, 2526); to the Committee on Government Operations.

2179. A letter from the Acting Director, Federal Emergency Management Agency, transmitting a report of the agency's compliance with the requirements of the internal accounting and administrative control system during the year ending September 30, 1989, pursuant to 21 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2180. A letter from the Chairman, Federal Labor Relations Authority, transmitting a report of the agency's compliance with the requirements of the internal accounting and administrative control system for fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2181. A letter from the Acting Chairman, Federal Maritime Commission, transmitting the first semiannual report of the Office of Inspector General covering the period April 1, 1989, to September 30, 1989, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

2182. A letter from the Acting Chairman, Federal Maritime Commission, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2183. A letter from the Acting Director, Federal Mediation and Conciliation Service, transmitting a report of the agency's compliance with the requirements of the internal accounting and administrative control system during fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2184. A letter from the Chairman, Federal Trade Commission, transmitting the first semiannual report of the Office of Inspector General since its inception May 23, 1989 to September 30, 1989, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

2185. A letter from the Chairman, Federal Trade Commission, transmitting a report of the Commission's compliance with the requirements of the internal accounting and administrative control system during fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2186. A letter from the Acting Administrator, General Services Administration, transmitting a draft of proposed legislation to amend the Federal Property and Administrative Services Act of 1949 to authorize executive agencies to establish more than one supply source for a particular commodity or service; to the Committee on Government Operations.

2187. A letter from the Acting Administrator, General Services Administration, transmitting a report covering the disposal of

surplus Federal real property for historic monument, correctional facility, and airport purposes for fiscal year 1989; description of negotiated disposals of surplus real property having an estimated value of more than \$15,000, pursuant to 40 U.S.C. 484(o); to the Committee on Government Operations.

2188. A letter from the Inspector General, General Services Administration, transmitting a copy of the Audit Report Register of his office, as an addendum to the semiannual report of activities for the 6-month period ending September 30, 1989, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2189. A letter from the Acting Administrator, General Services Administration, transmitting the Administrator's first semiannual report on the status of audit followup of the inspector general, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2190. A letter from the Acting Administrator, General Services Administration, transmitting a report of the agency's compliance with the internal accounting and administrative control system, as of September 30, 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2191. A letter from the Acting Public Printer, Government Printing Office, transmitting the first semiannual report of the Office of Inspector General for the period April 1, 1989 through September 30, 1989; report on final action to be transmitted under separate cover, pursuant to 44 U.S.C. 3903 (102 Stat. 2531); to the Committee on Government Operations.

2192. A letter from the Chairman, International Cultural and Trade Center Commission, transmitting a report on compliance with the requirements of the internal accounting and administrative control system during fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2193. A letter from the Chairman, Interstate Commerce Commission, transmitting a report of the Commission's compliance with the requirements of the internal accounting and administrative control system, fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2194. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the 22d semiannual report of the Office of Inspector General for the period April 1, 1989 through September 30, 1989; first management report on the status of audit followup, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2195. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report of the agency's compliance with the requirements of the internal accounting and administrative control system, fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2196. A letter from the Chairman, National Credit Union Administration, transmitting the first report on the activities of the Office of Inspector General covering the period April 1, 1989 to September 30, 1989, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

2197. A letter from the Chairman, National Credit Union Administration, transmitting a report on compliance with the re-

quirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2198. A letter from the Chairman, National Endowment for the Arts, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2199. A letter from the Chairman, National Endowment for the Arts, transmitting the inspector general's semiannual report and management's semiannual report, pursuant to Public Law 100-504, section 104(a) (102 Stat. 2522); to the Committee on Government Operations.

2200. A letter from the Director, National Gallery of Art, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2201. A letter from the Chairman, National Mediation Board, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2202. A letter from the Chairman, National Science Board, transmitting the initial report of the Office of Inspector General, National Science Foundation, for the period April 1 through September 30, 1989; comments thereon, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

2203. A letter from the Director, National Science Foundation, transmitting a report on compliance with the requirements of the internal accounting and administrative control system during the year ending September 30, 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2204. A letter from the Chairman, National Transportation Safety Board, transmitting a report on compliance with the requirements of the internal accounting and administrative control system during the year ending September 30, 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2205. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the first semiannual report of the Office of Inspector General covering the period since its inception April 15, 1989 to September 30, 1989, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2515, 2526); to the Committee on Government Operations.

2206. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a report on compliance with the requirements of the internal accounting and administrative control system during the year ending September 30, 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2207. A letter from the Director, Office of Management and Budget, transmitting a report on accounts containing unvouchered expenditures that are potentially subject to audit by the General Accounting Office, pursuant to 31 U.S.C. 3524(b); to the Committee on Government Operations.

2208. A letter from the President and Chief Executive Officer, Overseas Private Investment Corporation, transmitting a report of the agency's compliance with the requirements of the internal accounting and

administrative control system during fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2209. A letter from the Administrator, Panama Canal Commission, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2210. A letter from the Director, Peace Corps, transmitting the first semiannual report of the Office of Inspector General for the period April 1, 1989, through September 30, 1989; comments thereon, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

2211. A letter from the Deputy Assistant to the President for Management and Director of the Office of Administration, President of the United States, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2212. A letter from the Secretary to the Board, Railroad Retirement Board, transmitting a report of actions taken to increase competition for contracts during fiscal year 1989, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

2213. A letter from the Secretary of the Treasury, transmitting the first semiannual report of the Office of Inspector General for the period ended September 30, 1989; comments thereon, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2515, 2526); to the Committee on Government Operations.

2214. A letter from the Secretary of Agriculture, transmitting a report of the Department's compliance with the requirements of the internal accounting and administrative control system, fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2215. A letter from the Secretary of Commerce, transmitting a report of the Department's compliance with the requirements of the internal accounting and administrative control system during fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2216. A letter from the Secretary of Defense, transmitting the semiannual report of the Office of Inspector General during the 6 months ending September 30, 1989, pursuant to Public Law 95-452, section 5(b) (96 Stat. 750, 102 Stat. 2526); to the Committee on Government Operations.

2217. A letter from the Secretary of Defense, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2218. A letter from the Secretary of Education, transmitting a report of surplus Federal real property disposed of to educational institutions, fiscal year 1989, pursuant to Public Law 100-612, section 5 (102 Stat. 3181); to the Committee on Government Operations.

2219. A letter from the Secretary of Education, transmitting a report of the Department's compliance with the requirements of the internal accounting and administrative control system, fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2220. A letter from the Secretary of Energy, transmitting a report of the Depart-

ment's compliance with the requirements of the internal accounting and administrative control system, fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2221. A letter from the Secretary of Health and Human Services, transmitting a report of the Department's compliance with the requirements of the internal accounting and administrative control system, fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2222. A letter from the Secretary of Housing and Urban Development, transmitting a report of the Department's compliance with the requirements of the internal accounting and administrative control system, fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2223. A letter from the Secretary of Transportation, transmitting a report of the Department's compliance with the requirements of the internal accounting and administrative control system, fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2224. A letter from the Secretary of Veterans Affairs, transmitting the semiannual report of the Inspector General for the period April 1, 1989, through September 30, 1989; Department's initial management report on actions taken in response to audit recommendations, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526, 2640); to the Committee on Government Operations.

2225. A letter from the Secretary of Veterans Affairs, transmitting a report of the Department's compliance with the requirements of the internal accounting and administrative control system for the period ending September 30, 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2226. A letter from the Chairman, Securities and Exchange Commission, transmitting the first semiannual report of the Office of Inspector General for the period ending September 30, 1989; Chairman's response to the report, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

2227. A letter from the Director, Selective Service, transmitting a report of the agency's compliance with the requirements of the internal accounting and administrative control system, fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2228. A letter from the Administrator, Small Business Administration, transmitting the semiannual report of the Inspector General for the period April 1, 1989, through September 30, 1989; status of management actions thereon, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2229. A letter from the Administrator, Small Business Administration, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2230. A letter from the Acting Staff Director, U.S. Commission on Civil Rights, transmitting a report of the Commission's compliance with the requirements of the internal accounting and administrative control system, fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2231. A letter from the Associate Director, U.S. Information Agency, transmitting a report of the Agency's compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2232. A letter from the Special Counsel, U.S. Office of Special Counsel, transmitting a report of the agency's compliance with the requirements of the internal accounting and administrative control system, fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2233. A letter from the Director, U.S. Peace Corps, transmitting a report of the agency's compliance with the requirements of the internal accounting and administrative control system, fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2234. A letter from the Director, U.S. Arms Control and Disarmament Agency, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2235. A letter from the Director, U.S. Information Agency, transmitting the Agency's fifth and final annual report on competition advocacy during fiscal year 1989, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

2236. A letter from the Chairman, U.S. International Trade Commission, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2237. A letter from the Director, U.S. Office of Personnel Management, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2238. A letter from the Chairman, U.S. Securities and Exchange Commission, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2239. A letter from the Lieutenant General, USAF, Retired Governor, U.S. Soldiers' and Airmen's Home, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2240. A letter from the Clerk of the House, transmitting a list of reports pursuant to clause 2, rule III of the Rules of the House of Representatives, pursuant to rule III, clause 2, of the Rules of the House (H. Doc. No. 101-133); to the Committee on House Administration and ordered to be printed.

2241. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2242. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to

43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2243. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2244. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2245. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2246. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2247. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payables in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2248. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2249. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the first biennial report on the estimated reserves of crude oil and natural gas in the Federal Outer Continental Shelf, pursuant to 43 U.S.C. 1865; jointly to the Committee on Interior and Insular Affairs; and Merchant Marine and Fisheries.

2250. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2251. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2252. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2253. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2254. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting

notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2255. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2256. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2257. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2258. A letter from the Assistant Secretary for Water and Science, Department of the Interior, transmitting the High Plains States Groundwater Demonstration Program 1989 interim report, pursuant to 43 U.S.C. 390g-2(c)(2); to the Committee on Interior and Insular Affairs.

2259. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2260. A letter from the Director, Bureau of Land Management, transmitting the ninth annual program report on the public lands, entitled "Managing the Nation's Public Lands," pursuant to 43 U.S.C. 1741(a); to the Committee on Interior and Insular Affairs.

2261. A letter from the Secretary of the Interior, transmitting the 10th annual program report on the managing of the Nation's public lands, pursuant to 43 U.S.C. 1741(a); to the Committee on Interior and Insular Affairs.

2262. A letter from the Assistant Secretary—Indian Affairs, Department of Interior, transmitting a newly proposed plan for the use of judgment funds awarded to the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Docket 50233 before the U.S. Court of Claims; to the Committee on Interior and Insular Affairs.

2263. A letter from the Secretary of the Interior, transmitting the 1990 update to the national plan for research in mining and mineral resources and the 1990 report on the Mineral Institute Program of the U.S. Department of the Interior, pursuant to 30 U.S.C. 1229(e); to the Committee on Interior and Insular Affairs.

2264. A letter from the Chief Justice, Supreme Court of the United States, transmitting a copy of the report of the proceedings of the Judicial Conference of the United States, September 1989, pursuant to 28 U.S.C. 331; to the Committee on the Judiciary.

2265. A letter from the Attorney General, Department of Justice, transmitting the report on the administration of the Foreign Agents Registration Act covering the calendar year 1987, pursuant to 22 U.S.C. 621; to the Committee on the Judiciary.

2266. A letter from the Director, Administrative Office of the United States Courts, transmitting a report on recommendations

submitted to the Judicial Conference of the United States from the ad hoc Committee on Federal Habeas Corpus in Capital Cases, pursuant to 28 U.S.C. 623(b); to the Committee on the Judiciary.

2267. A letter from the Corporation Agent, Legion of Valor of the United States of America, Inc., transmitting a copy of the legion's annual audit as of April 30, 1989, pursuant to 36 U.S.C. 1101(28), 1103; to the Committee on the Judiciary.

2268. A letter from the Acting Adjutant General, Military Order of the Purple Heart, transmitting a copy of their financial audit as of June 30, 1989 and 1988, pursuant to 36 U.S.C. 1101(31), 1103; to the Committee on the Judiciary.

2269. A letter from the Chairman, Board of Directors, National FFA Organization, transmitting a report on the audit of the accounts of the Future Farmers of America for the period ending August 31, pursuant to 36 U.S.C. 1101(23), 1103; to the Committee on the Judiciary.

2270. A letter from the Executive Vice President, Noncommissioned Officers Association, transmitting a copy of the audited financial statement statement for 1988, pursuant to Public Law 100-281, section 13 (100 Stat. 75); to the Committee on the Judiciary.

2271. A letter from the Director, Office of Drug Control Policy, transmitting the report on the study of the necessity to establish a new division or make other organizational changes within the Department of Justice in order to promote better civil and criminal law enforcement, pursuant to Public Law 100-690, section 1053(a) (102 Stat. 4190); to the Committee on the Judiciary.

2272. A letter from the Chief Financial Officer, Paralyzed Veterans of America, transmitting a copy of the annual audit report of the Paralyzed Veterans of America for the fiscal year ended September 30, 1989, pursuant to 36 U.S.C. 1166; to the Committee on the Judiciary.

2273. A letter from the veterans of World War I of the U.S.A., Inc., transmitting proceedings of the 37th National Conference, pursuant to 36 U.S.C. 776; 44 U.S.C. 1322 (H. Doc. No. 101-137); to the Committee on the Judiciary.

2274. A letter from the Clerk, U.S. Claims Court, transmitting the court's report for the year ended September 30, 1989, pursuant to 28 U.S.C. 791(c); to the Committee on the Judiciary.

2275. A letter from the Assistant Administrator, National Oceanic and Atmospheric Administration, transmitting a report on developing a mapping plan for the U.S. Great Lakes region, pursuant to 33 U.S.C. 883a nt.; to the Committee on Merchant Marine and Fisheries.

2276. A letter from the Chairman, Migratory Bird Conservation Commission, transmitting the annual report of activities for the fiscal year ended September 30, 1989, pursuant to 16 U.S.C. 715b; to the Committee on Merchant Marine and Fisheries.

2277. A letter from the Admiral, U.S. Coast Guard Commandant, transmitting the U.S. Coast Guard's study of safety problems on fishing industry vessels, pursuant to 46 U.S.C. 4502 nt.; to the Committee on Merchant Marine and Fisheries.

2278. A letter from the Assistant Administrator, Environmental Protection Agency, transmitting a report on the Agency's Endangered Species Protection Program as it relates to pesticide regulatory activities; to

the Committee on Merchant Marine and Fisheries.

2279. A letter from the Secretary of Transportation, transmitting the Department's comments on the effects of the Shipping Act of 1984, pursuant to 46 U.S.C. 1717(c)(2); to the Committee on Merchant Marine and Fisheries.

2280. A letter from the Deputy Assistant to the President for Management and Director of the Office of Administration, The White House, transmitting the aggregate report for personnel employed in the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Office of Policy Development (domestic policy staff), and the Office of Administration, fiscal year 1989, pursuant to 3 U.S.C. 113; to the Committee on Post Office and Civil Service.

2281. A letter from the Chairman, Merit Systems Protection Board, transmitting a report titled "OPM's Classification and Qualification Systems—A Renewed Emphasis, A Changing Perspective," pursuant to 5 U.S.C. 1205(a)(3); to the Committee on Post Office and Civil Service.

2282. A letter from the Special Counsel, U.S. Merit Systems Protection Board, transmitting the annual activities report for fiscal year 1988, pursuant to Public Law 101-12, section 3(a)(11) (103 Stat. 29); to the Committee on Post Office and Civil Service.

2283. A letter from the Secretary of Commerce, transmitting the annual report on the activities of the Economic Development Administration, fiscal year 1988, pursuant to 42 U.S.C. 3217; to the Committee on Public Works and Transportation.

2284. A letter from the Administrator, Environmental Protection Agency, transmitting the annual report on the nonpoint sources of water pollution reduction activities and programs, fiscal year 1988, pursuant to Public Law 100-4, section 316 (101 Stat. 59); to the Committee on Public Works and Transportation.

2285. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on Mill Creek, TN, together with other pertinent reports and comments (H. Doc. No. 101-125); to the Committee on Public Works and Transportation and ordered to be printed.

2286. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report dated February 7, 1989, from the Chief of Engineers, Department of the Army, on Coyote and Berryessa Creek, CA, together with other pertinent reports (H. Doc. No. 101-126); to the Committee on Public Works and Transportation and ordered to be printed.

2287. A letter from the Chairman, Barry Goldwater Scholarship and Excellence in Education Foundation, transmitting the annual report of the activities of the Goldwater Foundation, pursuant to 20 U.S.C. 4711; to the Committee on Science, Space, and Technology.

2288. A letter from the Executive Director, Task Force on Women, Minorities, and the Handicapped in Science and Technology, transmitting a final report entitled, "Changing America: The New Face of Science and Engineering"; to the Committee on Science, Space, and Technology.

2289. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the 1989 annual report on the performance of its industrial application centers and on the ability to interact with the Nation's small business community, pursuant to 15 U.S.C. 648(f); to the Committee on Small Business.

2290. A letter from the Chairperson, National Women's Business Council, U.S. Business Administration, transmitting the first activities report of the National Women's Business Council activities, pursuant to 15 U.S.C. 631 nt.; to the Committee on Small Business.

2291. A letter from the National Adjutant, the Disabled American Veterans, transmitting the report of the proceedings of the organization's 68th National Convention, including their annual audit report of receipts and expenditures as of December 31, 1989, pursuant to 36 U.S.C. 901; 44 U.S.C. 1332 (H. Doc. No. 101-136); to the Committee on Veterans' Affairs and ordered to be printed.

2292. A letter from the Adjutant General, the United Spanish War Veterans, transmitting the proceedings of the 90th national encampment held in Des Moines, IA, August 23-31, 1988, pursuant to 44 U.S.C. 1332 (H. Doc. No. 101-138); to the Committee on Veterans' Affairs and ordered to be printed.

2293. A communication from the President of the United States, transmitting notification of his intention to add Poland to the list of beneficiary developing countries under the Generalized System of Preferences (GSP), pursuant to 19 U.S.C. 2462(a) H. Doc. 101-130); to the Committee on Ways and Means and ordered to be printed.

2294. A letter from the Secretary of Health and Human Services, transmitting 1989 interim report on demonstration projects with respect to work incentives for disabled OASDI beneficiaries, pursuant to 42 U.S.C. 1310 nt.; to the Committee on Ways and Means.

2295. A letter from the Fiscal Assistant Secretary, Department of the Treasury, transmitting the final monthly treasury statement of receipts and outlays of the U.S. Government for fiscal year 1989, pursuant to 31 U.S.C. 331(c); to the Committee on Ways and Means.

2296. A letter from the Secretary of Commerce, transmitting the first report of the President's Advisory Committee on Trade Policy and Negotiations' EC92 task force on its review and recommendations on the European Community's program to develop a single market by the end of 1992, pursuant to Public Law 100-418, section 1103(b)(3) (102 Stat. 1130); to the Committee on Ways and Means.

2297. A letter from the Secretary of Labor, transmitting a report on methods of expediting certification of workers for trade adjustment assistance, pursuant to Public Law 100-418, section 1429; to the Committee on Ways and Means.

2298. A letter from the Board of Trustees, transmitting the 1989 annual report of the Board of Trustees of the Federal Hospital Insurance Trust Fund, pursuant to 42 U.S.C. 401(c)(2), 1395(b)(2), 1395(b)(2) (H. Doc. No. 101-134); to the Committee on Ways and Means and ordered to be printed.

2299. A letter from the Chairman, U.S. International Trade Commission, transmitting the fourth annual report on the impact of the Caribbean Basin Economic Recovery Act on U.S. industries and consumers, pursuant to 19 U.S.C. 2704; to the Committee on Ways and Means.

2300. A letter from the Special Assistant to the President for Agricultural Trade and Food Aid, transmitting a report on expanding export markets for U.S. agriculture including higher value products, pursuant to 7 U.S.C. 1736-1(c)(9); jointly, to the Committees on Agriculture and Foreign Affairs.

2301. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to change the statutory authority for the pay level of the Director of the U.S. Mint to Executive Level V; jointly, to the Committees on Banking, Finance and Urban Affairs and Post Office and Civil Service.

2302. A letter from the Secretary of Labor, transmitting the annual report on employment and training programs for veterans during program year 1987 (July 1, 1987-June 30, 1988) and fiscal year 1988 (October 1, 1987-September 30, 1988), pursuant to 38 U.S.C. 2009(b); jointly, to the Committees on Education and Labor and Veterans' Affairs.

2303. A letter from the Commissioner, Monitored Retrievable Storage Commission, transmitting the first report on the need for a Federal monitored retrievable storage facility, pursuant to 42 U.S.C. 10163; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

2304. A letter from the Acting Chairman, National Transportation Safety Board, transmitting a copy of the Board's letter to the OMB appealing the fiscal year 1991 allowance for the Board, pursuant to 49 U.S.C. app. 1903(b)(7); jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

2305. A letter from the Secretary of Commerce, transmitting a report on imports during the first 6 months of 1989, and the appendix, of strategic and critical materials from countries of the Council for Mutual Economic Assistance, pursuant to 22 U.S.C. 5092(b)(2); jointly, to the Committees on Foreign Affairs and Ways and Means.

2306. A communication from the President of the United States, transmitting his determination that it is in the national interest of the United States to lift the prohibition on reinstatement and approval of export licenses for the three U.S.-built AUSSAT and AsiaSat satellites for launch on Chinese-built launch vehicles, pursuant to Public Law 101-162, section 610; jointly, to the Committees on Foreign Affairs and Appropriations.

2307. A letter from the Comptroller General, General Accounting Office, transmitting the audit of the Pennsylvania Avenue Development Corporation's financial statements for the fiscal year ending September 30, 1988, pursuant to 31 U.S.C. 9106(a); jointly, to the Committees on Government Operations and Interior and Insular Affairs.

2308. A letter from the Secretary of the Interior, transmitting a report describing the current condition of habitat at the Salton Sea National Wildlife Refuge, CA, pursuant to Public Law 100-675, section 208; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

2309. A letter from the Director, Administrative Office of the United States Courts, transmitting a draft of proposed legislation, adopted by the Judicial Conference of the United States, to require the Secretary of the Treasury to mint gold and silver coins in commemoration of the Bicentennial of the Bill of Rights and the role of the Federal judiciary in interpreting the Bill of Rights; jointly, to the Committees on Judiciary and Banking, Finance and Urban Affairs.

2310. A letter from the Comptroller of the Currency, transmitting notification of adjustments to OCC's compensation for the calendar year 1990; jointly, to the Committees on Post Office and Civil Service and Banking, Finance and Urban Affairs.

2311. A letter from the Director, Office of Personnel Management, transmitting a report on SES positions in the Department of Housing and Urban Development, pursuant to Public Law 101-144; jointly, to the Committees on Post Office and Civil Service and Appropriations.

2312. A letter from the Comptroller of the Department of Defense, transmitting notification of the Department's intent to transfer \$20 million for Jordan as a reprogramming action, pursuant to Public Law 101-165, section 9108; jointly, to the Committees on Appropriations, Armed Services, and Foreign Affairs.

2313. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting the certification that 10 strategic minerals currently imported from South Africa are essential for the economy or defense of the United States and are unavailable from reliable and secure suppliers, pursuant to 22 U.S.C. 5094(a); jointly, to the Committees on Armed Services, Foreign Affairs, and Ways and Means.

2314. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to raise the authorized pay level of the Treasurer of the United States to Executive IV; jointly, to the Committees on Banking, Finance and Urban Affairs; Post Office and Civil Service; and Ways and Means.

2315. A communication from the President of the United States, transmitting final report of the Presidential Economic Delegation to Poland in November 1989 (H. Doc. No. 101-135); jointly, to the Committees on Agriculture; Banking, Finance and Urban Affairs; Education and Labor; Foreign Affairs; Energy and Commerce; and Ways and Means and ordered to be printed.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

*[Pursuant to the order of the House on Nov. 20, 1989, the following reports were filed on Dec. 15, 1989]*

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 2061. A bill to authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act through fiscal year 1992; with amendments (Rept. 101-393). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3332. A bill to provide for development of a National Global Change Research Plan to coordinate oceanographic, atmospheric, terrestrial, and polar research programs; to direct to the Council on Environmental Quality to advise the President on policies relating to global change; and for other purposes; with an amendment (Report 394, Pt. 1). Ordered to be printed.

*[Pursuant to H. Res. 84 the following report was filed on Jan. 12, 1990]*

Mr. MILLER of California: Select Committee on Children, Youth, and Families, No Place To Call Home: Discarded Children in America (Rept. 101-395). Referred to the Committees on Education and Labor, Energy and Commerce, the Judiciary, and Ways and Means and ordered to be printed.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONYERS (for himself, Mr. HORTON, Mr. SYNAR, Mr. WAXMAN, Mr. NEAL of North Carolina, Mr. GILMAN, Mr. BATES, Mr. DE LA GARZA, Mr. NOWAK, Mr. DICKS, Mr. TORRES, Mr. TALLON, Mr. SLATTERY, Mr. DYMALLY, Mr. WOLPE, Mr. SHAYS, Mr. SMITH of Verinont, Mr. BOEHLERT, Mr. COURTER, Mr. PURSELL, Mr. WALSH, Mr. FISH, and Mr. BEVILL):

H.R. 3847. A bill to establish a Department of Environmental Protection, and for other purposes; to the Committee on Government Operations.

By Mr. ANUNZIO (for himself Mr. HUBBARD, Mr. VENTO, Mr. KLECZKA, Mr. KANJORSKI, Mr. FLAKE, Mr. MFUME, Mr. HOAGLAND, Mr. ROTH, Mr. BATES, Mr. BRYANT, Mr. FOGLIETTA, Mr. PENNY, and Mr. ROE):

H.R. 3848. A bill to require the appropriate Federal depository institution regulatory agency to revoke the charter of any Federal depository institution which is found guilty of a crime involving money laundering or monetary transaction report offenses and to require the Federal Deposit Insurance Corporation and the National Credit Union Administration Board to terminate the deposit insurance of any State depository institution which is found guilty of any such crime; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BATES (for himself, Mr. ANUNZIO, Mr. FAZIO, Mr. FLIPPO, Mr. FROST, Ms. OAKAR, Mr. GEJDENSON, Mr. KOLTER, and Mr. MANTON):

H.R. 3849. A bill to amend title 44, United States Code, to reform the public information functions of the Public Printer and the Superintendent of Documents; to the Committee on House Administration.

By Mr. HAWKINS (for himself, Mr. MARTINEZ, Mr. OWENS of New York, and Mr. PERKINS):

H.R. 3850. A bill to assure a fair chance for a good education for all children; to the Committee on Education and Labor.

By Mr. BRENNAN (for himself, Mr. NEAL of Massachusetts, Mr. DONNELLY, Mr. OWENS of New York, Mr. ACKERMAN, Mr. NOWAK, Mr. KOLTER, Mr. FOGLIETTA, Mr. FRANK, Mr. STUDS, and Mr. MURPHY):

H.R. 3851. A bill making supplemental appropriations to the Department of Health and Human Services for the Low-Income Home Energy Assistance Program [LIHEAP] in certain States for the fiscal year ending September 30, 1990; to the Committee on Appropriations.

By Mr. BROWN of California (for himself, Mr. FAZIO, Mr. LEWIS of California, Mr. MORHEAD, Mr. CAMPBELL of California, Mr. PACKARD, Mr. BATES, and Mr. WAXMAN):

H.R. 3852. A bill to require the Secretary of Energy to carry out a program for purposes of accelerating the development and demonstration of electric vehicle technology; jointly, to the Committees on Energy and Commerce and Science, Space, and Technology.

By Mr. BUSTAMANTE:

H.R. 3853. A bill requiring the Office of Science and Technology Policy to coordinate and evaluate Federal efforts to pro-

mote and assist mathematics and science education; to the Committee on Science, Space, and Technology.

By Mr. CHAPMAN:

H.R. 3854. A bill to establish and evaluate four military-style boot camp prisons within the Federal prison system as a 4-year demonstration program; to the Committee on the Judiciary.

By Mr. CONTE (for himself, Mr. NEAL of Massachusetts, Mr. SMITH of Vermont, Mr. DONNELLY, Mr. FRANK, Mrs. KENNELLY, Ms. SCHNEIDER, Mr. MACHTLEY, Mr. SHAYS, and Mr. KILDEE):

H.R. 3855. A bill to amend the Energy Policy and Conservation Act to provide for the establishment of regional petroleum products reserve, and for other purposes; to the Committee on Energy and Commerce.

H.R. 3856. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on windfall profits derived from home heating oil, and for other purposes; to the Committee on Ways and Means.

By Mr. DORGAN of North Dakota (for himself, Mr. DURBIN, Mr. PENNY, Mrs. SCHROEDER, Mr. THOMAS A. LUKEN, Mr. FAUNTROY, Mr. BORSKI, and Mr. DE LUGO):

H.R. 3857. A bill to amend the Internal Revenue Code of 1986 to repeal the 1990 scheduled increase in Social Security taxes; to the Committee on Ways and Means.

By Mr. EMERSON (for himself and Mr. ACKERMAN):

H.R. 3858. A bill to amend the Internal Revenue Code of 1986 to provide that income of a child which is to be used for the child's educational expenses shall be taxed at the child's rates and not the parent's rates; to the Committee on Ways and Means.

By Mr. FORD of Michigan (for himself, Mr. BULCHNER, Mrs. COLLINS, Mr. DONNELLY, Mr. GEPHARDT, Mr. HALL of Texas, Mr. HAMILTON, Mr. LIVINGSTON, Mr. MFUME, Mr. NAGLE, and Mr. TAUKE):

H.R. 3859. A bill to authorize assistance to the Washington Center for Internships and Academic Seminars; to the Committee on Education and Labor.

By Mr. HAWKINS (for himself and Mr. OWENS of New York):

H.R. 3860. A bill to assist schools in improving student performance; to the Committee on Education and Labor.

By Mr. JONES of North Carolina:

H.R. 3861. A bill to prohibit oil and gas leasing, exploration, and development offshore North Carolina until adequate physical oceanographic, ecological, and socioeconomic information is available to enable informed decisionmaking, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. KOLTER:

H.R. 3862. A bill to extend nondiscriminatory treatment to the products of Czechoslovakia for 5 years; to the Committee on Ways and Means.

By Mr. KOSTMAYER (for himself, Mr. GRAY, Mr. MURPHY, Mr. BEREUTER, Mr. PEASE, Mr. TOWNS, Mr. McDADE, Mr. ACKERMAN, Mr. FOGLIETTA, Mr. WALGREEN, Mr. LEWIS of Georgia, Mr. YATRON, Mr. MARKEY, and Mrs. MEYERS of Kansas):

H.R. 3863. A bill to amend the National Trails System Act to provide for the study and designation of the Underground Histor-

ic Trail; to the Committee on Interior and Insular Affairs.

By Ms. OAKAR:

H.R. 3864. A bill to amend title XVIII of the Social Security Act to provide for coverage of annual screening mammography under part B of the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. PENNY (for himself and Mr. THOMAS A. LUKEN):

H.R. 3865. A bill to amend the Internal Revenue Code of 1986 to repeal the 1990 scheduled increase in Social Security taxes and to reduce such taxes in 1991; to the Committee on Ways and Means.

By Mr. PAHALL (for himself and Mr. VENTO):

H.R. 3866. A bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RICHARDSON:

H.R. 3867. A bill to direct the Secretary of Agriculture and the Secretary of the Interior to provide interpretation and visitor education regarding the rich cultural heritage of the Chama River Gateway Region of northern New Mexico; to the Committee on Interior and Insular Affairs.

By Mrs. SCHROEDER:

H.R. 3868. A bill to direct the Secretary of the Army to carry out a 4-year test program to examine the implications of the removal of limitations on the assignment of female members of the Army to combat and combat-support positions; to the Committee on Armed Services.

By Mr. SLATTERY (for himself, Mr. AKAKA, Mr. HALL of Ohio, Mr. PENNY, Mr. BATES, Mr. BATEMAN, and Mr. HERGER):

H.R. 3869. A bill to provide that no interest shall be imposed on any underpayment of tax resulting from the retroactive application of the amendment denying the deduction for personal exemptions under the alternative minimum tax; to the Committee on Ways and Means.

By Ms. SNOWE:

H.R. 3870. A bill making supplemental appropriations to the Department of Health and Human Services for the Low-Income Home Energy Assistance Program for the fiscal year ending September 30, 1990; to the Committee on Appropriations.

By Mr. SOLOMON:

H.R. 3871. A bill to amend the Controlled Substances Act to provide the penalty of death for major drug traffickers; jointly, to the Committees on the Judiciary and Energy and Commerce.

By Mr. WILLIAMS:

H.R. 3872. A bill to amend the Internal Revenue Code of 1986 to repeal recent increases in Social Security taxes, and to amend the Congressional Budget and Impoundment Control Act of 1974 to exclude receipts and disbursements of the Social Security trust funds from the calculation of Federal deficits and maximum deficit amounts under the Balanced Budget and Emergency Deficit Control Act of 1985; jointly, to the Committees on Ways and Means and Government Operations.

By Mr. WILLIAMS (for himself and Mr. VENTO):

H.R. 3873. A bill to designate certain lands in the State of Montana as congressional study lands for the purpose of protecting Indian treaty rights; to the Committee on Interior and Insular Affairs.

By Mr. YATES:

H.R. 3874. A bill to rescind all funds for El Salvador for fiscal year 1990; to the Committee on Appropriations.

H.R. 3875. A bill to allocate a housing credit dollar amount to certain buildings; to the Committee on Ways and Means.

H.R. 3876. A bill to preserve and maintain as housing affordable to low-income families or persons privately owned dwellings that were produced for such purpose with Federal assistance; jointly, to the Committees on Banking, Finance and Urban Affairs and Ways and Means.

By Mr. CONTE (for himself, Mr. NEAL of Massachusetts, Mr. SMITH of Vermont, Mr. DONNELLY, Mr. FRANK, Mrs. KENNELLY, Ms. SCHNEIDER, Mr. MACHLEY, Mr. SHAYS, Mr. KILDEE, Mr. RINALDO, Mr. SHARP, Mr. HOYER, Mr. PETRI):

H.J. Res. 455. Joint resolution making direct emergency supplemental appropriations for low-income home energy assistance; to the Committee on Appropriations.

By Mr. CONTE (for himself, Mr. NEAL of Massachusetts, Mr. SMITH of Vermont, Mr. DONNELLY, Mr. FRANK, Mrs. KENNELLY, Ms. SCHNEIDER, Mr. MACHLEY, Mr. SHAYS, Mr. KILDEE):

H.J. Res. 456. Joint resolution to require a study of and report on the home heating oil crisis during the winter months of 1989 and 1990; to the Committee on Energy and Commerce.

By Mr. GREEN (for himself, Mr. GILMAN, Mr. ACKERMAN, Mr. BURTON of Indiana, Mr. WOLPE, Mr. ENGEL, Mr. GALLEGLY, Mr. HYDE, Mr. BERMAN, Mr. HAMILTON, Mr. LEVINE of California, Mr. FEIGHAN, Mr. LAGOMARSINO, Mr. LANTOS, Mr. SMITH of Florida, Mrs. MORELLA, Mr. TORRANCE, and Mr. BROOKFIELD):

H.J. Res. 457. Joint resolution calling upon the United Nations to repeal General Assembly Resolution 3379; to the Committee on Foreign Affairs.

By Mr. GUARINI (for himself, Mr. GREEN, Mr. STUDDS, Mr. WOLF, Mrs. BENTLEY, Mr. THOMAS A. LUKEN, Mr. HUTTO, Mr. MCGRATH, Mrs. PATERSON, Mr. BROWN of California, Mr. RANGEL, Mr. MILLER of California, Mr. ROE, Mr. ACKERMAN, and Mr. STOKES):

H.J. Res. 458. Joint resolution designating May 6 through 12, 1990, as "Be Kind to Animals and National Pet Week"; to the Committee on Post Office and Civil Service.

By Mr. RICHARDSON:

H.J. Res. 459. Joint resolution to designate the month of September 1990 as "International Visitors Month"; to the Committee on Post Office and Civil Service.

By Mr. ROE:

H.J. Res. 460. Joint resolution to designate the period commencing on May 6, 1990, and ending on May 12, 1990, as "National Drinking Water Week"; to the Committee on Post Office and Civil Service.

By Ms. SCHNEIDER (for herself and Mr. MACHLEY):

H.J. Res. 461. Joint resolution conferring U.S. citizenship posthumously upon Ivan Dario Perez; to the Committee on the Judiciary.

By Mr. TRAFICANT:

H.J. Res. 462. Joint resolution designating October 25, 1990, as "National Arab-American Day"; to the Committee on Post Office and Civil Service.

By Mr. GEPHARDT:

H. Con. Res. 242. Concurrent resolution providing for a joint session of Congress to

receive a message from the President on the state of the Union; considered and agreed to.

By Mr. HAYES of Louisiana:

H. Con. Res. 243. Concurrent resolution expressing the sense of the Congress that certain minimum requirements for compliance must be met before the United States agrees to donate medical equipment to such hostile countries as the Socialist Republic of Vietnam; to the Committee on Foreign Affairs.

By Mr. SCHUMER:

H. Con. Res. 244. Concurrent resolution expressing the sense of the Congress that Italy should be commended for its assistance to Jewish emigrants from the Soviet Union; to the Committee on Foreign Affairs.

By Mr. GEPHARDT:

H. Res. 302. Resolution providing for a committee to notify the President of the assembly of the Congress; considered and agreed to.

By Mr. WHITTEN:

H. Res. 303. Resolution to inform the Senate that a quorum of the House had assembled; considered and agreed to.

By Mr. MOAKLEY:

H. Res. 304. Resolution providing for the hour of meeting of the House; considered and agreed to.

By Mr. ARMEY:

H. Res. 305. Resolution encouraging State and local governments to deny or otherwise restrict the driving privileges of minors convicted of drug-related offenses; to the Committee on Public Works and Transportation.

By Ms. OAKAR:

H. Res. 306. Resolution expressing the sense of the House of Representatives against proposals to privatize the Social Security Program; to the Committee on Ways and Means.

## MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

303. By the SPEAKER: Memorial of the General Assembly of the State of Illinois, relative to apartments in Illinois subsidized by HUD; to the Committee on Banking, Finance and Urban Affairs.

304. Also, memorial of the Senate of the State of West Virginia, relative to the Clean Air Act; to the Committee on Energy and Commerce.

305. Also, memorial of the House of Representatives of the State of Florida, relative to the adoption of H.R. 2945 which would prohibit oil and gas leases in certain offshore areas near Florida; to the Committee on Interior and Insular Affairs.

306. Also, memorial of the Senate of the State of Michigan, relative to awarding Mr. George Mantello the Congressional Medal of Freedom; to the Committee on Post Office and Civil Service.

307. Also, memorial of the General Assembly of the State of Illinois, relative to a proposed American Coal Miners' Memorial Day; to the Committee on Post Office and Civil Service.

308. Also, memorial of the General Assembly of the State of Illinois, relative to the use of ethanol as an alternative fuel in urban buses; to the Committee on Public Works and Transportation.

309. Also, memorial of the Senate of the Commonwealth of Pennsylvania, relative to phased shifts to alternative transportation

fuels, tax incentives to reduce obstacles posed by initial capital expenditures for shifts to such fuels; jointly, to the Committees on Ways and Means and Energy and Commerce.

#### PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GOSS introduced a bill (H.R. 3877) for the relief of William L. Stuck, Glenn Jenkins, Charles L. Cavell, Alto C. Bowdoin, Jr., and Nathan J. Schnurman; which was referred to the Committee on the Judiciary.

#### ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 41: Mr. BERMAN, Mr. CROCKETT, and Mr. KASTENMEIER.

H.R. 60: Mr. GALLO, Mr. GEKAS, Mr. SISI-SKY, Mr. WYDEN, Mr. BALLINGER, and Mrs. JOHNSON of Connecticut.

H.R. 82: Mr. McMILLEN of Maryland.

H.R. 109: Mr. DANNEMEYER.

H.R. 195: Mr. ROE.

H.R. 222: Mr. VISCLOSEKY.

H.R. 233: Mr. CALLAHAN, Mr. FLIPPO, Mr. THOMAS of Georgia, Mrs. MARTIN of Illinois, Mr. SCHUETTE, Mr. FRENZEL, Mr. DERRICK, Mr. JONES of North Carolina, Mr. TALLON, Mr. BEVILL, Mr. HARRIS, Mr. SISISKY, Mr. ESPY, Mr. VALENTINE, Mr. EVANS, Mr. MAVROULES, and Mr. PARRIS.

H.R. 379: Mr. ENGEL and Mr. SOLARZ.

H.R. 539: Mr. CAMPBELL of Colorado, Mr. POSHARD, Mr. BOEHLERT, Mr. ATKINS, Mr. SKAGGS, Mr. NEAL of North Carolina, Mr. DYSON, Ms. PELOSI, Mr. CHANDLER, and Mr. BATES.

H.R. 560: Mr. DYSON.

H.R. 572: Mr. BILIRAKIS.

H.R. 614: Mrs. SAIKI.

H.R. 681: Mr. PETRI and Mr. SUNQUIST.

H.R. 718: Mr. COYNE.

H.R. 726: Mr. ROE.

H.R. 780: Mr. McMILLEN of Maryland and Mr. DERRICK.

H.R. 787: Mr. CROCKETT, Mr. LEWIS of Georgia, and Mrs. COLLINS.

H.R. 930: Mr. ESPY.

H.R. 1010: Mr. MILLER of Washington.

H.R. 1043: Mr. HUTTO.

H.R. 1044: Mr. STALLINGS and Mr. GEJDEN-SON.

H.R. 1085: Mr. KANJORSKI.

H.R. 1086: Mr. BARNARD and Mr. SPRATT.

H.R. 1171: Mr. GLICKMAN and Mr. WHITAKER.

H.R. 1200: Mr. LEHMAN of Florida and Mr. RICHARDSON.

H.R. 1205: Mr. BILEY, Mr. CARPER, Mr. HORTON, Ms. LONG, Mr. MARKEY, Mr. MAZZOLI, Mr. SAXTON, Mr. SKEEN, and Mr. SMITH of New Hampshire.

H.R. 1239: Mr. NIELSON of Utah, Mr. DORNAN of California, and Mr. GALLEGLY.

H.R. 1243: Mr. WOLFE.

H.R. 1383: Mr. FAZIO.

H.R. 1400: Mr. MRAZEK, Mrs. JOHNSON of Connecticut, Mr. MAVROULES, Mr. DEFazio, Mr. GORDON, Mr. WILLIAMS, Ms. SCHNEIDER, Mr. HOAGLAND, Mrs. PATTERSON, Mr. DORNAN of California, Mr. BROWN of California, Mr. MARTINEZ, Mr. NEAL of North Carolina, Mr. McCANDLESS, Mr. DERRICK, Ms. PELOSI, Mr. CLEMENT, Mr. GRANT, Mr. STARK, Mr. DUNCAN, and Mr. BERMAN.

H.R. 1563: Mr. RAY.

H.R. 1574: Mr. FALEOMAVAEGA, Mr. HAYES of Illinois, and Mr. McNULTY.

H.R. 1710: Mr. WOLFE and Mr. KENNEDY.

H.R. 1725: Mr. BILBRAY.

H.R. 1730: Mr. LAUGHLIN, Mr. DORGAN of North Dakota, Mr. FEIGHAN, Mr. MILLER of Washington, Mr. OBERSTAR, Mr. INHOFE, and Mr. WYDEN.

H.R. 2166: Mr. BUSTAMANTE.

H.R. 2270: Mr. SANGMEISTER, Mr. TOWNS, Ms. PELOSI, and Ms. KAPTUR.

H.R. 2288: Mr. ESPY, Mr. ENGEL, Mr. BAR-NARD, and Mr. DELLMUS.

H.R. 2418: Mr. SHAW, Mr. ROBERTS, Mr. UPTON, and Mr. BOUCHER.

H.R. 2596: Mr. COSTELLO and Mr. DEFazio.

H.R. 2665: Mr. McMILLEN of Maryland, Mr. NEAL of Massachusetts, Mr. ESPY, Mr. HORTON, Mr. ROE and Mr. ENGEL.

H.R. 2690: Mr. WEISS.

H.R. 2699: Mr. BONIOR, Mr. GINGRICH, Mr. McDERMOTT, Mr. UDALL, Mr. ANDERSON, Mr. LEHMAN of Florida, Mr. COUGHLIN, and Mr. FORD of Tennessee.

H.R. 2734: Mr. PASHAYAN, and Mr. NEAL of North Carolina.

H.R. 2776: Mr. GONZALEZ, Mr. TORRICELLI, Mr. CARPER, Mr. COURTER, Mr. HUBBARD, Mr. HUGHES, Mr. ENGEL, Mr. GOODLING, Mr. AKAKA, Mr. THOMAS A. LUKEN, Mr. BOUCHER, Mr. MOORHEAD, and Mr. BATES.

H.R. 2797: Mr. ARMEY, Mr. GALLEGLY, and Mr. MCGRATH.

H.R. 2876: Mr. RANGEL.

H.R. 2951: Mr. ENGEL, Mr. FOGLIETTA, Mr. BERMAN, Mr. SIKORSKI, and Mr. LEWIS of Georgia.

H.R. 2952: Mr. ENGEL, Mr. FOGLIETTA, Mr. LEHMAN of Florida, Mr. BERMAN, Mr. SIKORSKI, Mr. LEWIS of Georgia and Mr. LOWERY of California.

H.R. 2957: Mr. JONTZ.

H.R. 3004: Mrs. BENTLEY, Mr. CHAPMAN, Mr. EMERSON, Mr. HALL of Texas, Mrs. KENNEDY, Mr. MACHTELY, and Mr. SMITH of New Hampshire.

H.R. 3051: Mr. SCHIFF, Mr. SENSENBERNER, Mr. ROE, Mr. DORNAN of California, Mr. RIDGE, and Mr. KYL.

H.R. 3095: Mr. JOHNSTON of Florida.

H.R. 3162: Mr. BAKER, Mr. LIVINGSTON, Mr. BATES, Mr. LAGOMARSINO, and Mr. LIPINSKI.

H.R. 3182: Mr. CROCKETT, Mr. FOGLIETTA, Mr. PRICE, Mr. QUILLEN, Mrs. SAIKI, Mr. CLARKE, Mr. GRANT, Ms. SLAUGHTER of New York, Mr. FROST, and Mr. JONES of Georgia.

H.R. 3205: Mr. DAVIS and Mr. PAXON.

H.R. 3208: Mr. MAVROULES.

H.R. 3248: Mr. HAMILTON.

H.R. 3267: Mrs. BOXER.

H.R. 3280: Mr. BEREUTER, Mr. QUILLEN, Mr. BILBRAY, Mr. MACHTELY, Mr. ROSE, Mr. JOHNSON of South Dakota, Ms. KAPTUR, Mr. HOCHBRUECKNER, Mr. SMITH of New Jersey, Mr. PAYNE of New Jersey, Mr. SWIFT, and Mr. SOLOMON.

H.R. 3288: Mr. EDWARDS of Oklahoma.

H.R. 3297: Mr. DE LUGO and Mr. THOMAS A. LUKEN.

H.R. 3315: Mr. CALPER and Mr. MC EWEN.

H.R. 3336: Mr. EMERSON and Mr. STEARNS.

H.R. 3350: Mr. PASHAYAN, Mr. ROGERS, Mr. LAGOMARSINO, Mr. HASTERT, and Mr. CRAIG.

H.R. 3389: Mr. SHAYS, Mr. FRANK, Mr. MACHTELY, Mr. KLECKZA, Mr. SMITH of Vermont, Mr. VENTO, and Mr. KILDEE.

H.R. 3401: Mr. BOEHLERT, Mr. LENT, and Mr. KLECKZA.

H.R. 3429: Mr. BILEY and Mr. LEWIS of Florida.

H.R. 3466: Mr. ESPY and Mr. ATKINS.

H.R. 3475: Mr. FALEOMAVAEGA, Mr. DIXON, Mr. JONES of Georgia, Mr. ROE, Mr. PAYNE

of New Jersey, Mr. SAXTON, Mr. DORNAN of California, Mr. ACKERMAN, Mr. SCHEUER, Mr. HYDE, and Mr. WAXMAN.

H.R. 3489: Mr. ARMEY, Mr. BENNETT, Mr. BORSKI, Mr. COURTER, Mr. DORNAN of California, Mr. GALLEGLY, Mr. HANCOCK, Mr. HYDE, Mr. LAGOMARSINO, Mr. MCGRATH, Mr. ROWLAND of Connecticut, Mr. SENSENBERNER, Mr. SCHAEFER, Mr. ESPY, and Mr. ATKINS.

H.R. 3500: Mr. BRYANT, Mr. SKAGGS, Mr. HENRY, Mr. GLICKMAN, Mr. SMITH of Texas, Mr. ROWLAND of Georgia, and Mr. PRICE.

H.R. 3511: Mr. FAZIO.

H.R. 3520: Mr. DINGELL, Mr. SWIFT, Mr. RINALDO, Mr. VENTO, Mr. BROWN of California, Mr. OWENS of Utah, and Mr. SAXTON.

H.R. 3527: Mr. WISE, Mr. BROWN of California, Mr. OWENS of Utah, and Mr. ENGEL.

H.R. 3533: Mr. SMITH of Texas, Mr. WHITTEN, Mr. LIPINSKI, Mr. FAWELL, Mr. MINETA, Mr. ROE, Mr. MADIGAN, Mr. ESPY, Mrs. COLLINS, Mr. DONALD E. LUKE, Mr. OWENS of Utah, Mr. DYMALLY, and Mr. NEAL of Massachusetts.

H.R. 3539: Mr. ESPY.

H.R. 3541: Mr. FAWELL.

H.R. 3577: Mr. WOLF and Mr. CLINGER.

H.R. 3587: Mr. ACKERMAN, Mr. ANNUNZIO, Mr. BEVILL, Mr. BOUCHER, Mr. BRUCE, Mr. COLEMAN of Texas, Mr. CROCKETT, Mr. ENGEL, Mr. GONZALEZ, Mr. LEHMAN of Florida, Mr. PAYNE of Virginia, and Mr. SHUMWAY.

H.R. 3591: Mr. TORRES, Mr. KOSTMAYER, and Mr. ATKINS.

H.R. 3595: Mr. BLILY, Mr. COX, Mr. CRAIG, Mr. DORNAN of California, Mr. HUNTER, Mr. LAGOMARSINO, Mr. MCCOLLUM, Mr. MOORHEAD, Mr. SHAYS, and Mr. TAUZIN.

H.R. 3657: Mr. SHAYS.

H.R. 3705: Mr. DOUGLAS, Mr. LANTOS, Mr. ROSE, Mr. DORNAN of California, Mr. PORTER, Mr. WYDEN, and Mrs. UNSOELD.

H.R. 3706: Mr. BROWDER and Mr. KENNEDY.

H.R. 3722: Mrs. JOHNSON of Connecticut, and Mr. ROWLAND of Connecticut.

H.R. 3735: Mr. POSHARD, Mr. FAUNTRY, Mr. KLECKZA, Mr. YATES, Mr. ROE, Mr. TRAFICANT, Mr. WALSH, Mr. JONTZ, Mr. BOEHLERT, Mr. DE LUGO, Mr. WILSON, Mr. McCLOSKEY, and Ms. PELOSI.

H.R. 3736: Mr. TRAFICANT.

H.R. 3737: Mr. TRAFICANT.

H.R. 3766: Mr. ACKERMAN, Mr. AU COIN, Mr. BOSCO, Mrs. BOXER, Mrs. COLLINS, Mr. COSTELLO, Mr. DYMALLY, Mr. FAZIO, Mr. FOGLIETTA, Mr. POPP of Tennessee, Mr. GEJDENSON, Mr. GRANT, Mr. HERGER, Mr. HOYER, Mr. HUTTO, Mr. HYDE, Mr. INHOFE, Mr. KLECKZA, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mr. LIVINGSTON, Mr. DONALD E. LUKE, Mr. MARTINEZ, Mr. MC EWEN, Mr. MRAZEK, Mr. MOODY, Mr. NIELSON of Utah, Ms. OAKAR, Mr. OLIN, Mr. PALLONE, Mr. PAYNE of Virginia, Mr. PAXON, Ms. PELOSI, Mr. RAY, Ms. ROS-LEHTINEN, Mr. RINALDO, Mr. SHAYS, Mr. WALSH, and Mr. FAWELL.

H.R. 3798: Mr. HERGER, Mr. LIVINGSTON, and Mr. FAWELL.

H.R. 3805: Mrs. MORELLA, Mr. BATES, Mr. TOWNS, Mr. JACOBS, Mr. McMILLEN of Maryland, Mr. DAVIS, Ms. ROS-LEHTINEN, Mr. HUTTO, Mr. POSHARD, Mrs. PATTERSON, Mr. TRAFICANT, Mr. BILEY, and Mr. MORRISON of Connecticut.

H.R. 3806: Mr. HAMILTON, Ms. LONG, Mr. SLATTERY, Mr. EVANS, and Mr. FAUNTRY.

H.R. 3817: Mr. PAYNE of New Jersey, Mr. KENNEDY, Mr. BATES, Mr. WOLFE, Mr. HUTTO, Mr. MRAZEK, Mr. LaFALCE, Mrs.

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BOXER, MTS. MORELLA, Mr. BRYANT, Hochbrueckner, Mrs. COLLINS, Mr. BERMAN, Mr. TRAFICANT, and Mr. ENGEL.

H.J. Res. 54: Mr. MOODY, Mr. WEISS, Mr. ANNUNZIO, Mr. NEAL of Massachusetts, and Mr. BEILENSEN.

H.J. Res. 57: Mr. ANDERSON.

H.J. Res. 226: Mr. ROSE.

H.J. Res. 398: Mr. CROCKETT, Mr. FOGLIETTA, Mr. PRICE, Mr. QUILLIN, Mrs. SAIKI, Mr. CLARKE, Mr. GRANT, Ms. SLAUGHTER of New York, Mr. FROST, and Mr. JONES of Georgia.

H.J. Res. 417: Mr. ANNUNZIO, Mr. LEVINE of California, Mr. MORRISON of Connecticut, and Mrs. VUCANOVICH.

H.J. Res. 427: Mr. ACKERMAN, Mr. AUCOIN, Mr. BATES, Mr. BENNETT, Mr. BERMAN, Mr. BEVILL, Mr. CARR, MTS. COLLINS, Mr. COUGHLIN, Mr. CROCKETT, Mr. PALEOMAVAEGA, Mr. FASCELL, Mr. FAUNTROY, Mr. FAZIO, Mr. FOGLIETTA, Mr. FRENZEL, Mr. FUSTER, Mr. GEKAS, Mr. HORTON, Mr. JONTZ, Mr. KASTENMEIER, Mr. LANCASTER, Mr. LEWIS of Georgia, Mr. McCOLLUM, Mr. McGRAITH, Mr. McNULTY, Mr. MANTON, Mr. MARKEY, Mr. MILLER of California, Mr. MOAKLEY, Mr. MONTGOMERY, Mr. MRAZEK, Mr. MURTHA, Mr. NATCHER, Mr. NEAL of North Carolina, Mr. NELSON of Florida, Ms. OAKAR, Mr. OWENS of Utah, Mr. PALLONE, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. RANGEL, Mr. RHODES, Mr. RICHARDSON, Mr. ROE, MTS. ROUKEMA, Mr. ROYBAL, Mr. STARK, Mr. TOWNS, Mr. WHEAT, Mr. WOLF, and Mr. YATES.

H.J. Res. 439: Mr. MOAKLEY, Mr. FUSTER, Mr. KANJORSKI, Mr. LEHMAN of Florida, Mr. ROE, Mr. HORTON, Mr. ANNUNZIO, Mr. BENNETT, Mr. THOMAS A. LUKEN, Mr. COYNE, Mr. FAZIO, Mr. ERDREICH, Mr. PAYNE of New Jersey, Mr. BEILENSEN, Mr. MURTHA, Mr. AUCOIN, Mr. EMERSON, Mr. FAUNTROY, Mrs. COLLINS, Mr. GORDON, Mr. WEISS, Mr. STUDDS, MTS. BENTLEY, Mr. SMITH of Florida, Mrs. BOXER, and Mr. McNULTY.

H.J. Res. 452: Mrs. BOGGS, MTS. MARTIN of Illinois, Mr. BEVILL, Mr. OWENS of Utah, Mr. DYSON, Mr. FAUNTROY, Mr. LEACH of Iowa, Mr. COSTELLO, Mr. NEAL of Massachusetts, Mr. ANNUNZIO, Mr. LIGHTFOOT, Mr. HATCHER, Mr. WOLF, Mr. FLIPPO, Mr. BOUCHER, Mrs. JOHNSON of Connecticut, Mr. DORGAN of North Dakota, Mr. FUSTER, Mr. HALL of Texas, Mr. DICKS, Mr. SYNAR, Mr. BROWN of

California, Mr. KENNEDY, Mr. MAVROULES, Mr. TAUZIN, Mr. GONZALEZ, Mr. STALLINGS, Mr. PORTER, Mrs. SMITH of Nebraska, Mr. BROWN of Colorado, Mr. DWYER of New Jersey, Mr. FRENZEL, Mr. HUCKABY, and Mr. CRAIG.

H. Con. Res. 21: Mr. NEAL of North Carolina.

H. Con. Res. 23: Mr. SAXTON, Ms. KAPTRUP, and Mr. BRENNAN.

H. Con. Res. 66: Mr. FAUNTROY and Mr. PANETTA.

H. Con. Res. 135: Mr. McMILLEN of Maryland, Mr. COSTELLO, Mr. TOWNS, Mr. PURSELL, and Mr. WALSH.

H. Con. Res. 149: Mrs. BENTLEY, Mr. BOSCO, Mr. CAMPBELL of California, Mr. CLINGER, Mr. DOWNEY, Mr. HASTERT, Mr. LEVINE of California, Mr. THOMAS A. LUKEN, Mr. SANGMEISTER, Mr. SARPAULUS, Mr. STANGELAND, Mr. STENHOLM, Mr. TANNER, Mr. YATES, and Mr. YATRON.

H. Con. Res. 172: Mr. ENGEL, Mr. FOGLIETTA, Mr. SIKORSKI, Mr. BERMAN, and Mr. LEWIS of Georgia.

H. Con. Res. 176: Mr. McCOLLUM, Mr. NELSON of Florida, Mr. TORRES, Mr. HORTON, Mr. HASTERT, and Mr. LIVINGSTON.

H. Con. Res. 182: Mr. FISH and Mr. WAXMAN.

H. Con. Res. 187: Mr. FISH.

H. Con. Res. 202: Mr. DELLUMS, Mr. DWYER of New Jersey, Mr. GALLO, Mr. GOSS, Mr. HORTON, Mr. HUGHES, Mr. LAGOMARSINO, Mr. MILLER of Washington, Mr. OWENS of Utah, Mr. PAXON, Mrs. SAIKI, and Mr. WALSH.

H. Res. 121: Mr. MAZZOLI.

H. Res. 297: Mr. HUNTER, Mr. HYDE, Mr. KYL, Mr. HANCOCK, Mr. HILER, Mr. LAGOMARSINO, Mr. LIGHTFOOT, Mr. LIVINGSTON, Mr. MARLENEE, Mr. PACKARD, Mr. PAXON, Mr. ROHRABACHER, Mr. SHAYS, Mr. SOLOMON, Mr. TAUZIN, Mr. WALKER, and Mr. WILSON.

#### PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

123. By the SPEAKER: Petition of the Council of the city of New York, NY; relative to an override of the President's veto of the bill to broaden assistance for federally

financed abortions; to the Committee on Appropriations.

124. Also, petition of Washington State Association of Counties, Olympia, WA, relative to military expansion on local government; to the Committee on Armed Services.

125. Also, petition of the Secretary, Board of Trustees, City University of New York, NY, relative to drug education; to the Committee on Education and Labor.

126. Also, petition of Mrs. Patti C. Roemer, Baton Rouge, LA, relative to the National Governors Association State literacy initiative; to the Committee on Education and Labor.

127. Also petition of office of the Governor, Trenton, NJ, relative to New Jersey's global climate change initiative; to the Committee on Energy and Commerce.

128. Also, petition of the Common Council, city of Buffalo, NY, relative to an end to United States aid to the Government of El Salvador; to the Committee on Foreign Affairs.

129. Also, petition of Lisa Lively, et al. Hood River, OR, relative to an investigation concerning all Americans missing in action or prisoners of war; to the Committee on Foreign Affairs.

130. Also, petition of Washington State Association of Counties, Olympia, WA, relative to offshore oil exploration and development; to the Committee on Interior and Insular Affairs.

131. Also, petition of the Governor of the State of Alaska, relative to the reauthorization of the Alaska Land Use Council; to the Committee on Interior and Insular Affairs.

132. Also, petition of the Council of the city of New York, NY, relative to banning the sale and possession of weapons commonly known as assault weapons; to the Committee on the Judiciary.

133. Also, petition of Washington State Association of Counties, relative to offshore oil exploration and development; to the Committee on Merchant Marine and Fisheries.

134. Also, petition of the State treasurer and chairperson, State bond commission, Baton Rouge, LA, relative to the private activity bond allocation for Louisiana and other similarly situated States; to the Committee on Ways and Means.

## SENATE—Tuesday, January 23, 1990

The Senate met at 12 noon, and was called to order by the President pro tempore [Mr. BYRD].

## PRAYER

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

Let us pray:

In a moment of silence, let us remember one of our doormen who is in a coma now, very ill, Bill Dietrich.

\* \* \* ye have not passed this way heretofore.—Joshua 3:4.

Almighty God, Lord of history, these words from Joshua speak to leadership at this incredible moment in history. Millions of oppressed peoples demonstrating for freedom as governments crumble. The 2d session of the 101st Congress begins a new year, a new decade, on the threshold of a new century and a new millennium. We "have not passed this way before." Godless governments have collapsed. Those they oppressed now seek the freedom we have enjoyed for 200 years. In light of this total bankruptcy of atheism as government policy, help the Senators and all leadership to take God seriously and to recover the theological convictions and the spiritual commitments of our Founding Fathers which guided them in their struggle to bring to birth this great Nation.

In His name who is truth, justice, and righteousness incarnate. Amen.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

## THE JOURNAL

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

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

## EXTENSION OF LEADERS' TIME AND ORDER FOR RECESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time for the two leaders be extended for 15 minutes each, and that following the time for the two leaders the Senate stand in recess until 2:15 for the two-party luncheon conferences.

Mr. SPECTER. Mr. President, reserving the right to object, will there be any time, I ask the majority leader, for statements by other Senators in morning business this morning?

Mr. MITCHELL. I intend to complete my request which will provide time for morning business of Senators immediately following the party caucuses, yes.

Mr. SPECTER. I wonder if I might have 5 minutes this morning before the party caucuses?

Mr. MITCHELL. I have an opening statement and Senator DOLE and I have discussed the matter and agreed that we would have equal time, and then we would have the caucuses. Thereafter there would be a period for approximately an hour for morning business in which any other Senator who wishes to speak may do so. That is the schedule that we have discussed previously and agreed upon.

Mr. SPECTER. I had not heard that. If that is the wish of the majority leader I shall make no objection.

Mr. MITCHELL. Is it convenient for the Senator to be here for sometime between 2 and 2:30? We will ask that he be recognized at a particular time.

Mr. SPECTER. No. If the majority leader wishes to pursue on that basis, I will be present and seek my turn in the regular course.

Mr. MITCHELL. I thank the Senator. I do not mean to inconvenience him in any way.

Mr. SPECTER. I thought there would be morning business as I understood the schedule. I was not apprised of arrangements worked out. Since that is the way the leaders wish to proceed, I will accommodate my schedule with the majority leader's wishes.

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

Mr. MITCHELL. Mr. President, I would like to amend that request by saying that if my remarks, which I am about to make in a moment regarding the upcoming session, exceed 15 minutes the distinguished Republican leader be given a time equal to whatever time I use in that regard. I so ask unanimous consent.

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

## ORDER FOR MORNING BUSINESS

Mr. MITCHELL. Mr. President, following the two party conferences, I shall suggest the absence of a quorum which will be the live quorum that commences each session of Congress. I ask unanimous consent, that following the establishment of a quorum and the passage of two resolutions notifying the House of Representatives and the President that a quorum of the Senate is assembled and is ready to transact business, that there be a

period for routine morning business not to extend beyond 3:30 p.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. President, that completes my request.

The PRESIDENT pro tempore. Is there objection?

The Chair hears no objection. It is so ordered.

## ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, following the conclusion of morning business at 3:30 p.m., I will seek unanimous consent to proceed to the consideration of calendar item No. 427, that is S. 1630, the clean air legislation.

## THE SENATE AGENDA

Mr. MITCHELL. Mr. President, we begin this session with the Clean Air Act. This is critical legislation. It has been over 12 years since the Clean Air Act was last debated in the Senate. Since then, our population has grown, automobile use increased, and the economy expanded, with the accompanying increases in production facilities, energy use, congestion, and inevitably, pollution.

These factors have overwhelmed our efforts to improve air quality in the places where the majority of Americans live and work.

Today, more than half the American people are forced to breathe air that does not meet national health standards.

This will be a substantive debate and, on some issues, a controversial one. Air quality issues vary by region. Some regions are at significantly greater risk from the effects of acid rain; some rural areas do not suffer as much from ozone as cities; congested urban areas are seeing a further degradation in air quality.

I welcome the President's strong call for action on a Clean Air Act. I commend him for it. It is my intention that the Senate give him a strong Clean Air Act.

There are many aspects to this issue. One overrides all others. We must protect the health of Americans.

We will, as we should, debate the costs of this bill. In that regard, I emphasize two points.

First, if measured solely in dollars and cents, this bill should pass because the cost of inaction is higher than the cost of action.

It costs the United States more in health care and lost productivity than it would to clean up air pollution. This

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

bill will save the American people money.

Second, the bill ought not be measured solely in dollars and cents. That would exclude consideration of the most important of our values—human values.

The evidence is clear, compelling and undisputed that air pollution causes thousands of premature deaths and millions of illnesses each year. Especially vulnerable are children.

I ask each Senator, what is the dollar value of a human life? What is the dollar value of a child's health? Your child's health? Obviously, these are unanswerable questions. But just because we can't put a dollar value on a child's health doesn't mean we should exclude the health of American children from this debate. To the contrary, it is and should be central to this debate.

We should get in perspective and keep in perspective the fact that we are considering a health bill. Its purpose is basic: To make the air we must all breathe fit for human lungs.

Beyond the Clean Air Act, this 2d session of the 101st Congress will be busy. We have unfinished business from the first session to complete, important reauthorizations to write, a dramatically different world against which to weigh our Nation's security needs and priorities, as well as the required budget and appropriations measures for 1991.

I hope conferees on the unfinished business of the first session, drug treatment legislation and oilspill liability, will act promptly. These are important matters we should be able to finish swiftly.

Tomorrow, the House will override the President's veto of legislation extending the visa protections of Chinese students and exchange scholars. It is my intention to ask the Senate to move promptly to that proposal.

I regret the President's veto of this bill. His claim that he is doing as much through a Presidential memorandum of disapproval as the bill would do through the law is unpersuasive.

The President's memorandum of disapproval is only an administrative action. It provides no statutory legal protection for the Chinese students. It can be revoked by the President or the Attorney General at their discretion.

This administrative action could also be challenged because immigration law does not, in general, permit aliens to adjust their status if they apply to do so while they are technically in illegal status. It is an open question whether the administration has the authority to grant such a generalized waiver of a congressionally mandated stipulation. The best way to answer that question and to resolve all doubt is to do what Congress did last year: Change the law.

That is why we must now override the veto.

Equally important, the veto sends exactly the wrong signal.

The President says he does not want to isolate the Government of China. Neither do I.

But to the extent that it is isolated, the Government of China isolated itself. It isolated itself from its own people and from the community of nations by murdering its own citizens, by denying to those citizens even the most basic of human rights. Our response to the urgent and well-founded fears of the Chinese students in our country was not taken to isolate anyone: It was an appropriate American response to the victims of murder by government.

I hope my colleagues will repeat their unanimous approval of the bill last year with an equally strong vote to override the veto. It is the right thing to do.

It is my intention to proceed to the crime legislation on or about February 7, as provided in the agreement we reached last year.

Senator BIDEN, the chairman of the Judiciary Committee, has proposed a vehicle which incorporates the three uncompleted items of the Bush agenda—another Federal death penalty, habeus corpus reform, and exclusionary rule changes—along with some important additional elements to curb drug money-laundering, the DeConcini assault weapons bill, language to curb the export of assault weapons to drug dealers in Latin America, as well as additional funding for law enforcement personnel and other matters.

I know other Senators have proposals in this field as well.

The most effective direct assistance the Federal Government can provide to States for the purpose of curbing violent crime is additional resources for law enforcement, prosecution, and detention. We made a good start on financing that assistance last year. I hope the President's budget for 1991 builds on that beginning.

Following passage of clean air legislation, we will consider national service legislation.

The national service concept seeks to reinstate at a national level the sense of community, participation, and self-help that are all part of the American tradition.

National service will give our young people an opportunity to use their energy and ideals to help the larger society. It can give an alternative to that half of our young people who do not go to college. It will give them a way to make a contribution and, at the same time, earn a stake in their own education or their first home.

For the many young people who know that their desire to attend college poses an enormous financial sacrifice to their parents, national service

can be a way to help themselves, by earning their tuition costs in advance of school, rather than graduating with an enormous debt load.

Most important, national service will show young people in very direct and practical terms that their efforts, their talents and their ideals are valued by their society and needed by many millions of their fellow citizens.

The bill we will debate includes a voluntary service component, a conservation component, and a pilot program for the core idea of national service in exchange for education or home ownership credits.

It is my intention also to move promptly to address the Nation's key education needs.

Our higher education system is among the finest in the world. But half our students do not go on to higher education. The education crisis is not at the college level; it is at the elementary and secondary levels, where the basic foundations of literacy, mathematical skills, and learning skills are established.

We will debate the Educational Excellence Act, which contains the President's proposals to give awards to schools and teachers for excellence, encourage innovative teaching methods, and reduce student loan defaults.

I also want to consider the National Literacy Act, which is designed to eliminate illiteracy in this Nation by the year 2000. No single action is more critical to our future economic security. By the end of the century, adequate literacy will be an essential precondition to living in our society.

Only 14 percent of the jobs available then will be adequately performed by high school graduates. Most jobs will need higher skills. But 80 percent of new job seekers at that time will be minorities, immigrants, and women. If we have not substantially improved our literacy levels by that time, we risk seeing those jobs exported overseas.

For the last decade, we have read reports and analyses of the shortcomings in basic educational achievement in our country. It is time to act on what we know, both as to shortcomings and the best way to correct them.

We know that a third of our math and science teachers today are unqualified to teach in those subjects; we know we face a shortfall of teachers in the next decade that could reach 2 million, we know American children score consistently lower on math and science tests than children from Asian and European countries. We know reading and writing skills need substantial improvement.

We also know that early intervention and focused resources help. We know that extra help to the disadvantaged in elementary schools raises educational achievement levels in high

schools; we know Head Start and other enrichment programs bring gains that continue through a child's school life.

This year, it is time to put what we know is needed together with what we know will make a difference, and get our school system back on track. After a decade of reports and rhetoric, Americans expect action and I think we should provide it.

Americans also expect action on child care legislation. I hope the differences there can be worked out shortly so that a final form of this bill can be voted upon and sent to the President. Working parents need affordable care for their children but they also want quality care. The Congress should pass a bill to ensure both.

Those immediate concerns—clean air, national service, crime legislation, and education reform measures—are a good start for our work this year. But they do not exhaust our agenda.

One issue of particular importance to all of us is campaign finance reform.

It is evident that if we do not reform the manner in which election campaigns are financed, we will forfeit the trust of the American people. The enormous costs of campaigning are making it more and more difficult for any other than the very wealthy to contemplate serving in the Congress. The demands of election campaigns force far too much attention to be paid to fundraising activities.

The appearance is one that undermines confidence in Congress. The reality is one that distorts Congress' ability to function.

Campaign finance reform is a goal I have pursued for 8 years. I shall continue to press for it, and I hope that this year we will finally see an opportunity to take effective action.

#### THE RETIREMENT OF MAX BARBER

Mr. MITCHELL. Mr. President, I would like to take this opportunity to acknowledge the recent retirement of Max Barber, who served as superintendent of the Senate Radio-TV Gallery.

Max has been a familiar face in the U.S. Capitol for 38 years. During those years, Max worked as an elevator operator, served on the Capitol Police Force, and most recently was the superintendent of the Senate Radio-TV Gallery, where for 17 years he assisted our friends in the broadcast media.

Max was privileged to witness many changes that have occurred in the Congress. I was privileged to have his support and assistance during my first year as majority leader.

Shortly before the holidays, Max announced his retirement. I understand that he and his wife, Sylvia, are now enjoying the sunny skies of Florida for

the winter months. On behalf of all my colleagues in Congress, I wish Max and Sylvia a most happy and healthy retirement. He will be missed.

I also want to take this opportunity to extend to his successor, Larry Janezich, the very best wishes in his new role. I know he is up to the task.

#### AN ENVIRONMENTAL DIVIDEND: CAPITALIZING ON NEW OPPORTUNITIES FOR INTERNATIONAL ACTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that a speech given by the distinguished chairman of the Senate Foreign Relations Committee, Senator CLAIBORNE PELL of Rhode Island, be inserted in the RECORD.

The honorable chairman of the Foreign Relations Committee recently addressed the Global Forum on Environment and Development for Survival in Moscow. His remarks focus on the catastrophic threats to the world's environment—including global climate change, ozone depletion and a host of problems that require international cooperation.

I would like to call this important speech to the attention of my colleagues. Not only does it deal with one of the most significant problems of our times, it does so with eloquence and clarity. I hope other Senators will take the time to review Senator PELL's statement.

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

#### AN ENVIRONMENTAL DIVIDEND: CAPITALIZING ON NEW OPPORTUNITIES FOR INTERNATIONAL ACTION

(Remarks by Senator Claiborne Pell, Global Forum on Environment and Development, Moscow, U.S.S.R., January 17, 1990)

We are gathered here at an extraordinary time in human history. In a matter of months a series of popular movements have transformed Europe. The Iron Curtain has ceased to be a barrier between East and West. A democratically elected government has taken power in Poland, and in the next few months free elections will be held in East Germany, Czechoslovakia, Bulgaria, Hungary, and Romania. In addition, the Soviet Union is well along on a path to freedom, openness and democratic renewal.

With the changes in Eastern Europe and the Soviet Union, East and West will begin to share common values of a belief in individual rights and democratic institutions. The wave of democracy is also spreading to the developing world. With the recent elections in Chile, every government in South America will be a democracy. Elsewhere in the just concluded decade, dictatorships in the Philippines and Pakistan have disappeared and India's recent elections, the largest exercise of popular choice in human history, reminds us of the appeal of democracy to even the world's poorest people. Of course, there are setbacks, as last June's events in Tiananmen Square remind us, and democracy can be fragile as witnessed by recent events in Manila. Of the overall

trend, however, we can be optimistic: democracy is indeed on the march.

It is an interesting fact that modern history has never known a war between democratic states. And, indeed, the spread of democracy and freedom across Europe has resulted in a dramatic reduction of tensions. In 1981, the Bulletin of Atomic Scientists advanced the clock of global survival to three minutes before the midnight of nuclear Armageddon. Today with a treaty on Intermediate Nuclear Forces in place and agreements for drastic reductions in strategic and conventional forces in the offing, we can see the hands of that clock being set further back.

We in the United States consider the European democracies to be our friends and allies. Looking ahead we might ask whether democratic nations in Eastern Europe and the Soviet Union might also be our friends and allies, and if so, for what threat do we need anything comparable to our existing level of armaments?

A more peaceful world does not translate into a problem-free world. Indeed, as the threat of nuclear incineration recedes, we can see more clearly the danger posed by environmental degradation and global climate change. As nuclear winter would suddenly alter man's climate and prospects for survival, so might global warming albeit more gradually. If we do nothing we may be trading the risk of a flash fry for the certainty of a slow roasting. In the end, however, the results can be comparably catastrophic.

If a deteriorating environment is comparable in consequence, if not immediacy, to global war, then logically it requires a comparable response. Put simply, we must be prepared to come forward with the resources to protect our environment. Today my country spends \$295.6 billion on defense and \$5.6 billion at the federal level, or about one-fifteenth as much, on protecting our environment. It is not realistic to expect these proportions to be reversed, but they must be changed.

The end of the Cold War is already leading to cuts in military spending. This trend should be accelerated as we conclude agreements to reduce strategic and conventional arms. These will save substantial money for both the countries of NATO and those linked to the Warsaw Pact. We have successfully met the challenge of the Cold War. The question now is how will we meet the challenge of peace?

Here I would suggest that a meaningful percentage, perhaps 15 percent, of our prospective peace dividend be dedicated to the environment. And I would propose that the upcoming agreements on strategic and conventional forces explicitly earmark 15 percent of the resultant savings for additional environmental protection to be expended either within the country where the savings are made or internationally.

Under the domestic law of the United States such funds would have to be appropriated pursuant to our constitutional processes. I am sure the same would be true for other countries that would participate in such an agreement. However, the inclusion of an environmental peace dividend in an arms control treaty will create an obligation and a goal for both West and East. It would also set an important precedent for future East-West agreements, one where we agree not only on measures to reduce the risk of mutual destruction but also on major measures of mutual cooperation.

I would further propose that we direct the earmarked environmental expenditure largely to those problems which are international or global in nature. In Europe this would mean spending to clean up shared rivers, to prevent air pollution which in Europe has no boundaries, and to neutralize acid rain which is destroying the forests, lakes, and monuments of Europe.

It is no secret that the countries of Eastern Europe have lagged far behind Western Europe in utilizing pollution control technologies in their manufacturing and power generation processes. Partly this results from antiquated plants, partly from economic distress that necessitates use of polluting technologies and fuels, such as high sulfur coal, and partly it is the product of a political system in which the ruling elite was not responsive to the concerns of the population. Whatever the reason, however, the victims of East European pollution live in both the Eastern and Western wings of the common European home. Both wings will benefit from cleaning up the environment. However, it follows that a very large part of the European generated component of my proposed environmental peace dividend should be channeled to Eastern Europe.

In the case of the United States and Canada, our people will undoubtedly expect that the greater part of our peace dividend be spent in a manner that visibly benefits our own people. Thus, most of our two countries' new environmental expenditure should occur on our North American continent. This expenditure should nonetheless be made in a way that benefits the global environment. North Americans are both in the aggregate and on a per capita basis the biggest producers of the greenhouse gases, and in particular of carbon dioxide. Logically, the effort to begin to control global warming must start in North America. Under my proposed scheme I would recommend that a great part of our environmental dividend be used to develop energy conservation technologies as well as alternatives to fossil fuels. As a bonus, this effort will help ameliorate the problem of acid rain, which has become a major bilateral issue in U.S.-Canada relations and has inflicted damage on my home region of New England.

At this time I cannot state the amount of new environmental expenditure to be generated by my proposal. However, some project that the end of the Cold War might lead to a 50 percent reduction in U.S. defense spending by the end of this century. If 15 percent of this saving went to the environmental peace dividend, the annual new environmental expenditure in the United States would equal \$22 billion, or four times our present federal effort. Comparable sums should be generated by reductions in European and Soviet defense expenditure. With this level of resource commitment we might truly begin to have an impact on the mammoth environmental problems facing us.

So far I have discussed how the peace dividend generated by the end of the Cold War might be used to enhance the environment of the Cold Warring nations, that is, of Europe and North America. We live in a single global community. The Spring cleaning made possible by the thaw in the Cold War will benefit not only our house but also our global community. However, we cannot be indifferent to an environmental deterioration in that part of the world which is neither East nor West, that is, the Third World, the developing world which is home to 70 percent of the world's population.

On an environmental level, we will accomplish little if the savings in greenhouse gases made by conservation and new technology use in the developed countries are offset by the ecologically unsound industrialization of the developing world and by the destruction of the tropical forests which are quite literally the lungs of our planet. Worse, environmental degradation in the third world is the product of, the companion of, and the cause of increased poverty and human misery. This misery can only breed popular anger and governmental instability. It could harm the process of democratization in the third world and lead to the emergence of aggressive regimes. It would be truly tragic if the end of the Cold War were followed by new wars in the developing world or growing conflict along north-south, rich-poor lines.

Given the consequences, our response to environmental deterioration in the third world is woefully inadequate. Until recently, the principal development banks and major donors did not include the environment as priority in the development process. Indeed, many donor-financed projects went forward without regard to the environmental consequences with sometimes disastrous consequences.

It was only in 1972 that the international community established an organization specifically concerned with the global environment. That organization, the United Nations Environment Program, remains stunningly underfunded. In 1989 the UNEP budget was a mere \$30 million, not even one percent of U.S. environmental expenditure at the federal level. In its 17 years UNEP has had an extraordinary catalytic role in developing international environmental law, in assisting developing countries build environmental institutions, and in enhancing an awareness of the close link between the environment and development. Among UNEP's recent achievements is the Montreal Protocol on the ozone layer, the major international environmental agreement of the decade and the first serious effort to address the global warming problem. This alone would, in my view, justify the paltry sums our world community has expended on UNEP.

I believe we should in this decade resolve to support a rapid increase in the size and scope of UNEP activities. I would urge a tenfold expansion in the UNEP budget over the next three years. This, of course, will require leadership from the parliamentarians amongst us to increase our own countries' contributions. However, even at the \$300 million level, UNEP would still be a modest sized U.N. agency, and the overall effort would be still small as compared to the environmental needs of the developing world or the scale of the global environmental problem.

As you will have noticed my remarks have focused heavily on the issue of resources. After a decade of borrowing and spending, it has become fashionable in the United States to talk of actions that do not cost money. Given the economic crisis of the East, they too may be subject to the same tendency. And there is, of course, much that can be done to protect the environment without costing a lot of money. However, we cannot seriously address our environmental crisis unless we are also prepared to address the need for major new resources. Hence the importance I have given to means for finding such resources.

As a planet we face a threat to our survival comparable to the threat a foreign enemy

can pose to national survival. New ideas and cost-free measures have their place. There is, however, no substitute for cold, hard cash. Fortunately, the prospective peace dividend provides a source for such cash.

This said, I would like to put in a word on behalf of several relatively low cost environmental initiatives with which I personally have long been associated. On several occasions I have persuaded my Senate colleagues to endorse resolutions containing draft treaty language. I am pleased to say that two of these efforts were, in fact, converted from Senate resolution into an actual treaty now in force. These are a treaty banning the emplacement of weapons of mass destruction on the seabed floor and a treaty banning the use of environmental modification techniques in warfare.

In 1977 I put forward draft language for a third treaty, an international agreement mandating the preparation of an environmental impact assessment for all projects, public and private, that would impact on the territory of another state or on the global commons. My proposed Environmental Impact Assessment Treaty would not prohibit a state from carrying out the activity. It would, however, be required to make a detailed assessment of the impact of the activity and to communicate this information to the affected countries or, in the case of the global commons, to the United Nations Environment Program.

This idea was endorsed unanimously by the U.S. Senate in 1978. Since then it has been on the agenda of the UNEP Governing Council and, as principles to be followed by member states, has received the endorsement of that Governing Council. Further, UNEP's international law unit has made substantial progress toward drafting a treaty. I realize many European agreements go far beyond this treaty. However, where no such agreements are in place, I believe this Environmental Impact Assessment Treaty represents an important step toward greater environmental responsibility.

Second, I would urge we move forward quickly with proposals to draft and enact an international convention to protect biological diversity. This, too, is an issue of personal concern and I am proud to be the author of a provision of U.S. law establishing a program, under the auspices of our Agency for International Development, to assist countries in the protection of biological diversity. With the rate of extinctions rapidly accelerating there can be no doubt of the seriousness of the problem. Here in the presence of so many spiritual leaders I can only wonder how the divine must view the destruction of so many of His creations. And I wonder what He must think of the cavalier manner in which these extinctions are being carried out—elephants and rhinos destroyed for ivory trinkets and aphrodisiac powder, or perhaps worse, entire species obliterated without man even knowing what was once there.

A treaty to conserve biological diversity should include provisions under which countries would register species-rich habitats, and in particular, the habitats of endangered species. Registration of the habitat would include an obligation to protect the habitat, and the species contained therein. In my view, a treaty should spell out minimum standards for habitat and species protection. In return for protecting these habitats, the registering countries should receive technical assistance for their protective activities and perhaps a priority for other kinds of assistance intended to encourage

local peoples to value the preserved life resources.

Finally, I would note that the last 15 years has seen an enormous explosion in the number and scope of international legal agreements relating to the environment. The development of international environmental law is a low cost and highly beneficial way of protecting global environment and of enhancing global environmental cooperation. This is a trend we must encourage. I would hope that UNEP's environmental law unit might become the nucleus of a new international environmental law institute. Such an institute should draw on the resources of UNEP members, and in particular those with more developed domestic environmental law. I would hope these states might second lawyers to the international environmental law institute both for the purpose of developing further international environmental law and to assist countries in the development of domestic environmental law.

Twenty-five years ago, in his last speech to the United Nations, U.S. Ambassador Adlai Stevenson made reference to the photographs of Earth taken from an early space mission. Today these images have become commonplace but at that time they were strikingly new and they led Ambassador Stevenson to reflect on the fragility of our human environment.

"We travel together," he said, "passengers on a little space ship, dependent on its vulnerable reserves of air and soil, all committed for our safety to its security and peace; preserved from annihilation only by the care, the work, and I will say, the love we give our fragile craft."

The rapid political changes of the last year now provide an extraordinary opportunity—an opportunity for unprecedented global cooperation and an opportunity to mobilize significant new resources—to the task of protecting our fragile craft. We must go forward from here reaffirming our love for this planet and rededicating ourselves to its protection.

**Mr. MITCHELL.** Mr. President, I would like now to yield to my distinguished friend and colleague, the Republican leader and to say that it is as always a pleasure to be here on the Senate floor with the distinguished Republican leader. I look forward to what I know will be a busy and I hope will also be a very productive session for the Senate and the Nation.

#### RECOGNITION OF THE REPUBLICAN LEADER

The PRESIDENT pro tempore. Under the order, the Republican leader is recognized for 15 minutes.

**Mr. DOLE.** I thank the distinguished Presiding Officer and the distinguished majority leader.

#### THE SENATE AGENDA

**Mr. DOLE.** Mr. President, I extend everybody a belated happy new year. I hope we have a good year. Obviously it would be our aim in every possible way to cooperate with the majority leader and our other colleagues in the Senate on both sides of the aisle to move the program. We are pleased that we are

starting today hitting the ground running.

The majority leader spelled out what he hopes we can accomplish in the short run before, as I understand it, February 12, the so-called Lincoln Day recess, and then some of the things that will come thereafter. I certainly want to cooperate with the majority leader. We may have our differences. Some of the bills are highly controversial.

We had a meeting this morning in my office of about 30 Republican Senators, Secretary Brady, Chief of Staff John Sununu, and OMB Director Richard Darman. We discussed a number of the issues. If it is of any help, I can tell you there is division among Republicans on clean air, not based on partisanship so much as on geography, different circumstances, jobs, and where the Senator may live. So I would guess the majority leader knows that bill will take some time.

#### THE SIX C'S

We discussed virtually the six "c's" in our session this morning: clean air, Chinese students, campaign finance reform, child care, capital gains, and the crime bill and if some would spell Social Security with a "c" that would have been seven. We did discuss Social Security, and the status of some nominations because there are nominations in the works and some we hope will be moved rather quickly. We hope we will continue our discussion at the policy luncheon starting at 1 o'clock.

#### VETO OVERRIDE

With reference to Chinese students, it seems to me in this instance, since the bill passed, the President by administrative directive—I heard the majority leader indicate this is not accurate—has done as much or more than the bill which passed unanimously and that the President vetoed.

So it would seem to me that where the President has done by administrative directive what the bill would accomplish, there really is no good reason to override the President's veto unless it is just straight out politics. I think we can agree that President Bush understands China. He lived there for some time. He has visited there numerous times. I think we can agree China is not monolithic; that they have different leaders, and we are trying to appeal to some to open up to China.

I recall a meeting we had in S-211 not long ago. I think Leonard Woodcock, former Ambassador to China; Cy Vance, former Secretary of State; Bill Rogers, former Secretary of State; and I think former Secretary Kissinger were speaking to us about how we should deal with the People's Republic of China after Tiananmen Square. In every case—and these were Republicans and Democrats who had served in high positions in Republican and Democrat administrations—they cau-

tioned us to be certain that we did not by what we did in effect drive China back into isolation.

I mentioned briefly in the program the majority leader and I were on Sunday and then yesterday through the majority leader's staff we might want to postpone action on this veto. It is not unprecedented. We postponed action on the FSX veto for months. We might want to postpone it to see what additional response we get from the People's Republic of China. It seems to me, if we want to deal with this issue from the standpoint of what is in our interest and what is in the international interest, then that might be an option. I hope, unless it has already been foreclosed, it is something I might discuss further with the majority leader.

It is not an original thought with me; occasionally I read the papers. I happened to pick up the New York Times on Sunday and there was an excellent article by A. Doak Barnett. I do not know Mr. Barnett. I do not know his politics. He wrote a very interesting article. The bottom line was it seemed to him that increasingly Bush seems to be right on China. He indicated he did not like the Scowcroft secret visit. That is not the issue. The issue is our relationship with China and what happens to the Chinese people in the future and what happens to our relationship.

One thing he suggested in this article, which I will ask be included in the RECORD, is if we are really concerned about what will happen down the road, then we should not rush to judgment on the veto. There is not any reason we have to take it up this week unless we want to bash the President before he delivers the State of the Union Message. It should not be partisan. I hope it is not partisan. I hope it is not party line. I hope that people might, as I did, learn from reading this very interesting op-ed piece. I ask unanimous consent it 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. 21, 1990]  
INCREASINGLY, BUSH SEEMS RIGHT ON CHINA

(By A. Doak Barnett)

WASHINGTON.—Like virtually all Americans, and most people in the Western world, I was shocked and outraged as well as saddened by the massacre of several hundred demonstrators in Beijing in early June.

I strongly supported President Bush's condemnation of the massacre and his imposition, by executive action, of carefully defined, limited sanctions. But I also strongly support his decision to try to reopen a dialogue with China's leaders—although I am critical of the way he did it, particularly of his decision, at China's request, to maintain secrecy until the national security adviser, Brent Scowcroft and the Deputy Secretary of State, Lawrence Eagleburger, arrived in Beijing. However, I think the action should

be judged on the basis of more fundamental considerations than the style and method of renewing a dialogue.

China is a country of great importance, a member of the nuclear club, a country whose policies have an enormous influence on the stability of Asia—as well as on global stability. The ending of the old U.S.-China-Soviet triangle does not end the need for U.S.-China consultation and, where possible, cooperation. Some argue that this can be done at the ambassadorial level. I disagree. To deal with major issues, a dialogue at the highest levels is essential.

Our objective must be to encourage a return to active, effective economic and political reform in China. We have to recognize the severe limits of any foreign power's ability to determine domestic trends in China, and we cannot expect rapid democratization on the Western model; China's traditions and circumstances are different from Eastern Europe's.

But we can hope for renewed progress toward political liberalization. I am convinced that this can and will resume over time—but in a process of two steps forward and one step backward—with retreats occurring whenever social instability reaches a critical point.

The key question is how progress toward reform and liberalization can be encouraged by outside powers. Many Americans now assume that strong, continuing outside pressure will help. I strongly disagree. Outside pressures will almost certainly strengthen conservative hardliners and weaken moderate reformers. To the extent that contacts with the outside increase in the future, this will strengthen reform, as it has during the past decade.

The tragedy in June has created an unstable, uncertain situation. The present leadership is not monolithic. Conservative hardliners are temporarily in the ascendancy, but most of China's reformers are still in place, waiting for a change in the country's leadership and policies.

While present economic policies are regressive, there has been no basic reversal of the policies of economic reform, only a partial, and I believe temporary, retreat. The post-Tiananmen policies of political repression of individuals and groups most active in the events of April-June continue, even after the lifting of martial law in Beijing. But when I was in China in September, I was struck by the fact that the repression has not resulted in the purging of most reformers. Even if temporarily cowed, most reformers are not demoralized or intimidated.

I feel very strongly that prolonged and strong U.S. pressures on China—and ostracism of China—will simply delay, not accelerate, a revival of needed reforms. Punitive action and intemperate rhetoric will, if prolonged, simply encourage hostile xenophobia on the part of hardliners.

Much will depend on the Chinese response to the President's initiative. The early response is encouraging: Beijing's assurance on refraining from selling missiles to the Middle East, the lifting of martial law, allowing a Voice of America correspondent in the country, possible flexibility on Cambodia and discussions about a renewal of the Fulbright program and creation of a Peace Corps program.

The U.S. and others have urged Beijing to go further. Encouraging, in this regard, is the recent announcement by the Ministry of Public Security of the release of 573 people who were detained after the Tiananmen demonstrations and had pleaded guilty.

There are many other things China could do, including the following: End jamming of V.O.A. broadcasts and allow journalists greater freedom; finally resolve the case of the dissident physicist, Fang Lizhi, and his wife, who are now taking refuge in the U.S. Embassy; clarify Beijing's commitment to continued intellectual and student exchanges with the West; and further moderate domestic political policies.

We cannot expect that Chinese leaders will immediately do all these things. No list of this kind should be used as a litmus test. But we can and should expect significant Chinese responses to Mr. Bush's initiative.

I believe Congress should allow some time—at least another month or two—to see what the Chinese responses will be. Congress should not move to pass over the President's vetoes, its legislative sanctions amendment or its Emergency Chinese Immigration Relief Act. The sanctions are likely to be counterproductive, and the immigration act seems gratuitous because the President has pledged to achieve its objectives by administrative means.

If both of these are passed over the President's vetoes, China clearly will feel compelled to retaliate, possibly quite strongly. This is likely to cause a serious further deterioration of U.S.-China relations, and a further downward spiral, for at least a year or two, before new efforts can be made to repair relations.

Further U.S. punitive actions against China would almost certainly create serious divisions between the U.S. and our allies in Europe and Japan. Some Western diplomats in Beijing have already argued to their home governments that sanctions have encouraged conservative, isolationist and xenophobic trends, and have recommended that their governments renew high-level contacts. They have praised, at least privately, the Scowcroft-Eagleburger visit, saying that it will bolster moderates and improve U.S.-China relations.

I believe they are right, and that President Bush needs to be given time to test whether his judgment was right.

(Doak Barnett is professor emeritus of Chinese studies at The Johns Hopkins University's School of Advanced International Studies. This article is adapted from his testimony last month before the House Foreign Affairs Committee.)

**Mr. DOLE.** I also ask unanimous consent that a comparison of the Chinese Student Act which has been vetoed by the President and the administrative action taken by the President, along with a letter from the Attorney General, be included in the RECORD. If you read this carefully, you will see that in every case the President has done as much or more.

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

OFFICE OF THE ATTORNEY GENERAL,  
Washington, DC, January 22, 1990.

Hon. ROBERT DOLE,  
Minority Leader, U.S. Senate, Washington,  
DC.

DEAR SENATOR DOLE: As you know, the President on November 30 vetoed H.R. 2712, the "Emergency Chinese Immigration Relief Act." However, at the same time, the President directed the Attorney General to provide humanitarian relief equivalent to, or greater than, the relief provided by H.R. 2712. Under the President's directive, em-

ployment authorization extends to all Chinese aliens (not just Chinese students), and enhanced asylum consideration applies to all aliens (not just Chinese aliens) who express fear of persecution on account of a government's forced abortion and sterilization policy.

We are enclosing a copy of the letter sent by the Attorney General to the President, which outlines the relief provided Chinese nationals, and the action taken by the Department of Justice to carry out the intent of the President's directive. Also provided is a side-by-side comparison of this relief with H.R. 2712. I hope these documents will be of assistance to you in conveying the efforts taken by the Bush administration to ensure that the humanitarian intent of the President's directive is realized.

Sincerely,

DICK THORNBURGH,  
Attorney General.

OFFICE OF THE ATTORNEY GENERAL,  
Washington, DC, January 16, 1990.

THE PRESIDENT,  
The White House,  
Washington.

MY DEAR MR. PRESIDENT: On November 30, 1989, you directed me to take certain actions to improve the immigration status of nationals of the People's Republic of China ("PRC") currently in the United States. You requested that I report to you on the status of these actions. This letter sets forth the actions I have taken. In each instance, the action I have taken affords relief equivalent to, or greater than, the relief that would have been provided by H.R. 2712 ("bill"). (I have attached copies of my letter to the Immigration and Naturalization Service ("INS") of December 1, 1989, and INS' cable to its field offices of the same date, implementing your directives).

1. You directed that I provide PRC nationals with an irrevocable waiver, that they may exercise until January 1, 1994, of the foreign residence requirement of 8 U.S.C. § 1182(e).

I have waived this requirement for all PRC aliens present in the United States as of December 1, 1989. This waiver is irrevocable. Any such alien who makes a nonfrivolous application for adjustment or any change of status may avail himself of the waiver until January 1, 1994. This action provides adjustment relief equivalent to that provided by the bill.

2. You directed that I take steps to assure the continued lawful status of PRC aliens lawfully present in the United States on June 5, 1989.

I have directed that PRC aliens who were in lawful status as of June 5, 1989, be considered to have maintained lawful status for the purposes of adjustment or change of nonimmigrant status. Again, this action provides relief equivalent to that provided by the bill.

3. You directed that I provide authorization for employment of PRC nationals present in the United States on June 5, 1989.

I have directed that INS grant all PRC aliens who were present in the United States as of June 5, 1989, the necessary authorization to engage in employment. This action provides employment opportunities greater than those afforded by the bill, which would have granted employment authorization only to certain PRC aliens, i.e., Chinese students in the F, J, or M visa categories.

4. You directed that I provide notice of expiration of nonimmigrant status, rather than institution of deportation proceedings, to PRC aliens who are eligible for deferral of enforced departure and whose nonimmigrant status has expired.

I have directed that any PRC aliens who are eligible for deferral of enforced departure and whose authorized period of stay has expired be given notice of expiration of nonimmigrant status. This notice will be nonadversarial in nature and will explain the options available. This action provides for notification equivalent to that required by the bill.

5. Finally, you directed that I provide for enhanced consideration under the immigration laws for individuals from any country who express a fear of persecution upon return to their country related to that country's foreign policy of forced abortion or sterilization.

I have directed that, with respect to all applications for asylum, withholding of deportation, and refugee status, careful consideration be given to applicants expressing fear of persecution related to family planning policies.

ning policies of forced abortion or sterilization. If an applicant establishes that the applicant has refused to abort or to be sterilized, he or she will be considered to have established a well-founded fear of persecution. All other factors that may contribute to a determination of eligibility for asylum, withholding of deportation, and refugee status, will also be given additional weight. These actions provide broader relief to persons fearing coercive family planning policies than that provided by the bill, which extended only to PRC aliens. Draft regulations to implement this directive, effective upon publication, will be available within a week.

In addition to these measures, INS has established an Outreach Program to assist PRC aliens in the United States. INS has held briefings and consultations with representatives of PRC student leaders, the National Association of Foreign Student Affairs, and private groups interested in the PRC, to inform them of available options. Many INS district offices have also arranged meetings with local Chinese community and educational institutions. Each INS

District Office has designated a point of contact specifically to assist PRC nationals under this program.

INS field offices are also making every effort to expedite the processing of applications for benefits provided under the emergency relief measures. As of January 12, 1990, INS has granted work authorization to 2,779 PRC nationals; granted adjustment to permanent resident status for 97, with 108 cases still pending; authorized a change in temporary status for 225; and granted waivers of the foreign residence requirement of section 1182(e) for 70.

Initial results of the program indicate that these outreach efforts have been successful and that PRC aliens are aware of the available options and are filing applications. Of course, I will continue to monitor developments to assure the success of your policy of providing necessary relief to PRC nationals present in the United States.

Sincerely,

**DICK THORNBURGH,**  
*Attorney General.*

Existing law	H.R. 2712	Administration's directive
Provides for waiver of home residence requirement if certain prerequisites are met; does not preclude granting waiver to all members of a specified group.	Grants waiver of home residence requirement to PRC nationals subject to requirement.	Waives home residence requirement for PRC nationals in United States on Dec. 1, 1989, satisfies requirements for granting of waivers consistent with existing law.
Constitution gives the Executive Branch the discretion not to enforce departure of certain nationality group; this discretion exercised by the Attorney General.	Provides no independent basis under which PRC nationals can remain in United States, benefits contingent on Attorney General's exercise of his authority to defer enforced departure.	Consistent with Executive's constitutional authority, thus, consistent with existing law.
Permits any PRC national to seek asylum in order to avoid return to PRC.....	Protects all PRC national to be in United States on June 5, 1989 in a lawful status from being returned to PRC only so long as deferral of enforced deportation is in effect; adds no further protection to that provided by the administration.	Protects all PRC nationals in the United States on June 6, 1989 against return to PRC, even if status was already unlawful. Protection lasts as long as deferral of enforced departure is in effect.
Provides that aliens in unlawful status may not adjust to lawful status. Gives the Attorney General authority to interpret INA by resolving legal questions arising under it.	Does not provide basis for PRC to adjust status; merely provides they are to be considered in status for purposes of adjustment, but only while Attorney General's directive is in effect.	Determines that PRC nationals in status on June 5, 1989 will be considered still in status for purposes of adjustment while deferral of enforced departure is in effect. Proper exercise of authority to interpret the INA.

#### CLEAN AIR

**Mr. DOLE.** Clean air I will discuss with the majority leader, but I have had one objection from our side to even proceeding to it until he has an opportunity to read it. Apparently it is 500 pages. As the majority leader already indicated, it is very complicated. It is not going to be party line; it is going to involve regional relationships, and I hope to discuss that with the majority leader privately to see if we can move ahead.

#### CHILD CARE

I agree with the majority leader on child care. We did not all agree on the final package that passed the Senate but the Senate has acted. It is now in the hands of the House. If they pass something and go to conference, it seems to me that is something we should take care of as quickly as possible.

#### CAMPAIGN FINANCE REFORM

Campaign finance reform, why not again, if we can work out a couple of areas—they are fairly substantial—public financing and a limit on campaign expenditures. There are a lot of other related issues that are very important, certainly I want to work with the majority leader on that. We have had meetings on our side.

Maybe it is not possible, but I recall the Presiding Officer in the early stages of working on that bill was able to come up with some academic types

who were not necessarily partisan who studied the problem and made recommendations. We were able to find a couple ourselves. If we can maybe find some of these people who are not so partisan and who are not concerned from a personal standpoint to give us some advice, maybe we can come together on some of those issues.

#### CAPITAL GAINS

We also, of course, hope that this year we can work out a capital gains package that will have near unanimous support in the Senate.

#### CRIME PACKAGE

As the majority leader indicated, the crime bill is going to come up under a time agreement. There are two bills, the Biden bill and the Thurmond bill. They are different, much different, and I am not certain what will happen there. But I guess the bottom line is we are prepared to go to work; we are prepared to cooperate with the majority leader in every way that we can.

#### MAX BARBER: DEDICATED CAREER ON CAPITOL HILL; RADIO AND TV GALLERY VETERAN DESERVES BEST WISHES FOR RETIREMENT

**Mr. DOLE.** Mr. President, during the holidays one of the most respected figures on the Hill decided to call it a career. After 38 years of dedicated Government service, Max Barber, the

longtime superintendent of the Senate Radio and Television Gallery, quietly announced his retirement and moved to Florida.

Beginning in the House Galleries in 1955, and culminating with 17 years as the Senate Gallery's director, Max witnessed incredible changes in electronic journalism—a veritable history of the medium, in fact.

But through all the changes—from the era of radio and film, to the amazing world of videotape and satellite technology—Max provided steady and able leadership.

It is no easy task, meeting the round-the-clock demands of news, much less dealing with hundreds of news agencies and more than a few prima donnas in the media and Congress. But it never rattled Max. He met the challenge with true professionalism.

Max is in Florida now, enjoying a well-deserved retirement. I know my colleagues join me in wishing Max all the best in his retirement, and thanking him for a job well done.

#### U.S. DEFENSE POLICY IN THE 1990'S

**Mr. DOLE.** Mr. President, yesterday, I held a meeting with a small bipartisan group of Senators and defense experts to discuss the critical issue of the

direction of U.S. defense policy in the 1990's.

In light of the dramatic changes in Eastern Europe—and around the globe—and in view of U.S. deficit pressures, deciding the direction of U.S. defense policy is one of the most pressing matters the administration and the Congress will face this year.

In my view, the United States needs to reach a consensus on defense priorities, and most importantly, on strategy, early in the budget process. I am very pleased that the following distinguished group of experts, with experience in the Nixon, Ford, Carter, and Reagan administrations were able to reach a consensus on many key issues:

Dr. Richard Allen, former National Security Adviser, currently president of Richard V. Allen Co., an international consulting firm.

Dr. Al Carnesale, served on the SALT I delegation, currently dean and professor at the John F. Kennedy School of Government at Harvard University.

Ambassador Robert Ellsworth, former Member of Congress, served as the U.S. Ambassador to NATO from 1969 to 1971 and as Deputy Secretary of Defense from 1975 to 1977.

Mr. Joseph Fromm, a veteran of 39 years with U.S. News & World Report, where he served as a foreign correspondent and editor, currently a foreign affairs consultant.

Dr. Kim Holmes, director of foreign policy and defense studies at the Heritage Foundation where he is responsible for the managing and editing of all foreign policy and defense studies.

Dr. Fred Ikle, Under Secretary of Defense for Policy from 1981 to 1988, and former Director of the U.S. Arms Control and Disarmament Agency, currently holds the position of distinguished scholar at the Center for Strategic and International Studies.

Dr. Phillip Karber, senior vice president for national security programs at BDM International where he directs BDM's work in strategic and conventional arms control policy, verification, and regional and global military assessments.

Mr. James Thomson, former member of the National Security Council staff from 1977 to January 1981, currently president and chief executive officer of the Rand Corp.

Despite their range of experience and expertise these eight defense experts reached consensus on the following key issues:

First and foremost, the United States needs to develop a strategy. This strategy should define a view of the future U.S. role in Europe. In approaching our defense budget, we need to look ahead at where we want to be 5 years from now, and not plod along cutting here and there.

Second, the U.S. approach must be cautious. We are in a period of uncer-

tainty and potentially great instability, particularly in Eastern Europe and the Soviet Union. It would be very unwise to dismantle our force structure and without a plan or strategy.

Third, reductions of U.S. troops and/or weapons systems should be pursued within the framework of arms control negotiations and verifiable agreements. Unilateral cuts must be resisted.

Fourth, we need to reorganize and restructure our forces to respond to the changes in the threats we face. In addition to making our forces more mobile and flexible, we need to continue to invest in new technologies as a hedge against new threats and the possibility for a reversal of reform in the Soviet Union.

I hope that these views will be helpful to my Senate colleagues as we begin this session. I believe that one of the most important responsibilities I have as a U.S. Senator is to provide the necessary resources for America's defense.

During the past decade, we made America strong again. We confronted communism with strength and as a result, democracy is alive and spreading throughout the world.

Mr. President, I urge my colleagues not to put these dramatic gains at risk in an emotional pursuit of illusions such as the "peace dividend." Instead let us approach the 1990's with caution and cool heads.

#### RECESS UNTIL 2:15 P.M.

The PRESIDENT pro tempore. Under the order, the Senate stands in recess until 2:15 p.m.

Thereupon, at 12:30 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

#### QUORUM CALL

Mr. PELL addressed the Chair.  
The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. 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, and the following Senators entered the Chamber and answered to their names:

#### [Quorum No. 1]

Adams	Grassley	Reid
Boschwitz	Heinz	Riegle
Bradley	Johnston	Robb
Burns	Kassebaum	Rockefeller
Byrd	Kasten	Rudman
Chafee	Kohl	Sanford
Coats	Lautenberg	Simon
Cohen	Leahy	Simpson
D'Amato	McClure	Specter
Dole	McConnell	Stevens
Exon	Mikulski	Symms
Fowler	Mitchell	Wallop
Glenn	Murkowski	Warner
Gorton	Pell	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

#### [Quorum No. 1]

Adams	Fowler	Mikulski
Armstrong	Glenn	Mitchell
Bauers	Gorton	Moynihan
Bentsen	Graham	Murkowski
Bingaman	Grassley	Nickles
Boschwitz	Harkin	Packwood
Bradley	Hatfield	Pel
Bryan	Hefflin	Pressler
Bumpers	Heinz	Fryor
Burdick	Helms	Reid
Burns	Hollings	Riegle
Byrd	Humphrey	Robb
Chafee	Jeffords	Rockefeller
Coats	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kasten	Sarbanes
Conrad	Kennedy	Sasser
Cranston	Kerrey	Shelby
D'Amato	Kerry	Simon
Daschle	Kohl	Simpson
DeConcini	Lautenberg	Specter
Dixon	Leahy	Stevens
Dodd	Levin	Symms
Dole	Lieberman	Wallop
Domenici	Lott	Warner
Durenberger	McClure	Wirth
Exon	McConnell	
Ford	Metzenbaum	

The PRESIDING OFFICER. A quorum is present. The majority leader is recognized.

Mr. MITCHELL. May we have order, please.

The PRESIDING OFFICER. The Senate will be in order.

#### RESOLUTION INFORMING HOUSE OF REPRESENTATIVES THAT A QUORUM OF THE SENATE IS ASSEMBLED—S. RES. 228

Mr. MITCHELL. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 228) informing the House of Representatives that a quorum of the Senate is assembled.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

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

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

The resolution (S. Res. 228) was agreed to.

The resolution reads as follows:

#### S. RES. 228

*Resolved*, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

**RESOLUTION INFORMING THE PRESIDENT OF THE UNITED STATES THAT A QUORUM OF EACH HOUSE IS ASSEMBLED—S. RES. 229**

Mr. MITCHELL. Mr. President, I send another resolution to the desk, ask that it be stated, and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 229) informing the President of the United States that a quorum of each House is assembled.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

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

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

The resolution (S. Res. 229) was agreed to.

The resolution reads as follows:

S. RES. 229

*Resolved*, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Presiding Officer announces that pursuant to Senate Resolution 229 the majority leader and minority leader are appointed members of the committee.

#### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business will now proceed, not to extend past 3:30, with each Senator permitted to speak for not more than 5 minutes.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

#### THE MIDEAST PEACE PROCESS

Mr. SPECTER. Mr. President, today I seek recognition to make a few comments about a trip which I recently made to the Mideast. I intend to submit a more detailed report at a later time. But a few of my comments, I think, are worthy of note at this time, because of the pendency of certain issues now being considered by the administration and soon to be considered by Congress. It relates to the priorities on the Mideast peace process.

Mr. President, I suggest that U.S. priorities are now misplaced on theimering problems of the Mideast, with so much tension on the Palestinian issue, which is very important, but I suggest that the central issue is security and peace in the region.

Mr. President, I suggest that the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. DODD. Mr. President—I'm sorry.

The PRESIDING OFFICER. The Senate will be in order.

Mr. SPECTER. Mr. President, I suggest that the Senate is still not in order. The distinguished Senator from Connecticut did not even know this Senator had the floor.

The PRESIDING OFFICER. The Senate will be in order. The Senators in conversation will withdraw from the Chamber.

Mr. SPECTER. Mr. President, the comment which I wish to make here very briefly is that I suggest that the real issue in the Mideast today is security. If the security issue were to be established by the entire region, especially the security of Israel, then it is my thought that the Palestinian issue, the issue of the intifada, would be relatively easy to solve.

I had the opportunity earlier this month, Mr. President, to meet with President Assad of Syria and with President Hussein of Iraq. I made the point to both of these national leaders that if they were to participate in the Mideast peace process and sit down at sessions, perhaps an international conference which would include Israel as well as Egypt and Jordan and the Palestinians, and the peace issue were to be resolved there, then I think that the other issues in the Mideast would be solvable.

The question on the Palestinian delegation is a very complex issue that is not easy to solve, and I am hopeful that it will be solved. I commend Secretary of State Baker, President Mubarak of Egypt, and Prime Minister Shamir of Israel for the efforts they are undertaking at the present time.

But that, Mr. President, is not the central issue. What is going on in the Mideast today is a "Cuban missile crisis" every day of the year. It certainly is a crisis for Israel with the missiles present in Syria, and with the three-stage rocket which Iraq has recently announced.

The meetings that I have had with these two national leaders, who are forceful men, who are important men, was of great value. These men are now looking westward at least in their interest in having discussions with one U.S. Senator and I urge my colleagues to follow on these trips.

Last year, some other Senators had met with President Assad of Syria. I have had an opportunity to have

lengthy discussions with President Assad in 1988, 1989, and again earlier this month.

When I was talking to President Assad of Syria, I noted a significant change in his position. For example, on the convening of an international conference where it has been Syria's position that a conference had to be convened by all five permanent members of the United Nations, he now is willing to have the international conference convened by only the United States and the Soviet Union.

When I brought that information to Prime Minister Shamir, he expressed interest because there had been a concern there would be undue pressure on Israel, and that is another point where President Assad, of Syria, was willing to make a very flat statement that there should not be undue pressure and that the parties should sit down and have the discussions.

When President Saddam Hussein, of Iraq, raised a question as to my own personal views of the Palestinian issue, I responded I was pleased to hear the question because I thought that the issue was the business of the President of the United States, President Bush, and the President of Egypt, President Mubarak, as well as President Hussein, of Iraq, and he was a little surprised because he then asked why is it my business. I responded because Iraq is a major participant in the security interest in the region as was Syria, and once those issues can be resolved, it seemed to this Senator, that the other issues in the region would be satisfied.

I want to make one more point briefly and then yield the floor because others of my colleagues are waiting to speak.

One of the issues raised by President Saddam Hussein, of Iraq, was his thought that the United States was excluding Soviet Jews in order to compel Soviet Jews to go to Israel. I commented that the President of Iraq did not have the facts straight because he just was not informed, that we did not have any unique policy on excluding Soviet Jews from the United States but these were regularly established quotas. I further commented about the efforts of many of us, including myself, to try to expand the number of Jews who come to the United States, but it was not an effort made to direct Jews to Israel.

That is illustrative, Mr. President, of what I think the value is of more trips being made by Senators, Members of the House, and American citizens of all walks of life to try to have closer relations, because Iraq is interested in and so is Syria. There are some questions as to Syria and terrorism that I think have to be resolved, and I will speak more about that at a later time.

I had an opportunity earlier today to call these issues to the attention of

Secretary of State James Baker, who met with the Republican luncheon, and the brief opportunity to mention them yesterday to President Bush in talking about another subject.

I hope that our national policy, Mr. President, will focus on the security issue with renewed evident bilateral relationships between this country and Iraq and this country and Syria to try to move toward this very central issue, and then I think the other matters in the Mideast will fall into place.

I thank the President and yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. I thank the Chair.

(The remarks of Mr. GLENN pertaining to the introduction of S. 2006 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Vermont.

#### U.S. FOREIGN AID IN A CHANGING WORLD

Mr. LEAHY. Mr. President, in the last few days new questions have been raised about U.S. foreign assistance priorities and how these should be affected by the historic changes sweeping Eastern Europe. Some have even questioned whether we should not break existing earmarks of military and economic assistance to some recipients, including the so-called big five, Israel, Egypt, the Philippines, Turkey and Pakistan, and shift some of those funds to countries in Eastern Europe.

Foreign aid is an instrument of U.S. foreign policy. How we allocate limited foreign aid resources should reflect the national interests. Obviously, we cannot do everything we would like—or even should do—in foreign assistance. The responsibility of leadership is to make choices, often very hard choices, among competing interests and claims.

These decisions are made even harder by the fact that since 1985, in real terms U.S. foreign aid has been cut by about a quarter. In the final analysis, what is at the root of administration attacks on funding decisions by Congress as reflected in earmarks is a lack of enough foreign aid money to meet all the needs the administration believes exist.

The Foreign Operations Subcommittee, which I chair, will hold hearings this year aimed at reexamining U.S. foreign aid priorities in light of the vast changes in the international situation. As far as I am concerned, every program in the fiscal 1991 foreign aid appropriation will be reviewed. No program will be exempt from scrutiny. If any program level cannot be fully justified in terms of U.S. foreign policy or national security interests, or as serv-

ing the humanitarian or moral values and commitments of the American people, as far as I am concerned as chairman of Foreign Operations, it will be subject to reconsideration.

Any reexamination would obviously have to take into account special considerations, such as our longstanding special moral and security relationship with Israel, the NATO status of recipients like Turkey or Greece, or unique historical ties, such as with the Philippines.

At the same time, while everything in the foreign aid program is open to debate, I cannot support any action which would break existing commitments the U.S. Government has made to allies and friends. In particular, absent the most compelling justification I will oppose any attempt to change the aid allocations Congress made in the current foreign aid appropriation.

At the beginning of last year, as the new chairman of the Foreign Operations Subcommittee, I publicly offered to Secretary Baker to discuss with him and other senior members of the administration whether it would not be possible to work out a better way for Congress to establish its own spending priorities in foreign aid while giving the President more flexibility.

The response conveyed in various ways throughout the year was that foreign aid is the exclusive responsibility of the President, Congress' role is limited to appropriating the money, and the administration will make the allocation decisions among the competing programs.

Mr. President, there is no way I as a Senator and a member of the Appropriations Committee can agree to such a point of view. Congress has constitutional responsibilities to determine how the public money will be spent. We do not just hand over a lump sum in any other area, and we are not going to do so in foreign aid, either. Earmarking is not some legislative encroachment into the prerogative of the executive branch. It is the means by which we in Congress decide how money is to be spent. We prefer to make those decisions in consultation with the executive branch, as I repeatedly offered to do. But we will make them by ourselves if the White House will not cooperate in deciding priorities.

Over the last 3 months of 1989, both Houses of Congress went through one of the most difficult foreign aid allocation processes ever. In an extremely painful series of decisions, Congress approved a fiscal 1990 foreign aid appropriation that represented extraordinarily hard choices among competing priorities. With little or no cooperation from the President or the executive branch agencies in setting priorities or in finding funds, in the fiscal 1990 foreign aid appropriation Con-

gress shaped a major Eastern Europe aid package of over \$430 million, funded a significant expansion of our international antidrug effort, provided for a continued export financing program in the Export-Import Bank over the opposition of the administration, found ways to meet our most urgent refugee assistance demands, and funded bilateral programs the administration claimed represented its top priorities.

Those difficult decisions now represent firm commitments by the United States upon which our allies and friends are not basing many of their own national budgets. A substantial fraction of those fiscal 1990 funds are already obligated or committed against specific needs. As a great nation, we must honor the commitments we have made and upon which countries of enormous foreign policy, national security and moral importance to us now rely.

Having said that, let me once again emphasize that as far as the fiscal 1991 foreign aid appropriation is concerned, we will look at every program. No program is off limits to the need to be justified against changing national priorities. As chairman of Foreign Operations, I am deeply sensitive to the extraordinary importance of our foreign aid, and the degree to which it sustains nations which share our political, economic, and moral values. We should not make decisions about these programs based on newspaper headlines, transitory irritations, diplomatic disagreements or short term political considerations. Once again, I am prepared to sit down with Secretary Baker and others from the executive branch and discuss how the different priorities of the administration and Congress might be reconciled. Only after the most serious discussion will we be able to determine how the current structure of foreign aid programs can be affected by the tremendously important changes in Eastern Europe, Central America, and elsewhere.

I look forward to this crucial debate and reexamination year. After decades of carrying out foreign aid programs based on Cold War rationales—containment of communism, support for anti-Communist regimes, often of the most undemocratic character, disguised rent for United States military bases intended to counter perceived military threats from Soviet or other Communist countries, buying of political or diplomatic influence and access in countries which do not share our political or moral values in order to keep them aligned with us against the Soviet bloc—we now have an historic opportunity to reshape the whole conceptual underpinning of our foreign aid.

The most urgent challenges now facing the United States abroad are no

longer determined by the cold war and the United States-Soviet military competition. We must reorient our foreign aid to deal with the real global problems of massive Third World poverty, weak and undemocratic political institutions, economic and social underdevelopment, environmental degradation on a catastrophic scale, exploding populations, the international narcotics menace. We must use our aid to support emerging democratic nations and to assist in bringing peace to unstable regions of the world.

Those are the new issues which must frame our debate. Let us not be diverted into sterile and pointless fights over foreign aid decisions and commitments we have already made. Let us look to the future and find ways to work together.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. I thank the Chair.

(The remarks of Mr. Dodd pertaining to the introduction of S. 2015 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Washington.

#### A WORLD PROFOUNDLY DIFFERENT

Mr. GORTON. Mr. President, I return to these familiar surroundings and to the faces of our friends and colleagues and it can almost but not quite cause us to forget the fact that we have come back to a new world, a world profoundly different from that in which we lived when the first session of this Congress adjourned just 2 short months ago.

In fact, one learned columnist, whose work I read during the recess, referred to the year 1989 by that old Latin phrase *annus mirabilis*, a year of miracles or a year of remarkable happenings. In fact, for the cause of freedom, 1989 was truly an *annus mirabilis*. It was also, in my opinion, a magnificent tribute to American ideas and ideals and to the unflagging leadership for freedom and for the free world which we provided.

Our example is sought in Eastern Europe. We contributed more directly to the freeing of the people of Panama from a corrupt dictator. In fact, we inspired the one movement for freedom which was spectacularly unsuccessful in 1989—that of the people of China, whose aspirations were symbolized by their copy of our Statue of Liberty.

The same learned writer who used that Latin phrase pointed out that perhaps once in each century that designation has attracted itself to a particular year. In the 18th century, that year was 1776. In the 18th century that year was 1776. In the 19th century, it was 1848.

The writer went on, however, to caution us as we go into the year 1990. Seventeen seventy-six, *annus mirabilis*, was of course the beginning of the experiment of which we are still a part here today. Eighteen forty-eight, on the other hand, while it was marked by the same kinds of aspiration for democracy, the same kind of willingness for some people in Europe to lay down their lives for that democracy, was followed by years of reaction during which all of those movements came to naught.

So the most fundamental question for us, Mr. President, is what do we do the year after, in 1990? Will we act in such fashion as to make 1989, for our children and grandchildren, more like 1776 or more like 1848?

First and foremost, Mr. President, we here in the United States are going to be able to deal with what now goes commonly under the phrase, "a peace dividend." It is not the existence of that peace dividend, but only its amount which is in question.

The President himself, in his budget next week, will propose a budget for national defense which is some \$12 billion, or more, less than what he anticipated proposing not much more than 1 year ago today. That \$12 billion is a substantial dividend presented to the people of the United States by their strength and constancy over the course of the past decades.

At the same time, I think all of us know that his proposal will not be a floor but will be a ceiling on that budget for national defense. It is the view of this Senator that that peace dividend is more likely to bear somewhere between \$15 billion and perhaps as much as \$25 billion less than what we might well have anticipated the budget for national defense to have been for 1991 a year or so ago.

This gives us many opportunities. I am already well aware, by various Members of the House or Congress or one lobbying group or another, that dividend has been spent at least a half a dozen times, perhaps a dozen. It does seem to me, however, Mr. President, that if we devote it primarily toward getting our own fiscal house in order it can make great dividends for the people of the United States: a better opportunity to start new businesses; bluntly, greater competitiveness with the Japanese and with other trading partners.

With respect to Eastern Europe, however, Mr. President, it seems to me unlikely that we are about to embark on a new Marshall plan. We do, however, have people power.

It seems to this Senator the greatest gift we can offer is to expand a modest existing program and to create a new Peace Corps of businessmen, capitalists, engineers and the like, who are willing to volunteer their time to create strong, free political societies

and strong, free economic societies in those countries which have so bravely liberated themselves.

I will speak on this subject again at a later time.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. I thank the Chair.

(The remarks of Mr. BRYAN pertaining to the introduction of S. 2013 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

#### FOREIGN AID

Mr. LAUTENBERG. Mr. President, I rise today to briefly share my thoughts with my colleagues about an incipient debate that is starting on the foreign aid budget—for fiscal year 1991 and beyond.

Mr. President, presumably Secretary Baker and the President have made their final decisions on what they will recommend to the Congress next week about foreign aid for fiscal year 1991. I assume that in support of that budget request, and in the face of a real dilemma on how to meet all of our obligations—moral, diplomatic, and security needs—the Secretary and Minority Leader DOLE have kicked off an early debate on how to proceed.

Last week, the minority leader sent up a trial balloon which proposed cutting aid to Egypt, Israel, Pakistan, the Philippines, and Turkey to make room in the budget for higher levels of support to the emerging democracies in Eastern Europe and Panama, and to combat drug trafficking in Latin America. Also last week, Secretary Baker suggested to the Senate leadership that the Congress agree to cut \$250 million of aid we approved just months ago to send the aid to an unspecified list of countries—places the administration favors.

The problem, I take it, is that the administration is faced with budget constraints due to a persistent budget deficit, sustained levels of military spending, and a policy of no new revenues. It is having difficulty achieving our national security and diplomatic goals, and meeting our moral obligations, within the confines of the budget situation it has structured.

Mr. President, the administration has chosen to frame this debate in terms of its desire for flexibility in dealing with foreign aid. This flexibility would significantly reduce congressional prerogatives over foreign policy. One important way Congress has traditionally asserted its influence over foreign policy is through the allocation of U.S. foreign aid dollars. It is one of the most effective ways Congress can make its voice heard in the foreign policy area. Such allocations, called earmarks, represent a consensus about which countries, for strategic,

humanitarian, political, and economic reasons, deserve our monetary support. Removing earmarks would strip Congress of one its prime tools in influencing foreign policy, and change the balance between the executive and the legislative branch on foreign policy in a detrimental way.

Further, I believe that really, the issue is as much, or more, a substantive, policy issue rather than a process issue of congressional earmarks. I think that the administration is having trouble constructing a budget to meet our foreign policy needs and wants to take power away from the Congress to let it do what it wants to do—things we presumably would not agree with.

Let's look at the issue of Eastern Europe. If Eastern Europe needs our help, as I believe it does, let's acknowledge it serves our national security interest to help her, and act accordingly. That means looking to our defense budget to meet the new needs that increase our national security. We've already done that in the case of Poland and Hungary, whose newly minted aid package was funded largely out of the defense budget, at the administration's own suggestion.

It makes sense to allocate to Eastern Europe some of the money we now spend to defend ourselves militarily against the Soviet Union. We're now spending at least \$150 billion on troops and weapons for the defense of Europe. Stable democracies in Eastern Europe would certainly provide as much security for America in guarding against the threat of a Soviet invasion of Western Europe.

Country after country in Eastern Europe is replacing democratic rule for that of the Communist yoke. They are changing their constitutions to renounce the supremacy of Communist parties. Czechoslovakia and Hungary have already called for the removal of Soviet troops from their territory and want to reduce the size of their own armed forces. We are engaged in serious negotiations over reductions in conventional force levels in Europe—negotiations that were underway even before the stunning and historic changes taking place in Eastern Europe. Leaving aside our emotions and moral responsibility to these brave people, to ignore these changes, and the obvious security opportunities they offer, would be an error of enormous proportions.

Mr. President, there are also many ways to nurture democracy besides foreign aid dollars. Romania, Czechoslovakia, and East Germany could benefit from receiving most favored nation status and receiving granted special trade status under the generalized system of preferences. The President announced yesterday his support for increased sales of advanced computers, telecommunications equipment

and machine tools to East bloc nations to modernize their economies. We might also explore other ways of encouraging new investment in Czechoslovakia, East Germany, and Rumania by extending Government guarantees to businesses that invest there. All of the emerging leaders have emphasized one thing: They want capitalist business investment and management skills and advice. That's the key to rebuilding their economies. These are areas where the President can provide more leadership.

Having underscored the importance of supporting democratic forces in Eastern Europe, we must face the budget issue. Is it in our security interests to respond to these needs by cutting assistance to other key allies around the world? I think not.

So, Mr. President, I would take issue with any suggestion that the Congress should not earmark foreign aid or that we should cut foreign aid to the Middle East, the Philippines, and other strategic allies as the only means of meeting the challenges we face in Eastern Europe and Latin America. Such proposals violate congressional prerogatives on foreign policy, and look in the wrong place for new foreign aid dollars.

For example, the Philippines is a new democracy facing a widespread Communist insurgency and severe and recurrent threats of a coup from its military. Last year we provided military help to the Aquino government to prevent its overthrow. This year we'll contribute \$160 million to a multilateral effort to stabilize the political and economic situation in the Philippines. A stable, democratic Philippines is vitally important to peace in Southeast Asia. Even a small cut in that aid could be interpreted as a lessening of U.S. commitment, emboldening enemies of democracy there.

Similarly, our aid to Pakistan encourages the growth of democratic institutions in a newly democratic country critical to the stability of Southeast Asia. It also helps Pakistan's efforts to combat illegal narcotics trafficking, and decreases Pakistan's need to go nuclear by helping beef up their conventional deterrent against India. It also provides a buffer against an unpredictable and potentially threatening neighbor like Afghanistan. Benazir Bhutto's enemies would be only too happy to use a cut in United States aid against her, undermining the fragile democracy in Pakistan.

Our aid to Israel and Egypt helps keep the peace in the Middle East, and thus is a wise investment in our own security. The winds of change in Eastern Europe have yet to blow in the Middle East. The Soviet Union continues to supply arms to Iraq, Syria, and Libya, all radical Arab countries. Any cut in aid to Israel would undermine her security at a time when she faces

an Iraqi army strengthened and enlarged by its war with Iran, a Syria bent on strategic parity, and an Arab world armed with ever more sophisticated ballistic and chemical weapons. It could lead to war by encouraging Israel's enemies to strike while she is in a weakened state.

Our aid also helps assure that a strong and secure Israel can take the risks she needs to achieve peace. Further, cuts in economic aid would make it impossible for Israel to respond to the enormous needs of the current and expected Soviet emigration.

Finally, Israel is an important strategic ally whose foreign aid is an American investment that pays dividends to our security account every day. Even in an environment of lessened Soviet threat, Israel plays a key role in United States efforts to contain the regional threat posed by Syria, Libya, Iraq. She acts as a valuable regional ally in the volatile Persian Gulf. And, Israel is a key port for the repair and refueling of the United States 6th Fleet in the Mediterranean, a tool for U.S. force projection in conflicts in the gulf and beyond.

American-Israeli strategic cooperation shows its face in countless ways every day. For example, Israel has made its hospitals available to care for wounded American military and other personnel in the region. The Israeli Navy has participated in joint naval exercises with the 6th Fleet to strengthen United States antisubmarine warfare capabilities in the eastern part of the Mediterranean. It has made facilities available for the storage and maintenance of U.S. materiel for American use in a conflict.

Egypt, too, is a strong regional friend that plays an essential role in regional stability. Her influence helps reduce the threats of Iranian expansion, terrorism, and religious extremism in the region. Her efforts have helped to advance the peace process. Cuts in United States aid could backfire by demonstrating to other Arab countries that taking risks to make peace with Israel is not a guarantee of strong American support. Moreover, even small cuts in aid to Egypt, an extremely poor country, can lead to great unrest and instability.

Mr. President, I would point out that it's especially appropriate to look in other places besides foreign aid to respond to the needs in Eastern Europe and Latin America if we consider that during the Reagan years, foreign aid was slashed more than any other program besides revenue sharing, which terminated. And spending on foreign aid last year comprised only 1.2 percent of the entire Federal budget. In contrast, our defense budget—which is supposed to support our security needs—grew at an unprecedented rate during the Reagan years

and now comprises roughly 30 percent of our Federal budget.

Mr. President, as we move into the budget process this year, it's important that we not send the wrong signals to our allies around the world—many of whom have taken great risks for the United States—and that we frame this debate carefully.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Florida is recognized.

Mr. GRAHAM. I thank the Chair.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 2005 are located in today's Record under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KENNEDY] is recognized.

Mr. KENNEDY. I ask unanimous consent to proceed for 10 minutes.

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

#### THE PANAMA INVASION

Mr. KENNEDY. Mr. President, now that United States troops are coming home from Panama, it is time for Congress to begin to reflect on the implications of the United States invasion of that country.

No one questions the bravery of the American service men and women who carried out this mission. They responded with skill and courage to the call of the President, and all of us mourn those who were lost.

But I have serious reservations about the justification for the invasion itself. The administration has offered four rationales for its action. It claims that the invasion was necessary to:

Save American lives;

Protect the Panama Canal;

Restore democracy to Panama; and

Bring General Noriega to justice.

Nothing on the public record makes any of these justifications persuasive. Certainly, the United States does not have the right under international law or any other law that I know of to roam the hemisphere, bringing dictators to justice or installing new governments by force on other nations. Surely, it is a contradiction in terms and a violation of America's best ideals to impose democracy by the barrel of a gun on Panama or any other nation.

There was no imminent threat to the Panama Canal. In fact, for the first time in its history, the canal was shut down—because of the U.S. invasion.

Was the invasion necessary to save American lives? We will never know the true answer to that question, because we will never know what would have happened had there been no invasion. But we do know certain facts.

In October, President Bush had been embarrassed and criticized for failing to do enough to ensure the success of a coup against General Noriega. The coup failed, perhaps because of U.S. blunders.

On the Friday before the invasion, the Noriega-created Panama Assembly passed a resolution saying that a "State of War Exists" in Panama, and listing a series of what it considered acts of aggression by the United States against Panama, including United States economic sanctions. It is difficult to call this resolution a declaration of war by Panama against the United States.

On the Saturday before President Bush acted, four unarmed United States servicemen were stopped in their car at a roadblock in front of the headquarters of the Panama defense forces. When they attempted to drive off, one of the servicemen was shot and killed, and another was wounded. A Navy lieutenant and his wife who witnessed the incident were taken into custody by the PDF and beaten, and the lieutenant's wife was sexually threatened. Two nights later, the invasion began.

These incidents followed 2 years of PDF harassment of American servicemen and their wives. Over 750 such incidents passed without significant U.S. protest, including cases involving serious assaults and even shootings.

According to the Army Times of March 20, 1989, "U.S. servicemen in Panama have been abducted, beaten, kicked and had handguns held against their heads." Either our Government underreacted to these incidents, or overreacted to the incidents of last December.

As a result of the invasion, 23 American servicemen are dead; 3 American civilians are dead; 300 other Americans are wounded; 500 Panamanians are dead; thousands of Panamanians are wounded, and vast physical destruction has been wreaked on Panama City. On this record, it is difficult to deny that the invasion cost more lives than it saved.

Contrary to the administration's threadbare and legalistic claims, the invasion violated our fundamental commitments under the United Nations Charter and the Charter of the Organization of American States. The administration's claim that the invasion was somehow justified as an act of self defense is not credible. It is no surprise that the United States was overwhelmingly rebuked for the invasion—by a vote of 20 to 1 in the Organization of American States, and by a vote of 75 to 20 in the United Nations General Assembly.

In the Declaration of Independence, the Founders of our Nation proclaimed their liberty and spoke of "a decent respect to the opinions of man-

kind." Two centuries later, we have still not learned to pay that respect.

Panamanians and Americans alike are glad to be rid of the dictator Noriega. But the costs of the invasion are already high, and it may be some time before we know the full costs.

The Panamanian economy is in shambles and American taxpayers have already been called upon to help rebuild the country.

The Endara government has requested emergency economic aid, and negotiations to reduce trade barriers. The Bush administration is said to be developing an overall aid package worth from \$1.5 to \$3 billion.

Thousands of U.S. troops remain in Panama. Until these forces are reduced to their preinvasion levels and returned to U.S. bases, the Endara government cannot hope to establish its legitimacy in the region. Latin American nations have been slow to recognize the new government, because it was installed by the military power of the United States, not by the people of Panama. Only time will tell whether the Endara government can survive without the presence of United States troops, or whether the Bush administration intends to back up this invasion with further invasions in the future, in order to guarantee order, security in and democracy in Panama.

I am also concerned that the invasion has done long-term damage to our foreign policy, to our ability to work with other nations in Latin America, and to our goal of achieving lasting democracy in the region. It has already caused serious setbacks in the war on drugs.

Peru is less cooperative, Colombia balked at the administration's inept effort to station United States warships off its coast, and all of Latin America balked at the misguided plan to rush Vice President QUAYLE to the region.

Coupled with the irresponsible sacking of the Nicaraguan Ambassador's residence by United States forces in Panama City, the outcry against the invasion has significantly boosted the prospects of the Sandinistas in the Nicaraguan elections that will take place next month. President Bush may have captured Noriega, but at the cost of electing Ortega.

Historians will eventually tally these costs and judge the wisdom of the action. Already, however this feel good invasion does not feel so good any more.

In the meantime, we need to move forward and do as much as we can to strengthen democracy in Panama.

First, in my view, we should announce a timetable for the complete withdrawal of U.S. troops. Only then can the Endara government claim full authority and establish its national and international credibility.

Second, we should move swiftly to implement a generous and well-designed package of aid to repair the war damage and reconstruct the Panama economy.

The first step is an immediate lifting of all sanctions. The next is to develop assistance to build a healthy, independent economy. Handouts will not work; the creation of jobs will. Our assistance must be designed to put the Panamanian people to work, encourage United States investment, and increase trade between our nations. The Bush administration is currently discussing the package with the Endara government, and Congress should be prepared to ensure that appropriate aid is approved as soon as possible.

Third, the United States should lend its full support to the idea of replacing Panama's corrupt and discredited military forces and officer corps with an efficient and moderately sized police force. While this is clearly a decision for the people of Panama to make, the United States is already heavily involved in determining the future of Panama's security forces. Panama needs no standing Army, and the nation will prosper more quickly if it is able to channel funds into strengthening the nation's economic and social services. The safety of the canal can be assured by a variety of arrangements involving the United States, Panama, and other countries in the region.

As Costa Rican President Oscar Arias noted when he put forward a proposal to dismantle the Panamanian armed forces, "to demilitarize the country means to make a profound decision. It is not enough to change the name of the armed forces. It is necessary to change the minds of those people who only yesterday wore a military uniform."

As we enter a new decade, perhaps it is time for the United States also to make a profound decision, look at our own mindset, and change our own thinking on the way we deal with Latin America.

The United States invasion of Panama reflects the long-standing predisposition of this country to bail out flawed policies through United States unilateral military interventions that ride roughshod over the sovereignty of other nations in the hemisphere. For years, we have viewed Panama as something just short of the 51st state. No other nation depends so heavily on the dollar for its economy. The original Panama Canal Treaty was negotiated without a Panamanian present. And throughout the century, we have built up a military structure in Panama that would do our bidding and restrain any overly independent political figures.

Over the last decade, the administration lent legitimacy and support to one election farce after another in

Panama. We continued to support the military and cultivate individuals who would be loyal and do our bidding. Manuel Noriega fit that mold. He was a bright, ruthless officer, and it was only logical that we would bring him into our camp.

Our support for individuals such as Noriega and our repeated unilateral military interventions are natural and predictable outcomes of our misplaced, ill-advised and paternalistic approach toward the region. Unless we learn from our past history, we will be condemned to repeat it.

Throughout Central America, as in Panama, we have supported coups, recognized blatantly fraudulent elections, and ignored corruption and flagrant human rights abuses—all in the name of U.S. interests and regional stability.

Over the last two centuries, we have invaded Nicaragua 10 times, Panama 10 times, Honduras 7 times, and El Salvador once.

In Nicaragua, we supported the Dictator Somoza while driving many true democrats into the Soviet, Cuban, and Sandinista camps.

In El Salvador, Honduras, and Guatemala, we have enthusiastically built up large military forces and structures which have become uncontrollable bastions of corruption, death squads, and brutal human rights abuses.

Our emphasis on military solutions in Central America has polarized those societies and impeded economic growth and social progress.

It is no mere coincidence of history that the only country in the region that has shed its military force—Costa Rica—boasts four decades of peace, prosperity and some of the highest living standards in the region.

In sharp contrast, Costa Rica's five neighbors—Honduras, Guatemala, Nicaragua, El Salvador, and Panama—continue to suffer war, poverty, social and political conflict, plummeting living standards, and atrocious human rights violations.

It is time for the United States, once and for all, to abandon this failed policy of easy resort to military intervention in our hemisphere.

If we heed these lessons, then perhaps the invasion of Panama in 1989 will come to be seen as the last example of "old thinking" by the United States in Latin America, and that 1990 will mark the dawn of a new era of respect by the United States to our neighbors and a new alliance for progress in the region.

Mr. President, I ask unanimous consent that the texts of the resolutions passed by the United Nations and the Organization of American States regarding the United States invasion of Panama may be printed in the RECORD.

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

#### RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS

##### 44/240. EFFECTS OF THE MILITARY INTERVENTION BY THE UNITED STATES OF AMERICA IN PANAMA ON THE SITUATION IN CENTRAL AMERICA

The General Assembly,

Taking note of the statements made in the General Assembly and the Security Council regarding the invasion of Panama,

Reaffirming the sovereign and inalienable right of Panama to determine freely its social, economic and political system and to develop its international relations without any form of foreign intervention, interference, subversion, coercion or threat,

Recalling that, in accordance with Article 2, paragraph 4, of the Charter of the United Nations, all Member States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

Reaffirming the need to restore conditions which will guarantee the full exercise of the human rights and fundamental freedoms of the Panamanian people,

Expressing its profound concern at the serious consequences the armed intervention by the United States of America in Panama might have for peace and security in the Central American region,

1. Strongly deplores the intervention in Panama by the armed forces of the United States of America, which constitutes a flagrant violation of international law and of the independence, sovereignty and territorial integrity of States;

2. Demands the immediate cessation of the intervention and the withdrawal from Panama of the armed invasion forces of the United States;

3. Demands also full respect for and strict observance of the letter and spirit of the Torrijos-Carter Treaties;

4. Calls upon all States to uphold and respect the sovereignty, independence and territorial integrity of Panama;

5. Requests the Secretary-General to monitor the developments in Panama and to report to the General Assembly within twenty-four hours after the adoption of the present resolution.

*88th plenary meeting, 29 December 1989.*

#### VOTE ON EFFECTS OF MILITARY INTERVENTION IN PANAMA

The General Assembly adopted a draft resolution on the effects of military intervention in Panama (document A/44/L.63) by a recorded vote of 75 in favour to 20 against, with 40 abstentions, as follows:

In favour: Afghanistan, Albania, Algeria, Angola, Argentina, Austria, Barbados, Belize, Bhutan, Bolivia, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Byelorussia, Chile, China, Colombia, Congo, Cuba, Cyprus, Czechoslovakia, Democratic Yemen, Ecuador, Equatorial Guinea, Ethiopia, Finland, German Democratic Republic, Ghana, Guatemala, Guinea, Guyana, Haiti, Hungary, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kuwait, Lao People's Democratic Republic, Libya, Malaysia, Mali, Mauritius, Mexico, Mongolia, Myanmar, Nepal, Nicaragua, Pakistan, Paraguay, Peru, Romania, Solomon Islands, Spain, Sri Lanka, Sudan, Surinam, Sweden, Syria, Trinidad and

Tobago, Uganda, Ukraine, USSR, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yugoslavia, Zambia, Zimbabwe.

Against: Australia, Belgium, Canada, Denmark, Dominica, El Salvador, France, Federal Republic of Germany, Israel, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Panama, Portugal, Turkey, United Kingdom, United States.

Abstaining: Antigua and Barbuda, Bahrain, Brunei Darussalam, Cape Verde, Central African Republic, Chad, Costa Rica, Egypt, Fiji, Greece, Grenada, Honduras, Iceland, Ireland, Kenya, Lebanon, Liberia, Madagascar, Malawi, Malta, Morocco, Niger, Oman, Papua New Guinea, Philippines, Poland, Qatar, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Singapore, Somalia, Thailand, Togo, Tunisia, United Arab Emirates, Yemen, Zaire.

Absent: Bahamas, Bangladesh, Benin, Cameroon, Comoros, Cote d'Ivoire, Democratic Kampuchea, Djibouti, Dominican Republic, Gabon, Gambia, Guinea-Bissau, Lesotho, Maldives, Mauritania, Mozambique, Nigeria, Saint Kitts and Nevis, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Swaziland.

The text of the OAS resolution that was adopted December 22, 1989, in the wake of the United States action in Panama. Vote was 20 in favor, 1 against the United States and 6 abstentions—Antigua and Barbuda, Costa Rica, El Salvador, Honduras, Guatemala, and Venezuela—is as follows:

**RESOLUTION ADOPTED BY THE ORGANIZATION OF AMERICAN STATES, DECEMBER 22, 1989**

Resolves:

1. To deeply regret the military intervention in Panama.

2. To urge the immediate cessation of hostilities and bloodshed and to request the launching of negotiations between the various political sectors of the country that will lead to a concerted solution to the Panamanian institutional crisis.

3. To express its deepest concern over the serious incidents and the loss of lives taking place in the Republic of Panama.

4. To call for the withdrawal of the foreign troops used for the military intervention and to reaffirm that solving the crisis Panama is undergoing at this time necessarily requires full respect for the right of the Panamanian people to self-determination without outside interference and faithful adherence to the letter and spirit of the Torrijos-Carter treaties.

5. To express the need to comply with the obligations assumed by the States parties to the Vienna Conventions on Diplomatic and Consular Relations.

6. To urge that the International Committee of the Red Cross (ICRC) be provided with the facilities and cooperation necessary for it to carry out its humanitarian work with the wounded and the civilian population.

7. To express its fraternal support for and solidarity with the Panamanian people and to urge that the parties involved engage in dialogue for the purpose of safeguarding the lives and personal safety of all the inhabitants of Panama.

8. To recommend that a new session of the Twenty-first Meeting of Consultation be held when appropriate to examine the Panamanian situation as a whole.

9. To instruct the Secretary General of the OAS to take the steps necessary for the implementation of this resolution.

Having seen:

The serious events in the Republic of Panama, especially the armed clashes resulting from the military intervention by the United States and the deplorable loss of lives and property;

The obligation of States not to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State; and

The obligation to respect the inviolability of the territory of a State, which may not be the object, even temporarily, of military occupation or of other measures of force taken by another State, directly or indirectly, on any grounds whatever; and

Considering:

The provisions of Resolution I adopted by the Twenty-first meeting of Consultation of Ministers of Foreign Affairs on May 17, 1989 and the declarations made by the President of the Meeting and adopted on June 6, July 20, and August 24, 1989 on the Panamanian crisis in its international context;

That, at the nineteenth regular session, the General Assembly requested the Permanent Council to keep the situation in Panama under permanent consideration;

That, any just and lasting solution to the Panamanian problem must be based on full respect for the right of its people to self-determination without outside interference;

That it is necessary to guarantee full respect for the sovereignty of Panama; and

That it is also necessary to reestablish conditions that will guarantee the full exercise of the human rights and fundamental freedoms of the Panamanian people, and

That the Panamanian people have an inalienable right to self-determination without internal dictates or external interference.

Mr. MITCHELL. 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. 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.

**EXTENSION OF MORNING BUSINESS**

Mr. MITCHELL. Mr. President, I understand there are other Senators who wish to address the Senate in morning business. Therefore, I ask unanimous consent that the period for morning business be extended until 4 p.m.

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

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. HUMPHREY. I thank the Chair.

(The remarks of Mr. HUMPHREY pertaining to the introduction of Senate Joint Resolution 235 are located in today's RECORD under "Statements on

Introduced Bills and Joint Resolutions.")

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

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

**TRIBUTE TO JUDGE ROBERT S. VANCE**

Mr. HEFLIN. Mr. President, I rise today filled with remorse at the death of one of my dear friends. Oftentimes, a great man dies with little or no attention paid to his accomplishments. We should not allow this injustice to befall my friend, Judge Robert S. Vance. His beliefs and accomplishments will far outshine the shock and horror of his brutal murder in his home in Birmingham, AL.

Most of you heard about Judge Vance when the national news carried the story about the mail-bomb which killed him and seriously injured his wife, Helen Rainey Vance. However, the national news only touched the surface of who Bob Vance was and what he stood for. What the news did not cover was the loving relationships Bob had with his wife and two sons, Robert, Jr., and Charles. It did not cover the devotion which Bob brought to each of his endeavors. It did not show the intellectual acumen with which he faced each problem and approached each case. Finally, the news did not show what drove Bob Vance—his love of life, his constant quest for truth, and his eternal commitment to everything that is right.

Judge Vance's only elected offices were those of chairman and member of the State Democratic executive committee. As chairman of the party's governing body from 1966 until 1977, Bob Vance left a huge imprint on the face of the State political scene. In this position, Bob commanded respect from both Republicans and Democrats for his reasoned approaches to the challenges of the day. Although the Democratic Party in Alabama was somewhat divided at the time, Bob's demeanor and talents allowed him to push the party ever forward and eventually unite the factions. All may not have agreed with his efforts, but everyone recognized Bob's ability to get the job done. He led the party through these tough years and spearheaded the efforts which integrated the Democratic Party in Alabama. He felt we had to move forward out of the racial unrest we were in.

In 1977, President Jimmy Carter recognized Bob Vance's considerable talents by appointing him to the Fifth U.S. Circuit Court of Appeals. When the circuit split, Judge Vance moved to the 11th circuit. He cherished the liberties provided to each of us by the Constitution and took very seriously the responsibility he had to this country first as one of its citizens and second as one of its faithful Government servants. He brought about unprecedented changes to the political landscape of Alabama. When Judge Vance was appointed, his interest in politics never waned but his understanding that he was a judge transcended his past political goals. Bob's opinions often evoked praise from both sides of a case for his fairness. His expert understanding of the law and his unwavering quest for the truth guaranteed each case a fair trial.

Although we do not know who killed Judge Vance, it seems as if the bombing was racially motivated. Although we can offer little comfort to Judge Vance's family and friends, we can testify that he did not die in vain. It is only through the efforts of Robert Vance and others like him that racially motivated violence seems so much more shocking today than in the 1960's. This type of bombing was becoming almost commonplace until people with the courage of their convictions—like Bob Vance—began to stand up for what is right. The world needs people like Bob Vance.

Mr. President, I am still shocked by the death of this good friend. I wish Helen Vance a rapid recovery and want her to know that we share her grief. I know that words of condolence often ring hollow so I am going to offer words of hope. I hope that men like Bob Vance come this way more often. He deeply touched his family and friends. All who knew him were better for it.

Mr. President, I was touched by the eulogy of Judge Vance given by his close friend, Judge Clifford Fulford, and ask unanimous consent that a copy of these remarks be printed in the RECORD.

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

**EULOGY OF JUDGE ROBERT VANCE GIVEN BY  
JUDGE CLIFFORD FULFORD**

We come here today in outrage to remember and celebrate the life of a man who was the antithesis of outrage. So it is that we put aside our outrage for the moment and think about Bob Vance, the man he was and the life he lived.

If, in that process, our outrage increases, so be it. If the taking of such a noble life enrages us, Bob would be the first to tell us that we honor him most by remembering the values he held dear.

Bob Vance loved life. He lived life fully and with gusto. He did not wish to die. He did not deserve to die. But his assassins were cheated if they picked Bob Vance thinking that he was afraid to die. Bob knew that

death was the bargain we all make to be born, and that the time in between made the bargain a good one.

The tragedy in Bob Vance's untimely death is that he had so much yet to give. We, the beneficiaries of his intellect and wit, are the ones who have been robbed by his death.

It is not unfitting that Bob's death has come in this Advent Season of short days and long nights. He knew that the days will soon lengthen, and that a time of good will and cheer is coming. That is the way—the optimistic and hopeful way—he approached all adversity. He always knew, with his unique confidence, that things would work out, given time.

More than any man I have known, Bob Vance had perspective. He never lost sight of his goal to resolve disputes reasonably and peacefully. He could and often did reduce tension in hotly contending groups with his unusual wit. He saw and gave proportion to issues in terms of their possible solutions.

He had the unique ability to draw his circles to include his adversaries and to join them in the search for common ground on which both could honorably stand.

It is no wonder that his assassins, who lacked his capacity and belief in the rule of law, could not tolerate such a man in their presence.

Bob Vance distrusted accumulations of political power. He knew that such concentrations paved the way for despotic and arbitrary conduct, even by good people. He revered our constitution. He trusted an informed electorate and believed passionately in the election process. He eschewed the handpicking of candidates. When the Legislature turned down his proposal to require all candidates to file reports of their campaign finances before the election, he persuaded his party to adopt his rule. He then challenged other parties to follow his party's lead. When his side was beat at the polls in the selection of delegates to the national convention, he opposed all efforts to unseat the delegates selected by popular vote.

Bob Vance continued to develop and use his skills as a member of our Federal appellate court system. His insistence on a level playing field for contending parties in our judicial process was well known. So was his recognition that our liberties are assured only by our responsible conduct. He believed that a citizen's duty to pay the cost of government should bear reasonable proportion to the benefits that government bestowed on him.

He distrusted excessive governmental control. His instincts were for the underdog and the underprivileged. He participated in the fight to require reapportionment of state legislatures dominated by oppressive minorities.

Bob Vance gave a good account of his talents and how he used them. We will not likely see his kind again, but he is a role model for those men and women who knew him and worked with him in the causes he promoted.

Through all of his work and accomplishments, Bob was supported by a loving wife, Helen Rainey Vance, to whom he was devoted. Their marriage was a paragon that produced two fine sons, Robert Jr. and Charles. They have the support of their memories of a remarkable husband and father to carry them through their grief in which we all join.

I am sure they know that their grief cannot just now be less because their love for him was so great. May they be comforted by the certainty, born of faith, that Bob has entered the greater service of God in His creation and know that their pride in him will grow even as the intensity of their pain diminishes.

Finally, I read and saved a poem by Isla Paschal Richardson—never dreaming that I would ever use it on an occasion such as this. However, it says what I think Bob is saying now to his family and friends, if we could but hear him, and I want to share it with you in closing:

**To THOSE I LOVE**

If I should ever leave you whom I love  
To go along the Silent Way,  
Grieve not nor speak of me with tears,  
But laugh and talk of me as if I were beside  
you there.  
(I'd come—I'd come, could I but find a way!  
But would not tears and grief be barriers?)  
And when you hear a song or see a bird I  
love,  
Please do not let the thought of me be  
sad . . .  
For I am loving you just as I always  
have . . .  
You were so good to me!  
There were so many things I wanted still to  
do—  
So many things to say to you . . .  
Remember that I did not fear . . .  
It was just leaving you that was so hard to  
face . . .  
We cannot see Beyond . . .  
But this I know:  
I loved you so—"twas heaven here with you!

(Poem by Isla Paschal Richardson.)

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Kansas is recognized.

Mrs. KASSEBAUM. I thank the Chair.

(The remarks of Mrs. KASSEBAUM pertaining to the introduction of S. 2012 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mrs. KASSEBAUM. I yield the floor and note 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.

**EXTENSION OF MORNING  
BUSINESS UNTIL 4:40 P.M.**

Mr. MITCHELL. Mr. President, earlier today I announced that at 3:30 p.m. I would ask consent to proceed to the clean air legislation. Shortly prior to that time, I was asked on behalf of the distinguished Republican leader to withhold that request for a brief time, and I agreed to do that.

We are now awaiting the return of the distinguished Republican leader from a meeting, at which time I will, of course, consult with him.

But I want to, in response to the many questions I have received from Members as to what is occurring, explain that the only reason for this delay is that I was asked to delay by the distinguished Republican leader for a brief period of time, and I am accommodating his request. As soon as I have the opportunity to discuss it with him, I still intend to attempt to proceed to the bill, the managers having been present and ready to proceed. I expect we will be on the bill shortly.

In the meantime, I understand there may be other Senators who wish to address the Senate. Accordingly, I ask unanimous consent that the period for morning business be extended until the hour of 4:40 p.m.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered. Who wishes to be recognized?

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York [Mr. MOYNIHAN].

(The remarks of Mr. MOYNIHAN pertaining to the introduction of S. 2016 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

#### JUSTICE FOR CYPRUS

Mr. PRESSLER. Mr. President, the momentous events in Berlin and Eastern Europe herald a new era for Europe and for the world. While we must not let our guard down, we must assess the impact of these events on other foreign policy issues in which we are involved.

One such issue that remains on the agenda is the division of Cyprus and Turkey's continuing illegal occupation of 37 percent of northern Cyprus with 35,000 Turkish troops and over 60,000 Turkish colonists.

The dividing line of Cyprus is called the Green Line. The Berlin Wall has come tumbling down and it is time that the Green Line be removed and freedom of movement allowed for the Turkish and Greek Cypriots throughout the island.

It is long overdue that the Turkish troops leave Cyprus.

It is long overdue that the 60,000 colonists leave Cyprus.

It is long overdue that we have an accounting of the five Americans taken by the Turkish army in 1974 and who remain unaccounted for.

It is time that we had an accounting by Turkey of the 1,614 missing Greek Cypriots.

It is time that we had a constitutional settlement on Cyprus based upon normal democratic principles of majority rule, the rule of law and fully protected minority rights, as stated by President Bush in July of 1988.

I urge my colleagues to cosponsor S. 22, the rule of law conditions bill regarding United States aid to Turkey.

Mr. President, I ask unanimous consent to have printed in the RECORD my recent article from the Washington Times on this subject.

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

(From the Washington Times, Nov. 13, 1989)

#### READERS' FORUM

Columnist Georgie Anne Geyer, whom I know and greatly respect, recently wrote that "It may well be that, as the great but artificial ideologies of democracy and communism prove less able to assimilate people, it is better for peoples to part, to divorce, to live separately for a while—and then to start the great dreams of mankind again." I respectfully disagree with this conclusion.

Miss Geyer's column was inspired by her conversation with Rauf Denktash, head of a Turkish Cypriot regime that is recognized by only one nation, Turkey. Untold in her account is the fact that many Turkish Cypriots resent Mr. Denktash's and Turkey's military occupation and colonization of northern Cyprus. Those Cypriots want a reunified Cyprus. Anyone who has examined the Cyprus situation carefully knows that the Denktash regime could not survive without massive support from Turkey. In fact, almost 60 percent of the economy of the occupied area depends on Turkish support.

The "state" Mr. Denktash claims as his own exists by force of Turkish arms supplied by the taxpayers of the United States. I deplore this situation, and many Turkish Cypriots agree that what is happening in the land they have long shared with Greek Cypriots is wrong. Foreign occupation troops have withdrawn from Angola and Cambodia, and U.S.-Soviet relations are warming, yet Turkey continues to occupy Cyprus with 30,000 troops. This is wrong and must stop.

Contrary to assertions in the article, unification of Cyprus is not an obsession. Turkey invaded Cyprus in 1974. For 15 years, Turkey and its puppets in northern Cyprus have dragged their feet on efforts to resolve this unnatural division of the island nation. Greek and Turkish Cypriots are willing to live together in the same nation—as they have for centuries. Miss Geyer's premise that Mr. Denktash may be right or more realistic in suggesting a preference for dividing the island into two countries is not convincing.

For example, the Turkish Cypriot party opposing Mr. Denktash referred to his continued threats to settle Turkish refugees from Bulgaria in the occupied areas of Cyprus as a conscious attempt by his party to destroy the peace talks with a view to avoiding a federal solution. Many in the Turkish Cypriot community agree with their Greek Cypriot neighbors that a federal solution to the Cyprus problem is attainable and would result in a just and lasting peace.

Mr. Denktash's confederation proposal ignores several important facts. Most important, only one Cyprus is recognized by the United Nations.

After the brutal 1974 invasion, 200,000 Cypriot citizens were forced to leave their homes and take refuge in the southern part of the island. One cannot ignore the fact that these people desire to return to their

homes and businesses. Mr. Denktash rejects the rightful claims of these refugees to their property when he speaks of confederation. Furthermore, Cyprus is an island with a rich, multicultural tradition. It would be a tragedy to divide this cultural heritage in the name of a dubious "more realistic alternative."

Confederation makes little sense for Cyprus, which is approximately the size of Rhode Island and has the population of New Hampshire. A unified Cyprus would allow this small country to better compete in world markets. Cyprus is being considered for admission into the European Economic Community. Participation would ensure its economic health and viability for future generations. In a unified Cyprus, such economic security would benefit both Greek and Turkish Cypriots.

The most debatable assertion in the Oct. 17 column is the statement that democracy is an "artificial" ideology. Communism may be artificial, but democracy is not. Collapse of the "artificial" Soviet communist empire should be no surprise. But to suggest that ethnic, racial and religious tensions put the United States into a comparable category is questionable.

The genius of democracy, which I suggest is the great dream of mankind, is that it provides a means for people to resolve their disagreements with minimal coercion. The Soviet empire is failing because "artificial" communism does not understand the true nature of humanity. East and West Germans wish to be reunited. Poles and Hungarians wish to be free and democratic. Greek and Turkish Cypriots want a united, democratic political system that respects the rights of both communities. They will achieve that aim if Turkish troops leave Cyprus and if Ankara politicians leave Cyprus to settle its problems alone.

The "great dream of mankind" is democracy. Democracy contemplates and embraces unification—not division. Democracy compromises differences across racial, ethnic, religious, and other artificial lines. We all are people. If we can't get along with each other within the same democratic political, economic and social systems, we surely won't get along with each other separated by the unnatural boundaries of nation states. The division of Cyprus is unrealistic and it violates the great dreams of mankind.

*E pluribus unum!*

LARRY PRESSLER.

WASHINGTON.

(Editor's note: Sen. Pressler, of South Dakota, is the ranking Republican member of the Senate Foreign Relations Subcommittee on European Affairs.)

#### FOREIGN AID PRIORITIES

Mr. PELL. Mr. President, during the congressional recess, there was a lot of discussion in the press about cutting foreign aid to the five largest recipients and utilizing the funds generated by such a cut to assist the emerging democratic governments in Eastern Europe. Much of the commentary on this subject has centered on a possible 5-percent cut in assistance to Israel and Egypt. I would be opposed to forcing such a cut on Israel and Egypt, and I urge the administration to do the same.

I would agree that we should reassess the need for military assistance to many countries for which the rationale has been a presumed Communist threat directed from Moscow. Such a reassessment, however, is not relevant in the case of Israel, which continues to face a formidable combination of hostile, overly armed Arab neighbors, who continue to acquire new and highly sophisticated weapons. Also, Israel is facing additional demands to finance the cost of absorbing a flood of new Jewish immigrants from the Soviet Union.

Finally, as my colleagues are aware, the United States, Israel, and Egypt are engaged in difficult discussions about how to implement Secretary of State Baker's five-point peace plan. It would not be helpful, to say the least, to tell the leaders of those two countries that they will receive less financial support from the United States as the peace process proceeds.

For all of these reasons, reducing aid to Israel and Egypt makes no sense. Israel and her partner in peace need our undiminished support now more than ever. The new democracies of Eastern Europe need our support as well, but not at the expense of Israel and Egypt. The logical source of help for Eastern Europe should be from the defense budget.

#### THE DEADLY CONFLICT BETWEEN ARMENIA AND AZERBAIJAN

Mr. PELL. Mr. President, the Soviet Trans-Caucasus is awash in blood. In Baku and other cities throughout the Soviet Republic of Azerbaijan, Armenians have been the targets of theft, torture, and murder. Since the newest eruption of violence 10 days ago, in Baku alone, more than 65 Armenians have lost their lives; more than 130 have been injured; and countless others have been forcibly and brutally evicted from their homes. Particularly disturbing is the fact that these attacks have been carefully planned and premeditated; they have been executed with a single-mindedness and intensity that calls to mind the term "pogrom."

Given the nature of the attacks against the Armenian people and the very real threat of civil war, it would appear that Soviet President Gorbachev was left no alternative than to dispatch army troops to Azerbaijan. This past weekend, an estimated 29,000 troops were present in the region to quell the violence. The tragically high death toll to date poignantly demonstrates the need for a resolution of the underlying conflict.

Troops alone cannot end the fighting between Armenians and Azerbaijanis. At the root of the violence is the issue of Nagorno-Karabagh, a region where the Armenian majority is sub-

jected to Azerbaijani rule. As long as Azerbaijan continues to control this area, I fear that the atrocities will continue. We in the United States must do what we can to press the Soviets on this issue. In fact, I recently returned from Moscow where I met with Foreign Minister Eduard Shevardnadze on a wide range of foreign policy issues—including the anti-Armenian violence.

Last November, the Senate passed Senate Joint Resolution 178, a joint resolution that I authored and introduced on the issue of Nagorno-Karabagh. Among other things, the joint resolution urges the United States administration to make Nagorno-Karabagh a priority item in its bilateral discussions with the Soviet Union. Since I still believe this to be a necessary course, I would hope that the House of Representatives would pass the resolution shortly and that the administration would take heed. I ask unanimous consent that this joint resolution, as well as a letter that I and Senators WILSON, PRESSLER, SIMON, and KERRY sent to President Gorbachev be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. PELL. The ongoing violence in Azerbaijan is the latest chapter in a long history of Armenian suffering. In times of tragedy, the Armenian community in the United States has come to the aid of family and friends in the Soviet Union, and the current situation is no exception. Armenians in my own State of Rhode Island have been particularly responsive to the needs of its homeland. I send to the desk an article from the Providence Journal that outlines some of the efforts being made by Armenians in Rhode Island, and ask that it, too, be included in the RECORD at this point.

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

#### EXHIBIT 1 S.J. RES. 178

Whereas the people of the United States have strong historical and cultural ties with the people of Armenia;

Whereas the 80 percent Armenian majority in the region of Nagorno-Karabagh has continually expressed its desire for self-determination and freedom;

Whereas the current status of the region of Nagorno-Karabagh is a matter of concern and contention for the people of the Armenian and Azerbaijani Soviet Republics;

Whereas the Soviet Government has termed the killings of Armenians on February 28-29, 1988, in Sumgait, Azerbaijan, "pogroms";

Whereas continued discrimination against Karabagh Armenians and the uncertainty about Nagorno-Karabagh have led to massive demonstrations and to unrest that is continuing to this day in this area;

Whereas the people and government of the Soviet Union initially responded to the outbreak of violence in Nagorno-Karabagh

with the positive step of creating an interim Special Administrative Committee to stabilize the situation;

Whereas the Administrative Committee has proven ineffective because its mission has been undermined by a number of factors, including organized violence against Armenians, Jews, and other ethnic groups, and blockades of Nagorno-Karabagh, Armenia, and Georgia;

Whereas the three month blockade, theft and damage of goods in transit to Armenia have crippled the work of Armenians, Soviets, Americans, and the entire international community in rebuilding after the tragic December 7, 1988 earthquake in Armenia;

Whereas the Government and people of the United States strengthened their commitment to Armenia by assisting in the immediate relief effort and the overall reconstruction of those areas affected by the earthquake;

Whereas the United States maintains its resolve to assist the Armenians as they rebuild from the earthquake;

Whereas the United States supports the fundamental rights and the aspirations of the people of Nagorno-Karabagh for a peaceful and fair settlement to the dispute over Nagorno-Karabagh: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that the United States should—*

(1) continue to support and encourage the reconstruction effort in Armenia;

(2) urge Soviet President Gorbachev to restore order, immediately reestablish unrestricted economic and supply routes to the people of Armenia and Nagorno-Karabagh, secure the physical safety of the people of Nagorno-Karabagh from attacks and continue a dialog with representatives of Nagorno-Karabagh regarding a peaceful settlement;

(3) promote in its bilateral discussions with the Soviet Union an equitable settlement to the dispute over Nagorno-Karabagh, which fairly reflects the views of the people of the region;

(4) urge in its bilateral discussions with the Soviet Union that an investigation of the violence against the people of Nagorno-Karabagh be conducted, and that those responsible for the killing and bloodshed be identified and prosecuted; and

(5) express the serious concern of the American people about the ongoing violence and unrest which interferes with international relief efforts.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Secretary of State.

Amend the title so as to read: A joint resolution "To express United States support for the aspirations of the people of Nagorno-Karabagh for a peaceful and fair settlement to the dispute."

#### U.S. SENATE,

Washington, DC, January 18, 1990.  
His Excellency MIKHAIL S. GORBACHEV,  
President of the Soviet Union,  
The Kremlin, Moscow, U.S.S.R.

Dear MR. PRESIDENT: We are deeply concerned about the murders, tortures, and property destruction that the Armenian community of Baku has suffered over the past six days as a result of attacks by organized groups of Azerbaijanis. Among the 60 people killed and more than 156 injured since this renewed conflict began, most of the victims have been Armenian civilians.

Furthermore, the bloody events only of this week have created an estimated 4,000 refugees and Soviet officers dispatched to Azerbaijan have characterized the situation as a "civil war."

We commend your efforts to prevent both the further loss of life and the continued violations of the Armenian minority's human rights in this region. Beyond the restoration of civil peace, we also believe that the most important goals for Soviet authorities include the guarantee of safe passage for Armenians in Azerbaijan who wish to leave for their homeland, and the breaking of the Azeri-imposed economic blockade of Nagorno-Karabagh and Armenia, where Americans and other foreign nationals still work on earthquake relief projects.

The horrifying upsurge of violence in Azerbaijan only dramatizes the need for the Soviet government to insure that the 160,000 residents of the enclave of Nagorno-Karabagh can exercise their autonomy by reuniting with Soviet Armenia. For nearly seventy years, Azerbaijani rulers have succeeded only in imposing cultural persecution and economic discrimination on the Armenian people of Nagorno-Karabagh, who account for 80 percent of the territory's population.

We therefore urge you to address the core issue of this tragedy by allowing the people of Nagorno-Karabagh to freely choose their political and cultural associations within the Soviet Union.

Sincerely,

PETE WILSON,  
PAUL SIMON,  
LARRY PRESSLER,  
JOHN F. KERRY,  
CLAIBORNE PELL.

[From the Providence Journal Bulletin, Jan. 16, 1990]

R.I. ARMENIANS RALLY FOR SUFFERING COUNTRYMEN  
(By Gerald M. Carbone)

**PROVIDENCE.**—She knew all she needed to know: That once again, Armenians are being killed because they are Armenian. That sad piece of news prompted Nevarie Caprielian to open her purse last night, and write a check for \$1,000.

Caprielian held the check in her fist as 40 men and women from Rhode Island's Armenian community discussed the latest tragedy to strike their countrymen in the Soviet Union: persecution in the Soviet republic of Azerbaijan.

"My people are dying and it disturbs me that there is so much discussion about a collection," Caprielian whispered, as a debate about fund raising held center stage in the basement of Sts. Vartanantz Armenian Apostolic Church in Federal Hill.

"Do you know how much these people are hurting, the tragedy of these people?" Caprielian said.

Ani Harolian knew of the tragedy. Her grandparents were deported by the Turks in 1915, when Turkish forces massacred 1.5 million Armenians. Twenty-two of her relatives have been living in a one-room apartment since an earthquake ravaged Armenia on Dec. 7, 1988.

Now the earthquake victims are being asked to accept refugees from the ethnic strife that has been simmering since a majority of residents of the heavily Armenian Nagorno-Karabagh region of Azerbaijan voted to be governed by Armenia. The Azerbaijanis don't want that to happen.

"Actually, I'm quite angry," Harolian, a member of the Providence chapter of the

Armenian National Committee, said last night. "I'm not as calm as I appear. It's been one crisis after another."

The movement by residents of Nagorno-Karabagh increased the historical tension between Azerbaijan and Armenia. For months Armenians have been fleeing Azerbaijan in droves, heading back to their quake-torn homeland to escape persecution, said the Rev. Mesrob Tashjian, pastor of Sts. Vartanantz Church.

Father Tashjian recently returned from Armenia where, he said, Azerbaijanis have been sabotaging railroad cars bringing construction materials to quake-damaged regions of Armenia.

"This is what makes you angry, and saddens you, and breaks your heart," said Father Tashjian. "As a clergyman I am against violence. One of my eyes says, 'Love, peace.' The other eye says, 'Hey, what's going on? Where is justice?'

"This is the time to show our love," he said. "We have to show our compassion, our charity, by helping."

#### AMERICAN EDUCATION IN TROUBLE

Mr. HELMS. Mr. President, during the holidays there was considerable and frequent discussion at our house about the problems of education in America today. I listened with interest to a professional educator whom I admire and respect. I have known her since the day she was born.

She is today the principal of St. Timothy's School in my hometown of Raleigh, NC. Later this year she will serve as principal of two schools—simultaneously. Perhaps I may be forgiven for suggesting that she is a remarkable young woman. She is my daughter.

Jane Helms Knox [Mrs. Charles R. Knox] has always wanted to be a teacher. I cannot count the times, beginning when she was 5 or 6 years old, that she and her younger sister played school. Jane was always the teacher. Nancy was always the student. Nancy, who always wanted to be a nurse—and she is today a registered nurse—would claim equal time—Nancy would be the nurse and Jane would be the patient, complete with bandages and whatever else that seemed to be essential.

But, Mr. President, back to the principal, as we call her. After several discussions with her, I suggested that she put on paper her thoughts about American education today. She did. When I read her paper, I decided that while some will surely disagree with her, there was plenty of substance to her analysis that deserves to be considered. In a moment, I shall ask unanimous consent that Mrs. Knox's paper be printed in the RECORD.

Before doing that, however, I should myself give equal time to Nancy, the nurse. Nancy [Mrs. John C. Stuart] has three children, the oldest is 11 years of age. Jane has two, the older a freshman at Wake Forest University. They work at their respective professions because they have been con-

vinced that they are needed—and because they love their work. And both are good at what they do.

In my 17 years in the Senate, I have never before presumed on the Senate's time to talk about my family. But as I said earlier, I believe the principal has expressed some thoughts worthy of consideration.

So, Mr. President, I ask unanimous consent that the aforementioned paper, "American Education in Trouble," be printed in the RECORD at the conclusion of my remarks.

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

#### AMERICAN EDUCATION IN TROUBLE

There is little doubt that American education is in trouble. Politicians and educators strive to discover the roots of the problems and to correct the problems by throwing money at them, hoping they will go away. However, that is not going to happen. The problems just get bigger and more widespread.

I believe that the source of the problems has a simple explanation. We have forgotten the bottom line in education—the child, the student. So few seem to really care about the child. Oh, there is an abundance of lip service given to professing concern—but this is not, in fact, a sham?

We express concern about racial balance, effective teaching, merit pay, curriculum, and textbooks—to name a few. But where, really, is the child in all of this?

One large county school board in North Carolina has as its Number One goal: "racial balance." This means putting school children of all races on school buses as much as two hours before school opens and dropping them off at school as much as an hour before the school day begins. The children are worn out before classes even begin. Small wonder that they cannot learn: No one, adult or child, can learn when he is fatigued. Is this the way to care about the children?

Teachers are being trained to be "effective teachers"—which, when translated, means that they will follow certain set "behaviors" in the classroom. When observed by an administrator, teachers must complete all the prescribed "behaviors" in order to obtain a passable score.

If the children dare to interrupt, or try to become involved in the lesson, woe be unto them. (This, you see, will interfere with mandated "behaviors" and lower the teacher's rating, so let's not get the children involved in the learning process.)

Thankfully, most states are now finding that this "behavioral approach" does nothing to enhance student learning, and this scheme is being abandoned.

Merit pay, although a credible concept, must be linked to some meaningful form of evaluation of teachers. Today, the type of evaluation most commonly used is the one linked to the effective teacher system. The problem is, this system is used by most teachers only when being evaluated. Therefore, it is not a valid measuring device for identifying teachers who are truly deserving of merit pay.

Then there's the textbook system in the United States which is becoming an expensive absurdity. The content of so many textbooks is based on curricula written by self-proclaimed "experts" in their fields, and

that curricula is dictated either by the educational fad of the decade or by the special interests of the expert—or both.

Since educational fads generally last about ten years, textbooks often are obsolete before the teachers become accustomed to the information and techniques contained therein. Also, because the textbook industry is large and lucrative, smaller school systems and states are at the mercy of the textbook selectors in the states that are the biggest spenders.

Recent history is filled with examples of the influence large states (e.g., California) have had on the textbook industry. Some time back, California rejected all science books because the treatment of evolution was too scanty. Presto, today's science books are replete with assertions seeking to prove that the unproven theory of evolution is an absolute fact.

In the process, religion was banished from textbooks in the early and mid-80s because of the separation of church and state controversy.

No American or World History textbook can now be considered accurate without giving the influence of history in all areas of history. As a consequence, thousands of adults do not really understand history. Once again, who cares about the student?

Any criticism of the American education system provokes screams and anger among the teachers in the "system." In general, teachers are as much the victims as the children. They are overworked like no other worker. They have an obligation to care for the very people the "system" has forgotten. In forgetting the children, the system forgets that teachers are people too.

Teachers cannot constantly be given more to teach without being given the time to teach. This is not to say that more time should be added to the school day. Neither more time nor more money can solve this problem. Instead, teachers should be allowed to teach the basics—mathematics, English, science, social studies, and foreign language.

They should be teaching children who are fairly rested, not exhausted after a long bus ride and a long wait in some cafeteria. They should be evaluated by people who maintain current teaching certificates and have been active in the classroom at least one year during their certification period. They should never be given extra duty unless the administrators are willing to carry their share of the same extra duty also.

The days of administrative rulers must end. Humility, a position of servanthood, and genuine caring for children are the keys to a successful educational system. Children will learn as much as they can be reasonably expected to learn. They also will learn best from those who really care for them.

#### MARY, MARY, QUITE CONTRARY GETS OVERDUE COMEUPPANCE

Mr. HELMS. Mr. President, a lot of Americans laugh at columnist Mary McGrory, and some undoubtedly laugh with her. But she never leaves any doubt about where she stands. Just about everybody on Earth is slightly to the right of Contrary Mary.

I say that with some admiration because I believe the lady to be quite sincere. The problem is, she is so often sincerely wrong. But there is no question about her willingness to stand up

for her convictions, and I like that even with people with whom I differ.

But Contrary Mary met her match on January 9 when a fine newspaper in my State, The Dunn (NC) Daily Record, published a column by Stacy McGlothlin. Mrs. McGlothlin is news editor of the Dunn newspaper. She is also the wife of Mike McGlothlin, who happens to be a military policeman stationed at Fort Bragg—and who just happens to be in Panama just now serving his country.

Stacy McGlothlin read one of Contrary Mary's recent columns in which Ms. McGrory rather angrily attacked President Bush and went on to attack the United States servicemen sent to Panama by the President.

It occurs to me that Senators, and others who peruse the CONGRESSIONAL RECORD, may enjoy Stacy McGlothlin's response to Mary McGrory. Therefore, Mr. President, I ask unanimous consent that her column be printed in the RECORD at the conclusion of my remarks.

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

#### COLUMNIST IS QUICK TO CONDEMN PRESIDENT AND U.S. SOLDIERS (By Stacy McGlothlin)

Now that Gen. Noriega is in custody of the United States Government it seems as if columnist Mary McGrory might think differently on the subject of the U.S. invasion—that is if she has a side to her that is not compelled to attack the President and the military for any action they might take. Ms. McGrory has said that the 82nd Airborne is childish and resorted to "frat-house pranks" by playing loud music that was aimed at Gen. Noriega and for shooting out the street lights surrounding the Papal Nuncio. The fact that it was aimed at Gen. Noriega has yet to be determined and, in fact, it may have been aimed at news media, like herself, that could have, with their personal viewpoints, endangered the mission.

Surely Ms. McGrory does not think that the street lights were shot out at the hands of 82nd Airborne teenagers for the sheer joy of destroying property. No, those street lights were shot out for a purpose by trained military men. Maybe she needs to be reminded that this was a very important sensitive mission that needed to be handled carefully, not in front of every passerby or person watching from the balconies of the nearby hotels.

A war is not about manners as Ms. McGrory alludes when she says "In the next consignment, we should include a Miss Manners for the benefit of our own forces." War is not a trivial thing and should not be perceived as such. If she was so worried about our servicemen, why is she not worried about them dying instead of their manners?

She wrote "the invasion of Panama has no style." The mission was accomplished at the cost of only 23 American dead and though the death tolls of Panamanians has not yet been calculated it is surely higher than 23. Our military performed an excellent mission and has accomplished the goals set forth in the planning stages of the mission.

Perhaps Ms. McGrory would like to explain that the invasion was worthless for

the families whose soldiers gave their lives for the cause of democracy and the drug war. Perhaps she would even like to try and explain it to those of us who have loved ones in Panama who fought for the same cause, but were fortunate enough to make it through the ordeal.

The columnist surely does not understand the scope of Gen. Noriega's operations. He has been a major source in the drug war. She surely does not condone his behavior such as drug trafficking and killing 10 men who participated in the attempted coup in October. This man needed to be brought to justice. The United States could not stand by and watch this type of behavior in a country where we have such vital interests. We cannot allow American servicemen and their families to be killed or tortured at the whim of a drug-dealing dictator.

There are more important things to worry about than the condemnation of Operation Just Cause by the Organization of American States and the United Nations. America should not worry about showing Latin America and the OAS "how uncouth we can be" as the columnist said. America does not need friends like those who voted against us. Perhaps we have all learned a thing or two about the OAS and the U.N. and the dissenting countries during this invasion. It should be hard for Congress to give these fair-weathered friends the amount of money that we have in the past.

Although it is no secret that Ms. McGrory is a Democrat, I do not understand the need to constantly condemn President Bush. She says that he has acted in "the Bubba spirit" during his first military adventure. If that is true then maybe the Panamanian people would like to learn the word "Bubba" just as they have "thank you."

The Panamanian people are thankful that we have well-trained armed forces and a president like George Bush, both of which came to their rescue at a time when they were most needed.

Perhaps Ms. McGrory has misplaced the need to consult Miss Manners, as she needs to learn to accept a gift like democracy graciously.

#### U.S. WOMEN'S LACROSSE ASSOCIATION—WORLD CUP CHAMPIONS

Mr. SPECTER. Mr. President, I ask unanimous consent that a letter I sent to the President on December 7, 1990, which is self-explanatory, be printed in the RECORD.

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

U.S. SENATE,

Washington, DC, December 7, 1989.  
The PRESIDENT,  
*The White House, Washington, DC.*

DEAR MR. PRESIDENT: At one of the many Open House/Town Meetings I hold in Pennsylvania during Congressional recesses, I was confronted today in Norristown by a constituent who requested your formal recognition at a White House ceremony for the U.S. Women's Lacrosse Association, which won the World Cup Championship in international competition in Perth, Australia, last September.

The constituent, Mr. Charles L. Dolby, of 408 Perkiomen Avenue, Oaks, Pennsylvania 19456, telephone number 215/666-0669, pointed out that the U.S. team defeated

eight other national teams during this competition and brought honor to our country with its splendid play. He said the team, which is made up of young women from Virginia, Connecticut, Massachusetts and New Jersey, as well as Pennsylvania, made the trip to Australia at their own expense. Thus far, he told me, the team as gotten no formal recognition whatsoever from our government.

Mr. Dolby said he believes that the U.S. Women's Lacrosse Association deserves the same kind of White House reception that is given our other U.S. sports champions.

Mr. President, I agree with Mr. Dolby and respectfully request that you accord this fine group of athletes their day at the White House so that the citizens of our nation become fully aware of the great victory this team has won for the United States.

The president of the association is Ms. Susan Lubkin and the group's headquarters is located at 20 E. Sunset Avenue, Philadelphia, Pennsylvania 19118, telephone number 215/248-3771.

Sincerely,

ARLEN SPECTER.

#### TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,774th day that Terry Anderson has been held in captivity in Beirut.

As we enter the second session of this Congress, I ask that we continue to pay attention to Terry Anderson's captivity—it has been nearly 5 years—and to the ordeal that persists for his family.

#### HEARING ON CHINESE STUDENTS AND CHINA POLICY

Mr. KENNEDY. Mr. President, this morning the Subcommittee on Immigration and Refugee Affairs held a hearing on Chinese students and human rights in China. The testimony received was really quite disturbing—and extremely relevant to our upcoming vote on overriding the President's veto of the Emergency Chinese Immigration Relief Act.

The subcommittee heard from Ambassador Winston Lord, our Ambassador to China during the Reagan administration, who expressed criticism of the administration's policy toward China, and urged Congress to override the President's veto of the Emergency Chinese Immigration Relief Act.

We also heard very troubling statements from Chinese students in America who have been threatened and harassed by their own Embassy officials for even minimal participation in pro-democracy activities here. Chinese Embassy officials have demanded that students involved in the democracy movement submit written confessions and self-criticisms of their pro-democracy activities, and many have been informed that they will be branded for life as traitors and counterrevolutionaries if they do not.

The students reported that the harassment has in fact increased since the President vetoed the bill on November 30.

Finally, the subcommittee received a legal analysis from the Congressional Research Service which highlights some of the points on which the administration's actions on behalf of Chinese students may be subject to court challenges. The legal analysis was published yesterday by the American Law Division of CRS.

Mr. President, I ask that Ambassador Lord's statement before the subcommittee and that of Dr. Hai Ching Zhao be included in the Record.

There being no objection, the statements were ordered to be printed in the Record, as follows:

**OPENING REMARKS BY WINSTON LORD,  
SENATE JUDICIARY COMMITTEE, JANUARY 23,  
1990**

Mr. Chairman, Members of the Committee:

Thank you for inviting me to comment on the Emergency Chinese Immigration Relief Act of 1989 (H.R. 2712).

Strengthening America's relations with China has been my mission for two decades. Thus I come to the debate concerning Chinese students in this country in the broader context of American policy toward China and our long range national interests. My journey to this Committee, I confess, has been a troubling one.

As a concerned citizen, I am generally against Congressional micromanagement of foreign policy and the rigidities often introduced by tactical legislation. As a bipartisan public servant for twenty years, my inclination is to support a President's foreign policy whenever I can. As a Republican who admires President Bush, served him and applauds his overall foreign policy, I particularly regret having to oppose this Administration.

Nonetheless, with considerable ambivalence and reluctance, I am here to urge the Congress to override the President's veto.

This I strongly believe: fairly or unfairly, the vote on this issue will be interpreted abroad and at home not just as a decision on how best to protect Chinese students in America, but more fundamentally as a referendum on our posture toward the current Chinese regime.

This is the reality: fairly or unfairly, the veto, if sustained, would reinforce the mindset and mandate of those who have proceeded from massacre to repression; those who predict America will be lulled by cosmetic gestures and return to business-as-usual; those who dismiss the Chinese as a people apart from the global winds of change.

This, too, is the reality: the legislation, if enacted, would send a powerful message of encouragement to those in China whose voices have been silenced and to Chinese citizens everywhere who seek a freer, more open country.

As for the legal arguments, they are complex and difficult for the amateur to judge. On balance I think they also favor override.

Clearly the President shares the Congressional concern about the dangers to Chinese students and believes his means accomplish the same ends as the legislation at hand. Many lawyers as well as members of Congress assert, however, that his administrative action could be challenged in court.

Furthermore, reliance on INS instructions carries less weight symbolically, if not legally, than an executive order or Presidential determination.

Whatever the ultimate legal judgments, there is no question that today Chinese students feel uncertain, uneasy—and vulnerable. It is best to remove all doubts through the unambiguous means of legislation. Those who have lived in China where laws do not protect the individual seek security in the laws of the United States. Passage of legislation would fortify the students psychologically as well as legally.

The President's administrative action laudably extends protection beyond students. The Congress, if it cannot amend this bill, should urgently review this aspect to ensure that there is no risk to Chinese here who are not students.

The crucial consideration, however, remains the diplomatic context of the looming vote.

In response to series of major American initiatives, the Chinese regime has made only minimal moves while still pursuing its overall policy of suppression, rollback of reforms and attacks on foreign influence. The passage of this legislation would make clear that Americans are not fooled by smoke and mirrors, that we are a serious people.

The Chinese people share the same aspirations as Eastern Europeans and others around the world. They, not the hardliners in Beijing, represent the future of China—and thus our long term national interest. Their day is not distant. I believe there will be a more moderate, humane government in Beijing before this legislation is due to expire. Whenever such a government does take hold and once again makes China inviting, the Congress should repeal this bill. We should then encourage the students to return to their homeland and work to lift its horizons.

Surely the President, through his veto, does not wish to send the wrong signals to China or to the students here. But this is the inescapable consequence of the recent pattern of Administration actions toward Beijing. If the veto and accompanying administrative instructions were carried out in the context of a firm, balanced policy of condemnation and connection, the President's position would probably not be misconstrued. But in the wake of the misguided Scowcroft missions and other unilateral American steps, defeat of this legislation would be assessed by both Beijing and the world as one more step toward unrequired normalization. Unfair perhaps, but reality.

This need not have been the case. Until the announcement of the December Scowcroft trip, the balance of our overall China policy seemed about right. I, for one, consistently supported the President for six months, including in my November testimony before the Senate Foreign Relations Committee. Although I sounded much harsher criticism of Chinese policies than the Administration, I thought that the President was correct to stress our long term concerns while maintaining selective sanctions.

In my view the Scowcroft journey—in substance and style—destroyed that balance. In the process it also shattered the broad bipartisan consensus on China policy that we had enjoyed for twenty years through five administrations. Rather than reiterate my reasoning I ask that my December 19, 1989 Washington Post article be included as part of the record. I wrote that editorial (and had previously supported the Administra-

tion) before I knew of the first Scowcroft visit only a few weeks after the Beijing massacre. That earlier journey of course, only made starker the pattern that is the backdrop for your deliberations today.

Mr. Chairman, I don't believe we can fully resume our cooperation with China until that great nation turns once again toward true reform and opening to the outside world, until Chinese leaders leave the time warp of the world's Ceausescus and being to catch up with history.

In the interim America does not have to choose between isolation and approbation. We should conduct a workmanlike dialogue on key issues, including international ones, while avoiding tawdry symbolism. We should maintain productive links with progressive Chinese forces. We should calibrate our actions with those of the Chinese regime. Above all, we should make clear what America stands for and where our sympathies lie.

I therefore recommend passage of H.R. 2712. In this way we will align ourselves with China's future and thereby serve American interests as well as values.

Thank you.

**TESTIMONY OF DR. HAICHING ZHAO, DELEGATE FOR THE NEW ENGLAND REGION INDEPENDENT FEDERATION OF CHINESE STUDENTS AND SCHOLARS, BEFORE THE SENATE JUDICIARY COMMITTEE'S SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS, JANUARY 23, 1990**

Good morning, members of the subcommittee. My name is Haiching Zhao. I am a post doctoral fellow in the Department of Biochemistry and Molecular Biology at Harvard University, and I am the chairman of the National Committee on Chinese Students Affairs. The Committee is organized under the auspices of the Independent Federation of Chinese Students and Scholars, and represents students from the People's Republic of China at over 200 colleges and universities throughout the United States on the specific issue of legislation affecting our status in America.

I first want to express our appreciation to you, the members of Congress, for your continuing interest in the developments in China and our ongoing struggle for democracy. You, and the American People, have convinced us that you will not stand by and watch business as usual return to China, but that you will stand by us and work with us in our efforts to ensure that the hope for freedom sweeping the world is not dashed against the rocks of the Great Wall. Thank you for inviting me here this morning.

In reaction to the bloody crackdown and continuing repression against participants in the pro-democracy movement in China, Congress passed H.R. 2712. This bill waives the requirement that those of us whose visas are expiring return to China before applying for a change or adjustment of immigration status. The President vetoed the bill, complaining of Congressional micro-management and citing his desire to retain flexibility over such a waiver program, yet issued a directive to implement a similar plan.

H.R. 2712 was passed with three major objectives in mind. Congress wanted to protect students and scholars in the United States from having to return to China prematurely and face certain repression. Congress also wanted to respond to the harassment students in the United States have been experiencing. Finally, Congress' action was aimed at making Beijing understand that the only

way to ensure our return is not through negotiations with the White House, but through genuine improvement of human rights in China such that we would dare to return voluntarily. The President's approach, while perhaps well intended, partially addresses the first objective and does not address the other two at all.

As you consider whether to vote to override the President's veto of H.R. 2712, you should ask yourself not whether President Bush was justified in sending high-level missions to Beijing, but rather, whether the human rights situation in China has improved since the tragic events of June 5. As I will explain today, we believe the human rights situation in China is still unacceptable, especially for students. We urge you to override the veto so that we are protected from reprisals at home and can work for democracy here, free of fear and retribution.

#### I. THE PRESIDENT'S DIRECTIVE DOES NOT ADEQUATELY PROTECT CHINESE STUDENTS

Although on its face President Bush's directive to the Immigration and Naturalization Service ("INS") is quite generous, by its very nature it cannot do what Congress alone can do through legislation. The directive may be modified or withdrawn by the President at any time. It is not a law. In fact, INS officials have recently backed away from statements made in December regarding the scope of the directive. For example:

1. The INS said it would permit students seeking a change of status under the directive to continue their practical training even though they did not satisfy the training requirements of their new status. Without this guarantee, students seeking relief under the President's program would be forced to forfeit needed work opportunity for nine months. The INS now says students must qualify for training under the new status. The nine month wait to work will hurt all students seeking relief under the President's program, especially those students who have lost government sponsorship.

2. The INS has now cast in doubt whether students on school-sponsored study programs or visits home for family emergencies are eligible for relief under the President's directive. As the committee knows, in order to be eligible for a waiver under the directive, the Chinese National must have been in the United States as of December 1, 1989, except for any "brief, casual or innocent absence." We were assured early on that absences of up to five months from the United States because of required school or program-related studies, would be deemed brief, casual and innocent. We were also told that absences of up to two months from the United States, because of family emergencies, would also be considered brief, casual and innocent. The representatives now say that the normal definition of that phrase will apply. That means that students outside of the U.S. on December 1, 1989 on school-sponsored programs or for family problems may therefore be ineligible for relief under the President's program.

Even if the directive is not withdrawn, immigration law experts advising us believe that it may be challenged and eventually struck down as unconstitutional. They argue that the INS has no legal authority to implement the Executive directive because the President had no constitutional or statutory authority to issue the directive in the first place. The directive contradicts several provisions of the existing immigration law. For example, the directive grants a blanket

waiver of the two-year foreign residency requirement for Chinese Nationals. By law, such a waiver is only available under certain circumstances and on a case by case basis. In addition, the directive provides for a change or adjustment of status to Chinese Nationals who have fallen out of status after June 5, 1989. By law, the change or adjustment of status is not available to those persons whose status has lapsed.

As a result of these contradictions, foreign student offices at some universities have refused to honor the directive. As most of you know, in order to apply for a change of student status under the President's program, the student must first go to the foreign student office and request an authorization form. Foreign student advisors at George Mason, Purdue, Oregon State, the University of Hawaii, Texas Tech, and elsewhere have recently turned away Chinese students seeking relief. They told students the directive conflicts with existing INS regulations and that they cannot implement the directive, e.g., issue the authorization form, without new, legally binding regulations. The INS has been unwilling to intervene on behalf of.

The President's directive could be challenged in court, further delaying relief. Although none of the Chinese Nationals in the U.S. would challenge the directive, there are several groups that have standing and may seek a judicial remedy. These groups include the Chinese government, overseas organizations or institutions that finance J visa activity, U.S. academic institutions and other sponsoring organizations, U.S. citizen students and employers of J visa holders. If one of these or similar organizations decided to file suit, not only would the implementation of the directive be tied up for months, but the directive itself could ultimately be struck down.

I am not a lawyer, nor do I claim to be an expert on these issues; however, I do know human nature. I and the 40,000 Chinese students and scholars who are the object of this legislation know that if, in fact, Congressional enactment of H.R. 2712 would add nothing to what the President has already done, then neither the White House nor our own government in Beijing would have any reason to oppose the override. The fact that Beijing is lobbying the White House so hard to oppose the override convinces us that the critics are right—there is a big difference between an administrative directive and Congressional action.

#### II. THE PRESIDENT'S PLAN DOES NOT ADDRESS HARASSMENT OF CHINESE STUDENTS IN THE UNITED STATES

What is at issue is not just freedom from being deported to China within the near future, but our freedom to openly work for democracy in China. Some students are beginning to believe that a Beijing tantrum is sufficient to secure the veto of legislation intended to protect us, and that therefore, we have reason to obey the anonymous telephone caller or the advice of our government representatives here. By overriding the veto, Congress would break Beijing's control over what we say and what we do while we are here and help restore confidence that the United States will stand with our democracy movement, rather than with those who oppress us.

In the month and a half since the President's veto of H.R. 2712, the Chinese embassy, through its consulates nationwide, has stepped up its efforts to end our pro-democracy activities here.

The Chinese Embassy in Washington has several dozen officers in its educational division who maintain liaison with Chinese students and scholars in the U.S. Their responsibilities are divided up geographically, and they know the names and home addresses, and phone numbers and academic programs of the students they monitor. In addition, education division personnel at the several Chinese consulates throughout the U.S. have responsibility for some of the schools and students in their part of the country.

The harassment we are experiencing has been continuous ever since the Tiananmen massacre in June. The embassy has threatened Chinese students here not to join protest demonstrations or to seek legislation designed to protect their immigration status without their having to return home. Students also learned that the embassy was covertly investigating their activities. These efforts intensified in September, when organizational activities began in earnest for the October 1 March for Freedom Rally in Washington. The rally date coincided with the 40th anniversary of the People's Republic of China, a national holiday in China.

Concerned about the changes sweeping Eastern Europe and the abrupt downfall of Romania's Nicolae Ceausescu and emboldened by the President's veto of H.R. 2712, the Chinese government, through its officials in the U.S., is now tightening its grip. Consular officers are now identifying and targeting prodemocracy leaders and participants in prodemocracy activities. Officers are desperately trying to pressure Chinese students supportive of pro-democracy efforts to return home. They also press students to renounce their prior pro-democracy activities, and to help gather information against more active students. These efforts have dealt a severe blow to the pro-democracy movement here.

In the past two weeks, we have learned that Chinese Embassy and consular officials are waging a campaign to dissuade students from working for an override of the President's veto of H.R. 2712. In meetings with students around the country, these Chinese officials have promised to provide "no objection" letters to receive the waiver of the two year return requirement with Beijing's blessing, thereby avoiding any retaliation. In return, students must: (1) stop participating in pro-democracy activities, including efforts to obtain an override; (2) "cooperate" with Chinese officials, that is, provide information on pro-democracy activities; and (3) refrain from seeking relief directly under the President's directive or H.R. 2712. Officials threaten that students who do not accept their "offer" are committing treason and will not be given passport extensions.

We believe the Chinese government is concerned that if we are able to obtain a waiver of the two year return requirement without their blessing, they may be less able to control our future pro-democracy activities. These incidents underscore the intensity of the government's campaign against our pro-democracy activities and illustrate the need for more permanent relief, of the type considered by Congress last session.

Within the past four weeks, consular officers have met with students at schools across the country—from Cornell, Minnesota, and Oregon, to name a few. Students at these schools, though large in number, are generally less well organized, and thus more susceptible to intimidation.

In an effort to persuade students that the situation in China has changed and that they are safe to return, consular officials

are visiting several western schools, including UCLA, Berkeley, Oregon State, and the University of Washington, with administrators and professors from Beijing and other Chinese universities. The pro-democracy leaders were excluded from the meeting.

One week ago, visiting consular officials reminded students at a California school that the Chinese government considers the pro-democracy organization to be counter-revolutionary; that is, an outlaw organization. The officials warned that participation in pro-democracy activities will trigger severe reprisals against the students and their relatives back in China.

In addition to group meetings, consular officials have met with students individually to gather as much information as possible regarding student leaders and the pro-democracy movement. The officers obtain "co-operation" by telling students that the officer will eventually find out the leaders' names and their activities. Officers threaten that students who do not cooperate will also be in danger. These efforts seem calculated to isolate individuals from the pro-democracy organization.

They are also part of a plan to increase pressure on student leaders. Two weeks ago, a Chicago-based consular official met with activists in one midwestern university. He asked them, "what if you fail to obtain an override?" The threat conveyed, and taken by these student leaders, was that the Chinese government believes it can persuade the President to modify or terminate his directive, forcing the students to return home to certain persecution. Some of these student leaders are now afraid to continue to work for passage of H.R. 2712. In UCLA student leaders were reminded by Los Angeles-based consular officials, that "your sisters, brothers and relatives are still in the hands of the people in power" and that continued involvement in pro-democracy activities is anti-government.

Officers have also used family members to intimidate leaders. One student leader in Massachusetts received a phone call from his father in China weeks after a New York consular officer had visited his campus. During the campus visit, the officer had collected information on the leader's pro-democracy activities from fellow students. The father cried uncontrollably on the phone and asked his son, "Why are you doing this to us? Why don't you care about our safety?" The father had never called his son before. The student is shaken and has become much less active in prodemocracy activities.

Another active student received a letter from his father telling him that their relatives in China would be held responsible for his activities, and that his father would disown him if he did not stop. We believe officials here informed Communist Party officials in the father's town of the student's activities.

In addition to these visits, students have reported that Chinese officials continue to engage in active surveillance. A Chicago-based consular officer has a collection of photographs and videotapes of the activities of students at the University of Minnesota. He has used these materials in meetings with individual students to obtain names of pro-democracy activists. A student in California reported that the National Security Bureau, the Chinese equivalent of the KGB, has sent several agents to the U.S. to spy on students named on a "black list" of pro-democracy activists.

Many student leaders and others have been unable to get their passports renewed,

even though they remain eligible to continue their studies here. A New York consular official told a New Jersey student that his effort to help organize the Chicago Congress, which established a pro-democracy federation, made him a "plotter" as well as a participant in anti-government activity. The official asked him to send a report of all of his anti-government activities in order to have his case reconsidered. The official added that the Chinese government should terminate the citizenship of those participating in anti-government activity.

As we learn of incidents, we report our concerns to the U.S. government. It is becoming increasingly difficult, in this current climate, to gather such information from students, let alone encourage them to participate in pro-democracy activities.

### III. THERE HAS BEEN NO GENUINE IMPROVEMENT IN HUMAN RIGHTS IN CHINA SINCE JUNE 5

It is critical that our return to China be the result of genuine unilateral changes in Beijing, and not simply the playing of a bargaining chip. The President's plan, while well intended, raises Beijing's hopes that in another few months, they may be able to negotiate some flexibility in the President's position, and that in the meantime, they can continue the repression and reeducation of our friends and families back home. We who are in the United States know that enactment of H.R. 2712 is the only way Beijing will be forced to cease the human rights abuses against our families and compatriots in China.

Despite protests by the Chinese government to the contrary, the level of human rights violations in China has remained depressingly constant since the Tiananmen Square massacre. The lifting of martial law in Beijing two weeks ago does not reflect a fundamental change from the repressive practices of the Chinese government. Recent weeks have been marked by continued arrests and trials, as well as renewed efforts to curtail freedom of assembly and freedom of speech. Chinese students remain targets for governmental harassment.

As you consider your vote on the override of the Presidential veto of H.R. 2712, remember that even before Tiananmen Square, China routinely violated basic human rights. For example, the Chinese legal system is marked by arbitrary arrests, indefinite detention of persons without charge, torture of detainees to extract confessions, a presumption by the courts that a person brought to trial is guilty, and secret trials.

Before the Tiananmen Square massacre, the Department of State had reported some improvement in the way in which political dissidents were punished. Last year's country report stated "Instead of sentencing these critics of the regime to long periods of imprisonment or reform through labor, retribution became more subtle, often involving loss of party membership and its accompanying prerequisites". The Tiananmen Square massacre brought back in full force the old, harsher criminal justice regime for political dissidents.

The Chinese government acknowledges that more than forty persons have been executed in the wake of the Tiananmen Square incident. Amnesty International has recorded over 300 executions in China since June, a majority of which are of students and others supportive of democratic reforms.

The U.S. media have reported that many pro-democracy activists in China who were not put to death are languishing in forced labor reeducation camps, without ever standing trial. By all accounts, conditions in these camps are inhumane, and physical and mental torture is common.

As leaders of the protests in Tiananmen Square, students have been a key target of repression by the Chinese government. A massive effort is underway to identify and ultimately punish pro-democracy activists and sympathizers. Students recently were required to submit a list of their daily activities from April through June 1989. Each student was specifically required to state whether or not he or she was in Tiananmen Square or participated in pro-democracy activities. Students were also required to provide at least three witnesses for each activity listed during this period. Communist party officials are now beginning the second stage, interviews with each student to confirm the truth of their submission. This effort has triggered a rash of suicides. For example, one student jumped out of a window, rather than face punishment for sheltering for one night student leaders fleeing Beijing. Thus far, we have received reports of 18 suicides. The vast majority occurred in Beijing, at Peking and Qinghua universities.

Educational and employment opportunities are now more severely limited. The entire first year class of Beijing University was inducted into the army for a one year period, and professors from several universities have been sent to labor camps. Graduate students that participated in demonstrations are now denied state-allocated jobs which they had previously been allocated.

Belying United States' claims of influence through quiet diplomacy, China executed six more protesters last month, directly following former President Richard Nixon's visit. On December 9, several hours after the United States delegation toasted Chinese leaders, Beijing police arrested and beat eight Chinese students for protesting in front of the Ministry of Radio, Film and Television. The students were announcing the continued existence of the pro-democracy movement. Approximately December 20, the regime increased surveillance on campuses and required additional political study sessions.

There are also continuing reports that students studying abroad, who have returned to visit their families since the massacre, have been harassed by the police. These students were required to prove that they were not involved in political activities abroad before they were allowed to leave China.

The heralded lifting of martial law in Beijing is a facade. Through other means, the party continues to check the exercise of basic human rights.

The World Journal, a United States-based Chinese language paper, has reported that 40,000 army troops that were enforcing martial law in Beijing have been deputized as police officers to patrol Beijing. Other troops are stationed in camps around Beijing in preparation for another political crackdown.

A new ordinance in Beijing forbids protests in the majority of the city. In other areas, groups may only protest if they secure a permit, which is unlikely to be granted.

The same week it announced its decision to lift martial law, the Chinese government announced that all publishing houses must

re-register by the end of January. This crackdown is aimed at barring publication of dissident works, and signals that hardliners have taken over the nation's propaganda apparatus. Under the new directive, publishers that issue works contrary to the party line will lose their licenses and be closed immediately. Already, the government has virtually stopped authorizing new publications in publishing houses. Many publishers, especially those affiliated with universities and academic institutions, are no longer publishing, afraid of doing anything that might trigger reprisals.

In another effort to control information, this past weekend the Beijing regime announced a new, more restrictive code for foreign journalists. The code permits expulsion of correspondents for "distorting facts" and "spreading rumors" and thus damaging state interests. These are the same conditions that justified expulsion of foreign correspondents under martial law.

Of course, many detainees picked up before the lifting of martial law are still being held. To manipulate international opinion, some detainees are periodically released. A few are convicted after public trials which serve to intimidate the citizenry. At the same time, many more trials are still held in secret to evade international press.

One week ago, we celebrated the birthday of the Reverend Dr. Martin Luther King, Jr. His struggle for American civil rights has inspired us and, in turn, people across Eastern Europe. In Dr. King's memory, we are nurturing our dream of a more democratic China on American soil. We hope that soon we will be able to plant that seed in China. Until that day, we urge the Congress to keep our dream of democracy alive by voting to override the veto of H.R. 2712.

I'd like to close with an excerpt from an address I gave last week, during the City of Boston's tribute to Reverend King:

I have a dream that one day the Chinese students studying abroad will be able to return home of their own free will. Not forced back, as targets of repression, but welcomed as free men and women, with the knowledge and experience gained here to build a more democratic China. I have a dream that one day we will be able to say to the world loudly, I'm proud of you China, my homeland.

#### FAIR ELECTIONS IN BURMA?

**Mr. MOYNIHAN.** Mr. President, on October 24 of last year the Congress unanimously agreed to a concurrent resolution expressing its support and that of the American people for free and fair elections in Burma. As assuredly as we agreed to that resolution the dictatorship in that country headed by Gen. Saw Maung and by Gen. Ne Win, who for 26 years ruled Burma in isolation from the rest of the world, promised reform. Promised reform, Mr. President. I might add that those promises were made only after untold thousands of prodemocracy protestors were killed and thousands more arrested in a series of demonstrations and crackdowns beginning in early 1988.

In the wake of that bloodshed the regime in Rangoon called for general elections for May of 1990 and then

proceeded to place under house arrest the central opposition figure in Burma, Daw Aung San Suu Kyi. Many members of her party, the National League for Democracy, have either disappeared, been arrested or are in hiding leaving the opposition little opportunity to participate in Rangoon's promised free and fair election.

Indeed, since the new year, Daw Aung San Suu Kyi has been officially banned as the main opposition leader disqualifying her from participating in the May 27 election. In addition, the former prime minister of that country, U Nu, has been placed under house arrest leaving little doubt as to the validity of the election scheduled for May of this year. U Tin Oo who, like Aung San Suu Kyi, had been placed under house arrest was only recently jailed for up to 3 years on charges of subversion.

This is the promised reform. Unfortunately, little attention has been paid to the struggle by the Burmese people to achieve a multiparty, democratic system in their country. Sadly, the situation in Burma has deteriorated as quickly as the reforms in Eastern Europe have transformed those countries; ending years of oppressive government control and totalitarianism.

We in the Congress shall continue our efforts to focus attention on the plight of the Burmese people to achieve democracy and a democratically elected government in Burma. Last fall, I wrote our representative at the United Nations, Ambassador Pickering, expressing my hope that he would raise this issue with his colleagues in the General Assembly. In his response to my letter, Ambassador Pickering shared my concerns about the situation in Burma and expressed his belief that much could be accomplished at this winter's United Nations Human Rights Commission meeting in Geneva. It is my great hope that Ambassador Pickering will continue his best efforts to achieve a successful resolution of this crisis in Burma. I intend to closely follow the progress of these talks and urge my colleagues to do so as well.

Mr. President, it is my intention to shortly offer legislation which will urge the President to provide for election monitors in Burma. That election is less than 5 months away and as I have already stated, the case can clearly be made today that those elections will neither be free nor will they be fair, with the main opposition either banned or under house arrest. But the world must continue to be reminded that governments continue to deny the most basic of freedoms to their people and the world must be reminded that we, in the United States, will not abide by the Burmese regimes' actions nor shall we in any way participate in such dealings. Elections in

the Philippines, Nicaragua, and Panama have been monitored, and the information from that monitoring has had profound and dramatic effects. I would hope that President Bush would similarly share the significance which I attach to election day in Burma.

In conclusion, Mr. President, I ask unanimous consent that a number of articles be printed in the CONGRESSIONAL RECORD, each of which demonstrates clearly the farcical attempt by the Burmese regime to reform its oppressive and now dated attachment to totalitarian government.

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

[From the New York Times, Jan. 17, 1990]

#### LETTERS—CEAUSESCU'S BURMESE TWIN

To the Editor:

Sometime last summer, in a statement to Congress, Senator Daniel Patrick Moynihan referred to the Burmese dictator Gen. Ne Win as "the Asian Noriega." The Senator pointed to the strong ties between Ne Win and Southeast Asian drug traffickers who together supply close to half of all the heroin in the United States and appropriately questioned United States anti-narcotics efforts in the region, especially past cooperation with the Ne Win regime. I'm sure Ne Win is hoping everyone's forgotten the comparison by now.

Perhaps a better comparison is between Ne Win and Romania's former President Nicolae Ceausescu. The similarities between what recently happened in Romania and what happened last year in Myanmar (formerly Burma) are striking, and help demonstrate the global nature of some of today's revolutionary changes.

Both regimes were xenophobic and chauvinistic left-wing dictatorships that had fairly good relations with the United States. Both dictators isolated their countries from the outside world for about the same period of time (in Myanmar's case, 26 years) and had built up repressive police states that appeared to have silenced all opposition. Both dictators impoverished potentially rich countries.

In Myanmar in August 1988, huge crowds took to the streets to demand the overthrow of the Government. The uprisings were spontaneous and, though university students played important roles, were generally leaderless. The demands were for complete political change and the establishment of some sort of popular government. As in Romania, the regime did not hesitate to open fire on unarmed demonstrators or to instruct its agents to use terrorist methods.

In Myanmar, Ne Win's agents poisoned some water supply, as Mr. Ceausescu's security forces were rumored to have done, and attempted to assassinate opposition leaders. Government agents who were caught were often handed over to mob justice. In Myanmar, 3,000 unarmed protesters, some schoolchildren as young as 12, were killed in Yangon (formerly Rangoon) alone (perhaps 5,000 nationwide) from Aug. 8 to 12. But there the similarity ends (for now).

Ne Win was cleverer than Mr. Ceausescu. He would never have addressed large crowds the way Mr. Ceausescu did during the uprising. Ne Win knew how unpopular he had become and went to great lengths to insure army loyalty. When it seemed that units in the regular army might side with the dem-

onstrators, Ne Win pulled them back. He let the demonstrations go on for more than four weeks as tens of millions of people marched in every city and town in emotional and colorful scenes never shown on American television.

Civil administration collapsed everywhere in what was probably the largest uprising in modern Asian history. Then, when he thought he had his troops under control, Ne Win sent in his light infantry divisions—crack troops that were specially paid and trained—to end the uprising. At least 3,000 more people were killed on Sept. 18 when he re-established his regime.

The Burmese human rights situation remains one of the worst in the world. Perhaps Rumania would have suffered the same fate if Mr. Ceausescu's regime had survived. Tens of thousands have been jailed and tortured, and thousands of others, mainly students, have fled to the jungles along the Thai border where they remain, forgotten by the outside world.

The Government has promised democracy and free elections in the spring but has locked up or killed nearly the entire leadership of the pro-democracy movement. With people angrier than ever, Myanmar seems headed for another, almost certainly bloodier uprising soon. Perhaps recent events in Panama and Romania will convince Ne Win and his army that time is running out for dictators everywhere.

THANT MYINT-U.

WASHINGTON, January 4, 1990.

(The writer, grandson of U Thant, is co-founder of Emergency Relief Burma.)

[From the Far Eastern Economic Review, Jan. 18, 1990]

#### GOVERNMENT ELIMINATES LIBERAL POLL

#### CONTENDERS: THE ELECTION CHARADE

(By Bertil Lintner in Bangkok)

With only a month left before national election campaigning begins, Burma's ruling State Law and Order Restoration Council (SLORC) is taking no chances that any group will be able to present a real challenge to its grip on power. All prominent opposition leaders have been detained or are under threat of arrest, thousands more political prisoners remain in jail and outdoor political meetings of five or more people remain banned.

In addition, the government is keeping a tight lid on the news media. Staff of the SLORC-controlled Working People's Daily and the handful of Burmese who work for foreign news agencies in Rangoon are being intimidated, and foreign journalists are barred from entering the country. But despite the oppression, dissent is building, with the revolutionary changes in Eastern Europe giving hope to Burma's fledgling pro-democracy movement.

One by one, opposition political figures who had become prominent a year ago following countrywide, anti-government demonstrations—which were brutally suppressed by the military regime—have disappeared from public life.

Tin Oo, the 63-year-old chairman of the most prominent opposition party, the National League for Democracy (NLD), has been sentenced to three years' imprisonment with hard labour for "attempting to divide the army."

Aung San Suu Kyi, the NLD's general secretary, is under house arrest. She faces the same charges as Tin Oo, and the government could stop her from contesting the elections by formally charging her.

U Nu, the octogenarian patron of the League for Democracy and Peace, and Burma's prime minister between 1948 to 1962, is under house arrest for refusing to dissolve a "parallel government" he formed shortly before the SLORC's takeover of power in September 1988.

Moe Thi Zun, former chairman of the main officially sanctioned student organisation, the Democratic Party for New Society, left Rangoon last April when the government launched its current crackdown on dissent. He has since joined the All-Burma Students Democratic Front, an underground umbrella organisation of dissident students, and became its chairman in November, vowing to lead an armed struggle against the SLORC.

In addition, 15 of the NLD's 33 central committee members have been detained, and even those who have not been arrested face constant harassment. When Aung Shwe, a retired brigadier who has served as NLD acting chairman since Tin Oo's house arrest, went to Shan state recently on a campaign tour, agents of the Directorate of the Defense Services Intelligence (DDSI), Burma's secret police, filled the front seats of a local meeting hall.

The SLORC's latest moves have left the opposition without any prominent leaders, making the elections little more than a charade. Apart from the military-backed leaders of the National Unity Party (NUP), which ruled Burma from 1962 to 1988 under the Burma Socialist Programme Party banner, only three political figures of any relevance remain.

They are: Thakin Chit Maung, leader of the leftist Democratic Front for National Reconstruction; Cho Cho Kyaw Nyein, head of the Anti-Fascist People's Freedom League, and Aung Gyi, erstwhile chairman of the NLD who left the league in December 1988 to set up his own United Nationals Democracy Party (UNDP).

Both Thakin Chit Maung and Cho Cho Kyaw Nyein are considered political lightweights who pose no challenge to the military regime. But Aung Gyi's role is intriguing. Although he helped start the 1988 pro-democracy movement by writing a series of open letters to Ne Win, Burma's military强人 since 1962, Burmese tend to regard him as a turncoat. Aung Gyi and his new party are emerging as possible pro-military alternatives to the NUP should that party fail to make a decent showing in the elections.

Burmese sources say that on 28 November 1989, DDSI Chief Brig.-Gen. Khin Nyunt held an hour of talks at the Defence Ministry in Rangoon with Kyi Han, the UNDP's general secretary. The session was one of only two such meetings between the SLORC and leaders of a political party (the other was with leaders of the military-backed NUP). Since the talks, observers note, UNDP leaders have been given unprecedented freedom and encouragement by the SLORC.

In December, another UNDP leader, Khin Nyo, went to Tokyo, where he spoke with a representative of Burma's main ethnic rebel group, the Kachin Independence Organisation. Under Burmese laws, contact with such an outlawed insurgent group would disqualify the UNDP from contesting the elections.

Another UNDP cadre, US-based Malcolm Sein, has been trying to woo the Committee for Restoration of Democracy in Burma, the main organisation of Burmese exiles abroad. He has also approached American politi-

cians who actively support Burma's democracy movement, asserting that Aung Gyi is the country's "only real oppositionist."

Commenting on these activities, a well-placed Burmese source said: "It is inconceivable that Aung Gyi's men can do all this without official approval. The aim seems to be to try to infiltrate various anti-government groups in order to sow confusion among them. There seems to be a direct link between the 28 November meeting in Rangoon and subsequent activities of certain UNDP people."

Despite the oppression and the apparent manipulations of the SLORC, 2,134 candidates have registered to contest the elections, including 72 independents and 2,071 from 97 political parties. They are seeking seats in a 489-member national assembly whose duty will be to draft a new constitution before a second set of elections are held. Meanwhile, the SLORC will remain in power, which will give it more leeway if the first round of elections do not produce the desired result.

[From the Bangkok Post, Jan. 18, 1990]

#### SUU KYI BARRED FROM BURMESE ELECTION

RANGOON (Reuter).—Burma's main opposition leader, Aung San Suu Kyi, has been barred from next May's general election because of alleged contacts with banned organisations, a spokesman for her party said yesterday.

A rival politician from the National Unity Party (NUP), which diplomats said is strongly favoured by the ruling military council, "protested on the grounds that Aung San Suu Kyi had links with unlawful organisations," he said.

Additional armed troops were deployed on the streets of Rangoon following the Tuesday evening decision by a district commission on the Elections Commission to disqualify her.

Aung San Suu Kyi, 44, who has been under house arrest since July, is leader of the National League for Democracy (NLD), the most popular of more than 100 political parties.

She was a prominent figure in the mass popular uprising against 25 years of military-led rule that was crushed by the September 1988 army takeover.

Initial reports said she was barred from Burma's first elections in 29 years because of her nationality status. The rival politician, Laban Gravng, had earlier asked a lower elections body to bar her because she held the rights of a British citizen and had not registered in Rangoon.

Gravng changed his accusation at the higher district elections commission, the NLD spokesman said.

Under the elections law decreed by the military rulers last year, anyone with links to "outlawed organisations in armed revolt against the state"—a reference to ethnic or communist insurgency groups fighting for autonomy, would be barred.

The military authorities have frequently accused Aung San Suu Kyi of links with communist groups, a charge she has denied. Spokesmen for the ethnic guerrilla groups have offered her their support.

Although there is no formal right of appeal under rules established by the ruling military council, the NLD submitted a letter asking the Elections Commission to review the ban.

The army, which took power to suppress demonstrations against the repressive single-party administration in 1988, sent

troops onto the streets overnight to prevent public protest.

Armed troops, some carrying riot shields, were seen guarding the City Hall in the heart of the capital.

[From the Washington Post, Jan. 18, 1990]

#### BURMESE BAN TOP OPPOSITION CANDIDATE

(By Stephen Erlanger)

BANGKOK, THAILAND.—The most popular opposition leader in Myanmar, formerly Burma, was disqualified today from running in elections scheduled for May, Western diplomats said.

The disqualification of the opposition leader, Daw Aung San Suu Kyi, and the house arrest last month of another leading opposition politician, the former Prime Minister U Nu, made it next to impossible that the May elections could be regarded as free or fair, the diplomats said, interviewed here and by telephone from the capital, Yangon, formerly Rangoon.

Mrs. Aung San Suu Kyi, 44 years old, has been under house arrest since July 20, with access to her restricted to immediate family members. The daughter of Burma's most cherished political figure, the late U Aung San, she is the secretary general of the National League for Democracy, most of whose leadership is under arrest or in hiding.

She came to prominence during the demonstrations for democracy in Myanmar in September 1988 that were crushed with gunfire by the military, which had long ruled the country under the reclusive U Ne Win. Diplomats say they believe that at least 3,000 Burmese were killed.

#### PUT UNDER HOUSE ARREST

The military attempted to calm the Burmese by promising them a transition to "free and fair" multiparty elections, but Mrs. Aung San Suu Kyi was put under house arrest when she began to attack Mr. Ne Win and accuse the military of abuses against democracy and human rights. The official leader of her party, U Tin Oo, was put under house arrest at the same time. Last month, he was jailed for up to three years for "subversion."

An election commission established by the military Government decided on Tuesday night to disqualify Mrs. Aung San Suu Kyi from running, news reports and the diplomats say. The commission acted on an appeal by a rival politician running in her constituency for the National Unity Party, which is backed by the military.

The rival politician, U Labang Grong, said Mrs. Aung San Suu Kyi was not eligible to run, maintaining that she is not a resident of Burma, that she had ties to rebel student organizations and that she is entitled only to the privileges of a foreigner.

Mrs. Aung San Suu Kyi is married to a Briton but has always held a Burmese passport. She lived with her husband in England, until she returned to Myanmar to care for her dying mother in April 1988 and became caught up in the demonstrations against the autocracy of Mr. Ne Win. Her father is regarded as the father of the country and was assassinated in 1947 with six members of his Cabinet.

#### "THEY DON'T WANT HER TO RUN"

Mr. Labang Grong's first attempt to disqualify Mrs. Aung San Suu Kyi was turned down by a local election commission, but he appealed to the larger Yangon office, which overturned the local commission and disqualified her, diplomats said. They said her party has now appealed to the five-man central election commission.

"The army clearly decided she might win the election even from behind the bars of house arrest," one Western diplomat said tonight.

Asked if it were possible that the central commission might reinstate her, allowing the military to try to demonstrate that the elections will be fair, the diplomat said: "It's possible, but I think you're sincerely afraid of her. Even if they do allow her to stand, they'd have to allow her out of the house in order to run, and that would risk a revolution."

Other diplomats said that with so many prominent opposition politicians under arrest, or other restrictions, the elections could not be regarded as fair in any case. Martial law is still in force, barring the public gathering of more than five people, and political parties have been unable to organize freely. Diplomats say that thousands of opposition figures have been arrested.

In August, the American Embassy in Myanmar reported in an internal cable that the Americans had "credible, first-hand reports" of routine mistreatment of pro-democracy figures in custody, including beatings and torture, as well as some deaths.

[From Asiaweek, Jan. 19, 1990]

#### PLAYING WITH "LOADED DICE"

Burmese actor and singer Kyaw Hein strutted confidently toward the stage. He was used to pandemonium erupting among audiences at the mere mention of his name. But as soon as the movie idol stepped out on the boards that November evening, he was pelted with stones and catcalls. To the Rangoon crowd, he had done the unthinkable: he was widely said to be planning to contest upcoming elections under the banner of the National Unity Party (NUP) controlled by "retired" strongman Ne Win. The would-be MP, nursing some bruises, beat a hasty retreat. A few days later, a paid ad in the local press made clear that Kyaw Hein had absolutely no interest in activities other than acting and singing.

It was a small—and increasingly rare—victory for the anti-Ne Win forces. In the run-up to the long-promised polls due May 27, Burma's martial-law authorities have escalated their crackdown on "destabilising elements." Key opposition leaders are under house arrest. A relentless official propaganda push is in full swing while popular political activities remain severely restricted. And while the military junta that took power in September 1988 professes neutrality, critics charge that it is doing everything it can to keep allies of Ne Win in power. "This government wants to see change but controls the pace of the change for its benefit," says a diplomat in Rangoon. Asserts another source: "They're conducting the elections for their self-preservation."

Nonsense, maintains the chairman of the State Law and Order Restoration Council, Gen. Saw Maung. The SLORC took control in a brutal crackdown after the weeks of huge pro-democracy demonstrations that had earlier led Ne Win to officially step down. Insists Saw Maung: "Our duty is to bring about a government that will grant full democratic rights." By his reckoning, that goal is already in sight. A total of 2,359 candidates, including contenders from 100 parties and 83 independents, had filed their candidacies with the Election Commission when registration ended last week. They will vie for 492 seats in a legislature that is supposed to write a new constitution.

On the face of it, there is democracy aplenty. The 16-month-old NUP, the reconstituted successor to Ne Win's Burma Socialist Program Party (BSPP), is expected to field a contender in every constituency (no party breakdown had been released by last week). Also represented strongly should be the National League for Democracy, the largest and seemingly most popular opposition group, the League for Democracy and Peace of deposed ex-premier U Nu, and the Union Nationals Democracy Party led by former Ne Win ally Aung Gyi, 71. A three-month campaign period with greater political liberty is due to begin by the end of February.

But critics insist the SLORC has loaded the dice against the opposition. The NLD's chairman, 66-year-old Tin U, has been sentenced to three years' hard labour for sedition. Its secretary-general, Aung San Suu Kyi, 44 is under house arrest. So now is 83-year-old U Nu, who last month refused to dissolve his so-called "parallel government" revoking the one Ne Win overthrew in 1962. Hundreds of other opposition supporters are in prison. The U.S. embassy has charged that people are routinely tortured by military officials using electric shocks and burning cigarettes.

Martial-law administrators have said that convicted persons and those still in detention by the time nominations are given the go-ahead this month will be disqualified. Chief among them is likely to be the magnetic Suu Kyi, daughter of pre-Independence hero Aung San, who has built a large personal following. She has been allowed to submit candidacy papers for a Rangoon suburb seat, but her NUP opponent has applied to have her disqualified because of her foreign ties. She is married to Briton Michael Aris, an Oxford don, though she still holds a Burmese passport. Kept virtually incommunicado in her Rangoon home since July, Suu Kyi has already lost time and momentum. Her husband was granted a two-week visa to spend Christmas with her, but the request of her two teenage sons were denied. Bereft of its top leaders, her party has reportedly become embroiled in squabbles.

The NUP's financial muscle is also hard to match. A sore point with the opposition is the Election Commission's Nov. 30 decision to let the party take over some \$75 million in cash, real estate and other property owned by the old BSPP. Six parties, including Aung Gyi's moderate UNDP, had asked the polls body to deregister the NUP for making use of its predecessor's assets claiming that it has no right to these as it is an altogether new entity. Sources say the commissioners endorsed this view but the Council overruled them.

The NUP war chest will be formidable, especially in the countryside which was less affected by the 1988 unrest. Although Aung San Suu Kyi drew large crowds on tours of the hinterland last year before her arrest, the opposition is considered strongest in the cities. In Rangoon, the Council is disbursing millions of dollars on high-visibility projects such as roads, parks, playgrounds and festivities to try to boost NUP chances. Fat pay raises were granted government employees in April, although inflation has largely eaten them up. The NUP can also trade on the extensive network that the BSPP built up during its more than two decades in power.

Above all, there is Ne Win. Almost no one accepts the SLORC's assertions that the bo-gyoke (general) officially at the country's

helm for 26 years is now only a "private citizen." Says a Burmese exile in Bangkok: "After all those years in power, we find it hard to believe that the Old Man is going to change. He has never put up with political rivals."

Sources in Rangoon say intelligence chief Brig.-Gen. Khin Nyunt, widely seen as the real power in the SLORC, makes daily calls on Ne Win. The activities of Khin Nyunt, who is the Council's Secretary 1, and Brig.-Gen. Tin Oo, Secretary 2, are shown for hours each night on television. (Tin Oo should not be confused with former intelligence chief Brig.-Gen. Tin Oo, jailed in 1983 ostensibly for corruption and released recently. An embittered man, he has turned down invitations to run for the NUP.)

Saw Maung told Asiaweek a year ago that he would retire after the elections. In line to succeed him in the top military post is Lt.-Gen. Than Shwe. Diplomats in Rangoon say the supreme commander dislikes his deputy, but both men have what it takes: they owe their careers to Ne Win. If the elections return a hung parliament, as seems quite possible, analysis do not discount a "Prem" scenario. Like the former Thai supreme commander who served as non-elected premier for eight years, Saw Maung could shed his uniform and become prime minister. Ne Win and his cabinet had also solemnly divested themselves of their khaki in the early 1970s and turned the civilian BSPP into the governing front.

In the event, the NUP could team up with the conciliatory Aung Gyi. The onetime deputy armed forces chief, whose open letters to Ne Win helped spark the 1988 unrest, has avoided criticising the strongman directly. A failure to forge a majority might also provide the Council with an excuse to remain in power.

Some outsiders are heartened by Rangoon's new, more open attitude toward foreign trade, which they see as an incentive for the current régime to curb excesses. Indeed, the elections have often been viewed as a gambit to court world opinion. But there is little evidence that protests over the opposition crackdown and human rights violations are making the Council think twice. In any case, international reaction has been muted lately. Saying that Tin U's sentencing was "politically motivated," the U.S. State Department mildly urged Rangoon to "refrain from measures which would further undermine confidence in the legitimacy of the [May] elections." World attention, of course, is much more riveted by events in Eastern Europe. Not surprisingly, Rangoon media have yet to report the Romanian revolution.

#### THE CLEAN AIR ACT

Mr. MITCHELL. Mr. President, earlier today, repeating prior public statements that I made on several occasions over a period of several months, I announced that I would this afternoon seek consent to proceed to the Clean Air Act. I had the opportunity to discuss it with the distinguished Republican leader, the managers of the bill, and a number of colleagues, and I will shortly make such a request.

I want at this time to describe my intentions with respect to the bill so that Senators may be aware of it in considering that request. This is important legislation. It is lengthy and

complex legislation. The bill is over 500 pages long. The report accompanying the bill is over 700 pages long. Both have been available for some time. But as the distinguished Republican leader has pointed out to me and others, most Senators have been away and are just returning and now getting to review the bill and report for the first time. And of course he is correct.

I said earlier, and I repeat, that it is not my intention to force the pace on this bill in a manner that would deprive any Senator of the fullest possible opportunities to consider, deliberate on, debate on, ask questions about, and offer amendments to this bill. That remains my intention.

I am determined that we will complete action on it, and I hope very much that we will pass it. But I think it has to be done in a way that every Senator feels that he or she has had full opportunity to study the issue before being called upon to vote on it.

Therefore, it is my intention that we will be on the bill today—there will be merely opening statements today by the managers. We will continue with opening statements tomorrow, with full opportunity for Senators to discuss the matter; that on Thursday, for at least part of the day, we will take this up, although part of the day may be taken up with respect to another matter; and that on Friday the Senate will not be in session.

So during this week it is not my intention, nor as I understand it that of the managers, to have votes on any major or controversial aspects of the bill. If there are any votes they will be on committee amendments which are noncontroversial, if there are any such amendments to the Clean Air Act, and that will give Senators this entire week to review the matter, to ask questions about it, to study it and be prepared for what I expect will be an intensive deliberation next week with numerous votes and much debate.

It is, therefore, against that background I am about to propound a request, but would ask, before I do, if the distinguished Republican leader has any comments or questions he wishes to make before I propound the request itself.

Mr. DOLE. If the majority leader will yield, I would say I think he stated the facts accurately. There is certainly no disposition from anybody on this side to hold up consideration of the bill. But there is the reality, as he has indicated, that this bill is over 500 pages in length. Unless a Senator is a member of this committee, he has to have done a lot of work to gain any expertise. Some members of the committee have been working on this for 7 or 8 years. So I think in order to have a constructive debate and end up with a bill that will not only be passed by the Senate but go to conference and

eventually be signed by the President, it is encouraging to hear the majority leader say he is not going to push this bill.

If someone starts stalling intentionally, that is another set of circumstances, but on this side of the aisle I think all my colleagues are asking is time to look at it, time to read it, time to get staff help, time to get help from different agencies, staff on the committee. There is a lot of bipartisanship in the bill so it is not a partisan effort.

So, based on the statement that the only amendments to be considered this week would be "noncontroversial" or technical amendments, I think all the other time, it is my understanding, will be used for good debate on the bill, opening statements to explain certain provisions of the bill, and on that basis we have no objection on this side.

Mr. MITCHELL. Mr. President, I might say before propounding the request formally that a number of Democratic Senators as well have expressed their concern about some provisions of the bill and there are a number of studies and reports with respect to it which have been requested and which the committee staff is endeavoring to respond to, so that Senators may be fully informed in that regard, at least in response to the specific questions that have arisen.

#### CLEAN AIR ACT AMENDMENTS, 1989

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to Calendar No. 427, that is S. 1630, the Clean Air Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works with an amendment to strike all after the enacting clause, and insert the following:

**SECTION I. SHORT TITLE AND TABLE OF CONTENTS.**  
This Act may be cited as the "Clean Air Act Amendments of 1989".

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- TITLE I—ATTAINMENT AND MAINTENANCE OF AMBIENT AIR QUALITY STANDARDS**
- DESIGNATION OF AREAS**
- SEC. 101. (a) DESIGNATIONS.—Section 107 of the Clean Air Act is amended by adding the following new subsection:

  - "(f)(1) Upon promulgation of a new or revised national ambient air quality standard, the Administrator shall designate as attainment, nonattainment or unclassifiable all areas of the country pursuant to this subsection as expeditiously as practicable, but in no case later than six months from the date of promulgation of the new or revised standard. Such period may be extended for specific areas for up to six additional months in the event the Administrator has, after making reasonable efforts to obtain the relevant information, insufficient information to make the designations. The Administrator shall designate as—

    - "(A) nonattainment, any area that does not meet (or contributes to ambient air quality in a nearby area that does not meet) the new or revised national ambient air quality standard for the pollutant;
    - "(B) attainment, any area (other than an area identified in subparagraph (A)) that meets the new or revised national ambient air quality standard for the pollutant;
    - "(C) unclassifiable, any area that cannot be classified on the basis of available information as having met the new or revised national ambient air quality standard for the pollutant.

  - "(2) A designation for an area made pursuant to this subsection shall remain in effect until the Administrator redesignates the area.
  - "(3) Each area which, as of the last calendar year before the date of enactment of this subsection for which data is available, did not meet the national primary ambient air quality standard for ozone or such standard for carbon monoxide averaged over an eight-hour period, is hereby designated by operation of law as nonattainment.
  - "(4) Until redesignation by the Administrator, each area which—

    - "(A) is identified in 52 Federal Register 29383 (August 7, 1987) as a Group I area, or
    - "(B) contains a site for which air quality monitoring data shows a violation of the national ambient air quality standard for PM-10 before the date of enactment of this subsection,

- is hereby designated by operation of law nonattainment for PM-10. All other areas of the country not described in subparagraph (A) or (B) are designated unclassifiable for PM-10, until such time as the Administrator redesignates any such area. Any designation for particulate matter (measured in terms of total suspended particulates) which the Administrator promulgated pursuant to section 107(d), as in effect before the date of enactment of this subsection, shall remain in effect for purposes of implementing the max-

imum allowable increases in concentrations of particulate matter (measured in terms of total suspended particulates) pursuant to section 163(d), until the Administrator determines that such designation is no longer necessary for such purpose.”

(b) REDESIGNATION.—Section 107(d)(5) of the Clean Air Act is amended to read as follows:

“(5)(A) Based on a request for area redesignation by the Governor of any State, or at any time on the Administrator’s own motion, the Administrator may revise the designation of any area or portion of an area in accordance with this section and part D.

“(B) Whenever the Administrator obtains evidence demonstrating that an area exceeds a national ambient air quality standard for any pollutant and is not designated as a nonattainment area for such pollutant pursuant to this section, the Administrator shall, within ninety days of receiving such evidence, propose, and within one hundred and eighty days promulgate by rule, a revised designation of such area as nonattainment for such pollutant, and where applicable, a classification of such area in accordance with part D.

“(C) The Administrator may redesignate a nonattainment area to attainment only if—

“(i) the Administrator promulgates the redesignation by rule, after notice and opportunity for comment;

“(ii) the Administrator determines that the area has attained the national ambient air quality standard;

“(iii) the Administrator has fully approved the applicable implementation plan;

“(iv) the Administrator determines that the improvement in air quality is due to permanent reductions in emissions;

“(v) the Administrator has fully approved a maintenance plan for the area as meeting the applicable requirements of section 110 and part D; and

“(vi) the State containing such area has met all requirements applicable to the area under section 110 and part D.

“(D) the Administrator shall not redesignate any area from nonattainment to unclassifiable.”

(c) AREA BOUNDARIES.—Section 107(c) of the Clean Air Act is amended by inserting “(1)” after “(c) and by adding the following new paragraphs at the end thereof:

“(2) If an area is designated nonattainment with respect to ozone and is located within a metropolitan statistical area or a consolidated metropolitan statistical area (as defined by the Office of Management and Budget), the boundaries of such area are hereby revised by operation of law to include the entire metropolitan statistical area or consolidated metropolitan statistical area, as the case may be. Such boundary revision shall apply for purposes of any State implementation plan revision required to be submitted by any State after enactment of this paragraph. If a State demonstrates to the satisfaction of the Administrator within sixty days of such designation that with respect to a portion of a metropolitan statistical area or consolidated metropolitan statistical area,

“(A) sources in that portion do not contribute to violations of the standards, and

“(B) there is a geographical basis for excluding that portion, the Administrator may approve a State’s request to exclude such portion from the nonattainment area. The Administrator shall determine whether or not to exclude such portion within sixty days of receiving the State’s request.

“(3) In the case of any area which is designated as a nonattainment area for carbon monoxide and is classified as serious pursuant to section 187(a) or this section, the Administrator may, after consultation with the State in which such area is located, modify the boundaries of the area by rule to include the entire metropolitan statistical area, or consolidated metropolitan statistical area, as the case may be, if the Administrator determines that such modification is necessary to attain the carbon monoxide air quality standard. Such boundary revision shall apply for purposes of any State implementation plan revision required to be submitted by the State after such modification.”

#### ENHANCED MONITORING AND INVENTORIES

SEC. 102. Section 108 of the Clean Air Act is amended by adding the following at the end thereof:

“(g) GUIDELINES FOR ENHANCED MONITORING AND INVENTORIES.—Not later than six months after enactment of this subsection, the Administrator shall publish the following:

“(1) guidelines for enhanced monitoring by the State or local air pollution control agencies of emissions of pollutants (or precursors thereof) for which there is a national ambient air quality standard established under section 109, including guidelines governing the frequency, location, and maintenance of monitors; and

“(2) guidelines for improving the inventories of emissions from mobile and stationary sources (including, but not limited to, emissions factors for estimating emissions from stationary sources which emit less than twenty-five tons per year and other area sources) of pollutants (or precursors thereof) for which there is a national ambient air quality standard established under section 109.

Failure by the Administrator to publish guidelines required under paragraphs (1) and (2) shall not affect other applicable deadlines under this Act, including, but not limited to requirements under section 110 or part D.”

#### TRANSPORTATION GUIDANCE

SEC. 103. (a) TRANSPORTATION PLANNING GUIDANCE.—Section 108(e) of the Clean Air Act is amended by deleting the first sentence and inserting in lieu thereof the following:

“The Administrator shall, after consultation with the Secretary of Transportation and with State and local officials, within nine months after enactment of the Clean Air Act Amendments of 1989 and periodically thereafter as necessary to maintain a continuous transportation-air quality planning process, update the June 1978 Transportation-Air Quality Planning Guidelines and publish guidance on the development and implementation of transportation and other measures necessary to demonstrate and maintain attainment of national ambient air quality standards.”

(b) TRANSPORTATION CONTROL MEASURES.—Section 108(f)(1) of the Clean Air Act is amended by deleting all after “(f)” through the end of subparagraph (A) and inserting in lieu thereof the following:

“(1) The Administrator shall publish and make available to appropriate Federal, State, and local environmental and transportation agencies not later than one year after enactment of the Clean Air Act Amendments of 1989, and from time to time thereafter—

“(A) information prepared, as appropriate, in consultation with the Secretary of Transportation, regarding the formulation and emission reduction potential of transportation control measures related to

carbon monoxide, ozone precursors, particulate matter and toxic air pollutants, including, but not limited to—

“(i) programs for improved public transit;

“(ii) restriction of certain roads or lanes to, or construction of such roads or lanes for use by, passenger buses or high occupancy vehicles;

“(iii) employer-based transportation management plans;

“(iv) trip-reduction ordinances;

“(v) traffic flow improvement programs that achieve emission reductions;

“(vi) fringe and transportation corridor parking facilities serving multiple occupancy vehicle programs or transit service;

“(vii) programs to limit or restrict vehicle use in downtown areas or other areas of emission concentration particularly during periods of peak use, through road use charges, tolls, parking surcharges, or other pricing mechanisms, vehicle restricted zones or periods, or vehicle registration programs;

“(viii) programs for the provision of all forms of high-occupancy, shared-ride services;

“(ix) transportation management plans for shopping centers;

“(x) programs to limit portions of road surfaces or certain sections of the metropolitan area to the use of non-motorized vehicles or pedestrian use, both as to time and place;

“(xi) programs for secure bicycle storage facilities and other facilities, including bicycle lanes, for the convenience and protection of bicyclists, in both public and private areas;

“(xii) programs to control extended idling of vehicles;

“(xiii) programs for the conversion of fleet vehicles to cleaner engines or fuels, or to otherwise control fleet vehicle operations, and

“(xiv) programs to reduce motor vehicle emissions which are caused by extreme cold start conditions.”

#### GENERAL PLANNING REQUIREMENTS

SEC. 104. (a) SUBMISSION OF PLANS.—Section 110(a)(1) of the Clean Air Act is amended by striking “(1)” after “(a)” and by striking “nine” each time it appears and inserting in lieu thereof “twenty-four”.

(b) STATE IMPLEMENTATION PLAN ELEMENTS.—Section 110 of the Clean Air Act is amended by striking subsection (a)(2) and subsection (a)(3)(A) and inserting the following:

#### “(b) MAINTENANCE PLANS.—

“(1) Whenever an area containing all or part of a metropolitan statistical area or consolidated metropolitan statistical area is designated attainment or unclassifiable with respect to a national ambient air quality standard, the Administrator shall, and in other cases may, require the State containing such area to submit an implementation plan (including such emissions inventories as the Administrator may prescribe) that provides for maintenance of such standard for at least twenty years from the date such plan is submitted. Every ten years after submission of the last twenty-year maintenance plan, the State shall submit an updated twenty-year maintenance plan.

“(2) Any plan required to be submitted pursuant to paragraph (1) shall meet the applicable requirements of subsection (c) (concerning general plan requirements).

“(3) Any plan required to be submitted pursuant to paragraph (1) shall be submitted by the State in accordance with such

schedules as the Administrator may reasonably prescribe.

**(c) GENERAL REQUIREMENTS FOR IMPLEMENTATION PLAN SUBMITTALS.**—Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each such plan shall—

"(1) include enforceable emission limitations and other control measures, means, or techniques as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this Act;

"(2) provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to—

"(A) monitor, compile, and analyze data on ambient air quality, and

"(B) upon request, make such data available to the Administrator;

"(3) include a program to provide for the enforcement of the measures described in paragraph (1), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved and maintained, including a permit program as required in parts C and D;

"(4) contain adequate provisions—

"(A) prohibiting any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will—

"(i) contribute significantly to nonattainment or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard,

"(ii) interfere with measures required to be included in the applicable implementation plan for any other State under part C to prevent significant deterioration of air quality or to protect visibility, or

"(iii) contribute to atmospheric loadings of pollutants or their transformation products which may reasonably be anticipated to cause or contribute to an adverse effect on public health or welfare or the environment in any other State,

"(B) insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement);

"(5) provide—

"(A) necessary assurances that the State (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the State or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under State (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of Federal or State law from carrying out such implementation plan or portion thereof), including a statement from the attorney general (or the attorney for those relevant State (or, as appropriate, local) air pollution control agencies which have independent legal counsel) that the laws of such State (or locality) provide adequate authority to carry out such implementation plan,

"(B) requirements that the State comply with the requirements respecting State boards under section 128, and

"(C) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provisions;

"(6) require, as may be prescribed by the Administrator—

"(A) the installation, maintenance, and replacement of equipment and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources,

"(B) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and

"(C) correlation of such reports by the State agency with any emission limitations or standards established pursuant to this Act, which reports shall be available at reasonable times for public inspection;

"(7) provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority;

"(8) provide for revision of such plan—

"(A) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and

"(B) except as provided in section 110(h)(2), whenever the Administrator finds on the basis of information available to him that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirements established under this Act;

"(9) in the case of a plan or plan revision for an area designated as nonattainment under section 107, meet the applicable requirements of part D relating to nonattainment areas;

"(10) meet the applicable requirements of section 121 (relating to consultation), section 127 (relating to public notification), and part C (relating to prevention of significant deterioration of air quality and visibility protection);

"(11) provide for—

"(A) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and

"(B) the submission, upon request, of data related to such air quality modeling to the Administrator;

"(12) require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this Act, a fee sufficient to cover—

"(A) the reasonable costs of reviewing and acting upon any application for such a permit, and

"(B) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action).

**(d) ENVIRONMENTAL PROTECTION AGENCY ACTION ON PLAN SUBMISSIONS.**—

"(1)(A) The Administrator shall promulgate minimum criteria that any plan submission must meet before the Administrator is required to act on such submission under this subsection.

"(B) Within sixty days of the Administrator's receipt of a plan or plan revision, but no later than six months after the date by which a State is required to submit the plan or revision, the Administrator shall determine whether each part of the plan or revision meets the minimum criteria established pursuant to subparagraph (A). Any plan or

plan revision that a State submits to the Administrator, and that has not been determined by the Administrator (by the date six calendar months after receipt of the submission) to have failed to meet the minimum criteria established pursuant to subparagraph (A), shall on that date be deemed by operation of law to meet such minimum criteria.

"(C) Where the Administrator determines that a plan submission (or part thereof) does not meet the minimum criteria established pursuant to subparagraph (A), the State shall be treated as not having made the submission (or, in the Administrator's discretion, part thereof).

"(2) Within twelve months of a determination by the Administrator (or a determination deemed by operation of law) under paragraph (1) that a State has submitted a plan or plan revision (or, in the Administrator's discretion, part thereof) that meets the minimum criteria established pursuant to paragraph (1), the Administrator shall act on the submission in accordance with paragraph (3).

"(3) In the case of any submittal on which the Administrator is required to act under paragraph (2), the Administrator shall—

"(A) approve such submittal as a whole if it meets all of the applicable requirements of this Act, or

"(B) disapprove the submittal in whole (or approve it in part, based on criteria established by the Administrator) and, simultaneously with such partial approval or subsequently within the twelve-month period under paragraph (2), disapprove it in part if it does not meet all of the applicable requirements of this Act.

"(4) Whenever the Administrator finds that the applicable implementation plan for any area is substantially inadequate to attain or maintain the relevant national ambient air quality standard, or to otherwise comply with any requirement of this Act, the Administrator shall require the State to revise the plan as necessary to correct such inadequacies. The Administrator shall notify the State of the inadequacies, and may establish reasonable deadlines for the submission of such plan revisions. Such findings and notice shall be public. Any finding under this paragraph shall, to the extent the Administrator deems appropriate, subject the State to the requirements of this Act to which the State was subject when it developed and submitted the plan for which such finding was made, except that the Administrator may adjust any dates applicable under such requirements as appropriate (except that the Administrator may not adjust any attainment date except as prescribed under part D).

"(5) Whenever the Administrator determines that his action approving, disapproving, or promulgating any plan or plan revision (or part thereof), was in error, the Administrator may, in the same manner as the approval, disapproval, or promulgation, revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and be public.

"(6) PLAN REVISIONS.—Each revision to an implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement of this Act.

"(f) FEDERAL IMPLEMENTATION PLANS.—

"(1) The Administrator may, after notice and opportunity for public comment, promulgate regulations setting forth an implementation plan, or portion thereof, for a State whenever the Administrator—

"(A) finds a State has failed to submit an implementation plan or revisions as required by this section or part C or D;

"(B) determines that a plan, or portion thereof, submitted by a State is not in accordance with the requirements of this section or part C or D; or

"(C) finds that any requirement of a previously approved plan is not being implemented.

"(2) If, two years after the imposition of any sanctions under this section or part D for failure to submit a plan or portion thereof that meets the requirements of this section and part D, a State has failed to submit such plan, the Administrator shall propose regulations setting forth a plan, or portion of a plan, assuring that the requirements of this Act are met. The plan proposed by the Administrator shall be promulgated after notice and opportunity for public hearing in the State, but not later than one year after the date of proposal, unless, within such period, the State has adopted and submitted a plan which the Administrator has determined is in accordance with the provisions of this section and part D.

"(3) Any plan proposed or promulgated pursuant to this paragraph shall meet all of the requirements of this section and part D, except that an initial plan for a nonattainment area may be promulgated without a demonstration of attainment, provided that such plan is revised by the Administrator not later than three years after the original date of proposal to include such demonstration.

"(4) If, subsequent to the promulgation of an implementation plan by the Administrator, the State adopts and submits a plan, or portion of a plan, which meets all of the requirements of this section and part D, the Administrator may approve the proposed State plan, or portion thereof, for implementation in lieu of the plan promulgated under this paragraph.

"(g) SAVINGS CLAUSE.—Any provision of any applicable implementation plan or any revision thereof that was approved or promulgated by the Administrator pursuant to this section as in effect prior to the date of enactment of the Clean Air Act Amendments of 1989 shall remain in effect as part of such applicable implementation plan, except to the extent that a revision to such provision is approved or promulgated by the Administrator pursuant to this Act."

(c) CONFORMING AMENDMENTS.—Section 110 of the Clean Air Act is amended as follows:

(1) Redesignate subparagraph (B) of section 110(a)(3) as paragraph (1) of section 110(h) and, in this newly designated paragraph, strike the phrase "paragraph (2) of this subsection" and insert "subsection (c)".

(2) Redesignate subparagraph (C) of section 110(a)(3) as paragraph (2) of section 110(h) and, in this newly designated paragraph—

(i) strike the word "subsection" after the phrase "approved under this" and insert "section";

(ii) strike the reference to subsection (c) and insert "subsection (f)", and

(iii) strike "section 110 (f) or (g)" and insert "section 110(l) or (m)".

(3) Delete subparagraph (D) of section 110(a)(3).

(4) Delete paragraph (4) of section 110(a).

(5) Delete paragraph (5) of section 110(a).

(6) Redesignate paragraph (6) of subsection (a) as subsection (i).

(7) Delete subsection (b).

(8) Delete paragraph (1), (2), (4), and (5) of subsection (c) and redesignate paragraph (c)(3) as subsection (j).

(9) Strike subsection (d) and add the following new subsection after subsection (j):

"(k) APPLICABLE IMPLEMENTATION PLAN.—(1) For purposes of this Act, an applicable implementation plan is the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under this section, promulgated under subsection (f) and which implements the requirements of the Act. Such term includes any portion of an implementation plan which has been submitted by a State and approved by the Administrator. Notwithstanding any other provision of this Act, each provision of such implementation plan (and each permit in effect under such plan) shall remain in effect, and shall be enforced under this Act, until a revision of such plan is approved by the Administrator or a plan is promulgated by the Administrator under subsection (f)."

(10) Delete subsection (e).

(11) Redesignate subsections (f) through (j) as subsections (l) through (p).

(12) In newly designated subsection (m), strike "the required four month period" and insert "twelve months of submission of the proposed plan revision".

(13) In newly designated subsection (n)—

(i) strike "one year after the date of enactment of the Clean Air Act Amendments of 1977 and annually thereafter" and insert "five years after the date of enactment of the Clean Air Act Amendments of 1989, and every three years thereafter"; and

#### FEDERAL FACILITIES

SEC. 105. The second sentence of section 118(a) of the Clean Air Act is amended to read as follows: "The preceding sentence shall apply (A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits and any other requirement whatsoever), (B) to any requirement to pay a fee or charge imposed by any State or local agency to defray the costs of its air pollution regulatory program, (C) to the exercise of any Federal, State, or local administrative authority, and (D) to any process and sanction, whether enforced in Federal, State, or local courts, or in any other manner."

#### GENERAL PROVISIONS FOR NONATTAINMENT AREAS

SEC. 106. (a) HEADING.—Part D of the Clean Air Act is amended by inserting "SUBPART I—NONATTAINMENT AREAS IN GENERAL" immediately after the heading "PART D—PLAN REQUIREMENTS FOR NONATTAINMENT AREAS."

(b) APPLICABILITY.—Subpart I of part D of the Clean Air Act is amended by adding a new section 170 as follows:

#### APPLICABILITY

"SEC. 170. Each provision of this subpart applies as set forth herein, except to the extent it is inconsistent with a provision in another subpart, in which case the provision in such other subpart shall apply."

(c) DEFINITIONS.—Section 171 of the Clean Air Act is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'nonattainment area' means, for any air pollutant, an area which is designated 'nonattainment' with respect to that pollutant pursuant to section 107;" and

(2) by adding at the end thereof the following new paragraph:

"(5) The term 'major stationary source' or 'major emitting facility' includes each discrete operation, unit or other activity and each combination thereof that, except as otherwise provided in this part, produces or has the potential to produce emissions of 100 tons or more per year of a pollutant or precursors of a pollutant which contribute to ambient air quality in an area that does not meet the national ambient air quality standard for the pollutant."

#### (d) PERMITS.—

(1) Section 172 of the Clean Air Act is amended as follows:

(A) Subsection (a) is amended to read as follows:

"(a) ATTAINMENT DATES FOR NONATTAINMENT AREAS—(1) The attainment date for an area designated nonattainment with respect to a primary national ambient air quality standard shall be the date by which attainment can be achieved as expeditiously as practicable, but no later than five years from the date such area was designated nonattainment under section 107, except that the Administrator may extend the attainment date to the extent the Administrator determines appropriate, for a period no greater than ten years from the date of designation as nonattainment, considering the severity of nonattainment and the availability and feasibility of pollution control measures.

"(2) The attainment date for an area designated nonattainment with respect to a secondary national ambient air quality standard shall be within a reasonable time after the date such area was designated nonattainment under section 107;"

(B) Subsection (c) is deleted, subsection

(b) is redesignated as subsection (c), the heading "NONATTAINMENT PLAN PROVISIONS—" is inserted after "(c)", the text following "The" through "subsection (a)" in the first sentence is deleted, and the following is inserted in lieu thereof: "provisions of an applicable implementation plan for a State relating to attainment and maintenance of national ambient air quality standards in any nonattainment area";

"(C) Section 172(c)(6) (as redesignated by subparagraph (B)) is amended to read as follows:

"(6) require permits for the construction and operation of new or modified major stationary sources, and, beginning not later than three years after the date of enactment of the Clean Air Act Amendments of 1989, for the operation of all major stationary sources, in accordance with section 173 (relating to permit requirements);;" and

(D) A new subsection (b) is added as follows:

"(b) SCHEDULE FOR PLAN SUBMISSIONS.—At the time the Administrator designates an area as nonattainment with respect to a national ambient air quality standard under section 107, the Administrator shall establish a schedule according to which the State containing such area shall submit a plan or plan revision (including the plan items) meeting the applicable requirements of subsection (c) and section 110(c). Such schedule must, at a minimum, include a date or dates, extending no later than two years from the date of the nonattainment designation, for the submission of a plan or plan revision (including the plan items) meeting

*the applicable requirements of subsection (c) and section 110(c).".*

(2) Section 173 of the Clean Air Act is amended by inserting "(a) CONSTRUCTION PERMITS—" after "SEC. 173.", by deleting "and operate" in the first sentence, by substituting "172(c)" for "172(b)" each time it appears, and by adding the following at the end thereof:

**"(b) OPERATING PERMITS.—**

"(1) Each operating permit issued as required pursuant to this part for a new or existing stationary source shall—

"(A) be for a fixed term not to exceed five years and shall require compliance with applicable emission limitations and with such monitoring measures as are appropriate for adequately determining compliance with such limitations;

"(B) require the permittee to submit quarterly reports to the permitting authority containing the results of the monitoring required under subparagraph (A) and, no less often than every six months, certification to the permitting authority that demonstrates compliance with the permit. Any report or certification required to be submitted by a permittee under this title shall be signed by a responsible corporate official who shall certify its accuracy;

"(C) require that the permittee promptly report any violations of the permit or other requirements under this Act to the permitting authority and a program for correcting these violations including a schedule for implementation of the corrections; and

"(D) set forth inspection and entry requirements to assure compliance with the permit terms and conditions.

"(2) Applications for any permit to be issued pursuant to this part shall be accompanied by a fee sufficient to cover all direct and indirect costs of developing and administering the permit program.

"(3) Before issuing any permit pursuant to the provisions of this part the State shall provide notice of the application and an opportunity for a public hearing on the conditions to be included in the permit.

"(4) No permit may be issued pursuant to this part if the Administrator within sixty days objects to its issuance as not meeting the goals and objectives of this Act.

"(5) A copy of each permit and certification shall be submitted by the permittee, or by the permitting authority (as determined by the permitting authority), to the Administrator and shall be available to the public in the same manner as is provided for records and reports under section 114(c). No such permit may be issued unless the permitting authority or its agent has conducted an on-site inspection of the source to which such permit is issued. Not later than six months after the enactment of this subsection the Administrator shall publish guidelines for permit programs under this part. Such guidelines may be revised from time to time as the Administrator deems appropriate."

(e) OFFSETS.—Section 173 is further amended by adding at the end thereof the following new subsections:

"(c) OFFSETS.—A new or modified major stationary source may comply with any offset requirement in effect under this part for increased emissions of any air pollutant by obtaining enforceable emissions reductions of such air pollutant from other sources in the same nonattainment area. Such enforceable emissions reductions shall be in effect by the time a new or modified source commences operation and shall assure that the total tonnage of increased

emissions of the air pollutant from the new or modified source shall be offset by a greater reduction in the actual emissions of such air pollutant from other sources in the area. Where specific ratios for such offsets are specified in other provisions of this Act, such ratios shall govern. Emissions reductions otherwise required by law shall not be credited as an emissions reductions for purposes of any such offset requirement.

"(d) FEES.—The owner or operator of any source liable for the payment of an emissions fee to a State or local pollution control agency under this part shall also be liable for the payment of a fee to the Administrator in an amount and on a schedule as the Administrator shall require. In establishing the amount of such fees, the Administrator shall take into account the direct and indirect costs incurred by the Agency in carrying out the provisions of this part with respect to the pollutants emitted by such source and the proportionate share of such costs to be allocated among those liable for payment of the fee. In no event shall the fee be less than \$15 per ton of volatile organic compound, oxides of nitrogen, carbon monoxide or PM-10 emitted by the source. Notwithstanding the provisions of section 3302(b) of title 31, United States Code, revenues from fees imposed under this subsection shall be deposited into a special fund of the Treasury and shall thereafter be available for appropriation only to carry out the activities of the Agency under this Act."

(f) PLANNING PROCEDURES.—Section 174 of the Clean Air Act is amended to read as follows:

**"PLANNING PROCEDURES**

"SEC. 174. (a) For any ozone, carbon monoxide or PM-10 nonattainment area, the Governor of the State containing such areas and elected officials of affected local governments shall, prior to the date required for submittal of the inventories described under sections 182(a), 188(a), and 192(a), jointly review and update as necessary the planning procedures adopted pursuant to this subsection as in effect immediately before the date of enactment of the Clean Air Act Amendments of 1989 or develop new planning procedures pursuant to this subsection, as appropriate. In preparing such procedures the State and local elected officials shall determine which elements of a revised implementation plan will be developed, adopted, and implemented (through means including enforcement) by the State and which by local governments or regional agencies, or any combination of local governments, regional agencies, or the State. The implementation plan required by this part shall be prepared by an organization certified by the State, in consultation with elected officials of local government in the affected area, and representatives of the State air quality planning agency, the State transportation planning agency, the metropolitan planning organization designated to conduct the continuing, cooperative and comprehensive transportation planning process for the area under section 134 of title 23, United States Code, the organization responsible for the air quality attainment and maintenance planning process under regulations implementing this Act, and any other organization with responsibilities for developing, submitting, or implementing the plan required by this part.

"(b) The preparation of implementation plan provisions and subsequent plan revisions under the continuing transportation-air quality planning process described in section 108(e) shall be coordinated with the

continuing, cooperative and comprehensive transportation planning process required under section 134 of title 23, United States Code, and such planning processes shall take into account the requirements of this part. The Administrator shall consult with, and make recommendations to, the Secretary of Transportation within nine months from the date of enactment of the Clean Air Act Amendments of 1989 on changes to the Department of Transportation policies and planning and programming process that will assist the planning and implementation process of this part.

"(c) In the case of a nonattainment area that is included within more than one State, the affected States may jointly, through interstate compact or otherwise, undertake and implement all or part of the planning procedures described in this section."

(g) SANCTIONS.—Section 176 of the Clean Air Act is amended by—

(1) inserting in the heading "SANCTIONS AND" before "LIMITATIONS";

(2) deleting subsection (b) and redesignating subsections (c) and (d) as (b) and (c), respectively; and

(3) amending subsection (a) to read as follows:

"(a) SANCTIONS.—The following actions, as required or authorized by provisions of subpart 2 (relating to ozone and ozone precursors), subpart 3 (relating to carbon monoxide), or subpart 4 (relating to PM-10) are available as specified in such subparts, to the Administrator or the Secretary of Transportation:

"(1) a prohibition by the Administrator on the construction or modification of any major stationary source of the relevant pollutant or pollutants in a nonattainment area;

"(2)(A) a prohibition, applicable to a nonattainment area, by the Secretary of Transportation on the approval of any projects or awarding of any grants, under title 23, United States Code, other than projects or grants specified under subparagraph (B).

"(B) Projects or grants that may be approved, notwithstanding the prohibition in subparagraph (A), are the following—

"(i) capital programs for improved public transit;

"(ii) construction or restriction of certain roads or lanes solely for the use of passenger buses or high occupancy vehicles;

"(iii) planning for and implementation of requirements for employers to reduce employee work-trip-related vehicle emissions;

"(iv) highway ramp metering, traffic signalization, and related programs that improve traffic flow and achieve a net emission reduction;

"(v) fringe and transportation corridor parking facilities serving multiple occupancy vehicle programs or transit operations;

"(vi) programs for inspection and maintenance of vehicles emission control systems;

"(vii) programs for the conversion of publicly-owned fleet vehicles to vehicles that use low-polluting fuels, or to otherwise control fleet vehicle operations and miles traveled;

"(viii) programs to limit or restrict vehicle use in downtown areas or other areas of emission concentration particularly during periods of peak use, through road use charges, tolls, parking surcharges, or other pricing mechanisms, vehicle restricted zones or periods, or vehicle registration programs;

"(ix) programs for breakdown and accident scene management, non-recurring congestion, and vehicle information systems, to reduce congestion and emissions; and,

"(x) such other transportation-related programs as the Administrator, in consultation with the Secretary of Transportation, finds would improve air quality and would not encourage single occupancy vehicle capacity.

In considering such measures, the State should seek to ensure adequate access to downtown areas and avoid relocating emissions and congestion rather than reducing them. Notwithstanding the requirements of title 23, United States Code, or any other provision of law, any Federal funds made available to a State to carry out the provisions of such title shall be available without limitation to implement the programs and provisions of this subparagraph in nonattainment areas, and the State share shall not be required to exceed 10 per centum of the cost of such programs.

"(C) Nothing in this paragraph shall preclude the Secretary of Transportation from approving projects or awarding grants under title 23, United States Code, for (i) elimination of highway safety hazards pursuant to sections 130, 152, and 402 of such title, or (ii) rehabilitation or replacement of deteriorated highway bridges, provided that such projects or grants will add no significant additional right-of-way and are determined by the Administrator to be consistent with maintaining air quality;

"(3) the withholding by the Administrator of all or part of the grants for support of air pollution planning and control programs that the Administrator is authorized to award under section 105."

(h) CONFORMITY REQUIREMENTS.—Section 176(b) of the Clean Air Act (as redesignated by subsection (g)) is amended by deleting the second sentence, by striking "(1)", "(2)", "(3)" and "(4)" where they appear, by inserting "(1)" after "(b)", and by adding the following at the end thereof: "Conformity to a plan means—

"(A) conformity to a plan's purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards and achieving expeditious attainment of such standards; and

"(B) that such activities will not, considering any growth likely to result from such activities—

"(i) cause or contribute to any new violation of any standard in any area;

"(ii) increase the frequency or severity of any existing violation of any standard in any area; or

"(iii) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

"(2) Any transportation plan or program developed pursuant to title 23, United States Code, or the Urban Mass Transportation Act shall implement all relevant transportation provisions of any implementation plan approved under this Act applicable to all or part of the area covered by such transportation plan or program. No Federal agency may approve, accept or fund any transportation plan, program or project unless such plan, program or project has been found to conform to this Act and any implementation plan in effect under this Act. In particular—

"(A) no transportation plan or transportation improvement program may be adopted by a metropolitan planning organization designated under title 23, United States Code, or the Urban Mass Transportation Act, or be found to be in conformity by an air quality planning agency, department or officer until a final determination has been made that emissions expected from imple-

mentation of such plans and programs are consistent with estimates of emissions from motor vehicles and necessary emissions reductions contained in the State's implementation plan, and that the plan or program will, considering any growth likely to result from such plan or program, conform to the requirements of paragraph (1)(B);

"(B) no metropolitan planning organization or other recipient of funds under title 23, United States Code, or the Urban Mass Transportation Act shall adopt or approve a transportation improvement program of projects until it determines that such program provides for timely implementation of transportation control measures consistent with schedules included in the applicable implementation plan;

"(C) no transportation project may be adopted or approved by a metropolitan planning organization or any recipient of funds designated under title 23, United States Code, or the Urban Mass Transportation Act, or found in conformity by an air quality planning agency, or approved, accepted, or funded by the Department of Transportation unless—

"(i) such a project comes from a conforming plan and program;

"(ii) the design, scope, and emissions from such project have not changed significantly since the conformity finding regarding the plan and program from which the project derived;

"(iii) emissions from such a project remain consistent with emissions reduction schedules in the applicable implementation plan; and

"(iv) it is demonstrated, in any case where such a demonstration was not made during the process to determine the conformity of the plan and program from which project derived, that the project is consistent with the provisions of paragraph (1)(B).

The determinations required by this subsection shall be made by Federal, State and local agencies as prescribed pursuant to criteria and procedures which shall be promulgated by the Administrator no later than one year after the date of enactment of the Clean Air Act Amendments of 1989. Such procedures shall include a requirement that each State containing an ozone or carbon monoxide nonattainment area shall submit to the Administrator within eighteen months of such date of enactment, a revision to its implementation plan that includes, for each such nonattainment area, criteria and procedures for assessing the conformity of any plan, program or project subject to the conformity requirements of this subsection."

(i) MAINTENANCE PLANS.—Subpart 1 of part D of the Clean Air Act is amended by adding a new section 179 as follows:

#### "MAINTENANCE PLANS

"SEC. 179. (a) PLAN REQUIREMENTS.—The maintenance plan required under section 107(d)(5)(C) as a precondition for redesignation of an area shall—

"(1) comply with the provisions of section 110(a)(2);

"(2) provide for the maintenance of the national ambient air quality standard of the relevant air pollutant in such area for a period of twenty years after attainment; and

"(3) include the following provisions—

"(A) an identification of sources, including area and mobile sources, that are expected to contribute to increases in emissions of such pollutant after attainment of a national ambient air quality standard;

"(B) a quantitative estimate of emissions increases from such sources for each three-year period following attainment;

"(C) an identification of transportation control measures, emission control limitations or standards, or permit requirements as may be necessary to limit emissions or permissible emission increases; and

"(D) an identification of contingency measures to be implemented in the event of an exceedance of the air quality standard sufficient to correct any air pollution problem which may lead to redesignation as a nonattainment area.

"(b) PLAN REVISIONS.—Maintenance provisions required by this section shall be updated every ten years and submitted to the Administrator for approval pursuant to section 110 and this part as a revision to the implementation plan."

#### ADDITIONAL REQUIREMENTS FOR OZONE NONATTAINMENT AREAS

SEC. 107. Part D of the Clean Air Act is amended by adding the following new subpart at the end thereof:

#### "SUBPART 2—ADDITIONAL PROVISIONS REGARDING OZONE NONATTAINMENT AREAS

##### "CLASSIFICATION OF OZONE NONATTAINMENT AREAS

"SEC. 181. (a) CLASSIFICATION BY OPERATION OF LAW.—Each area that did not meet the national primary ambient air quality standard for photochemical oxidants (hereinafter "ozone") as of the last calendar year ending before enactment of this subpart for which data are available is hereby classified by operation of law in one of the following categories based upon the percentage by which such standard is exceeded:

"Area classification	Amount by which standard exceeded
Moderate ozone nonattainment area.	Not greater than 20 per centum
Serious ozone nonattainment area.	More than 20 per centum but not more than 50 per centum
Severe ozone nonattainment area.	More than 50 per centum but not more than 120 per centum
Extreme ozone nonattainment area.	More than 120 per centum

"(b) DATA AND METHODS FOR CLASSIFICATION.—For purposes of determining the percentage by which the national primary ambient air quality standard for ozone is exceeded in any area—

"(1) the most recent monitoring data available shall be used; and

"(2) the same methods as are used under regulations of the Administrator for determining attainment of the standard shall be applicable (including the design value, reference methods, and guidelines for interpretation of ozone air quality standards).

Not later than thirty days after the enactment of this subpart, the Administrator shall publish a notice of the percentages by which the national primary ambient air quality standard for ozone was exceeded in each area referred to in subsection (a).

"(c) DEADLINES FOR ATTAINMENT.—The following deadlines apply to the ozone nonattainment areas classified in accordance with subsection (a):

"Area classification	Applicable Attainment Date (in years after enactment of the Clean Air Act Amendments of 1989)
Moderate Area .....	5 years
Serious Area.....	10 years

"Area classification	Applicable Attainment date (in years after enactment of the Clean Air Act Amendments of 1989)
Severe Area.....	15 years
Extreme Area.....	20 years.

"(d) REFERENCES TO TERMS.—Any reference in this subpart to a 'moderate area', a 'serious area' a 'severe area', or an 'extreme area' shall be considered a reference to a moderate ozone nonattainment area, a serious ozone nonattainment area, a severe ozone nonattainment area, or an extreme ozone nonattainment area as classified under this section.

"REQUIREMENTS APPLICABLE TO ALL OZONE NONATTAINMENT AREAS

"SEC. 182. (a) INVENTORIES.—Not later than one year after the date of enactment of this subpart in the case of each State that contains a nonattainment area or portion thereof classified pursuant to section 181(a), or in the case of a State containing an area subsequently classified nonattainment pursuant to section 107 and this subpart, within eighteen months of such classification, such State shall submit to the Administrator—

"(1) for each such area, a comprehensive, accurate, current inventory of actual emissions of volatile organic compounds and oxides of nitrogen from all sources in such area. Such inventory shall be of emissions in the calendar year of enactment, or such other calendar year between 1987 and the year of enactment, inclusive, approved by the Administrator. Each such inventory shall be prepared in accordance with the guidance required to be published by the Administrator pursuant to section 108(g)(1)(2), if such guidance is available. Revisions of each such inventory shall be submitted every three years thereafter until the area for which the inventory is prepared is redesignated attainment; and

"(2)(A) a revision to the State implementation plan that contains a requirement that the owner or operator of each stationary source of oxides of nitrogen or volatile organic compounds within an ozone nonattainment area or portion thereof in such State provide the State with a statement in such form as the Administrator may prescribe (or the State may prescribe, if the Administrator does not) for classes or categories of sources, showing the actual emissions from that source during the previous calendar year of oxides of nitrogen and volatile organic compounds. The first such statement shall be submitted for the calendar year in which the revision referred to in the first sentence of this subparagraph was submitted to the Administrator. Subsequent statements shall be submitted at least annually thereafter.

"(B) The State may waive the application of subparagraph (A) to any class or category of stationary sources which emit less than twenty-five tons per year of oxides of nitrogen or volatile organic compounds if the State, in its submissions under paragraph (1), provides an inventory of emissions from such class or category of sources based on guidelines provided by the Administrator under section 108(g)(2) (relating to inventories).

"(b) IMPLEMENTATION OF CURRENT REQUIREMENTS.—Each State containing an ozone nonattainment area or portion thereof shall—

"(1) not later than eighteen months after the date of enactment of this subpart, fully

implement all provisions of any implementation plan for the attainment of the ozone air quality standard for each such area or areas which have been approved by the Administrator prior to the date of enactment of this subpart, and

"(2) within six months after the date of enactment of this subpart, submit a revision or revisions to the applicable implementation plan to include provisions to correct requirements in (or add requirements to) the plan concerning reasonably available control technology as were required under section 172(b) (as in effect immediately before the date of enactment of this subpart), including requirement to implement within one year after submission reasonably available control technology with respect to all sources of volatile organic compounds in such area or areas covered by a control technique guideline issued before the date of enactment of this subpart.

"(c) PERMIT REQUIREMENT.—

"(1) Each State containing an area or portion thereof classified pursuant to section 181(a) or subsequently classified pursuant to section 107 and this subpart shall, not later than eighteen months after the date of such classification submit to the Administrator a revision to the implementation plan for each such area requiring an operating permit as provided in sections 172(a)(6) and 173(b) for each new or existing major stationary source of volatile organic compounds or oxides of nitrogen located within any such nonattainment area. It shall be unlawful to operate any such major stationary source without a permit issued pursuant to an approved implementation plan beginning thirty-six months after the date of enactment of this subpart.

"(2) For the purpose of satisfying the permit program requirement of section 173(c) (pertaining to offsets), the ratio of volatile organic compounds emissions reductions to increased emissions of such compounds in serious nonattainment areas shall be at least 1.5 to 1 and in severe and extreme nonattainment areas, 2 to 1 and the ratio of emissions reductions of oxides of nitrogen to increases in such emissions in an extreme area shall be at least 2 to 1.

"(d) AUTO REGISTRATION FEE.—Each State containing an area classified pursuant to section 181(a) or subsequently classified pursuant to section 107 and this subpart shall, not later than eighteen months after such classification, submit to the Administrator a revision to the implementation plan for each such area providing for the collection of a fee beginning not later than six months after such date of not less than \$2 for each vehicle registered within such nonattainment area. Such fees shall be used by the responsible regulatory agencies to develop and implement air pollution control programs pursuant to section 110 and this part. If the Administrator determines that the fee provisions of the applicable implementation do not meet the requirements of this subsection or if the Administrator determines that the State or subdivision thereof is not administering and enforcing the fee required under this subsection, the Administrator shall collect such fees, which, notwithstanding section 3302(b) of title 31, United States Code, shall be deposited into a special fund of the Treasury and shall thereafter be available for appropriation to the Environmental Protection Agency to carry out activities under this Act.

"(e) STATIONARY SOURCE EMISSION FEES.—Each State containing an area classified pursuant to section 181(a) or subsequently

classified pursuant to section 107 and this subpart shall, not later than eighteen months after such classification submit to the Administrator a revision to the implementation plan for each such area providing for the collection of a fee beginning not later than six months after the date of submission to be imposed on the owner or operator of each major stationary source of volatile organic compounds or oxides of nitrogen emissions located within such area. The fee shall be not less than \$75 for each ton emitted. All revenues from any fee collected under this subsection shall be used by the State (or local pollution control agency) to develop and implement air pollution control programs pursuant to section 110 and this part. If the Administrator determines that the fee provisions of the applicable implementation plan do not meet the requirements of this paragraph or if the Administrator determines that the State or subdivision thereof is not administering and enforcing the fee required under this paragraph, the Administrator shall collect such fees, which, notwithstanding section 3302(b) of title 31, United States Code, shall be deposited into a special fund of the Treasury and which shall thereafter be available for appropriation to carry out the Environmental Protection Agency activities under this Act.

"REQUIREMENTS FOR SPECIFIC CLASSES OF OZONE NONATTAINMENT AREAS

"SEC. 183. (a) REQUIREMENTS FOR MODERATE AREAS.—Each State containing an area classified as a moderate nonattainment area pursuant to section 181(a) or subsequently so classified pursuant to section 107 of this subpart, shall, with respect to the moderate area, submit to the Administrator, by the dates provided, the following revisions to the applicable implementation plan:

"(1) within one year of the date of classification, a revision that requires implementation, within one year of submission of such revision, of requirements in either paragraph (A) or (B)—

"(A) an enhanced vehicle emissions control inspection and maintenance program to reduce in-use emissions of volatile organic compounds and oxides of nitrogen from motor vehicles, which program shall include each of the following elements—

"(i) require coverage of all light-duty vehicles registered in, at a minimum, each metropolitan statistical area (as defined by the Office of Management and Budget) with a population of one hundred thousand or more according to the 1980 Census,

"(ii) direct inspection of components of vehicle emission control systems (including evidence of misfueling) and, where such components have been rendered inoperative, the repair or replacement of such components,

"(iii) computerized emission analyzers,

"(iv) if a provision waiving the requirements for repairing the emission control system in the event of failure is included, a provision that such waiver shall apply only when the costs of repair exceed \$200,

"(v) enforcement through denial of vehicle registration (except for any program in operation prior to the effective date of this section whose enforcement mechanism is demonstrated to the Administrator to be more effective than the applicable vehicle registration program in assuring that non-complying vehicles are not operated on public roads), and

"(vi) any requirements the Administrator may prescribe under section 202(j)(3) (per-

taining to onboard emission diagnostic systems, or

"(B) a requirement that all persons within the area transferring gasoline to a motor vehicle fuel tank from a gasoline dispensing system use a fill nozzle designed to (i) prevent discharge of hydrocarbon vapors into the ambient air, (ii) direct vapor displaced from the automotive fuel system to a system where organic compounds in the displaced vapor are recovered, and (iii) prevent vehicle fuel tank overflows or spillage on fill nozzle disconnect. The requirement of this subparagraph shall apply only to facilities which sell more than twenty thousand gallons of gasoline per month. The Administrator may revise or waive the requirements of this subparagraph, as appropriate, after such time as the Administrator determines that onboard emissions control systems required under this Act are in widespread use throughout the motor vehicle fleet.

Each vehicle inspection and maintenance program required by this paragraph shall include such additional elements as are necessary to assure that the program would achieve a reduction in emissions of volatile organic compounds equivalent to a reduction of four thousand seven hundred tons of such emissions per million vehicles covered in the year of enactment of this subpart (if such program had been operating in such year). The Administrator may establish an alternative performance standard with respect to such programs for nonattainment areas located in California, if the Administrator finds that such alternative standard is necessary to reflect lower average emissions of volatile organic compounds from vehicles operating in such State. Any area which is already operating a vehicle emission control inspection and maintenance program or for which the implementation plan, as of the date of enactment of this subpart, includes a specific schedule for implementation of such a program shall comply with subparagraph (A);

"(2) an ozone nonattainment area for which the design value is less than .13 parts per million in the year immediately preceding enactment of this subpart shall not be required to comply with the requirements of subsection (a)(1) (pertaining to inspection and maintenance and refueling programs) unless such compliance is needed to bring the area into attainment with the primary ambient air quality standard for ozone by the date specified in section 181(c). The design value shall be calculated according to the interpretation methodology issued by the Environmental Protection Agency most recently before the date of enactment of this subpart;

"(3) within one year after the date of classification, a revision that contains a permit program which meets the requirements of section 172(a)(6), section 173, and title V.

"(b) REQUIREMENTS FOR SERIOUS AREAS.—For the purposes of requirements applicable to areas under subsection (c) and this subsection and sections 172, 173, 176, or 184, major stationary sources or major emitting facilities of volatile organic compounds are sources or facilities that produce or have the potential to produce twenty-five tons or more per year of such compounds. Each State containing an area classified as a serious area pursuant to section 181(a) or subsequently so classified pursuant to section 107 and this subpart shall, with respect to the serious area, make the submissions described under subsection (a) and in addition submit to the Administrator the following revisions

to the applicable implementation plan and other items:

"(1) an inventory that meets the requirements of section 182(a)(1) and, where all or part of such area is in a metropolitan statistical area (MSA) or consolidated metropolitan statistical area (CMSA), includes emissions from all sources within such MSA or CMSA, whichever is applicable, plus the twenty-five-mile radius around such area;

"(2) no later than one year after the date of classification, a revision to provide for, and a demonstration that the plan as revised will provide for, within three years after classification, emissions reductions of volatile organic compounds of 12 per centum from actual emissions in the calendar year of classification. Emissions reductions that will occur by the applicable deadline from measures required under either the applicable implementation plan or rules promulgated by the Administrator (other than rules promulgated under section 211(h)) may be credited toward the required 12 per centum reduction;

"(3) no later than three years from the date of classification a revision which demonstrates, based on photochemical grid modeling or any other analytical method determined by the Administrator, in the Administrator's discretion, to be at least as effective, that the plan, as revised—

"(A) will provide for attainment by the applicable attainment date; and

"(B) will result in volatile organic compound emission reductions from emissions reported in the initial inventory required under section 182(a)(1) equal to 12 per centum, averaged over each consecutive three-year period beginning with the fourth year after the date of classification, and extending until the area attains the primary ambient air quality standard for ozone. Such demonstration shall explicitly quantify projections with respect to emissions and necessary emission reductions from motor vehicles, using estimates for growth in vehicle miles traveled, congestion levels, and other relevant parameters that are used by the agency or agencies responsible for transportation planning for the area. Emissions reductions may be credited towards the 12 per centum reduction requirement to the extent they will occur by the applicable deadline from measures required under either the applicable implementation plan or rules promulgated by the Administrator (other than rules promulgated under section 211(h)). Any area that achieves an actual reduction in emissions in excess of that required by this subparagraph, as determined by the Administrator, may credit such excess emissions reductions toward the next three-year reduction requirement period. The revision may provide that reductions in emissions of oxides of nitrogen (other than reductions attributable to Federal motor vehicle standards) may be substituted for the reductions of volatile organic compounds required by this subparagraph at no less than a one-for-one ratio (nitrogen oxides to volatile organic compounds) if a State demonstrates to the satisfaction of the Administrator that such reductions of oxides of nitrogen, together with remaining reductions of volatile organic compounds, would result in a reduction in ozone concentrations at least equivalent to that which would occur from the reductions in volatile organic compound emissions required by the first sentence of this subparagraph. A State may request, and the Administrator may provide, technical assistance in making this demonstration;

"(4)(A) beginning one year after the date of classification, annual reports on meas-

ures adopted or implemented during the preceding calendar year and any failure to implement measures scheduled for implementation during such year;

"(B) beginning with the fourth such report and in each third such report thereafter, a demonstration by the State as to whether vehicle miles traveled, congestion levels and other relevant parameters are consistent with those used for the demonstration required in paragraph (2) or for emissions projections pursuant to paragraph (3)(B)(i). Where such parameters and emissions levels exceed the levels projected for purposes of the area's three-year emissions reduction demonstration, the State shall, within one year, develop and submit a revision to the applicable implementation plan that includes a transportation control measures program consisting of measures from, but not limited to, section 102(f) that will reduce emissions to levels that are consistent with emission levels projected in such demonstration. Such revision shall be developed in accordance with guidance issued by the Administrator pursuant to section 108(e) and with the requirements of section 174(b) and shall include implementation and funding schedules that achieve expeditious emissions reductions in accordance with implementation plan projections;

"(5) within one year of the date of classification, a revision that satisfies the requirements of subparagraphs (A) (pertaining to vehicle inspection and maintenance) and (B) (pertaining to vapor recovery during vehicle fueling) of subsection (a)(1);

"(6) within twelve months of classification, a revision to require implementation of reasonably available control technology for all stationary sources of volatile organic compounds that are not covered by a control technique guideline or listed pursuant to section 185(a) and that have the potential to emit twenty-five tons or more of such compounds and for all stationary sources of oxides of nitrogen that have the potential to emit one hundred tons or more per year of such pollutant. Such revision shall require the implementation of such technology no later than two years after classification and, in the case of volatile organic compounds, shall provide that reductions of 80 per centum or more from uncontrolled levels be achieved unless the State determines for a category of sources that such level of reductions is not technologically or economically feasible, in which case the required reduction shall be the maximum that is technologically and economically feasible;

"(7) within one year of the date of classification, a revision that provides that if the area has failed to attain the primary ozone air quality standard by the deadline applicable to the area pursuant to section 181, each major stationary source of volatile organic compounds located in the area shall pay a fee for each calendar year until such standard is attained of \$5,000 per ton (to be adjusted annually for inflation consistent with changes in the Consumer Price Index) of volatile organic compounds actually emitted during each such calendar year in excess of 50 per centum of such compounds actually emitted (as reported in the statement required by section 182(a)(2)) in the calendar year such area was to have attained the primary ozone air quality standard.

"(c) REQUIREMENTS FOR SEVERE AREAS.—Each State containing an area classified as a severe area pursuant to section 181(a) or subsequently so classified pursuant to section 107 and this subpart shall, with respect

*(to the severe area, comply with the requirements of subsections (a) and (b) and in addition submit to the Administrator the following revisions to the applicable implementation plan and other items:*

*"(1) within two years after the date of classification, a revision that identifies and adopts specific enforceable strategies and transportation control measures to offset any growth in emissions from growth in vehicle miles traveled or numbers of vehicle trips in such area and to attain reduction in motor vehicle emissions as necessary, in combination with other emission reduction requirements of this subpart, to comply with the requirements of subsection (b)(3)(B) (pertaining to periodic three-year emissions reduction requirements). The State shall consider, at a minimum, measures specified in section 108(f) and if the State fails to include any such measure, the implementation plan shall contain an explanation of why such measure was not adopted and what emissions reduction measure was adopted to provide a comparable reduction in emissions, or reasons why such reduction is not necessary to meet the requirements of subsection (b)(3)(B) or to attain a national ambient air quality standard;*

*"(2) within one year after the date of classification, a revision requiring employers in such area to implement programs to reduce work-related vehicle trips and miles traveled by employees. Such revision shall be developed in accordance with guidance issued by the Administrator pursuant to section 108(f) and shall, at minimum, require that each employer of one hundred or more persons in such area increase average passenger occupancy per vehicle in commuting trips between home and the workplace during peak travel periods by not less than 25 per centum above the average vehicle occupancy for all such trips in the area at the time the revision is submitted. The guidance of the Administrator may specify average vehicle occupancy rates which vary for locations within a nonattainment area (suburban, center city, business district) or among nonattainment areas reflecting existing occupancy rates and the availability of high occupancy modes. The revision shall provide that each employer subject to a vehicle occupancy requirement shall submit a compliance plan within two years after the date the revision is submitted which shall convincingly demonstrate compliance with the requirements of this paragraph not later than four years after such date. An employer may demonstrate in such plan compliance with a vehicle occupancy rate less than 25 per centum greater than the average in the area, if (A) expenditures by the employer in implementing the compliance plan are equal to or greater than the cost of providing each employee with a parking space at the location of the workplace; and (B) compliance with a vehicle occupancy rate 25 per centum above the areawide average is not feasible at such cost.*

*"(d) REQUIREMENTS FOR EXTREME AREAS.—*

*"(1) When all or part of an extreme area is in a metropolitan statistical area (MSA) or consolidated metropolitan statistical area (CMSA), the boundaries of the extreme area for the purposes of this subpart shall be defined, by operation of law, as the boundary of such MSA or CMSA, as applicable, plus twenty-five miles. If a State demonstrates to the satisfaction of the Administrator within sixty days of such designation that with respect to a portion of such area,*

*"(A) sources in that portion do not contribute to violations of the standards, and*

*"(B) there is a geographical basis for excluding that portion,*

*the Administrator may approve a State's request to exclude such portion from the nonattainment area. The Administrator shall determine whether or not to exclude such portion within sixty days of receiving the State's request.*

*"(2) For the purpose of requirements applicable to extreme areas under this subsection and sections 172, 173, 176, or 184, major stationary sources or major emitting facilities of volatile organic compounds are sources or facilities that produce or have the potential to produce ten tons or more per year of such compounds.*

*"(3) Each State in which an extreme area or portion thereof is located shall, with respect to the extreme area, comply with the requirements of subsections (a), (b), and (c) and in addition submit to the Administrator revisions to the applicable implementation plan that comply with—*

*"(A) subsection (b) (2) and (3) (pertaining to initial and periodic 12 per centum emission reduction requirements) except that in addition to the required reductions in emissions of volatile organic compounds, the State shall submit revisions providing for initial and triennial 12 per centum reductions in emissions of oxides of nitrogen; and*

*"(B) subsection (b)(6) (pertaining to reasonably available control technology) except that the requirements therein shall apply to all stationary sources that have the potential to emit ten tons or more per year of oxides of nitrogen.*

*"(e) CERTAIN NON-SELF-GENERATING AREAS.—*

*"(1) Notwithstanding any other provision of section 183 or this section, a State containing an ozone nonattainment area that does not include and is not adjacent to any part of a metropolitan statistical area or, where one exists, a consolidated metropolitan statistical area (as defined by the Office of Management and Budget), which area is determined by the Administrator to be non-self-generating within the meaning of paragraph (2), shall be treated by operation of law as satisfying the requirements of this section if it complies with regulations promulgated by the Administrator. Such regulations shall be promulgated no later than January 1, 1991, and shall, at a minimum, require compliance with the provisions of section 182 and such other measures as the Administrator determines appropriate to provide for the attainment and maintenance of the national ambient air quality standard for ozone.*

*"(2) The Administrator may determine an ozone nonattainment area to be non-self-generating if the Administrator finds that sources of volatile organic compounds and oxides of nitrogen emissions within the area do not make a significant contribution to the ozone concentrations measured in the area or in other areas.*

*"FAILURE TO COMPLY OR ATTAIN*

*"SEC. 184. (a) FAILURE TO SUBMIT AN APPROVABLE PLAN.—Whenever a State fails to make a plan submission or revision required for a nonattainment area within such State under this subpart, or the Administrator disapproves such plan or revision in whole or significant part, the Administrator—*

*"(1) shall, with respect to such area, impose the prohibition of section 176(a)(1) (pertaining to new source construction);*

*"(2) shall notify the Secretary of Transportation who shall impose the prohibition of section 176(a)(2) (pertaining to transportation funding); and*

*"(3) may withhold funds as provided under section 176(a)(3) (pertaining to air pollution control program grants).*

*"(b) FAILURE TO IMPLEMENT A PLAN.—Whenever any requirement of an approved plan (or approved part of a plan) is not being implemented, the Administrator, with respect to the area (or areas) in which such requirement is not being implemented—*

*"(1) shall impose the prohibition of section 176(a)(1) (pertaining to new source construction);*

*"(2) shall notify the Secretary of Transportation who shall impose the prohibition of section 176(a)(2) (pertaining to transportation funding); and*

*"(3) may withhold funds as provided under section 176(a)(3) (pertaining to air pollution control program grants).*

*"(c) FAILURE TO ACHIEVE REQUIRED EMISSIONS REDUCTIONS.—*

*"(1) Whenever an ozone nonattainment area fails to achieve the emissions reductions required under section 183(b) (2) or (3)(B), the Administrator shall—*

*"(A) impose the prohibition of section 176(a)(1) (pertaining to new source construction) and shall notify the Secretary of Transportation who shall impose the prohibition of section 176(a)(2) (pertaining to transportation funding); and*

*"(B) perform an annual audit, until such area achieves the required emissions reductions, of the plan and its implementation in such area to determine the reasons the plan is not achieving the required reductions.*

*"(2) Whenever an ozone nonattainment area fails to achieve the emissions reductions required under section 183(b) (2) or (3)(E), the Administrator may, in the Administrator's discretion—*

*"(A) lower the quantity of emissions of volatile organic compounds or oxides of nitrogen, or both, that, for such area, defines a source as a major stationary source;*

*"(B) require, in the case of an area listed as serious under section 181(a), that such area comply with the provisions of section 183(c) (relating to severe areas) and in the case of an area listed as severe under section 181(a), that such area comply with the provisions of section 183(d) (relating to extreme areas).*

*"(d) FAILURE TO ATTAIN.—For any ozone nonattainment area that fails to attain the primary ozone air quality standard by the date applicable to such area pursuant to section 181, the Administrator shall—*

*"(1) in the case of a moderate area reclassify such area as a serious area, in the case of a serious area, reclassify such area as a severe area, and in the case of a severe area, reclassify such area as an extreme area. From the date of reclassification each such area shall be subject to the provisions of this subpart, including the attainment date, that are applicable to the classification to which the area has been reclassified; and*

*"(2) in the case of a serious, severe, or extreme area, assure that the provisions of the implementation plan required by section 183(b)(7) (pertaining to emissions fees for major stationary sources) are enforced.*

*"ADDITIONAL FEDERAL MEASURES TO CONTROL OZONE POLLUTION*

*"SEC. 185. (a) CONTROL TECHNIQUES GUIDELINES.—*

*"(1) Not later than six months after the date of enactment of this subpart, the Ad-*

ministrator shall publish a list of at least twelve categories of stationary sources for which control technique guidelines, in accordance with subsection 108(b), have not previously been published and which the Administrator considers to make the most significant contribution to the formation of ozone air pollution. The categories shall be divided into three groups (with an equal number of categories in each group) and the Administrator shall establish a schedule for publication of guidelines for each of such groups at the time of publication of the list of categories.

"(2) The Administrator shall publish control technique guidelines for sources within the categories listed under paragraph (1). The guidelines shall be published for the first group of such sources within the first eighteen months after publication of the list and for at least one additional group in each succeeding eighteen-month period until guidelines have been published for all listed categories.

"(3) Within thirty-six months after the date of enactment of this subpart, and every four years thereafter, the Administrator shall review and, if necessary, update control technology guidelines including those issued before the enactment of this subpart. The Administrator may publish such additional guidelines as the Administrator deems necessary.

"(b) VOLATILE ORGANIC COMPOUNDS EMISSIONS FROM LOADING AND UNLOADING OF CERTAIN VESSELS.—Within two years after the enactment of this subpart, the Administrator shall publish a control technique guideline, in accordance with section 108(c), regarding control of volatile organic compound emissions from the loading or unloading of petroleum products onto or from vessels. Such emissions shall be considered to be direct emissions of the onshore terminal for all purposes under this Act.

"(c) CONSUMER OR COMMERCIAL PRODUCTS.—

"(1) Within two years after the date of enactment of this subpart, the Administrator shall submit to the Congress a final report on emissions of ozone precursors from consumer or commercial products which emit significant quantities of ozone precursors, and include recommendations for the control of such emissions.

"(2)(A) Within one year of submission of the report required under paragraph (1), the Administrator shall propose, and within two years of such submission shall promulgate, regulations to aid in the attainment of the ozone ambient air quality standard by decreasing emissions of ozone precursors from classes or categories of consumer or commercial products. Such regulations shall be designed to achieve reductions from the selected product categories to a level equal to the level that would be achieved by the application of reasonably available controls to each such class or category of consumer or commercial products and shall, at a minimum, achieve, within three years after promulgation, reductions in nationwide emissions of volatile organic compounds of three per centum below the level of such emissions in the calendar year of enactment of this subpart.

"(B) Such regulations may include any system or systems of implementation as the Administrator may deem appropriate, including but not limited to requirements for registration and labeling, self-monitoring and reporting, prohibitions, limitations, or fees concerning the manufacture, processing, distribution, use, consumption, or disposal of the product.

"(C) The regulations may exempt health-use products for which the Administrator determines there are not suitable substitutes.

"(D) Any fees collected under such regulations shall be deposited in a special fund in the United States Treasury which shall thereafter be available for appropriation, to remain available until expended, to carry out activities of the Environmental Protection Agency under this Act.

"(3) Any standard established under this subsection shall be treated, for purposes of sections 113, 114, 115, 120, and 304, as a standard under section 111.

"(4) The Administrator may, pursuant to regulations, delegate to any State so requests, administration and enforcement of the regulations promulgated under paragraph (2).

"(5) For the purposes of this subsection—

"(A) the term 'reasonably available controls' means the degree of emissions reduction that the Administrator determines, on the basis of technological and economic feasibility, health, environmental, and energy impacts, is reasonably achievable through the application of any equipment, processes, systems or techniques, including, but not limited to, chemical reformulation, product or feedstock substitution, repackaging, or directions for use, consumption, storage, or disposal;

"(B) the term 'consumer or commercial products' means any substance, product, or article (including any container or packaging) held by any person, the use, consumption, storage, disposal, destruction, or decomposition of which may result in the release of ozone precursors. The term does not include fuels or fuel additives as defined under section 211; and

"(C) the term 'ozone precursors' means pollutants that contribute to the ambient air concentrations of ozone.

"(d) HAZARDOUS WASTE FACILITIES.—The Administrator shall, not later than March 31, 1991, and after notice and opportunity for public comment, promulgate regulations pursuant to section 3004(n) of the Solid Waste Disposal Act controlling emissions of volatile organic compounds and other pollutants from treatment, storage, and disposal facilities subject to such Act which shall, at a minimum, achieve within three years after promulgation, reductions in nationwide emissions of volatile organic compounds of 4 per centum below the level of such emissions in the calendar year of enactment of this subpart.

#### "CONTROL OF INTERSTATE OZONE AIR POLLUTION

"SEC. 186. (a) OZONE TRANSPORT REGIONS.—The area comprising the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia, and the consolidated metropolitan statistical area including the District of Columbia is established as an ozone transport region. The Administrator may add any State or portion of a State to any region established under this subsection or establish other ozone transport regions, consisting of two or more States, when the Administrator determines that the interstate transport of air pollutants from such State or States significantly contributes to concentrations of ozone or ozone precursors in any nonattainment area in another State classified under section 181(a) as a serious, severe, or extreme area for ozone. The ozone transport commission established under subsection (b) for any ozone transport region may remove any State or portion of a

State from the region if the commission determines that the control of emissions in that State or portion of a State pursuant to this section will not significantly contribute to the attainment of the primary ambient air quality standard for ozone in any nonattainment area.

"(b) OZONE TRANSPORT COMMISSIONS.—Not later than six months after enactment of this subpart, the Administrator shall establish an ozone transport commission for the ozone transport region established by the first sentence of subsection (a). Not later than three months after the establishment of any other ozone transport region, the Administrator shall establish an ozone transport commission for the region. Each ozone transport commission shall be comprised of the following members—

"(1) an air pollution control official representing each State in the region, appointed by the Governor or as provided under State law;

"(2) the Administrator (or an employee designated by the Administrator from the headquarters office of the Environmental Protection Agency); and

"(3) the Regional Administrator (or an employee designated by the Regional Administrator) for each Environmental Protection Agency regional office for each Environmental Protection Agency region affected by the ozone transport region concerned.

Decisions of each ozone transport commission may be made only by a majority vote of all members other than the Regional Administrators (or designees thereof).

"(c) PLAN PROVISIONS FOR STATES IN OZONE TRANSPORT REGIONS.—Not later than two years after the enactment of this subpart (or nine months after the subsequent inclusion of a State in an established ozone transport region), each State included within an ozone transport region shall submit a State implementation plan or revision thereof to the Administrator which requires the following—

"(1) that each area in such State that is in an ozone transport region, that is not a nonattainment area, and that is a metropolitan statistical area or part thereof with a population of 100,000 or more, comply with the provisions of section 183(a)(1)(A) (pertaining to vehicle inspection and maintenance programs);

"(2) implementation of reasonably available control technology with respect to—

"(A) all sources of volatile organic compounds in the State covered by a control techniques guideline issued before the date of enactment of this subpart.

"(B) all sources of volatile organic compounds or oxides of nitrogen in the State covered by a control techniques guideline issued by the Administrator after the date of enactment of this subpart, and

"(C) all stationary sources that have the potential to emit one hundred or more tons of volatile organic compounds and that are not covered by a control technique guideline or listed pursuant to section 185(a); and

"(3) a requirement that all persons within the State transferring gasoline to a motor vehicle fuel tank from a gasoline dispensing system use a fill nozzle designed to (i) prevent discharge of hydrocarbon vapors into the ambient air, (ii) direct vapor displaced from the automotive fuel system to a system where organic compounds in the displaced vapor are recovered, and (iii) prevent vehicle fuel tank overflows or spillage on fill nozzle disconnect. The requirement of this subparagraph shall apply only to facilities

which sell more than twenty thousand gallons of gasoline per month. The Administrator may revise or waive the requirements of this subparagraph, as appropriate, after such time as the Administrator determines that onboard emissions control systems required under this Act are in widespread use throughout the motor vehicle fleet.

**"(d) ADDITIONAL CONTROL MEASURES.—**

"(1) Upon petition of any State within an ozone transport region, the commission may, after notice and opportunity for comment, develop a plan of additional control measures to be applied within all or a part of such transport region if the commission determines such measures are necessary to bring any area in such region into attainment by the dates provided by this subpart. The commission shall transmit such plan to the Administrator.

"(2) Whenever the Administrator receives a plan prepared by a commission pursuant to paragraph (1) (the date of receipt of which is hereinafter in this section referred to as the receipt date), the Administrator shall—

"(A) immediately publish in the Federal Register a notice stating that the plan is available and that written data, views, or comments on the plan may be submitted to the Administrator within ninety days beginning on the receipt date; and

"(B) commence a review of the plan to determine whether the control measures in the plan are necessary to bring any area in such region into attainment by the dates provided by this subpart and are otherwise consistent with this Act.

"(3) In undertaking the review required under paragraph (2)(B), the Administrator shall consult with members of the commission of the affected States and shall take into account the data, views and comments received pursuant to paragraph (2)(A).

"(4) Within one hundred and twenty days after the receipt date, the Administrator shall determine whether to approve, disapprove, or partially disapprove and partially approve the plan; shall notify the commission in writing of such approval, disapproval or partial disapproval; and shall publish such determination in the Federal Register. If the Administrator fails to act within one hundred and twenty days, the plan shall be deemed approved. If the Administrator disapproves or partially disapproves a plan, the Administrator shall specify—

"(A) why any disapproved additional control measures are not necessary to bring any area in such region into attainment by the dates provided by this subpart or are otherwise not consistent with the Act; and

"(B) recommendations concerning actions that could be taken by the commission to conform the disapproved portion of the plan to the requirements of this section.

"(5) Upon approval or partial approval of a plan submitted by a commission, the Administrator shall issue to each State which is included in the transport region and to which a requirement of the approved plan applies, a finding under section 110(d)(4) that the implementation plan for such State is inadequate to meet the requirements of section 110(c)(4). Such finding shall require each such State to revise its implementation plan to include the approved additional control measures within one year after the finding is issued.

"(e) EXEMPT AREAS.—(1) Upon petition of any State within an ozone transport region, the Administrator, after seeking written views of the commission and after publishing a written finding in the Federal Regis-

ter, may exempt any area within such State from one or more of the requirements of subsection (c) if the State demonstrates to the satisfaction of the Administrator that stationary or mobile sources within the area do not contribute to nonattainment in any other area in such region. The Administrator shall make a determination under this paragraph within nine months following receipt of a petition.

"(2) The requirements of subsection (c)(3) shall not apply to any State that contains no ozone nonattainment area or portion thereof unless the Administrator determines that such requirements are necessary to achieve attainment in any area in an adjoining State or the Governor of the State containing no ozone nonattainment area determines, pursuant to State law, that such requirements should apply in such State.

"(f) PETITIONS.—Any State or political subdivision may petition the Administrator to make a determination that any other State or portion thereof should be included within an ozone transport region under this section. The petitioning State shall include with such petition such evidence as is available to it regarding the contribution made by sources located in (or operating in) the State (or portion thereof) which is the subject of the petition to ozone concentrations in the petitioning State. Within one hundred and twenty days after receipt of any petition under this subsection and after a public hearing, the Administrator shall include the State (or portion thereof) within an ozone transport region or deny the petition.

"(g) BEST AVAILABLE AIR QUALITY MONITORING AND MODELING.—For purposes of this section, not later than six months after the enactment of subpart, the Administrator shall promulgate criteria for purposes of determining the contribution of sources in one area to concentrations of ozone in another area which is a nonattainment area for ozone. Such criteria shall require that the best available air quality monitoring and modeling techniques be used for purposes of making such determinations."

**ADDITIONAL REQUIREMENTS FOR CARBON MONOXIDE NONATTAINMENT AREAS**

**SEC. 108. NEW REQUIREMENTS FOR CARBON MONOXIDE NONATTAINMENT AREAS.**—Part D of title I of the Clean Air Act is amended by adding the following new subpart after subpart 2:

**"Subpart 3—Additional Provisions Regarding Carbon Monoxide Nonattainment Areas**

**"CLASSIFICATION OF CARBON MONOXIDE NONATTAINMENT AREAS**

**"SEC. 187. (a) CLASSIFICATION BY OPERATION OF LAW.**—Each area which did not meet the national primary ambient air quality standard for carbon monoxide averaged over an eight-hour period as of the last calendar year ending before enactment of this subpart for which data is available is hereby classified by operation of law in one of the following categories based upon the percentage by which the standard was exceeded in that area:

Area classification	Percentage exceedance
Moderate.....	Not Greater than 55 per centum
Serious.....	Greater than 55 per centum.

Any reference in this subpart to a 'moderate nonattainment area' or a 'serious nonattainment area' shall be considered a refer-

ence to a moderate or serious carbon monoxide nonattainment area as classified under this subsection (or as subsequently reclassified under this subpart). Any reference in this subpart to the 'carbon monoxide air quality standard' shall be considered a reference to the national primary ambient air quality standard for carbon monoxide averaged over an eight-hour period.

**"(b) DATA AND METHODS FOR CLASSIFICATION.**—For purposes of calculating the percentage by which the carbon monoxide air quality standard is exceeded in any area—

"(1) the most recent monitoring data available shall be used; and

"(2) the same methods as are used under regulations of the Administrator for purposes of determining attainment of the standard shall be applicable.

Not later than thirty days after the date of enactment of this subpart the Administrator shall publish a notice identifying the percentage by which each area referred to in subsection (a) exceeds the carbon monoxide air quality standard and the classification of each area as moderate or serious.

**"(c) DEADLINES FOR ATTAINMENT.**—The following deadlines apply to the carbon monoxide nonattainment areas classified in accordance with subsection (a)—

"Area Classification	Applicable attainment date (in years after enactment of this subpart)
Moderate.....	5 years
Serious.....	10 years.

**"(d) NEW STANDARD.**—If the Administrator revises the carbon monoxide air quality standard after the enactment of this subpart, the Administrator shall, within six months after the revision, promulgate requirements applicable to all areas which have not attained the revised standard and shall require the submission of implementation plans or revisions to such plans for such areas within twenty-four months after the revision of the standard. Such requirements shall provide for controls which are not less stringent than the controls applicable to areas classified under subsection (a) and shall provide for attainment of such revised standard according to a schedule which is comparable to that specified in subsection (c).

**"REQUIREMENTS APPLICABLE TO ALL CARBON MONOXIDE NONATTAINMENT AREAS**

**"SEC. 188. (a) INVENTORIES.**—Each State containing a nonattainment area classified pursuant to section 187(a) shall, not later than one year after the date of enactment of this subpart and every three years thereafter, submit an inventory of carbon monoxide emissions from stationary and mobile sources located within each such area as provided in the guidelines issued by the Administrator pursuant to section 108(g). The initial inventory shall report emissions occurring in the calendar year immediately preceding enactment of this section or the subsequent year. Any area subsequently classified nonattainment pursuant to section 107 and this subpart shall submit (and update as provided in this subsection) carbon monoxide emissions inventories beginning eighteen months after the date of classification. Guidance for inventory preparation published by the Administrator pursuant to section 108(g) shall contain factors for estimating carbon monoxide emissions from wood stoves and other small combustion sources.

**"(b) MONITORING.**—The enhanced monitoring program required by section 108(g) shall include the use of mobile monitors for carbon monoxide to determine the geographic extent of any nonattainment problem for such pollutant within an area. Monitoring pursuant to such guidelines shall be commenced in all areas classified pursuant to section 187(a) or subsequently pursuant to section 107 and this subpart not later than eighteen months after such classification. The Administrator may require through guidance or by rule the use of mobile monitoring devices for carbon monoxide in areas designated as attainment areas.

**"(c) EXISTING COMMITMENTS.—**

"(1) Not later than eighteen months after the date of enactment of this section each State containing an area classified nonattainment pursuant to section 187(a) shall fully implement all provisions of any implementation plan for the attainment of the carbon monoxide air quality standard for such area or areas which have been submitted to the Administrator for approval (whether or not approved) prior to the date of enactment of this section.

"(2) Each State containing an area classified pursuant to section 187(a) shall promptly and fully implement any additional measures not previously proposed by the State but required by subpart 1.

**"(d) AUTO REGISTRATION FEE.**—Each State containing an area classified pursuant to section 187(a) or which contains an area subsequently classified pursuant to section 107 and this subpart shall not later than eighteen months after such classification submit to the Administrator for approval a revision to the implementation plan for each such area providing for the collection of a fee beginning not later than six months after such date of not less than \$2 for each vehicle registered within such nonattainment area or areas. The requirement of this section shall not be in addition to any similar fee requirement imposed on vehicle registrations in such area under subpart 2. All revenues from any fee collected under this subsection shall be used by the State (or by a local air pollution control agency) to fund air pollution control programs pursuant to section 110 and this part. Such use may include expenditures for the planning, development and implementation by the State (or by a local air pollution control agency) of control measures in such nonattainment area or areas. If the Administrator determines that the fee provisions of the applicable implementation plan do not meet the requirements of this subsection or if the Administrator determines that such agency is not administering and enforcing the fee required under this subsection, the Administrator shall collect such fees, which, notwithstanding section 3302(b) of title 31, United States Code, shall be deposited into a special fund of the Treasury and shall thereafter be available for appropriation to the Environmental Protection Agency to carry out activities under this Act.

**"(e) STATIONARY SOURCE EMISSIONS FEE.**—Each State containing an area classified pursuant to section 187(a) or which contains an area subsequently classified pursuant to section 107 and this subpart shall not later than eighteen months after such classification submit to the Administrator a revision to the implementation plan for each such area providing for the collection of a fee beginning not later than six months after the date of submission to be imposed on the owner or operator of each major stationary source of carbon monoxide emissions locat-

ed within such area. The fee shall be not less than \$75 for each ton of carbon monoxide emissions. The owner or operator of each such source shall be liable to the State for payment of such fee. The liability for fees to be paid under this subsection shall be in addition to liability for any similar fees imposed under other provisions of this Act. All revenues from any fee collected under this subsection shall be used by the State (or local pollution control agency) to develop and implement air pollution control programs pursuant to section 110 and this part. Such use may include expenditures by the State (or by a local air pollution control agency) for the planning, development and implementation of control measures in such nonattainment area or areas.

**"(f) PERMIT REQUIREMENT.—**

"(1) Each State containing an area classified pursuant to section 187(a) or which contains an area subsequently classified pursuant to section 107 and this subpart shall not later than eighteen months after the date of such classification submit to the Administrator for approval a revision to the implementation plan for each such area requiring an operating permit as provided in sections 172(a)(6) and 173(b) for each new or existing major stationary source of carbon monoxide emissions located within any such nonattainment areas. It shall be unlawful to operate a major source of carbon monoxide emissions without a permit issued pursuant to an approved implementation plan beginning thirty-six months after the date of enactment of this subpart.

"(2) Each permit issued pursuant to this subsection shall require the installation of continuous emission monitoring for carbon monoxide emissions from the source.

"(3)(A) For purposes of this part a major stationary source of carbon monoxide emissions is any stationary source located or to be located in a moderate nonattainment area which emits or has the potential to emit fifty tons or more of carbon monoxide per year or any such source located or to be located in a serious nonattainment area which emits or has the potential to emit twenty-five tons or more of carbon monoxide per year.

"(B) For the purpose of satisfying the requirement of section 173(c) (pertaining to offsets) the ratio of emissions reductions to increased emissions in serious nonattainment areas shall be at least 1.5 to 1.

**"(g) ATTAINMENT DEMONSTRATION AND MILESTONES.—**

"(1) Each State containing a moderate or serious nonattainment area shall, after notice and opportunity for public comment but not later than twenty-four months after such area has been designated nonattainment, submit to the Administrator for approval revisions to the implementation plan for each such area which demonstrate, as provided in section 110 and this part, attainment of the carbon monoxide air quality standard by the deadline for attainment for such area or areas as provided in section 187(c).

"(2)(A) Notwithstanding the provisions of paragraph (1), revisions demonstrating attainment under this subsection shall not be required for any moderate nonattainment area for which the design value in the most recent calendar year immediately preceding enactment of this section did not exceed the carbon monoxide air quality standard by more than 10 per centum. Provided, That, within three months after the date of enactment of this subpart the Governor of such

State submits to the Administrator a detailed statement of the measures to be undertaken in such area which will assure attainment of the carbon monoxide air quality standard by not later than thirty-six months after such date of enactment.

"(B) In the event that a moderate nonattainment area for which an attainment demonstration has not been submitted pursuant to subparagraph (A) does not attain the carbon monoxide air quality standard by the date thirty-six months after the date of enactment of this subpart, the State in which such area is located shall, after notice and opportunity for public comment, submit within an additional twelve-month period revisions to the implementation plan for the area making such demonstration and such area shall be subject to all of the requirements of this subpart applicable to moderate nonattainment areas including implementation of a vehicle inspection and maintenance program pursuant to subsection (i) and the deadlines for attainment established by section 187(c).

"(3) Revisions demonstrating attainment submitted to the Administrator for approval under this subsection shall contain quantitative milestones to be achieved in each year in which an inventory is required under subsection (a) until the area is reclassified attainment and which demonstrate, as defined in section 171(1), reasonable further progress toward attainment by the date applicable to the area under section 187(c). Milestones proposed for inclusion in an implementation plan under this paragraph may be stated as—

"(A) reductions in vehicle miles traveled or vehicle trips in the nonattainment area, or both, during periods when the standard is likely to be violated;

"(B) reductions in tons of emissions of carbon monoxide emitted annually in the nonattainment area;

"(C) reductions in the design value for carbon monoxide averaged over an eight-hour period for the area;

"(D) reductions in the number of exceedances of the national carbon monoxide air quality standard which would be expected to occur each year; or

"(E) any combination of the above.

"(4) Revisions demonstrating attainment submitted to the Administrator for approval under this subsection shall contain one or more contingency measures sufficient to reduce (singly or in combination) carbon monoxide emissions in the nonattainment area as reported in the most recent inventory by not less than 5 per centum for moderate nonattainment areas and not less than 10 per centum for serious nonattainment areas. The revisions shall provide for automatic implementation of the measures in the event the area does not attain the carbon monoxide air quality standard by the date applicable to the area as provided in section 187(c). Contingency measures may be implemented only in part if all measures are not necessary to assure attainment of such standard as determined by the Administrator. Implementation of contingency measures shall not be delayed by any extension granted pursuant to section 190(d)(1).

"(5) The Administrator may not approve any revisions submitted pursuant to this subsection unless such revisions taken as a whole convincingly demonstrate attainment by not later than the dates specified in section 187(c). Notwithstanding the provisions of this paragraph, the Administrator may order that any or all requirements contained in such revisions be implemented and en-

forced pending submission of additional revisions of the implementation plan which can be approved as demonstrating attainment of the carbon monoxide air quality standard by the dates applicable under section 187(c).

**(h) CONTINUING AUDITS OF IMPLEMENTATION PLANS.—**

"(1) The Administrator shall conduct an audit of each implementation plan for carbon monoxide for each area designated nonattainment for the carbon monoxide air quality standard to determine whether the State (or local air pollution control agency) is adequately implementing and enforcing each provision of the plan and achieving the milestones established pursuant to subsection (g). Audits shall be conducted not less frequently than every three years and shall be scheduled, to the extent practicable, in years immediately following the compilation of an inventory as provided by subsection (a).

"(2) If the Administrator finds that any provision required by section 110, section 172(a) (1) through (10), section 173 or this subpart is not being adequately implemented and enforced, the Administrator shall promptly notify the State in which the area is located and shall impose the sanctions required by section 190 until such time as full implementation is achieved.

"(3) If the Administrator finds that any milestone established pursuant to subsection (g) has not been achieved by the applicable date, the Administrator shall require the State in which the area is located to promptly submit revisions to its plan, including provisions which may be identified by the Administrator, assuring achievement of the milestone as expeditiously as practicable but not later than eighteen months after the date originally scheduled for achieving the milestone. The Administrator shall also impose the sanctions required by section 190 until such time as the milestone is achieved.

"(i) **VEHICLE INSPECTION AND MAINTENANCE PROGRAM.—**Each State containing an area classified nonattainment pursuant to section 187(a) or which contains an area subsequently classified nonattainment and which is required to submit revisions to the implementation plan for such area demonstrating attainment pursuant to subsection (g) shall, not later than one year after the date of such classification, submit a revision to the applicable plan providing for implementation of a vehicle inspection and maintenance program which achieves carbon monoxide emissions reductions equivalent to a reduction of fifty-two thousand tons of such emissions per million vehicles covered in the year of enactment of this subpart (if the program had been operating in such year) and includes each of the elements in clauses (i) through (vi) of section 183(a)(1)(A).

"(j) **OXYGENATED FUELS.—**Revisions demonstrating attainment submitted pursuant to subsection (g) shall contain provisions implementing and enforcing an oxygenated fuels program for each moderate or serious nonattainment area as provided in section 211(e).

**"REQUIREMENTS APPLICABLE TO SERIOUS CARBON MONOXIDE NONATTAINMENT AREAS**

"**SEC. 189. (a) TRANSPORTATION CONTROL MEASURES.—**Revisions demonstrating attainment submitted pursuant to section 188(g) for any serious nonattainment area shall contain a commitment to implement as expeditiously as practicable each of the transportation control measures specified in section 108(f) or a statement of the reasons for

not including such measure in such revisions and an identification of other measures which will be taken in the area to obtain carbon monoxide emissions reductions equal to or greater than those which would have been achieved by implementation of such measure or measures, or reasons why such reduction is not necessary to meet the requirements of subsection 188(g)(3) or (4).

"(b) **EMPLOYER RIDERSHIP PROGRAM.—**Revisions demonstrating attainment submitted pursuant to section 188(g) for any serious nonattainment area shall contain provisions requiring employers in such area to implement programs to reduce work-related vehicle trips and miles traveled by employees. Such revision shall be developed in accordance with guidance issued by the Administrator pursuant to section 108(f) and shall, at a minimum, require that each employer of one hundred or more persons increase average passenger occupancy per vehicle in commuting trips between home and the workplace during peak travel periods by not less than 25 per centum above the average vehicle occupancy for all such trips in the area at the time the revision is submitted. The guidance of the Administrator may specify vehicle occupancy rates which vary for locations within a nonattainment area (suburban, center city, business district) or among nonattainment areas reflecting existing occupancy rates and the availability of high occupancy modes. The revision shall provide that each employer subject to a vehicle occupancy requirement shall submit a compliance plan within two years after the date the revision is submitted which shall convincingly demonstrate compliance with the requirements of this subsection not later than four years after the date the revision is submitted. An employer may demonstrate in such plan compliance with a vehicle occupancy rate less than 25 per centum greater than the average in the area, if (1) expenditures by the employer in implementing the compliance plan are equal to or greater than the cost of providing each employee with a parking space at the location of the workplace; and (2) compliance with a vehicle occupancy rate 25 per centum above the areawide average is not feasible at such cost.

"**FAILURE TO COMPLY OR ATTAIN STANDARD**  
"SEC. 190. (a) **FAILURE TO SUBMIT AN APPROVABLE PLAN.—**Whenever a State fails to make a plan submission or revision required for a nonattainment area within such State under this subpart, or the Administrator approves such plan in whole or significant part, the Administrator—  
"(1) shall, with respect to such area, impose the prohibition of section 176(a)(1) (pertaining to new source construction);  
"(2) shall notify the Secretary of Transportation who shall impose the prohibition of section 176(a)(2) (pertaining to transportation funding); and  
"(3) may withhold funds as provided under section 176(a)(3) (pertaining to air pollution control program grants).

"(b) **FAILURE TO IMPLEMENT A PLAN.—**Whenever any requirement of an approved plan (or approved part of a plan) is not being implemented, the Administrator, with respect to the area, or areas, in which such requirement is not being implemented—  
"(1) shall impose the prohibition of section 176(a)(1) (pertaining to new source construction);  
"(2) shall notify the Secretary of Transportation who shall impose the prohibition of

section 176(a)(2) (pertaining to transportation funding); and

"(3) may withhold funds as provided under section 176(a)(3) (pertaining to air pollution control program grants).

"(c) **FAILURE TO ACHIEVE REQUIRED EMISSIONS REDUCTIONS.—**Whenever a carbon monoxide nonattainment area fails to achieve emissions reductions or a milestone required under section 188(g), the Administrator shall impose the prohibition of section 176(a)(1) (pertaining to new source construction) and shall notify the Secretary of Transportation who shall impose the prohibition of section 176(a)(2) (pertaining to transportation funding).

**"(d) FAILURE TO ATTAIN.—**

"(1) The Administrator shall reclassify any moderate nonattainment area failing to attain, as provided in section 187(c), the carbon monoxide air quality standard by the date five years after the date of enactment of this subpart as a serious nonattainment area, and such area shall from the time of reclassification be subject to the provisions of this subpart applicable to serious nonattainment areas. The Administrator may grant a one-year extension of the attainment date established by section 187(c) for a moderate nonattainment area before reclassification provided that the State has fully implemented all provisions in the implementation plan for the area and the area has not exceeded the carbon monoxide air quality standard by more than 10 per centum in the two years prior to such date. Not more than two one-year extensions may be granted to any area under this subsection. Within twelve months of reclassification, the State shall submit to the Administrator for approval revisions to the implementation plan for such area as may be necessary to comply with the requirements for serious nonattainment areas.

"(2) In the case of an area classified as a serious nonattainment area in which the carbon monoxide air quality standard is not attained by the date provided in section 187(c), the State in which such area is located shall, after notice and opportunity for public comment, submit within twelve months after the applicable attainment deadline plan revisions which provide for attainment of the carbon monoxide air quality standard as provided in section 172(a), and, from the date of such submission until attainment, for an annual reduction in carbon monoxide emissions within the area of not less than 5 per centum of the amount of such emissions as reported in the most recent inventory prepared for such area."

**ADDITIONAL REQUIREMENTS FOR PM-10 NONATTAINMENT AREAS**

"**SEC. 109. (a) NEW REQUIREMENTS FOR PM-10 NONATTAINMENT AREAS.—**Part D of title I of the Clean Air Act is amended by adding the following new subpart after subpart 3:

**"Subpart 4—Additional Provisions for PM-10 Nonattainment Areas**

**"ATTAINMENT DEADLINES FOR PM-10 NONATTAINMENT AREAS**

"**SEC. 191. (a) DEADLINES FOR ATTAINMENT.—**State implementation plans required for any PM-10 nonattainment area not meeting the national ambient air quality standard for particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers (as measured by such method as the Administrator may determine) under this subpart shall demonstrate attainment as expeditiously as practicable but not later than the date five years after the date on which such area was designated nonattain-

ment for PM-10. The attainment deadline for areas designated nonattainment pursuant to subparagraphs (A) or (B) of section 107(f)(4) shall not extend beyond December 31, 1993. The Administrator may extend the deadline applicable to any area under this subsection upon a showing by the State that—

"(1) attainment within five years is impracticable because measures or technology to reduce PM-10 emissions are not available or secondary aerosols account for a significant portion of PM-10 levels in such area;

"(2) the State will implement all reasonably available control measures including all measures and control technology requirements described in any guidance issued by the Administrator pursuant to section 195; and

"(3) reasonable further progress toward attainment will be achieved and demonstrated at regular intervals until the attainment date, as provided in section 192(e).

No extension provided under authority of this subsection may extend for a period beyond the date ten years after the date on which an area has been designated nonattainment.

"(b) NEW STANDARD.—If the Administrator revises the particulate matter air quality standard after the date of enactment of this subpart, the Administrator shall, within six months after such revision, promulgate requirements applicable to all areas which have not attained the revised standard and shall require the submission of implementation plans or revisions to such plans for such areas within twenty-four months after the revision of the standard. Such requirements shall provide for controls which are not less stringent than the controls applicable to areas designated nonattainment for PM-10 and shall provide for attainment of such revised standard.

#### "REQUIREMENTS APPLICABLE TO PM-10 NONATTAINMENT

"SEC. 192. (a) INVENTORIES.—Each State containing an area designated nonattainment pursuant to section 107(f)(4) shall, not later than one year after the date of enactment of this subpart and every three years thereafter, submit an inventory of PM-10 (and PM-10 precursors) emissions from stationary and mobile sources located within each such area as provided in guidelines issued by the Administrator pursuant to section 108(g). Any area subsequently designated nonattainment pursuant to section 107 or this subpart shall submit (and update as provided in this subsection) such emissions inventories beginning eighteen months after the date of designation. Guidance for inventory preparation issued by the Administrator pursuant to section 108(g) shall contain factors for estimating PM-10 (and PM-10 precursors) emissions from area and natural sources.

"(b) APPROVED SIPs.—Nothing in this section shall be interpreted to require preparation and submission of plan revisions for areas for which the State has submitted and the Administrator has approved a plan revision pursuant to regulations promulgated on August 7, 1987 (52 Federal Register 29383) if such plan revisions otherwise meet the requirements of this subpart.

"(c) STATIONARY SOURCE EMISSIONS FEE.—Each State containing an area designated nonattainment for PM-10 pursuant to section 107(f)(4) or which contains an area subsequently designated nonattainment for PM-10 pursuant to section 107 or this subpart shall not later than eighteen months after such designation submit to the Adminis-

istrator for approval a revision to the implementation plan for each such area providing for the collection of a fee beginning not later than six months after the date of submission to be imposed on the owner or operator of each major source of PM-10 or PM-10 precursor emissions located within such area. The fee shall be not less than \$75 for each ton of PM-10 or PM-10 precursor emissions. The owner or operator of the source shall be liable to the State for payment of such fee. The liability for fees imposed under this subsection shall be in addition to liability for any fees imposed under other provisions of this Act. All revenues from any fee collected under this subsection shall be used by the State (or local pollution control agency) to develop and implement air pollution control programs pursuant to section 110 and this part. If the Administrator determines that the fee provisions of the applicable implementation plan do not meet the requirements of this paragraph or if the Administrator determines that the State or subdivision thereof is not administering and enforcing the fee required under this paragraph, the Administrator shall collect such fees, which, notwithstanding section 3302(b) of title 31, United States Code, shall be deposited into a special fund of the Treasury and which shall thereafter be available for appropriation to the Environmental Protection Agency to carry out activities under this Act.

#### "(d) PERMIT REQUIREMENTS.—

"(1) Each State containing an area designated nonattainment for PM-10 pursuant to section 107(f)(4) or which contains an area subsequently designated nonattainment for PM-10 pursuant to section 107 or this subpart shall not later than eighteen months after the date of such designation submit to the Administrator for approval a revision to the implementation plan for each such area requiring an operating permit as provided in sections 172(a)(6) and 173(b) for each new or existing major source of PM-10 or PM-10 precursor emissions located within such areas. It shall be unlawful to operate a major source of PM-10 or PM-10 precursor emissions without a permit issued pursuant to an approved implementation plan beginning thirty-six months after the date of enactment of this subpart.

"(2) Each permit issued pursuant to this subpart shall require monitoring of PM-10 or PM-10 precursor emissions from the permitted source not less frequently than monthly. The owner or operator shall periodically (but not later than twenty-four hours after any violation is detected) report the results of such monitoring to the State in which the source is located.

"(3) For purposes of this part a major stationary source of PM-10 or PM-10 precursor emissions is any stationary source located or to be located in a PM-10 nonattainment area which emits or has the potential to emit fifty tons or more of PM-10 or pollutants which are precursors of PM-10 per year.

"(4) For purposes of satisfying the requirement of section 173(c) (pertaining to offsets) the ratio of emissions reductions to increased emissions in areas granted an extension of the attainment deadline pursuant to section 191(a) shall be at least 1.5 to 1.

#### "(e) ATTAINMENT DEMONSTRATION AND MILESTONES.—

"(1) Each State containing an area designated nonattainment pursuant to section 107(f)(4) shall, after notice and opportunity for public comment but not later than twenty-four months after such designation,

submit to the Administrator for approval revisions to the implementation plan for each such area which demonstrate attainment of the PM-10 air quality standard by the date provided in section 191(a).

"(2) Plan revisions demonstrating attainment submitted to the Administrator for approval under this subsection shall contain quantitative milestones which are to be achieved in each year in which an inventory is required under subsection (a) until the area is redesignated attainment and which demonstrate, as defined in section 171(1), reasonable further progress toward attainment by the date applicable under section 191(a).

"(3) If a State includes in a plan revision an attainment date for an area which is after the date five years after the date of enactment of this subpart, the State shall commit to implementing each of the guidelines for control technology and measures which the Administrator promulgates pursuant to section 194 for each class or category of PM-10 or PM-10 precursor emission sources in the area. If the Administrator promulgates guidelines which are applicable to such classes and categories of sources after the date on which a plan revision is required by this subsection, the State shall further revise its plan within one year after the promulgation of such additional guidelines to provide for prompt implementation.

"(4) Plan revisions demonstrating attainment submitted to the Administrator for approval under this subsection shall contain one or more contingency measures sufficient to reduce (singly or in combination) PM-10 or PM-10 precursor emissions in the nonattainment area as reported in the most recent inventory by not less than 10 per centum. The plan revision shall provide for automatic implementation of the contingency measures in the event the area does not attain the PM-10 air quality standard by the date established pursuant to section 191(a). Implementation of contingency measures shall not be delayed by any extension granted pursuant to section 193(d).

"(5) The Administrator may not approve any revisions submitted pursuant to this subsection unless such revisions taken as a whole convincingly demonstrate attainment by not later than the dates applicable under section 191(a). Notwithstanding the provisions of this paragraph, the Administrator may order that any or all requirements contained in a plan revision be implemented and enforced pending submission of additional revisions of the implementation plan which can be approved as demonstrating attainment of the PM-10 air quality standard by the dates applicable under section 191(a).

#### "(f) CONTINUING AUDITS OF IMPLEMENTATION PLANS.—

"(1) The Administrator shall conduct an audit of each implementation plan for PM-10 for each area designated nonattainment pursuant to section 107(f)(4) to determine whether the State (or local pollution control agency) is adequately implementing and enforcing each provision of the plan and achieving the milestones established pursuant to subsection (e). Audits shall be conducted not less frequently than every three years and shall be scheduled, to the extent practicable, in years immediately following the compilation of an inventory as provided in subsection (a).

"(2) If the Administrator finds that any provision required by section 110, subpart 1 or this subpart is not being adequately implemented and enforced, the Administrator shall promptly notify the State in which the

area is located and shall impose sanctions required by section 193 until such time as full implementation is achieved.

"(3) If the Administrator finds that any milestone established pursuant to subsection (e) has not been achieved by the applicable date, the Administrator shall require the State in which the area is located to promptly submit revisions to its plan, including provisions which may be identified by the Administrator, assuring achievement of the milestone as expeditiously as practicable but not later than eighteen months after the date originally scheduled. The Administrator shall also impose the sanctions required in section 194 until such time as the milestone is achieved.

"(g) WAIVERS FOR CERTAIN AREAS.—The Administrator may, on a case-by-case basis, waive a requirement applicable to an area granted an extension under subsection 191(a) where he determines that nonanthropogenic sources of PM-10 are the principal cause of the violation of the PM-10 standard in the area, except that no requirement for reasonably available control measures or best available control measures applicable to anthropogenic sources which make a significant contribution to PM-10 levels and which are required pursuant to an extension granted under subsection 191(a) shall be waived. The Administrator may also waive a specific date for attainment of the standard where he determines that nonanthropogenic sources of PM-10 in combination with extraordinary meteorological conditions contribute significantly to the violation of the PM-10 standard in the area.

#### "FAILURE TO COMPLY OR ATTAIN STANDARD

"SEC. 193. (a) FAILURE TO SUBMIT AN APPROVABLE PLAN.—Whenever a State fails to make a plan submission or revision required for a nonattainment area within such State under this subpart, or the Administrator disapproves such plan in whole or significant part, the Administrator—

"(1) shall, with respect to such area, impose the prohibition of section 176(a)(1) (pertaining to new source construction);

"(2) shall notify the Secretary of Transportation who shall impose the prohibition of section 176(a)(2) (pertaining to transportation funding); and

"(3) may withhold funds as provided under section 176(a)(3) (pertaining to air pollution control program grants).

"(b) FAILURE TO IMPLEMENT A PLAN.—Whenever any requirement of an approved plan (or approved part of a plan) is not being implemented, the Administrator, with respect to the area (or areas) in which such requirement is not being implemented—

"(1) shall impose the prohibition of section 176(a)(1) (pertaining to new source construction);

"(2) shall notify the Secretary of Transportation who shall impose the prohibition of section 176(a)(2) (pertaining to transportation funding); and

"(3) may withhold funds as provided under section 176(a)(3) (pertaining to air pollution control program grants).

"(c) FAILURE TO ACHIEVE REQUIRED EMISSIONS REDUCTIONS.—Whenever a PM-10 nonattainment area fails to achieve emissions reductions of a milestone required under section 192(e), the Administrator shall impose the prohibition of section 176(a)(1) (pertaining to new source construction) and shall notify the Secretary of Transportation who shall impose the prohibition of section 176(a)(2) (pertaining to transportation funding).

#### "(d) FAILURE TO ATTAIN.—

"(1) The Administrator may, for any area, grant a one-year extension of the attainment date established pursuant to section 191(a) provided that—

"(A) the State has fully implemented all provisions in the implementation plan for the area;

"(B) the area does not exceed the PM-10 standard averaged annually; and

"(C) the area has not exceeded the PM-10 air quality standard averaged over twenty-four hours by more than 10 per centum in the two years prior to such date.

Not more than two one-year extensions may be granted pursuant to the authority of this subsection.

"(2) In the case of an area designated nonattainment pursuant to section 107(f)(4) in which the PM-10 standard is not attained by the date provided in section 191(a) (and considering any extension provided in paragraph (1)), the State in which such area is located shall, after notice and opportunity for public comment, submit within twelve months after the applicable attainment date, plan revisions which provide for attainment of the PM-10 air quality standard as provided in section 172(a), and, from the date of such submission until attainment, for an annual reduction in PM-10 or PM-10 precursor emissions within the area of not less than 5 per centum of the amount of such emissions as reported in the most recent inventory prepared for such area.

#### "GUIDELINES FOR PM-10 SOURCES

"SEC. 194. (a) INITIAL GUIDELINES.—Not later than eighteen months after the date of enactment of this section, the Administrator shall promulgate control technique guidelines with respect to reasonably available control technology and best available control technology for PM-10 (and PM-10 precursor) emissions from major stationary sources. At the same time, the Administrator shall publish guidelines with respect to reasonably available control measures and best available control measures for controlling

PM-10 (and PM-10 precursor) emissions from area sources which cause or contribute to PM-10 nonattainment. At a minimum, guidelines published under this subsection shall include identification of technology and measures for combustion sources including wood smoke, prescribed burning for silviculture and agriculture, and urban fugitive dust.

"(b) WOODSTOVE CURTAILMENT.—In addition to the guidelines required by subsection (a), the Administrator shall, not later than twelve months after the date of enactment of this subpart, publish guidelines for the curtailment of residential wood burning as a reasonably available control measure under this subpart. Each State containing an area or areas which are designated nonattainment for PM-10 and for which residential wood burning contributes 20 per centum or more of PM-10 levels shall, not later than twenty-four months after the date of enactment of this subpart, submit a plan revision for each such area providing for the implementation of guidelines issued under this subsection. A State may elect to exempt wood heaters that have certified under the Environmental Protection Agency's Wood Heater Certification Program from any such curtailment.

"(c) ADDITIONAL GUIDELINES.—Not later than six months after the date for submission of plans and plan revisions pursuant to section 192(e)(1), the Administrator shall publish a list of all other classes and categories of sources of PM-10 emissions which States have indicated will prevent attain-

ment of the PM-10 air quality standard within five years after the date of enactment of this subpart because control technology is not available. Not later than forty-eight months after the date of enactment of this subpart, the Administrator shall publish control technique guidelines and guidelines for area sources (as provided in subsection (a)) for each such class or category."

"(d) PM-10 INCREMENTS IN PSD AREAS.—Section 166 of the Clean Air Act is amended by adding the following new subsection:

"(f) PM-10 INCREMENTS.—The Administrator is authorized to substitute, for the maximum allowable increases in particulate matter specified in section 163(b) and section 165(d)(2)(C)(iv), maximum allowable increases in particulate matter with an aerodynamic diameter smaller than or equal to ten micrometers. Such substituted maximum allowable increases shall be at least as stringent in effect as those specified in the provisions for which they are substituted. Until the Administrator promulgates regulations under the authority of this section, the current maximum allowable increases in concentrations of particulate matter shall remain in effect."

#### INTERSTATE POLLUTION

"SEC. 110. (a) Section 126 of the Clean Air Act is amended as follows:

"(1) by adding a new subsection as follows:

"(d) Emissions of air pollutant which, by itself or in combination, reaction, or transformation, adversely affects the public health or welfare of another State, is a violation of this section."

"(2) in subparagraph (B) of subsection (a)(1), by striking "in excess of the national ambient air quality standards";

"(3) in subsection (b)—

"(A) in the first sentence, following "major source", by inserting "or group of sources"; and

"(B) by striking "110(a)(2)(E)(i)" and inserting in lieu thereof "110(c)(4) or this section"; and

"(4) in subsection (c)—

"(A) in the first sentence, following the words "violation of", inserting "this section and"; and

"(B) striking "110(a)(2)(E)(i)" wherever it appears and inserting in lieu thereof "110(c)(4) or this section".

"(b) Section 302(h) of the Clean Air Act is amended by inserting before the period ", whether caused by transformation, conversion, or combination with other air pollutants".

"(c) Section 304(a)(1) of the Clean Air Act is amended by—

"(1) striking "or" after "Act" and inserting a comma in lieu thereof; and

"(2) inserting at the end thereof the following: "or (C) section 126".

#### OUTER CONTINENTAL SHELF ACTIVITIES

"SEC. 111. Title III of the Clean Air Act is amended by adding the following new section after section 326:

#### "AIR POLLUTION FROM OUTER CONTINENTAL SHELF ACTIVITIES

"SEC. 327. (a) APPLICABLE REQUIREMENTS.—Not later than twelve months after the enactment of this section, the Administrator, by rule, shall establish requirements to control air pollution from Outer Continental Shelf sources ("OCS sources"). Such requirements shall be the same as would be applicable if the source were located in the corresponding onshore area. Such requirements shall take effect with respect to new or modified sources on the date of promulgation and with respect to existing sources on the

date twelve months thereafter. The authority of this section shall supersede any inconsistent authorities established under other law. Each requirement established under this section shall be treated, for purposes of sections 113, 114, 116, 120, and 304, as a standard under section 111.

**(b) STATE PROCEDURES.**—Each State adjacent to an OCS source may develop and submit to the Administrator a procedure for implementing and enforcing the requirements promulgated by the Administrator under subsection (a) for OCS sources. If the Administrator finds that the State procedure is adequate he shall delegate to that State any authority he has under this Act to implement and enforce such requirements.

**(c) DEFINITIONS.**—For purposes of this section—

**"(1) The term 'Outer Continental Shelf' has the meaning provided by section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).**

**"(2) The term 'corresponding onshore area' means, with respect to any OCS source, the onshore attainment or nonattainment area that is closest to the source, unless the Administrator determines that another area with more stringent requirements may reasonably be expected to be affected by such emissions. Such determination shall be based on the potential for air pollutants from the OCS source to reach the other onshore area and the potential of such air pollutants to affect the efforts of the other onshore area to attain or maintain any Federal, State, or local ambient air quality standard or to comply with the provisions of part C.**

**"(3) The terms 'Outer Continental Shelf Source' and 'OCS source' includes any equipment, activity, or facility which (A) emits or has the potential to emit any air pollutant, (B) is regulated or authorized under the Outer Continental Shelf Lands Act, and (C) is located on the Outer Continental Shelf or in or on waters above the Outer Continental Shelf. Activities include, but are not limited to, exploration, construction, development, processing, and transportation. Emissions from any vessel servicing or associated with an OCS source, including emissions while at the OCS source or en route to or from the OCS source and the corresponding onshore area, shall be considered emissions from that OCS source."**

#### INDIAN TRIBES

**SEC. 112. Title III of the Clean Air Act is amended by adding the following at the end thereof:**

#### INDIAN TRIBES

**"SEC. 328. (a) IN GENERAL.—Subject to the provisions of subsection (b), the Administrator—**

**"(1) is authorized to treat Indian tribes as States under this Act,**

**"(2) may delegate to such tribes primary responsibility for assuring air quality and enforcement of air pollution control, and**

**"(3) may provide such tribes grant and contract assistance to carry out functions provided by this title.**

#### EPA REGULATIONS.—

**"(1) The Administrator shall, within eighteen months after the enactment of this section, promulgate final regulations specifying those provisions of this Act for which it is appropriate to treat Indian tribes as States. Such treatment shall be authorized only if—**

**"(A) the Indian tribe is recognized by the Secretary of the Interior and has a governing body carrying out substantial governmental duties and powers;**

**"(B) the functions to be exercised by the Indian tribe are within the area of the tribal government's jurisdiction; and**

**"(C) the Indian tribe is reasonably expected to be capable, in the Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this title and of all applicable regulations.**

**"(2) Indian tribes shall not be treated as States for purposes of the last sentence of section 105(c). For any other provision of this Act where treatment of Indian tribes as identical to States is inappropriate, administratively infeasible or otherwise inconsistent with the purposes of this Act, the Administrator may include in the regulations promulgated under this section, other means for administering such provision in a manner that will achieve the purpose of this section and such other provision. Nothing in this section shall be construed to allow Indian tribes to assume or maintain primary responsibility for assuring air quality and enforcement of air pollution control in a manner less protective of public health or welfare than such responsibility may be assumed or maintained by a State. An Indian tribe shall not be required to exercise criminal jurisdiction for purposes of complying with the proceeding sentence."**

#### MISCELLANEOUS AND CONFORMING AMENDMENTS

**SEC. 113. (a) Section 106 of the Clean Air Act is amended by inserting—**

**"(1) after 'section 107' the following: 'or of implementing section 186 (relating to control of interstate ozone air pollution);'**

**"(2) after 'program costs of' the following: 'any commission established under section 186 (relating to control of interstate ozone air pollution) or'; and**

**"(3) in the last sentence after 'such agency' in each place it appears the following: 'or such commission'.**

**"(6)(I) SURFACE COAL MINE FUGITIVE EMISSIONS.—Prior to any use of the Industrial Source Complex (ISC) Model using AP-42 Compilation of Air Pollutant Emission Factors to determine the effect on air quality of fugitive particulate emissions from surface coal mines, for purposes of new source review or for purposes of demonstrating compliance with national ambient air quality standards for particulate matter applicable to periods of twenty-four hours or less, under section 110 or parts C or D of title I of the Clean Air Act, the Administrator shall analyze the accuracy of such model and emission factors and make revisions as may be necessary to eliminate any significant over-prediction of air quality effect of fugitive particulate emissions from such sources. Such revisions shall be completed not later than four years after the date of enactment of this subpart.**

**"(2) Until such time as the Administrator develops a revised model for surface mine fugitive emissions, the State may use alternative empirical based modeling approaches pursuant to guidelines issued by the Administrator.**

#### ROLE OF SECONDARY STANDARDS

**SEC. 114. (a) The Administrator shall request the National Academy of Sciences to prepare a report to the Congress on the role of national secondary ambient air quality standards in protecting welfare and the environment. The report shall:**

**"(1) include information on the adverse effects on welfare and the environment which are caused by ambient concentrations of pollutants listed pursuant to section 108 and other pollutants which may be listed;**

**"(2) estimate welfare and environmental costs incurred as a result of such effects;**

**"(3) examine the role of secondary standards and the state implementation planning process in preventing such effects;**

**"(4) determine ambient concentrations of each such pollutant which would be adequate to protect welfare and the environment from such effects;**

**"(5) estimate the costs of meeting secondary standards which are protective of welfare and the environment; and**

**"(6) consider other means consistent with the goals and objectives of the Clean Air Act which may be more effective than secondary standards in preventing or mitigating such effects.**

**"(b) The report shall be transmitted to the Congress not later than three years after the date of enactment of this section. There are authorized to be appropriated such sums as are necessary to carry out this section.**

#### TITLE II—MOBILE SOURCES

##### EMISSIONS STANDARDS FOR CERTAIN MOTOR VEHICLES

**SEC. 201. Section 202 of the Clean Air Act is amended by adding the following new subsection:**

**"(g) MODEL YEARS AFTER 1992.—(1) Effective with respect to the model years specified in tables 1 and 2 below, the regulations under subsection (a) applicable to emissions of nonmethane hydrocarbons (NMHC), total hydrocarbons (HC), oxides of nitrogen (NO<sub>x</sub>), carbon monoxide (CO) and particulates (PM) from motor vehicles and motor vehicle engines in the classes specified in the tables shall contain standards which provide that emissions may not exceed the levels specified in the tables.**

**"TABLE 1a.—EMISSIONS STANDARDS FOR GASOLINE-FUELED LIGHT DUTY VEHICLES**

Pollutant	Model years	Standards
NMHC	1993 through 2002.	0.25 gpm.
HC	1993 through 2002.	0.31 gpm.
HC	2003 and after.	0.125 gpm.
NO <sub>x</sub>	1993 through 2002.	0.4 gpm.
NO <sub>x</sub>	2003 and after.	0.2 gpm.
CO	2003 and after.	1.7 gpm.

**"TABLE 1b.—EMISSIONS STANDARDS FOR DIESEL-FUELED LIGHT DUTY VEHICLES**

Pollutant	Model years	Standards
NMHC	1993 through 2002.	0.25 gpm.
HC	1993 through 2002.	0.31 gpm.
HC	2003 and after.	0.125 gpm.
NO <sub>x</sub>	1991 through 2002.	1.0 gpm.
NO <sub>x</sub>	2003 and after.	0.7 gpm.
CO	2003 and after.	1.7 gpm.
PM	1993 and after.	0.08 gpm.

**TABLE 2.—EMISSION STANDARDS FOR GASOLINE AND DIESEL-FUELED TRUCKS AND BUSES**

Vehic. or engine type	Pollut- ant	Model years	Standard <sup>1</sup>
<i>Trucks (3,750 lbs or more but less than 5,750 lbs. loaded vehi- cle weight).NMHC.....</i>			
		1995 and after.	0.32 gpm.
	HC.....	1995 and after.	0.38 gpm.
	NO.....	1995 and after.	0.7 gpm.
	CO.....	1995 and after.	4.4 gpm.
<i>Trucks (5,750 lbs loaded vehi- cle weight or more but less than 8,500 lbs. GVW). NMHC.....</i>			
		1995 and after.	0.39 gpm.
	HC.....	1995 and after.	0.46 gpm.
	NO.....	1995 and after.	1.1 gpm.
	CO.....	1995 and after.	5.0 gpm.
	PM.....	1995 and after.	0.12 gpm.
<i>Heavy duty trucks. NO.....</i>			
		1996 and after.	4.0 gbh.
	PM.....	1991-93....	0.25 gbh.
	PM.....	1994 and after.	0.1 gbh.
Heavy duty buses.	PM.....	1991 and after.	0.1 gbh.

<sup>1</sup> Standards are expressed in grams per mile (gpm) or grams per brake horsepower hour (gbh).

"(2) Effective with respect to model years after 1992, any motor vehicle with a loaded vehicle weight of three thousand seven hundred and fifty pounds or less, as determined by the Administrator, shall be a light duty vehicle."

#### CARBON MONOXIDE EMISSIONS AT COLD TEMPERATURES

SEC. 202. Section 202 of the Clean Air Act is amended by adding the following new subsection:

"(h) COLD CO STANDARD.—The Administrator shall promulgate regulations under subsection (a) applicable to emissions of carbon monoxide from light duty vehicles and light duty trucks when operated at twenty degrees

Fahrenheit. Such regulations shall contain standards which provide that, with respect to model years 1993 through 1999, emissions of carbon monoxide in the case of light duty vehicles may not exceed ten grams per mile and, in the case of light duty trucks, thirteen grams per mile. Such regulation shall also contain standards that provide that with respect to model year 2000 and thereafter, emissions of carbon monoxide in the case of light duty vehicles may not exceed three and four-tenths grams per mile, and, in the case of light duty trucks, four and four-tenths grams per mile."

#### CONTROL OF VEHICLE REFUELING EMISSIONS

SEC. 203. Section 202(a)(6) of the Clean Air Act is amended to read as follows:

"(6) The Administrator shall promulgate regulations applicable to all motor vehicles requiring that such vehicles be equipped with vehicle-based ('onboard') systems for control of evaporative emissions during refueling. Such regulations shall take effect, with respect to light duty vehicles, beginning in model year 1993, and, with respect to other vehicles, at the earliest date the Administrator determines is feasible, and shall require that such systems provide a minimum evaporative emission capture efficiency of 95 per centum."

#### EVAPORATIVE EMISSIONS

SEC. 204. Section 202 of the Clean Air Act is amended by adding the following new subsection:

"(i) EVAPORATIVE EMISSIONS.—Within eighteen months after the enactment of this subsection the Administrator shall promulgate regulations under subsection (a) applicable to evaporative emissions of hydrocarbons, including emissions during vehicle operation, from all gasoline-fueled motor vehicles. Such regulations shall take effect beginning in model year 1994 and shall require the greatest degree of emission reduction achievable by means expected to be available during any model year to which such regulations apply."

#### ONBOARD EMission DIAGNOSTIC SYSTEMS

SEC. 205. Section 202 of the Clean Air Act is amended by adding the following new subsection:

"(j) ONBOARD EMISSION DIAGNOSTIC SYSTEMS.—

"(1) Within eighteen months after enactment of this subsection, the Administrator shall promulgate regulations under subsection (a) requiring manufacturers to install on all new light duty vehicles and light duty trucks diagnostic systems capable of—

"(A) accurately identifying emission-related systems deterioration or malfunction including, at a minimum, the catalytic converter and oxygen sensor, which could cause or result in failure of the vehicles to comply with emission standards established under this section,

"(B) alerting the vehicle's owner or operator to the likely need for emission-related components or systems maintenance or repair, and

"(C) providing access to stored information in a manner specified by the Administrator.

The Administrator may, in the Administrator's discretion, promulgate regulations requiring manufacturers to install such onboard diagnostic systems on heavy-duty vehicles and engines.

"(2) The regulations required under paragraph (1) with respect to light duty vehicles and light duty trucks shall take effect no later than model year 1994.

"(3) The Administrator may by regulation require States that have implementation plans containing motor vehicle inspection and maintenance programs to amend their plans within two years of promulgation of such regulations to provide for inspection of onboard diagnostic systems (as prescribed by regulations under paragraph (1) of this subsection) and the maintenance or repair of malfunctions or system deterioration identified by or affecting such diagnostic system."

#### EMISSIONS OF CARBON DIOXIDE FROM PASSENGER CARS

SEC. 206. Title II of the Clean Air Act is amended by redesignating section 216 as section 219 and inserting the following new section after section 215:

#### EMISSIONS OF CARBON DIOXIDE FROM VEHICLES

"SEC. 216. (a) PROMULGATION OF REGULATIONS.—

"(1) The Administrator shall promulgate regulations providing for standards applicable to emissions of carbon dioxide from light duty vehicles. Such standards shall require that for each model year 1990 to 1999, the production weighted fleet average of carbon dioxide emissions from light duty vehicles manufactured by any manufacturer shall not exceed two hundred and sixty-six grams per mile, and for model year 2000 and each model year thereafter, such average shall not exceed two hundred and twenty grams per mile.

"(2) Test procedures to determine emissions of carbon dioxide shall be those used to determine compliance with corporate average fuel economy requirements for model year 1988, or procedures which the Administrator determines yield comparable results.

#### "(b) CIVIL PENALTIES.—

"(1) If, based on the number of vehicles manufactured in a given model year, the average of carbon dioxide emissions required to be achieved by a manufacturer under subsection (a) is exceeded, the manufacturer shall be subject to a civil penalty equal to the amount obtained by multiplying \$6 by the number of grams per mile by which the average carbon dioxide emissions from the vehicles to which such standard applies exceeds the applicable carbon dioxide standard, multiplied by the number of vehicles to which such standard applies.

"(2) The Administrator may promulgate regulations allowing a manufacturer that reduces carbon dioxide emissions below the level required by subsection (a) in one model year to receive credits equal to the number of grams by which the applicable emission standard exceeds the average emissions of vehicles manufactured in such model year, multiplied by the number of vehicles manufactured in such model year. Such credits shall be available with respect to no more than two model years before or after the model year in which such manufacturer achieves the emission average below the applicable standard."

#### LOW-POLLUTING VEHICLES

SEC. 207. (a) DEFINITION OF LOW-POLLUTING FUEL.—Section 219 of the Clean Air Act (as redesignated by section 206) is amended by adding the following new subsection:

"(7) The term 'low polluting fuel' means methanol, ethanol, propane, or natural gas, or any comparably low-polluting fuel. In determining whether a fuel is comparably low-polluting, the Administrator shall consider both the level of emissions of air pollutants from vehicles using the fuel and the contribution of such emissions to ambient levels of air pollutants. For purposes of this sub-

section, the term 'methanol' includes any fuel which contains at least 85 per centum methanol unless the Administrator increases such percentage as he deems appropriate to protect public health and welfare."

(b) STANDARDS AND RELATED REQUIREMENTS.—Section 202 of the Clean Air Act is amended by adding the following new subsection:

**"(k) LOW-POLLUTING VEHICLES.—**

"(1) Within eighteen months after the enactment of this subsection, the Administrator shall promulgate specific standards under subsection (a) for motor vehicles which burn low-polluting fuel. Such standards shall apply to the emission of carbon monoxide, formaldehyde, hydrocarbons, oxides of nitrogen, carbon dioxide, and such other air pollutants as the Administrator may identify as a potential threat to public health or welfare. The Administrator may establish different standards for vehicles powered by each of such fuels. Such standards shall take effect in the second model year commencing after the model year in which the standards are promulgated.

"(2) Any standard referred to in paragraph (1) shall require that each vehicle which burns a low-polluting fuel use the best available technology for the control of each air pollutant referred to in paragraph (1), taking costs into account. Such standard shall not permit emissions of any such air pollutant, including evaporative emissions, to exceed the standard applicable to emissions of such air pollutant from comparable gasoline powered vehicles under subsection (a) and shall require that such emissions contribute less to ozone formation.

"(3) Nothing in this subsection shall be construed to prevent the Administrator from certifying (under section 206) any motor vehicle having a multiple fuel capability or capable of burning a mixture of fuels if the vehicle meets the standards under this subsection for each such fuel which it is capable of burning.".

**LIGHT DUTY VEHICLE USEFUL LIFE**

SEC. 208. Section 202(d)(1) of the Clean Air Act is amended to read as follows:

"(1)(A) in the case of light duty vehicles and light duty vehicle engines manufactured during or before the 1994 model year, be a period of use of five years or of fifty thousand miles (or the equivalent), whichever first occurs;

"(B) in the case of light duty vehicles and light duty engines manufactured in the model year 1995 and thereafter, be a period of use of ten years or one hundred thousand miles (or the equivalent), whichever first occurs;".

**WARRANTIES**

SEC. 209. Section 207 of the Clean Air Act is amended as follows:

(a) strike out "useful life (as determined under section 202(d))" in each place it appears in subsection (b) and insert in lieu thereof "warranty period (as determined under subsection (i))";

(b) strike so much of section 207(b) as follows the third sentence thereof;

(c) add the following new subsection at the end thereof:

**"(i) WARRANTY PERIOD.—**

"(1) For purposes of subsection (a)(1) and subsection (b), the warranty period, in the case of light duty vehicles and light duty vehicle engines manufactured during or before the 1994 model year shall be the useful life (as determined under section 202(d)). For the purposes of such subsections, the warranty period, in the case of such vehicles and engines manufactured during model

year 1995 and thereafter, shall be the first two years or twenty-four thousand miles of use (whichever first occurs), except as provided in paragraph (2).

"(2) In the case of a specified major emission control component, the warranty period for purposes of subsection (a)(1) and subsection (b) shall be eight years or eighty thousand miles of use (whichever first occurs). As used in this paragraph, the term 'specified major emission control component' means only a catalytic converter or electronic emissions control unit, except that the Administrator may designate any other pollution control device or component as a specified major emission control component if—

"(A) the device or component (except in the case of onboard emission control diagnostic equipment required by section 216) was not in general use on vehicles and engines manufactured prior to the model year 1990; and

"(B) the Administrator determines that the retail cost (exclusive of installation costs) of such device or component exceeds \$200 (in 1989 dollars, adjusted for inflation or deflation as calculated by the Administrator at the time of such determination).

Nothing in this Act shall be interpreted to mean that parts other than those specified by the Administrator as major emission control components shall be construed to be warranted under this Act for eight years or eighty thousand miles.

"(3) Subparagraph (A) of subsection (b)(2) shall apply only where the Administrator has made a determination that the instructions concerned conform to the requirements of subsection (c)(3); and

(d) amend subsection (a)(1) by adding the following at the end thereof: "In the case of vehicles and engines manufactured in the model year 1995 and thereafter such warranty shall require that the vehicle or engine is free from any such defects for the period of two years or twenty-four thousand miles of use (whichever first occurs), except that for a specified major emission control component (as defined in subsection (i)) such warranty shall require that such component is free from any such defects for the period of eight years or eighty thousand miles of use (whichever first occurs)."

**NON-ROAD ENGINES**

SEC. 210. (a) DEFINITIONS.—Section 219 of the Clean Air Act (as redesignated by section 206 of this Act) is amended by adding the following new subsections:

"(8) The term 'non-road engine' means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or in a vehicle used solely for competition in vehicle racing or which is not subject to standards promulgated under section 111 (pertaining to new stationary sources) or section 202 (pertaining to motor vehicles) or to regulation under part B of this title (pertaining to aircraft emissions).

"(9) The term 'non-road vehicle' means a vehicle that is powered by a non-road engine and that is not a motor vehicle."

(b) Subsection (1) of section 219 of the Clean Air Act (as redesignated by section 206) is amended by striking the phrase "new motor vehicles or new motor vehicle engines" every place it occurs and inserting in its place "new motor vehicles, new motor vehicle engines, new non-road vehicles or new non-road engines".

(c) The Clean Air Act is amended by adding a new section 217 as follows:

**"EMISSION STANDARDS FOR NON-ROAD ENGINES AND VEHICLES**

"SEC. 217. (a) LIST OF CATEGORIES.—Not later than twenty-four months after the date of enactment of this section and after notice and opportunity for public comment the Administrator shall publish (and from time to time revise) a list of all categories of non-road engines and non-road vehicles together with estimates of the contribution of each category to ambient ozone and carbon monoxide levels in nonattainment areas and to oxides of nitrogen and total particulate levels.

"(b) EMISSION STANDARDS.—Whenever the Administrator determines that emissions from categories of non-road engines or vehicles contribute significantly to concentrations of ozone, carbon monoxide or to oxides of nitrogen or particulate levels or otherwise contribute to air pollution that may reasonably be anticipated to endanger public health or welfare, the Administrator shall promulgate regulations applicable to emissions from new vehicles or engines in such categories. Such standards shall achieve the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the engines or vehicles to which such standards apply, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers and to noise, energy, and safety factors associated with the application of such technology. In determining what degree of reduction will be available, the Administrator shall first consider standards equivalent in stringency to standards for comparable motor vehicles or engines (if any) regulated under section 202, taking into account the technological feasibility, costs, safety, noise and energy factors associated with achieving standards of such stringency.

"(c) ENFORCEMENT.—The standards under this section shall be subject to the same provisions of title II as are applicable in the case of standards under section 202, and shall be enforced in the same manner as the standards under section 202, with such modifications as the Administrator deems appropriate."

**PROHIBITION ON PRODUCTION OF ENGINES REQUIRING LEADED GASOLINE**

SEC. 211. The Clean Air Act is amended by adding a new section 218 as follows:

**"PROHIBITION ON PRODUCTION OF ENGINES REQUIRING LEADED GASOLINE**

"SEC. 218. The Administrator shall promulgate regulations applicable to motor vehicle engines and non-road engines manufactured after model year 1992 that prohibit the manufacture, sale, or introduction into commerce of any engine that requires leaded gasoline."

**MOTOR VEHICLE TESTING AND CERTIFICATION**

SEC. 212. (a) IDLE TEST.—Section 206(a) of the Clean Air Act is amended by adding the following new paragraph at the end thereof:

"(4) Not later than one year after the enactment of this paragraph, the Administrator shall promulgate regulations adding an idle test and idle test mode to the Federal test procedure for light duty vehicles. Such modified test procedure shall be used for the certification of light duty vehicles and engines manufactured during or after model year 1992."

(b) PRODUCTION LINE TESTING.—Section 206(b) of the Clean Air Act is amended by adding the following at the end thereof:

*"(3) The Administrator shall revise the regulations under this section regarding selective enforcement auditing of new light duty vehicles (as set forth in section 86.610 of subpart G of part 86 of title 40 of the Code of Federal Regulations) such that the maximum percentage of failing vehicles that, for purposes of sampling inspection, can be considered satisfactory as a process average for purposes of such selective enforcement audits shall be 10 per centum. Such revised regulations shall apply with respect to motor vehicles manufactured after the model year 1991."*

*(c) REVISION OF CERTAIN TEST PROCEDURES.—Section 206 of the Clean Air Act is amended by adding the following new subsection:*

*"(h) Within eighteen months after the enactment of this subsection and at least every four years thereafter, the Administrator shall review and revise as necessary the regulations under subsection (a) and (b) of this section regarding the testing of motor vehicles and motor vehicle engines to insure that vehicles are tested under circumstances which reflect the actual current driving conditions under which motor vehicles are used, including conditions relating to fuel, temperature, acceleration and altitude. Such revised test procedures shall include testing of evaporative emissions (including running losses) as well as tail-pipe emissions and shall provide for the testing of trucks with a gross vehicle weight rating of six thousand pounds or more in a loaded mode approximating such rating."*

*(d) AVERAGING PROHIBITED.—Section 202 of the Clean Air Act is amended by adding the following new subsection:*

*"(l) AVERAGING PROHIBITED.—Each emission standard under this section shall apply to, and be met by, each and every vehicle or engine sold, offered for sale, introduced into commerce, or imported, and may not be met or completed with by the average of the performance of various vehicles, engines, engine families, or models manufactured by the same manufacturer."*

#### IN-USE COMPLIANCE—RECALL

*SEC. 213. (a) USE OF INFORMATION FROM STATE PROGRAMS.—Section 207(c) of the Clean Air Act is amended by adding the following new paragraph at the end thereof:*

*"(4) In making determinations of nonconformity under this subsection, the Administrator shall take into account information collected under any State vehicle emission control inspection and maintenance program. Any State in which such a program is operating may petition the Administrator to make a determination of nonconformity under paragraph (1) on the basis of information collected in such program. The Administrator shall act upon such petition within sixty days of receipt of such petition."*

*(b) RECALL TESTING AT MANUFACTURER'S EXPENSE.—Section 207(c) of the Clean Air Act is further amended by adding the following new paragraph:*

*"(5) If the Administrator has reason to believe that in-use vehicles or engines may not conform to regulations prescribed under section 202, the Administrator may require the manufacturer of such vehicles or engines to pay the costs that the Administrator incurs in procuring and testing such vehicles or engines. Such reason to believe shall be based on data or information available to the Administrator, including but not limited to, field surveys, State inspection and maintenance programs and consumer complaints."*

#### FUEL VOLATILITY

*SEC. 214. Section 211 of the Clean Air Act is amended by adding the following new subsection at the end thereof:*

*"(h) EVAPORATIVE EMISSIONS FROM MOTOR VEHICLE FUELS.—*

*"(1) The Administrator shall promulgate regulations to reduce evaporative emissions from motor vehicle fuels.*

*"(2) Regulations under this subsection shall include a standard for gasoline volatility. The standard shall apply to all gasoline sold, or offered for sale, or introduced into commerce for use in motor vehicles during the high ozone periods of each year. Effective with respect to gasoline sold in the second high ozone period which commences after the enactment of this subsection, the standard shall require that such gasoline sold, or offered for sale, or introduced into commerce for use in motor vehicles in class C areas (as defined by the American Society of Testing Materials as of the date of enactment of this subsection) shall not exceed a Reid vapor pressure of nine pounds per square inch unless the Administrator establishes a lower number which the Administrator determines to be achievable and appropriate for purposes of protecting public health and welfare. The regulations shall require a proportional reduction in areas other than such class C areas.*

*"(3) For purposes of regulations referred to in paragraph (2), the high ozone period shall be the period between May 16 and September 15 each year or such longer period as the Administrator establishes for any region to cover periods of potential ozone air pollution in excess of the standard for ozone for the region.*

*"(4) For fuel blends containing gasoline and 10 per centum denatured anhydrous ethanol, the Reid vapor pressure limitation pursuant to this subsection shall be one pound per square inch greater than the applicable Reid vapor pressure limitations established under paragraph (2). Provided, however, That a refiner, distributor, blender, marketer, reseller, carrier, retailer, or wholesale purchaser shall be deemed to be in full compliance with the provisions of this subsection and the regulations promulgated thereunder, if it can demonstrate (by showing receipt of a certification or other evidence acceptable to the Administrator) that (A) the gasoline portion of the blend complies with the Reid vapor pressure limitations promulgated pursuant to this subsection, and (B) the ethanol portion of the blend does not exceed its waiver condition under subsection (j)(4)."*

#### DESULFURIZATION

*SEC. 215. Section 211 of the Clean Air Act is amended by adding the following new subsection to the end thereof:*

*"(i) DESULFURIZATION OF DIESEL FUEL.—*

*"(1) Effective October 1, 1993, no person shall manufacture, sell, offer for sale, dispense, transport or introduce into commerce motor vehicle diesel fuel which contains a concentration of sulfur in excess of 0.05 per centum (by weight) or which fails to meet a cetane index minimum of 40.*

*"(2) No later than twelve months after the enactment of this subsection, the Administrator shall promulgate regulations to implement and enforce the requirements of paragraph (1). The Administrator shall require manufacturers and importers of diesel fuel not intended for use in motor vehicles to dye such fuel in order to segregate it from motor vehicle diesel fuel.*

*"(3) The sulfur content of fuel required to be used in the certification of 1991 through*

*1993 model year heavy-duty diesel vehicles and engines shall not exceed 0.05 per centum (by weight). The sulfur content and cetane index minimum of fuel required to be used in certification of 1994 and later model year heavy-duty diesel vehicles and engines shall comply with the regulations promulgated under paragraph (2)."*

#### LEAD PHASEDOWN

*SEC. 216. Section 211 of the Clean Air Act is amended by adding the following new subsection at the end thereof:*

*"(j) PROHIBITION ON LEADED GASOLINE FOR HIGHWAY USE.—Effective January 1, 1991, it shall be unlawful for any person to sell, offer for sale, or introduce into commerce, for use as fuel in any motor vehicle (as defined in section 219(2)) any gasoline which contains lead or lead additives. The Administrator may extend the January 1, 1991, deadline for up to two years, if the Administrator determines that unavailability of gasoline containing lead or lead additives for such vehicles will reduce the availability of such gasoline for farm vehicles and that alternatives to gasoline containing lead or lead additives are unavailable for use in gasoline powered farm vehicles."*

#### FUEL QUALITY

*SEC. 217. Section 211 of the Clean Air Act is amended by adding the following new subsection to the end thereof:*

*"(k) FUEL QUALITY.—*

*"(1) Not later than thirty-six months after the date of enactment of this subsection the Administrator shall, after notice and opportunity for public comment, promulgate regulations establishing specifications for fuel quality which will minimize, to the extent economically and technically achievable, emissions (including evaporative emissions) of hydrocarbons, carbon monoxide, oxides of nitrogen, particulate matter and hazardous air pollutants over the useful life of vehicles and engines certified for manufacture under this title. Such regulations may prohibit the presence of fuel impurities and other substances or mandate the use of specific additives to achieve the purposes of this subsection. The regulations shall be effective for fuels sold on and after January 1, 1994. In the event that the Administrator does not promulgate the regulations required by this paragraph, effective January 1, 1994, it shall be unlawful to sell, offer for sale or introduce into commerce any fuel for use in a gasoline-powered vehicle unless such fuel contains additives effective in preventing the accumulation of deposits in fuel-injected engines.*

*"(2) In order to achieve and maintain attainment of ambient air quality standards, the Administrator may promulgate regulations applicable to fuel refiners, distributors, marketers, or consumers establishing specifications for fuels (including regulations requiring the availability or sale of fuels meeting the specifications in a nonattainment area or areas) to reduce emissions of pollutants subject to a standard under this title or hazardous air pollutants from motor vehicles. In establishing such specifications and availability requirements the Administrator shall consider other environmental effects which would result from production and use of fuels meeting the specifications. The Administrator shall require as part of any specification under this paragraph that there be no increase in emissions of any other pollutant subject to a standard under this title or any hazardous air pollutant by vehicles using the specified fuel. Regulations under this paragraph shall be*

stated as performance standards and may be satisfied by any fuel which, as certified to the Administrator by the refiner or distributor, achieves comparable emissions reductions and otherwise satisfies the specification.”

#### OXYGENATED FUELS

**SEC. 218.** Section 211 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

“(U)(1) Except as provided in paragraph (2) and effective October 1, 1991, no person shall, during the period from October 1 to March 31 each year, sell, offer for sale, or introduce into commerce in any area classified as nonattainment for carbon monoxide any gasoline fuel for use in a motor vehicle unless the oxygen content of such fuel shall be 3.1 per centum or greater.

“(2) The Administrator shall, not later than nine months after the date of enactment of this subsection, promulgate guidelines allowing the exchange of marketable oxygen credits between sellers of fuels with an oxygen content higher than that required by paragraph (1) and other sellers of fuels to offset the sale or use of fuels with a lower content than required: Provided, That such exchanges shall not be permitted between sellers located in different nonattainment areas and that the average oxygen content of fuels sold in any area that is nonattainment for carbon monoxide be 3.1 per centum or greater.

“(3) The Administrator may waive, in whole or in part, the requirements of this subsection in any area upon a demonstration by the State to the satisfaction of the Administrator that the use of oxygenated fuels would prevent or interfere with the attainment by such area of a national primary ambient air quality standard for a State or local ambient air quality standard for any air pollutant other than carbon monoxide.

“(4) Any person selling oxygenated fuel at retail pursuant to this subsection shall be required under regulations promulgated by the Administrator to label the fuel dispensing system with a notice that the fuel is oxygenated and will reduce carbon monoxide emissions from motor vehicles.”

#### MISFUELING

**SEC. 219.** Section 211 of the Clean Air Act is amended by deleting subsection (g) and inserting the following new subsection:

“(g)(1) No person shall introduce, or cause or allow the introduction of, leaded gasoline into any motor vehicle which is labeled ‘unleaded gasoline only,’ which is equipped with a gasoline tank filler inlet designed for the introduction of unleaded gasoline, which is a 1990 or later model year motor vehicle, or which such person knows or should know is a vehicle designed solely for the use of unleaded gasoline.

“(2) Beginning October 1, 1993, no person shall introduce or cause or allow the introduction into any motor vehicle of diesel fuel which such person knows or should know contains a concentration of sulfur in excess of 0.05 per centum (by weight) or which fails to meet a cetane index minimum of 40.”

#### URBAN BUSES

**SEC. 220.** (a) Section 219 (as redesignated by section 206) of the Clean Air Act is amended by adding the following new paragraph at the end thereof:

“(10) the term ‘urban bus’ has the meaning provided under regulations of the Administrator promulgated under section 202(a).”

(b) Section 212 of the Clean Air Act is amended to read as follows:

#### “URBAN BUSES

“Sec. 212. Not later than twelve months after the enactment of the Clean Air Act Amendments of 1989, the Administrator shall promulgate regulations requiring the use of low polluting fuels in new urban buses operated primarily in a metropolitan statistical area or consolidated metropolitan statistical area (as defined by the United States Office of Management and Budget) with a 1980 population of one million persons or more. The regulations shall provide that all new urban buses beginning with the model year 1994 purchased or placed into service by owners or operators of urban buses in such areas must be capable of operating, and must be exclusively operated, on low polluting fuels. The Administrator shall prescribe a schedule phasing in the applicability of the requirements established by this paragraph over the 1991 through 1994 model years as follows: 10 per centum of new urban buses purchased or placed into service in model year 1991; 25 per centum of new urban buses purchased or placed into service in model year 1992; 60 per centum of new urban buses purchased or placed into service in model year 1993; and 100 per centum of new urban buses purchased or placed into service in 1994 and later model years. Emissions of particulate matter from buses purchased or placed into service as required by this paragraph shall not exceed 0.10 grams per brake horsepower-hour.”

#### ENFORCEMENT

**SEC. 221.** (a) **TESTING.**—Section 203(a)(2) of the Clean Air Act is amended by inserting before the semicolon at the end thereof the following: “; or to refuse to pay for procurement or testing under section 207(c)”.

(b) **TAMPERING WITH VEHICLE EMISSION CONTROLS.**—(1) Section 203(a)(3) of the Clean Air Act is amended to read as follows:

“(3)(A) for any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser; or

“(B) for any person to manufacture or sell, or offer to sell, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of such part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title, and where such person knows or should know that such part or component is being offered for sale for such use or put to such use; or”

(2) At the end of section 203(a) of the Clean Air Act insert the following: “No action with respect to any device or element of design referred to in paragraph (3)(A) shall be treated as a prohibited act under that paragraph until the vehicle or engine on which such device or element of design had been installed (i) has been subsequently released from the custody and control of the person performing such action, if such person is a manufacturer, dealer, or person engaged in the business of repairing, servicing, selling, leasing or trading motor vehicles or motor vehicle engines (or an employee or agent of such a person), or (ii) has been subsequently operated on a street or highway, if the person performing such action is

a person who operates a fleet of motor vehicles or any person other than a person listed in (i).”

(c) **CIVIL AND ADMINISTRATIVE PENALTIES.**—Section 205 of the Clean Air Act is amended to read as follows:

“**SEC. 205.** (a) **CIVIL PENALTIES.**—Any person who violates paragraph (1), (2), or (4) of section 203(a) or any manufacturer or dealer who violates paragraph (3)(A) of section 203(a) of this title shall be subject to a civil penalty of not more than \$25,000. Any other person who violates paragraph (3)(A) or any person who violates paragraph (3)(B) of such section 203(a) shall be subject to a civil penalty of not more than \$2,500. Any such violation with respect to paragraph (1), (3)(A), or (4) of section 203(a) of this title shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine. Any such violation with respect to paragraph (3)(B) of such section shall constitute a separate offense with respect to each part or component. Any such violation with respect to paragraph (2) of such section shall constitute a separate offense with respect to each day of violation.

“(b) **CIVIL ACTIONS.**—The Administrator may commence a civil action to assess and recover any civil penalty prescribed in subsection (a) of this section, subsection (d) of section 211 (pertaining to fuels and fuel additives), subsection (b) of section 216 (pertaining to emissions of carbon dioxide), or subsection (c) of section 217 (pertaining to nonroad engines and vehicles). Any action under this subsection may be brought in the district court of the United States for the district in which the violation is alleged to have occurred or in which the defendant resides or has his principal place of business, and such court shall have jurisdiction to assess such civil penalty. In determining the amount of any civil penalty to be assessed under this subsection, the court shall consider the seriousness of the violation, the economic benefit or savings (if any) resulting from the violation, the size of the violator's business, the violator's history of compliance with this title, any good faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require. In any such action, subpoenas for witnesses who are required to attend a district court in any district may run into any other district.

“(c)(1) The Administrator may assess a civil penalty prescribed in subsection (a) of this section, subsection (d) of section 211 (pertaining to fuels or fuel additives), subsection (b) of section 216 (pertaining to emissions of carbon dioxide) or subsection (c) of section 217 (pertaining to nonroad engines and vehicles), except that the maximum amount of any civil penalty assessed under this paragraph shall not exceed \$200,000. Assessment of a civil penalty under this subsection shall be by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. The Administrator may issue rules for discovery procedures for hearings under this paragraph.

“(2) In determining the amount of any civil penalty assessed under this subsection, the Administrator shall consider the seriousness of the violation, the economic benefit (if any) resulting from the violation, the size of the violator's business, the violator's history of compliance with this title, any good-faith efforts to comply with the applicable requirements, the economic impact on the

violator, and such other matters as justice may require.

"(3)(A) Action by the Administrator under this subsection shall not affect or limit the Administrator's authority to enforce any provision of this Act, except that any violation—(i) with respect to which the Administrator has commenced and is diligently prosecuting an action under this subsection, or (ii) for which the Administrator has issued a final order not subject to further judicial review and the violator has paid a penalty assessment under this subsection, shall not be the subject of civil penalty action under subsection (b).

"(B) No action by the Administrator under this subsection shall affect any person's obligation to comply with any section of this Act.

"(4) An order issued under this subsection shall become final thirty days after its issuance unless a petition for judicial review is filed under paragraph (5).

"(5) Any person against whom a civil penalty is assessed in accordance with this subsection may obtain review of such assessment in the United States Court of Appeals for the District of Columbia Circuit, or for any other circuit in which such person resides or transacts business, by filing a notice of appeal in such court within the thirty-day period beginning on the date the civil penalty order is issued and by simultaneously sending a copy of such notice to the Administrator and the Attorney General. The Administrator shall promptly file in such court a certified copy of the record on which the order was issued. Such court shall not set aside or remand such order unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's assessment of the penalty constitutes an abuse of discretion, and such court shall not impose additional civil penalties for the same violation unless the Administrator's assessment of the penalty constitutes an abuse of discretion.

"(6) If any person fails to pay an assessment of a civil penalty imposed by the Administrator as provided in this subsection—

"(A) after the order making the assessment has become final, or

"(B) after a court in an action brought under paragraph (5) has entered a final judgment in favor of the Administrator, the Administrator shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at rates established pursuant to 26 U.S.C. 6621(a)(2) from the date of the final order or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings, and a quarterly non-payment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 per centum of the aggregate amount of such person's penalties and non-payment penalties which are unpaid as of the beginning of such quarter.

"(7) The Administrator may issue subpoenas for the attendance and testimony of witnesses and for the production of relevant papers, books, or documents in connection with hearings under this subsection. In case

of contumacy or refusal to obey a subpoena issued under this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, or to appear and produce documents before the Administrator, or both. Any failure to obey such order of the court may be punished by such court as a contempt thereof."

(c) ENFORCEMENT OF SECTION 211.—Section 211(d) of the Clean Air Act is amended to read as follows:

"(d)(1) Any person who violates subsection (a), (f), (g), (j), or (l) or the regulations prescribed under subsection (c), (h), (i), or (k) or who fails to furnish any information or conduct any tests required by the Administrator under subsection (b) shall be liable to the United States for a civil penalty of not more than \$25,000 per day of violation. Any violation with respect to a regulation prescribed under subsection (c) of this section which establishes a regulatory standard based upon a multiday averaging period shall constitute a separate day of violation for each and every day in the averaging period. Such civil penalties shall be assessed in accordance with the provisions of subsections (b) and (c) of section 205.

"(2) INJUNCTIVE AUTHORITY.—The district courts of the United States shall have jurisdiction to restrain violations of subsections (a), (f), (g), or (j) and of the regulations prescribed under subsection (c), (h), (i), or (k), to award other appropriate relief, and to compel the furnishing of information and the conduct of tests required by the Administrator under subsection (b). Actions to restrain such violations and compel such actions shall be brought by and in the name of the United States."

#### COORDINATION OF FEDERAL TRANSPORTATION AND ENVIRONMENTAL POLICIES

SEC. 222. (a) FINDINGS.—The Congress finds that—

"(1) It is Federal policy, as reflected in the Clean Air Act, to require the use of new technologies and alternative fuels by public transportation vehicles to further improve air quality;

"(2) the installation and use of new technologies and alternative fuels by public transportation vehicles will require substantial capital investment, and could significantly increase the costs of operating such vehicles;

"(3) under existing Federal transportation policy, Federal funding for maintenance, improvement, and expansion of public transportation systems is very limited;

"(4) it is in the public interest that such new technologies and alternative fuels be brought into use in the appropriate time-frame, and that public transportation systems become more available and efficient; and

"(5) Federal surface transportation programs must be reauthorized by September 30, 1991.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

"(1) increased use of multipassenger and public transportation vehicles should be strongly encouraged by Federal, State, and local governments;

"(2) Federal transportation policy should reflect environmental policy and concerns; and

"(3) the upcoming reauthorization of Federal surface transportation programs should—

(A) take into account and authorize appropriate Federal funding of additional costs imposed on State and local entities relating to environmental requirements contained in this Act;

(B) encourage increased State and local funding for public transportation systems; and

(C) provide various regions, States, and localities with the flexibility to best meet their transportation and environmental needs.

#### TITLE III—AIR TOXICS

##### HAZARDOUS AIR POLLUTANTS

SEC. 301. Section 112 of the Clean Air Act is amended to read as follows:

##### "SEC. 112. (a) DEFINITIONS.—

"(1) The term 'major source' means any stationary source (including all emission points and units of such source located within a contiguous area and under common control) of air pollutants that emits, considering installed and operating controls, in the aggregate, ten tons per year or more of any hazardous air pollutant or twenty-five tons per year or more of any combination of hazardous air pollutants. The Administrator may establish a lesser quantity, or in the case of radionuclides different criteria, for a major source than that specified in the previous sentence, on the basis of the potency of the air pollutant, persistence, potential for bioaccumulation, other characteristics of the air pollutant, or other relevant factors.

"(2) The term 'area source' means any stationary or mobile source of hazardous air pollutants that is not a major source.

"(3) The term 'stationary source' means any facility or installation or unit of such facility or installation which emits or may emit any hazardous air pollutant.

"(4) The term 'new source' means a source the construction or reconstruction of which is commenced after the Administrator first proposes regulations under this section establishing emissions standards applicable to such source.

"(5) The term 'hazardous air pollutant' means any air pollutant listed pursuant to subsection (b).

"(6) For purposes of this section, the term 'adverse environmental effects' means any threat of significant adverse effects, which may reasonably be anticipated, to wildlife, aquatic life, or other natural resources including disruption of local ecosystems, impacts on populations of endangered or threatened species, significant degradation of environmental quality over broad areas, or other comparable effects.

"(7) The term 'electric utility steam generating unit' means any fossil fuel fired steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than twenty-five megawatts electrical output to any utility power distribution system.

"(8) The terms 'owner or operator' and 'existing source' shall have the same meaning as such terms have under section 111(a).

##### "(b) LIST OF POLLUTANTS.—

"(1) The Congress establishes for purposes of this section a list of hazardous air pollutants as follows:

CAS number	Chemical name
75070	Acetaldehyde
60355	Acetamide
75058	Acetonitrile
98862	Acetophenone
53963	2-Acetylaminofluorine

CAS number	Chemical name	CAS number	Chemical name	CAS number	Chemical name
107028	Acrolein	50000	Formaldehyde	95476	Xylenes (isomers and mixture)
79061	Acrylamide	76448	Heptachlor	108333	Xylenes (isomers and mixture)
79107	Acrylic acid	118741	Hexachlorobenzene	106423	Xylenes (isomers and mixture)
107131	Acrylonitrile	87683	Hexachlorobutadiene	0	Antimony Compounds
107051	Allyl chloride	77474	Hexachlorocyclopentadiene	0	Arsenic Compounds (inorganic including arsine)
92671	4-Aminobiphenyl	67721	Hexachloroethane	0	Beryllium Compounds
7664417	Ammonia	822060	Hexamethylene-1,6-diisocyanate	0	Cadmium Compounds
62533	Aniline	680319	Hexamethylphosphoramide	0	Chromium Compounds
90040	o-Anisidine	110543	Hexane	0	Cobalt Compounds
1532214	Asbestos	302012	Hydrazine	0	Coke Oven Emissions
71432	Benzene (including benzene from gasoline)	7647010	Hydrochloric acid	0	Cyanide Compounds
92875	Benzidine	7664393	Hydrogen fluoride (Hydrofluoric acid)	0	Glycol ethers <sup>2</sup>
98077	Benzotrichloride	7783064	Hydrogen sulfide	0	Lead Compounds
100447	Benzyl chloride	123319	Hydroquinone	0	Manganese Compounds
92524	Biphenyl	78591	Iso-phorone	0	Mercury Compounds
117817	Bis(2-ethylhexyl)phthalate (DEHP)	58899	Linane (all isomers)	0	Mineral fibers <sup>3</sup>
542881	Bis(chloromethyl)ether	108316	Maleic anhydride	0	Nickel Compounds
75252	Bromoform	67561	Methanol	0	Polyvinyl Organic Matter <sup>4</sup>
106990	1,3-Butadiene	72435	Methoxychlor	0	Radionuclides (including radon) <sup>5</sup>
156627	Catechol	74839	Methyl bromide (Bromomethane)	0	Selenium Compounds
105662	Caprolactam	74873	Methyl chloride (Chloromethane)		
133062	Capstan	71556	Methyl chloroform (1,1,1-Trichloroethane)		
63252	Carbynyl	78933	Methyl ethyl ketone (2-Butanone)		
75150	Carbon disulfide	60344	Methyl hydrazine		
56235	Carbon tetrachloride	74884	Methyl iodide (Iodomethane)		
463581	Carbonyl sulfide	108101	Methyl isobutyl ketone (Hexone)		
120809	Catechol	624839	Methyl isocyanate		
133904	Chlorobenzenes	80626	Methyl methacrylate		
57749	Chlordane	1634041	Methyl tert-butyl ether		
7782505	Chlorine	101144	4,4'-Iethylene bis(2-chloroaniline)		
79118	Chloroacetic acid	75092	Methylene chloride (Dichloromethane)		
532274	2-Chloroacetophenone	101688	Methylene diphenyl diisocyanate (hDI)		
108907	Chlorobenzene	101779	4,4'-Methyleneaniline		
510156	Chlorobenzilate	91203	Naphthalene		
67663	Chloroform	98953	Nitrobenzene		
107302	Chloromethyl methyl ether	92933	4-Nitrophenyl		
126998	Chloroprene	100027	4-Nitrophenol		
1319773	Cresols/Cresylic acid (isomers and mixture)	79469	2-Nitropropane		
95487	Cresols/Cresylic acid (isomers and mixture)	684935	N-Nitroso-N-methylurea		
108394	Cresols/Cresylic acid (isomers and mixture)	62759	N-Nitrosodimethylamine		
109445	Cresols/Cresylic acid (isomers and mixture)	59892	N-Nitrosomorpholine		
*		56382	Parathion		
38528	Cumene	82688	Penachloronitrobenzene (Quintol-bezene)		
94757	2,4-D, salts and esters	87865	Penachlorophenol		
3547044	DDE	108952	Phenol		
334883	Diaczomethane	106503	p-Phenylenediamine		
132649	Dibenzofurans	75445	Phogene		
96128	1,2-Dibromo-3-chloropropane	7803512	Phosphine		
84742	Dibutylphthalate	7723140	Phosphorus		
106467	1,4-Dichlorobenzene(p)	85449	Phthalic anhydride		
91941	3,3-Dichlorobenzidene	1336363	Polychlorinated biphenyls (Aroclors)		
111444	Dichloroethyl ether (Bis(2-chloroethyl)ether)	1120714	1,3-Propane sultone		
542756	1,3-Dichloropropene	57578	beta Propiolactone		
62737	Diechloro	123386	Propionaldehyde		
111422	Diethanolamine	114261	Proparax (Baygon)		
121697	N,N-Dieethyl aniline (N,N-Dimethyl-aniline)	78875	Propylene dichloride (1,2-Dichloropropane)		
64675	Diethyl sulfate	75569	Propylene oxide		
119904	3,3-Dimethoxybenzidine	75558	1,2-Propylenimine (2-Methyl aziridine)		
60117	Dimethyl aminoazobenzene	91255	Quinoline		
119937	3,3-Dimethyl benzidine	106514	Quinucone		
79447	Dimethyl carbamoyl chloride	100425	Stryne		
68122	Dimethyl formamide	96093	Stryne oxide		
57147	1,1-Dimethyl hydrazine	1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin		
131113	Dimethyl phthalate	77781	1,1,2,2-Tetrachloroethane		
534521	Dimethyl sulfate	127184	Tetrachloroethylene (Perechloroethylene)		
51285	4,6-Dinitro-o-oresol, and salts	7550450	Titanium tetrachloride		
121112	2,4-Dinitrotoluene	108883	Toluene		
123911	1,4-Dioxane (1,4-Diethylenoxide)	95807	2,4-Toluene diamine		
122667	1,2-Diphenylhydrazine	584849	2,4-Toluene diisocyanate		
106898	Epichlorohydrin (1-Chloro-2,3-epoxypropane)	95534	o-Tolidine		
106887	1,2-Epoxybutane	8001352	Toxaphene (chlorinated camphene)		
140885	Ethyl acrylate	120821	1,2,4-Trichlorobenzene		
100414	Ethyl benzene	79005	1,1,2 Trichloroethane		
51796	Ethyl carbamate (Urethane)	79016	Trichloroethylene		
75003	Ethyl chloride (Chloroethane)	95954	2,4,5 Trichlorophenol		
106934	Ethylene dibromide (Dibromoethane)	88062	2,4,6 Trichlorophenol		
107062	Ethylene dichloride (1,2-Dichloroethane)	121448	Triethylamine		
107211	Ethylene glycol	1582098	Trifluoratin		
151564	Ethylene imine (Aziridine)	540841	2,2,4 Trimethylpentane		
75218	Ethylene oxide	108054	Viny acelate		
96457	Ethylene thiourea	593502	Viny bromide		
75343	Ethyldiene diehloride (1,1-Dichloroethane)	75014	Viny chloride		
		75354	Vinyldenc chloride (1,1-Dienol-o-ethylene)		
		1330207	Xylenes (isomers and mixture)		

NOTE: For all listings above which contain the word "compounds" and for glycol ethers, the following applies: Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of that chemical's infrastructure.

<sup>1</sup>XCN where X = H or any other group where a formal dissociation may occur. For example KCN or Cu(CN).

<sup>2</sup> includes mono- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol R-OCH<sub>2</sub>CH<sub>2</sub>OR' where n = 1, 2, or 3  
R = alkyl or aryl groups  
R' = R, H, or groups which, when removed, yield glycol ethers with the structure: R-(OCH<sub>2</sub>CH<sub>2</sub>)<sub>n</sub>-OH

Polymer are excluded from the glycol category  
includes glass microfibers, glass wool fibers, rock wool fibers, and slag wool fibers, each characterized as "respirable" (fiber diameter less than 3.5 micrometers) and possessing an aspect ratio (fiber length divided by fiber diameter) greater than 3.

<sup>4</sup> includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100°C

<sup>5</sup> a type of atom which spontaneously undergoes radioactive decay.

"(2) The Administrator shall, from time to time, but not less often than every five years, review and revise the list established by paragraph (1) adding pollutants which present, or may present, through inhalation or other routes of exposure, a threat of adverse human health effects (including, but not limited to, substances which are known to be, or may reasonably be anticipated to be, carcinogenic, mutagenic, teratogenic, neurotoxic, which cause reproductive dysfunction, or which are acutely or chronically toxic but not including effects for which a pollutant has been listed pursuant to section 108 of this Act) or adverse environmental effects whether through ambient concentrations, bioaccumulation, deposition, or otherwise, but not including releases subject to regulation under section 129 as a result of emissions to the air. No substance, practice, process, or activity regulated under title V of this Act shall be subject to regulation under this section solely due to its adverse effects on the environment.

"(3)(A) Any person may petition the Administrator to modify the list established by paragraph (1) by adding or deleting a substance. Any such petition shall include a showing by the petitioner that there is adequate data on the health effects of the pollutant or other evidence adequate to support the petition. Within twelve months after receipt of a petition the Administrator shall either grant the petition or publish a statement of the reasons for not granting the petition. The Administrator may not deny a

*petition on the basis of inadequate resources or time for review.*

"(B) The Administrator shall add a substance to the list upon a showing by the petitioner or on the Administrator's own determination that the substance is an air pollutant and that emissions, ambient concentrations, bioaccumulation or deposition of the substance are known to cause or may reasonably be anticipated to cause adverse effects to human health or adverse environmental effects, or that the substance is an air pollutant that qualifies for addition to the list established under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986.

"(C) The Administrator shall remove a substance from the list upon a showing by the petitioner or on the Administrator's own determination that there is adequate data on the health and environmental effects of the substance to determine that emissions, ambient concentrations, bioaccumulation or deposition of the substance may not reasonably be anticipated to cause any adverse effects to the human health or adverse environmental effects, or that the substance qualifies for deletion from the list established under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986. Action by the Administrator pursuant to section 313(d)(3) of such Act prior to the date of enactment of this paragraph shall constitute a deletion for the purposes of this section.

"(4) If the Administrator determines that information on the health or environmental effects of a substance is not sufficient to make a determination required by this subsection, the Administrator may use the authorities of section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act and other information-gathering authorities under such Act and other laws administered by the Agency to acquire such information.

"(5) The Administrator may establish test measures and other analytic procedures for monitoring and measuring emissions, ambient concentrations, deposition, and bioaccumulation of hazardous air pollutants.

*(c) LIST OF SOURCE CATEGORIES.—*

"(1) Not later than twelve months after the date of enactment of this paragraph and after notice and opportunity for public comment, the Administrator shall publish (and from time to time revise) a list including all categories and subcategories of major sources of hazardous air pollutants which shall, to the extent practicable, be consistent with the list of source categories established pursuant to section 111 and part C of this Act.

"(2) The Administrator shall list under this subsection and designate for regulation under subsection (d) each category or subcategory of area sources which the Administrator finds presents a threat of adverse effects to human health or the environment (by such sources individually or in the aggregate) warranting regulation under this section.

"(3) In addition to those categories and subcategories of sources designated for regulation pursuant to paragraphs (1) and (2), the Administrator may at any time designate additional categories and subcategories of sources of hazardous air pollutants according to the same criteria for designation applicable under such paragraphs and at the time of designation shall establish a date for the promulgation of emissions standards under subsection (d).

"(4) At the time of setting a standard for any category or subcategory of sources pur-

suant to subsection (d), (f), or (g), the Administrator shall also establish a minimum emissions rate for each hazardous air pollutant emitted by sources in the category or subcategory reflecting the criteria for listing a hazardous air pollutant established by subsection (b)(2). All sources in the category or subcategory emitting more than the minimum emissions rate for any hazardous air pollutant shall be subject to standards promulgated under subsection (d), (f), or (g). In no event shall the minimum emissions rate be greater than ten tons per year for any one hazardous air pollutant or twenty-five tons per year for any combination of such pollutants.

"(5) Notwithstanding the provisions of paragraph (4), the Administrator may establish a minimum emissions rate of more than ten tons for a category or subcategory and a pollutant for which a health effects threshold can be established, provided that the minimum emissions rate assures, with an ample margin of safety, such threshold will not be exceeded within the vicinity of the sources in the category and that no adverse environmental effects will occur as the result of emissions from the sources individually or in combination with emissions from other similar sources.

"(6) With respect to alkylated lead compounds, polycyclic organic matter, hexachlorobenzene, mercury, polychlorinated biphenyls, 2,3,7,8-tetrachlorodibenzofurans and 2,3,7,8-tetrachlorodibenzo-p-dioxin, the Administrator shall establish minimum emissions rates for categories and subcategories of sources assuring that sources accounting for not less than 90 per centum of the aggregate emissions of each such pollutant are subject to standards under subsection (d)(1).

*(d) EMISSIONS STANDARDS.—*

"(1) The Administrator shall promulgate emissions standards for every category or subcategory of sources of hazardous air pollutants designated for regulation pursuant to subsection (c).

"(2) Emissions standards promulgated under this subsection and applicable to new or existing sources of hazardous air pollutants shall require the maximum degree of reduction in emissions of each air pollutant subject to this section (including a prohibition on such emissions, where achievable) that the Administrator, taking into consideration the cost of achieving such emissions reduction, and any non-air-quality health and environmental impacts and energy requirements, determines is achievable for new or existing sources in the category or subcategory to which such emissions standard applies, through application of measures, processes, methods, systems or techniques including, but not limited to, measures which—

"(A) reduce the volume of such pollutants through process changes, substitution of materials, or other modifications,

"(B) enclose systems or processes to eliminate emissions,

"(C) collect, capture, or treat such pollutants when released from a process, stack, storage, or fugitive emissions point,

"(D) are design, equipment, work practice,

or operational standards (including requirements for operator training or certification as provided in subsection (h)), or

"(E) are a combination of the above.

"(3) The degree of reduction in emissions that is deemed achievable for new sources in a category or subcategory shall not be less stringent than the most stringent emissions level that is achieved in practice by a source

in the same category or subcategory, as determined by the Administrator, and may be more stringent where feasible. Emissions standards under this subsection for existing sources in a category or subcategory may be less stringent than standards for new sources in a similar category or subcategory, if the Administrator determines that the level of control applicable to new sources is generally technically or economically infeasible for existing sources in the category or subcategory and, considering, sequentially, the level of control achieved by existing sources in the category or subcategory beginning with the most stringent such level, establishes an emissions limitation which is generally feasible and assures the maximum total reduction in emissions from all sources in the category or subcategory. The Congress finds that a reduction of 90 per centum (95 per centum in the case of particulates) from uncontrolled levels is an appropriate benchmark for emissions standards applicable to existing sources under this subsection.

"(4) With respect to pollutants for which a health threshold can be established, the Administrator may consider such threshold level, with an ample margin of safety, when establishing emissions standards under this subsection.

"(5) With respect only to categories and subcategories of area sources listed pursuant to subsection (c)(2), the Administrator is authorized, in addition to the authorities provided in paragraph (2) and subsections (f) and (g), to promulgate standards or requirements applicable to sources in such categories or subcategories which provide for the use of cost-effective and generally available control technologies or management practices by such sources to reduce emissions of hazardous air pollutants.

"(6) The Administrator shall review, and revise as necessary (taking into account developments in practices, processes, and control technologies), emissions standards promulgated under this section no less often than every seven years.

"(7) No emissions standard or other requirement promulgated under this section shall be interpreted, construed or applied to diminish or replace the requirements of a more stringent emission limitation or other applicable requirement established pursuant to section 111, part C, section 172(b)(3) or (6), or other authority of this Act or a standard issued under State authority.

"(8) Emissions standards promulgated under this subsection shall be effective upon promulgation.

*(e) SCHEDULE FOR STANDARDS AND REVIEW.—*

"(1) The Administrator shall promulgate regulations establishing emissions standards for categories and subcategories of sources designated for regulation pursuant to subsection (c) as expeditiously as practicable, assuring that—

"(A) emissions standards for categories or subcategories of sources of acrylonitrile, benzene, 1,3-butadiene, cadmium, carbon tetrachloride, chloroform, chromium, ethylene dichloride, ethylene oxide, methylene chloride, perchloroethylene, trichloroethylene, and coke oven emissions are promulgated not later than twenty-four months after the date of enactment of the Clean Air Act Amendments of 1989;

"(B) emissions standards for 25 per centum of the categories and subcategories designated pursuant to subsection (c) (1) and (2) shall be promulgated not later than three years after such date;

"(C) emissions standards for 50 percentum of the categories or subcategories designated pursuant to subsection (c) (1) and (2) shall be promulgated not later than five years after such date; and

"(D) emissions standards for all categories and subcategories designated for regulation pursuant to subsection (c) (1) and (2) shall be promulgated not later than ten years after such date.

"(2) In determining priorities for scheduling the promulgation of standards pursuant to subparagraphs (1) (B), (C), and (D), the Administrator shall consider—

"(A) the known or anticipated adverse effects of such pollutants on human health and the environment;

"(B) exposure to and the location of major sources of such pollutants including risks to individuals most exposed and the consequent urgency of a national standard;

"(C) the quantity of hazardous air pollutants that sources in each category or subcategory emit; and

"(D) the efficiency of grouping the categories or subcategories according to the pollutants emitted or the processes or technologies used.

"(3) Not later than twenty-four months after the date of enactment of the Clean Air Act Amendments of 1989 and after opportunity for comment, the Administrator shall publish a schedule establishing the date for the promulgation of emissions standards for each category and subcategory of sources listed pursuant to subsection (c) (1) and (2) which shall be consistent with the requirements of paragraphs (1) and (2). The determination of priorities for the promulgation of standards pursuant to this paragraph is not a rulemaking and shall not be subject to judicial review, except that, failure to promulgate any standard pursuant to the schedule established by this paragraph shall be subject to review under section 304 of this Act.

"(4) If, under other provisions of this Act, the Administrator is proposing or promulgating requirements applicable to a class of sources similar to a category or subcategory listed pursuant to this section, the Administrator may simultaneously propose or promulgate emissions standards under this section for such category or subcategory notwithstanding the priorities established by paragraph (2). Nothing in this paragraph shall be construed or applied to stay a deadline for control requirements otherwise applicable under this or other law.

"(5) The Administrator shall not promulgate any standard with respect to the emissions of chlorine or compounds containing chlorine from electric utility steam generating units before the date three years after the date of enactment of this paragraph.

"(6) Notwithstanding the provisions of paragraph (1), the Administrator shall promulgate standards pursuant to subsection (d) applicable to publicly owned treatment works (as defined in title II of the Federal Water Pollution Control Act) not earlier or later than five years after the date of enactment of this paragraph.

"(7)(A) Not later than three years after the initial promulgation of emissions standards for a category or subcategory of sources pursuant to subsection (d), the Administrator shall commence an evaluation of the risks to human health and the environment resulting from emissions of hazardous air pollutants by sources in the category or subcategory remaining after application of such standards. If the Administrator finds as the result such evaluation, that emissions of

hazardous air pollutants from sources in the category or subcategory (or portion thereof), individually or in the aggregate, after application of the prescribed standards, present a significant risk of adverse effects on public health or a threat of adverse environmental effects, the Administrator shall complete, within two years after the date of commencement, such evaluation and revise standards applicable to such category or subcategory (or portion thereof) using the authorities of subsection (f) or (g), as appropriate.

"(B) The Administrator shall take such steps as are necessary, including studies pursuant to section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, to assure that adequate data on the health and environmental effects of any hazardous air pollutant emitted by sources in a category or subcategory subject to review under this paragraph are available at the commencement of the evaluation.

"(C) To the extent that standards promulgated under subsection (d) do not eliminate lifetime risks of carcinogenic effects greater than one in one million to the individual in the population who is most exposed to emissions of a pollutant (or stream of pollutants) from a source in the category or subcategory (as determined according to Guidelines for Carcinogenic Risk Assessment published by the Administrator), the Administrator shall use the authorities of subsection (f) to revise the standards applicable to such pollutant (or stream of pollutants) and categories or subcategories. To the extent that standards promulgated under subsection (d) do not reduce emissions to a level at or below the threshold for adverse health effects, with an ample margin of safety, for pollutants other than carcinogens, the Administrator shall use the authorities of subsection (g) to revise the standards applicable to such pollutants and categories or subcategories. With respect to any hazardous air pollutant which is both a carcinogen and causes adverse health effects for which a threshold exists, the Administrator shall establish standards pursuant to subsection (f) for sources of such pollutant, unless a more stringent standard than would be promulgated pursuant to subsection (f)(1)(A) is necessary to assure that such threshold, with an ample margin of safety, will not be exceeded. The Administrator shall in any such case establish a standard under subsection (g) in lieu of the standard which would be applicable under (f)(1)(A).

#### "(f) ADDITIONAL REGULATION OF CARCINOGENS.—

"(1) The Administrator is authorized to promulgate emissions standards under this subsection applicable to categories or subcategories of sources of any hazardous air pollutant which is a known, probable, or possible human carcinogen. For each such pollutant (or stream of pollutants containing carcinogens) the Administrator shall establish two simultaneously applicable standards including—

"(A) a standard which eliminates all lifetime risks of carcinogenic effects greater than one in ten thousand to the individual in the population who is most exposed to emissions of a pollutant (or stream of pollutants) from a source in the category or subcategory; and

"(B) a standard which eliminates all lifetime risks of carcinogenic effects greater than one in one million to the individual in the population who is most exposed to emissions of a pollutant (or stream of pollutants)

from a source in the category or subcategory.

No consideration of cost, cost effectiveness, economic, energy, or other factors or technological feasibility shall be included in the determination of the appropriate level of any emissions standard under this subsection.

"(2) Any standards promulgated under this subsection shall be effective upon the date of promulgation.

#### "(g) STANDARDS TO PROTECT HEALTH AND THE ENVIRONMENT.—

"(1) The Administrator is authorized to promulgate emissions standards under this subsection applicable to categories or subcategories of sources of any hazardous air pollutant which is not a carcinogen. The Administrator shall establish any emission standard or standards under this subsection at the level which, in the judgment of the Administrator, provides an ample margin of safety to protect the public health, unless a more stringent standard is required to protect the environment. No consideration of costs, cost effectiveness, economic, energy, or other factors or technological feasibility shall be included in the determination of the appropriate level of any emission standard or the margin of safety to protect the public health under this subsection.

"(2) Any emission standard established pursuant to this subsection shall become effective upon promulgation.

#### "(h) WORK PRACTICE STANDARDS AND OTHER REQUIREMENTS.—

"(1)(A) In addition to any numerical emissions limitation established under this section, the Administrator is authorized to promulgate a design, equipment, work practice, or operational standard (including requirements for operator training or certification), or combination thereof, applicable to sources in categories or subcategories listed pursuant to subsection (c) and consistent with the provisions of subsection (d), (f), or (g). The Administrator shall promulgate such standards whenever it is not feasible to prescribe or enforce an emission standard for a category or subcategory for control of hazardous air pollutants (or a stream of such pollutants). In the event the Administrator promulgates a design or equipment standard under this paragraph, the Administrator shall include as part of such standard such requirements as will assure the proper operation and maintenance of any such element of design or equipment.

"(B) For the purpose of this paragraph, the phrase 'not feasible to prescribe or enforce an emission standard' means any situation in which the Administrator determines that (i) a pollutant (or stream of pollutants) listed pursuant to subsection (b) cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any Federal, State, or local law, or (ii) the application of measurement methodology to a particular category or subcategory of sources is not practicable due to technological and economic limitations.

"(C) If after notice and opportunity for public hearing, any person establishes to the satisfaction of the Administrator that an alternative means of emission limitation will achieve a reduction in emissions of any air pollutant (or stream of pollutants) at least equivalent to the reduction in emissions of such pollutant achieved under the requirements of subparagraph (A), the Administra-

tor shall permit the use of such alternative by the source for purposes of compliance with this section with respect to such pollutant.

"(D) Any standard promulgated under subsections (d), (f), or (g) shall include a numerical emissions limitation whenever it is feasible to promulgate and enforce a standard in such terms.

"(2) For the purposes of developing or assisting in the development of any standard, requirement, or regulation, conducting any study, or enforcing the provisions of this section, the Administrator (or a State with an approved program under subsection (1)) may require the owner or operator of any facility which emits air pollutants subject to this section or stores any substance subject to section 129 of this act to monitor for the presence of such pollutant in the emissions (both point and nonpoint) from such source and in the ambient air within the vicinity of the facility, to install and maintain leak detection systems, and to keep records and make reports on the results of such monitoring and leak detection.

"(3)(A) Emissions standards promulgated pursuant to this section shall include, where appropriate, leak prevention, detection and correction requirements consistent with the provisions of subsection (d)(2) and may include monitoring, recordkeeping, reporting, vapor recovery, secondary containment, or other requirements, which shall be applicable to devices and systems (including pumps, compressors, valves, flanges, connectors, containers, and vessels) from which there may be emissions of any pollutant subject to this section.

"(B) Regulations under this paragraph may require the owner or operator of a source to carry out an annual audit and safety inspection to locate and correct all leaks and other preventable routine or episodic releases of any air pollutant subject to this section. The results of such inspection and the results of any other safety inspection, survey, or audit carried out with respect to the source shall be available to the Administrator, to the State in which the source is located, and to the public, consistent with the provisions of sections 322, 323, and 324 of the Emergency Planning and Community Right-to-Know Act of 1986.

"(4) Any design, equipment, work practice, or operational standard, audit or monitoring requirement or any combination thereof, described in this subsection shall be treated as an emission standard for purposes of the provisions of this Act (other than the provisions of this subsection).

#### *"(i) SCHEDULE FOR COMPLIANCE.—*

"(1) After the effective date of any emission standard, limitation, or regulation under subsection (d), (f), (g), or (h), no person may construct any new major source or reconstruct any existing major source subject to such emission standard or limitation unless the Administrator (or a State with a permit program approved under subsection (j)) determines that such source, if properly constructed and operated, will comply with the standard or limitation.

"(2) After the effective date of any emissions standard under this section, no air pollutant may be emitted from any source in violation of an emissions standard under this section, except in the case of an existing source, the Administrator shall establish a compliance date or dates for each category or subcategory of existing sources, which shall provide for compliance as expeditiously as practicable, but in no event later than three years after the effective date of such

standard, except as provided in paragraphs (3) through (8).

"(3) With respect to standards established pursuant to subsection (f)(1)(A), the Administrator after consultation with the State in which the source is located may grant an extension permitting an existing source a period of up to five additional years to comply with such standard, if the Administrator determines, based on specific information submitted by the owner or operator of the source estimating costs and effectiveness of good faith compliance efforts and other available information, that—

"(A) the owner or operator would experience extraordinary economic hardship in compliance with such standard and requires that such source or category of sources comply with the emissions standard promulgated pursuant to subsection (d); and

"(B) during the period of the extension, emissions standards applicable to the source shall assure that the health of persons will be protected from any imminent and substantial endangerment.

Compliance with standards promulgated pursuant to subsection (f)(1)(A) shall not be stayed during the pendency of any judicial proceeding to review a determination made under this paragraph.

"(4)(A) With respect to standards promulgated pursuant to subsection (f)(1)(B) the Administrator (or a State acting pursuant to a program approved under subsection (l)) may grant an existing source a temporary exception from the standard, if the Administrator (or the State) determines, based on specific information provided by the owner or operator of the source and other information, that the standard cannot be achieved by the source using all available technology and operational controls and that the source will implement a risk-reduction program employing all such technology and controls.

For purposes of this subparagraph the phrase 'all available technology and operational controls' shall include all measures which are technically feasible including process modifications and materials substitution to reduce emissions of hazardous air pollutants from the source. The Administrator (or the State) may require the owner or operator of the source to conduct research and development on improved or more effective control technologies or management practices as a condition for any temporary exception or permit renewal pursuant to this paragraph.

"(B) Any request for an exception under this paragraph shall be submitted within six months of the date of promulgation of the applicable standard and shall include all information necessary for the Administrator (or the State) to make a determination with respect to the eligibility of a source for an exception. The Administrator (or the State) shall review and approve or disapprove any request within one year of submittal. Any request failing to meet the requirements of this subparagraph shall be deemed denied.

"(C) An exception may only be granted under this paragraph, if the Administrator (or the State) has provided notice of the proposed exception and has provided an opportunity for public comment and a public hearing on the conditions of the proposed exception. The Administrator may review, on appeal by any person or on the Administrator's own motion, and reverse any exception granted by a State under this paragraph. The Administrator shall make a determination with respect to any appeal within one hundred and eighty days.

"(D) An exception granted under this paragraph shall be reviewed upon renewal

of the permit for the source, and may be extended after a further determination subject to the same terms and conditions as applicable in the first instance.

"(5) The President may exempt any source from compliance with paragraph (1) for a period of not more than two years if the President finds that the technology to implement such standards is not available and the operation of such source is required for reasons of national security. An exemption under this paragraph may be extended for one or more additional periods, each period not to exceed two years. The President shall make a report to Congress with respect to each exemption (or extension thereof) made under this paragraph.

"(6)(A) The Administrator (or a State acting pursuant to a program approved under subsection (l)) shall exempt any existing source from an emissions standard promulgated pursuant to subsection (d) upon a showing by the owner or operator of such source that it has achieved a voluntary reduction of 90 per centum or more in emissions of hazardous air pollutants (95 per centum or more in the case of a pollutant which is a particulate) from the source on or before December 31, 1992.

"(B) The reduction shall be determined with respect to verifiable and actual emissions in a base year not earlier than calendar year 1985, provided that, there is no evidence that emissions in the base year are artificially or substantially greater than emissions in other years prior to implementation of emissions reduction measures. Emissions data satisfying all requirements imposed pursuant to section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 shall be considered verifiable and actual for the purpose of establishing base year emissions.

"(C) For each source granted an exemption under this paragraph there shall be established by a permit issued pursuant to subsection (i) an enforceable emissions limitation for hazardous air pollutants reflecting the reduction which qualifies the source for an exemption under this paragraph. An exemption under this paragraph shall not include an exemption from standards or requirements promulgated pursuant to subsection (f) or (g) and the Administrator shall review emissions from sources granted exemptions under this paragraph according to the provisions of subsection (e)(7) at the same time that other sources in the category or subcategory are reviewed.

"(D) For purposes of this paragraph, the term 'voluntary' means not otherwise required by a Federal, State, or local air pollution control law or regulation.

"(E) The Administrator shall promulgate regulations to carry out the provisions of this paragraph as expeditiously as practicable, but not later than twelve months after the date of enactment of the Clean Air Act Amendments of 1989. Such regulations may include fees sufficient to offset the costs of reviewing applications for exemptions submitted under this paragraph. Revenues from such fees received by the Administrator shall, notwithstanding the provisions of the Miscellaneous Receipts Act, be used for the purpose of administering this section.

"(F) With respect to pollutants for which high risks of adverse human health effects may be associated with exposure to small quantities including, but not limited to, chlorinated dioxins and furans, the Administrator shall by regulation limit the use of offsetting reductions in emissions of other hazardous air pollutants from the source as

counting toward the 90 per centum reduction in such high-risk pollutants qualifying for an exemption under this paragraph.

"(7) Notwithstanding the requirements of this section, no existing source that has installed—

"(A) reasonably available control technology (which achieves a reduction of 80 per centum or more from uncontrolled levels of hazardous air pollutants emitted by the source);

"(B) best available control technology (as defined in section 169(3));

"(C) technology required to meet a lowest achievable emissions rate; or

"(D) has voluntarily achieved (as certified to the Administrator) on or after January 1, 1993, a reduction of 90 per centum in the emissions of the hazardous air pollutants emitted by the source, prior to the promulgation of a standard under this section applicable to such source and the same pollutant (or stream of pollutants) controlled pursuant to an action described in subparagraph (A), (B), (C), or (D) shall be required to comply with such standard under this section until the date five years after the date on which such installation or reduction has been achieved, as determined by the Administrator. The Administrator may issue such rules and guidance as are necessary to implement this paragraph.

"(8)(A) If at any source a hazardous air pollutant is subject to regulation under this section because the source emits more than the minimum emissions rate of other pollutants, the Administrator (or a State acting pursuant to a program approved under subsection (l)) may, at the request of the owner or operator of the source, waive the requirements applicable to such pollutant where emissions of the pollutant are in de minimis amounts and do not present a significant risk of adverse effects to human health or adverse environmental effects and control of the pollutant would require installation of additional and separate control technologies for that pollutant only.

"(B) Applications for waivers under this paragraph shall be submitted not later than four months after the effective date of the relevant standard and the Administrator (or the State) shall make a determination on any application within six months of submission. Applications which are not complete shall be deemed denied without further opportunity for reapplication. An application for a waiver under this paragraph shall not stay the applicant's obligation to comply with emissions standards applicable to other pollutants. Applications shall be accompanied by fees adequate to offset all direct and indirect costs of reviewing such applications. Not later than eighteen months after the date of enactment of this paragraph, the administrator shall publish guidance on procedures for application and review.

*"(j) PERMIT PROGRAM—*

"(1) Except as provided in paragraph (2) and after the date of enactment of this section, it shall be unlawful for any person to construct a new source, or for the owner or operator of any source to emit any air pollutant, subject to any emissions standard under this section, except in compliance with a permit issued by the Administrator (or a State acting pursuant to a program approved under subsection (l)) under this subsection. The Administrator shall promulgate within twelve months after the date of enactment of this subsection regulations establishing the minimum elements of a

permit program. These elements shall include—

"(A) requirements for permit applications, including a standard application form and fees sufficient to offset the direct and indirect cost of processing applications;

"(B) requirements for monitoring (including continuous emissions monitoring, unless determined to be unavailable or inappropriate) the mass and rate of emissions for each hazardous air pollutant emitted by the source according to test procedures established by the Administrator, reporting of monitoring results not less frequently than annually and the maintenance of such records with respect to monitoring which the Administrator shall require;

"(C) a requirement that permittees pay an annual fee sufficient to offset all direct and indirect costs of administering the program (if such fees are paid to the Administrator, the Administrator may, notwithstanding any requirement of the Miscellaneous Receipts Act, expend such receipts for the purposes of administering the provisions of this section); and

"(D) a requirement that any State seeking approval of a program pursuant to subsection (l) have adequate personnel and funding to administer the program and adequate authority to—

"(i) issue permits that apply, and assure compliance by all sources within the State with, each applicable standard, regulation or requirement under this section;

"(ii) issue permits for a fixed term, not to exceed five years;

"(iii) terminate or modify permits for cause, including establishment of a new emissions standard applicable to the source;

"(iv) enforce permits and the requirement to obtain a permit, including adequate civil and criminal penalties;

"(v) provide public notice of each application for a permit and an opportunity for public hearing before a determination on each such application; and

"(vi) assure that no permit will be issued if the Administrator timely objects to its issuance.

No fee schedule established by the Administrator under this subsection shall be designed with the purpose of supporting other aspects of any State air pollution control program including elements for control of area sources or prevention of accidents. Nothing in this subsection shall prevent a State from imposing additional permit fees, except that, the Administrator shall not approve any program pursuant to subsection (l), if revenues from such fees are used for purposes other than the development and implementation of programs to control the emissions of hazardous air pollutants. When issuing permits in the absence of an approved State program, the Administrator shall comply with the guidelines issued to implement this paragraph.

"(2)(A) Notwithstanding the requirements of paragraph (1), an existing source in a category or subcategory subject to an emissions standard under this section may continue operations prior to the issuance of a permit, provided that, the owner or operator of the source certifies to the Administrator (or to the State) that the source will comply with all applicable standards and requirements under this section. Certification pursuant to this paragraph shall be provided not later than six months after the effective date of any applicable standard or revision of a standard under this section. The certification shall be accompanied by a compliance plan describing means by which the source

intends to achieve the standard on and after the compliance date established by subsection (i) and shall be signed by a responsible official of the business concern owning or operating the source.

"(B) Upon receipt of any certification, the Administrator (or the State) shall issue a temporary operating permit for the source, unless within thirty days the Administrator (or the State) notifies the owner or operator of the source that the certification does not adequately demonstrate compliance with all applicable standards and requirements under this section. Any temporary permit issued under this paragraph shall be for a term not exceeding one year and shall be enforceable to the same extent as any standard or other requirement promulgated under this section.

"(C) Within six months of the issuance of any temporary operating permit for any source under this paragraph, the Administrator (or the State) shall complete a review of the operations of such source, including an inspection at the site of the source, to determine whether a full operating permit under this subsection should be issued. If upon conclusion of such review (including any right to administrative appeal, but not including pendency of any judicial proceeding), the Administrator (or the State) determines that a permit should not be issued, the temporary permit granted under this paragraph shall be suspended immediately.

"(D) The Administrator shall require that certifications under this paragraph be accompanied by a fee sufficient to offset the full administrative costs of reviewing certifications.

"(3)(A) In the event that the Administrator fails to promulgate a standard for a category or subcategory of sources by the date established pursuant to subsection (e) (1)(A) or (3), and beginning six months after such date, it shall be unlawful for the owner or operator of any source in such category or subcategory to emit any hazardous air pollutant except in compliance with a permit issued by the Administrator (or a State acting pursuant to a program approved under subsection (l)) under this paragraph.

"(B) The permit shall be issued pursuant to the provisions of paragraph (1) and such other provisions as are necessary to carry out the objectives of this Act. In preparing applications for permits under this paragraph, the owner or operator of the source shall commit to the installation and operation of technology and practices to control emissions of hazardous air pollutants which are the best technology and practices available for such source, as certified by an independent, registered professional engineer.

"(C) Each permit issued under this paragraph shall include an enforceable emission limitation for each hazardous air pollutant emitted by the source and no such pollutant may be emitted in amounts exceeding the applicable limitation immediately for new sources and, as expeditiously as practicable, but not later than the date three years after the permit is issued for existing sources.

"(D) If the Administrator subsequently promulgates a standard which would be applicable in lieu of the emissions limitations established by permit under this section, the Administrator (or the State) shall revise such permit upon the next renewal to reflect the standards promulgated by the Administrator.

"(E) Paragraph (2) shall not be available to any source requiring a permit under this paragraph.

"(4) The Administrator shall suspend the issuance of permits by the Agency in any State promptly upon approval of a program for that State under subsection (l).

"(5)(A) Each State shall transmit to the Administrator a copy of each permit application (but not including certifications for temporary permits) and including any application for an extension or modification submitted under this section, and shall provide for notice of each permit proposed to be issued by the State.

"(B) No permit shall be issued if the Administrator within sixty days objects in writing to its issuance as not in compliance with the requirements of this section. The Administrator shall provide with the objection a statement of the reasons for the objection and the terms and conditions that the Administrator would impose if the permit were issued by the Administrator.

"(C) If the State fails within ninety days after the date of the objection to submit a permit revised to meet the objection, the Administrator shall have authority to issue or deny the permit.

"(D) Nothing in this paragraph shall be interpreted, construed, or applied to require the Administrator to review each permit to be issued by a State, provided that the Administrator conducts an audit program which assures that State permitting activities are consistent with the goals and objectives of this section.

"(6) To the maximum extent practicable, permits issued under this section shall be consolidated with other permits required under this Act.

*"(k) AREA SOURCE PROGRAM.—*

"(1) The Congress finds that emissions of hazardous air pollutants from area sources may individually, or in the aggregate, present significant risks to public health in urban areas. Considering the large number of persons exposed and the risks of carcinogenic and other adverse health effects from hazardous air pollutants, ambient concentrations characteristic of large urban areas should be reduced to levels substantially below those currently experienced. It is the purpose of this subsection to achieve a substantial reduction in emissions of hazardous air pollutants from area sources and an equivalent reduction in the public health risks associated with such sources including a reduction of not less than 75 per centum in the incidence of cancer attributable to emissions from such sources.

"(2) The Administrator shall, after consultation with State and local air pollution control officials, conduct a program of research with respect to sources of hazardous air pollutants in urban areas and shall include within such program—

"(A) ambient monitoring for a broad range of hazardous air pollutants (including, but not limited to, volatile organic compounds, metals, pesticides and products of incomplete combustion) in a representative number of urban locations;

"(B) analysis to characterize the sources of such pollution with a focus on area sources and the contribution that such sources make to public health risks from hazardous air pollutants; and

"(C) consideration of atmospheric transformation and other factors which can elevate public health risks from such pollutants.

Health effects considered under this program shall include, but not be limited to, carcinogenicity, mutagenicity, teratogenicity, neurotoxicity, reproductive dysfunction, and other acute and chronic effects in-

cluding the role of such pollutants as precursors of ozone or acid aerosol formation. The Administrator shall report the preliminary results of such research not later than three years after the date of enactment of this paragraph.

"(3) Each air pollution control agency receiving a grant under section 105 of this Act, and which has responsibility for a Metropolitan Statistical Area with a population exceeding two hundred and fifty thousand persons shall commence, not later than eighteen months after the date of enactment of this subsection, a monitoring program in each such area to detect and measure the ambient concentration of hazardous pollutants in the air. The Administrator shall, after consultation with the States, prescribe a list of hazardous air pollutants and detection methods (including frequency and location) for purposes of this paragraph which shall reflect those pollutants likely to be emitted by area sources in metropolitan areas and which present the greatest risk to public health. To the extent practicable, monitoring under this paragraph shall be conducted at various times of the day and seasonally and at a variety of locations within each metropolitan area. Each agency required to conduct monitoring shall prepare a biennial report on the results of the monitoring program which shall be made available to the public at a hearing within the metropolitan area and which shall be transmitted to the Administrator. The report shall identify sources or categories of sources contributing to the presence of hazardous pollutants in the air and shall quantify the risks to public health. The Administrator may promulgate such regulations as are necessary to carry out this paragraph, including provisions which—

"(A) phase in the monitoring program over a longer period, but not to exceed three years;

"(B) provide for a reduction in the frequency of monitoring in areas which have detected low ambient concentrations or health risks in previous monitoring cycles; and

"(C) which extend the monitoring program to other areas.

"(4)(A) Considering information collected pursuant to the monitoring program authorized by paragraphs (2) and (3), the Administrator shall, not later than five years after the date of enactment of this subsection and after notice and opportunity for public comment, prepare and transmit to the Congress a comprehensive strategy to control emissions of hazardous air pollutants from area sources in urban areas.

"(B) The strategy shall (i) identify not less than ten hazardous air pollutants which, as the result of emissions from area sources, present the greatest threat to public health in the largest number of urban areas and which are or will be listed pursuant to subsection (b) and (ii) identify the source categories or subcategories emitting such pollutants which are or will be listed pursuant to subsection (c). When identifying categories and subcategories of sources under this subparagraph, the Administrator shall assure that sources accounting for 90 per centum or more of the aggregate emissions of each of the ten identified hazardous air pollutants are subject to standards pursuant to subsection (d) or this subsection.

"(C) The strategy shall include a schedule of specific actions to substantially reduce the public health risks posed by the release of hazardous air pollutants from area sources which will be implemented by the

Administrator under authority of this or other laws (including, but not limited to, the Toxic Substances Control Act, the Federal Insecticide Fungicide, and Rodenticide Act, and the Resource Conservation and Recovery Act) or by the States. Requirements applicable to mobile sources or to fuels shall be established pursuant to title II of this Act.

"(D) The strategy may also identify research needs in monitoring, analytical methodology, modeling or pollution control techniques and recommendations for changes in law that would further the goals and objectives of this subsection.

"(E) Nothing in this subsection shall be interpreted to preclude or delay implementation of actions with respect to area sources of hazardous air pollutants under consideration pursuant to this or any other law and which may be promulgated before the strategy is prepared.

"(F) The Administrator shall implement the strategy as expeditiously as practicable assuring that all sources are in compliance with all requirements not later than nine years after the date of enactment of this subsection.

"(G) In addition to the national urban air toxics strategy authorized by paragraph (4), the Administrator shall also encourage and support areawide strategies developed by State or local air pollution control agencies which are intended to reduce risks from emissions by area sources within a particular urban area. From the funds available for grants under this section, the Administrator shall set aside not less than 10 per centum to support areawide strategies addressing hazardous air pollutants emitted by area sources and shall award such funds on a demonstration basis to those States with innovative and effective strategies. At the request of State or local air pollution control officials, the Administrator shall prepare guidelines for control technologies or management practices which may be applicable to various categories or subcategories of area sources.

"(H) The Administrator shall report to the Congress at intervals not later than eight and ten years after the date of enactment of this subsection on actions taken under this subsection and other parts of this Act to reduce the risk to public health posed by the release of hazardous air pollutants from area sources. The reports shall also identify specific metropolitan areas which continue to experience high risk to public health as the result of emissions from area sources.

"(I) The Administrator shall prepare a report with recommendations on health impacts of mobile source benzene emissions considering both fuel and vehicle-based control strategies to be submitted to the Environment and Public Works Committee of the Senate and the Energy and Commerce Committee of the House of Representatives not later than twenty-four months after the date of the enactment of the Clean Air Act Amendments of 1989.

*"(J) STATE PROGRAMS.—*

"(1) Each State may develop and submit to the Administrator for approval a program for the implementation and enforcement (including a review of enforcement delegations previously granted) of emission standards and other requirements for air pollutants subject to this section or requirements for the prevention and mitigation of sudden, accidental releases pursuant to section 129. A program submitted by a State under this subsection may provide for partial or complete delegation of the Administrator's authorities and responsibilities to implement

and enforce emissions standards and prevention requirements but shall not include authority to set standards less stringent than those promulgated by the Administrator under this Act.

"(2) Not later than twelve months after the date of enactment of this paragraph, the Administrator shall publish guidance which would be useful to the States in developing programs for submittal under this subsection. Guidance shall, at a minimum, include permitting requirements for new and existing sources of air pollutants subject to this section. The guidance shall also provide for the registration of all facilities producing, processing, handling, or storing any substance listed pursuant to section 129 in amounts greater than the threshold quantity. The Administrator shall include as an element in such guidance an optional program for the review of high-risk point sources of air pollutants including, but not limited to, hazardous air pollutants listed pursuant to subsection (b).

"(3) The Administrator shall establish and maintain an air toxics clearinghouse, control technology center and risk information center to provide technical assistance and information to the States and local agencies and, on a cost reimbursable basis, to others on—

"(A) measures, methods, practices and techniques effective in reducing emissions of air pollutants subject to this section or section 129;

"(B) risk assessment;

"(C) ambient monitoring and modeling and emissions measurement and modeling. The Administrator may conduct research on methods for preventing, measuring and controlling emissions and evaluating associated health and ecological risks. All information collected under this paragraph shall be available to the public.

"(4) Upon application of a State, the Administrator may make grants, subject to such terms and conditions as the Administrator deems appropriate, to such State for the purpose of assisting the State in developing and implementing a program for submittal and approval under this subsection. Programs assisted under this paragraph may include program elements addressing air pollutants other than those specifically subject to this section or section 129. Grants under this paragraph may include support for high-risk point source review as provided in paragraph (2) and support for the development and implementation of areawide area source programs pursuant to subsection (k).

"(5) Not later than one hundred and eighty days after receiving a program submitted by a State, and after notice and opportunity for public comment, the Administrator shall either approve or disapprove such program. The Administrator shall disapprove any program submitted by a State, if the Administrator determines that—

"(A) the authorities contained in the program (including conditions in permits) are not adequate to assure compliance by all sources within the State with each applicable standard, regulation, or requirement established by the Administrator under this section;

"(B) adequate authority does not exist, or adequate resources (including revenues from permit fees) are not available, to implement the program;

"(C) the schedule for implementing the program (including the schedule for issuing permits) and assuring compliance by affected sources is not sufficiently expeditious; or

"(D) the program is otherwise not in compliance with the guidance issued by the Administrator under paragraph (2) or is not likely to satisfy, in whole or in part, the objectives of this Act.

If the Administrator disapproves a State program, the Administrator shall notify the State of any revisions or modifications necessary to obtain approval. The State may revise and resubmit the proposed program for review and approval pursuant to the provisions of this subsection.

"(6) Whenever the Administrator determines, after public hearing, that a State is not administering and enforcing a program approved pursuant to this subsection in accordance with the guidance published pursuant to paragraph (2) or the requirements of paragraph (5), the Administrator shall so notify the State and, if action which will assure prompt compliance is not taken within ninety days, the Administrator shall withdraw approval of the program. The Administrator shall not withdraw approval of any program unless the State shall have been notified and the reasons for withdrawal shall have been stated in writing and made public.

"(7) Nothing in this subsection shall prohibit the Administrator from enforcing any applicable emission standard or requirement under this section or section 129.

"(8) The Administrator may after notice and opportunity for public comment approve programs developed and submitted by a local pollution control agency (after consultation with the State) pursuant to this subsection and any such agency implementing an approved program may take any action authorized to be taken by a State under this section.

"(m) TECHNICAL ASSISTANCE FOR SMALL SOURCES.—The Administrator (and each State with an approved permit program) shall establish means and measures to supply technical assistance and information to area sources and stationary sources that are not major sources to help carry out the requirements of this section, including meeting applicable standards and obtaining needed permits. The assistance shall include information availability and types of equipment, measures, methods, practices, processes and techniques in reducing emissions of air pollutants and preventing and detecting accidents. The Administrator shall establish and maintain a clearinghouse of such information.

"(n) STATE AUTHORITY.—Nothing in this section shall preclude, deny, or limit any right of any State or political subdivision thereof to adopt or enforce any regulation, requirement or standard (including any procedural requirement) which is more stringent than a regulation, requirement, or standard in effect under this section or that applies to a substance not subject to this section. Nothing in this section shall authorize any State to impose any standard, limitation or requirement on the emissions of radionuclides from facilities licensed by the Nuclear Regulatory Commission where such standard, limitation or requirement would be barred by other Federal law including the Atomic Energy Act.

"(o) ATMOSPHERIC DEPOSITION TO GREAT LAKES AND COASTAL WATERS.—

"(1) The Administrator shall conduct a program to identify and assess the extent of atmospheric deposition of hazardous air pollutants and other air pollutants to the Great Lakes, Lake Champlain and coastal waters. As part of such program, the Administrator shall—

"(A) monitor Great Lakes and coastal waters, including monitoring of Great Lakes waters through the monitoring network established pursuant to paragraph (2) of this subsection and designing and deploying an atmospheric monitoring network for coastal waters pursuant to paragraph (4);

"(B) investigate the sources and deposition rates of atmospheric deposition of air pollutants (and their atmospheric transformation precursors);

"(C) conduct research to develop and improve monitoring methods and to determine the relative contribution of atmospheric pollutants to total pollution loadings to Great Lakes and coastal waters;

"(D) evaluate any adverse effects to human health or the environment caused by such deposition (including effects resulting from indirect exposure pathways) and assess the contribution of such deposition to violations of water quality standards established pursuant to the Federal Water Pollution Control Act and drinking water standards established pursuant to the Safe Drinking Water Act; and

"(E) sample for such pollutants in biota, fish, and wildlife of Great Lakes, Lake Champlain and coastal waters and characterize the sources of such pollutants.

"(2) The Administrator shall oversee, in accordance with Annex 15 of the Great Lakes Water Quality Agreement, the establishment and operation of a Great Lakes atmospheric deposition network to monitor atmospheric deposition of hazardous air pollutants and other air pollutants to the Great Lakes.

"(A) As part of the network provided for in this paragraph, and not later than December 31, 1990, the Administrator shall establish in each of the five Great Lakes at least one facility capable of monitoring the atmospheric deposition of hazardous air pollutants in both dry and wet conditions.

"(B) The Administrator shall use the data provided by the network to identify and track the movement of hazardous air pollutants through the Great Lakes, to determine the portion of water pollution loadings attributable to atmospheric deposition of such pollutants, and to support development of remedial action plans and other management plans as required by the Great Lakes Water Quality Agreement.

"(C) The Administrator shall assure that the data collected by the Great Lakes atmospheric deposition monitoring network is in a format compatible with databases sponsored by the International Joint Commission, Canada, and the several States of the Great Lakes region.

"(3) The Administrator shall establish at Lake Champlain an atmospheric deposition station to monitor deposition of hazardous air pollutants and other pollutants within the Lake Champlain watershed. The Administrator shall determine the role of air deposition in the pollutant loadings of Lake Champlain, investigate the sources of air pollutants deposited in the watershed, evaluate the health and environmental effects of such pollutant loadings and shall sample such pollutants in biota, fish and wildlife within the watershed as necessary to characterize such effects.

"(4) The Administrator shall design and deploy atmospheric deposition monitoring networks for coastal waters and their watersheds and shall make any information collected through such networks available to the public. As part of this effort, the Administrator shall conduct research to develop and improve deposition monitoring meth-

ods, and to determine the relative contribution of atmospheric pollutants to pollutant loadings.

"(5) Within two years of the date of enactment of this Act and biennially thereafter, the Administrator shall submit to the Congress a report on the results of any monitoring, studies, and investigations conducted pursuant to this subsection. Such report shall include, at a minimum, an assessment of—

"(A) the contribution of atmospheric deposition to pollution loadings in the Great Lakes, Lake Champlain and coastal waters; "(B) the environmental and human health effects of any pollution which is attributable to atmospheric deposition to the Great Lakes, Lake Champlain, and coastal waters; "(C) the source or sources of any pollution to Great Lakes, Lake Champlain, and coastal waters which is attributable to atmospheric deposition;

"(D) whether pollution loadings in Great Lakes, Lake Champlain, or coastal waters cause or contribute to violations of drinking water standards pursuant to the Safe Drinking Water Act or water quality standards pursuant to the Federal Water Pollution Control Act; and

"(E) a description of any revisions of the requirements, standards, and limitations pursuant to this Act and other applicable Federal laws as are necessary to assure protection of human health and the environment.

"(p) PUBLICLY OWNED TREATMENT WORKS.—The Administrator may conduct, in cooperation with the owners and operators of publicly owned treatment works, studies to characterize emissions of hazardous air pollutants emitted by such facilities, to identify industrial, commercial and residential discharges which contribute to such emissions and to demonstrate control measures for such emissions. When promulgating any standard under this section applicable to publicly owned treatment works, the Administrator shall consider control measures which include pretreatment of discharges causing emissions of hazardous air pollutants and process or product substitutions or limitations which may be effective in reducing such emissions. The Administrator may prescribe uniform sampling, modeling and risk assessment methods for use in implementing this subsection.

"(q) HYDROGEN SULFIDE.—The Administrator is directed to assess the hazards to public health and the environment resulting from the emission of hydrogen sulfide associated with the extraction of oil and natural gas resources. To the extent practicable, the assessment shall build upon and not duplicate work conducted for an assessment pursuant to section 8002(m) of the Solid Waste Disposal Act and shall reflect consultation with the States. The assessment shall include a review of existing State and industry control standards, techniques, and enforcement. The Administrator shall report to the Congress within twenty-four months of the enactment of this subsection with the findings of such assessment, together with any recommendations, and shall develop and implement a control strategy for emissions of hydrogen sulfide as appropriate to protect human health and the environment, based on the findings of such assessment, using authorities under this Act including section 111 and this section.

"(r) SAVINGS CLAUSE.—No amendment to this section made by the Clean Air Act Amendments of 1989 shall affect any emission standard for a hazardous air pollutant

which has been promulgated prior to the enactment of such Act. Emissions standards for categories and subcategories of sources of radionuclides for which standards were proposed at 54 Federal Register 9612 (March 7, 1989) except sources which are subject to licensing by the Nuclear Regulatory Commission and including any emission standards for a new subcategory of grate calcination, elemental phosphorus plants, shall be established in accordance with section 112 of the Clean Air Act as in effect prior to the enactment of this subsection.

"(s) STUDY OF RISK ASSESSMENT.—The Administrator shall conduct a review of risk assessment methods used by the Agency to determine the carcinogenic risks associated with exposure to various hazardous air pollutants and source categories and subcategories subject to the requirements of this section and report to the Congress the results of such review not later than twenty-four months after the date of enactment of this subsection. As an element of such review, the Administrator shall examine the factors which may contribute to overestimating or underestimating such risks, including the exposure parameters used in establishing carcinogenic risk estimates for the most exposed individual. The Administrator shall compare the parameters used in risk assessments for hazardous air pollutants conducted by the Agency with actual conditions of exposure and comparable assumptions made for exposure to other environmental threats and shall seek the views of the National Research Council on such parameters. The Administrator shall include in the report a description of the range of risks, the number of persons exposed at various levels of risk and the cancer incidence for source categories and subcategories which are listed pursuant to subsection (e)(1)(A). The report shall also include a summary of information and methods for assessing the risk of adverse human health effects for pollutants and effects other than carcinogenicity (including, but not limited to, inheritable genetic mutations, birth defects, and reproductive dysfunctions) where no threshold for safe exposure may be determined.

"(t) ANNUAL REPORT.—Not later than January 15, 1991, and within one hundred five days of the close of the fiscal year for each fiscal year thereafter, the Administrator shall prepare and transmit to the Congress a comprehensive report on the measures taken by the Agency and by the States to implement the provisions of this section and section 129. The Administrator shall maintain a database on pollutants and sources subject to the provisions of this section and shall include aggregate information from the database, in each annual report. The report shall include, but not be limited to—

"(1) a status report on standard-setting under subsections (d), (f), and (g); "(2) information with respect to compliance with such standards including the costs of compliance experienced by sources in various categories and subcategories; "(3) development and implementation of the national urban air toxics program; "(4) recommendations of the Chemical Safety and Hazard Investigation Board with respect to the prevention and mitigation of sudden, accidental releases; and

"(5) such recommendations for additional legislation to achieve the purposes of this section and section 129 as the Administrator may deem appropriate.

"(u) AUTHORIZATION.—There are authorized to be appropriated such sums as are necessary to carry out the provisions of this section."

#### MARINE MANUFACTURING

SEC. 302. When establishing emissions standards for styrene under section 112 of the Clean Air Act, the Administrator shall list boat manufacturing as a separate subcategory unless the Administrator finds that such listing would be inconsistent with the goals and requirements of such Act.

#### NRC-LICENSED FACILITIES

SEC. 303. (a) Section 122(a) of the Clean Air Act is amended by revising the words "including source material, special nuclear material, and byproduct material" to read "excluding source material, special nuclear material, and byproduct material regulated by the Nuclear Regulatory Commission or by a State which has an agreement with the Commission pursuant to section 274 of the Atomic Energy Act of 1954, as amended".

(b) Section 122(c) of the Clean Air Act is amended.

(c) Section 302(g) of the Clean Air Act is amended by revising the words "including source material, special nuclear material, and byproduct material" to read "excluding source material, special nuclear material, and byproduct material regulated by the Nuclear Regulatory Commission or by a State which has an agreement with the Commission pursuant to section 274 of the Atomic Energy Act of 1954, as amended".

#### ACCIDENT PREVENTION

SEC. 304. The Clean Air Act is amended by adding the following new section at the end of part A of title I:

#### "PREVENTION OF SUDDEN, ACCIDENTAL RELEASES"

"SEC. 129. (a) PURPOSE AND GENERAL DUTY.—It shall be the objective of the regulations and programs authorized under this section to prevent the sudden, accidental release and to minimize the consequences of any such release of any substance listed pursuant to subsection (c) or any other extremely hazardous substance. The owners and operators of facilities producing, processing, handling, or storing such substances have a general duty to identify hazards resulting from such releases using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of sudden, accidental releases which do occur. Nothing in this subsection shall be interpreted, construed, or applied to create any liability for compensation for bodily injury or property damages to any person which may result from sudden, accidental releases of such substances.

#### "(b) DEFINITIONS.—

"(1) The term 'accidental release' means the direct or indirect introduction of an extremely hazardous substance into the air under circumstances which are not routine and which are not authorized pursuant to any permit or emission limitation or standard under any other provision of this Act or any other Federal law.

"(2) The term 'facility' means all buildings, structures, equipment installations or substance emitting stationary activities or any other point or nonpoint source of a release. The term 'facility' does not include the right-of-way of a railroad outside of any railroad yard.

"(c) LIST OF SUBSTANCES.—The Administrator shall, not later than twelve months after the date of enactment of this section, propose and, not later than twenty-four months after such date, promulgate, a list of not less than fifty substances which may, as the result of sudden events, be released in concentrations that may reasonably be anticipated.

pated to cause acute adverse health effects in humans. The list shall be drawn from, but not be limited to, those substances on the list established by section 302 of the Emergency Planning and Community Right-to-Know Act of 1986 and shall include those substances with the greatest likelihood to cause death, injury, property damage, or evacuations as the result of sudden, accidental releases. The initial list shall include sulfuric acid, chlorine, anhydrous ammonia, hydrochloric acid, methyl chloride, ethylene oxide, toluene, vinyl chloride, methyl alcohol, nitric acid (94 per centum by weight or more HNO<sub>3</sub>), styrene, tetrachloroethylene, ammonia, hydrogen sulfide, acetone, methylene chloride, benzene, methyl ethyl ketone, toluene diisocyanate, phosgene, sulfur dioxide (10 per centum or more by volume), formaldehyde (gas), butadiene, hydrofluoric acid, and acrylonitrile. The Administrator shall from time to time (but not less often than every five years) review and revise the list established by this subsection adding substances which, as a result of sudden events, may be released in concentrations that may reasonably be anticipated to cause acute adverse health effects in humans. At the time any substance is placed on such list, the Administrator shall establish a threshold quantity for such substance, taking into account the toxicity (including short and long-term health effects), reactivity, volatility, dispersibility, combustibility, or flammability of the substance.

**"(d) HAZARD ASSESSMENTS—**

"(1) Not later than twelve months after a substance is listed under subsection (c), the owner or operator of each facility at which such substance is present in amounts greater than the threshold quantity shall conduct and complete a hazard assessment for each such substance present at the facility. The purpose of such assessment shall be to anticipate the consequences of a range (including worst case events) of sudden, accidental releases of such substances from the facility and to provide information that may aid in the prevention, or mitigation, of or response to such releases.

"(2) Not later than twelve months after the date of enactment of this subsection the Administrator shall propose and not later than twenty-four months after such date publish guidance with respect to the preparation of hazard assessments. In preparing such guidance the Administrator shall review and require, as appropriate, each of the following elements—

"(A) basic data on the facility, units at the facility which contain or process substances listed under subsection (c) (including the longitude and latitude of such units), facility operating procedures, population of the nearby communities, and the meteorology of the area where the facility is located;

"(B) an identification of the potential sources of sudden, accidental release from the facility of substances listed under subsection (c);

"(C) an identification of any previous such releases from the facility for which a report was required under this or other laws, including the amounts released, frequencies, and durations;

"(D) an identification of a range (including worst case events) of potential releases from the facility including an estimate of the size, concentration, and duration of such potential releases and a correlation of such factors with the distance from the source of release;

"(E) a determination of potential exposure (including the concentration and duration

of exposure) for all persons who may be put at risk as the result of a sudden, accidental release from the facility;

"(F) a determination of the probability of exposure as the result of various release scenarios including consideration of meteorological factors;

"(G) information on the toxicity of the substances listed under subsection (c) present at the facility;

"(H) a review of the efficacy of various release prevention and control measures; and

"(I) a sensitivity analysis with respect to the uncertainties and assumptions incorporated in the hazard assessment.

"(3) Each hazard assessment prepared pursuant to this subsection shall be updated biennially. Hazard assessments shall not be required to include potential releases from rolling stock infrequently and temporarily located at the facility but may be required to consider hazards with respect to the substances contained in rolling stock which are regularly present.

"(4) To the maximum extent practicable, the Administrator shall coordinate requirements for hazard assessments under this section with any comparable requirements that may be imposed by the Occupational Safety and Health Administration including joint promulgation of regulations. Provided, That, impacts of potential releases on human health and property outside the boundary of the facility are fully considered in any such regulation, that hazard assessments are available to the public as provided in this subsection, and that nothing in such regulation is interpreted, construed, or applied to preclude or diminish the right of any State or a political subdivision thereof to impose requirements for hazard assessment or accident prevention and mitigation more stringent than those established under such regulations.

"(5) To the extent practicable, and where there are a large number of small facilities with similar business and operating characteristics which are likely to present similar risks of sudden, accidental releases of extremely hazardous substances, the Administrator shall facilitate compliance with the requirements of this subsection by designing generic hazard identification and assessment tools including training manuals, checklists, and workbooks which would be useful to the owners and operators of such facilities. The Administrator is authorized to cooperate with trade associations and other organizations representing such facilities and other advisory groups to develop hazard identification and assessment materials and to conduct training programs in the use of such materials.

"(6) Hazard assessments prepared pursuant to the requirements of this subsection shall be available to the Administrator, to the Chemical Safety and Hazard Investigation Board, to the State in which the facility is located, to any local emergency planning entity or public safety agency having responsibility for planning or response with respect to sudden, accidental releases which may occur at such facility, and to the public subject to the conditions of sections 322, 323, and 324 of the Emergency Planning and Community Right-to-Know Act of 1986.

"(7) As a part of the guidance published pursuant to paragraph (2), the Administrator may collect and publish information on accident scenarios and consequences covering a range of possible events for substances listed under subsection (c). The Administrator shall establish a program of long-term research to develop and disseminate information on methods and techniques of hazard assessment which may be useful in improving and validating the procedures employed in the preparation of hazard assessments under this subsection.

**"(e) CHEMICAL SAFETY BOARD—**

"(1) There is hereby established within the Environmental Protection Agency an independent safety board to be known as the Chemical Safety and Hazard Investigation Board.

"(2) The Board shall consist of three members, including a chairperson, who shall be appointed by the President, by and with the advice and consent of the Senate. Members of the Board shall be appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, chemical safety, toxicology, or chemical regulation.

"(3) The terms of office of members of the Board shall be five years. Any member of the Board, including the chairperson, as determined by the President, may be removed for inefficiency, neglect of duty, or malfeasance in office.

"(4) The chairperson shall be the chief executive officer of the Board and shall exercise the executive and administrative functions of the Board including the selection, appointment and compensation of such officers and employees as are necessary to carry out the functions of the Board.

"(5) The Board shall—

"(A) investigate (or cause to be investigated), determine and report to the public in writing the facts, conditions, and circumstances and the cause or probable cause of any sudden, accidental release involving the production, processing, handling, or storage of chemical substances resulting in a fatality, serious injury, or substantial property damages;

"(B) issue periodic reports to the Congress, Federal, State, and local agencies, including the Environmental Protection Agency and the Occupational Safety and Health Administration, concerned with the safety of chemical production, processing, handling and storage, and other interested persons recommending measures to reduce the likelihood or the consequences of sudden, accidental releases and proposing corrective steps to make chemical production, processing, handling, and storage as safe and free from risk of injury as is possible and may include in such reports proposed rules or orders which should be issued by the Administrator under the authority of this section or the Secretary of Labor under the Occupational Safety and Health Act to prevent or minimize the consequences of any release of substances that may have an acute adverse effect on human health as a result of sudden events; and

"(C) establish by regulation requirements binding on persons for reporting accidental releases subject to the Board's investigatory jurisdiction under this paragraph. Provided, That, reporting releases to the National Response Center, in view of the Board directly, shall satisfy such regulations. And provided further, That, the Center shall promptly notify the Board of any releases which are within the Board's jurisdiction.

"(6) The Board shall coordinate its actions under paragraph (5) with investigations and studies conducted by other agencies of the United States having a responsibility to protect public health and safety, but in no event shall the Board forego an investigation where a sudden, accidental release involving the production, processing, handling, or storage of a chemical substance

causes a fatality or serious injury among the general public. The Board shall enter into a memorandum of understanding with the National Transportation Safety Board to assure coordination of functions and to limit duplication of activities which shall designate the National Transportation Safety Board as the lead agency for the investigation of releases which are transportation related.

"(7) The Board is authorized to conduct research and studies with respect to the potential for the sudden, accidental release of substances subject to section 302 of the Emergency Planning and Community Right-to-Know Act of 1986 and other extremely hazardous substances, whether or not an accidental release has occurred, where there is evidence which indicates the presence of a potential hazard or hazards. To the extent practicable, the Board shall conduct such studies in cooperation with other Federal agencies having emergency response authorities, State and local governmental agencies and associations and organizations from the industrial, commercial, and nonprofit sectors.

"(8) No part of the conclusions, findings, or recommendations of any report of the Board relating to any accidental release or the investigation thereof shall be admitted as evidence or used in any action or suit for damages arising out of any matter mentioned in such report.

"(9) Not later than eighteen months after the date of enactment of this section, the Board shall publish a report accompanied by recommendations to the Administrator on the use of hazard assessments in preventing the occurrence and minimizing the consequences of sudden, accidental releases of extremely hazardous substances. The recommendations shall include a list of extremely hazardous substances (including threshold quantities for such substances) and categories of facilities for which hazard assessments would be an appropriate measure to aid in the prevention of accidental releases and to minimize the consequences of those releases that do occur. The recommendations shall also include a description of the information and analysis which would be appropriate to include in any hazard assessment. The Board shall also make recommendations with respect to the role of risk management plans as provided for in subsection (f)(2) in preventing accidental releases. The Board may from time to time review and revise its recommendations under this paragraph.

"(10) Whenever the Board submits a recommendation with respect to the safety of chemical production, processing, handling, and storage to the Administrator, the Administrator shall respond to such recommendation formally in writing not later than one hundred and eighty days after receipt thereof. The response to the Board's recommendation by the Administrator shall indicate whether the Administrator will—

"(A) initiate a rulemaking or issue such orders as are necessary to implement the recommendation in full or in part, pursuant to any timetable contained in the recommendation;

"(B) decline to initiate a rulemaking or issue orders as recommended. Any determination by the Administrator not to implement a recommendation of the Board or to implement a recommendation only in part, including any variation from the schedule contained in the recommendation, shall be accompanied by a statement from the Administrator setting forth the reasons for such determination.

"(11) The Board, or upon authority of the Board, any member thereof, any administrative law judge employed by or assigned to the Board, or any officer or employee duly designated by the Board, may for the purpose of carrying out duties authorized by paragraph (5)(A)—

"(A) hold such hearings, sit and act at such times and places, administer such oaths, and require by subpoena or otherwise attendance and testimony of such witnesses and the production of evidence and may require by order that any person engaged in the production, processing, handling, or storage of chemical substances submit written reports and responses to requests and questions within such time and in such form as the Board may require; and

"(B) upon presenting appropriate credentials and written notice of inspection authority, enter any property where a sudden, accidental release causing a fatality, serious injury or substantial property damage has occurred and do all things therein necessary for a proper investigation pursuant to paragraph (5)(A) and inspect at reasonable times records, files, papers, processes, controls, and facilities and take such samples as are relevant to such investigation.

"(12) The Board is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions and duties. The Board is authorized without regard to section 5 of title 41 of the United States Code to enter into contracts, leases, cooperative agreements or other transactions as may be necessary in the conduct of the duties and functions of the Board with any other agency, institution, or person.

"(13) The Administrator shall provide to the Board such support and facilities as may be necessary for operation of the Board.

"(14) Any records, reports, or information obtained by the Board shall be available to the public, except that upon a showing satisfactory to the Board by any person that records, reports, or information, or particular part thereof (other than release or emissions data) to which the Board has access, if made public, is likely to cause substantial harm to the person's competitive position, the Board shall consider such record, report, or information or particular portion thereof confidential in accordance with section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, and authorized representatives of the United States concerned with carrying out this Act or when relevant under any proceeding under this Act. This paragraph does not constitute authority to withhold records, reports, or information from the Congress.

"(15) Whenever the Board submits or transmits any budget estimate, budget request, supplemental budget request, or other budget information, legislative recommendation, prepared testimony for congressional hearings, recommendation or study to the President, the Administrator, or the Director of the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have authority to require the Board to submit its budget requests or estimates, legislative recommendations, prepared testimony, comments, recommendations or reports to any officer or agency of the United States for approval or review prior to the submission of such recommendations, testimony, comments or reports to the Congress. In the performance of their functions as established by this Act, the members, officers and employees of the

Board shall not be responsible to or subject to supervision or direction of any officer or employee or agent of any other part of the Environmental Protection Agency or any other agency of the United States except that the President may remove any member of the Board for inefficiency, neglect of duty or malfeasance in office.

"(16) The Board shall submit an annual report to the President and to the Congress which shall include, but not be limited to, information on sudden, accidental releases which have been investigated by or reported to the Board during the previous year, recommendations for legislative or administrative action which the Board has made, the actions which have been taken by the Administrator or the heads of other agencies to implement such recommendations, an identification of priorities for study and investigation in the succeeding year, progress in the development of risk-reduction technologies and the response to and implementation of significant research findings on chemical safety in the public and private sector.

"(17) There are authorized to be appropriated to carry out the provisions of this subsection not to exceed \$12,000,000 in each of the fiscal years ending September 30, 1990, 1991, 1992, 1993, and 1994.

"(f) ACCIDENT PREVENTION.—(1) In order to prevent the release of substances listed pursuant to subsection (c) or other extremely hazardous substances (which may cause acute adverse effects on human health as the result of sudden events) from devices and systems (including, but not limited to, pumps, compressors, valves, flanges, connectors, containers, and vessels but not including rolling stock), the Administrator shall promulgate release prevention, detection, and correction requirements which shall include monitoring, recordkeeping, reporting, training, vapor recovery, secondary containment, and other design, equipment, work practice, and operational requirements. Regulations promulgated under this subsection may make distinctions between various types, classes, and kinds of facilities, devices, and systems taking into consideration factors including, but not limited to, the size, location, process, process controls, quantity of substances handled, potency of substances, and response capabilities present at any facility.

"(2) The regulations under this subsection may require the owner or operator of any facility handling an extremely hazardous substance to prepare and implement a risk management plan to detect and prevent or minimize the potential for an accidental release of extremely hazardous substances and to provide prompt emergency response in the event of a release. The Administrator may require that such plans be reviewed by an independent engineer and that any deficiencies identified be corrected.

"(3) In carrying out the authority of this subsection, the Administrator shall consult with the Secretary of Labor and seek to coordinate any requirements under this subsection with any requirements established for comparable purposes by the Occupational Safety and Health Administration. Nothing in this section shall be interpreted, construed, or applied to impose requirements affecting, or to grant the Administrator, the Chemical Safety and Hazard Investigation Board, or any other agency any authority to regulate (including requirements for hazard assessment), the accidental release of radionuclides arising from the construction

and operation of facilities licensed by the Nuclear Regulatory Commission.

**"(g) DETECTION.**—Regulations promulgated pursuant to subsection (f) shall include requirements for monitoring of all devices and systems (including, but not limited to pumps, compressors, valves, flanges, pipes, and pipelines, connectors, processes, containers and vessels), storage facilities, and transfer points adequate to detect immediately and report concurrently to the facility operator accidental releases of such substances from covered facilities.

**"(h) ORDER AUTHORITY.**—

"(1) In addition to any other action taken, when the Administrator determines that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a substance listed pursuant to subsection (c) or other extremely hazardous substance from a facility, the Administrator may issue such relief as may be necessary to abate such danger or threat, and the district court of the United States in the district in which the threat occurs shall have jurisdiction to grant such relief as the public interest and the equities of the case may require. The Administrator may also, after notice to the State in which the facility is located, take other action under this subsection including, but not limited to, issuing such orders as may be necessary to protect human health, welfare, or the environment.

"(2) Any person who willfully violates, or fails or refuses to comply with, any order of the Administrator under paragraph (1) may, in an action brought in the appropriate United States district court to enforce such order, be fined not more than \$25,000 for each day in which such violation occurs or failure to comply continues.

"(3) Within one hundred and eighty days after enactment of this section, the Administrator shall publish guidance for using the order authorities established by this subsection. Such guidance shall provide for the coordinated use of the authorities of this subsection with other emergency powers authorized by section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act, sections 311(c), 308, 309, and 504(a) of the Federal Water Pollution Control Act, sections 3007, 3008, 3013, and 7003 of the Solid Waste Disposal Act, sections 1445 and 1431 of the Safe Drinking Water Act, sections 5 and 7 of the Toxic Substances Control Act, and sections 113, 114, and 303 of this Act.

**"(i) ENFORCEMENT.**—Each requirement under this section shall, for purposes of section 113, 114, 116, 304, and 307, be treated as a standard in effect under section 112.

**"(j) PRESIDENTIAL REVIEW.**—The President shall conduct a review of release prevention, mitigation, and response authorities of the various Federal agencies and shall clarify and coordinate agency responsibilities to assure the most effective and efficient implementation of such authorities and to identify any deficiencies in authority or resources which may exist. The President may utilize the resources and solicit the recommendations of the Board in conducting such review. At the conclusion of such review, but not later than twenty-four months after the date of enactment of this section, the President shall transmit a message to the Congress on the release prevention, mitigation, and response activities of the Federal Government making such recommendations for change in law as the President may deem appropriate. Nothing in this subsection

shall be interpreted, construed, or applied to authorize the President to modify or redesign release prevention, mitigation, or response authorities otherwise established by law.

**"(k) STATE AUTHORITY.**—Nothing in this section shall preclude, deny, or limit any right of a State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard (including any procedural requirement) that is more stringent than a regulation, requirement, or standard in effect under this section or that applies to a substance not subject to this section.

**"(l) AUTHORIZATION.**—There are authorized to be appropriated to the Administrator such sums as may be necessary to carry out the provisions of this section."

**CONFORMING AMENDMENTS**

**SEC. 305. (a)** Section 111(d)(1) of the Clean Air Act is amended by striking "112(b)(1)(A)" and inserting in lieu thereof "112(b)".

(b) Section 111 of the Clean Air Act is amended by striking paragraphs (g)(5) and (g)(6) and redesignating the succeeding paragraphs accordingly. Such section is further amended by striking "or section 112" in paragraph (g)(5) as redesignated in the preceding sentence.

(c) Section 114(a) of the Clean Air Act is amended by striking "or" after "section 111," and by inserting "or any accident prevention regulation under section 129," after "section 112".

(d) Section 118(b) of the Clean Air Act is amended by striking "112(c)" and inserting in lieu thereof "112(i)(3)".

(e) Section 302(k) of the Clean Air Act is amended by adding before the period at the end thereof "and any design, equipment, work practice, or operational standard authorized by this Act constitutes a violation of an 'emission standard' whether or not an air pollutant is emitted to the ambient air".

(f) Section 304(b)(1) of the Clean Air Act is amended by striking "112(c)(1)(B)" and inserting in lieu thereof "112".

(g) Section 307(b)(1) is amended by striking "112(c)" and inserting in lieu thereof "112".

**MUNICIPAL WASTE COMBUSTION: AIR EMISSIONS**

**SEC. 306. (a)** Part A of title I of the Clean Air Act is amended by adding the following new section at the end thereof:

**'MUNICIPAL WASTE COMBUSTION'**

**"SEC. 130. (a) STANDARDS FOR NEW UNITS.**—(1)(A) Not later than eighteen months after the date of enactment of this section, the Administrator shall promulgate standards of performance to control emissions of air pollutants into the ambient air from each—

"(i) new or modified municipal waste incineration unit; and

"(ii) municipal waste incineration unit which begins operation after July 1, 1989, except units which are substantially completed before such date.

"(B) The standards promulgated under this subsection shall reflect the greatest degree of emission limitation achievable through application of the best available control technologies and practices which the Administrator determines at the time of promulgation (or revision, in the case of a revision of a standard)—

"(i) has been achieved in practice by a municipal waste incineration unit, excluding periods of malfunction or misoperation, or

"(ii) is contained in a State or local regulation or any permit for municipal waste incineration units, and will be implemented at such units,

whichever is more stringent, unless the Administrator determines that such degree of emission limitation will not be achievable by units to which the standards apply or was adopted for reasons that are unique to the unit or jurisdiction in which the unit is located and are not applicable to other units or jurisdictions. In determining the emissions limitation to be required under this subsection, the Administrator shall take into account the performance of all units which achieve, in whole or in part, emissions limitations more stringent than current standards and may subsequently exclude units from consideration only to the extent provided in this subparagraph. In establishing standards under this section the Administrator may distinguish between types and classes of municipal waste incineration units based on combustion technology or pollution control systems.

"(C) In no event shall the standards promulgated under this subsection permit such municipal waste incineration units to emit any pollutant in excess of the amount allowable under any applicable new source standards of performance.

"(D) Standards under this subsection shall be based on methods and technologies for removal or destruction of pollutants before, during, or after combustion, and shall incorporate siting requirements that minimize, on a site specific basis, to the maximum extent practicable, any potential risk to human health or the environment. The following practices and control technologies, used individually, in combination with one another, or in combination with other available practices or control technologies not identified in this paragraph, shall be deemed available for purposes of this paragraph: electrostatic precipitators, fabric filtration, flue gas scrubbers, spray dry scrubbers, negative air flow, and good combustion practices, including availability of auxiliary fuel to maintain specific temperatures.

"(E) In adopting standards of performance, the Administrator may take into consideration other technologies and practices that, either by themselves or in combination with other technologies or practices, may achieve a greater degree of emission reduction for the pollutants specified in paragraph (2)(A), including the use of selective or non-selective catalytic reduction, wet flue gas denitrification, selective noncatalytic reduction, wet scrubbing, or catalytic oxidation.

"(2)(A) The standards promulgated under this subsection shall specify numerical emission limitations for the following substances or mixtures: particulate matter (total and fine), opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, halogenated organic compounds, dioxins, and dibenzofurans. In establishing such standards of performance under this subsection, the Administrator shall take into account the use of numerical standards or other methods to reduce the presence in air emissions or ash from a municipal waste incineration unit of each of the following additional substances: volatile organic compounds, beryllium, hydrogen fluoride, antimony, arsenic, barium, chromium, cobalt, copper, nickel, selenium, zinc, polychlorinated biphenyls, chlorobenzenes, chlorophenols, and polynuclear aromatic hydrocarbons.

"(B) Except as provided in subparagraph (C), any such standard shall not allow—

"(i) an outlet gas carbon monoxide concentration greater than 50 parts per million corrected to 7 percent oxygen on a 8-hour

average except that the Administrator is authorized to establish a standard for refuse-derived fuel units allowing carbon monoxide concentrations not to exceed 100 parts per million corrected to 7 percent oxygen on an 8-hour average if such units commencing construction or modification after the date of enactment of this section control emissions with dry scrubbers and fabric filtration;

"(ii) an outlet gas particulate concentration greater than 0.015 grains per dry standard cubic foot corrected to 7 percent oxygen;

"(iii) an outlet gas concentration of sulfur dioxide greater than 40 parts per million corrected to 7 percent oxygen on an 8-hour average, unless uncontrolled emissions of sulfur dioxide are reduced by not less than 70 percent;

"(iv) an outlet gas concentration of hydrogen chloride greater than 30 parts per million corrected to 7 percent oxygen, unless uncontrolled hydrogen chloride emissions are reduced by not less than 90 percent;

"(v) a retention temperature and time of less than 1800 degrees Fahrenheit or less than 1 second at fully mixed height (or the equivalent), except that the Administrator may establish standards for combustion parameters (including temperature) other than those stated in this paragraph for units employing atmospheric-fluidized bed boilers for the control of oxides of nitrogen, if such standards achieve a combustion efficiency equivalent to that required of other units; or

"(vi) a flue gas temperature of 450 degrees Fahrenheit or more averaged over 4 hours at the inlet of the particulate control device.

"(C) The Administrator shall by regulation establish periods of unit startup, unit shutdown and process upset to which the requirements of subparagraph (B)(i) do not apply and shall establish alternative standards during such period which shall include numerical limitations for carbon monoxide emissions and a requirement to use auxiliary fuels to minimize emissions of such pollutant.

"(3) Standards promulgated under this subsection shall be effective no later than six months after the date of promulgation. To the extent that installation of an acid gas scrubber at a municipal waste incineration unit is required to comply with a standard or standards under this subsection, such standard shall be effective for units at which a scrubber is to be installed not later than twenty-four months after the date of promulgation. Not later than five years following the initial promulgation of such standards and at five-year intervals thereafter, the Administrator shall review and, in accordance with this subsection, revise such standards. Such revised standards shall be effective as of the date six months after the date of promulgation with respect to facilities which begin construction or modification on or after the date on which such standards are first proposed.

"(4) After the effective date of any standard promulgated under this section, it shall be unlawful for any owner or operator of any municipal waste incineration unit to operate such unit in violation of such standard applicable to such unit.

"(5) When promulgating standards (or revised standards) under this subsection the Administrator shall consider the applicability of such standards (as the result of subsection (k)(2)(B)) to municipal waste incineration units already in operation and shall publish with such standards a schedule for compliance for each such unit providing adequate time for retrofit of necessary pollution

control equipment, but in no event longer than four years after the date such standards are promulgated.

"(b) RECYCLING AND ASH MANAGEMENT.—(1) In addition to any other applicable requirements, after the date thirty-six months after the enactment of this section, no permit may be issued under a State program approved under part C or part D of this Act for any new or modified municipal waste incineration unit unless (A) the applicant has fully complied with the application requirements for the permit (pursuant to 40 CFR 52.21) and any applicable State requirements before such date, or (B) each of the jurisdictions served by the municipal waste incineration unit (as designated by the State in accordance with section 4006 of the Solid Waste Disposal Act) has been certified by the director of the solid waste program for the State in which the unit is to be located as in compliance with all solid waste planning requirements under the Solid Waste Disposal Act and will achieve pursuant to an enforceable plan a solid waste recycling rate of 25 per centum or more before such unit begins operation, unless the director determines that recycling at such rate is economically infeasible and establishes an alternative rate. Yard waste shall not be credited for more than 10 per centum of the waste stream for purposes of the recycling requirement under this paragraph.

"(2)(A) Beginning twenty-four months after the date of enactment of this section, no permit may be issued under this Act to a municipal waste incineration unit unless an ash management plan has been submitted for the ash from such unit. The application for each permit to be issued to a new or modified municipal waste incineration unit or renewal or issuance of a permit for an existing unit, shall include a reasonable demonstration of adequate capacity to treat, manage, or dispose of the ash produced by the unit for a period of not less than five years in compliance with the requirements of section 4011 of the Solid Waste Disposal Act. Demonstrations required by this paragraph shall be updated every five years as required by subsection (f).

"(B) The Administrator may promulgate regulations or issue guidelines for the implementation of this paragraph which shall provide that, to the extent practicable, demonstrations are based on the characteristics of ash from the municipal waste incineration unit as determined by testing methods prescribed pursuant to section 4011 of the Solid Waste Disposal Act. The initial demonstration required for new or modified municipal waste incineration units under this paragraph shall be based on the characteristics of the ash from units of comparable design (including pollution control equipment and ash treatment systems) combust ing similar waste streams.

"(C) Notwithstanding any other provision of this Act or the Solid Waste Disposal Act, no person may operate a municipal waste incineration unit unless adequate capacity is available to treat, manage or dispose of the ash produced by the unit in compliance with section 4011 of the Solid Waste Disposal Act.

"(c) INTERIM STANDARDS.—If the Administrator fails to promulgate standards under subsection (a) of this section, beginning eighteen months after the date of enactment of this section and extending until such time as standards are promulgated no permit may be granted to the owner or operator of any municipal waste incineration unit which begins operation after July 1,

1989, and which is required to obtain a permit under a State program approved under part C or part D of this Act unless such permit requires compliance with emission standards that comply with subsection (a)(2)(B). Compliance with standards promulgated under subsection (a) shall be required six months after the date such standards are promulgated for all municipal waste incineration units subject to the provisions of this subsection, unless a unit is required to install an acid gas scrubber to comply with a standard in which case the standard shall be effective for such unit no later than twenty-four months after promulgation.

"(d) STANDARDS FOR EXISTING UNITS.—(1) Not later than eighteen months after the enactment of this section, the Administrator shall promulgate regulations and standards of performance to control emissions of air pollutants into the ambient air from each municipal waste incineration unit which is in operation or which is substantially completed prior to January 1, 1989. Such standards of performance shall be established on the basis of the degree of emission limitation achievable through application of available control technologies and practices as determined under subsection (a)(1), and shall specify emission limitations for the substances required under subsection (a)(2). In establishing standards under this subsection the Administrator may distinguish between types and classes of municipal waste incineration units based on combustion technology or pollution control systems.

"(2) Except as provided in paragraph (3), any such standard shall not allow—

"(A) an outlet gas carbon monoxide concentration greater than 100 parts per million corrected to 7 percent oxygen on an 8-hour average except that the Administrator is authorized to establish a standard for units allowing carbon monoxide concentrations not to exceed 200 parts per million corrected to 7 percent oxygen on an 8-hour average provided that such units control emissions with acid gas scrubbers and fabric filtration;

"(B) an outlet gas particulate concentration greater than 0.020 grains per dry standard cubic foot corrected to 7 percent oxygen;

"(C) an outlet gas concentration of sulfur dioxide greater than 60 parts per million corrected to 7 percent oxygen on an 8-hour average, unless uncontrolled emissions of sulfur dioxide are reduced by 70 percent;

"(D) an outlet gas concentration of hydrogen chloride of 45 parts per million corrected to 7 percent oxygen, unless uncontrolled emissions of hydrogen chloride are reduced by 90 percent;

"(E) a retention temperature and time of less than 1800 degrees Fahrenheit or less than 1 second at fully mixed height (or the equivalent); or

"(F) a flue gas temperature of 450 degrees Fahrenheit or more averaged over 4 hours at the inlet of the particulate control device. The Administrator shall promulgate a schedule for compliance with these standards. In no event shall such schedule provide for compliance with such standards later than the date six years after the enactment of this section. .

"(3) The Administrator shall by regulation establish periods of unit startup, unit shutdown and process upset to which the requirements of paragraph (2)(A) do not apply and as part of such standards shall include a numerical limitation for carbon monoxide emissions and a requirement that auxiliary

*fuels be used during such periods to minimize emissions.*

*"(c) MONITORING.—(1) The Administrator shall promulgate regulations requiring the owner or operator of each municipal waste incineration unit—*

*"(A) to monitor emissions from the unit at the point at which such emissions are emitted into the ambient air (or within the stack, combustion chamber or pollution control equipment, as appropriate) and at such other points as necessary to protect human health and the environment;*

*"(B) to monitor such other parameters relating to the operation of the unit and its pollution control technology as the Administrator determines are appropriate; and*

*"(C) to report the results of such monitoring.*

*Such regulations shall contain provisions regarding the frequency of monitoring, test methods and procedures validated on municipal incineration units, and the form and frequency of reports containing the results of monitoring and shall require that any monitoring reports or test results indicating exceedance of standards under this section shall be reported separately and in a manner that facilitates review for purposes of enforcement actions. Such regulations shall require that copies of the results of such monitoring be maintained on file at the facility concerned and that copies shall be made available for inspection and copying by interested members of the public during business hours.*

*"(2) The Administrator shall promulgate the regulations required under this subsection within eighteen months after the enactment of this section. Such regulations may be revised from time to time in accordance with paragraph (1). Except as provided in paragraph (3), the requirements of this subsection shall take effect—*

*"(A) upon commencement of operation of any new or modified unit; and*

*"(B) twenty-four months after the enactment of this part in the case of any existing municipal waste incineration unit.*

*"(3)(A) The regulations promulgated under this subsection shall, at a minimum, require continuous monitoring for the following opacity, hydrogen chloride (if such monitoring device or method is available), sulfur dioxide, oxides of nitrogen, carbon monoxide, carbon dioxide, oxygen, stack temperature, furnace temperature (or secondary combustion zone temperature, as appropriate) and stack gas temperature at the inlet to the particulate control device.*

*"(B) For all emissions subject to standards under this section that are not subject to continuous monitoring under subparagraph (A), the regulations promulgated under this subsection shall require periodic monitoring of such emissions at each municipal waste incineration unit not less frequently than—*

*"(i) every six months, or  
"(ii) six months after commencement of operations, and every eighteen months thereafter if the owner or operator of such unit demonstrates that such unit has complied with all applicable emissions standards as of the commencement of operations and during the previous periods of monitoring and maintains compliance with all applicable emissions standards during each interval between monitoring.*

*Regulations promulgated under this section shall provide for prompt monitoring of emissions and parameters which are not monitored continuously whenever there is a violation of a related emission standard or parameter which is continuously monitored.*

*"(C) The initial monitoring under this subsection shall commence at the later of the following—*

*"(i) the date six months after the promulgation of regulations under this subsection; or*

*"(ii) the commencement of operation of the unit concerned.*

*"(4) Notwithstanding the provisions of paragraph (3), regulations promulgated under this subsection and applicable to municipal waste incineration units which are not major emitting facilities as defined in part C may provide for monitoring with other than EPA-certifiable monitoring methods and shall at a minimum require continuous monitoring of: oxygen; opacity; furnace temperature (or secondary combustion zone temperature, as appropriate); carbon monoxide; pH; and such other parameters as the Administrator shall require.*

*"(5)(A) The regulations required by this subsection may require the owner or operator of each municipal waste incineration unit to establish and operate, or to pay the costs of establishing and operating, a program to detect impacts of the unit, or any associated releases, on the environment or human health. Such program shall require periodic testing for and public reporting of the presence of waste constituents or contaminants (or indicators thereof) at statistically significant levels.*

*"(B) In any case in which exposure to municipal waste incineration unit emissions or ash may pose a potential risk to human health, the Administrator or the State may request the Administrator of the Agency for Toxic Substances and Disease Registry to conduct a health assessment in connection with the unit and such other health studies or surveillance as may be warranted, as authorized under section 194(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Such studies may include programs to detect changes in the body burden of various pollutants including but not limited to lead, mercury, cadmium, halogenated hydrocarbons, and dioxins in any area affected by incineration unit emissions or ash.*

*"(f) PERMITS.—Notwithstanding any other provision of this Act, each permit for a municipal waste incineration unit issued under this Act may be issued for a period of up to twenty years and shall be reviewed every five years after date of issuance or reissuance. Each permit shall continue in effect after the date of issuance until the date of termination, unless the Administrator or State determines—*

*"(1) that the unit is not in compliance with all standards and conditions contained in the permit; or*

*"(2) capacity to treat or dispose of the ash from such unit in compliance with section 4011 of the Solid Waste Disposal Act for a five-year period after such determination has not been demonstrated. Such determination shall be made at regular intervals during the term of the permit, such intervals not to exceed five years, and only after public comment and public hearing. No permit for a municipal waste incineration unit may be issued under this Act by an agency, instrumentality or person (other than a Governor) that is also responsible, in whole or part, for the design and construction or operation of the unit. Notwithstanding any other provision of this subsection, the Administrator or State may require the owner or operator of any unit to comply with emissions limitations or implement any other measures, if the Administrator or*

*State determines that emissions in the absence of such limitations or measures may reasonably be anticipated to endanger public health or the environment.*

*"(g) OTHER AUTHORITY.—(1) Nothing in this section shall diminish or otherwise affect any authority to establish and enforce standards under section 111 or 112 or under any other authority of law for emissions from municipal waste incineration units of any air pollutant not referred to in subsection (a). With respect to emissions from municipal waste incineration units of any air pollutant referred to in subsection (a)—*

*"(A) nothing in this section shall diminish the authority of the Administrator to promulgate more stringent standards under section 112 or any other provision of this Act;*

*"(B) nothing in this section shall diminish the authority of the Administrator or a State to establish any other requirements under any other authority of law, including the authority to establish for any such air pollutant a national ambient air quality standard;*

*"(C) no requirement of an applicable implementation plan under section 165 (relating to construction of facilities in regions identified pursuant to section 107(d), relating to the designation of areas as nonattainment with respect to a national ambient air quality standard) or under section 172 (relating to permits for construction and operation in nonattainment areas) may be used to weaken the standards in effect under this section; and*

*"(D) nothing in this section shall be interpreted construed or applied to limit the authority of the Administrator to impose more stringent requirements for the incineration of hospital or other infectious wastes under this Act or other authority including subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921, et seq.).*

*"(2) Nothing in this Act shall be construed, interpreted, or applied to preempt, supplant, or displace other State or Federal law, whether statutory or common.*

*"(h) STATE PROGRAMS.—Any State may submit to the Administrator a proposed State program for implementation and concurrent enforcement of the requirements of this section. After ninety days after submission to the Administrator, the State shall be treated as authorized to enforce the requirements of this section in such State unless the Administrator determines that the State program does not provide enforcement equivalent to Federal enforcement under this Act. Whenever the Administrator determines that a State is not enforcing the requirements of this section in a manner equivalent to Federal enforcement, the Administrator shall withdraw the authorization for such State. Each State program approved under this subsection shall, at a minimum, include permitting requirements for each new and existing municipal waste incineration unit located in the State. Any permit issued by a State may be reviewed and withdrawn by the Administrator on the Administrator's own motion or upon a showing by any person that the conditions contained in such permit are not in compliance with the requirements of this Act.*

*"(i) STATE AUTHORITY.—Nothing in this section shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard relating to municipal waste incineration units that is more stringent than a regulation, requirement, or standard in effect under this section or under any other provision of this Act.*

**(l) ENFORCEMENT.**—For purposes of sections 111(e), 113, 114, 116, 120, 304, and 307 each standard and other requirement promulgated under this section shall be treated in the same manner as a standard of performance under section 111 which is an emission limitation and each requirement of a State plan authorized under this section shall be treated as a requirement of an applicable implementation plan. Any civil penalties imposed by a court against a unit of local government under this Act for violations of this section shall be paid into a trust fund or comparable mechanism established by a court or the State and shall be applied in support of public programs or activities, as authorized by the court (or a fund administrator appointed by the court), that serve to enhance the protection of human health and the environment of the residents of such unit of local government but shall not be used to come into compliance with requirements established under this section or section 4011 of the Solid Waste Disposal Act.

**(m) DEFINITIONS.**—As used in this section—

(1) The term ‘municipal waste incineration unit’ means a distinct operating unit of any facility which combusts any solid waste material from commercial or industrial establishments or the general public (including single and multiple residences, hotels, and motels). Such term does not include incinerators or other units required to have a permit under section 3005 of the Solid Waste Disposal Act. The Administrator may promulgate standards for hospital incineration units (or other units operated principally to handle infectious wastes) under other provisions of this Act or section 3005 of the Solid Waste Disposal Act in lieu of standards under this section, provided that such standards are no less stringent than the standards under this section which are applicable to municipal waste incineration units of a comparable class or type. Until such regulations are promulgated, hospital incineration units (or other units operated principally to handle infectious wastes) shall be subject to the requirements of this section. The term ‘municipal waste incineration unit’ does not include air curtain incinerators provided that such incinerators only burn wood wastes, yard wastes and clean lumber and that such incinerators comply with opacity limitations to be established by the Administrator by rule.

(2) The term ‘new municipal waste incineration unit’ means a municipal waste incineration unit—

(A) the construction or modification of which is commenced after the Administrator proposes requirements under this section establishing emissions standards or other requirements which would be applicable to such unit; or

(B) effective January 1, 1992, which had commenced operation thirty years or more previously, except that any unit in compliance with the requirements of subsection (d) shall not be considered a new unit until thirty years after the date for compliance specified in such subsection.

(3) The term ‘substantially completed unit’ means a unit not in operation before July 1, 1989 for which the addition of required pollution control equipment will cost more than twice what such equipment would have cost had it been constructed as part of the permitted design or for which 90 per centum of all construction has been completed before such date.

(4) The term ‘modified municipal waste incineration unit’ means a municipal waste

incineration unit at which modifications have occurred after the effective date of a standard under subsection (a) or (d) if (A) the cumulative cost of the modifications, over the life of the unit, exceed 50 per centum of the original cost of construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation), or (B) the modification is a physical change in or change in the method of operation of the unit which increases the amount of any air pollutant emitted by the unit for which standards have been established under this section.

(5) The term ‘existing municipal waste incineration unit’ means a municipal waste incineration unit which is not a new or modified municipal waste incineration unit.

(l) SOURCE SEPARATION.—(1) Not later than eighteen months after the enactment of this section, the Administrator shall publish guidelines identifying items or materials that should be removed from municipal waste prior to incineration, either through separation by the generator of such waste or at a central facility from the general waste stream or through limitations on the composition (including inks and pigments) of products or on the disposal of such items or materials in municipal waste.

(2) Regulations under this section shall require the operator of any municipal waste incineration unit to establish contractual requirements or other appropriate notification and inspection procedures sufficient to assure that the unit does not receive any waste required to be placed in a facility permitted under section 3005 of the Solid Waste Disposal Act.

(m) PRODUCT COMPOSITION.—If the Administrator finds that there is a reasonable basis to conclude that any product or article distributed in commerce presents, or may (to a reasonable degree of certainty) present, a threat to human health or the environment as the result of incineration of such product or article at municipal waste incineration units which are in compliance with standards promulgated under this section or as the result of the handling or disposal of ash from such units, the Administrator shall by rule apply one or more of the following requirements to the composition of such product or article, its distribution in commerce or methods of disposal as may be necessary to protect human health and the environment—

(1) requirements prohibiting or limiting the manufacture, processing or distribution in commerce of such product or article;

(2) requirements with respect to the concentration of any substances in the composition of the product or article, including a prohibition on the presence of such substances in the product, article or its residue;

(3) requirements for the marking or labeling of such product or article, including instructions for the proper disposal of such product or article or its residues;

(4) requirements for recovering or recycling such product or article, including the imposition of reimbursable fees on the sale of such product or article;

(5) requirements that solid waste management plans for areas served by municipal waste incineration units as required by subsection (b) of this section provide for the separation, recovery or recycling of such products or articles or residues to prevent, to the maximum extent practicable, any threat to human health or the environment which may result from the incineration of

such products, articles or their residues or the handling or disposal of ash from units which have incinerated such products, articles or their residues;

(6) requirements for the disposal of such product or article or its residues.

Not later than twenty-four months after the date of enactment of this section, the Administrator shall identify not less than five pollutants which present the greatest threat to public health or the environment as the result of municipal waste combustion or the disposal of ash from such combustion and for which health and environmental threats can be substantially diminished through rules issued pursuant to this subsection. The Administrator shall make a determination under this subsection with respect to the principal consumer or commercial products or residues of such products which contribute to the generation of the identified pollutants not later than thirty-six months after the date of enactment of this subsection.

(n) OPERATOR TRAINING.—Not later than eighteen months after the enactment of this section, the Administrator shall develop and promote a model State program for the training and certification of municipal waste incinerator operators. The program shall include a requirement that all operators achieve a passing grade on an examination on (and participate in continuing education to stay informed about) current technology for the control of pollution from municipal waste incineration units. The Administrator may authorize any State to implement a State program for the training and certification of municipal waste incinerator operators if the State has adopted a program which is at least as stringent as the model program developed by the Administrator. Beginning on the date thirty months after the date of enactment of this section it shall be unlawful to operate a municipal waste incineration unit unless each person with control over processes affecting emissions from such unit has satisfactorily completed a training and certification program meeting the requirements established by the Administrator under this subsection.

(o) Section 16911 of the Clean Air Act is amended by striking “two hundred and” after “municipal incinerators capable of charging more than”.

#### ASH MANAGEMENT AND DISPOSAL

SEC. 307. (a) Subtitle D of the Solid Waste Disposal Act is amended by adding the following new section:

#### “MUNICIPAL WASTE COMBUSTION ASH

“SEC. 4011. (a) IN GENERAL.—(1) Not later than eighteen months after the date of enactment of this section, the Administrator shall promulgate regulations for the management, handling, storage, treatment, transportation, reuse, recycling, and disposal of ash from municipal waste incineration units, as may be necessary to protect human health and the environment. Notwithstanding other provisions of this Act, the management, handling, storage, treatment, transportation, reuse, recycling, and disposal of ash from municipal waste incineration units shall be subject to this section and subtitle and not subject to the provisions of subtitle C except that the Administrator may issue regulations under subtitle C in lieu of regulations under this section applicable to ash from units operated primarily to incinerate hospital or other infectious wastes. Until such time as regulations are promulgated for such units, ash from units operated primarily to incinerate hospital or other infectious wastes shall be subject to the re-

quirements of this section. The provisions of sections 3007 and 3008 shall apply to ash from municipal waste incineration units and the requirements of this section to the same extent that such sections apply to hazardous wastes and the requirements of subtitle C.

"(2) For the purposes of this section, the term—

"(A) 'municipal waste incineration unit' shall have the meaning given in section 130(k)(1) of the Clean Air Act; and

"(B) 'treatment' means any method, technique, or process designed to change the physical, chemical, or biological character or composition of any ash so as to remove or permanently fix in place any constituent of the ash which, in the event of mismanagement during transportation, storage, reuse or disposal, would pose a threat to human health or the environment and includes testing of such ash to assure that criteria promulgated under subsection (e) are satisfied.

"(3) Regulations promulgated under this section may establish requirements that apply to fly ash separately, to bottom ash separately, or to the combination of fly ash and bottom ash.

"(b) DISPOSAL.—(1) Regulations promulgated under subsection (a) for the disposal of ash from municipal waste incineration units in landfills shall require—

"(A) the installation of double liner consisting of one flexible membrane liner and a composite liner with a leachate collection system above and between such liners, in accordance with paragraph (2); and

"(B) ground water monitoring.

"(2) The requirement of paragraph (1)(A) may be satisfied by the installation of liners designed, operated, and constructed of materials to prevent the migration of any constituent into such liners during the period such facility remains in operation (including any post-closure monitoring period). For the purposes of this section the term 'composite liner' means a liner which consists of a flexible membrane liner and at least a three-foot thick layer of recompacted clay or other natural material with a hydraulic conductivity of no more than  $1 \times 10^{-7}$  centimeter per second. The provisions of this paragraph apply prior to and after the promulgation of regulations under paragraph (1).

"(3)(A) Notwithstanding the requirement of paragraph (1)(A), regulations promulgated under subsection (a) may provide for the placement of ash from municipal waste incineration units in a monofill (containing only ash from such units) with a composite liner designed, operated and constructed of materials to prevent the migration of any constituent into and through such liner during the period the monofill remains in operation (including any post-closure monitoring period), ground water monitoring and leachate collection.

"(B) For the purpose of paragraph (4), a monofill (containing only ash from municipal waste incineration units) with two or more flexible membrane liners, a leachate collection system above and between such liners and ground water monitoring is determined to be an alternative design which will prevent the migration of any hazardous constituent into ground water or surface water at least as effectively as the design requirements of subparagraph (A).

"(C) If fly ash is to be disposed in a monofill containing solely or substantially fly ash, such ash shall be treated pursuant to treatment standards established under this section before disposal or such monofill

shall be constructed with an additional liner, and a leachate detection and collection system between the liners.

"(D) Requirements under this paragraph are minimum requirements and the Administrator shall promulgate more stringent requirements applicable where necessary to assure that releases from a monofill will not contaminate ground water or surface water or otherwise pose a threat of adverse effects on human health or the environment.

"(4) The design requirements of paragraphs (1) and (3) shall not apply if the owner or operator of a solid waste management unit utilizing an alternative design demonstrates to the State, and the State finds, that the alternative design and operating practices will prevent the migration of any hazardous constituent into the ground water or surface water at least as effectively as the design requirements of paragraphs (1) or (3) of this subsection. The State shall not solely or substantially rely upon location characteristics to make any determination under this paragraph. The Administrator may review, on appeal by any person or on the Administrator's own motion, and reverse any determination made by a State under this subsection. The Administrator shall make a decision on any appeal within one hundred and eighty days.

"(5) Liner requirements imposed under paragraphs (1) or (3) of this subsection or subsection (c) shall include provisions for quality control and quality assurance with respect to the design and installation of the liners.

"(6) Nothing in this section shall be interpreted, construed or applied to require the routine testing of ash which is disposed in a landfill or monofill meeting the requirements of this subsection.

"(c) DISPOSAL IN SANITARY LANDFILLS.—Regulations promulgated under subsection (a) may allow disposal of ash from municipal waste incineration units in sanitary landfills with, at a minimum, one liner, leachate collection and ground water monitoring and otherwise meeting the requirements of revised criteria promulgated under section 4010(c), if (1) such ash is routinely tested and does not fail any criteria under subsection (e); and (2) any fly ash so disposed (including any fly ash combined with bottom ash) has undergone treatment (as defined in subsection (a)) in accordance with regulations for treatment promulgated under this section and such treated fly ash is separately tested and does not fail any criteria established under subsection (e). For the purposes of this section, the mixing of fly ash and bottom ash, or the mixing of such ash with other solid waste, without the introduction of chemical stabilization agents, does not constitute treatment. Ash may not be disposed of in units that are created as a result of vertical expansion of an existing waste disposal facility unless the owner or operator of such facility demonstrates, and the State finds, that there will be no settling (that would impair the integrity of any required liner) of the waste upon which the proposed unit is to be built.

"(d) REUSE.—(1) The regulations under this section shall include such requirements applicable to the reuse and recycling of the ash from municipal waste incineration units, including criteria and routine testing procedures, as may be necessary to protect human health and the environment. In developing such regulations, the Administrator shall consider, to the extent feasible and appropriate, all potential pathways of human and environmental exposure, includ-

ing both short-term and long-term, to hazardous constituents of such ash from such recycling and reuse. The pathways to be considered shall include, but not be limited to, inhalation, ingestion as a consequence of incorporation of the ash or any hazardous constituents into the food chain, ingestion of potable water or aquatic organisms contaminated by surface runoff, leaching or percolation of such ash or its hazardous constituents into ground water or surface water, ingestion or inhalation of soil particles contaminated with such ash, and dermal contact with such ash. At a minimum the Administrator shall consider with respect to such recycling and reuse, appropriate methods to determine leaching, total chemical analysis, respirability, and toxicity.

"(2) Such regulations shall require treatment of ash from municipal waste incineration units before any such ash is recycled or reused to protect human health and the environment. Such regulations shall specify those levels or methods of treatment that, taking into account the potential pathways of exposure identified in paragraph (1)—

"(A) substantially reduce the likelihood of migration of ash or its hazardous constituents so that short-term and long-term threats to human health and the environment are minimized;

"(B) satisfy any criteria and routine testing procedures included in the regulations under paragraph (1); and

"(C) assure that the recycling or reuse of such ash is protective of human health and the environment.

"(3) If the Administrator fails to promulgate regulations under this subsection, no person may reuse or recycle ash from a municipal waste incineration unit after the date thirty-six months after the date of enactment of this section unless such ash is treated and leachate from an extraction procedure toxicity test applied to such ash does not exceed standards established pursuant to section 1412 of the Safe Drinking Water Act for any pollutant or contaminant.

"(e) CRITERIA AND TESTING.—(1) For the purposes of developing regulations for the management, handling, storage, treatment, transportation, reuse, recycling, and disposal of ash from municipal waste incineration units under this section, the Administrator shall promulgate criteria and testing procedures for identifying the characteristics of ash from municipal waste incineration units that may pose a hazard to human health or the environment. In considering potential hazards to human health and the environment, the Administrator shall consider, to the extent appropriate and feasible, all potential pathways of human or environmental exposure to constituents of such ash, including, but not limited to, inhalation, ingestion as a consequence of incorporation of the ash or any constituent into the food chain, ingestion of potable water or aquatic organisms contaminated by surface runoff, leaching or percolation of such ash or its constituents into ground water or surface water, ingestion or inhalation of soil particles contaminated with such ash, and dermal contact with such ash (including, for all such pathways, situations of disposal or reuse). At a minimum, the Administrator shall consider appropriate methods to determine leaching, total chemical analysis, respirability, and toxicity. The criteria and accompanying testing procedures promulgated by the Administrator under this subsection shall reflect the heterogeneous characteristics of municipal solid waste and mu-

nicipal incinerator ash, including seasonal variations in the constituents of such solid waste and ash. Leaching procedures established under this subsection shall include testing under acidic and native conditions. Test leachate from any ash containing a substance in concentrations exceeding the maximum contaminant level for such substance established pursuant to section 1412 of the Safe Drinking Water Act by a factor of one hundred or more shall, unless the Administrator establishes a more stringent requirement, constitute a failure of the test required by this section.

"(2) The Administrator shall, pursuant to subsection (c) or (d), require the owner or operator of any municipal waste incineration unit or any facility handling, transporting, storing, treating, reusing, recycling, or disposing of ash from such unit to test such ash in accordance with the criteria and testing procedures promulgated under this subsection. If fly ash and bottom ash are combined, such combined ash must also be tested in accordance with such criteria and testing procedures, including, as the Administrator determines necessary, the separate testing of bottom ash and fly ash.

"(3) Any ash which fails in any characteristic under the criteria and testing procedures promulgated by the Administrator under this subsection shall be disposed of in a facility in compliance with subsection (b) (1) or (3), or shall be treated (as defined in subsection (a)) in accordance with regulations promulgated under subsection (a) and shall be demonstrated to satisfy all applicable criteria promulgated under this subsection before disposal (pursuant to subsection (c)) or reuse (pursuant to subsection (d)).

"(4) The Administrator shall seek to validate the criteria and testing procedures established pursuant to this subsection by conducting a program of continuing analysis of leachate produced at facilities disposing or reusing ash from municipal waste incineration units.

"(f) CORRECTIVE ACTION.—(1) Whenever on the basis of any information the Administrator determines that there is or has been a release of any hazardous constituent from a facility regulated under this section, the Administrator may issue an order requiring corrective action or such other response measure as the Administrator deems necessary to protect human health or the environment or the Administrator may commence a civil action in the United States district court in the district in which the facility is located for appropriate relief, including a temporary or permanent injunction.

"(2) Any order issued under this subsection may include a suspension or revocation of authorization to operate, shall state with reasonable specificity the nature of the required corrective action or other response measure, and shall specify a time for compliance. If any person named in an order fails to comply with the order, the Administrator may assess, and such person shall be liable to the United States for, a civil penalty in an amount not to exceed \$25,000 for each day of noncompliance with the order.

"(3) Regulations promulgated under subsection (a) shall require corrective action for all releases of hazardous constituents from any solid waste management unit at a facility seeking a permit under this section, regardless of the time at which waste was placed in such unit. Permits issued under this section shall contain schedules of compliance for such corrective action and assurances of financial responsibility for completing such corrective action.

"(g) CLOSURE.—Regulations promulgated under subsection (a) shall establish requirements for the proper closure of facilities receiving, storing, or disposing of ash from municipal waste incineration units, for the post-closure monitoring and care of such facilities for a period of not less than thirty years, and for assurances of financial responsibility for closure, post-closure care and corrective action.

"(h) STATE PROGRAMS.—(1) Beginning eighteen months after the date of enactment of this section, any State may submit to the Administrator a proposed program for implementation and concurrent enforcement of the requirements of this section which may be considered and approved by the Administrator in accordance with the procedures established in section 4007. State programs approved under this subsection shall contain provisions assuring that each facility receiving ash from a municipal waste incineration unit obtains a permit or other form of prior approval. Whenever the Administrator determines that a State is not enforcing the requirements of this section in a manner equivalent to Federal enforcement, the Administrator shall withdraw the authorization of such State program under this subsection.

"(2) Nothing in this section shall prohibit any State or political subdivision thereof from imposing any requirement with respect to the management, handling, storage, treatment, transportation, reuse, recycling or disposal of ash from municipal waste incineration units which is more stringent than any requirement established under this section.

"(i) EXPORT.—(1) Export of ash from a municipal waste incineration unit to locations outside of the United States shall be unlawful except as provided in an international agreement between the United States and the country receiving the ash. Any such international agreement shall include at a minimum—

"(A) a provision for obtaining the consent of the receiving country prior to shipment of the ash;

"(B) a provision that requires tracking of the ash shipment from the site of generation to the receiving country;

"(C) a provision for cooperation between the United States and the receiving country on compliance and enforcement of the agreement.

"(2) No person shall export ash from a municipal waste incineration unit to locations outside of the United States without a permit or other prior approval from the Administrator to do so. Permits granted for export under this section shall have a term not to exceed five years, shall be accompanied by fees sufficient to offset the cost experienced by the Administrator in monitoring compliance with the conditions of the permit and shall contain such other requirements as the Administrator may deem appropriate.

"(j) EFFECTIVE DATES.—(1) Regulations promulgated under this section shall be effective upon promulgation, except that requirements promulgated pursuant to subsection (b) or (c) with respect to the disposal of ash from municipal waste incineration units shall be effective on and after the date forty-eight months after the date of enactment of this section.

"(2) Beginning eighteen months after the date of enactment of this section and until the effective date of disposal requirements promulgated pursuant to subsection (b) or (c), ash from municipal waste incineration

units shall not be disposed in landfills unless such landfills have, at a minimum, one liner, leachate collection and ground water monitoring and otherwise meet the criteria for sanitary landfills issued under this subtitle.

"(3) Notwithstanding the provisions of paragraph (2), the Administrator or a State may grant on a case-by-case basis a variance from the requirement that ash from each municipal waste incineration unit be disposed in a facility with a liner, leachate collection and ground water monitoring beginning eighteen months after enactment of this section, on a showing by the owner or operator of any such unit that sufficient capacity to dispose of ash in compliance with such requirements is not available for the unit taking cost into consideration. No variance granted under this paragraph shall extend for a period longer than thirty months after the date of enactment of this section.

"(4) Notwithstanding the provisions of paragraph (1), the Administrator or a State may grant on a case-by-case basis a variance from the requirement that ash from municipal waste incineration units be disposed only in landfills meeting the requirements of subsection (b) or (c) beginning forty-eight months after the date of enactment of this section, on a showing by the owner or operator of any such unit that good faith efforts were made to satisfy such requirement but the unit will fail to do so for reasons not in control of the owner or operator of such unit. No variance granted under this paragraph shall extend for a period longer than seventy-two months after the date of enactment of this section.

"(5) If the Administrator fails to promulgate regulations under subsection (a) for the disposal of ash from municipal waste incineration units, no person may dispose of ash in a landfill after forty-eight months after the date of enactment of this section unless such landfill satisfies the requirements of subsections (b)(1) or (b)(3).

"(k) PROHIBITION.—(1) Beginning on the effective date of any regulation or requirement under this section it shall be unlawful to manage, handle, store, treat, transport, reuse, recycle, or dispose ash from a municipal waste incineration unit otherwise than in accordance with such regulation or requirement or a State program approved pursuant to subsection (h).

"(2) Prior to and after the effective date of regulations under this section, the Administrator may use the authorities of section 3008 to enforce the requirements of this section. In the case of a violation in a State which is authorized to implement and enforce a program under subsection (h), the Administrator shall give notice to the State in which a violation has occurred prior to issuing an order or commencing civil action under section 3009."

(b) The table of contents for subtitle D of the Solid Waste Disposal Act is amended by adding the following new item at the end thereof:

"Sec. 4011. Municipal waste combustion ash".

(c) Subsection (i) of section 3001 of the Solid Waste Disposal Act is repealed.

#### CONSULTATION

SEC. 308. Notwithstanding the provisions of the Federal Advisory Committee Act, prior to promulgation of any regulations, requirements, or guidelines pursuant to section 4011 of the Solid Waste Disposal Act or

section 130 of the Clean Air Act, the Administrator shall consult with elected officials of State and local governments, or their representatives or representatives of their organizations which may develop plans, administer programs, issue permits, promulgate regulations or take corrective action under such sections to receive their advice and recommendations on such regulations, requirements and guidelines.

#### TITLE IV—ACID DEPOSITION CONTROL

SEC. 401. The Clean Air Act is amended by adding the following new title:

#### "TITLE IV—ACID DEPOSITION CONTROL

##### "FINDINGS AND PURPOSES

"SEC. 401. (a) FINDINGS.—The Congress finds that—

"(1) the presence of acidic compounds and their precursors in the atmosphere and in deposition from the atmosphere represents a threat to natural resources, ecosystems, materials, visibility, and public health;

"(2) the principal sources of the acidic compounds and their precursors in the atmosphere are emissions of sulfur and nitrogen oxides from the combustion of fossil fuels;

"(3) the problem of acid deposition is of national and international significance;

"(4) strategies and technologies for the control of precursors to acid deposition exist now that are economically feasible, and improved methods are expected to become increasingly available over the next decade;

"(5) current and future generations of Americans will be adversely affected by delaying measures to remedy the problem;

"(6) reduction of total atmospheric loading of sulfur dioxide and nitrogen oxides will enhance protection of the public health and welfare and the environment; and

"(7) control measures to reduce precursor emissions from steam-electric generating units should be initiated without delay.

"(b) PURPOSES.—The purpose of this title is to reduce the adverse effects of acid deposition through reductions in annual emissions of sulfur dioxide of ten million tons from 1980 emission levels, and, in combination with other provisions of this Act, of nitrogen oxides emissions of approximately two million tons from 1980 emission levels, in the forty-eight contiguous States and the District of Columbia. It is also the purpose of this title to encourage energy conservation, use of renewable and clean alternative technologies, and pollution prevention as a long-range strategy for reducing air pollution and other adverse impacts of energy production and use.

##### "DEFINITIONS

"SEC. 402. As used in this title—

"(a) The term 'affected source' means a source that includes one or more affected units.

"(b) The term 'affected unit' means a unit that is subject to emission reduction requirements or limitations under sections 404, 405, 406, 407, or 410 of this title.

"(c) The term 'allowance' means an authorization, issued to an affected source by the Administrator under this title, to emit, during a specified calendar year, one ton of sulfur dioxide or nitrogen oxides.

"(d) The term 'baseline' means the annual quantity of fossil fuel consumed, measured in millions of British Thermal Units ('mmBtu's), by an affected unit, calculated as follows:

"(1) For each steam-electric generating utility unit that was in commercial operation prior to January 1, 1985, the baseline

shall be the annual average quantity of mmBtu's consumed in fuel during calendar years 1985, 1986, and 1987, as recorded by the Department of Energy pursuant to Form 767. For any unit for which such form was not filed, the baseline shall be the level specified for such unit in the 1985 National Acid Precipitation Assessment Program (NAPAP) Emissions Inventory, Version 2, National Utility Reference file (NURF). For other units, the baseline is the NAPAP Emissions Inventory, Version 2. The Administrator may exclude periods during which a unit is shutdown for a continuous period of four months or longer.

"(2) For each steam-electric generating utility unit that entered operation on or after January 1, 1985, the baseline shall be an annual average quantity of mmBtu; as calculated pursuant to a method which the Administrator shall prescribe, by regulation to be promulgated not later than one year after the date of enactment of the Clean Air Act Amendments of 1989.

"(3) For any other unit, the baseline shall be the annual average quantity, in mmBtu consumed in fuel by that unit, as established by regulation to be promulgated by the Administrator not later than eighteen months after enactment of the Clean Air Act Amendments of 1989.

"(e) The term 'capacity factor' means the ratio between the actual electric output from a unit and the potential electric output from that unit.

"(f) The term 'compliance plan' means a plan submitted pursuant to section 408 describing how the source will comply with all applicable requirements under this title, including a schedule for compliance and certification by the owner or operator that the facility is in compliance with the requirements of this title.

"(g) The term 'continuous emission monitor' (CEM) means the equipment used to sample, analyze, measure, and provide on a continuous basis a permanent record of emissions and flow (expressed in pounds per million British thermal units (lbs/mmBtu) and pounds per hour (lbs/hr)) or such other forms as the Administrator may prescribe by regulations under section 412 of this title.

"(h) The term 'existing unit' means a unit (including units subject to section 111) that is operating prior to the date of enactment of the Clean Air Act Amendments of 1989. Any unit modified, reconstructed, or repowered after the date of enactment of the Clean Air Act Amendments of 1989 shall continue to be an existing unit for the purposes of this title.

"(i) The term 'generating unit' means a turbine together with its generator reported pursuant to Department of Energy Form 860.

"(j) The term 'new unit' means a unit that commences operation on or after the date of enactment of the Clean Air Act Amendments of 1989.

"(k) The term 'permitting authority' means the Administrator or the air pollution control agency, as defined under section 302(b).

"(l) The term 'repowering' means replacement of an existing coal-fired coal boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or a derivative of one of these techniques, as determined by the Administrator, in consultation with the Secretary of Energy.

"(m) The term 'State' means one of the forty-eight contiguous States and the District of Columbia.

"(n) The term 'unit' means a fossil fuel-fired combustion device.

"(o) The term 'actual 1985 emission rate' for electric utility units means the annual average sulfur dioxide or nitrogen oxides emission rate in units of pounds per million Btu as reported in the NAPAP Emissions Inventory, Version 2, National Utility Reference File. For non-utility units, the term 'actual 1985 emission rate' means the annual average sulfur dioxide or nitrogen oxides emission rate in units of pounds per million Btu as reported in the NAPAP Emission Inventory, Version 2.

"(p) The term 'utility unit' means a unit that produces electricity for sale. For purposes of this title, a unit that cogenerates steam and electricity shall be considered a utility unit if the unit is constructed for the purposes of supplying more than one-third of its potential electric output capacity and more than 25 megawatts electrical output to any utility power distribution system for sale.

##### "ALLOWANCE PROGRAM FOR EXISTING AND NEW UNITS

"SEC. 403. (a) ALLOCATIONS OF ANNUAL ALLOWANCES FOR EXISTING AND NEW UNITS.—(1) For the emission limitation programs under this title, the Administrator shall allocate annual allowances to the owner or operator of the affected units at an affected source in an amount equal to the annual tonnage emission limits calculated under sections 404, 405, 406, 407, and 410 except as otherwise specifically provided in section 405 (c) and (h) and elsewhere in this title. Subject to the provisions of paragraph (2) of this subsection, the Administrator shall issue allowances for each affected unit at an affected source at the time the permit is issued for such source, as provided in section 408. If an existing unit subject to the requirements of sections 404, 405, 406, or 407 is removed from commercial operation, the annual allocation of allowances shall continue to be issued to the owner or operator for each five year period in accordance with the schedule for issuance of permits pursuant to sections 351 and 408.

"(2)(A) The Administrator shall issue to the owner or operator of each affected unit allowances in an amount equal to 98 per centum of the total number of allowances allocated to that unit. Each unit's remaining allowances shall be deposited in a reserve to be controlled by the Administrator as provided in this paragraph.

"(B) Pursuant to the regulations promulgated under this paragraph the Administrator shall sell to the owners or operators of units subject to the requirements of subsection (e) of this section the allowances deposited in the reserve created in accordance with subparagraph (A). Not later than 36 months after the date of enactment of the Clean Air Act Amendments of 1989, the Administrator shall promulgate regulations providing for the establishment of a reservation list for the sale of such allowances, qualifications for the owners and operators seeking such sales, requirements for a showing that allowances are not otherwise available from persons holding allowances pursuant to this section, and such other requirements as the Administrator deems necessary. The regulations shall also provide for the issuance of allowances from the reserve to the owners or operators of units described in section 405(h).

"(C) The Administrator shall determine whether each applicant meets the requirements of the regulations, and shall allocate allowances in an appropriate amount to each qualified applicant upon receipt of payment of \$1,500 per ton (adjusted for inflation based on the Consumer Price Index beginning on the date of enactment of the Clean Air Act Amendments of 1989 and annually thereafter). Payment shall be made to the United States Treasury, as provided by regulations promulgated under paragraph (B).

"(D) All monies collected, and any allowances remaining in the reserve at the end of each phase, or five-year period as defined in accordance with the schedule for issuance of permits pursuant to sections 351 and 408 that are not issued as provided in this subsection, shall be issued to the owners or operators of the affected units from which the allowances were withheld, on a pro rata basis.

"(b) ALLOWANCE SYSTEM.—Allowances issued under this title may be transferred among the owners or operators of affected sources under this title or other persons who lawfully acquire such allowances, as provided by regulations to be promulgated by the Administrator not later than eighteen months after the date of enactment of the Clean Air Act Amendments of 1989. The Administrator shall promulgate regulations, not later than eighteen months after enactment, to establish the allowance system prescribed under this section, including, but not limited to, requirements for the issuance, transfer, and use of allowances under this title. Such regulations shall prohibit the use of allowances prior to the calendar year for which the allowances were issued, and shall provide, consistent with the purposes of this title, for the identification of unused allowances, and for such unused allowances to be carried forward and added to allowances allocated in subsequent years. Such regulations shall permit transfers only within each of the two major geographic regions of the country as defined by such regulations. Nothing in the regulations shall relieve the Administrator of the Administrator's permitting, monitoring and enforcement obligations under this Act nor relieve sources of their requirements and liabilities under this Act. Transfers of allowances shall not be effective until written certification of the transfer, signed by a responsible official of each party to the transfer, is received and recorded by the Administrator.

"(c) INTERPOLLUTANT TRADING.—The regulations under subsection (b) shall provide for trading and banking of sulfur dioxide and nitrogen oxide allowances. Such rules shall provide that, for trading purposes, 1.5 pounds of nitrogen oxides shall be equivalent to 1.0 pound of sulfur dioxide. Interpollutant trades of these pollutants in areas failing to meet the national ambient air

quality standards shall be subject to approval by the Administrator.

"(d) ALLOWANCE TRACKING SYSTEM.—The Administrator shall promulgate, not later than eighteen months after the date of enactment of the Clean Air Act Amendments of 1989, a system for issuing, recording, and tracking allowances and shall specify procedures and requirements. All allowance allocations and transfers shall upon recordation by the Administrator be deemed a part of each unit's permit requirements pursuant to section 408, but shall not require permit review and revision.

"(e) NEW UTILITY UNITS.—The owner or operator of each new utility unit must hold allowances equal to the annual tonnage of sulfur dioxide emitted by such unit after January 1, 2000. Such new utility units shall not be eligible for an allocation of sulfur dioxide allowances under subsection (a). Notwithstanding the geographic limitations on transfers of allowances in subsection (b), new utility units may obtain allowances from any unit allocated allowances under this title. After January 1, 2000, it shall be unlawful for any new utility unit to emit sulfur dioxide in an amount exceeding the allowances the owner or operator of such unit holds for such unit. The owner or operator of any new utility unit in violation of this subsection shall be liable for fulfilling the obligations specified in section 411 of this title.

"(f) NATURE OF ALLOWANCES.—An allowance issued under this title is a limited authorization to emit sulfur dioxide or nitrogen oxides in accordance with the provisions of this title. Such allowances may be limited, revoked or otherwise modified in accordance with the provisions of this title or other authority of the Administrator. Such action does not constitute a property right.

"(g) PROHIBITION.—It shall be unlawful for any person to hold or transfer any allowance issued under this title, except in accordance with regulations issued by the Administrator.

#### "PHASE I SULFUR DIOXIDE REQUIREMENTS

"SEC. 404. (a) EMISSION LIMITATIONS.—After January 1, 1995, each source that includes one or more affected units listed in Table A is an affected source under this section. After January 1, 1995, it shall be unlawful for any affected unit to emit sulfur dioxide in excess of the tonnage limitation stated in Table A for phase I unless the emissions reduction requirements applicable to such unit have been achieved pursuant to subsection (b) or the owner or operator of such unit has obtained allowances equal to the emissions in excess of those permitted under Table A, pursuant to section 403. The owner or operator of any unit in violation of this section shall be liable for fulfilling the obligations specified in section 411 of this title. The annual limitation for any unit totaled

on Table A shall equal the product of each unit's baseline multiplied by an emission rate of 2.5 lbs/mmBtu, divided by 2,000.

"(b) SUBSTITUTIONS.—The owner or operator of an affected unit under subsection (a) may submit a proposal to the Administrator to reassign, in whole or in part, the sulfur dioxide reduction requirements to any other unit(s) under the control of such owner or operator. Such proposal shall specify—

"(1) the designation of the substitute affected units to which any part of the reduction obligations of subsection (a) shall apply, in addition to, or in lieu of, the original affected units designated under such subsection;

"(2) the baseline, the actual 1985 sulfur dioxide emissions rate, and the authorized annual tonnage limitation stated in Table A for the original affected unit;

"(3) calculation of the calendar year 1985 annual tonnage emitted by the substitute units, based on the baseline for each unit, as defined in section 402(d), multiplied by the unit's actual 1985 emission rate;

"(4) the emission rates and the actual tonnage limitations that would be applicable to the original and substitute affected units;

"(5) documentation, to the satisfaction of the Administrator, that the reassigned tonnage limits will, in total, achieve the same or greater emissions reduction than would have been achieved without such substitutions; and

"(6) such other information as the Administrator may require.

#### "(c) ADMINISTRATOR'S ACTION ON A PROPOSAL.—

"(1) The Administrator shall approve or disapprove such substitution not later than six months after receipt of a substitution proposal that fulfills the requirements of this subsection. If a proposal does not meet the requirements of subsection (d), the Administrator shall disapprove it. The owner or operator of a unit listed in Table A may not substitute another unit without the approval of the Administrator.

"(2) For an approved proposal, each substitute unit and source shall be deemed affected under this title, and the Administrator shall act on the submission in accordance with section 408. The Administrator shall allocate allowances for the affected units in accordance with the approved proposal pursuant to section 403. It shall be unlawful for any source or unit that receives allowances pursuant to this section to emit sulfur dioxide in an amount in excess of the allowances allocated to it. The owner or operator of any unit in violation of this subsection shall be liable for fulfilling the obligations specified in section 411 of this title. For a disapproved proposal, the Administrator shall issue allowances in accordance with subsection (a).

**TABLE A.—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (TONS) IN PHASES I AND II**

State	Plant name	Unit	Phase I allowances	Phase II allowances
Alabama	Colbert	1	13,600	6,520
		2	15,300	7,350
		3	15,400	7,390
		4	15,400	7,400
		5	37,200	17,800
Florida	Big Bend	1	18,100	8,690
		2	18,500	8,900
		3	18,300	8,790
		4	19,300	9,250
		5	59,800	28,700
		1	28,400	13,600

"TABLE A.—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (TONS) IN PHASES I AND II—  
Continued

<i>State</i>	<i>Plant name</i>	<i>Unit</i>	<i>Phase I allowances</i>	<i>Phase II allowances</i>
		2	27,100	13,000
		3	26,700	12,800
		6	19,200	9,200
		7	28,100	13,500
<i>Georgia</i>	<i>Bowen</i>	1	54,800	26,300
		2	56,300	27,000
		3	71,800	34,400
		4	71,700	34,400
	<i>Hammond</i>	1	8,780	4,220
		2	9,220	4,420
		3	8,910	4,280
		4	37,600	18,100
	<i>Jack McDonough</i>	1	19,900	9,550
		2	20,600	9,880
	<i>Wansley</i>	1	70,800	34,000
		2	65,400	31,400
	<i>Yates</i>	1	7,200	3,460
		2	7,040	3,380
		3	6,950	3,340
		4	8,910	4,280
		5	9,410	4,520
		6	24,800	11,900
		7	21,500	10,300
<i>Illinois</i>	<i>Baldwin</i>	1	42,000	20,200
		2	44,400	21,300
		3	42,600	20,400
	<i>Coffeen</i>	1	11,800	5,600
		2	35,700	17,100
	<i>Grand Tower</i>	4	5,910	2,840
	<i>Hennepin</i>	2	18,400	8,820
	<i>Joppa Steam</i>	1	12,600	6,040
		2	10,800	5,170
		3	12,300	5,890
		4	11,400	5,450
		5	11,400	5,480
		6	10,600	5,100
	<i>Kincaid</i>	1	31,500	15,100
		2	29,100	14,000
	<i>Meredosia</i>	3	13,900	6,670
	<i>Vermilion</i>	2	8,880	4,260
<i>Indiana</i>	<i>Bailey</i>	7	11,100	5,320
		8	12,400	5,970
	<i>Breed</i>	1	18,500	8,880
	<i>Cayuga</i>	1	33,400	16,000
	<i>Clifty Creek</i>	2	34,100	16,430
		1	20,200	9,670
		2	19,800	9,510
		3	20,400	9,800
		4	20,100	9,640
		5	19,400	9,290
		6	20,400	9,780
	<i>Elmer W. Stout</i>	5	3,880	1,860
		6	4,770	2,290
		7	23,600	11,300
	<i>F.B. Culley</i>	2	3,100	1,490
		3	17,000	8,140
	<i>Frank E. Ratts</i>	1	8,330	4,000
		2	8,480	4,070
	<i>Gibson</i>	1	40,400	19,400
		2	41,000	19,700
		3	41,100	19,700
		4	40,300	19,400
	<i>H.T. Pritchard</i>	6	5,710	2,770
	<i>Michigan City</i>	12	23,000	11,100
	<i>Petersburg</i>	1	16,400	7,390
	<i>R. Gallagher</i>	2	32,400	15,500
		1	4,690	2,250
		2	7,280	3,430
		3	6,530	3,130
		4	6,600	3,270
	<i>Tanners Creek</i>	4	24,800	11,900
	<i>Wabash River</i>	1	3,400	1,920
		2	2,860	1,370
		3	3,750	1,800
		5	3,670	1,760
		6	12,300	5,890
	<i>Warrick</i>	4	27,000	12,900
<i>Iowa</i>	<i>Burlington</i>	1	10,700	5,140
	<i>Des Moines</i>	7	1,680	805
	<i>Milton L. Kapp</i>	2	13,300	6,610
	<i>Prairie Creek</i>	4	8,186	3,920
	<i>Riverside</i>	5	3,300	1,590
<i>Kansas</i>	<i>Quindaro</i>	2	4,130	1,980
<i>Kentucky</i>	<i>Colemen</i>	1	11,200	5,390
		2	12,800	6,160
		3	12,300	5,930
	<i>Cooper</i>	1	7,450	3,570
		2	15,300	7,360

"TABLE A.—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (TONS) IN PHASES I AND II—  
Continued

<i>State</i>	<i>Plant name</i>	<i>Unit</i>	<i>Phase I allowances</i>	<i>Phase II allowances</i>
	<i>E.W. Brown</i>	1	7,110	3,410
		2	10,900	5,240
		3	26,100	12,500
	<i>Elmer Smith</i>	1	5,440	2,610
		2	14,400	6,920
	<i>Ghent</i>	1	28,400	13,600
	<i>Green River</i>	4	7,820	3,750
	<i>H.L. Spurlock</i>	1	22,800	10,900
	<i>Henderson II</i>	1	13,300	6,410
		2	12,300	5,910
	<i>Paradise</i>	3	59,200	28,400
	<i>Shawnee</i>	10	10,200	4,880
<i>Maryland</i>	<i>Chalk Point</i>	1	21,900	10,500
		2	23,900	11,700
	<i>C.P. Crane</i>	1	10,300	4,960
		2	9,230	4,430
	<i>Morgantown</i>	1	35,200	16,900
		2	38,500	18,500
<i>Michigan</i>	<i>J.H. Campbell</i>	1	19,300	9,250
		2	23,100	11,100
<i>Mississippi</i>	<i>Jack Watson</i>	4	17,800	8,540
		5	36,500	17,500
<i>Missouri</i>	<i>Asbury</i>	1	16,200	7,770
	<i>James River</i>	5	4,830	2,320
	<i>Labadie</i>	1	35,700	17,100
		2	37,700	18,100
		3	40,300	19,400
		4	35,900	17,300
	<i>Montrose</i>	1	7,390	3,550
		2	8,200	3,940
	<i>New Madrid</i>	3	10,100	4,840
		1	28,200	13,600
		2	32,500	15,600
	<i>Sibley</i>	3	15,600	7,480
	<i>Sioux</i>	1	22,600	10,800
		2	21,100	10,100
	<i>Thomas Hill</i>	1	10,300	4,920
		2	17,200	8,270
<i>New Hampshire</i>	<i>Merrimack</i>	1	10,200	4,890
		2	22,000	10,600
<i>New Jersey</i>	<i>B.L. England</i>	1	9,060	4,350
		2	11,700	5,630
<i>New York</i>	<i>Dunkirk</i>	3	12,600	6,050
	<i>Milliken</i>	1	8,380	4,020
		2	12,400	5,960
	<i>Northport</i>	1	19,800	9,510
		2	24,100	11,600
		3	26,500	12,700
	<i>Port Jefferson</i>	3	10,500	5,030
		4	12,300	5,920
<i>Ohio</i>	<i>Ashtabula</i>	5	16,700	8,040
	<i>Avon Lake</i>	8	11,700	5,590
		9	30,500	14,600
	<i>Cardinal</i>	1	34,300	16,400
		2	38,300	18,400
	<i>Conesville</i>	1	4,210	2,020
		2	4,890	2,350
		3	5,500	2,640
		4	45,800	23,400
	<i>Eastlake</i>	1	7,800	3,750
		2	8,640	4,150
		3	10,000	4,810
		4	14,500	6,970
	<i>Gen. J.M. Gavin</i>	5	34,100	16,400
		1	79,100	38,000
		2	80,600	38,700
	<i>Kyger Creek</i>	1	19,300	9,260
		2	18,600	8,910
		3	17,900	8,600
		4	18,700	8,980
		5	18,700	9,000
	<i>Miami Fort</i>	6	11,400	5,460
		7	38,500	18,500
	<i>Muskingum River</i>	1	14,900	7,140
		2	14,200	6,800
		3	14,000	6,700
		4	11,800	5,650
		5	40,500	19,400
	<i>Niles</i>	1	6,940	3,330
		2	9,100	4,370
	<i>Picway</i>	5	4,930	2,370
	<i>R.E. Burger</i>	3	3,080	1,480
		4	10,800	5,170
	<i>W.H. Sammis</i>	5	12,400	5,970
	<i>W.C. Beckjord</i>	5	24,200	11,600
		5	8,950	4,290

*“TABLE A.—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (TONS) IN PHASES I AND II—Continued*

State	Plant name	Unit	Phase I allowances	Phase II allowances
Pennsylvania.....	Armstrong.....	6	23,000	11,000
		1	14,400	6,920
	Brunner Island.....	2	15,400	7,410
		1	27,800	13,300
		2	31,100	14,900
	Cheswick.....	3	53,800	25,800
	Conevaugh.....	1	39,000	18,700
		1	59,800	28,700
	Hallfield's Ferry.....	2	66,400	31,900
		1	37,800	18,200
		2	37,300	17,900
	Homer City.....	3	40,300	19,300
		1	40,100	19,200
	Martins Creek.....	2	34,700	16,700
		1	12,700	6,080
	Portland.....	2	12,800	6,150
		1	5,940	2,850
	Shawville.....	2	10,200	4,910
		1	10,300	4,960
		2	10,300	4,960
		3	14,200	6,830
	Sundbury.....	4	14,100	6,760
		3	8,760	4,210
		4	11,500	5,500
Tennessee.....	Allen.....	1	15,300	7,360
		2	16,800	8,050
		3	15,700	7,520
	Cumberland.....	1	86,700	41,600
		2	94,800	45,500
	Gallatin.....	1	17,600	8,470
		2	17,300	8,310
		3	20,000	9,610
		4	21,300	10,290
	Johnsonville.....	1	7,750	3,740
		2	8,040	3,860
		3	8,410	4,040
		4	7,990	3,830
		5	8,240	3,950
		6	7,890	3,790
		7	8,980	4,310
		8	8,700	4,180
		9	7,080	3,400
		10	7,550	3,630
West Virginia.....	Albright.....	3	10,700	5,120
	Fort Martin.....	1	41,600	20,000
		2	41,200	19,800
	Harrison.....	1	8,600	23,300
		2	46,100	22,100
		3	41,500	19,900
	Kanawha.....	1	18,700	9,000
		2	19,500	9,340
		3	17,400	8,350
	Mitchell.....	1	44,000	21,100
		2	45,500	21,800
	Mount Storm.....	1	43,700	21,000
		2	35,600	17,100
		3	42,400	20,400
Wisconsin.....	Edgewater.....	4	24,700	11,900
	La Crosse/Genoa.....	3	19,100	9,160
	Nelson Dewey.....	1	6,010	2,880
		2	6,680	3,210
	North Oak Creek.....	1	5,220	2,510
		2	5,140	2,470
	Pulliam.....	8	7,510	3,600
	South Oak Creek.....	5	9,670	4,640
		6	12,000	5,780
		7	16,200	7,770
		8	15,800	7,580

**“PHASE II SULFUR DIOXIDE REQUIREMENTS”**

“SEC. 405. (a) APPLICABILITY.—After January 1, 2000, each steam-electric existing utility unit as provided below is subject to the limitations or requirements of this section. Each utility unit subject to an annual sulfur dioxide tonnage emission limitation under this section is an affected unit under this title. Each source that includes one or more affected units is an affected source. In the case of an existing unit that was not in operation during calendar year 1985, the emission rate for a calendar year after 1985, as determined by the Administrator, shall be used in lieu of the 1985 rate. The owner or operator of any unit in violation of this sec-

tion shall be liable for fulfilling the obligations specified in section 411 of this title.

“(b) UNITS EQUAL TO, OR ABOVE, 75 MWE AND 1.20 LBS/MMBTU.—After January 1, 2000, it shall be unlawful for any steam-electric existing unit with nameplate capacity equal to, or greater, than 75 MWe and an actual 1985 emission rate equal to or greater than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by an emission rate equal to 1.20 lbs/mmBtu, divided by 2000 unless the owner or operator of such unit has obtained allowances equal to the emissions in excess of those permitted under this subsection. In the

case of a unit which has decreased its emissions rate as of the date of enactment by forty per centum or greater from 1980, and whose utility system's residential customer growth has increased by at least three per centum per year since 1980, such unit has the option of calculating its baseline, as defined in section 402(d)(1), using an average of any three consecutive years between 1980 and 1989.

“(c) COAL OR OIL-FIRED UNITS BELOW 75 MWE AND ABOVE 1.20 LBS/MMBTU.—After January 1, 2000, it shall be unlawful for any coal or oil-fired steam-electric existing utility unit with nameplate capacity less than 75 MWe and an actual 1985 emission rate

*equal to or greater than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide emission rate limitation equal to its actual 1985 emission rate.*

*(d) COAL-FIRED UNITS BELOW 1.20 LBS/MMBTU.—After January 1, 2000, it shall be unlawful for any coal-fired utility unit with an actual 1985 sulfur dioxide emission rate less than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by a factor of 120 per centum and its actual 1985 emission rate, divided by 2,000 unless the owner or operator of such unit has obtained allowances equal to the emissions in excess of those permitted under this subsection. For the purposes of this section, in the case of an oil- and gas-fired unit which has been awarded a clean coal technology demonstration grant as of January 1, 1991, by the United States Department of Energy, such unit may use any three consecutive years between 1980 and 1989 in calculating its baseline, as defined in section 402(d)(1).*

*(e) OIL AND GAS-FIRED UNITS EQUAL TO OR GREATER THAN 0.4 LBS/MMBTU AND LESS THAN 1.20 LBS/MMBTU.—After January 1, 2000, it shall be unlawful for any oil and gas-fired utility unit with an actual 1985 sulfur dioxide emission rate equal to or greater than 0.4 lbs/mmBtu, but less than 1.20 lbs/mmBtu to exceed an annual tonnage sulfur dioxide emission limitation equal to the product of the unit's baseline multiplied by a factor of 120 per centum and its actual 1985 sulfur dioxide emission rate, divided by 2,000 unless the owner or operator of such unit has obtained allowances equal to the emissions in excess of those permitted under this subsection.*

*(f) OIL AND GAS-FIRED UNITS LESS THAN 0.4 LBS/MMBTU.—After January 1, 2000, it shall be unlawful for any oil and gas-fired unit with an actual 1985 emission rate less than 0.4 lbs/mmBtu that consumes annually, on a Btu basis, 90 per centum or less of its fuel in the form of natural gas to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by a factor of 120 per centum and its federally approved emission limitation, divided by 2,000 unless the owner or operator of such unit has obtained allowances equal to the emissions in excess of those permitted under this subsection.*

*(g) UNITS THAT COMMENCE OPERATION BETWEEN 1985 AND THE DATE OF ENACTMENT.—After January 1, 2000, it shall be unlawful for any unit that commences operation on or after January 1, 1985, but not later than the date of enactment of the Clean Air Act Amendments of 1989 to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor multiplied by the emission rate specified in its permit or other federally enforceable sulfur dioxide emission limitation, divided by 2,000 unless the owner or operator of such unit has obtained allowances equal to the emissions in excess of those permitted under this subsection.*

*(h) OIL AND GAS-FIRED UNITS LESS THAN 10 PER CENTUM OIL CONSUMED.—After January 1, 2000, it shall be unlawful for any oil- and gas-fired utility unit that consumes annually, on a Btu basis, more than 90 per centum of its fuel in the form of natural gas to exceed an emission rate limitation equal to its actual 1985 sulfur dioxide emission rate. In any year that the supply of natural gas is curtailed to any such unit, the owner or op-*

*erator may apply to the Administrator for allowances equal to the difference between the unit's actual 1985 emission rate multiplied by its baseline and actual emissions during the year including the period of curtailment. The Administrator shall issue allowances to any qualifying source, as provided in section 403(a)(2), as necessary to meet the requirements of this subsection.*

*"CREDITS FOR CLEAN STATES*

*"SEC. 406. (a) CREDITS.—Existing units in States in which less than one hundred fifty thousand tons of sulfur dioxide were emitted by utility steam-electric generating units in 1985 and in which more than 50 per centum of the coal-fired utility-generated electricity was produced in calendar year 1988 from boilers with a technological system of continuous emissions control shall not be considered affected units for purposes of sections 404 and 405.*

*"(b) AFTER 2000.—After January 1, 2000, it shall be unlawful for each existing unit in States described in subsection (a) to emit sulfur dioxide in excess of its annual average emissions of sulfur dioxide during calendar years 1996, 1997 and 1998. The owner or operator of any unit in violation of this subsection shall be liable for fulfilling the obligations specified in section 411 of this title.*

*"NITROGEN OXIDES EMISSION REDUCTION PROGRAM*

*"SEC. 407. (a) APPLICABILITY.—Emission limitations for nitrogen oxides shall apply to coal-fired affected utility units as defined under sections 404, 405, and 406. Such units are affected units for the purposes of this section.*

*"(b) EMISSION LIMITATIONS.—After January 1, 2000, it shall be unlawful for any affected source that includes one or more affected units to emit nitrogen oxides in excess of the emissions tonnage limitation provided by this section unless the owner or operator of such source has obtained allowances equal to the emissions in excess of those permitted under this subsection. Such limitation is the annual nitrogen oxides limitation that is the product of each unit's baseline multiplied by the following emission rate divided by 2,000—*

*"(1) for tangentially-fired boilers, 0.45 lbs/mmBtu; or*

*"(2) for dry bottom wall-fired boilers, 0.50 lbs/mmBtu.*

*"(3) for all other boiler-types, including, but not limited to cyclone, wet bottom, and stoker boilers, their actual annual average nitrogen oxides emission rate as recorded for those units in 1995 and 1996 based on Continuous Emission Monitoring System data required under section 412, or such lower rate as may be specified for such units by the Administrator if the Administrator determines that nonrepresentative operating conditions have resulted in elevated actual rates for such boiler types.*

*"(c) REVISED PERFORMANCE STANDARD.—(1) Not later than January 1, 1993, the Administrator shall propose revised standards of performance pursuant to section 111 for emissions of nitrogen oxides from fossil fuel fired steam generating units, including both electric utility and nonutility units. Not later than January 1, 1994, the Administrator shall promulgate such revised standards of performance. Such revised standards of performance shall reflect improvements in methods for the reduction of emissions of oxides of nitrogen.*

*"(2) Not later than January 1, 1993, the Administrator shall propose standards of performance pursuant to section 111 for emissions of oxides of nitrogen from large*

*stationary diesel and turbine engines. Not later than January 1, 1994, the Administrator shall promulgate such standards of performance.*

*"PERMITS AND COMPLIANCE PLANS*

*"SEC. 408. (a) PERMIT PROGRAM.—This title shall be implemented by permits issued in accordance with the provisions of this Act. Any permit issued by the Administrator, or a State with an approved permit program, shall prohibit each of the following:*

*"(1) annual emissions of sulfur dioxide or nitrogen oxides in excess of the total allowances held by the affected unit or source,*

*"(2) exceedances of applicable sulfur dioxide or nitrogen oxide emissions rates, and*

*"(3) contravention of any other provision of the permit.*

*"(b) COMPLIANCE PLAN.—Each permit application shall be accompanied by a compliance plan for the source to comply with its requirements under this title. The compliance plan shall provide all necessary information on the schedule and means by which the source will obtain compliance with its annual tonnage limitation, or emission rate if applicable, including specification of the owner's or operator's intent to acquire any additional allowances beyond the initial allocation that will be used to achieve compliance and the owner or operator's certification that such owner or operator will comply with the requirements of this title in all circumstances, including, but not limited to, those in which such owner or operator fails to secure any such additional allowances necessary to achieve compliance. The Administrator may also require—*

*"(1) for a source, a demonstration of attainment of national ambient air quality standards, and*

*"(2) from the owner or operator of two or more affected sources, an integrated compliance plan providing an overall plan for achieving compliance at the affected sources.*

*"(c) FIRST PHASE PERMITS.—The Administrator shall issue permits to the affected sources under section 404.*

*"(1)(A) Not later than thirty months after the date of enactment of the Clean Air Act Amendments of 1989, the owner or operator of each affected source under section 404 shall submit a permit application and compliance plan for that source in accordance with regulations issued by the Administrator. The permit application and the compliance plan shall be binding on the owner or operator, and be enforceable for purposes of this Act, in lieu of a permit, until a permit is issued by the Administrator for the source pursuant to this section and title III of this Act. During pendency of the permit application and the compliance plan, the owners or operators may amend such applications or plans automatically provided that they notify the Administrator of such amendments.*

*"(B) In the case of a compliance plan for an affected source under section 404 for which the owner or operator proposes to meet the requirements of that section by reducing utilization of the unit by 20 per centum or more, as compared with the baseline prescribed in section 402(d), or by shutting down the unit, the owner or operator shall include in the compliance plan a specification of the units that will provide electrical generation to compensate for the reduced output of the affected source or a demonstration that such reduced utilization will be accomplished through energy conservation or improved unit efficiency. The*

source, and any unit to be used for such compensating generation, if not otherwise affected under section 404, shall be deemed affected under section 404, subject to the requirements of section 404 of this title, except that allowances shall be allocated to such unit in the amount of an annual limitation equal to the product of the unit's baseline multiplied by the unit's actual 1985 emission rate, divided by 2,000.

"(2) The Administrator shall review each proposed compliance plan to determine whether it satisfies the requirements of this title, and shall approve or disapprove such plan within six months after receipt of a complete submission.

"(3) Not later than eighteen months after enactment of the Clean Air Act Amendments of 1989, the Administrator shall promulgate regulations consistent with regulations required to be promulgated under title III of this Act to implement a Federal permit program to issue permits for affected sources under this title. Following promulgation, the Administrator shall issue a permit to implement the requirements of section 404 and the allowances provided under section 403 to the owner or operator of each affected source under that section. Such a permit shall supersede any permit application and compliance plan submitted under paragraph (1). The permitting authority shall issue a permit to the affected source in accordance with title III.

"(d) SECOND PHASE PERMITS.—(1) To implement sections 405, 406, and 407, each State in which one or more sources subject to those sections are located, shall submit a permit program to the Administrator for approval. The Administrator shall approve any permit program meeting the requirements of section 351.

"(2) The owner or operator of each affected source under section 405 shall submit a permit application and compliance plan for that source to the permitting authority, not later than January 1, 1994.

"(3) Not later than July 1, 1995, each State with an approved permit program pursuant to title III of this Act shall issue permits to the owners or operators of existing affected sources under section 405 that satisfy the requirements of this Act. In the case of a State without an approved permit program, or a State that fails to issue permits to all of its existing affected sources by July 1, 1995, the Administrator shall, not later than July 1, 1996, issue a permit to the owner or operator of each such affected source that has not been issued a State permit.

"(4) Not later than July 1, 1996, the Administrator shall issue allowances to each affected source. These shall be deemed a part of the permit issued for that source, as provided in section 403. Allowances shall be issued each year by the Administrator to affected sources in accordance with sections 403 and 411.

"(5) The owner or operator of any unit subject to the requirements of section 407 shall submit a permit application for such unit to the permitting authority, not later than January 1, 1997. The Administrator shall, not later than July 1, 1998, issue a permit to the owner or operator of each such affected source that has not been issued a State permit. The permitting authority shall issue a permit to the owner or operator that satisfies the requirements of this title, including any appropriate monitoring and reporting requirements.

"(6) The owner or operators of any unit subject to the requirements of section 406 shall submit a permit application for such

unit to the permitting authority not later than July 1, 1999. The permitting authority shall issue a permit to the owner or operator that satisfies the requirements of this title, including any appropriate monitoring and reporting requirements.

source owner or operator shall notify the Administrator sixty days in advance of the date on which the affected unit for which the extension has been granted is to be removed from operation to install the repowering technology.

"(e) NEW UNIT PERMITS.—(1) Each State shall submit comprehensive and enforceable permit program for new units to the Administrator for approval, as provided under title III. The Administrator shall approve or disapprove complete submittals within one year of receipt.

(2)

The owner or operator of each source

that includes a new unit or units shall submit a permit application and compliance plan to the permitting authority not later than twenty-four months prior to January 1, 2000, or to commencing operation of the unit, whichever is later. The permitting authority shall issue a permit to the owner or operator of the unit that satisfies the requirements of this title.

"(f) AMENDMENT OF APPLICATION AND COMPLIANCE PLAN.—At any time after the submission of an application and compliance plan under this section, the applicant may submit a revised application and compliance plan, in accordance with the requirements of this section.

"(g) PROHIBITION.—It shall be unlawful for an owner or operator (1) to fail to submit a permit application or compliance plan in accordance with the deadlines specified in this section or otherwise to fail to comply with regulations implementing this section, or (2) to operate any source subject to this title except in compliance with the terms and requirements of a permit application and compliance plan or permit issued by the Administrator or a State with an approved permit program.

#### "REPOWERED SOURCES

"SEC. 409. (a) AVAILABILITY.—Not later than December 31, 1997, the owner or operator of an existing unit subject to the requirement of section 405 may demonstrate to the permitting authority that one or more units will be repowered with a qualifying clean coal technology to comply with the requirements under section 405. The owner or operator shall, as part of any such demonstration, provide, not later than January 1, 2000, satisfactory documentation of a preliminary design and engineering effort for such repowering and an executed contract for the majority of the equipment to repower such unit and such other information as the Administrator may require by regulation.

"(b) EXTENSION.—An owner or operator satisfying the requirements of subsection (a) shall be granted an extension of the emission limitation requirement compliance date for that unit from January 1, 2000, to December 31, 2003. The extension shall be specified in the permit issued to the source under section 408, together with any compliance schedule and other requirements necessary to meet second phase requirements by the extended date. Any unit that is granted an extension under this section shall not be eligible for a waiver under section 111(j) of this Act.

"(c) ALLOWANCES.—(1) For the period of the extension under this section, the Administrator shall issue to the owner or operator of the affected unit, annual allowances for sulfur dioxide equal to the affected unit's baseline multiplied by the lesser of the unit's federally approved State Implementation Plan limitation or its actual emission rate for 1995. Such allowances may not be transferred or used by any other source to meet emission requirements under this title. The

baseline for a unit designated under this section shall be established by the Administrator by regulation, based on fuel consumption and operating data for the unit for calendar years 1985, 1986, and 1987, or if such data is not available, the Administrator may prescribe a baseline based on alternative representative data.

"(2) EMISSION LIMITATIONS.—Annual emission limitations for sulfur dioxide and nitrogen oxides shall be equal to the product of the baseline multiplied by the lesser of the unit's 1985 actual or allowable emission rate in lbs/mmBtu, or, if the unit did not operate in 1985 the emission rate for a calendar year after 1985 (as determined by the Administrator), divided by 2,000. After January 1, 2000, the emission rate for calculating an emission limitation under this subsection shall be the rate prescribed under section 405 for any unit subject to those provisions. However, any such unit shall be subject only to an emission limitation under this section, and not also to an emission rate requirement under those provisions.

"(d) ALLOWANCES AND PERMITS.—The Administrator shall issue allowances to an affected unit, or source, under this section in an amount equal to the limitation calculated under subsection (c) or (e), in accordance with section 403. Such allowances may be transferred to the owner or operator of any other affected source in accordance with section 403.

"(e) PROCESS SOURCES.—The Administrator shall establish a program under which the owner or operator of a process source that emits sulfur dioxide or nitrogen oxide may elect to designate that source to receive al-

lowances under this title for designation of process sources as affected sources under this section. The Administrator shall define the sources that may be included (not including any unit as defined under this title), specify the operating, emission baseline, and other data requirements, prescribe CEMS or other monitoring requirements, and promulgate permit, reporting, and any other requirements necessary to implement such a program.

(f) LIMITATION.—Any unit designated under this section shall not transfer or bank allowances produced as a result of reduced utilization or shutdown. In no case may the Administrator permit a source to receive allowances in an amount greater than the emissions resulting from operation of the source in full compliance with the requirements of this Act in effect prior to enactment of this title.

(g) IMPLEMENTATION.—The Administrator shall issue regulations to implement this section not later than eighteen months after enactment of the Clean Air Act Amendments of 1989.

#### "EXCESS EMISSIONS FEE"

"SEC. 411. (a) EXCESS EMISSIONS FEE.—The owner or operator of any unit or process source subject to the requirements of sections 403(e), 404, 405, 406, or 407 or designated under section 410 that emits sulfur dioxide or nitrogen oxides for any calendar year in excess of the unit's or process source's emissions limitation requirement or of the allowances the owner or operator possesses for the unit or process source for that calendar year that are unclaimed or unused by any other source shall be liable for the payment of an excess emission fee. That fee shall be calculated on the basis of the number of tons emitted in excess of the unit's or process source's emissions limitation requirement or of the allowances the owner or operator possesses for the unit or process source multiplied by \$2,000. Any such fee shall be due and payable without demand to the Administrator as provided in regulations issued by the Administrator. Any such funds shall be deposited in the United States Treasury pursuant to the Miscellaneous Receipts Act. Any fee due and payable under this section shall not diminish any fine, penalty or fee imposed on the same source under any other section of this Act.

(b) EXCESS EMISSIONS OFFSET.—The owner or operator of any affected source liable for payment of a fee under subsection (a) is also liable to offset the excess emissions by an equal tonnage amount in the following calendar year, or such longer period as the Administrator may prescribe. The owner or operator of the source shall, within sixty days after the end of the year, submit to the Administrator, and the State, a plan to achieve the required offsets. The Administrator shall also deduct allowances equal to the excess tonnage from those issued for the source for the calendar year, or succeeding years, following the year in which the excess emissions occurred.

(c) FEE ADJUSTMENT.—The Administrator shall, by regulation, adjust the fee specified in subsection (a) for inflation, based on the Consumer Price Index, on the date of enactment and annually thereafter.

(d) PROHIBITION.—It shall be unlawful for the owner or operator of any source liable for a fee and offset under this section to fail to pay the fee under subsection (a) or to provide, and thereafter comply with, a compliance plan as required by subsection (b), or offset excess emissions as required by subsection (b).

#### "MONITORING, REPORTING, AND RECORDKEEPING REQUIREMENTS"

"SEC. 412. (a) APPLICABILITY.—All sources subject to this title shall be required to install and operate continuous emissions monitors and quality assure the data for sulfur dioxide, nitrogen oxides, opacity and volumetric flow for each unit subject to this title. The Administrator shall, by regulations issued not later than eighteen months after enactment of the Clean Air Act Amendments of 1989, specify the requirements for continuous emissions monitors, for alternative methods that provide information with the same precision, reliability, accessibility, and timeliness as that provided by continuous emissions monitors, and for recordkeeping and reporting of information from such systems.

(b) FIRST PHASE REQUIREMENTS.—Not later than thirty-six months after enactment of the Clean Air Act Amendments of 1989, the owner or operator of each affected unit under section 404 shall install and operate continuous emissions monitors, quality assure the data, and keep records and reports in accordance with regulations issued under subsection (a).

(c) SECOND PHASE REQUIREMENTS.—Not later than January 1, 1995, the owner or operator of each source subject to this title that has not previously met the requirements of subsection (a) shall comply with those requirements.

(d) UNAVAILABILITY OF CONTINUOUS EMISSIONS MONITORING SYSTEM.—If continuous emissions monitors data is not available for any affected unit during any period of a calendar year in which such data is required under this title, and the owner or operator cannot provide information, satisfactory to the Administrator, on emissions during that period, the Administrator shall deem the unit to be operating in an uncontrolled manner and, by regulation, prescribe means to calculate emissions for that period. The owner or operator shall be liable for excess emissions fees and offsets under section 411 in accordance with such regulations which shall be issued not later than eighteen months after enactment of the Clean Air Act Amendments of 1989.

(e) PROHIBITION.—It shall be unlawful for the owner or operator of any source subject to this title to operate a source without complying with the requirements of this section, and any regulations implementing this section.

#### "GENERAL COMPLIANCE WITH OTHER PROVISIONS."

"SEC. 413. Except as expressly provided, compliance with the requirements of this title shall not exempt or exclude the owner or operator of any source subject to this title from compliance with any other applicable requirements of this Act.

#### "ENFORCEMENT"

"SEC. 414. A violation by the owner or operator of a source subject to this title of the prohibitions of, requirements of, or regulations promulgated pursuant to this title shall be a violation of this Act. Operation of an affected source to emit sulfur dioxide or nitrogen oxides in excess of its allowances shall be deemed a violation, with each ton emitted in excess of allowances held constituting a separate violation."

#### "REPEAL OF PERCENT REDUCTION"

SEC. 402. (a) REPEAL.—Section 111(a)(1) of the Clean Air Act is amended to read as follows:

"(1) The term 'standard of performance' means a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through the applica-

tion of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated."

(b) REVISED REGULATIONS.—Not later than three years after the date of enactment of the Clean Air Act Amendments of 1989, the Administrator shall promulgate revised regulations for standards of performance for new fossil fuel fired stationary sources commencing construction after the date on which such regulations are proposed that, at a minimum, require any source subject to such revised standards to emit any pollutants for which a standard has been promulgated pursuant to section 109 at a rate not greater than would have resulted from compliance by such source with the applicable standards of performance under this section prior to such revision.

(c) APPLICABILITY.—The provisions of subsections (a) and (b) apply only so long as the provisions of section 403(e) of the Clean Air Act remain in effect.

(d) BACT DETERMINATIONS.—Section 169(3) of the Clean Air Act is amended by inserting "clean fuels," after "including fuel cleaning,".

#### "FEDERAL FACILITIES"

SEC. 403. (a) FEDERALLY OWNED FACILITIES.—

(1) CONSERVATION.—Not later than September 30, 1995, each Federal facility in the service territory of a utility operating an affected source, as defined in section 402 of the Clean Air Act, shall install, in federally owned facilities, all electric energy conservation improvements that are cost-effective based on a life-cycle cost analysis. Cost analyses performed must recognize all environmental costs and benefits arising from the systems being compared.

(2) RENEWABLE AND ALTERNATIVE CLEAN ENERGY TECHNOLOGY.—Not later than January 1, 1995, each Federal agency with facilities in the service territory of a utility operating an affected source shall utilize renewable and alternative clean energy technologies to satisfy at least 10 per centum of the total electric needs of the agency's facilities in the affected area. Renewable and clean energy technologies that satisfy the purpose of this requirement shall have maximum emissions rates as follows:

Pollutant	Maximum Rate
SO <sub>2</sub> .....	0.1 pounds per gigawatt hour
NO <sub>x</sub> .....	135.0 pounds per gigawatt hour

(3) After January 1, 1995, no Federal agency shall spend funds for the construction or acquisition of a building in any location unless that agency has complied with the requirements of sections (a)(1) and (a)(2).

(b) FEDERALLY LEASED FACILITIES.—After January 1, 1992, no Federal agency shall enter into or renew a lease for space exceeding thirty-five thousand square feet in new or renovated buildings where the federally leased space exceeds 70 per centum of the building's leasable space, which is in the service territory of a utility operating an affected source, unless that building has installed all electric energy conservation improvements that are cost effective, based on life cycle cost analysis which includes all environmental costs and benefits.

(c) **GUIDANCE.**—The Administrator of the Environmental Protection Agency shall provide guidance on the implementation of this section 415, and by January 1991, shall issue a methodology and guidelines for conduct of the life-cycle cost analysis required by sections (a) and (b). Additionally the Administrator will conduct an analysis of affected Federal facilities, particularly those that utilize less than one thousand megawatt hours per year or that are government research or experimentation facilities, and issue a finding of practically limiting the extent of applicability of sections (a) and (b). A determination of practicality will consider the size of the facility, the amount of electrical power consumed, the diversity of electric power usage at the facility, and the feasibility of making the required changes.

(d) **REPORT.**—Each affected Federal agency shall submit by January 1, 1992 a report to the Administrator of the Environmental Protection Agency and to the Congress, detailing its implementation of the requirements of sections (a) and (b).

(e) **DOD-EPA COOPERATION.**—Recognizing that the Department of Defense owns and operates and will continue to establish many unique facilities in affected areas, to the extent feasible the Administrator of the Environmental Protection Agency and the Secretary of Defense shall cooperate in meeting the requirements of this section.

#### ACID DEPOSITION STANDARDS

**SEC. 404.** Not later than thirty-six months after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the feasibility and effectiveness of an acid deposition standard or standards to protect sensitive and critically sensitive aquatic and terrestrial resources. The study required by this section shall include, but not be limited to, consideration of the following matters:

(a) identification of the sensitive and critically sensitive aquatic and terrestrial resources in the United States and Canada which may be affected by the deposition of acidic compounds;

(b) description of the nature and numerical value of a deposition standard or standards that would be sufficient to protect such resources;

(c) description of the use of such standard or standards in other Nations or by any of the several States in acid deposition control programs;

(d) description of the measures that would need to be taken to integrate such standard or standards with the control program required by title IV of the Clean Air Act;

(e) description of the state of knowledge with respect to source-receptor relationships necessary to develop a control program on such standard or standards and the additional research that is on-going or would be needed to make such a control program feasible; and

(f) description of the impediments to implementation of such control program and the cost-effectiveness of deposition standards compared to other control strategies including ambient air quality standards, new source performance standards and the requirements of title IV of the Clean Air Act.

#### NATIONAL ACID LAKES REGISTRY

**SEC. 405.** The Administrator of the Environmental Protection Agency shall create a National Acid Lakes Registry that shall list, to the extent practical, all lakes that are

known to be acidified due to acid deposition, and shall publish such list within one year of the enactment of this Act. Lakes shall be added to the registry as they become acidic or as data become available to show they are acidic. Lakes shall be deleted from the registry as they become nonacidic.

#### INDUSTRIAL SO<sub>2</sub> EMISSIONS

**SEC. 406.** (a) Not later than January 1, 1995, the Administrator of the Environmental Protection Agency shall transmit to the Congress an inventory of sulfur dioxide emissions from industrial sources along with a report indicating likely trends in such emissions over the following twenty-year period. The Administrator shall update such inventory every five years.

(b) Whenever the inventory required by this section indicates that sulfur dioxide emissions from industrial sources may reasonably be expected to reach levels greater than one million five hundred thousand tons less than such emissions in 1989, the Administrator of the Environmental Protection Agency shall take such actions under the Clean Air Act as may be appropriate, including the promulgation of standards for existing sources of such emissions under section 111(d), to assure that sulfur dioxide emissions from industrial sources do not exceed such levels.

#### SENSE OF THE CONGRESS ON EMISSION REDUCTIONS COSTS

**SEC. 407.** It is the sense of the Congress that the Clean Air Act Amendments of 1989, through the allowance program, allocates the costs of achieving the required reductions in emissions of sulfur dioxide and oxides of nitrogen among sources in the United States. Broad based taxes and emissions fees that would provide for payment of the costs of achieving required emissions reductions by any party or parties other than the sources required to achieve the reductions are undesirable.

#### CONTINUATION OF THE NATIONAL ACID PRECIPITATION ASSESSMENT PROGRAM

**SEC. 408.** (a) The National Acid Precipitation Assessment Program created by Public Law 96-294 shall be continued pursuant to this section. The Chairman of the Joint Chairs of the National Acid Precipitation Task Force shall be the Administrator of the Environmental Protection Agency.

(b) The Task Force shall sponsor monitoring and research in the federal agencies and in the scientific community that is necessary to understand the effects of the emissions control program created by this title. The Task Force shall undertake cost-benefit analyses of the effects of the emissions control program created by this title.

(c) The Task Force shall provide for the collection of information regarding—

(1) natural and anthropogenic emissions of the precursors of acid deposition;

(2) actual levels of all types of acid deposition;

(3) the status of ecosystems (including forests and terrestrial waters), materials, and visibility affected by acid deposition; and

(4) the costs and benefits of the control program created by this title.

The Task Force shall assure that this data is interpreted in such a way as to allow interested persons to determine as accurately as possible the total effects of the emissions control program created by this title.

(d) The Task Force shall provide for the maintenance and updating of models that describe the interaction of emissions with the atmosphere such as the Regional Acid Deposition Model, and models that describe

the response of ecosystems to acid deposition.

(e) The Task Force shall make a unified budget recommendation. Every two years beginning in 1992, the Task Force shall submit a report to the President and the Congress describing the results of its investigations and analysis of the effects of the emissions control program contained in this title.

(f) There are authorized to be appropriated the amount of \$10,000,000 per year to carry out the purposes of this section, to remain available until expended.

#### TITLE V—PERMITS

**SEC. 501.** The Clean Air Act is amended—

(1) by inserting after the heading “TITLE III—GENERAL” the subheading “PART A—MISCELLANEOUS”; and

(2) by adding at the end of title III the following:

#### “PART B—PERMITS

##### “DEFINITIONS

“SEC. 350. As used in this title—

(1) The term ‘affected source’ shall have the meaning given in title IV.

(2) The term ‘major source’ means any stationary source (or any group of stationary sources located within a contiguous area and under common control) that—

(A) is a major source as defined under section 112 or part D of this Act; or

(B) is a major stationary source as defined in section 302(f).

(3) For sources subject to standards issued under section 112 of this Act, the terms ‘new source’, ‘stationary source’, and ‘area source’ shall have the meaning given in that section.

(4) For sources subject to standards issued under section 111 of this Act, the terms ‘new source’, ‘modification’, ‘existing source’, ‘stationary source’, and ‘owner or operator’ shall have the meaning given in that section.

(5) The term ‘schedule of compliance’ means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an applicable implementation plan, emission standard, emission limitation, or emission prohibition.

(6) The term ‘permitting authority’ means the Administrator, or the air pollution control agency authorized by the Administrator to carry out a permit program under this title.

#### “PERMIT PROGRAMS

“SEC. 351. (a) After the effective date of any permit program approved or promulgated under this title, it shall be unlawful for any person to violate any requirement of a permit issued under this title, or to operate a major source, any other source (including an area source) subject to standards or regulations under section 111 or 112, any source required to have a permit under parts C or D of this Act, or any other source designated by regulations promulgated by the Administrator, except in compliance with a permit issued by a permitting authority under this title. Nothing in this subsection shall be construed to alter the requirements of sections 165, 172, and 173 regarding the requirement that a permit be obtained prior to construction. The Administrator may, in the Administrator’s discretion, promulgate regulations to exempt one or more source categories from the requirements of this subsection if the Administrator finds that such an exemption would be consistent with the purposes of this Act.

"(b) Not later than twelve months after the date of enactment of this title, the Administrator shall promulgate regulations establishing the minimum elements of a permit program to be administered by any air pollution control agency. These elements shall include:

"(1) Requirements for permit applications, including a standard application form.

"(2) Monitoring and reporting requirements.

"(3)(A) A requirement under State law that the owner or operator of each source subject to the requirement to obtain a permit under this title pay an annual fee, or the equivalent over some other period, sufficient to cover all direct and indirect costs of developing and administering the permit program, including, but not limited to, the reasonable costs of—

"(i) reviewing and acting upon any application for such a permit;

"(ii) if the owner or operator receives a permit for such source, whether before or after the date of enactment of this section, implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action);

"(iii) emissions and ambient monitoring;

"(iv) preparing generally applicable regulations or guidance;

"(v) modeling, analyses, and demonstrations, and

"(vi) preparing inventories and tracking emissions.

"(B) The total amount of fees collected by the permitting authority shall conform to the following requirements:

"(i) The Administrator shall not approve a program as meeting the requirements of this paragraph unless the State demonstrates that, except as otherwise provided in subparagraphs (ii) through (v) of this subparagraph, the program will result in the collection, in the aggregate, from all sources subject to subparagraph (A), of an amount not less than \$25 per ton of each regulated pollutant.

"(ii) As used in this subparagraph, the term 'regulated pollutant' shall mean (I) each pollutant regulated under section 111 or 112; and (II) each pollutant for which a national primary ambient air quality standard has been promulgated (except that ozone precursors, carbon monoxide, and PM-10 precursors shall be excluded from this reference).

"(iii) The fee calculated under clause (i) shall be increased in each year beginning after the year of enactment of this section by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the calendar year 1989.

"(C)(i) If the Administrator determines, under section 502(d), that the fee provisions of the operating permit program do not meet the requirements of this paragraph, or if the Administrator makes a determination, under section 502(i), that the permitting authority is not adequately administering or enforcing an approved fee program, the Administrator may, in addition to taking any other action authorized under this title, collect reasonable fees from the sources identified under subparagraph (A) without regard to the requirements of paragraph (B).

"(ii) Any source that fails to pay fees lawfully imposed by the Administrator under this subparagraph shall pay a penalty of 59 per centum of the fee amount, plus interest on the fee amount computed in accordance

with section 6621(a)(2) of title 26, of the United States Code (relating to computation of interest on underpayment of Federal taxes).

"(iii) Any fees, penalties, and interest collected under this subparagraph shall be deposited in a special fund in the United States Treasury for licensing and other services, which thereafter shall be available for appropriation, to remain available until expended, subject to appropriation, to carry out the Agency's activities for which the fees were collected.

"(iv) Any fee required to be collected by a State or interstate agency under this subsection shall be utilized to support the air pollution control program of such State or interstate agency.

"(4) Requirements for adequate personnel and funding to administer the program.

"(5) A requirement that the permitting authority have adequate authority to—

"(A) issue permits that apply, and assure compliance by all sources required to have a permit under this title with each applicable standard, regulation or requirement under this Act;

"(B) issue permits for a fixed term, not to exceed five years;

"(C) assure that permits incorporate emission limitations and other requirements in an applicable implementation plan;

"(D) terminate, modify, or revoke and re-issue permits for cause;

"(E) enforce permits, permit fee requirements, and the requirement to obtain a permit, including authority to recover civil penalties in an amount not less than \$10,000 per day for each violation, and appropriate criminal penalties; and

"(F) assure that no permit will be issued if the Administrator timely objects to its issuance under section 505.

"(6) Adequate procedures for public notice, including offering an opportunity for public comment and a hearing, on any permit application.

"(7) Authority to make available to the public any permit application, compliance plan, permit, and monitoring or compliance report under section 503(e).

"(c) A single permit may be issued for a facility with multiple sources.

"(d) Not later than three years after the enactment of this title, the Governor of each State shall develop and submit to the Administrator a permit program under State law or under an interstate compact meeting the requirements of this title. In addition, the Governor shall submit a legal opinion from the attorney general (or the attorney for those State air pollution control agencies that have independent legal counsel), or from the chief legal officer of an interstate agency, that the laws of the State, locality or the interstate compact provide adequate authority to carry out the program. Not later than one year after receiving a program, and after notice and opportunity for public comment, the Administrator shall approve or disapprove such program, in whole or in part. The Administrator may approve a program to the extent that the program meets the requirements of this Act, including the regulations issued under subsection (b) of this section. If the program is disapproved, in whole or in part, the Administrator shall notify the Governor of any revisions or modifications necessary to obtain approval. The Governor shall revise and resubmit the program for review under this section within one hundred and eighty days after receiving notification. If the Governor fails within such period to resubmit an approved program, the Administrator—

"(1) shall, to the extent the permit program would implement an applicable implementation plan, withhold final action on plan revisions affecting one, or a limited group of, major sources; and

"(2) may in the Administrator's discretion take either or both of the following actions:

"(A) apply any of the sanctions specified in section 179(b) of this Act other than the sanction specified in section 179(b)(2); or

"(B) promulgate a program, or partial program, under this title.

"(e) The Administrator shall suspend the issuance of permits promptly upon publication of notice of approval of a permit program under this section, but may in such notice retain jurisdiction over permits that have been federally issued, but for which the administrative or judicial review process is not complete. The Administrator shall continue to administer and enforce federally issued permits under this title until they are replaced by a permit issued by a permitting program. Nothing in this provision should be construed to limit the Administrator's ability to enforce permits issued by a State.

"(f) The Governor of a State may submit, and the Administrator may approve, a partial permit program. No partial permit program shall be approved unless, at a minimum, it applies, and assures compliance with, this title and—

"(1) all requirements established under title IV applicable to 'affected sources';

"(2) all requirements established under section 112 applicable to 'major sources', 'area sources', and 'new sources'; or

"(3) all requirements of title I (other than section 112) applicable to sources required to have a permit under this title.

Approval of a partial program shall not relieve the State of its obligation to submit a complete program, nor from the application of any sanctions under this Act for failure to submit an approvable permit program.

"(g) INTERIM APPROVAL.—If a program (including a partial permit program) submitted under this title substantially meets the requirements of this title, but is not fully approvable, the Administrator may by rule grant the program interim approval. In the notice of final rulemaking, the Administrator shall specify the changes that must be made before the program can receive full approval. An interim approval under this subsection shall expire on a date set by the Administrator not later than two years after such approval, and may not be renewed.

"(h) EFFECTIVE DATE.—The effective date of a permit program, or partial or interim program, approved under this title, shall be the effective date of approval by the Administrator.

"(i) Whenever the Administrator makes a preliminary determination that a permitting authority is not adequately administering and enforcing a program, or portion thereof, in accordance with the requirements of this title, he shall notify the permitting authority of such determination and the reasons therefor. If the permitting authority fails to take action to assure adequate administration and enforcement, the Administrator may in the Administrator's discretion, but not before ninety days after issuing such notice, take one or more of the following actions:

"(1) withdraw approval of the program or portion by rule;

"(2) propose to apply any of the sanctions specified in section 179(b) of this Act other than the sanction specified in section 179(b)(2); or

"(3) promulgate a program, or portion of a program, under this title.

**"PERMIT APPLICATIONS"**

"SEC. 352. (a) Any source specified in section 502(a) shall become subject to a permit program, and required to have a permit, on the later of the following dates:

"(1) the effective date of a permit program or partial or interim permit program applicable to the source; or

"(2) the date such source becomes subject to section 502(a).

"(b) The regulations required by section 502(b)(1) shall include a requirement that the owner or operator submit with the permit application a compliance plan describing how the source will comply with all applicable requirements under this Act. The compliance plan shall include a schedule of compliance, and a schedule under which the owner or operator will submit progress reports to the permitting authority no less frequently than every six months. The regulations shall further require any owner or operator submitting a compliance plan to periodically certify that the facility is in compliance with any applicable requirements under this Act, and to promptly report any violations of such requirements to the permitting authority.

"(c) The owner or operator of any source required to have a permit shall, not later than six months after the date on which the source becomes subject to a permit program approved or promulgated under this title, or such earlier date as the permitting authority may establish, submit to the permitting authority a compliance plan and an application for a permit signed by a responsible corporate official, who shall certify the accuracy of the information submitted.

"(d) Except for sources required to have a permit prior to construction under sections 165, 172, or 173, if an owner or operator has submitted a timely and complete application for a permit required by this title, but final action has not been taken on the application, the source's failure to have a permit shall not be a violation of this Act, unless the delay in final action was due to the failure of the applicant to timely submit information required or required to process the application. No source required to have a permit under this title shall be in violation of section 502(a) before the date on which the source is required to submit an application under subsection (c) of this section.

"(e) A copy of each permit application, compliance plan, emissions or compliance monitoring report, certification, and each permit issued under this title, shall be available to the public. If an applicant is required to submit information entitled to protection from disclosure under section 114(c) of this Act, the applicant may submit such information separately from the application. The requirements of section 114(c) shall apply to such information. The contents of a permit or of a compliance plan shall not be entitled to protection under section 114(c).

**"PERMIT REQUIREMENTS AND CONDITIONS"**

"SEC. 353. (a) Each permit issued under this title shall include emission limitations and standards, a schedule of compliance, and such other conditions as are necessary to assure compliance with applicable requirements.

"(b) The Administrator may by rule prescribe procedures and methods for determining compliance and for monitoring and analysis of pollutants regulated under this Act.

"(c) Each permit issued under this title shall set forth inspection, entry, monitoring,

compliance certification, and reporting requirements to assure compliance with the permit terms and conditions. Such monitoring and reporting requirements shall conform to any applicable regulations under subsection (b) of this section. Any report required to be submitted by a permit under this title shall be signed by a responsible corporate official, who shall certify its accuracy.

achieve the emission limitations specified in the permit, in which case the limitations in the revised, reissued, or modified permit may reflect the level of emission control actually achieved.

"(3) No permit may be reissued to contain emission standards less stringent than those established under sections 111 or 112 unless the applicable standard has been revised.

"(d) The permitting authority may, after notice and opportunity for public hearing, issue a general permit covering numerous similar sources. Any general permit shall comply with all requirements applicable to permits under this title. No source covered by a general permit shall thereby be relieved from the obligation to file an application under section 503.

"(e) The permitting authority may issue a single permit to an owner or operator authorizing emissions from similar operations at multiple temporary locations. No such permit shall be issued unless it includes conditions that will assure compliance with all the requirements of this Act at all authorized locations, including, but not limited to, ambient standards and compliance with any applicable increment or visibility requirements under part C of title I. Any such permit shall in addition require the owner or operator to notify the permitting authority in advance of each change in location. The permitting authority may require a separate permit fee for operations at each location.

"(f)(1) A permit may not be reissued or modified to contain emission limitations or other requirements that are less stringent than the comparable emission limitations or requirements in the previous permit or that applied to the source under an applicable implementation plan.

"(2) Notwithstanding paragraph (1) of this subsection, a permit may be reissued or modified, in accordance with section 405 of this title, to contain a less stringent emission limitation or other requirement (other than standards established under section 111 or 112) if the applicant shows that the revised emission limitation or requirement is consistent with any demonstration of attainment and any progress requirement in an approved implementation plan, the requirements of part C or section 173 of the Act, and will not otherwise interfere with attainment of the ambient air quality standards, progress requirements, and any other requirements of this Act and that—

"(A) the increased emissions authorized by the permit are compensated for by emissions reduction from another permitted facility, as determined under rules prescribed by the Administrator;

"(B) material and substantial alterations or additions to the permitted source occurred after permit issuance;

"(C) information is available that was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and that, if known, would have justified the application of a less stringent emission limitation or requirement at that time;

"(D) technical mistakes or mistaken interpretations of law were made in issuing the permit; or

"(E) the permittee demonstrates, in accordance with procedures prescribed by the Administrator, that it has installed the controls required to meet the emission limitations and requirements in the permit and has properly constructed and tested the facility, but has nevertheless been unable to

achieve the emission limitations specified in the permit, in which case the limitations in the revised, reissued, or modified permit may reflect the level of emission control actually achieved.

"(3) No permit may be reissued to contain emission standards less stringent than those established under sections 111 or 112 unless the applicable standard has been revised.

"(4) Compliance with a permit issued under this title shall be deemed compliance with section 502. Except as otherwise provided by the Administrator by rule, the permit may also provide that compliance with the permit shall be deemed compliance with other applicable provisions of this Act. Compliance with a permit issued under a partial program under section 502(f) shall be deemed compliance only with those requirements for which the program was approved. For purposes of this subsection, 'compliance with a permit' means compliance with all terms, conditions and requirements of a permit including all modifications made to such permit by rule or order subsequent to issuance of permit.

"(5) Notwithstanding the provisions of paragraph (1), compliance with a permit issued under this title or under a partial program under section 502(f) shall not alter, modify or otherwise affect the authority of the Administrator under section 303 (emergency powers) or the requirement to comply with any order issued under section 303.

**"NOTIFICATION TO ADMINISTRATOR AND CONTIGUOUS STATES"**

"SEC. 354. (a)(1) Each permitting authority shall transmit to the Administrator a copy of each permit application, including any compliance plan, or for a permit modification submitted under this title, and shall provide notice, in accordance with regulations promulgated by the Administrator, of every action related to the consideration of the application, including each permit proposed to be issued by the authority.

"(2) The permitting authority shall notify all States contiguous to the State in which the emission originates of each permit application, and each draft permit or proposed permit forwarded to the Administrator under this section, and shall provide an opportunity for such States to submit written recommendations respecting the issuance of the permit and its terms and conditions. If any part of those recommendations are not accepted by the permitting authority, such authority shall notify the State submitting the recommendations and the Administrator in writing of its failure to accept those recommendations and the reasons therefor.

"(b) No permit shall be issued if the Administrator (1) within ninety days after receipt of the proposed permit under subsection (a)(1) of this section, or (2) within ninety days after receiving notification under subsection (a)(2), objects in writing to its issuance as not in compliance with the requirements of this Act, including the requirements of section 110(d)(4)(A). The Administrator shall provide with the objection a statement of the reasons for the objection.

"(c) If the permitting authority fails within ninety days after the date of the objection, to submit a permit revised to meet the objection, the Administrator may issue or deny the permit in accordance with the requirements of this title. No objection shall be subject to judicial review until the Administrator takes final action to issue or deny a permit under this subsection.

"(d)(1) The Administrator may waive the requirements of subsections (a) and (b) of

this section at the time of approval of a permit program under this title for any category (including any class, type, or size within such category) of sources covered by the program.

(2) The Administrator may by regulation establish categories of sources (including any class, type, or size within such category) to which the requirements of subsections (a) and (b) of this section shall not apply.

(3) The Administrator may exclude from any waiver under this subsection notification under paragraph (a)(2). Any waiver granted under this subsection may be revoked or modified by the Administrator by rule.

(e) If the Administrator finds that cause exists under section 502(b)(5)(D) to terminate, modify, or revoke and reissue a State permit under this title, the Administrator shall notify the permitting authority of such finding. The permitting authority shall, within ninety days after receipt of such notification, forward to the Administrator under this section a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The Administrator may extend such ninety-day period for an additional ninety days if the Administrator finds that a new or revised permit application is necessary, or that the permitting authority must require the permittee to submit additional information. The Administrator may review such proposed determination under the provisions of subsections (a) and (b) of this section. If the permitting authority fails to submit the required proposed determination, or if the Administrator objects and the permitting authority fails to resolve the objection within the period prescribed in subsection (c) of this section, the Administrator may terminate, modify, or revoke and reissue the permit.

#### “RELATION TO OTHER AUTHORITY

SEC. 355. (a) Nothing in this title shall prevent a State or interstate permitting authority from establishing additional permitting requirements not inconsistent with this Act.

(b) ACID DEPOSITION PROGRAM.—Nothing in this title shall be construed to authorize the Administrator, or a State, to modify or revoke any allowance granted under title IV, or to alter or amend any provision of title IV.”.

#### TITLE VI—ENFORCEMENT AND REAUTHORIZATION

##### SECTION 113 ENFORCEMENT

SEC. 601. (a) Section 113(a)(1) of the Clean Air Act is amended as follows:

(1) In the first sentence, after “finds that any person”, insert the words “has violated or”; and following the words “shall notify the person” replace “in violation of” with “who violated”.

(2) In the second sentence,

(A) strike the words “If such violation extends beyond the thirtieth day after the date of the Administrator’s notification,” and insert in lieu thereof the words “At any time after the expiration of thirty days following the date on which such notice of the violation is issued.”;

(B) insert after “of such plan” the following: “, may issue an administrative penalty order in accordance with subsection (d);” and

(C) insert, at the end of the sentence, the following: “, without regard to the period of the violation. Nothing in this subsection shall preclude the United States from commencing a criminal action under section 113(c) without such notification for any such violation.”.

(b) Section 113(a)(2) of the Clean Air Act is amended as follows:

(1) Strike the “or” at the end of section 113(a)(2)(A), redesignate subparagraph “(B)” as “(C)”, and insert the following new subparagraph (B):

“(B) by issuing an administrative penalty order under subsection (d) of this section, or

(2) Insert the following new sentence at the end of section 113(a)(2): “Nothing in this subsection shall preclude the United States from commencing a criminal action under section 113(c) without such notification for any such violation.”

(c) Section 113(a)(3) of the Clean Air Act is amended as follows:

(1) Insert the words “has violated or” before the words “is in violation of” in the first sentence.

(2) Strike the words “section 111(e)” and all that follows down through “(relating to inspections, etc., he)” and insert in lieu thereof the following new language: “any other requirement of this title, title III, or title IV, including, but not limited to, a requirement of any rule, order, waiver or permit promulgated or approved under those titles or for the payment of any fee owed the United States under this Act, the Administrator”.

(3) Strike the words “or he” before the words “may bring a civil action” and insert in lieu thereof the following words: “may issue an administrative penalty order in accordance with subsection (d), or”.

(4) Insert after the words “may bring a civil” the words “or criminal”.

(d) Section 113(a)(4) of the Clean Air Act is amended by inserting at the end thereof: “An order issued under this subsection shall require the person to whom it was issued to comply with the requirement as expeditiously as practicable, but in no event longer than one year after the date the order was issued, and shall be nonrenewable. No order issued under this subsection shall prevent the State or the Administrator from assessing any penalties nor otherwise affect or limit the State or the United States’ authority to enforce under other provisions of this Act, nor affect any person’s obligations to comply with any section of this Act, or a term or condition of any permit or applicable implementation plan promulgated or approved under this Act.”.

(e) Section 113(a)(5) of the Clean Air Act is amended to read as follows:

(f) Whenever, on the basis of any available information, the Administrator finds that a State is not acting in compliance with any requirement of the Act relating to the construction of new sources or the modification of existing sources, the Administrator may—

“(A) issue an order prohibiting the construction, modification or operation of any major stationary source in any area to which such provisions apply;

“(B) issue an administrative penalty order in accordance with subsection (d); or

“(C) bring a civil action under subsection (b)(5).

Nothing in this subsection shall preclude the Administrator from filing a criminal action under section 113(c) at any time for any such violation.”

(g) Section 113(b) of the Clean Air Act is amended to read as follows:

(h) The Administrator shall, in the case of any person which is the owner or operator of a major emitting facility or a major stationary source, and may, in the case of any other person, commence a civil action

for a permanent or temporary injunction, or to assess and recover a civil penalty of not more than \$25,000 per day for each violation, or both, whenever such person—

(1) violates any requirement of an applicable implementation plan (such action shall be commenced (A) during any period of federally assumed enforcement, or (B) more than thirty days following the date of the Administrator’s notification under subsection (a)(1) of a finding that such person is violating such requirement); or

(2) violates any other requirement of this title, title III, or title IV, including a requirement of any rule, order, waiver or permit promulgated or approved under this Act or for the payment of any fee under this Act; or

(3) attempts to construct, modify or operate a major stationary source in any area with respect to which a finding under subsection (a)(5) of this section has been made. Any action under this subsection may be brought in the district court of the United States for the district in which the violation is alleged to have occurred, or in which the defendant resides, or where the defendant’s principal place of business is located, and such court shall have jurisdiction to restrain such violation, to require compliance, to assess such civil penalty, and to collect any fees owed under the Act and any noncompliance assessment and nonpayment penalty owed under section 120 and to award any other appropriate relief. Notice of the commencement of such action shall be given to the appropriate State air pollution control agency. In the case of any action brought by the Administrator under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any party or parties against whom such action was brought in any case where the court finds that such action was unreasonable.”.

(i) Section 113(c) of the Clean Air Act is amended to read as follows:

#### (c) CRIMINAL ENFORCEMENT—

(1) Any person who knowingly fails to pay any fee owed the United States under this title, title III, or IV, shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, or by imprisonment for not more than one year, or by both, per day for each violation. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

(2) Any person who negligently releases into the air any hazardous air pollutant listed pursuant to section 110(2)(a)(2) of title 42, and who at the time negligently places another person in imminent danger of death or serious bodily injury shall, upon conviction, be punished by a fine under title 18 of the United States Code, or by imprisonment for not more than one year, or by both, per day for each violation. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

(3) Any person who knowingly violates any requirement or prohibition of this title, title III, or IV, including but not limited to a requirement or prohibition of any rule, plan, order, waiver or permit promulgated

or approved under those titles shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, or by imprisonment for not more than five years, or by both, per day for each violation. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

**"(4) Any person who knowingly—**

"(A) makes any false statement, representation, or certification in, or omits material information from or knowingly alters, conceals or fails to maintain or file any notice, application, record, report, plan, or other document filed or required to be maintained or used for purposes of compliance under this Act (whether with respect to the requirements imposed by the Administrator or by a State); or

"(B) fails to notify or report as required under this Act; or

"(C) falsifies, tampers with, renders inaccurate, or fails to install any monitoring device or method required to be maintained or followed under this Act;

shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, or by imprisonment for not more than two years, or by both, per day for each violation. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(5)(A) Any person who knowingly releases into the air any hazardous air pollutant listed pursuant to section 112 of this Act or any extremely hazardous substance listed pursuant to section 11002(a)(2) of title 42, United States Code, and who knows at the time that he thereby places another person in imminent danger of death or serious bodily injury shall, upon conviction, be punished by a fine under title 18 of the United States Code, or by imprisonment of not more than fifteen years, or by both, per day for each violation. Any person committing such violation who is an organization shall, upon conviction under this paragraph, be subject to a fine of not more than \$1,000,000 per day for each violation. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment. For any hazardous air pollutant listed pursuant to section 112 for which the Administrator has set an emissions standard, a release of such pollutant shall not constitute a violation of this paragraph unless it exceeds such standard.

"(B) In determining whether a defendant who is an individual knew that the violation placed another person in imminent danger of death or serious bodily injury—

"(i) the defendant is responsible only for actual awareness or actual belief possessed; and

"(ii) knowledge possessed by a person other than the defendant, but not by the defendant, may not be attributed to the defendant; except that in proving a defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to be shielded from relevant information.

"(C) The term 'organization' means a legal entity, other than a government, established

or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.

"(D) The term 'serious bodily injury' means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(6) For the purposes of this subsection, the term 'person' includes, in addition to the entities referred to in section 302(e), any responsible corporate officer."

(h) Section 113(d) of the Clean Air Act is amended as follows:

**"(d) ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES.—**

"(1) The Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to \$25,000, per day for each violation, whenever, on the basis of any available information, the Administrator finds that such person—

"(A) violates any requirement of an applicable implementation plan (such order shall be issued (i) during any period of federally assumed enforcement, or (ii) more than thirty days following the date of the Administrator's notification under subsection (a)(1) of this section of a finding that such person is violating such requirement); or

"(B) violates any other requirement of this title, title III, or IV, including, but not limited to, a requirement of any rule, order, waiver or permit promulgated or approved under this Act or for the payment of any fee owed the United States under this Act; or

"(C) attempts to construct, modify or operate a major stationary source in any area with respect to which a finding under subsection (a)(5) of this section has been made. The Administrator's authority under this paragraph shall be limited to matters where the total penalty sought does not exceed \$200,000 and the first alleged date of violation occurred no more than twelve months prior to the initiation of the administrative action.

"(2)(A) An administrative penalty assessed under paragraph (1) shall be assessed by the Administrator by an order made on the record after opportunity for a hearing in accordance with sections 554 and 556 of title 5 of the United States Code. The Administrator may issue rules for discovery and other procedures for hearings under this paragraph. Before issuing such an order, the Administrator shall give written notice to the person to be assessed an administrative penalty of the Administrator's proposal to issue such order and provide such person an opportunity to request such a hearing on the order, within fifteen days of the date the notice is received by such person.

"(B) The Administrator may compromise, modify, or remit, with or without conditions, any administrative penalty which may be imposed under paragraph (d)(1).

"(3) The Administrator may implement through regulation, after consultation with the Attorney General, a field citation program for appropriate minor violations,

which authorizes the issuance of field citations assessing civil penalties not to exceed \$5,000 per day for each violation. Any person to whom a field citation is assessed may, within a reasonable time as prescribed by the Administrator through regulation, elect to pay the penalty assessment or request a hearing on the field citation. If a re-

quest for a hearing is not made within the time specified in the regulation, the penalty assessment in the field citation shall be final. Such hearing shall not be subject to section 554 or 556 of title 5 of the United States Code, but shall provide a reasonable opportunity to be heard and to present evidence. Payment of a civil penalty required by a field citation shall not be a defense to further enforcement by the United States or a State to correct a violation, or to assess the statutory maximum penalty pursuant to other authorities in the Act, if the violation continues.

"(4) Any person against whom a civil penalty is assessed under this subsection may seek review of such assessment in the United States District Court for the District of Columbia, or for the district in which the violation is alleged to have occurred, in which such person resides, or where such person's principal place of business is located, by filing a notice in such court within thirty days following the date the civil penalty order is issued under paragraph (2), or the final decision in a hearing under paragraph (3) is rendered, and by simultaneously sending a copy of the filing by certified mail to the Administrator and the Attorney General. The Administrator shall promptly file in such court a certified copy, or certified index, as appropriate, of the record on which the order or final decision was issued within thirty days. Such court shall not set aside or remand such order or final decision unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's assessment of the penalty constitutes an abuse of discretion. In any such proceedings, the United States may seek to recover civil penalties assessed under this section.

"(5) If any person fails to pay an assessment of a civil penalty—

"(A) after the order making the assessment or field citation has become final, or

"(B) after a court in an action brought under paragraph (4) has entered a final judgment in favor of the Administrator,

the Administrator shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at rates established pursuant to section 6621(a)(2) of title 26, United States Code, from the date of the final order or decision or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis a civil penalty under this section shall be required to pay, in addition to such penalty and interest, the United States' enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 per centum of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of such quarter."

(i) Current section 113(e) of the Clean Air Act is deleted in its entirety and replaced with the following new section 113(e):

**"(e) PENALTY ASSESSMENT CRITERIA.—**

"(1) In determining the amount of any penalty to be assessed under this section or section 304(a), the court shall take into consideration (in addition to such other factors

as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

(2) A penalty may be assessed for each day of each violation. For purposes of determining the number of days of violation for which a penalty may be assessed under this section or section 304(a), or an assessment may be made under section 120, the violation shall be deemed to commence on the first provable date of violation and to continue each and every day thereafter until the violator establishes that continuous compliance has been achieved, except to the extent that the violator can prove by a preponderance of the evidence that there were intervening days during which no violation occurred or that the violation was not continuing in nature.

#### REVISABILITY OF ADMINISTRATIVE ORDERS

SEC. 602. (a) Section 307(b)(2) of the Clean Air Act is amended by adding at the end thereof: "Orders or notices issued under section 113(a), section 167 and section 303, administrative subpoenas under section 307(a), and actions under sections 114, 206(c) and 208 of this Act are not considered final actions for purposes of this section. Such orders, notices, subpoenas and actions shall not be subject to judicial review except in a proceeding commenced by the United States under sections 113, 120, 204 or 205, or in a citizen suit commenced under section 304, to enforce the order, notice, subpoena or action. No such order, notice, subpoena or action may be challenged in any citizen suit under section 304 unless the Administrator or the Attorney General are notified in writing of such challenge."

(b) Section 307(e) of the Clean Air Act is amended by inserting at the end thereof the following: "Orders or notices issued under section 113(a), section 167 or section 303, subpoenas issued under section 307(a), and actions under sections 114, 206(c) and 208 of this Act may only be reviewed in a proceeding commenced by the United States under section 113, 120, 204, or 205, or in a citizen suit under section 304, to enforce the order, notice, subpoena or action."

#### COMPLIANCE CERTIFICATION

SEC. 603. (a) Section 114(a)(1) of the Clean Air Act is amended by—

(1) inserting ", on a one-time, periodic or continuous basis" immediately before "(A) establish and maintain";

(2) inserting ", audit procedures," immediately before "(or methods, (D))";

(3) inserting "procedures or" immediately before "methods, at such locations";

(4) inserting "during such continuous periods" immediately before ", and in such manner as the Administrator";

(5) striking "and" immediately before subparagraph (E); and

(6) redesignating subparagraph (E) as (G) and inserting the following new subparagraphs: "(E) keep periodic or continuous records on control equipment parameters, production variables or other indirect data when direct monitoring of emissions is impractical, (F) submit compliance certifications in accordance with section 114(a)(3); and".

(b) Section 114(a) is amended by adding the following new paragraph:

"(3) The Administrator shall in the case of any person which is the owner or operator of a major stationary source, and may, in the case of any other person, require enhanced monitoring and submission of compliance certifications. Compliance certifications shall include (i) identification of the applicable requirement that is the basis of the certification, (ii) the method used for determining the compliance status of the source, (iii) the compliance status, (iv) whether compliance is continuous or intermittent, (v) such other facts as the Administrator may require. Compliance certifications and monitoring data shall be public information. Submission of a compliance certification shall in no way limit the Administrator's authorities to investigate or otherwise implement the Act."

(c) Section 307(b)(1) is amended by inserting "or revising regulations for enhanced monitoring and compliance certification programs under section 114(a)(3) of this Act," immediately before "or any other final action of the Administrator".

#### CONTRACTOR INSPECTIONS

SEC. 604. (a) Section 114(a)(2) of the Clean Air Act is amended by inserting "(including an authorized contractor acting as a representative of the Administrator)" immediately before "upon presentation of his credentials".

(b) Section 114(c) is amended by striking ", except that such record," and all that follows in the subsection and inserting ". Any authorized representative of the Administrator (including an authorized contractor acting as a representative of the Administrator) shall be considered an employee of the United States for purposes of the provisions of section 1905 of title 18. Nothing in this subsection shall prohibit the Administrator or an authorized representative of the Administrator (including any authorized contractor acting as a representative of the Administrator) from disclosing records, reports or information to other officers, employees or authorized representatives of the United States (including any authorized contractor acting as a representative of the Administrator), or to any State concerned with carrying out this Act, or when relevant in any proceeding under this Act".

#### ADMINISTRATIVE ENFORCEMENT SUBPOENAS

SEC. 605. Section 307 of the Clean Air Act is amended by redesignating subsection (a)(1) as subsection (a), and, in that newly designated subsection, striking "or" before "section 202(b)(5)" and inserting "any investigation, monitoring, reporting requirement, entry, compliance inspection, or administrative enforcement proceeding under the Act (including but not limited to section 113, section 114, section 120, section 205, section 206, section 208, section 303 or section 306), or to otherwise carry out the provisions of the Act," immediately after "section 202(b)(4) or 211(c)(3)".

#### EMERGENCY ORDERS

SEC. 606. Section 303 of the Clean Air Act, is amended by—

(a) striking "the health of persons, and that appropriate State or local authorities have not acted to abate such sources" and inserting "public health or welfare, or the environment";

(b) revising the second sentence to read, "If it is not practicable to assure prompt protection of public health or welfare or the environment by commencement of such a civil action, the Administrator may issue such orders as may be necessary to protect public health or welfare or the environment.";

(c) striking the last two sentences in their entirety; and

(d) deleting subsection (b) in its entirety and redesignating subsection 303(a), as amended, as section 303.

#### CONTRACTOR LISTINGS

SEC. 607. Section 306(a) of the Clean Air Act is amended by—

(a) striking "(1)" after "section 113(c)"; and

(b) inserting at the end thereof: "For convictions arising under section 113(c)(2), the condition giving rise to the conviction also shall be considered to include any substantive violation of this Act associated with the violation of 113(c)(2). The Administrator may extend this prohibition to other facilities owned or operated by the convicted person."

#### JUDICIAL REVIEW PENDING RECONSIDERATION OF REGULATION

SEC. 608. Section 307(b)(1) of the Clean Air Act is amended by adding at the end thereof the following: "A petition for reconsideration by the Administrator of any otherwise final agency action shall not render the action nonfinal for purposes of judicial review nor extend the time within which a petition for review may be filed, and shall not postpone the effectiveness of the agency action".

#### CITIZEN SUITS AND PETITIONS

##### SEC. 609. (a) CIVIL PENALTIES.—

(1) Section 304(a) of the Clean Air Act is amended by inserting immediately before the period at the end thereof: ", and to apply any appropriate civil penalties (except for actions under paragraph (a)(2)), including those pursuant to a consent judgment, payable to the special fund as established in subsection (g), taking into account the factors listed in section 113(e))."

(2) Section 304 of the Clean Air Act is amended by adding the following new subsection:

"(g) PENALTY FUND.—Penalties received under subsection (a) shall be deposited in a special fund in the United States Treasury for licensing and other services, which shall be available for appropriation, and remain available until expended for use by the Environmental Protection Agency to finance air compliance and enforcement activities."

(3) Paragraph (2) of subsection 304(c) of the Clean Air Act is amended to read as follows:

"(2) In any action under this section, the Administrator, if not a party, may intervene as a matter of right at any time in the proceeding. In such intervention, the Administrator may substitute himself as the plaintiff with regard to any claim for civil penalties. Upon such substitution, the citizen plaintiff's claims for civil penalties shall abate. A judgment in an action under this section to which the United States is not a party shall not, however, have any binding effect upon the United States."

(b) UNREASONABLE DELAY.—Section 304(a) of the Clean Air Act, as amended by subsection (a), is further amended as follows:

(1) Paragraph (2) is amended to read as follows:

"(2) against the Administrator where there is alleged a failure to act that violates one or more of the standards set forth in section 307(d)(9), or constitutes unreasonable delay, provided however that a failure to act does not include a written decision not to take action which the Administrator designates, within such decision, as a final action within the meaning of section 307(b)(1); or";

(2) by inserting after "to perform such act or duty," the following: "or to compel agency action unreasonably delayed"; and

(3) by adding at the end thereof the following: "Where a provision of the Act mandates that the Administrator shall take specified action when certain preconditions are met, the court's power to compel the specified action under paragraph (2) shall not depend in any manner upon whether the Administrator has published in the Federal Register a proposed or final determination that the threshold preconditions are met."

(c) NOTICE TO THE GOVERNMENT.—Section 304(c) is amended by adding the following new paragraph:

"(3) Whenever any action is brought under this section the plaintiff shall serve a copy of the complaint on the Attorney General of the United States and on the Administrator. No consent judgment shall be entered in an action brought under this section in which the United States is not a party prior to forty-five days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator during which time the government may submit its comments on the proposed consent judgment to the court and parties or may intervene as a matter of right."

(d) DEFERRED ACTIONS.—Section 307(b) of the Clean Air Act is amended by adding the following at the end thereof:

"(3) Where a final decision by the Administrator undertakes to perform an action, but defers such performance to a later time, any interested person may either challenge the deferral pursuant to paragraph (1) or bring an action at any time under section 304(a)(2) to compel such performance."

(e) PETITIONS.—Section 307 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(h) PETITIONS.—Any person may petition the Administrator to issue, amend, reconsider, or repeal any regulation or order issued under the authority of this Act. Within twelve months the Administrator shall either grant the petition or issue a final decision denying the petition, except that in the case of a petition for reconsideration under section 307(d)(7)(B), the Administrator shall grant or deny the petition within four months. In any case in which the Administrator grants a petition, the Administrator shall take final action in response to any such petition within a reasonable time."

#### ENHANCED IMPLEMENTATION AND ENFORCEMENT OF NEW SOURCE REVIEW REQUIREMENTS

SEC. 610. Section 167 of the Clean Air Act is amended by striking "the construction of a major emitting facility" and inserting "the operation, construction, or modification of a major emitting facility".

#### MOVABLE STATIONARY SOURCES

SEC. 611. Section 302 of the Clean Air Act is amended by adding the following subsection:

"(q) STATIONARY SOURCE.—The term 'stationary source' means generally any source of an air pollutant except those emissions resulting directly from an internal combustion engine for transportation purposes."

#### AUTHORIZATIONS

SEC. 612. Title III of the Clean Air Act is amended by adding at the end thereof the following new section:

"(C)(1) There are authorized to be appropriated \$120,000,000 for each of the fiscal years ending September 30, 1991, 1992, 1993, 1994, and 1995 to make grants to the States pursuant to section 105. In addition there are authorized to be appropriated

\$50,000,000 for each of the fiscal years ending September 30, 1991, 1992, and 1993 to make grants to the States to prepare implementation plans as required by subpart 2, 3, or 4 of part D.

"(2) There are authorized to be appropriated \$90,000,000 for each of the fiscal years ending September 30, 1991, 1992, 1993, 1994, and 1995 to carry out the research and development activities authorized by sections 103 and 104 and other sections of this Act.

"(3) In addition to the sums authorized by paragraphs (1) and (2) there are authorized to be appropriated \$250,000,000 for each of the fiscal years ending September 30, 1991, 1992, 1993, 1994, and 1995 to carry out the activities authorized under this Act."

#### TITLE VII—STRATOSPHERIC OZONE AND GLOBAL CLIMATE PROTECTION

Sec. 701. Part B of the Clean Air Act entitled "Ozone Protection", sections 150 through 159, is hereby repealed.

Sec. 702. The Clean Air Act is amended by adding the following new title:

#### TITLE V—STRATOSPHERIC OZONE AND GLOBAL CLIMATE PROTECTION

##### "FINDINGS"

"SEC. 501. The Congress finds that—

"(1) the best available scientific evidence shows that manufactured substances, including chlorofluorocarbons and other substances covered by this title, are destroying stratospheric ozone, and significantly contributing to global climate change by enhancing the greenhouse effect and causing other atmospheric modifications;

"(2) no level of stratospheric ozone depletion or global climate change caused by human activities can be deemed safe;

"(3) stratospheric ozone depletion will lead to increased incidence of solar ultraviolet radiation in the troposphere and at the surface of the Earth;

"(4) increased incidence of solar ultraviolet radiation will cause increased rates of disease in humans (including increased rates of skin cancer, cataracts, and, potentially, suppression of the immune system), threaten food crops and marine resources, and otherwise damage the natural environment;

"(5) the Ozone Trends Report completed in March 1988 through the effort of over one hundred international scientists found undisputed observational evidence that the atmospheric concentrations of source gases important in controlling stratospheric ozone levels and aggravating the problem of uncontrolled global climate change (chlorofluorocarbons, halons, methane, nitrous oxide, and carbon dioxide) are increasing on a global scale as a result of human activities;

"(6) scientific expeditions and analyses have established that chlorine compounds derived from emissions of chlorofluorocarbons are responsible for destruction of the stratospheric ozone layer over the Antarctic and the surrounding oceans;

"(7) recent scientific reports indicate that a similar destruction of the ozone layer may occur over the Arctic region and that the same chlorine compounds found in the Antarctic region are present in areas of the Arctic ozone layer;

"(8) experimental laboratory studies and measurements of ozone depletion suggest that the chemical reactions responsible for destruction of ozone over Antarctica could operate in the aerosol layer of the stratosphere and would not be limited to the polar regions;

"(9) the Montreal Protocol on Substances that Deplete the Ozone Layer (the Montreal

Protocol) provides a framework for all nations of the world to protect the Earth's ozone shield;

"(10) the control measures that are set forth in the Montreal Protocol (a freeze on the consumption of certain chlorofluorocarbons at 1986 levels in 1989 followed by a 20 per cent reduction in 1993 and an additional 30 per cent reduction in 1998, coupled with a freeze on the consumption of certain halons at 1986 levels in 1992) will allow atmospheric concentrations of chlorine to increase by at least a factor of two to three;

"(11) because of the worldwide recognition of the need to reduce significantly the use of ozone-depleting chemicals, United States chemical producers and chlorofluorocarbon and halon user industries should be encouraged to develop improved chemicals, products, and technologies that do not rely on chlorofluorocarbons and halons;

"(12) the Ozone Trends Report and other recent scientific studies have raised serious questions about the adequacy of the control measures that are set forth in the Montreal Protocol;

"(13) ozone depleting chlorofluorocarbons are also powerful greenhouse gases projected to be responsible for 15 to 25 per cent of global warming and, under the existing Montreal Protocol, 10 per cent of future warming;

"(14) stratospheric ozone depletion and global climate change from continued emissions of chlorofluorocarbons and other halogenated chlorine containing halocarbons with ozone depleting potential, and emissions of other gases, such as methane and carbon dioxide, imperil human health and the environment worldwide;

"(15) in order to stabilize and eventually reduce concentrations of chlorine and bromine in the stratosphere, to conserve the stratospheric ozone layer (an exhaustible natural resource), and to reduce the extent of global climate change—

"(A) emissions of chlorofluorocarbons and other substances covered by this title, including partially halogenated chlorine containing halocarbons with ozone depleting potential, should be terminated rapidly;

"(B) it is necessary to control international trade in substances covered by this title and products containing such substances; and

"(C) emissions of other gases, such as methane and carbon dioxide, should be controlled;

"(16) the highest priority must be given to developing and deploying safe and energy efficient products and technologies as substitutes for ozone depleting substances as rapidly as possible; and

"(17) the United States needs to develop and deploy safe, energy efficient substitutes to replace ozone depleting substances in order to demonstrate to the world its commitment to protect the stratosphere and to limit global climate change.

#### "OBJECTIVES AND NATIONAL GOAL"

"SEC. 502. (a) The objectives of this title are to restore and maintain the chemical and physical integrity of the Earth's atmosphere, to protect human health and the global environment from all known and potential dangers due to atmospheric or climatic modification, including stratospheric ozone depletion, to provide for a smooth transition from the use of ozone-depleting chemicals to the use of safe chemicals, products, and technologies that do not threaten the ozone layer, and to reduce the genera-

tion of greenhouse gases in order to protect the Earth's ozone layer and to limit anthropogenically induced global climate changes by—

"(1) reducing significantly the production and emission into the atmosphere of pollutants caused by human activities;

"(2) promoting the rapid development and deployment of energy efficient alternatives to the use of chlorofluorocarbons and other substances covered by this title;

"(3) assuring that such alternatives reduce ozone depleting potential to the maximum extent possible and, at the same time, do not exacerbate the problem of human induced global climate change either directly as radiatively important trace gases or indirectly as substances that reduce the energy efficiency of products which incorporate or use such substances, and

"(4) promoting additional scientific research on atmospheric or climatic modification, including stratospheric ozone depletion, and on the known and potential adverse effects therefrom on human health and the global environment.

"(b) In order to achieve the objectives of this title, it is the national goal to eliminate atmospheric emissions of manufactured substances with ozone depleting potential as well as direct and indirect global warming potential, including chlorofluorocarbons and other halogenated chlorine or bromine containing halocarbons with ozone depleting and global warming potential, to reduce to the maximum extent possible emissions of other gases caused by human activities that are likely to affect adversely the global climate, and to provide for an orderly and equitable shift to alternative, safe chemicals, products, and technologies.

#### DEFINITIONS

"SEC. 503. As used in this title, the term—

"(1) 'Administrator' means the Administrator of the Environmental Protection Agency;

"(2) 'household appliances' means non-commercial personal effects, including air-conditioners, refrigerators, and motor vehicles;

"(3) 'import' means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States;

"(4) 'manufactured substances' means any organic or inorganic chemical substances of a particular molecular identity, or any mixture, that has been manufactured for commercial purposes;

"(5) 'medical purposes' means medical devices and diagnostic products (including drugs, as defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) and drug delivery systems (A) for which no safe and effective substitute has been developed and, where necessary, approved by the Commissioner of the Food and Drug Administration (the Commissioner) and (B) which, after notice and opportunity for public comment, has been approved and determined to be essential by the Commissioner in consultation with the Administrator;

"(6) 'person' means an individual, corporation (including a government corporation), partnership, firm, joint stock company, trust, association, or any other entity, or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof (including any interstate body), or of any

foreign government (including any international instrumentality);

"(7) 'to produce' means to manufacture a substance from any raw material or feedstock chemical but does not include the manufacture of substances that are used and entirely consumed in the manufacture of other chemicals; and

"(8) 'substances covered by this title' means those substances which are known or may reasonably be anticipated to cause or contribute to atmospheric or climatic modification, including stratospheric ozone depletion, and are listed under subsections (a) or (b) of section 504 of this title.

#### PART A—CONTROL OF CHLOROFUOROCARBONS AND OTHER MANUFACTURED SUBSTANCES

##### LISTING OF REGULATED SUBSTANCES

"SEC. 504. (a) PRIORITY LIST AND INITIAL LISTS OF SUBSTANCES TO BE PHASED-OUT.—Within sixty days after enactment of this title, the Administrator shall publish a priority list of manufactured substances which are known or may reasonably be anticipated to cause or contribute significantly to atmospheric or climatic modification, including stratospheric ozone depletion. The initial list shall include all fully halogenated chlorine or bromine containing halocarbons, including chlorofluorocarbon-11, chlorofluorocarbon-12, chlorofluorocarbon-113, chlorofluorocarbon-114, chlorofluorocarbon-115, carbon tetrachloride, halon-1211, halon-1301, and halon-2402.

"(b) OTHER REGULATED SUBSTANCES.—Simultaneously with publication of the priority list, the Administrator shall create a list of other manufactured substances which, in the judgment of the Administrator, are known or may reasonably be anticipated to cause or contribute to atmospheric or climatic modification, including stratospheric ozone depletion.

The list of other substances shall be subject to the limitations on production and use under section 508 of this title and shall include all partially halogenated chlorine containing halocarbons not listed under subsection (a), including hydrochlorofluorocarbon-22, hydrochlorofluorocarbon-123, hydrochlorofluorocarbon-124, hydrochlorofluorocarbon-141(b), hydrochlorofluorocarbon-142(b), and methyl chloroform. At least annually thereafter, the Administrator shall publish a proposal to add to the priority list under subsection (a) or the list under this subsection other manufactured substances which, in the judgment of the Administrator, meet the criteria set forth in the first sentence of subsection (a) or this section and warrant listing under subsection (a) or under this subsection. Within one hundred and eighty days of any such proposal, after allowing an opportunity for public comment, the Administrator shall promulgate a regulation adding each such substance to the appropriate list, unless the Administrator determines that such substance clearly does not meet the criteria set forth in the first sentence of subsection (a) or this subsection.

"(c) OZONE DEPLETION POTENTIAL, GLOBAL WARMING POTENTIAL, AND ATMOSPHERIC LIFETIME.—Simultaneously with publication of the lists or additions thereto under this section, and at least annually thereafter, the Administrator shall assign to each listed substance numerical values representing the ozone depletion potential of such substance, on a mass (per kilogram) basis, as compared with chlorofluorocarbon-11, the chlorine or bromine contribution of such substance, the global warming potential of such substance, and the atmospheric lifetime of such substance. Unless the Administrator promul-

gates regulations under this subsection setting forth a different value, the following ozone depletion factors shall apply for the following listed substances:

"Substance	Ozone depletion factor
chlorofluorocarbon-11.....	1.0
chlorofluorocarbon-12.....	1.0
hydrochlorofluorocarbon-22.....	0.05
chlorofluorocarbon-113.....	0.8
chlorofluorocarbon-114.....	1.0
chlorofluorocarbon-115.....	0.6
hydrochlorofluorocarbon-123.....	0.02
hydrochlorofluorocarbon-124.....	0.02
hydrochlorofluorocarbon-141(b)...	0.1
hydrochlorofluorocarbon-142(b)...	0.06
carbon tetrachloride.....	1.06
methyl chloroform.....	0.15
halon-1211.....	3.0
halon-1301.....	10.0
halon-2402.....	6.0

##### REPORTING REQUIREMENTS

"SEC. 505. (a) PRIORITY LIST.—Unless such information has previously been reported to the Administrator, within ninety days after enactment of this title, each person producing or importing a substance listed pursuant to subsection (a) of section 504 shall file a report with the Administrator setting forth the amount of the substance that was produced or imported by such person during calendar year 1986. Not less than annually thereafter, each such person shall file a report with the Administrator setting forth the production and importation levels of such substance in each successive twelve-month period until such person ceases production or importation of the substance. Each such report shall be signed by a responsible corporate officer.

"(b) OTHER REGULATED SUBSTANCES.—Within ninety days of the date on which a substance is placed on the list under subsection (b) of section 504, each person producing or importing such substance shall file a report with the Administrator setting forth the amount of the substance that was produced or imported by such person during the twelve months preceding the date of listing. Not less than annually thereafter, each such person shall file a report with the Administrator setting forth the production or importation levels of such substance in each successive twelve-month period until such person ceases production or importation of the substance. Each such report shall be signed by a responsible corporate officer.

##### PRODUCTION PHASE-OUT OF SUBSTANCES ON THE PRIORITY LIST

"SEC. 506. (a) NATIONAL POLICY.—The Congress hereby declares it to be the national policy of the United States that the production and use of substances listed under subsection (a) of section 504 are to be reduced and eliminated as expeditiously as possible.

"(b) ACCELERATED SCHEDULE.—The Administrator shall promulgate regulations, after notice and opportunity for public comment, which control and reduce production of—

"(1) a substance listed under subsection (a) of section 504 more rapidly than the schedule provided under this title; or

"(2) a substance listed under subsection (b) of section 504 on specific schedule not otherwise provided for in this title; if (A) the Administrator determines that such revised or specific schedule (i) based on the latest assessments of information regarding the harmful effects on the stratosphere or climate which may be associated with a listed substance, may be necessary to protect human health and the environment

or (ii) based on the availability of substitutes for a listed substance, is attainable, or (B) the Montreal Protocol is modified to include schedule to control and reduce production or consumption of any such substance more rapidly than the schedule set forth in subsection (c) of this section or in regulations promulgated in accordance with this subsection. Any person may petition the Administrator to issue such regulations. The Administrator shall issue such regulations within one hundred and eighty days after receipt of any such petition, unless the Administrator determines that such regulations are not necessary and denies the petition. No less often than every eighteen months, the Administrator shall, in response to a petition or otherwise, either publish such regulations or a determination that such regulations are not necessary.

"(c) SCHEDULE.—In the absence of regulations promulgated in accordance with subsection (b) establishing earlier dates—

"(1) effective July 1, 1989, it shall be unlawful for any person to produce a substance listed under subsection (a) of section 504 in annual quantities greater than that produced by such person during calendar year 1986;

"(2) effective July 1, 1993, it shall be unlawful for any person to produce a substance listed under subsection (a) of section 504 in annual quantities greater than 80 per centum of that produced by such person during calendar year 1986;

"(3) effective July 1, 1998, it shall be unlawful for any person to produce a substance listed under subsection (a) of section 504 in annual quantities greater than 50 per centum of that produced by such person during calendar year 1986; and

"(4) effective July 1, 2000, it shall be unlawful for any person to produce any quantity of a substance listed under subsection (a) of section 504 unless such person has, in accordance with subsection (d), received prior authorization to produce such substance.

"(d) EXCEPTION FOR MEDICAL PURPOSES.—Notwithstanding the prohibition set forth in subsection (c)(4) or in regulations promulgated in accordance with subsection (b), the Administrator, after notice and opportunity for public comment, shall authorize the production or importation of limited quantities of a substance listed under subsection (a) of section 504 solely for medical purposes if such authorization is determined by the Commissioner of the Food and Drug Administration, in consultation with the Administrator, to be necessary for medical purposes.

"(e) IMPORTATION.—Any person who imports a substance covered by this title shall, for the purposes of this section and section 508 (control of other regulated substances), be deemed to have produced an equivalent amount of such substance on the date of such importation.

#### "PRODUCTION PHASE-OUT EXCEPTION FOR NATIONAL SECURITY

"SEC. 507. The President may issue such orders regarding production and use of chlorofluorocarbon-114, halon-1211, halon-1301 and halon-2402, at any specified site or facility as may be necessary to protect the national security interests of the United States if the President finds that adequate substitutes are not available and that the production and use of such substance is necessary to protect such national security interests. Such orders may include, where necessary to protect such interests, an exemption from any requirement contained in this title. The President shall notify the Congress

within thirty days of the issuance of an order under this paragraph providing for any such exemption. Such notification shall include a statement of the reasons for the granting of the exemption. An exemption under this paragraph shall be for a specified period which may not exceed one year. Additional exemptions may be granted, each upon the President's issuance of a new order under this paragraph. Each such additional exemption shall be for a specified period which may not exceed one year. No exemption shall be granted under this paragraph due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation.

#### "CONTROL OF OTHER REGULATED SUBSTANCES

##### "SEC. 508. [Reserved]

#### "NATIONAL RECYCLING AND DISPOSAL PROGRAM

"SEC. 509. (a) The Administrator shall, not later than July 1, 1991, promulgate regulations establishing standards and requirements regarding the use of substances covered by this title. Such regulations shall include requirements that (1) reduce the use and emission of such substances to the lowest achievable level and (2) maximize the recapture and recycling of such substances. Such regulations may include requirements to use alternative substances (including substances which are not covered by this title) or to minimize use of substances covered by this title.

"(b) The Administrator shall promulgate regulations establishing standards and requirements controlling the production or use of any manufactured substance that may, either directly as a radiatively important trace gas or indirectly as a substance that reduces the energy efficiency of products which incorporate or use such substance, exacerbates the problems of human induced global climate change.

"(c) The Administrator shall, before January 1, 1994, promulgate regulations establishing standards and requirements for the safe disposal of substances covered by this title. Such regulations shall include requirements that—

"(1) substances covered by this title that are contained in bulk in appliances, machines or other goods (including but not limited to refrigerators and air-conditioners) shall be removed from each such appliance, machine or other good prior to the disposal of such items;

"(2) any appliance, machine or other good containing a substance covered by this title in bulk shall not be manufactured or distributed in commerce unless it is equipped with a servicing aperture which will facilitate the recapture of such substance during service and repair of such item; and

"(3) any product in which a substance covered by this title is incorporated so as to constitute an inherent element of such product shall be disposed of in a manner that reduces, to the maximum extent practicable, the release of such substance into the environment. If the Administrator determines that the disposal of any product covered by paragraph (3) would result in producing only marginal environmental benefits, the Administrator shall include in such regulations an exception for such product.

"(d) Effective January 1, 1992, it shall be unlawful for any person in the course of maintaining, servicing, repairing, or disposing of a household appliance or a commercial refrigeration or air-conditioning unit to knowingly vent or otherwise knowingly re-

lease or dispose of any substance used as a refrigerant in such appliance or unit and covered by this title in a fashion which permits such substance to enter the environment. De minimis releases associated with good faith attempts to recapture and recycle or safely dispose of any substance covered by this title shall not be covered by the preceding sentence.

#### "MOTOR VEHICLE AIR-CONDITIONING

"SEC. 510. (a) CERTIFICATION OF EQUIPMENT.—Within one year after the date of enactment of this title, the Administrator shall issue regulations which provide that on or after January 1, 1992, no person shall perform service for consideration on a motor vehicle air-conditioning system, including maintenance and repair services, unless such person uses equipment which is certified as meeting the standards set by the Society of Automotive Engineers for the extraction and reclamation of a refrigerant from motor vehicle air-conditioning systems by—

"(A) the National Institute of Standards and Technology,

"(B) the Underwriters Laboratories, or

"(C) an entity which the Administrator determines to be comparable to the entities described in subparagraphs (A) or (B).

"(b) SCHEDULE FOR ACQUISITION AND USE OF EQUIPMENT AND DOCUMENTATION OF SUCH USE.—(1) Within one year after the date of enactment of this title, the Administrator shall issue regulations establishing a phased schedule of deadlines by which the equipment described in subsection (a) shall be acquired by entities that perform service for consideration on motor vehicle air-conditioning systems.

"(2) In establishing the schedule under paragraph (1), the Administrator shall—

"(A) set an earlier deadline for any entity that performs service on a high volume of motor vehicle air-conditioning systems, as determined by the Administrator, and

"(B) require all entities that perform service for consideration on motor vehicle air-conditioning systems to have such equipment operational and in use for any such service performed on or after January 1, 1992.

"(c) DOCUMENTATION REQUIREMENTS.—Within one year after the date of enactment of this title, the Administrator shall promulgate regulations which require entities described in subsection (b)(1) to document the following on a form provided by the Environmental Protection Agency—

"(A) the number of motor vehicle air-conditioning systems repaired or otherwise serviced by such entity;

"(B) the amount and type of substances covered by this title that are purchased by such entity; and

"(C) the amount and type of substances covered by this title that are sold by such entity.

"(d) RESTRICTIONS ON THE SALE OF LISTED SUBSTANCES.—Effective January 1, 1992, it shall be unlawful for any person to sell or offer for sale to any person or entity (other than a person or entity performing service for consideration on motor vehicle air-conditioning systems in compliance with subsection (a) of this section) any substance covered by this title that is suitable for use as a refrigerant in a motor vehicle air-conditioning system and is in a container which contains less than twenty pounds of such refrigerant.

"(e) RESTRICTIONS ON THE SALE OF MOTOR VEHICLE AIR-CONDITIONING SYSTEMS THAT USE CHLOROFUOROCARBONS.—(1) Within two

years after enactment of this title, the Administrator shall issue regulations establishing standards and requirements to assure that a minimum percentage of the motor vehicles manufactured in the United States and imported into the United States that are equipped with passenger compartment air-conditioning systems are equipped with systems that are not dependent on chlorofluorocarbon-12 as a refrigerant (or any substitute refrigerant with a comparable ozone depletion factor). Such regulations shall provide that, beginning with model year 1994, not less than 25 per centum of such motor vehicles are so equipped and, beginning with model year 1996, not less than 50 per centum of such motor vehicles are so equipped.

"(2) If the Administrator determines that, as a result of technological development problems, the development of alternative systems or products necessary to equip motor vehicle passenger compartments with air-conditioning systems that are not dependent on chlorofluorocarbon-12 as a refrigerant (or any substitute refrigerant with a comparable ozone depletion factor) will not occur within the time necessary to provide for compliance with paragraph (1) of this subsection, the Administrator shall so inform the Congress and propose alternative effective dates for this subsection.

"(f) DEFINITION.—As used in this section, the term 'motor vehicle' has the meaning given for such term under section 102 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391(3)).

**'NONESSENTIAL CONSUMER PRODUCTS CONTAINING CHLOROFUOROCARBONS'**

"SEC. 511. (a) Effective twelve months after the date of enactment of this title, it shall be unlawful for any person to sell or distribute, or offer for sale or distribution, nonessential products that release substances listed under subsection (a) of section 504 into the atmosphere during use, including chlorofluorocarbon-propelled plastic party streamers and noise horns, chlorofluorocarbon-containing cleaning fluids for noncommercial electronic and photographic equipment, and other consumer products determined by the Administrator to be nonessential. Nothing in this section shall apply to products used for medical purposes, as defined in section 503(f) of this Act.

"(b) Effective January 1, 1994, it shall be unlawful for any person to sell or distribute, or offer for sale or distribution—

"(1) any aerosol product or other pressurized dispenser (other than a medical devise or diagnostic product, including drugs, as defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) or a drug delivery system) which contains a substance listed under subsection (b) of section 504; or

"(2) any plastic foam product (other than a foam insulation product) which contains or is manufactured with a substance listed under subsection (b) of section 504.

**"CERTIFICATION OF EQUIVALENT PROGRAMS**

"SEC. 512. (a) IMPORTS.—Effective twelve months after the date on which a substance is placed on the priority list under subsection (a) of section 504, it shall be unlawful for any person to import such substance or any product containing such substance unless the Administrator, in consultation with the Secretary of State (the Secretary), has published a decision, after notice and opportunity for public comment, certifying that the nations in which such substance or product was manufactured and from which such substance or product is imported are parties to and in compliance with the Mon-

treal Protocol on Substances that Deplete the Ozone Layer. Effective July 1, 2000, it shall be unlawful for any person to import a substance listed under subsection (a) of section 504 or any product containing such substance unless the Administrator, in consultation with the Secretary, has published a decision, after notice and opportunity for public comment, certifying that the nations in which such substance or product was manufactured and from which such substance or product is imported have established and are fully implementing programs that require reduced production of such listed substance, and limit production of other substances covered by this title, on a schedule and in a manner that is at least as stringent as the reduction schedule for, and limitations on, domestic production which apply under this title. The prohibition on the import of any product containing a substance listed under subsection (a) of section 504 shall include, after notice and opportunity for public comment, any product which the Administrator has reason to believe may contain or is designed to contain or use such substance. The Administrator's decision that a product contains or is designed to contain or use such substance shall constitute a rebuttable presumption.

"(b) CERTIFICATION OF NATIONAL PROGRAM.—The Administrator shall not certify any national program under the second sentence of subsection (a) unless it is determined that—

"(1) the Nation has adopted legislation or regulations which give the reduction schedule for each listed substance the force of law; and

"(2) the legislation or regulations include reporting requirements and enforcement provisions no less stringent than those specified in sections 505 and 515 of this title, and that the information contained in such reports is available to the Administrator and the Secretary.

"(c) REVOCATION.—At least annually, the Administrator, in consultation with the Secretary, shall review each certification made under this section and shall revoke such certification, after notice and opportunity for public comment, unless it is determined that the applicable conditions of subsections (a) and (b) remain satisfied and that the reduction schedule for each listed substance is in fact being carried out in such nations. Any such revocation shall take effect one hundred and eighty days after notice of the revocation has been published.

"(d) INVESTMENT AND EXPORT.—(1) Within one year after enactment of this section, the President shall prohibit—

"(A) the export of technologies used to produce a substance listed under subsection (a) of section 504; and

"(B) direct or indirect investments by any person in facilities designed for or capable of producing a substance listed under subsection (a) of section 504 in nations not certified under this section.

"(2) Not later than January 1, 1992, and every two years thereafter, the President shall, after notice and opportunity for public comment—

"(A) determine whether there exists, for each class of products containing a substance listed under subsection (a) of section 504 or manufactured with a process that uses such substance, substitute products or manufacturing processes that do not rely on the use of such substances; and

"(B) promulgate regulations for each class of products for which a positive determination has been made under subparagraph (A).

Such regulations shall prohibit direct or indirect investments by any person in facilities designed for or capable of—

"(i) using a substance listed under subsection (a) of section 504 in nations not certified under this section in quantities that will increase use of such substance in any such nation, or

"(ii) manufacturing products that require the use of a substance listed under subsection (a) of section 504 in nations not certified under this section in quantities that will increase use of such substance in any such nation.

"(e) FOREIGN AID.—The President shall direct that no agency of the government provide bilateral or multilateral subsidies, aids, credits, guarantees, or insurance programs, for the purpose of producing any substance listed under subsection (a) of section 504.

**"LABELING**

"SEC. 513. (a) Not later than January 1, 1992, and every two years thereafter, the Administrator shall, after notice and opportunity for public comment—

"(1) determine whether there exists, for each class of products containing a substance listed under subsection (a) of section 504 or manufactured with a process that uses such substance, substitute products or manufacturing processes that do not rely on the use of such substances; and

"(2) promulgate regulations for each class of products for which a positive determination has been made under paragraph (1). Such regulations shall prohibit the introduction or reintroduction into interstate commerce of any product containing such substance or manufactured with a process that uses such substance ninety days after promulgation of such regulations unless such product bears a label stating either of the following as appropriate:

"(A) 'Warning: This product contains (insert name of listed substance) a substance which harms public health and the environment by destroying ozone in the upper atmosphere and by disrupting the climate.'

"(B) 'Warning: This product is manufactured with (insert name of listed substance) a substance which harms public health and the environment by destroying ozone in the upper atmosphere and by disrupting the climate.'

"(b) The Administrator shall, after notice and opportunity for public comment, promulgate labeling requirements determined by the Administrator to be appropriate for products containing a substance listed under subsection (b) of section 504 or manufactured with a process that uses such substance.

**"SAFE ALTERNATIVES POLICY**

"SEC. 514. (a) POLICY.—To the maximum extent practicable, substances covered by this title shall be replaced by chemicals, product substitutes, or alternative manufacturing processes that reduce overall risks to human health and the environment.

"(b) REVIEWS AND REPORTS.—The Administrator shall—

"(1) recommend Federal research programs and other activities to assist in identifying alternatives to the use of substances covered by this title as refrigerants, solvents, fire retardants, foam blowing agents, and other commercial applications and in achieving a transition to such alternatives;

"(2) examine Federal procurement practices with respect to substances covered by this title and recommend measures to promote the transition by the Federal Govern-

ment, as expeditiously as possible, to the use of safe substitutes; and

"(3) specify initiatives, including appropriate intergovernmental, international, and commercial information and technology transfers, to promote the development and use of safe substitutes for substances covered by this title, including alternative chemicals, product substitutes, and alternative manufacturing processes.

"(c) ADDITIONAL MEASURES.—Notwithstanding any other provision of law, the Administrator shall require that—

"(1) any person who produces a chemical substitute for substances covered by this title shall provide to the Administrator all published and unpublished health and safety studies on such chemical substitute; and

"(2) any person who produces a chemical substitute for substances covered by this title shall notify the Administrator of such person's intent to introduce such chemical substitute into commerce not less than sixty days prior to such introduction.

#### FEDERAL ENFORCEMENT

"SEC. 515. (a) COMPLIANCE ORDERS.—(1) Whenever on the basis of any information the Administrator determines that any person has violated or is in violation of any requirement of this title, the Administrator may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both, or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

"(2) Any order issued pursuant to this subsection may include a suspension or revocation of any permit issued by the Administrator under this title and shall state with reasonable specificity the nature of the violation. Any penalty assessed in the order shall not exceed \$25,000 per day of noncompliance for each violation of a requirement of this title. In assessing such a penalty, the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

"(b) PUBLIC HEARING.—Any order issued under this section shall become final unless, no later than thirty days after the order is served, the person or persons named therein request a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

"(c) VIOLATION OF COMPLIANCE ORDERS.—If a violator fails to take corrective action within the time specified in a compliance order, the Administrator may assess a civil penalty of not more than \$25,000 for each day of continued noncompliance with the order and the Administrator may suspend or revoke any permit issued to the violator.

"(d) CRIMINAL PENALTIES.—Any person who—

"(1) knowingly exceeds the production limits under section 506 (production phase-out for initial list) or section 508 (control of other regulated substances);

"(2) knowingly introduces into interstate commerce a substance that was produced in violation of section 506 or section 508;

"(3) knowingly imports a substance listed under subsection (a) of section 504, or a

product containing such substance, in violation of section 512 (certification of equivalent programs);

"(4) knowingly exports technologies or invests in facilities in violation of section 512 (certification of equivalent programs);

"(5) knowingly vents or releases a substance into the environment in violation of section 509 (recycling and disposal program);

"(6) knowingly introduces into interstate commerce a substance or product in violation of section 509 (recycling and disposal program), section 510 (motor vehicle air-conditioning), section 511 (nonessential consumer products), or section 513 (labeling);

"(7) knowingly omits material information or makes any false material statement or representation in any application, record, report, permit, or other document filed, maintained, or used for purposes of compliance with this title; or

"(8) knowingly produces, transports, distributes or uses any substance listed under section 504, or a product containing such substance, and who knowingly destroys, alters, conceals, or fails to file any record, application, report, or other document required to be maintained or filed for purposes of compliance with this title shall, upon conviction, be subject to a fine in accordance with title 18 of the United States Code for each day of a violation, or imprisonment not to exceed two years, or both. If conviction is for a violation committed after a first conviction of such person under this subsection, the maximum punishment shall be doubled with respect to both fine and imprisonment.

"(e) CIVIL PENALTY.—Any person who violates any requirement of this title shall be liable to the United States for a civil penalty in an amount not to exceed \$25,000 for each such violation.

"(f) VIOLATIONS.—Each day of violation of any requirement of this title shall, for purposes of this section, constitute a separate violation. In addition, for purposes of section 506 (production phase-out for initial list) and section 508 (control of other regulated substances), the production, introduction into commerce, or importation of each one hundred pounds of a substance listed under section 504 that is in excess of the production limits under section 506 or section 508 shall constitute a separate violation.

#### JUDICIAL REVIEW OF FINAL REGULATIONS AND CERTAIN PETITIONS

"SEC. 516. Any judicial review of any final action of the Administrator pursuant to this title shall be in accordance with sections 701 through 706 of title 5 of the United States Code, except that—

"(1) a petition for review of any final action of the Administrator may be filed by any interested person in the Circuit Court of Appeals of the United States for the Federal judicial district in which such person resides or transacts business, and such petition shall be filed within ninety days from the date of such action or after such date if such petition is for review based solely on grounds arising after such ninetieth day; action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement; and

"(2) if a party seeking review under this title applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the information is

material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper; the Administrator may modify administrative findings as to the facts, or make new findings, by reason of the additional evidence so taken, and shall file with the court such modified or new findings and the Administrator's recommendation, if any, for the modification or setting aside of the original administrative order, with the return of such additional evidence.

#### CITIZEN SUITS

"SEC. 517. (a) IN GENERAL.—Except as provided in subsection (b) or (c) of this section, any person may commence a civil action on his own behalf—

"(1) against any person (including (a) the United States, and (b) any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution) who is alleged to have violated or to be in violation of any permit, regulation, condition, requirement, prohibition, or order which has become effective pursuant to this title; or

"(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this title which is not discretionary with the Administrator.

Any action under paragraph (1) of this subsection shall be brought in the district court for the district in which the alleged violation occurred. Any action brought under paragraph (2) of this subsection may be brought in the district court for the district in which the alleged violation occurred or the District Court of the District of Columbia. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce the permit, regulation, condition, requirement, prohibition, or order, referred to in paragraph (1), to order such person to take such other action as may be necessary, or both, or to order the Administrator to perform the act or duty referred to in paragraph (2), as the case may be, and to apply any appropriate civil penalties under section 515.

"(b) ACTIONS PROHIBITED.—No action may be commenced under subsection (a)(1) of this section—

"(1) prior to sixty days after the plaintiff has given notice of the violation to—

"(A) the Administrator; and

"(B) to any alleged violator of such permit, regulation, condition, requirement, prohibition, or order; or

"(2) if the Administrator has commenced and is diligently prosecuting a civil or criminal action in a court of the United States to require compliance with such permit, regulation, condition, requirement, prohibition, or order.

In any action under subsection (a)(1), any person may intervene as a matter of right. Any action respecting a violation under this title may be brought under this section only in the judicial district in which such alleged violation occurred or is occurring.

"(c) NOTICE.—No action may be commenced under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice to the Administrator that said plaintiff will commence such action.

*Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.*

*(d) INTERVENTION.—In any action under this section, the Administrator, if not a party, may intervene as a matter of right.*

*(e) COSTS.—The court, in issuing any final order in any action brought pursuant to this section or section 515, may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing or substantially prevailing party, whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.*

*(f) OTHER RIGHTS PRESERVED.—Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or requirement or to seek any other relief (including relief against the Administrator).*

#### *"SEPARABILITY"*

*"SEC. 518. If any provision of this title, or the application of any provision of this title to any person or circumstance is held invalid, the application of such provision to other persons or circumstances and the remainder of this title shall not be affected thereby."*

#### *"RELATIONSHIP TO OTHER LAWS"*

*"SEC. 519. (a) Nothing in this title shall be construed to alter or affect the authority of the Administrator under any other provision of this Act or the Toxic Substances Control Act or to affect the authority of any other department or agency, or instrumentality of the United States under any provision of law to promulgate or enforce any requirement respecting the control of any substance, practice, process, or activity for purposes of protecting the stratospheric ozone layer or reducing the extent of global climate change.*

*"(b) Nothing in this title shall preclude or deny any State or political subdivision thereof from adopting or enforcing any requirement respecting the control of any substance, practice, process, or activity for purposes of protecting the stratospheric ozone layer or reducing the extent of global climate change except as otherwise provided in subsection (c).*

*"(c) If a regulation of any substance, practice, process, or activity is in effect under this title in order to prevent or abate any risk to the stratosphere, or ozone in the stratosphere, no State or political subdivision thereof may adopt or attempt to enforce any requirement respecting the control of any such substance, practice, process, or activity to prevent or abate such risk, unless the requirement of the State or political subdivision is identical to the requirement of such regulation. If upon application of any person, after notice and opportunity for public hearing, the Administrator determines that the requirement of a State or political subdivision does not impose a substantial and unreasonable burden on interstate commerce, the Administrator shall waive application of the preceding sentence. No such waiver shall be granted if the Administrator determines that—*

*"(1) the decision of the State or political subdivision is arbitrary and capricious, or*

*"(2) the requirements and accompanying enforcement procedures of such State or political subdivision are inconsistent with the requirements and procedures of this title.*

#### *"AUTHORITY OF ADMINISTRATOR"*

*"SEC. 520. The Administrator is authorized to prescribe such regulations as may be necessary to carry out this title.*

#### *"GRANTS"*

*"SEC. 521. (a) The Administrator is authorized to establish and carry out a grant program through the Office of Air and Radiation for purposes of promoting the objectives of this title by testing the basic properties of chemical substitutes; examining product redesign and technological innovations that would reduce, avoid, or eliminate chemical use in specific production processes; testing the applicability of possible substitutes in specific products; examining health, environmental, and safety issues related to the use of potential chemical substitutes; developing new technologies; improving the energy efficiency of new or modified technologies; monitoring environmental impacts; conservation; and other related purposes. Grants made under such program may be made to public and private entities, or combinations thereof, including consortia established expressly for the purpose of conducting research and related activities pursuant to this title.*

*"(b) Applications for grants under this title shall be submitted at such time and in such form and contain such information as the Administrator shall prescribe by regulation.*

*"(c) In making grants under this section, the Administrator shall consider, among other factors: the quantities of ozone-depleting chemicals or greenhouse gas emissions the proposed substitute, product or technology would replace; the timing of possible reductions with preference given to substitutes, products and technologies that will yield prompt reductions in demand for ozone-depleting chemicals covered by this title; the global climate implications of a proposed project; the likelihood of commercialization of the technology; the degree of public and private participation and support for a proposed project; the extent to which the results of the project will be accessible to the public; and the energy efficiency that would result from the project.*

*"(d) There are authorized to be appropriated to the Environmental Protection Agency such amounts as may be necessary to carry out the grant program pursuant to this section.*

#### *"PART B—METHANE ASSESSMENT"*

##### *"OBJECTIVE AND NATIONAL GOAL"*

*"SEC. 522. (a) The objective of this part is to identify and analyze options to reduce the risks of tropospheric ozone formation and global climate change by—*

*"(1) reducing global methane emissions sufficiently to assure that the atmospheric concentration of methane does not rise above current levels;*

*"(2) identifying and analyzing the relationships among methane and other atmospheric pollutants to determine the synergies that may be contributing to tropospheric ozone formation and global climate change;*

*"(3) promoting additional analyses of the factors causing methane concentrations to increase and of the sources of methane emissions and the opportunities for reducing such emissions; and*

*"(4) identifying emissions reductions options that are economically as well as environmentally advantageous.*

*"(b) In order to achieve the objective of this part, it is a national goal to—*

*"(1) reduce methane emissions associated with human activities in the United States;*

*"(2) stimulate international agencies to fund projects in developing countries that will reduce methane emissions;*

*"(3) stimulate other governments to implement measures to reduce methane emissions; and*

*"(4) in support of international efforts to reduce methane emissions, provide data regarding sources of methane emissions and options for reducing such emissions.*

#### *"INFORMATION COLLECTION"*

*"SEC. 523. The Administrator is authorized to collect from persons responsible for the release of methane to the atmosphere during manufacturing, processing, resource recovery or distribution, waste management, or other economic activities information concerning such releases as may be necessary to complete the studies required by this part. Failure or refusal to provide such information in such form as the Administrator may reasonably require shall constitute a violation for purposes of section 515 of this title. To the extent information concerning methane releases is already being reported to a State or Federal agency and such information is available to the Administrator, the Administrator shall utilize such sources of information.*

#### *"ECONOMICALLY JUSTIFIED ACTIONS"*

*"SEC. 524. Not later than September 30, 1990, the Administrator shall develop in consultation and coordination with the Administrators of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, as well as the heads of other relevant Federal agencies and departments, and submit a report to the Congress that identifies activities, substances, processes, or combinations thereof that could reduce methane emissions and are economically justified with or without consideration of environmental benefit.*

#### *"DOMESTIC METHANE SOURCE INVENTORY AND CONTROL OPTIONS"*

*"SEC. 525. (a) Not later than September 30, 1990, the Administrator shall develop in consultation and coordination with the Administrators of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, as well as the heads of other relevant Federal agencies and departments, and submit to the Congress reports on:*

*"(1) Methane emissions associated with natural gas extraction, transportation, distribution, storage, and use. Such report shall include an inventory of methane emissions associated with such activities within the United States. Such emissions include, but are not limited to, accidental and intentional releases from natural gas and oil wells, pipelines, processing facilities, and gas burners.*

*"(2) Methane emissions associated with coal extraction, transportation, distribution, storage, and use. Such report shall include an inventory of methane emissions associated with such activities within the United States. Such emissions include, but are not limited to, accidental and intentional releases from mining shafts, degassification wells, gas recovery wells and equipment, and from the processing and use of coal.*

*"(3) Methane emissions associated with management of solid waste. Such report shall include an inventory of methane emissions associated with all forms of waste management in the United States, including storage, treatment, and disposal.*

*"(4) Methane emissions associated with agriculture. Such report shall include an in-*

ventory of methane emissions associated with rice production and animal production in the United States.

"(5) Methane emissions associated with biomass burning. Such report shall include an inventory of methane emissions associated with the intentional burning of agricultural wastes, wood, grasslands and forests.

"(6) Other methane emissions associated with human activities. Such report shall identify and inventory other domestic sources of methane emissions that are deemed by the Administrator to be significant.

"(b) Not later than September 30, 1990, the Administrator shall develop in consultation and coordination with the Administrators of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, as well as the heads of other relevant Federal agencies and departments, and submit to the Congress a report that presents a plan outlining measures that could be implemented to stop the growth in atmospheric concentrations of methane from sources within the United States. This plan shall identify and evaluate the technical options for reducing methane emissions from each of the activities listed in subsection (a) as well as other activities or sources deemed by the Administrator to be significant and shall include an evaluation of costs. The plan shall identify the emissions reductions that must be achieved to prevent increasing atmospheric concentrations of methane. The plan shall also identify programs of the United States and international lending agencies that could be used to induce lesser developed countries to undertake measures that will reduce methane emissions and the resource needs of such programs.

#### "INTERNATIONAL STUDIES

"SEC. 526. (a) Not later than September 30, 1990, the Administrator shall develop in consultation and coordination with the Administrator of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, as well as the heads of other relevant Federal agencies and departments, and submit to the Congress a report on methane emissions from countries other than the United States. Such report shall include inventories of methane emissions associated with the activities listed in subsection (a) of section 525.

"(b) Not later than September 30, 1990, the Administrator shall develop in consultation and coordination with the Administrators of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, as well as the heads of other relevant Federal agencies and departments, and submit to the Congress a report that analyzes the potential for preventing an increase in atmospheric concentrations of methane from activities and sources in other countries. Such report shall identify and evaluate the technical options for reducing methane emissions from each of the activities listed in subsection (a) of section 525 as well as other activities or sources that are deemed by the Administrator to be significant and shall include an evaluation of costs. The report shall identify the emissions reductions that must be achieved to prevent increasing atmospheric concentrations of methane. The report shall also identify technology transfer programs that could promote methane emissions reductions in lesser developed countries.

#### "NATURAL SOURCES

"SEC. 527. Not later than September 30, 1992, the Administrator shall develop in consultation and coordination with the Administrators of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, as well as the heads of other relevant Federal agencies and departments, and submit to Congress reports on—

"(1) methane emissions from biogenic sources such as (A) tropical, temperate and subarctic forests, (B) tundra and (C) freshwater and saltwater wetlands; and

"(2) the changes in methane emissions from biogenic sources that may occur as a result of predicted increases in temperatures and atmospheric concentrations of carbon dioxide."

The PRESIDING OFFICER. The Chair recognizes the Senate Republican leader.

Mr. DOLE. Mr. President, I ask if I may proceed as in morning business.

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

(The remarks of Mr. Dole pertaining to the introduction of Senate Joint Resolution 237 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

(The remarks of Mr. Dole pertaining to the introduction of S. 2017 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOLE. I would be happy to add the distinguished Senator from Rhode Island [Mr. CHAFEE] as a cosponsor of both measures.

The PRESIDING OFFICER. It is so ordered.

#### CLEAN AIR ACT AMENDMENTS, 1989

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from North Dakota, the chairman of the Committee on Environment and Public Works, Mr. BURDICK.

Mr. BURDICK. Mr. President, this is an important moment for the Senate and a landmark occasion for environmental legislation. I am honored and proud to bring the Clean Air Act amendments of 1989 before the full Senate for consideration.

It has taken a decade of effort by the Environment and Public Works Committee to get to this point.

Since 1981, the committee has conducted more than 60 days of hearings on air quality and closely related issues.

This is the fourth comprehensive bill the committee has reported, and the first to make it to the floor. A key event occurred last year that helped make it possible for the Senate to take up clean air legislation today.

After 8 years of administration opposition to efforts to address air quality concerns, President Bush, with the capable assistance of EPA Administra-

tor Reilly, acknowledged that reforms were necessary.

The President came forth with a very positive proposal to amend the Clean Air Act. His action reversed nearly a decade of administrative apathy on the subject and led to constructive dialogue with Congress as we developed this clean air package.

There are four major components to S. 1630. The bill addresses ambient air quality; motor vehicle emission; toxic air pollutants; and acid rain. I know several provisions of the bill will be discussed in detail in the coming days. I will direct my remarks to just a few specific features.

First, the bill's phased reduction of motor vehicle emissions is a critical element in controlling air pollution. To accommodate anticipated growth in the number of vehicles on the road, a two-stage reduction in tailpipe emissions of nitrogen oxide, carbon monoxide and hydrocarbon is necessary to avoid increasing pollution. The bill requires the first set of standards to be met starting with the 1993 model year. These first round requirements are based on standards that are already being implemented for new vehicles sold in California.

The second phase standards become effective in 2003. The standards call for a 50-percent reduction from 1993 emission levels. Technology is under development that should make these standards attainable. In fact, some vehicles have been certified at the emission levels this bill requires after 2003. I am particularly interested in the bill's provisions regarding municipal waste incineration. The bill addresses concerns associated with municipal incinerator emissions, ash disposal, and the corresponding difficulty in siting new facilities. It establishes a comprehensive program for insuring the use of best available technology in new facilities emissions monitoring and requirements to promote recycling. The second component includes strict standards for the disposal of ash.

I have long believed that incineration, if properly regulated, can be a viable option in addressing our growing solid waste problems. We are rapidly reaching the limit of landfill capacity in many areas of the country. The municipal incinerator provisions should go a long way in assuring that incineration of municipal waste will take place in a manner which is environmentally sensitive and which protects public health.

Mr. President, many Members have devoted a great deal of time over the past decade grappling with the problem of acid rain. It is one of the most perplexing that I have encountered in my 30 years in Congress. In the early 1980's many of the acid rain proposals focused on the 31-State region east of the Mississippi. Following the Clean

Air Act Amendments of 1977, many States, primarily in the west, invested substantial amounts of money in air pollution control.

North Dakotans have spent over \$175 million in capital investment and over \$23 million in annual operating costs for utility plant scrubbers. Seventy-five percent of North Dakota's coal-fired electric generation is produced by scrubbed powerplants. North Dakota emits about 130,000 tons of sulfur dioxide from its powerplants annually. In comparison, one State emits over 2 million tons annually and currently scrubs only 3 percent of its coal-fired electric generation. Because many Midwestern utilities have avoided adding air pollution controls or switching to lower sulfur fuels, they have enjoyed huge cost savings over the last decade. In many instances, the amounts saved in just the last 5 years exceeds their estimated cost of compliance under the acid rain title of this bill. In recognition of the uneven pollution control performance across the country, the bill recognizes the substantial abatement efforts of a half dozen sparsely populated States. States whose coal-fired powerplants emit less than 150,000 tons of SO<sub>2</sub> annually and use scrubbers in generating more than half their coal-fired electricity, are recognized under the clean State provisions. While these six States have only 8 percent of all U.S. coal-fired capacity, they produce 37 percent of scrubbed electricity generated. On a national basis, only 24 percent of coal-fired generation is from scrubbed facilities.

The acid rain title of the bill generally embraces the polluter pays principle and the bill's acid rain provisions are largely those of the President. Acid rain reductions will be accomplished through a system of marketable allowances. This system will ensure that emission reductions are achieved in a cost-effective and flexible manner. We have debated acid rain for many years, and I believe this title adequately addresses this complex problem.

Mr. President, several people deserve credit for shaping this legislation and making Senate consideration possible. First, I must acknowledge the contribution of my predecessor, as chairman, Senator Stafford. He laid the groundwork for this bill. No Senator deserves more commendation than the distinguished majority leader. Senator MITCHELL. Upon coming to the Senate in 1980, Senator MITCHELL made clean air legislation a top priority, and his commitment has never wavered. Senator MITCHELL was an active and valued member of the committee during development of the bill before us, while shouldering the enormous and time-consuming responsibilities of his leadership post. Senator Baucus assumed chairmanship of the Environmental

Protection Subcommittee just 1 year ago. Under his capable leadership, the subcommittee reported three bills that form the basis of these amendments. It is to his credit that a bill was ready to be reported by the full committee before adjournment last year, and I have asked him to manage this bill on the Senate floor.

The distinguished ranking member of the committee, Senator CHAFFEE, has been invaluable in helping guide us to this point. A long-time advocate of clean air, his knowledge, insight, leadership, and good humor have been invaluable to the process.

Senator DURENBERGER also deserves special mention. We joined forces in the development of the municipal incinerator provisions of this bill, and I appreciate his painstaking work on the air toxics title. The present scheme for regulating air toxics has proved cumbersome and unworkable. Senators LAUTENBERG and BREAU, joined in the development of a system that will simplify and improve air toxics regulation.

Senator LIEBERMAN, a newcomer to the Senate and committee last year, has proven his diligence and dedication to environmental issues. His contributions to the mobile source and non-attainment provisions of the bill are notable.

Each and every member of the committee has contributed in one way or another to the legislation before us. Members' interest and commitment to this legislation was well illustrated the day the committee reported the bill. All 16 members were present and actively participated in mark-up, including the distinguished majority leader and minority whip.

Legislation such as this could not have been produced without the assistance of a capable and diligent staff. I want to thank everyone who assisted in bringing this bill to the Senate floor.

I am fortunate to have a number of people in my service who selflessly dedicated themselves to development of this bill. David Strauss, the committee staff director, deserves special appreciation for keeping this giant legislative effort on track. I commend his efforts to accommodate the concerns of all committee members and give full attention to all parties concerned with the legislation. Mike Shields and Kate Kimball have borne the largest share of the burden in coordinating development of this bill. Without their tireless labor, this bill would not have been possible. Lynn Schloesser has been particularly helpful in handling economic analyses and maintaining good relations with various interest groups. I also want to mention the valuable contributions of Jennifer Hess, Joe Goffman, Stephanie Clough, and Cliff Rothernstein. Paul Chimes, the editorial director for the committee,

played a special role in producing this bill. His skills as an editor and manager of documents for the committee are unparalleled in my experience.

The committee has a long tradition of nonpartisanship with respect to environmental matters. This applies to the staff as well. I especially appreciate the fine job done by Bob Hurley, the minority staff director, and the senior counsels and professional staff, including Kathy Cudlipp, Steve Shimberg, and Jimmie Powell.

Many other staff members have put in hard and long hours to make this bill possible. The phones have been ringing nonstop for months now. Judy Campbell, Elizabeth Thompson, Ingrid Utech, Karen Spence, Janice Nace, and Emily Berman deserve special acknowledgment for their diligent efforts.

We have received fine cooperation from EPA Administrator Reilly, his Assistant Administrators and the agency staff. The participation of many industry and environmental organizations has been essential in helping us craft a sound and workable bill.

It has been 20 years since environmental problems first captured the Nation's attention. The time is right, and the time is now, for Congress to act on this legislation.

The reforms contained in this landmark legislation will guide air quality policy into the 21st century, protecting our health and our environment for future generations.

I ask unanimous consent that the rest of my remarks be made a part of my Record statement as if read.

I yield the floor to my friend from Montana.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana [Mr. BAUCUS].

Mr. BAUCUS. Mr. President, I first want to thank the chairman of the committee, Senator BURDICK, from North Dakota. The Senator has been very, very solid, and very, very wise in his handling of the committee, bringing groups together. It is through the stewardship of his chairmanship, Mr. President, frankly, that we are here.

Mr. President, we are beginning the 1990's on a positive note. Here it is, January 23, 1990. At long last, after a decade of delay, we will enact a new Clean Air Act. It has taken leadership beginning with that of the President.

President Bush, who broke the political gridlock, proposed a comprehensive bill; our Majority Leader, GEORGE MITCHELL, from Maine, who has been our leading clean air advocate for years; the chairman of our committee, QUENTIN BURDICK from North Dakota, whose able leadership brings us here; and certainly that of Senator JOHN CHAFFEE from Rhode Island, a very strong advocate of strong environmental laws for many years—he, too, is

largely responsible for this bill—all of them have brought us to the threshold of a historic opportunity.

This is not just another piece of legislation. In fact, only 12 current Senators were here when the original Clean Air Act was passed, and only 38 of us were here when it was last amended.

It has taken us 13 years to get to this point. And our actions that we take this year will affect public health well into the 21st century.

We have two choices. We can appease the special interests, and pass a weak bill.

Or we can meet the moment. We can pass a solid, responsible, historic bill.

By doing so, we can leave our children, and our grandchildren, a legacy—of strong hearts, strong lungs, and good health.

#### THE LEGACY OF EARTH DAY

It is a fitting time to debate clean air, 1990 is a symbolic year. We will celebrate the 20th anniversary of the original Clean Air Act. We will celebrate the 20th anniversary of the Environmental Protection Agency.

And we will celebrate the 20th anniversary of "Earth Day," on April 22, 1990.

Earth Day marks the beginning of the modern environmental movement. The day when it became clear that clean air and clean water were important to more than just a few activists and academics; they were important to every American family.

For good reason! Back then, smog levels in Los Angeles were more than seven times the health standard needed to protect public health. Our rivers stank. Most parents would not dream of letting their kids swim in Lake Erie. The Mahoning River in Ohio actually caught fire. Trash littered our highways. Open dumps attracted rats. Open burning filled the air with searing smoke.

The American people became fed up. They were no longer willing to sacrifice their children's health. On Earth Day, they made a simple appeal for common sense.

It was the largest demonstration in American history. As many as 20 million people turned out in more than 2,000 cities and towns and on 12,000 high school and college campuses.

It was not just rallies and marches. Businesses held seminars. Boy Scouts and Girl Scouts picked up litter along highways. As Newsweek put it, "an implausible congregation of uncounted millions of concerned Americans \* \* \* demanded a halt to the wanton destruction of the nation's—and the world's—life-giving air, water, and soil."

#### WELCOME PROGRESS

Some suggested that this display of public concern was just a passing fad, a "springtime lark."

But the cynics were wrong. We soon began to see real environmental progress. The people inspired the Congress to act.

And Congress did act, with a series of landmark environmental laws: the Clean Air Act of 1970, the Clean Water Act of 1972, the Ocean Dumping Act, the Safe Drinking Water Act, the Toxic Substances Control Act, the Resource Conservation and Recovery Act, and Superfund.

And it was not just legislation. Cities and towns began cleanup programs. Businesses became more sensitive to the impact of their operations on local communities. Charities and other volunteer organizations did their part.

We have come a long way from the days of flaming rivers and open burning.

Our air and water are cleaner than they were on Earth Day 1970. Most of us can think of a river, a highway, a park, or a city sky that is cleaner now than 20 years ago. Children can even swim in Lake Erie.

#### THE JOB UNFINISHED

But the job of cleaning up America, begun 20 years ago, remains unfinished.

Like any legislation, the landmark environmental laws of the seventies had shortcomings.

What is more, the enforcement of those laws eroded during the 1980's, in the hands of an administration that was, at best, unconcerned about environmental protection.

And science has continued to pierce the veil of ignorance—satellite photography, computer modelling, and monitoring equipment that enables us to make pollution measurements down to the level of one part per billion, or less.

As a result, we have discovered dangerous environmental problems that simply were not apparent 20 years ago.

Acid rain, which kills as many as 50,000 people a year and destroys thousands of lakes and forests;

The disintegrating ozone layer, which leaves us naked against the Sun's cancerous rays;

The greenhouse effect, which may cause a climate change equivalent to another Ice Age;

And the deadly dangers of invisible toxic pollutants.

#### RENEWED AWARENESS

These new problems, combined with the unfinished agenda of the 1970's, have revived the spirit of Earth Day.

Once again, Americans across the country are demanding that we do more to clean up the environment.

In fact, the American people are way ahead of the Congress.

Three in every four Americans identify themselves as environmentalists.

Almost two-thirds view environmental pollution as a very serious threat to society.

One in five believes that they or a family member has suffered health damage from dirty air, ozone depletion, or exposure to hazardous materials in the workplace.

Four in five believe the problem is getting worse.

Virtually everybody—a staggering 97 percent—believe both the public and private sectors have done an inadequate job of pollution control, and believe that stronger action is needed.

In fact, nearly two out of three Americans believe that cleaning up our air is more important than increasing the minimum wage or making child care more affordable.

The American people are ready. There now is a consensus—a national, bipartisan consensus—for tougher environmental protection.

Our challenge, as in 1970, is to transform that consensus into bold action.

#### THE COST OF DIRTY AIR

As in 1970, we must begin by cleaning up the air that we breathe.

We have made progress, it is true.

We now use unleaded gasoline, which means our children are not breathing lead. We now have catalytic converters on our cars, which means that newer cars have lower emissions.

But grave problems persist.

Forty-four of our urban areas still do not meet the health standard for carbon monoxide. One hundred and one do not meet the standard for smog. Fifty-four do not meet the standard for airborne particulates.

These are not just sterile statistics; 150 million people live and breathe in these areas.

One hundred and fifty million are breathing air that is unsafe.

Children are particularly vulnerable. Their lungs are undeveloped, and they respire more rapidly. In fact, we are sending our children outside to play in air that OSHA will not let factory workers operate machinery in.

Each year, between 5 and 10 million Americans get sick, or die prematurely, because of dirty air.

And we are not just talking about big cities. We are not just talking about Los Angeles and Denver.

In my own State of Montana, seven communities exceed the standards for particulates, and three—Billings, Missoula, and Great Falls—exceed the standards for carbon monoxide. The same is true in cities and towns all across the country.

There are other problems. Our utilities continue to belch sulfur dioxide by the millions of tons—roughly 23 million tons per year forming acid rain, killing people, and destroying our lakes and streams.

Our industries continue to discharge billions of pounds of hazardous air pollutants that cause cancer. There are thousands of unnecessary cancer-relat-

ed deaths each year. That is right—thousands.

The human cost is chilling.

And there also are economic costs, hospitalization, doctor's bills, and lost work days.

We now spend 12 percent of our GNP on health care. In 1990, we will spend \$640 billion.

Rising health care costs are undermining the Federal budget and crippling American businesses. Chrysler spends \$600 per car on health care, while Japanese companies spend \$200.

We often talk about the need to reduce these costs through prevention.

Here is a place to start. Through the preventive measures in this bill, we can reduce the \$100 billion we are spending to treat illnesses and diseases caused by dirty air.

There is more. Farmers are losing \$5.3 billion each year to crop damage from ozone. We are spending over \$2 billion each year to repair structures that have deteriorated because of acid rain.

#### BREAKING THE GRIDLOCK

Mr. President, I believe that every Senator thinks these health costs are too high. Every one of us believes dirty air must be cleaned up.

But we have been stuck in a political gridlock, paralyzed by ideology and by conflicts among different industries and regions.

This time, though, it is for real. We all know that there will be a clean air bill enacted this year. President Bush deserves a lot of credit. He stepped up to the plate, introduced his comprehensive bill and showed real leadership. The majority leader, GEORGE MITCHELL, kept the pressure on, putting clean air legislation at the top of the legislative agenda this year. In fact, Senator MITCHELL first introduced acid rain legislation back in 1981.

As a result, we have momentum. But as an American architect Mies Van Der Rohe said, "God is in the details." Those details will tell. We can be courageous and clean up the air or instead we can pass a weak mediocre, pablum bill, a bill that enables each of us to put out a press release claiming we are all for clean air, without facing up to tough decisions, a dirty air bill. That is what this debate is about, clean air or dirty air.

The Environment and Public Works Committee passed a bill by a vote of 15 to 1 for clean air. We have recommended to the full Senate a solid, responsible bill. It is based on the same goal as the original 1970 Clean Air Act, namely, protecting public health by making sure that all Americans have clean air to breathe.

To accomplish this, it tightens up various provisions of the act so that we will achieve our goal, of clean air for all, by early in the next century.

At the same time, we have learned some lessons since 1970.

Most importantly, we have learned that we cannot compromise public health by allowing some future administration the discretion to negotiate our clean air away.

We have learned that, whenever possible, laws should be implemented by the level of government most able to get the job done.

Therefore, S. 1630 provides maximum flexibility to States and localities, while maintaining Federal authority where necessary.

We have learned that we cannot get the job done well overnight.

It has taken many years for our air quality to degrade to the point where it is today. It is going to take some time to clean it up, and our bill recognizes this more than other versions have.

That is why we have given States and localities more time to meet our national standards, whether it is 20 years in the case of Los Angeles or 5 years in the case of Minneapolis, Kansas City, or Charleston.

That is why, in the case of the auto industry, we have given them more than a decade to develop a low polluting vehicle.

And that is why we've given utilities until the year 2000 to reduce their sulfur dioxide emissions by 10 million tons.

Let me briefly describe what we have done.

Titles I and II cover ozone nonattainment. What we are talking about here is smog. Deadly, choking, smog.

The nonattainment provisions reflect a bargain. Communities that have failed to meet their nonattainment deadlines are given extended deadlines.

The new deadlines are realistic. Ozone deadlines are the longest because reducing ozone pollution is complex. Ozone is not a local phenomenon but is formed and transported over hundreds of miles. Control strategies therefore must cover a wider geographic area which will require more time.

The emphasis in the bill, however, is not on the deadlines. The emphasis is on achieving steady progress before the deadlines, to make sure that, this time, the deadlines work.

Therefore, we require specific incremental progress over defined periods for ozone, carbon monoxide, and particulate matter.

These requirements alone will not guarantee clean air. The bill, therefore, also includes significant changes, to address motor vehicle emissions.

Although there have been significant reductions of emissions of volatile organic compounds [VOC's] and carbon monoxide since 1970, motor vehicles are still the single largest source

of ozone and carbon monoxide emissions.

In fact, cars, trucks, and buses are responsible for half of all VOC and NO<sub>x</sub> emissions, and 90 percent of all carbon monoxide pollution. NO<sub>x</sub> emissions have increased since 1970. And smog is as much a function of oxides of nitrogen as it is of hydrocarbons.

Furthermore, unless new standards are adopted, the progress that comes from cleaner vehicles will be more than offset by more cars and more driving miles.

This year, for example, Americans will drive 25 billion miles more than they did last year. By the time our second round tailpipe standards are scheduled to take effect, Americans are likely to drive more than twice as many miles a year as they do now.

The committee bill recognizes that there is no single approach to reducing motor vehicle emissions. Rather, achieving significant progress will require a variety of measures that affect vehicle technology and fuel quality.

These measures include tighter tailpipe standards, enhanced maintenance and inspection programs, and measures to reduce vehicle use, among others.

We are going to hear a lot about the mobile source provisions, especially the second round of tailpipe standards.

Let me simply say this. There is no free lunch. If we are to meet our pollution reduction goals, the reductions must come from some sector. If not from autos, then from small individual stationary sources—bakeries, dry cleaners, auto body shops and others. They will have to do even more than is presently required.

The legislation also adds a new title IV to the Clean Air Act to reduce emissions of the precursors of acid rain—sulfur dioxide and oxides of nitrogen.

This acid rain program is similar to that proposed by President Bush, who proposed a strong, innovative program.

When fully implemented, the acid rain provision will reduce annual SO<sub>2</sub> emissions by 10 million tons below 1980 levels and cap it at these levels by the year 2000.

The bill does this fairly—without cost sharing and without mandated scrubbers. It provides flexibility and freedom of choice so that utilities find the cheapest and most effective way to reduce SO<sub>2</sub> emissions. Utilities can scrub, switch fuels, install clean coal technology or use other methods to reduce SO<sub>2</sub> emissions.

The bill also recognizes that utilities in some States have already made large capital investments on pollution control technology. It does not require additional SO<sub>2</sub> reductions of utilities in States that have scrubbed at least

50 percent of their capacity and emit no more than 150,000 tons of SO<sub>2</sub> per year.

Montana's utilities, for example, have spent over \$600 million to install scrubbers. They scrub 92 percent of their capacity and emit as low as .09 pounds of SO<sub>2</sub> per million BTU's—one of the lowest emissions rates in the country.

When fully implemented, this program will reduce SO<sub>2</sub> emissions annually by 10 million tons below 1980 levels and cap it at these levels by the year 2000.

Title V of the bill provides new Federal authority requiring operating permits for sources of air pollution. This is not required under the current act, but is necessary to ensure better enforcement and faster implementation of control requirements.

Title VI broadens the scope of activities that can be the subject of civil or criminal sanctions and penalties.

Finally, title VII addresses two related but distinct environmental problems—global climate change from the greenhouse effect and destruction of the stratosphere ozone layer.

As the committee reported, this title will help to restore and maintain the integrity of the Earth's atmosphere, and provide a smooth transition from the use of ozone-depleting chemicals to safe substitutes.

As the floor debate unfolds, we may hear that the Senate is getting the "bum's rush," moving too quickly, without adequate study. We may even hear the shocking charge that the EPW Committee reported the bill in one day.

But, we all know what is going on. If you cannot win on the merits, stall for time.

Let us look at the record. This bill did not spring full-blown from the EPW Committee late last year. In fact, it may be the most thoroughly, painstakingly, even tediously debated bill in history.

Since 1980, the EPW Committee has held 80 days of hearings, and 45 days of markup, on clean air. We have repeatedly reported legislation that includes the basic concepts of S. 1630.

This year, we held 9 days of hearings. We heard every conceivable perspective. Let me read a list of some of the witnesses.

Senators CRANSTON, GLENN, HEINZ, LEVIN, WILSON, WIRTH, and COATS; three Governors; several mayors and attorney generals; six doctors; EPA Administrator Reilly; State air pollution administrators; representatives of the auto industry, including GM, Ford, and Chrysler; Richard Trumka of the United Mine Workers; the California Air Resources Board; representatives of the Clean Air Coalition and other environmental groups; representatives of various industries, including oil, printing, iron and steel,

mining, engine manufacturers, clean coal technology, chemical manufacturers, incinerator operators, and others.

I say through virtually all of these hearings. They were not taken lightly.

Mr. President, I understand that Senators who do not serve on the committee and who have not been living with these issues for the last year, need time to dig in and get a feel for the issues.

They will have that time. We are not going to try to jam this bill down anybody's throat. The debate, in fact, may take several weeks.

But those who argue that we need even more hearings, more studies, more delay, are putting up a smoke-screen for a very different agenda.

#### COMPETITIVENESS

We also will hear that this bill will undermine America's international competitiveness.

It will, they say, break American industry's back.

Mr. President, I take this issue seriously. I am cochair of the competitiveness caucus, as is the ranking member of this committee. I care deeply about restoring this country's international leadership through more savings, investment, education, and R&D.

In fact, with all due respect, I yield to no Member of this Chamber in concern about American competitiveness.

But I reject this false choice between the environment and the economy, the idea that clean air and competitiveness are inevitable, immutable enemies.

I believe that they are two sides of the same coin.

Let us face it. Budget deficits, leveraged buyouts, and clouds of deadly pollution eroding the atmosphere are all symptoms of the same problem: The idea that we can live for today and forget about the future.

More than anything else, we have to restore our sense of vision, of common purpose, of building for the future together.

The old-fashioned notion is that, when we pass this country on to our kids, we will leave it better than we found it.

That means economic policies that restore our long-term competitiveness. And it means environmental policies that conserve a clean, healthy, and beautiful country.

And there is another angle to competitiveness. America used to lead the world in environmental technology. The catalytic converter was invented in America.

But we are losing that lead to Japan, Germany, and other countries that have taken a more aggressive approach to environmental problems.

This bill gives us an opportunity to regain that initiative, to not only clean up our air, but become again world leader in environmental technology.

#### THE COST OF CLEAN AIR

We will hear that the committee bill costs too much. Dueling cost estimates will ricochet around the Chamber.

Yesterday, I saw an ad claiming that this bill will cost \$104 billion a year. Amazing.

Let us put this issue in perspective. Obviously, cost is important.

But we must take estimates with a grain of salt. To paraphrase President Harry Truman, there are lies, damn lies, and cost estimates of legislation you don't like.

Twenty years ago, the auto companies were predicting that the Clean Air Act would bankrupt the industry, calling it a "66 billion dollar mistake." They are saying the same thing now. Take it with a grain of salt.

In addition, the cost of action must be weighed against the cost of inaction.

And these costs of inaction are huge.

The American Lung Association estimates the economic cost of air pollution at \$100 billion a year.

And there are other costs, noneconomic costs.

What price do we put on a life, or a child's health?

I ask this to make a point. We cannot decide these issues through calculations on an accountant's ledger sheet.

Yes, the debate is about costs. But it also is about values.

And the most important value is this. The American people want us to clean up the air once and for all.

Remember the poll results. By an overwhelming margin, the American people believe that the costs of dirty air outweigh the costs of clean air. They prefer the option of clean air.

#### POLLUTION NEUTRALITY

As we consider amendments, we must keep our eyes on the ball.

Many amendments will have appeal because they let someone off the hook.

But they also have another effect. They increase pollution. They are dirty air amendments.

To keep this in perspective, I suggest that we approach this bill like a budget resolution or reconciliation bill.

The requirement of revenue neutrality in our budget process imposes necessary discipline. We all gripe about it. But we all know that, without revenue neutrality, we could not even begin to reduce the budget deficit.

We also have a pollution deficit. If this bill is to reduce that deficit, we need the same sort of discipline.

Pollution neutrality. If an amendment increases pollution in one place, that increase must be offset with reductions in another.

If we want to loosen up on cars, we have to tighten up on small business. If we want to loosen up on utilities, we

have to tighten up on industrial boilers.

If an amendment fails to achieve pollution neutrality, it is a dirty air amendment, plain and simple.

#### CLEAN AIR LEADERS

Before concluding, Mr. President, I would like to acknowledge those responsible for this bill.

Again, President Bush's leadership should be applauded. We have our disagreements. But the value of his initiative cannot be overstated.

In addition, his chief environmental advisor, Bill Reilly, has played a very, very constructive role.

Our chairman, Senator BURDICK, marshalled the committee and brought this bill to the floor.

Our ranking member, Senator CHAFEE, continued his long role as one of the Nation's environmental leaders. He has worked hard to keep the process bipartisan, and this is his bill as much as that of any other Senator.

Senator MOYNIHAN got the ball rolling years ago, with and has followed through the National Acid Precipitation Assessment Program, a program to evaluate the effects of acid rain.

Senators LAUTENBERG and DURENBERGER were heavily involved in the development of the entire bill and were primary authors of major provisions.

Senator LIEBERMAN made an important mark as a new committee member, involved from start to finish.

Senator SIMPSON worked constructively on all aspects of the bill, especially acid rain.

Senator BREUX, Senator GRAHAM, Senator JEFFORDS, and every other member of the committee played an important part.

Finally, I should acknowledge the majority leader.

He came to the Senate in place of one of our great environmental leaders, Senator Ed Muskie. And he quickly made it clear that he would continue, indeed build upon, Senator Muskie's leadership.

In fact, one of the first bills freshman Senator MITCHELL introduced in the 97th Congress, S. 1739, was a tough acid rain bill.

Since then he has devoted a large part of his energy to clean air legislation.

It is somewhat ironic that Senator MITCHELL no longer serves as subcommittee chairman, managing this bill as it finally comes to the floor.

But he laid the foundation for this bill through years of work. And, as leader, he has cleared the way for this debate.

#### CONCLUSION

As the debate unfolds, it will be tempting to weaken this bill. To pass a clean air bill that's only minimally acceptable. One that makes a few small improvements, but one that does make us proud.

Anything worth doing is worth doing well. If we're going to pass a clean air bill, we should pass a solid, comprehensive, lasting bill, that gets the job done once and for all.

Senator Muskie put it well in a similar situation in 1970, when he urged the Senate to enact the original Clean Air Act. He said that the debate "will be a test of our commitment and a test of our faith: in our institution, in our capacity to find answers to difficult problems, and in the ability of American citizens to rise to the challenge of ending the threat of air pollution."

In 1970, we started down that road, and the country is better for it.

I am confident that we will meet the test again in 1990.

I yield the floor.

**THE PRESIDING OFFICER (Mr. KOHL).** The Chair recognizes the Senator from Rhode Island [Mr. CHAFEE].

Mr. BAUCUS. Will the Senator yield for one brief statement?

Mr. CHAFEE. I yield.

Mr. BAUCUS. I would like, Mr. President, at this point to read into the RECORD a letter from the American Lung Association addressed to me. If the Senate will bear with me, it will probably take about, say, 1 or 2 minutes.

AMERICAN LUNG ASSOCIATION,  
Washington, DC, January 22, 1990.

Hon. MAX BAUCUS,  
U.S. Senate, Hart Senate Office Building,  
Washington, DC.

DEAR SENATOR BAUCUS: The future of the federal government's air pollution control program will be a priority issue when the Senate reconvenes this week. A new report from the American Lung Association, The Health Costs of Air Pollution, discusses the complex issue of identifying economic costs related to the health effects of exposure to ambient air pollution. These effects include both illness and premature death. ALA's latest survey of the health costs of air pollution shows that estimates of the costs of living in a polluted environment are on the rise despite the national program to reduce pollution. These estimates are not due necessarily to the erosion of environmental quality, but rather to a recognition that air pollution costs us much more dearly than we thought.

ALA's monograph reviews 12 studies which examine a variety of health effects from exposure to different pollutants, by different groups of people, in different geographic areas. The majority of studies reviewed concentrated on one or two pollutants and identified health costs in the range of \$500 million to \$15 billion. Upper range estimates in separate studies put the health costs of sulfate pollution at \$432 billion and the cost for all "criteria" pollutants except lead at \$697 billion. The report also quantifies, for the first time, the health costs directly related to auto pollution—a cost ranging from \$4 billion to \$93 billion.

No single study has ever derived a total dollar figure representing all the health costs associated with human exposure to air pollution—this may be an impossible task given today's data base and methodological approaches. However, estimates approaching an annual cost of \$100 billion are defensible based on the reasonable middle ranges

of the comprehensive, multipollutant studies. Five years ago when ALA released its previous study, the high range estimate for the health costs of air pollution was \$40 billion. This change clearly represents the growing price tag of air pollution and the failure to strengthen the Clean Air Act.

It is noteworthy to observe that health costs, while the dominant result, are only a portion of the economic effects resulting from air pollution. Other effects—such as reduced agricultural and forest yields, corrosion of buildings and reduced visibility—also have substantial costs associated with them. The cost of air pollution continues to grow—clearly enactment of strong clean air legislation can cut this price tag. The American Lung Association urges your support for S. 1630.

Sincerely,

FRAN DU MELLE,

Director, Government Relations.

Mr. President, I yield to the Senator from Rhode Island.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island [Mr. CHAFEE].

Mr. CHAFEE. Mr. President, this is an auspicious and long-awaited day. Senators BURDICK, BAUCUS, MITCHELL, SIMPSON, SYMMS, and myself were present on April 8, 1981, when Senator Stafford convened the first hearing to consider comprehensive amendments to the Clean Air Act.

Since that day, the Environment and Public Works Committee has held 70 hearings. We have conducted 45 mark-ups and reported clean air legislation to the Senate on four different occasions, the last one being November 20 of last year.

In the intervening 9 years, the Senate—and the Congress—have adopted comprehensive amendments to a whole series of other environmental legislation, to RCRA, to the Safe Drinking Water Act, to Superfund, to the Clean Water Act. Why is it that agreement on these other difficult environmental issues has been possible, while resolution on the Clean Air Act has eluded us?

In large part, I believe, Mr. President, it is because the other problems are more visible to the public. People can see waste dumps in their communities. They can see and they can smell when that favorite fishing spot or stretch of river has been fouled by pollution. And citizens react quickly when they learn that the water that comes out of their taps could threaten the health of their children or themselves.

Regrettably, unhealthy air often cannot be seen or even smelled, and its damaging effect takes years to become evident.

Yet epidemiological studies estimate that polluted air is responsible for between 50,000 and 100,000 deaths a year. Toxic air pollutants are estimated to cause up to 2,500 cancer cases each year. Illnesses because of bad air

is estimated to affect over 4 million people in our country every year.

Health costs associated with air pollution, as estimated in the studies just reviewed by the American Lung Association, range from low estimates of \$25 million to a high of \$100 billion, with the most likely cost being in that high range. That is every year.

Air pollution defaces buildings and monuments. For example, Massachusetts estimates that its spends \$13 million annually to refurbish culturally significant buildings that have been damaged by foul air. Air pollution causes great damage to streams, lakes, forests, and even estuaries and oceans.

Let me stop here, if I might, Mr. President, to note that we would not be here on this floor this evening considering this clean air legislation but for the leadership of the President of the United States, President George Bush. The President submitted clean air legislation to Congress last summer and has challenged us to work with him to produce a clean air bill for the first time since 1977. That was when the last clean air bill was passed. The President's bill provided much of the framework and substance that we see in the Environment Committee bill before us tonight. And his initiative and commitment have broken the impasse which has plagued congressional efforts to enact a law over the past decade.

The majority leader, Senator MITCHELL, as has been mentioned, has given the Environment Committee outstanding leadership and encouragement to produce good, strong legislation in a timely fashion, and his commitment to making clean air a Senate priority has culminated in our beginning consideration of the Clean Air Act Amendments of 1989 today. And I do want to stress the key role that Senator MITCHELL has played.

The chairman of our committee, Senator BURDICK, has given us fine guidance. Senator BAUCUS, the chairman of the Environmental Protection Subcommittee, deserves great praise for his leadership during the months since our first clean air hearing in April of last year. He has kept a steady hand at the helm and worked mightily to see that the committee members studied the issues at hand and made informed decisions on the difficult questions that arise any time the Clean Air Act comes up.

Inevitably, as we consider the provisions of S. 1630, which is the bill before us, questions of the cost of the bill will come up. At the outset of the bill and the debate, the estimates of what S. 1630 will cost vary widely. That is one key thing I think it is important for everybody to remember. The cost estimates are all over the lot. The Business Roundtable has released a study concluding the clean air legislation could cost anywhere from \$14

billion to \$104 billion annually—now that is a pretty good range right there, from 14 to 104—with their “best estimate” being \$55 billion a year. Their report says S. 1630 could cost even more than that.

The administration estimates for the Environment Committee bill are \$40 billion a year. But the administration projects that the President's bill, which is quite similar to S. 1630 in many respects, will cost only \$19 billion. In other words, the estimate is his costs 19, the subcommittee bill costs 40.

Now the differences, Mr. President, are due primarily to the cost of the committee's requirement for emission reductions from automobiles, which take place in the year 2003, and the committee's requirement for reduction in toxic air pollutants, which begin to take effect 15 years after this bill is passed. What I am saying here is the two great variances in estimates come over the second round standards for the pollution reduction of automobiles which come in 2003 and the air toxic pollution reduction requirements which take place 15 years from now, and that is in the next century also. We should look carefully at the basis for those estimates as we debate each of the provisions, and when we do I believe we will find that this legislation has been overpriced.

As we talk about the costs of cleaning up the air—and it will not be inexpensive. I am the first one to state that this bill is going to cost some money. We might as well recognize that. We do not get clean air for nothing.

I would like to note for the record, when we talk about \$40 billion for this legislation, in 1988 Americans spent \$63 billion on alcoholic beverages, \$63 billion on soft drinks and candy, \$38 billion on tobacco products, \$25 billion on jewelry, and \$19 billion on cosmetics and fragrances. In this context, it seems to me, as we debate the various provisions of the bill, it will be well to keep in mind the question, how much is clean air worth?

The bill breaks down into different segments. I would like to briefly talk about what we call the nonattainment provisions. Attainment means that the air meets the standards set forth by EPA. Nonattainment means that those areas have not met the standards set by the EPA.

Title I of the bill deals with attaining and maintaining what are known as ambient air quality standards. In simple language, that means maintaining an air quality that is healthy to breathe.

Pennsylvania has set ambient air quality standards for six pollutants. Title I of the bill is primarily concerned with three of those: Ozone, carbon monoxide, and particulate matters, or PM-10.

Let me say a few words about the harmful effects of each of those pollutants. When someone inhales ozone, that person is inhaling a bleach. At very high concentrations, ozone is fatal. At lower concentrations, ozone can cause chest pains, shortness of breath, and increased susceptibility to respiratory infections. It can also reduce the functional capacity of the lungs. That is what ozone does.

Evidence is accumulating that repeated exposures to ozone can result in long-term effects, such as premature aging of the lungs. And recent studies are showing significant reductions in the function of the lungs of vigorously exercising adults and children, even at ozone levels lower than the current ambient air quality standards.

In other words, deleterious effects can come at lower standards than those imposed by EPA. But we are not dealing with those. We are dealing with even greater offenders than EPA has set forth as satisfactory for the ambient air quality standards.

Ozone is also clearly responsible for damage to our forests. As scientists with the National Acid Precipitation Assessment Program (NAPAP) reported this September, and this is a quote from their report:

Zone stress is the predominant factor in the decline of ponderosa and Jeffrey pines in the San Bernardino Mountains near Los Angeles . . . and is causing some degree of physiological stress to trees over large areas in the United States and Canada.

That was their findings.

EPA has estimated that ozone causes annual crop losses, including loss in the production of soybeans, tomatoes, and beans of \$2 billion to \$3 billion a year.

There are a lot of farmers. Those who are from agricultural States in this Senate I think ought to be interested in those statistics. Ozone causes crop damages.

The World Resources Institute estimates the value of increased crop yields from a 50-percent reduction in the ozone levels—in other words, if we can reduce ozone, we will get increased crop yields—of \$5.3 billion a year in our country; \$5.3 billion in the United States per year increased agriculture production if we can reduce ozone by 50 percent.

The next offender, carbon monoxide. That is an invisible and odorless pollutant that is fatal at high concentrations; everybody knows that. High concentrations of carbon monoxide from one's automobile, in a confined area, can kill you because it interferes with the blood's ability to carry oxygen. Even at relatively low concentrations it can be harmful to fetal development, for which an adequate supply of oxygen is critical.

Carbon monoxide at lower concentrations is also a threat to people with heart disease and can bring on attacks of angina.

Now, particulate matter, and especially smaller particulates, is a problem. Particulate matter is not really a single pollutant, but includes a variety of substances that come from a large and diverse number of sources. Particulate pollution is a serious concern, as shown by the statement before our committee by a Harvard researcher, Dr. Haluk Ozkaynak. This is what Dr. Haluk Ozkaynak had to say.

Now, the most important conclusion that can be derived from all of the epidemiologic investigations we have performed is that air pollution, especially particulate pollution, even at current levels, could be of concern to public health in terms of its contribution to excess mortality and morbidity.

Morbidity means illness.

In every epidemiologic investigation that we have performed over the past 6 years, we have repeatedly found a 2 to 5 percent air pollution effect on human mortality and morbidity.

That is the end of his statement.

Particulate matter is also responsible for reducing visibility nationwide, including in our national parks, and soiling materials and building surfaces.

A study for EPA estimated the cost of soiling damage at \$1 to \$2 billion a year.

So you can see, Mr. President, the issues dealt with in title I of the committee's bill are serious ones. This is the nonattainment section I referred to. I would like to devote just a few minutes to describe what the bill requires with respect to reducing this harmful and widespread ozone pollution.

It is important to recognize about half of the population—I think Senator Baucus touched on this—about half the population in the United States lives in areas that do not meet the ambient air quality standard for ozone. The extent of the pollution varies greatly in these areas, but all need to make improvements if the health standard is to be achieved.

Ozone pollution is formed—this is what ozone is. Some people say it is smog. It is smog. But how does it come about?

Volatile organic compounds—sometimes we will refer to them as VOC's in the discussion here on the floor—and oxides of nitrogen—sometimes referred to as NO<sub>x</sub>—combine in the presence of sunlight. You have the volatile organic compounds and the nitrogen oxides, and they combine in the presence of sunlight, and they form smog or ozone.

So reduce the concentrations of ozone in the air we breathe, clearly we have to reduce the emissions of both VOC's and NO<sub>x</sub>. It is not enough to solely do one.

Because the atmospheric chemistry associated with ozone formation is very complicated, there is some uncertainty as to how reductions in the emissions of NO<sub>x</sub> will affect ozone levels at every point over a broad area.

In some areas, some localized areas, ozone levels may rise as a result of reducing NO<sub>x</sub> emissions. There is a little inexactness to this science. Over the wider area, however, NO<sub>x</sub> reductions will bring about lower ozone levels.

In other words, if over a wide area, you reduce your NO<sub>x</sub> emissions, you are going to bring down your ozone, even though in a localized area, you might bring down the NO<sub>x</sub> emissions and the ozone might stay the same or, indeed, increase.

The available empirical evidence is that the only way to bring about substantial reductions in ozone is to reduce the emissions of both of these, both the NO<sub>x</sub> and the VOC's, and this is the approach we take in the committee bill.

Mr. President, one of the facts that makes the issues in this bill so difficult to deal with is there is no one or two magic solutions to cleaning up the air. In order to make progress, we really have to deal with small reductions in pollution from many, many different sources. It is not possible to say: Do this, and you will cut the emissions, the creation of ozone by 50 percent. Unfortunately, it is not that simple.

When dealing with ozone and emissions of VOC's, each requirement that is put in place only reduces the emissions by a seemingly small amount, like 1 or 2 percent. And it is very tempting to consider exempting this category or that category, saying it is so small; it does not make that much difference; it is only 1 percent; it is only 2 percent. Until we realize that virtually every control would be exempted and healthy air would never be achieved.

Once again, I want to stress there is no great single emitter. And thus we have to make these series of reductions, whether they are 2 or 3 or 4 percent.

The bill divides the nonattainment areas of the country, of which there are currently 102 nonattainment areas in the country—and these 102 areas include, as I say, over half the population of our country—the bill divides them into four separate categories based upon the severity of their ozone pollution.

The lower ones are moderate, the next area is serious, the next area is severe, and the final area, which is only Los Angeles, is extreme.

There are 62 areas in the moderate category, that is, the lowest one; 31 in the serious category; 8 in the severe—that is most of the principal cities of our country—New York, Chicago, Houston, and others—and one, Los Angeles, as I said before, is in the ex-

treme category. Every area is to take steps to achieve the ozone health standard as quickly as possible with a maximum of 5 years to achieve the standard for moderate airs.

Now, mind you, these are areas that were meant to be in compliance several years ago, but we are giving them extended time in this bill—5 years for the moderate areas, 10 years for the serious areas, 15 years for the severe areas, and 20 years for Los Angeles. So the suggestion we are coming down like a ton of bricks on these communities just is not true.

Except for the moderate category, each area must reduce the emissions of VOC's by 4 percent per year averaged over a 3-year period. In other words, taking them in 3-year periods, the reductions must be an average of 4 percent per year until the area reaches the ozone health standard.

The many specific requirements in the bill for reducing VOC emissions will count toward the 4 percent requirement, except for one requirement, which is to reduce the volatility of gasoline.

Implementation of the bill's specific requirements in the early years will probably achieve the annual reduction requirement. Some of the bill's provisions that take effect in later years, such as the requirement for EPA to reduce VOC emissions by 3 percent nationwide and the requirement for tighter exhaust standards for cars in 1993 and again in the year 2003, all of these will help keep the areas on the track. It will be necessary in many instances for State and local areas to reduce NO<sub>x</sub> emissions, and these can be traded for VOC reductions where the trade will reduce ozone levels in order to reach these milestones of 4 percent per year.

The milestone provisions of the bill are designed to avoid a repeat of the situation that occurred when we passed the 1977 amendments. In the 1977 amendments we said to the communities, you have to clean up by x year, and in many instances the States submitted plans called SIP's, State implementation plans, that purported to show attainment of this ozone standard after 10 years. The State would come forward with this plan and say, "We are going to meet the standard in 10 years." But they did not have any milestones by which we could judge them or judge their progress or, more often, lack of progress. The result was that although in 1981 the National Commission on Air Quality projected that all but six or seven areas would meet the standard by 1987—in other words, the bill passed in 1977. In 10 years you have to be cleaned up. Five years after the bill passed, a report came in that everything is going fine; they are going to meet the standards. But the facts were that when the

deadline came in 1987, there were still 102 areas not in attainment. Earlier checkpoints would have shown the expected progress was not being made and would have brought about demands by EPA that more be done.

The bill allows moderate areas—remember, moderate is the least offensive, the areas that although not in attainment are closest to it of the various areas—to choose to implement either a vehicle inspection or maintenance program or going to what is known as stage II controls at service stations to reduce vehicle refueling emissions.

The words "stage II" will be brooded about here to some extent. That refers to these improved fuel delivery hoses that recapture the VOC when one puts gasoline in his car. In the moderate areas, you can either have the stage II, the new type of dispensing pump, in your gasoline stations or you can have inspection and maintenance of your vehicles. All other areas, the serious, the severe, and the extreme areas, must implement both of these programs.

Experience has shown that stage II controls—that is, the gas hose fitted with this new type of device—are among the most cost effective VOC controls available. The cost effectiveness ranges from \$600 to \$700 per ton reduction of VOC's in California, New Jersey, and Missouri to \$1,400 a ton reduction in cost in Massachusetts. These estimates compare to a cost of \$3,500 a ton for implementation of the inspection and maintenance and \$5,000 a ton for new controls on stationary sources.

Estimates of VOC reductions from installing stage II range from 2 to 4 percent.

Inspection and maintenance programs are another way to reduce emissions of VOC and they also reduce NO<sub>x</sub>, which is emitted by the vehicles.

The bill requires reasonably available controls on stationary sources in nonattainment areas. What is a source? It is, for example, a drycleaning establishment of some size.

The size of sources of which these controls must be installed varies depending on the nonattainment category. Once again, for the more polluted areas, those that are severe and extreme, controls are required to be installed on smaller sources down to those that emit 25 or more tons of VOC per year. In Los Angeles, those sources that emit the 10 tons per year, for example, will have to have these controls. If pollution from these sources is not controlled, it is unlikely that these areas will ever attain the clean air standards.

The Office of Technology Assessment, OTA, estimates that 15 percent of VOC emissions come from sources that range in size from 25 to 100 tons of VOC emissions a year. In other

words, in order to get control of the VOC's, you have to go to some of these smaller emitters. Controlling emissions with reasonably available control technologies should reduce VOC inventory by 2 percent.

In the most severely polluted carbon monoxide and ozone areas, the bill requires that measures be considered and put in place to reduce the amount of vehicle travel.

Now, we admit this is controversial, but we are talking about the most severely polluted areas. These transportation control measures are important complements to the motor vehicle provisions in title II of the bill because, as we have seen, even with very significant reductions in emissions from individual cars, total emissions can increase because more vehicles are driven more miles per year.

We are on a treadmill here. We brought down the number of emissions from the vehicles but the trouble is there are more vehicles on the road every year, and every vehicle drives more miles per year. I think each of us can testify to that in our own experience. We are driving our cars more miles per year. Thus the total amount of emissions that comes from all the vehicles does not go down, even though we have made significant reductions in the amount of pollutants from each vehicle.

More miles driven means more ozone and more carbon monoxide pollution. One of the measures included in this bill is the requirement in severe—these eight major cities—an extreme. That means Los Angeles and in the more seriously polluted carbon monoxide areas of which there are 11 in the country, employers of more than 100 employees undertake programs to reduce vehicle use by employees in work-related trips.

A program such as this has been adopted in the Los Angeles area, and is expected to reduce VOC emissions from vehicles by about 4 percent.

Under the program, employers could choose to subsidize employee transit fares, reduce or eliminate subsidies for employee parking, give preferential parking space or subsidies to multiple occupancy employee vehicles, provide van pool services, or in other ways encourage employees to decrease single occupancy trips to and from work.

Many of the transportation control provisions in the bill are not likely to bring about immediate major reductions in the emissions but they are necessary if ozone and carbon monoxide health standards are going to be attained.

Because ozone is a regional and not a local pollutant; that is, ozone and its constituent pollutants can travel long distances—for instance, on the east coast, in the section I live in, we are not polluters but we do not attain the standards because the air is what they

call transported. It comes up from further south and further to the southwest. It comes up along the coast. Ozone is one of the great travelers.

The bill takes regional approach to control the transport of ozone. The most important ozone transport provisions establish a Northeast Regional ozone Transport Commission composed of the 12 Northeastern States and the District of Columbia. In conjunction with the EPA, they are to recommend what control requirements should be adopted throughout the region.

Mr. President, in accordance with some discussions with the majority floor manager of the bill, we decided to continue this tomorrow, ceasing at this time.

So, therefore, 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.

#### PRESIDENTIAL APPROVALS

A message from the President of the United States, received on December 27, 1989, during the sine die adjournment of the Congress, announced that the President has approved and signed the following enrolled bills and joint resolutions:

On November 3, 1989:

S.J. Res. 86. Joint resolution designating November 17, 1989, as "National Philanthropy Day."

S.J. Res. 120. Joint resolution to designate the period commencing November 12, 1989, and ending November 18, 1989, as "Geography Awareness Week."

On November 8, 1989:

S.J. Res. 19. Joint resolution to designate November 8, 1989, as "Montana Centennial Day."

On November 9, 1989:

S.J. Res. 131. Joint resolution to designate November 1989 as "National Diabetes Month."

S.J. Res. 209. Joint resolution to designate November 11, 1989, as "Washington Centennial Day."

On November 13, 1989:

S.J. Res. 73. Joint resolution to designate the week beginning October 29, 1989, as "Gaucher's Disease Awareness Week."

S.J. Res. 194. Joint resolution designating November 12 through 18, 1989, as "National Glaucoma Awareness Week."

On November 14, 1989:

S.J. Res. 198. Joint resolution designating November 1989 as "An End to Hunger Education Month."

On November 15, 1989:

S. 750. An act to extend the deadlines under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Washington.

On November 16, 1989:

S. 1827. An act to revise and clarify the authority of the Administrator of General Services relating to the acquisition and management of certain property in the city of New York.

On November 17, 1989:

S.J. Res. 215. Joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 20, 1989, as "National Military Families Recognition Day."

On November 27, 1989:

S. 931. An act to protect a segment of the Genesee River in New York.

S.J. Res. 184. Joint resolution to designate the periods commencing on November 26, 1989, and ending on December 2, 1989, and commencing on November 25, 1990, and ending on December 1, 1990, as "National Home Care Week."

On November 28, 1989:

S. 818. An act to commemorate the contributions of Senator Clinton P. Anderson to the establishment of the National Wilderness Preservation System, and for other purposes.

S.J. Res. 159. Joint resolution to designate April 22, 1990, as Earth Day, and to set aside the day for public activities promoting preservation of the global environment.

S.J. Res. 207. An act approving the location of the memorial to the women who served in Vietnam.

S.J. Res. 218. An act to designate the week of December 3, 1989, through December 9, 1989, as "National American Indian Heritage Week."

On November 29, 1989:

S. 338. An act to authorize the Secretary of the Interior to provide for the development of a trails interpretation center in the city of Council Bluffs, Iowa, and for other purposes.

S. 737. An act to adjust the boundary of Rocky Mountain National Park.

S. 1390. An act to provide for the construction of biomedical facilities in order to ensure a continued supply of specialized strains of mice essential to biomedical research in the United States, and for other purposes.

On December 5, 1989:

S. 974. An act to designate certain lands in the State of Nevada as wilderness, and for other purposes.

S.J. Res. 16. Joint resolution designating November 1989 and November 1990 as "National Alzheimer's Disease Month."

S.J. Res. 205. Joint resolution designating December 3 through 9, 1989, as "National Cities Fight Back Against Drugs Week."

On December 6, 1989:

S. 892. An act to exclude Agent Orange settlement payments from countable income and resources under Federal means-tested programs.

S. 1960. An act to authorize the food stamp portion of the Minnesota Family Investment Plan.

On December 7, 1989:

S. 1164. An act to authorize appropriations for fiscal year 1990 for the Office of the United States Trade Representative, the United States International Trade Commission, and the United States Customs Service.

S. 1877. An act to improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes.

S.J. Res. 164. Joint resolution designating 1990 as the "International Year of Bible Reading."

S.J. Res. 202. Joint resolution providing for the appointment of Robert James Woolsey, Jr., as a citizen regent of the Board of Regents of the Smithsonian Institution.

S.J. Res. 203. Joint resolution providing for the appointment of Homer Alfred Neal as a citizen regent of the Board of Regents of the Smithsonian Institution.

On December 11, 1989:

S. 488. An act to provide Federal assistance and leadership to a program of research, development, and demonstration of renewable energy and energy efficiency technologies, and for other purposes.

On December 12, 1989:

S. 1793. An act to make technical and correcting changes in agriculture programs.

On December 13, 1989:

S. 804. An act to conserve North American wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats.

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

#### MESSAGES FROM THE HOUSE RECEIVED SUBSEQUENT TO SINE DIE ADJOURNMENT

##### ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on December 6, 1989, subsequent to the sine die adjournment of the Congress, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled bills:

H.R. 1. An act to amend Federal laws to reform housing, community and neighborhood development, and related programs, and for other purposes;

H.R. 2178. An act to designate lock and dam numbered 4 on the Arkansas River as the "Emmett Sanders Lock and Dam";

H.R. 2494. An act to reauthorize the Export-Import Bank tied aid credit fund and pilot interest subsidy program, to provide for the participation of the United States in a replenishment of the Inter-American Development Bank and in the Enhanced Structural Adjustment Facility of the International Monetary Fund, to improve the safety and soundness of the United States banking system and encourage the reduction of the debt burdens of the highly indebted countries, to encourage the multilateral development banks to engage

in environmentally sustainable lending practices and give greater priority to poverty alleviation, and for other purposes;

H.R. 3259. An act to amend the Immigration and Nationality Act to provide for adjustment of status, without regard to numerical limitations, for certain H-1 nonimmigrant nurses and to establish conditions for the admission, during a 5-year period, of nurses as temporary nurses;

H.R. 3607. An act to repeal medicare provisions in the Medicare Catastrophic Coverage Act of 1988; and

H.R. 3671. An Act to amend the Federal Aviation Act of 1958 to extend the civil penalty assessment demonstration program.

Under the authority of the order of the Senate of January 3, 1989, the enrolled bills were signed on December 7, 1989, subsequent to the sine die adjournment of the Congress, by the President pro tempore [Mr. BYRD].

##### ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on December 11, 1989, subsequent to the sine die adjournment of the Congress, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled bill:

H.R. 3299. An Act to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990.

Under the authority of the order of the Senate of January 3, 1989, the enrolled bill was signed on December 13, 1989, subsequent to the sine die adjournment of the Congress, by the President pro tempore [Mr. BYRD].

##### ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on December 13, 1989, subsequent to the sine die adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled bill:

H.R. 901. An Act to amend titled 38, United States Code, to provide a 4.7 percent cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and in rates of dependency and indemnity compensation for survivors of veterans dying from service-connected causes and to improve certain veterans health-care, education, housing, and memorial affairs programs; and for other purposes.

Under the authority of the order of the Senate of January 3, 1989, the enrolled bill was signed on December 15, 1989, subsequent to the sine die adjournment of the Senate by the President pro tempore [Mr. BYRD].

#### MESSAGES FROM THE HOUSE

At 3:00 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 1727) to modify the boundaries

of the Everglades National Park and to provide for the protection of lands, waters, and natural resources within the park, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 242. A concurrent resolution providing for joint session of the Congress to receive a message from the President on the State of the Union.

The message further announced that the House has agreed to the following resolution:

H. Res. 303. A resolution informing the Senate that a quorum of the House is present and that the House is ready to proceed with business.

#### 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-2001. A communication from the Chief Judge of the United States Tax Court, transmitting, pursuant to law, the actuarial reports for the U.S. Tax Court Judges' Retirement and Survivor Annuity Plans for the year ending December 31, 1987; to the Committee on Governmental Affairs.

EC-2002. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the proposed regulations governing foreign nationals; to the Committee on Rules and Administration.

EC-2003. A communication from the Acting Assistant Secretary of the Army, transmitting, pursuant to law, notification of the discovery of one M-134 chemical bomblet at Dugway Proving Ground, Utah; to the Committee on Armed Services.

EC-2004. A communication from the Director, Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, notification of the modernization of certain missile programs; to the Committee on Armed Services.

EC-2005. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Navy's proposed letter of offer to Turkey for defense articles estimated to cost in excess of \$50 million; to the Committee on Armed Services.

EC-2006. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, a supplemental contract award report for the period November 1 to December 31, 1989; to the Committee on Armed Services.

EC-2007. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report on the Rural Housing Guaranteed Loan Demonstration Program; to the Committee on Banking, Housing, and Urban Development.

EC-2008. A communication from the Director of the Administrative Office of the United States Courts, transmitting a draft of proposed legislation to require the Secretary of the Treasury to mint gold and silver coins in commemoration of the Bicentennial of the Bill of Rights and the role of the

Federal judiciary in interpreting the Bill of Rights; to the Committee on Banking, Housing, and Urban Affairs.

EC-2009. A communication from the Acting Chairman of the National Transportation Safety Board, transmitting, pursuant to law, a copy of the Board's letter to the Office of Management and Budget appealing the fiscal year 1991 allowance for the Board; to the Committee on Commerce, Science, and Transportation.

EC-2010. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on Department of Energy plans regarding schedules, program management and contractor integration with respect to implementation of the Nuclear Waste Policy Act; to the Committee on Energy and Natural Resources.

EC-2011. A communication from the Assistant General Counsel of the Department of Energy, transmitting, pursuant to law, notice of meetings related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-2012. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on activities and programs implemented under section 319 of the Clean Water Act for fiscal year 1988; to the Committee on Environment and Public Works.

EC-2013. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on water quality improvements that have resulted from the application of best available technology economically achievable to control toxic pollutants from industrial sources; to the Committee on Environment and Public Works.

EC-2014. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report on the activities of the Economic Development Administration, Department of Commerce, for fiscal year 1988; to the Committee on Environment and Public Works.

EC-2015. A communication from the Secretary of Labor, transmitting, pursuant to law, the quarterly report on the expenditure and need for Worker Adjustment Assistance Training Funds under the Trade Act of 1974; to the Committee on Finance.

EC-2016. A communication from the Fiscal Assistant Secretary of the Treasury, transmitting, pursuant to law, the final monthly Treasury Statement of Receipts and Outlays of the U.S. Government for Fiscal Year 1989; to the Committee on Finance.

EC-2017. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to November 22, 1989; to the Committee on Foreign Relations.

EC-2018. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to November 9, 1989; to the Committee on Foreign Relations.

EC-2019. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the seventeenth 90 day report on the investigation into the death of Enrique Camarena, the investigation of the disappearance of United States citizens in the State of Ja-

lisco, Mexico, and the general safety of United States tourists in Mexico; to the Committee on Foreign Relations.

EC-2020. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Integrity Act: Inadequate Controls Result in Ineffective Federal Programs and Billions in Losses"; to the Committee on Governmental Affairs.

EC-2021. A communication from the Secretary of Energy, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Energy, for the period April 1 to September 30, 1989; to the Committee on Governmental Affairs.

EC-2022. A communication from the Acting Public Printer, transmitting, pursuant to law, the semi-annual report of the Office of Inspector General, Government Printing Office, for the period April 1 to September 30, 1989; to the Committee on Governmental Affairs.

EC-2023. A communication from the Director of the Peace Corps, transmitting, pursuant to law, the semi-annual report of the Office of Inspector General, United States Peace Corps, for the period April 1 to September 30, 1989; to the Committee on Governmental Affairs.

EC-2024. A communication from the Deputy Assistant to the President for Management and Director of the Office of Administration, transmitting, pursuant to law, the aggregate report on personnel employed in the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Office of Policy Development (Domestic Policy Staff), and the Office of Administration; to the Committee on Governmental Affairs.

EC-2025. A communication from the Federal Co-chairman Designate of the Appalachian Regional Commission, transmitting, pursuant to law, the semi-annual report of the Office of Inspector General, Appalachian Regional Commission, for the period April 1 to September 30, 1989; to the Committee on Governmental Affairs.

EC-2026. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the semi-annual report of the Office of Inspector General, Federal Trade Commission, for the period April 1 through September 30, 1989; to the Committee on Governmental Affairs.

EC-2027. A communication from the Director of the United States Information Agency, transmitting, pursuant to law, the semi-annual report of the Office of Inspector General, United States Information Agency, for the period April 1 to September 30, 1989; to the Committee on Governmental Affairs.

EC-2028. A communication from the Director of the ACTION Agency, transmitting, pursuant to law, the semi-annual report of the Office of Inspector General of the ACTION Agency for the period April 1 to September 30, 1989; to the Committee on Governmental Affairs.

EC-2029. A communication from the Attorney General of the United States, transmitting, pursuant to law, the semi-annual report of the Office of Inspector General, Department of Justice, for the period April 1 to September 30, 1989; to the Committee on Governmental Affairs.

EC-2030. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the semi-annual report of the Office of Inspector General, Securities and Exchange

Commission, for the period April 1 to September 30, 1989; to the Committee on Governmental Affairs.

EC-2031. A communication from the Chairman of the National Science Board, transmitting, pursuant to law, the semi-annual report of the Office of Inspector General, National Science Board, for the period April 1 to September 30, 1989; to the Committee on Governmental Affairs.

EC-2032. A communication from the Secretary of Education, transmitting, pursuant to law, the semi-annual report of the Office of Inspector General, Department of Education, for the period April 1 to September 30, 1989; to the Committee on Governmental Affairs.

EC-2033. A communication from the Acting Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the semi-annual report of the Office of Inspector General, Federal Maritime Commission, for the period April 1 to September 30, 1989; to the Committee on Governmental Affairs.

EC-2034. A communication from the Director of the Division of Commissioned Personnel, Department of Health and Human Services, transmitting, pursuant to law, the annual audit report of the condition of the Public Health Service Commissioned Corps Retirement System for the plan year ending September 30, 1989; to the Committee on Governmental Affairs.

EC-2035. A communication from the Executive Director of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the semi-annual report of the Office of Inspector General, Pension Benefit Guaranty Corporation, for the period April 1 to September 30, 1989; to the Committee on Governmental Affairs.

EC-2036. A communication from the Acting Secretary of the Postal Rate Commission, transmitting, for the information of the Senate, notice of proposed rulemaking; to the Committee on Governmental Affairs.

EC-2037. A communication from the Secretary of Housing and Urban Development, and the Secretary of Health and Human Services, transmitting jointly, pursuant to law, the annual report of the Interagency Council on the Homeless for 1989; to the Committee on Governmental Affairs.

EC-2038. A communication from the Acting Administrator of General Services, transmitting a draft of proposed legislation to amend the Federal Property and Administrative Services Act of 1949 to authorize executive agencies to establish more than one supply source for a particular commodity or service; to the Committee on Governmental Affairs.

EC-2039. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of the reports issued by the General Accounting Office during October 1989; to the Committee on Governmental Affairs.

EC-2040. A communication from the Attorney General of the United States, transmitting, pursuant to law, a report entitled "Report to the Attorney General on Systems for Identifying Felons Who Attempt to Purchase Firearms, October 1989"; to the Committee on the Judiciary.

EC-2041. A communication from the Director of the Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, a report on using existing Federal research and development facilities to support Federal law enforcement efforts in the war on drugs; to the Committee on the Judiciary.

EC-2042. A communication from the Chairman of the Railroad Retirement Board, transmitting, pursuant to law, the annual report of the Board for fiscal year 1988; to the Committee on Labor and Human Resources.

EC-2043. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report of the Department of Labor on the administration of the Black Lung Benefits Act during calendar year 1987; to the Committee on Labor and Human Resources.

EC-2044. A communication from the Acting Administrator of the Farmers Home Administration, Department of Agriculture, transmitting, pursuant to law, the report on the U.S. Department of Agriculture-Certified State Agricultural Loan Mediation Program; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2045. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a letter to report a violation of the Antideficiency Act; to the Committee on Appropriations.

EC-2046. A communication from the Acting Assistant Secretary of the Army (Financial Management), transmitting, pursuant to law, a report on the value of property, supplies, and commodities provided by the Berlin Magistrate for the quarter July 1, 1989, through September 30, 1989; to the Committee on Armed Services.

EC-2047. A communication from the Secretary of Commerce, transmitting, pursuant to law, the second report on the Liability Risk Retention Act of 1986; to the Committee on Commerce, Science, and Transportation.

EC-2048. A communication from the Secretary of Energy, transmitting, pursuant to law, the Tenth Annual Report on the use of alcohol in fuels; to the Committee on Energy and Natural Resources.

EC-2049. A communication from the Deputy Associate Director for Collection and Disbursements, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2050. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on imports during the first six months of 1989 of strategic and critical materials from countries of the Council for Mutual Economic Assistance and the appendix; to the Committee on Foreign Relations.

EC-2051. A communication from the Attorney General of the United States, transmitting, pursuant to law, the Report of the Attorney General for Calendar Year 1987; to the Committee on Foreign Relations.

EC-2052. A communication from the Architect of the Capitol, transmitting, pursuant to law, a report of all expenditures during the period April 1 through September 30, 1989 from the moneys appropriated to the Architect of the Capitol; to the Committee on Appropriations.

EC-2053. A communication from the Director for Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, notice that the Defense Logistics Agency intends to exercise the provision of law for exclusion of the clause concerning examination of records by the Comptroller General; to the Committee on Armed Services.

EC-2054. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the status of ef-

orts to improve safety on the main line of the Northeast Corridor; to the Committee on Commerce, Science, and Transportation.

EC-2055. A communication from the State Co-Chairman and the Federal Co-Chairman of the Alaska Land Use Council, transmitting, pursuant to law, a report on the accomplishments of the Council; to the Committee on Energy and Natural Resources.

EC-2056. A communication from the Assistant Secretary of the Interior (Land and Minerals Management), transmitting, pursuant to law, a report on estimated crude oil and natural gas reserves in the Federal Outer Continental Shelf, estimates of undiscovered, economically recoverable resources for Outer Continental Shelf Planning Areas, and estimates of undiscovered resource base; to the Committee on Energy and Natural Resources.

EC-2057. A communication from the Acting Administrator of General Services, transmitting, pursuant to law, a report on the disposal of surplus real property for historic monument, correctional facility, and airport purposes; to the Committee on Environment and Public Works.

EC-2058. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to December 7, 1989; to the Committee on Foreign Relations.

EC-2059. A communication from the Federal Co-Chairman Designate of the Appalachian Regional Commission, transmitting, pursuant to law, a report on the establishment and actions of an Inspector General in the Appalachian Regional Commission during fiscal year 1989; to the Committee on Governmental Affairs.

EC-2060. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "Managing Information Resources: Seventh Annual Report Under the Paperwork Reduction Act of 1980"; to the Committee on Governmental Affairs.

EC-2061. A communication from the Executive Vice President of the Non Commissioned Officers Association of the United States of America, transmitting, pursuant to law, the audited financial statement of the Association for 1988; to the Committee on the Judiciary.

EC-2062. A communication from the Director of the Office of National Drug Control Policy, Executive Office of the President, a report on the necessity to establish a new division or make other organizational changes within the Department of Justice in order to promote better civil and criminal law enforcement; to the Committee on the Judiciary.

EC-2063. A communication from the Commissioner of the Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, a report on the accomplishments of supported employment programs for fiscal year 1988; to the Committee on Labor and Human Resources.

EC-2064. A communication from the Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, a report entitled "Annual Report on the Employment of Minorities, Women and Individuals With Handicaps in the Federal

Government, Fiscal Year 1988"; to the Committee on Labor and Human Resources.

EC-2065. A communication from the Director of the National Gallery of Art, transmitting, pursuant to law, a report on the internal control processes and audit follow-up systems of the National Gallery of Art; to the Committee on Rules and Administration.

EC-2066. A communication from the President of the United States, transmitting, pursuant to law, a report under the War Powers Act, of the deployment and mission of United States Armed Forces in the Republic of Panama (received and referred in the Senate on December 21, 1989); to the Committee on Foreign Relations.

EC-2067. A communication from the Army (Installations, Logistics, and Environment), transmitting, pursuant to law, a report on the discovery of one M-134 chemical bomblet at Dugway Proving Ground, Utah on December 5, 1989; to the Committee on Armed Services.

EC-2068. A communication from the Deputy Assistant Secretary of the Air Force (Logistics), transmitting, pursuant to law, a report on study on converting the aircraft maintenance function at Williams Air Force Base, Arizona, to performance under contract; to the Committee on Armed Services.

EC-2069. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, the annual report on the enforcement program performance of the Federal Aviation Administration for fiscal year 1989; to the Committee on Commerce, Science, and Transportation.

EC-2070. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on the Automotive Technology Development Program for fiscal year 1983; to the Committee on Energy and Natural Resources.

EC-2071. A communication from the Assistant Secretary of the Interior (Water and Science), transmitting, pursuant to law, the interim report on the High Plains States Groundwater Demonstration Program for 1989; to the Committee on Energy and Natural Resources.

EC-2072. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on developing a system to encourage beneficiaries to return to work and information on the fiscal year 1988 research demonstration program and updated information on the fiscal year 1989 program; to the Committee on Finance.

EC-2073. A communication from the Director of the Defense Security Assistance Administration, transmitting, pursuant to law, the annual report on the operation of the Special Defense Acquisition Fund for fiscal year 1989; to the Committee on Foreign Relations.

EC-2074. A communication from the Secretary of Transportation, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Transportation for the period ended September 30, 1989; to the Committee on Governmental Affairs.

EC-2075. A communication from the Secretary of Defense, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Defense for the period ending September 30, 1989; to the Committee on Governmental Affairs.

EC-2076. A communication from the Secretary of Education, transmitting, pursuant to law, a report on the disposal of certain

surplus Federal real property during fiscal year 1989; to the Committee on Governmental Affairs.

EC-2077. A communication from the Chairman of the Interstate Commerce Commission transmitting, pursuant to law, the annual report on the system of internal control and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2078. A communication from the Associate Director of the United States Information Agency, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2079. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Follow-up On Contracts Awarded By The DHS to KOBIA, ARE, and PSI"; to the Committee on Governmental Affairs.

EC-2080. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the annual report on the system of internal accounting and management controls in effect during 1989; to the Committee on Governmental Affairs.

EC-2081. A communication from the Governor of the United States Soldiers' and Airmen's Home, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in effect during 1989; to the Committee on Governmental Affairs.

EC-2082. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in effect during 1989; to the Committee on Governmental Affairs.

EC-2083. A communication from the Acting Federal Inspector, Alaska Natural Gas Transportation System, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2084. A communication from the President and Chief Executive Officer of the Overseas Private Investment Corporation, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in effect during 1989; to the Committee on Governmental Affairs.

EC-2085. A communication from the Chairman of the National Mediation Board, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2086. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Environmental Protection Agency for the period ended September 30, 1989; to the Committee on Governmental Affairs.

EC-2087. A communication from the Inspector General, General Services Administration, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, General Services Administration, for the period ended September 30, 1989; to the Committee on Governmental Affairs.

EC-2088. A communication from the Acting Administrator of General Services, transmitting, pursuant to law, the audit report register, including all financial rec-

ommendations, for the six month period ended September 30, 1989; to the Committee on Governmental Affairs.

EC-2089. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Federal Election Commission, for the period ended September 30, 1989; to the Committee on Governmental Affairs.

EC-2090. A communication from the Director of the United States Information Agency, transmitting, pursuant to law, the annual report on competition advocacy; to the Committee on Governmental Affairs.

EC-2091. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Nuclear Regulatory Commission, for the period ended September 30, 1989; to the Committee on Governmental Affairs.

EC-2092. A communication from the Secretary of Labor, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Labor for the period ended September 30, 1989; to the Committee on Governmental Affairs.

EC-2093. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of the Treasury, for the period ended September 30, 1989; to the Committee on Governmental Affairs.

EC-2094. A communication from the Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, National Endowment for the Arts, for the period ended September 30, 1989; to the Committee on Governmental Affairs.

EC-2095. A communication from the Acting Director of the Federal Emergency Management Agency, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Federal Emergency Management Agency for the period ended September 30, 1989; to the Committee on Governmental Affairs.

EC-2096. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Housing and Urban Development for the period ended September 30, 1989; to the Committee on Governmental Affairs.

EC-2097. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Small Business Administration for the period ended September 30, 1989; to the Committee on Governmental Affairs.

EC-2098. A communication from the Acting Administrator of the Agency for International Development, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Agency for International Development for the period ended September 30, 1989; to the Committee on Governmental Affairs.

EC-2099. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, National Aeronautics and Space Administration for the period ended September 30, 1989; to the Committee on Governmental Affairs.

EC-2100. A communication from the Secretary of Health and Human Services, trans-

mitting, pursuant to law, the annual report on actions taken to recruit and train Indians to qualify for positions which are subject to preference under Indian preference laws; to the Select Committee on Indian Affairs.

EC-2101. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on compliance by States with personnel standards for radiologic technicians; to the Committee on Labor and Human Resources.

EC-2102. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on enforcement activities under the Fair Labor Standards Act for fiscal year 1987; to the Committee on Labor and Human Resources.

EC-2103. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the annual report on the performance of the Industrial Applications Centers and their ability to interact with the nation's small business community; to the Committee on Small Business.

EC-2104. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report describing employment and training programs for veterans during program year 1987; to the Committee on Veterans' Affairs.

EC-2105. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the Revised Final OMB Sequster Report for Fiscal Year 1990; pursuant to the order of January 30, 1975, as modified, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, the Committee on Labor and Human Resources, the Committee on Rules and Administration, the Committee on Small Business, the Committee on Veterans' Affairs, the Select Committee on Indian Affairs and the Select Committee on Intelligence.

EC-2106. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report on compliance with statutory residue requirements for imported meat, poultry products, and egg products; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2107. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Agricultural Mortgage Corporation—GAO Actions to Meet Requirements in the Agricultural Credit Act of 1987"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2108. A communication from the Fiscal Assistant Secretary of the Treasury, transmitting, pursuant to law, the actual amount of revenues deposited in the Panama Canal Commission Fund during fiscal year 1989; to the Committee on Armed Services.

EC-2109. A communication from the Assistant Secretary of the Army (Installations, Logistics, and Environment), transmitting, pursuant to law, a report on the recent discovery of an M-134 chemical bomblet at Dugway Proving Ground, Utah; to the Committee on Armed Services.

EC-2110. A communication from the President and CEO of the Resolution Trust Company Oversight Board, transmitting, pursuant to law, a strategic plan for conducting the functions and activities of the Corporation; to the Committee on Banking, Housing, and Urban Affairs.

EC-2111. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on the expansion and imposition of foreign policy export controls on certain chemicals; to the Committee on Banking, Housing, and Urban Affairs.

EC-2112. A communication from the President of the United States, transmitting, pursuant to law, a notice of the continuation of the national emergency with respect to Libya; to the Committee on Banking, Housing, and Urban Affairs.

EC-2113. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report of the Export Administration for fiscal year 1989; to the Committee on Banking, Housing, and Urban Affairs.

EC-2114. A communication from the President of the United States transmitting, pursuant to law, notice that it is in the national interest of the United States to terminate certain suspensions of programs of the Export-Import Bank for the People's Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC-2115. A communication from the President of the United States, transmitting, pursuant to law, a report stating that it is in the national interest of the United States to lift the prohibition on reclassification and approval of export licenses for the three United States built AUSSAT and AsiaSat satellites for launch on Chinese-built launch vehicles; to the Committee on Banking, Housing, and Urban Affairs.

EC-2116. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, notice of the extension of the time period for acting on the appeal in No. 38301S, Coal Trading Corporation, Et Al. V. The Baltimore and Ohio Railroad Company Et Al.; to the Committee on Commerce, Science, and Transportation.

EC-2117. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, notice of an extension of the time period for issuing a decision in Docket No. 31424, Acquisition by Tampa Bay and Western Trans, Inc., of a CSX Transp., Inc., Line between Sulphur Springs and Broco, FL; to the Committee on Commerce, Science, and Transportation.

EC-2118. A communication from the Governor of the State of Alaska as State Co-Chairman of the Alaska Land Use Council, transmitting, for the information of the Senate, a statement of his support for the reauthorization of the Council subject to certain modifications requiring both legislative and nonlegislative action; to the Committee on Energy and Natural Resources.

EC-2119. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the current condition of habitat at the Salton Sea National Wildlife Refuge, California; to the Committee on Environment and Public Works.

EC-2120. A communication from the Chairman of the Migratory Bird Conservation Commission, transmitting, pursuant to law, the annual report of the Commission for fiscal year 1989; to the Committee on Environment and Public Works.

EC-2121. A communication from the Inspector General of the Department of the

Treasury, transmitting, pursuant to law, a report entitled "Review of Reimbursable Superfund Costs, Fiscal Year 1988"; to the Committee on Environment and Public Works.

EC-2122. A communication from the President of the United States, transmitting, pursuant to law, notification of his intention to add Poland to the list of beneficiary countries under the Generalized System of Preferences; to the Committee on Finance.

EC-2123. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on methods of expediting certification of workers for trade adjustment assistance; to the Committee on Finance.

EC-2124. A communication from the Secretary of the Treasury and Managing Trustee and the Secretary of Labor as a trustee of the Board of Trustees of the Federal Hospital Insurance Trust Fund, transmitting, pursuant to law, the 1989 annual report on the Fund; to the Committee on Finance.

EC-2125. A communication from the Acting Administrator of the Agency for International Development, transmitting, pursuant to law, the annual report on the portfolio and finances of the Private Sector Revolving Fund; to the Committee on Foreign Relations.

EC-2126. A communication from the Assistant Legal Advisor For Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to January 4, 1990; to the Committee on Foreign Relations.

EC-2127. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a quarterly report on human rights activities in Ethiopia for the period July 15 to October 14, 1989; to the Committee on Foreign Relations.

EC-2128. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to December 21, 1989; to the Committee on Foreign Relations.

EC-2129. A communication from the Acting Secretary of the Treasury, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place for 1989; to the Committee on Governmental Affairs.

EC-2130. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2131. A communication from the Director of Selective Service, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2132. A communication from the Director of ACTION, transmitting, pursuant to law, the annual report on the system of internal controls and financial management during 1989; to the Committee on Governmental Affairs.

EC-2133. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the annual report on the system of internal controls and financial

management in place during 1989; to the Committee on Governmental Affairs.

EC-2134. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2135. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a list of the reports issued by the General Accounting Office during November 1989; to the Committee on Governmental Affairs.

EC-2136. A communication from The President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2137. A communication from the Director of the Peace Corps, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2138. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2139. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2140. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2141. A communication from the Special Counsel, U.S. Office of Special Counsel, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2142. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2143. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2144. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2145. A communication from the Acting Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the annual report on the system of internal control and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2146. A communication from the Chairman of the Administrative Conference

of the United States, transmitting, pursuant to law, the annual report on the system of internal control and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2147. A communication from the Secretary of Education, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2148. A communication from the Administrator of General Services, transmitting pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2149. A communication from the Administrator of General Services, transmitting, pursuant to law, the semiannual report on the Office of Inspector General, General Services Administrator for the period April 1 to September 30, 1989; to the Committee on Governmental Affairs.

EC-2150. A communication from The Secretary of Agriculture, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2151. A communication from the Chairman of the Federal Labor Relations Authority, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2152. A communication from the Board Members of the Railroad Retirement Board, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2153. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place for 1989; to the Committee on Governmental Affairs.

EC-2154. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2155. A communication from the Attorney General of the United States, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2156. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, the annual report on competition advocacy for fiscal year 1986; to the Committee on Governmental Affairs.

EC-2157. A communication from the Deputy Assistant to the President for Management and Director of the Office of Administration, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in effect during 1989; to the Committee on Governmental Affairs.

EC-2158. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2159. A communication from the Acting Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2160. A communication from the Secretary of Defense, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2161. A communication from the Administrator of the Panama Canal Commission, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2162. A communication from the Chief Justice of the United States, transmitting, pursuant to law, the report of the proceedings of the Judicial Conference of the United States held in Washington, D.C., on September 20, 1989; to the Committee on the Judiciary.

EC-2163. A communication from the Assistant Secretary of Defense (Force Management and Personnel), transmitting, pursuant to law, the audit report of the American Red Cross for the year ended June 30, 1989; to the Committee on Labor and Human Resources.

EC-2164. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for Training Personnel for the Education of the Handicapped Grants to State Educational Agencies and Institutions of Higher Education Programs; to the Committee on Labor and Human Resources.

EC-2165. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the Health Care for the Homeless program for calendar year 1988; to the Committee on Labor and Human Resources.

EC-2166. A communication from the Acting Director of the Federal Mediation and Conciliation Service, transmitting, pursuant to law, the annual report on the system of internal controls and financial management in place during 1989; to the Committee on Governmental Affairs.

EC-2167. A communication from the Secretary of Defense, transmitting, pursuant to law, a report of certain apportionment violations; to the Committee on Appropriations.

EC-2168. A communication from the Director of the Office of Management and Budget, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated December 1, 1989; pursuant to the order of January 30, 1975, as modified on April 11, 1986, referred jointly to the Committee on Appropriations and the Committee on the Budget.

EC-2169. A communication from the Director of the Office of Management and Budget, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated January 1, 1990; pursuant to the order of January 30, 1975, as modified on April 11, 1986, referred jointly to the Committee on Appropriations and the Committee on the Budget.

EC-2170. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to repeal section 7299(a) of title 10, United States Code, so as to permit the distribution of assignments and contracts for construction of combatant vessels and escort vessels

on the basis of economic and military consideration; to the Committee on Armed Services.

EC-2171. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the Department's 1989 Interim Report on the Neighborhood Development Demonstration Program; to the Committee on Banking, Housing, and Urban Affairs.

EC-2172. A communication from the Assistant Administrator of the National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a report in the U.S. Great Lakes Shoreline Mapping Plan; to the Committee on Commerce, Science, and Transportation.

EC-2173. A communication from the Under Secretary of Commerce (Oceans and Atmosphere), transmitting, pursuant to law, the Deep Seabed Mining Report of the National Oceanic and Atmospheric Administration; to the Committee on Commerce, Science, and Transportation.

EC-2174. A communication from the Commandant of the United States Coast Guard, transmitting, pursuant to law, a report on the study of safety problems on fishing industry vessels; to the Committee on Commerce, Science, and Transportation.

EC-2175. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2176. A communication from the Acting Assistant Secretary of Energy (Fossil Energy), transmitting, pursuant to law, a report on progress in setting up a cooperative program of fossil energy management between the Federal Government and the States; to the Committee on Energy and Natural Resources.

EC-2177. A communication from the Secretary of the Interior, transmitting, pursuant to law, the National Plan for Research in Mining and Mineral Resources and the 1990 Report on the Mineral Institute Program of the Department of the Interior; to the Committee on Energy and Natural Resources.

EC-2178. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the Annual Report on NASA Progress on Superfund Implementation in Fiscal Year 1980; to the Committee on Environment and Public Works.

EC-2179. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the United States Government Annual Report for the Fiscal Year Ended September 30, 1989; to the Committee on Finance.

EC-2180. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the results of an audit of the Pennsylvania Avenue Development Corporation's financial statements for the fiscal year ended September 30, 1988; to the Committee on Governmental Affairs.

EC-2181. A communication from the Director of the United States Office of Personnel Management, transmitting, pursuant to law, a report on Senior Executive Service positions in the Department of Housing and Urban Development; to the Committee on Governmental Affairs.

EC-2182. A communication from the Managing Director of the Federal Communi-

cations Commission, transmitting, pursuant to law, reports on new and altered systems; to the Committee on Governmental Affairs.

EC-2183. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, a report on the evaluation of the system of internal accounting and administrative control of the National Credit Union Administration in effect during the year ended September 30, 1989; to the Committee on Governmental Affairs.

EC-2184. A communication from the Chairman of the Commodity Futures Trading Commission, transmitting, pursuant to law, a report on the Commission's internal control and financial systems for fiscal year 1989; to the Committee on Governmental Affairs.

EC-2185. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the first report on Indian Sanitation Facility Deficiencies; to the Select Committee on Indian Affairs.

EC-2186. A communication from the Assistant Secretary of the Interior (Indian Affairs), transmitting, pursuant to law, a proposed plan for the use and distribution of certain Indian judgment funds; to the Select Committee on Indian Affairs.

EC-2187. A communication from the Assistant Attorney General (Legislative Affairs), transmitting, for the information of the Senate, certain guidelines to forestall possible employment discrimination against authorized workers who look and sound foreign; to the Committee on the Judiciary.

EC-2188. A communication from the Attorney General of the United States, transmitting, pursuant to law, a report on the recent award of the Young American Medals for Bravery and Service for calendar years 1987 and 1988; to the Committee on the Judiciary.

#### 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-385. A resolution adopted by the Energy, Natural Resources, and Agriculture Interim Committee of the Utah Legislature favoring the completion of the Central Utah Project; to the Committee on Energy and Natural Resources.

POM-386. A resolution adopted by the House of Representatives of the Commonwealth of Massachusetts; to the Committee on Finance:

#### HOUSE RESOLUTION 2230

"Whereas House Resolution 2230 is legislation filed by Representative Jack Brooks of Texas which would empower States and the District of Columbia to require collection of State and local sales tax of out-of-State sellers for the sale of goods to State residents; and

"Whereas in 1967 the Supreme Court ruled that a company cannot be required to collect a sales tax unless said company had a retail outlet in that State. Although the intention over twenty years ago was to promote interstate commerce, this ruling has certainly been outdated in recent years; and

"Whereas due to the widespread use of cable television, telephone order and mail order company sales have comprised an increasing percentage of sales receipts in the past several years; and

"Whereas, these companies have tremendous marketing ability through television

and mail advertising, and because these companies are able to sell their products at below-market prices due to the absence of a sales tax, Massachusetts businessmen are faced with unfair competition without competitive pricing; and

"Whereas, H.R. 2230 would only apply to companies which "regularly and systematically solicit" business in the State, and is also limited to companies who have annual sales exceeding twelve and one-half million dollars nationwide or annual sales exceeding five hundred thousand dollars in that State; and

"Whereas, only five percent of all mail order outlets exceed the twelve and one-half million dollar minimum, but those five percent account for seventy percent of all mail order sales. These sales in combination with the estimated sales receipts from television phone order companies arrive at projections between one hundred and two hundred million dollars in lost revenues annually to the Commonwealth of Massachusetts; therefore be it

"Resolved, That the Massachusetts House of Representatives urges the Congress of the United States to support House Resolution 2230; and be it further

"Resolved, That copies of these resolutions be forwarded by the clerk of the House of Representatives to the presiding officer of each branch of Congress and to the members thereof from this Commonwealth."

—  
POM-387. A resolution adopted by the House of Representatives of the Commonwealth of Massachusetts; to the Committee on Finance:

#### HOUSE RESOLUTION

"Whereas millions of retired workers who were born between 1917 and 1926 have lost thousands of dollars in social security benefits as a result of the unfair "notch year" benefit cuts; and

"Whereas Senator Terry Sanford and Congressman Bill Hefner have introduced legislation which would resolve this situation in a fair and financially responsible way; and

"Whereas under the Sanford/Hefner solution (S. 1212/H.R. 2707) most retired workers born after 1916 would receive a lump sum payment up to \$1,000 plus an annual benefit depending on earnings and age at retirement; and

"Whereas those who are hit hardest by the "notch" inequity could receive increases of more than \$1,000 per year in addition to the lump sum payments of as much as \$1,000; therefore be it

"Resolved, that the Massachusetts House of Representatives urges the Congress of the United States to support the Sanford/Hefner solution (S. 1212/H.R. 2707) which would rectify the unfair "notch year" Social Security benefit cuts; and be it further

"Resolved, that copies of these resolutions be forwarded by the Clerk of the House of Representatives to the Presiding Officer of each branch of the Congress, and to the Members thereof from this Commonwealth."

—  
POM-388. A petition from the Governor of the Absentee Shawnee Tribe of Oklahoma favoring the appointment of a certain individual to the National Indian Gaming Commission; to the Select Committee on Indian Affairs.

POM-389. A petition from a citizen of Hunt Valley, Maryland praying for a redress of grievances; to the Committee on the Judiciary.

POM-390. A petition from the people's advocate of Iowa favoring changes in certain laws and regulations relating the Congress of the United States; to the Committee on Rules and Administration.

POM-391. A resolution adopted by the House of Representatives of the State of Florida; to the Committee on Energy and Natural Resources:

**"HOUSE RESOLUTION 79-D**

"Whereas H.R. 2945, a bill to prohibit the United States Secretary of the Interior from issuing oil and gas leases on certain portions of the outer continental shelf off the State of Florida, is now pending in the Congress of the United States, and

"Whereas the adoption of H.R. 2945 is necessary to protect the coastal environment and resources of Florida from damage caused by oil and gas drilling, and

"Whereas, the original Florida sponsors of H.R. 2945 include Congressmen Bennett, Fascell, Goss, Grant, Ireland, Johnston, Lehman, and Nelson, who are to be commended for their sponsorship of this bill, now, therefore, be it

"Resolved, by the House of Representatives of the State of Florida: That the Congress of the United States is requested to adopt H.R. 2945 to prohibit the Secretary of the Interior from issuing oil and gas leases on certain portions of the outer continental shelf off the State of Florida; and be it further

"Resolved, That copies of this resolution be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress."

POM-392. A resolution adopted by the Senate of the Commonwealth of Pennsylvania; to the Committee on Finance:

**"SENATE RESOLUTION**

"Whereas many communities in our Nation have not yet attained a level of air quality that meets minimum Federal standards, and much air pollution is a direct result of emissions from automobiles, diesel-fueled buses and trucks and other motor vehicles; and

"Whereas alternative transportation fuels such as natural gas, ethanol and methanol can reduce carbon monoxide and reactive hydrocarbon emissions to levels that are substantially below the emissions from gasoline and diesel fuel; and

"Whereas imports of foreign oil are rising steadily, undercutting our national security and draining away capital that is badly needed for the revitalization of American industry; and

"Whereas two-thirds of all oil burned in America is burned as transportation fuel, while natural gas and other domestic fuels are readily available for this purpose; and

"Whereas the technological feasibility of change has already been demonstrated for some of the alternative transportation fuels, such as the natural gas that is now being used by 30,000 vehicles in the United States, 22,000 vehicles in Canada and more than 500,000 vehicles worldwide; and

"Whereas, despite the availability of domestic alternative transportation fuels and of the technologies to use them, the initial capital investments required for clean fuel

vehicles, and for the supporting infrastructure, make it unlikely that the private sector will initiate extensive development unless pressed to do so by concerned Federal, State, and local governments; and

"Whereas the states of Texas, Arizona and California have already taken action by enacting mandates for the phased shift of certain fleet vehicles to alternative transportation fuels, and other states are considering similar action; and

"Whereas, the Federal Government could greatly accelerate the development process by enacting Federal mandates and incentives that are powerful enough to create a national marketplace for alternative transportation fuels; therefore be it

"Resolved, That the Senate of the Commonwealth of Pennsylvania urge the Congress of the United States to enact a meaningful mandate for phased shifts to alternative transportation fuels by a substantial number of our Nation's vehicles, and to assure that this mandate permits undistorted competition, under comparable regulatory conditions, between all transportation fuels that are substantially cleaner than oil-based products; and be it further

"Resolved, That the Senate of the Commonwealth of Pennsylvania urge the Congress of the United States to enact tax incentives for the private sector and financial assistance incentives for the states and municipalities, in order to reduce the obstacles posed by initial capital expenditures for shifts to alternative transportation fuels; and be it further

"Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania."

POM-393. A petition from citizens of the State of Pennsylvania favoring the adoption of a constitutional amendment to protect the flag; to the Committee on the Judiciary.

POM-394. A resolution adopted by the City Council of Lakewood, OH, urging the U.S. Government to cut off economic and military aid to the Government of El Salvador; to the Committee on Foreign Relations.

**REPORTS OF COMMITTEES RECEIVED DURING ADJOURNMENT**

Under the authority of the order of the Senate of November 22, 1989, the following reports of committees were submitted on December 20, 1989:

By Mr. BURDICK, from the Committee on Environment and Public Works with an amendment in the nature of a substitute:

S. 1630. A bill to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes (Rept. No. 101-238).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources with amendments:

S. 1594. A bill to revise the boundary of Gettysburg National Military Park in the Commonwealth of Pennsylvania and for other purposes (Rept. No. 101-229).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources with an amendment in the nature of a substitute:

S. 286. A bill to establish the Petroglyph National Monument in the State of New Mexico, and for other purposes (Rept. No. 101-230).

S. 319. A bill to effect an exchange of lands between the U.S. Forest Service and the Salt Lake City Corporation within the State of Utah and for other purposes (Rept. No. 101-231).

S. 555. A bill to establish in the Department of the Interior the De Soto Expedition Trail Commission and for other purposes (Rept. No. 101-232).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources with amendments and an amendment to the title:

S. 1046. A bill to designate the Merrimack River in the State of New Hampshire as a river to be studied for inclusion in the National Wild and Scenic Rivers System and for other purposes (Rept. No. 101-233).

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

Special Report entitled "Monetary Policy Report for 1989" (with additional views) (Rept. No. 101-234).

Under the authority of the order of the Senate of November 22, 1989, the following reports of committees were submitted on January 10, 1990:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources with an amendment in the nature of a substitute:

S. 247. A bill to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such Act and for other purposes (Rept. No. 101-235).

**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. ARMSTRONG:

S. 2001. A bill to designate certain areas in the State of Colorado as wilderness areas and recreation areas, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SANFORD:

S. 2002. A bill to make certain supplemental appropriations for early childhood education programs, and for other purposes; to the Committee on Appropriations.

By Mr. HOLLINGS:

S. 2003. A bill to establish a commission to advise the President on proposals for national commemorative events; to the Committee on the Judiciary.

By Mr. HEINZ:

S. 2004. A bill to provide for the reliquidation of, and refund of duties on, certain entries of methanol; to the Committee on Finance.

By Mr. GRAHAM:

S. 2005. A bill to repeal the provision of law exempting intercity rail passenger service from certain waste disposal requirements; to the Committee on Commerce, Science, and Transportation.

By Mr. GLENN (for himself, Mr. ROTH, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. KOHL, Mr. LEVIN, and Mr. BINGAMAN):

S. 2006. A bill to establish the Department of the Environment, provide for a global environmental policy of the United States, and for other purposes; to the Committee on Governmental Affairs.

By Mr. LOTT (for himself and Mr. COCHRAN):

S. 2007. A bill to designate the General Mail Facility on Highway 49 in Gulfport, Mississippi, as the "Larkin I. Smith General Mail Facility"; to the Committee on Governmental Affairs.

By Mr. INOUYE:

S. 2008. A bill to authorize a certificate of documentation for the vessel PACIFIC PEARL; to the Committee on Commerce, Science, and Transportation.

By Mr. CRANSTON (for himself and Mr. LEAHY):

S. 2009. A bill to limit the use of appropriated funds for the B-2 advanced technology bomber aircraft program; to the Committee on Armed Services.

By Mr. CRANSTON:

S. 2010. A bill to amend the Home Owners' Loan Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DECONCINI:

S. 2011. A bill to authorize the expansion of the Tumacacori National Monument; to the Committee on Energy and Natural Resources.

By Mrs. KASSEBAUM (for herself and Mr. HATCH):

S. 2012. A bill to amend the Employee 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. BRYAN (for himself, Mr. REID and Mr. DASCHLE):

S. 2013. A bill to require that the surplus in the Highway Trust Fund be expended for the Federal-Aid Highway System; to the Committee on Environment and Public Works.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2014. A bill to direct the Secretary of Agriculture and the Secretary of the Interior to provide interpretation and visitor education regarding the rich cultural heritage of the Chama River Gateway Region of northern New Mexico; to the Committee on Energy and Natural Resources.

By Mr. DODD (for himself, Mr. LEAHY, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. WIRTH, Mr. KOHL, Mr. HEFLIN, Mr. LIEBERMAN, Mr. HARKIN, Mr. HUMPHREY, Mr. BRYAN, Mr. ADAMS, Mr. ROB, Mr. KERRY, Mr. LEVIN, and Mr. LAUTENBERG):

S. 2015. A bill to amend the Ethics in Government Act of 1978 and the Ethics Reform Act of 1989 to apply the same honoraria provisions to Senators and officers and employees of the Senate as apply to Members of the House of Representatives and other officers and employees of the Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN (for himself, Mr. SANFORD, Mr. PELL, Mr. EXON and Mr. HOLLINGS):

S. 2016. A bill to cut Social Security contribution rates and return Social Security to pay-as-you-go financing; to the Committee on Finance.

By Mr. DOLE (for himself, Mrs. KASSEBAUM, Mr. HEINZ, Mr. HEFLIN, and Mr. CHAFEE):

S. 2017. A bill to provide a permanent endowment for the Eisenhower Exchange Fellowship Program; to the Committee on Foreign Relations.

By Mr. LAUTENBERG:

S. 2018. A bill to provide for the temporary suspension of duty on certain types of veneer; to the Committee on Finance.

By Mr. SYMMS (for himself, Mr. McCCLURE, and Mr. SHELBY):

S. 2019. A bill to amend title XVIII of the Social Security Act to eliminate the reimbursement differential between hospitals in different areas; to the Committee on Finance.

By Mr. WIRTH:

S. 2020. A bill to prohibit Members of the Senate and Senate staff from receiving honoraria; to the Committee on Governmental Affairs.

By Mr. HUMPHREY (for himself and Mr. DECONCINI):

S.J. Res. 235. Joint resolution proposing a constitutional amendment to limit Congressional terms; to the Committee on the Judiciary.

By Mr. WILSON (for himself, Mr. THURMOND, Mr. HATFIELD, Mr. HEFLIN, and Mrs. KASSEBAUM):

S.J. Res. 236. Joint resolution designating May 6 through 12, 1990, as "Be Kind to Animals and National Pet Week"; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mrs. KASSEBAUM, Mr. SPECTER, Mr. HEINZ, Mr. EXON, Mr. HEFLIN, and Mr. CHAFEE):

S.J. Res. 237. A joint resolution providing for the commemoration of the 100th anniversary of the birth of Dwight David Eisenhower; to the Committee on the Judiciary.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. GLENN, Mr. MATSUNAGA, Mr. HOLLINGS, Mr. SIMON, Mr. DECONCINI, Mr. BURDICK, Mr. KERRY, Mr. PELL, Mr. NUNN, Mr. DOMENICI, and Mr. DODD):

S.J. Res. 238. Joint resolution to designate the week beginning March 5, 1990 as "Federal Employees Recognition Week"; to the Committee on the Judiciary.

By Mr. DOLE:

S.J. Res. 239. Joint resolution to urge the Washington Metropolitan Airport Authority to use its existing authority to change the name of the Washington Dulles International Airport to Eisenhower International Airport; to the Committee on Commerce, Science, and Transportation.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. MITCHELL:

S. Res. 228. Resolution informing the House of Representatives that a quorum of the Senate is assembled; considered and agreed to.

S. Res. 229. Resolution informing the President of the United States that a quorum of each House is assembled; considered and agreed to.

By Mr. GLENN:

S. Res. 230. Resolution to authorize the printing of additional copies of the Committee on Governmental Affairs hearing entitled "Prospects for Development of a United States HDTV Industry"; to the Committee on Rules and Administration.

By Mr. BRADLEY (for himself, Mr. LUGAR, Mr. PELL, Mr. DODD, and Mr. BOSCHWIRZ):

S. Res. 231. Resolution urging the submission of the Convention on the Rights of the Child to the Senate for its advice and consent to ratification; to the Committee on Foreign Relations.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ARMSTRONG:

S. 2001. A bill to designate certain areas in the State of Colorado as wilderness areas and recreation areas, and for other purposes; to the Committee on Energy and Natural Resources.

#### COLORADO HERITAGE PRESERVATION ACT

● Mr. ARMSTRONG. Mr. President, from the majestic beauty of snow-covered mountains to sunburnt sandstone cliffs, the greatness of Colorado is seen in the land. We live in a vast preserve of beauty that inspires awe and pure wonder. Anyone who has seen above the plain a vivid western sunset of reds and golds, or witnessed the perfect rainbow of a remote waterfall, or walked under a forest canopy of fir and pine, knows we are charged with saving for posterity that which surely is the work of God.

I am pleased to begin my final year in the Senate by introducing the Colorado Natural Heritage Preservation Act. This legislation will give special protection to 594,175 acres of Colorado's most beautiful and pristine land. Of this acreage, 471,875 acres will be designated as wilderness, 122,300 acres as national recreation areas. The remaining portions of the study areas will be released for multiple-use management by the Forest Service. When this bill becomes law, Colorado will have more than 3 million acres of wilderness, the bulk of which has been designated from National Forest lands.

In every wilderness discussion about 1 percent of the people want everything west of the Mississippi declared wilderness, 1 percent declare we have far too much wilderness already, but 98 percent of our people recognize the claims of extremists on both sides as exaggerations. Most people recognize the necessity to strike a reasonable balance between preserving our great natural assets and, at the same time, protecting private rights, jobs and economic opportunity.

Over the past 5 years my staff and I have discussed and worked with thousands of individual citizens and groups in Colorado to develop a balanced wilderness bill. To some, this may appear as an impossible dream, but as Carl Sandburg said, "Nothing happens unless first a dream." We can achieve a balance that serves the public interest. I believe this bill achieves that worthy end by designating all remaining National Forest lands that meet wilderness standards, creating a new national recreation area designation to protect beautiful, unique areas which cannot qualify as wilderness and by solving the water issue which has stalled the process for the past 5 years.

This legislation will clear the way for the designation of additional wil-

derness from areas now under study by the Bureau of Land Management. It is a vital step toward the ultimate completion of Colorado's wilderness system and the fulfillment of our obligation to serve as good stewards of the natural beauty and environment with which our State has been so richly blessed.

#### BACKGROUND

Colorado has been a leader among the States in the designation of wilderness. In 1979, the Forest Service completed its second roadless area review and evaluation—RARE II—of all National Forest lands considered to have potential for designation as wilderness. The Colorado congressional delegation promptly responded by passing the Colorado Wilderness Act of 1980. This legislation added 1.4 million acres to the National Wilderness Preservation System bringing the total in Colorado to 2.6 million acres; 684,250 acres could not be agreed on and Congress mandated that it remain in study status. The remaining 4.4 million acres of RARE II lands were deemed unsuitable for wilderness designation and released for multiple-use management by the 1980 act.

The 684,250 acres remaining in further planning or wilderness study status have been managed as wilderness and given extensive additional study by the Forest Service. These study areas are the subject of this legislation. While many States are still developing their first wilderness legislation in response to the RARE II studies, Colorado has been working on a second round of RARE II designations encompassing areas which are more marginal from a wilderness standpoint and contain numerous conflicts.

By 1984, the Forest Service completed its research of the mandated study areas and recommended 401,893 acres as suitable for wilderness designation. In response, legislation was introduced by several members of the Colorado delegation reflecting their individual views on how the final designation of forest lands should proceed.

#### THE WATER ISSUE

In 1984, the Sierra Club filed a suit in U.S. District Court asserting that Congress, in the designation of wilderness, intended to create Federal water rights to serve wilderness purposes—by implication. The suit challenged an historic understanding in Congress that wilderness designation had no effect on water rights. As a result, the most eminent water authorities in Colorado requested that I include a provision in my legislation to guard against an adverse court decision. At the time this possibility seemed remote, but at their urging, I included a provision in my 1984 bill which clearly denied the creation of any new Federal water right, either express or implied, by virtue of wilderness designation.

In November 1985, the worst fears of Colorado's water leaders were realized when Judge John L. Kane handed down a decision in *Sierra Club v. Block*, 615 F.Supp. 44 (1984) which essentially supported the Sierra Club's position and ordered the Federal agencies to assert Federal water claims. Judge Kane augmented the decision with two others, *Sierra Club v. Block*, 622 F.Supp. 484 (1985), and *Sierra Club v. Lyng*, 661 F.Supp. 1490 (1987). These decisions are at odds with the legislative history of wilderness designation. Moreover, a court of equal jurisdiction in New Mexico has concluded the opposite. [State of New Mexico v. *Molybdenum Corp. of America*, CV9780C (D.N.M.) Report of Special Master filed March 27, 1987, Report of Special Master affirmed by the court February 2, 1988, motion for reconsideration denied June 2, 1988.] The Kane decision is being strongly challenged by the Department of Agriculture acting on behalf of the Federal Government and is now under appeal in the 10th Circuit Court of Appeals. The State of Colorado and the Colorado Water Congress are among the intervenors supporting the appeal.

The water issues raised by the Sierra Club suit and the Kane decision have stalled wilderness designation in Colorado since 1985. The congressional delegation has made several attempts to break the impasse and has demonstrated by negotiations that agreement could be reached on all issues except water.

In 1987, Senator WIRTH and I created a negotiating team of 16 outstanding Colorado leaders to explore all possibilities for compromise of the water issue. The group included: Harold Miskel of the Colorado Water Congress, Denver Water Providers, Metro Denver Water Authority, Southeastern Water Conservation District and the Cities of Pueblo, Colorado Springs, and Aurora; William H. Miller of the Denver Water Board; Sam Maynes of the Southwestern and Rio Grande Water Conservation Districts; William McDonald of the Colorado Water Conservation Board; Keith Propst of the Colorado Farm Bureau; Rollie Fischer of the Colorado River Water Conservation District; Carl Trick of the Colorado Cattlemen's Association; Greg Hobbs of the Northern Colorado Water Conservation District and lead attorney for the appeal of the Kane decision; Maggie Fox of the Sierra Club; David Getches of the University of Colorado Law School; Francis Green of the Holy Cross Wilderness Defense Fund; Darrell Knuffke of the Wilderness Society; Chris Meyer of the National Wildlife Federation and the Natural Resources Clinic; Glenn Porzak of the Colorado Mountain Club; Lori Potter of the Sierra Club Legal Defense Fund; and Charles B. White, Denver attorney.

It was our hope and intention to develop legislation we could jointly introduce and pass. The water negotiating group has worked diligently for 2 years but has not yet been able to resolve the issue. On July 18, 1989, Senator WIRTH decided to move independently and introduce his own legislation, declaring, "Negotiations have gone as far as they can go, it's deadlocked." Colorado's leading water attorneys have closely analyzed the water language in the Wirth bill and have determined that it clearly endangers our State's water system and, at the same time, undermines Colorado's appeal of the Kane decision. As a result, a large number of major organizations and governmental entities have entered the debate with resolutions expressing the critical need to protect Colorado's water rights system.

Those who do not understand how water issues could snag wilderness designation simply do not understand the West. In the Western States, there is no issue more fundamental and far-reaching than water. In arid States, with annual rainfall of 12 inches or less, life is literally dependent on water development. From earliest settlement, we have been haunted by the twin spectres of flood and drought. Our ancestors experienced the heartbreak of spring floods washing away their homes followed by withering crops as the last of mountain snows melted and streams dried up. Because farsighted leaders developed extensive water management systems keyed to dams and reservoirs for storage of the limited water supply, most modern inhabitants of the West have been spared the worst ravages of flood and drought.

Fundamental to this essential water development has been the evolution of a legal framework to encourage beneficial water development and protect the water rights of those who successfully carried it out. Colorado has pioneered a system of water law over the last century under which all claims are adjudicated in State water courts. Each claim is quantified and given priority standing in relation to other claims based on the date the water was actually put to beneficial use. Supremacy of Western State water law is a critical issue because there are no property rights more important than western water rights. Virtually all property values, jobs and economic activity, including recreation, are hinged upon water rights, as is the future of one of the fastest growing regions in the Nation. To superimpose new Federal water rights on these State water systems would create legal and economic chaos with extremely damaging results.

The issue is not whether we should create wilderness areas to protect wil-

derness values. We should. The issue is how to create wilderness without permanently disrupting State water systems and destroying private water rights.

An additional difficulty is that a wilderness water right would be a new kind of right, completely foreign to western water systems. It would give Federal agencies the right and obligation to maintain streams in wilderness areas in their "natural condition" requiring historic flow patterns. Once established, the Federal Government would have the legal basis for stopping any development of any kind which would alter natural flows within a wilderness.

The West has been built on the foundation of stabilization of stream flows by storing flood water and releasing it back to streams when needed. But, if the right to maintain "natural stream flows" is achieved by the Federal Government, any needed development or change in a stream which altered flow characteristics, would be blocked. The West cannot cede its ability to meet future needs to the Federal Government by granting it the power to throttle all future changes in water management.

Establishment of new Federal water rights for wilderness purposes could also endanger the interstate water compacts. These pivotal agreements divide the water between the States in every major watershed; and each one required decades of negotiation. In the aftermath of the Kane decision we must guard against any possibility of the Federal Government's using wilderness rights to demand water flows across our State lines above and beyond compact requirements. This issue is particularly critical to Colorado where we have six major rivers flowing out of the State. Colorado still has unused entitlements to water under the compacts which would be vulnerable to demands to maintain "natural flows" in downstream wilderness areas in other States. The compacts guarantee our right to use our share of water arising in our State against the claims of large and politically powerful downstream States. Even so, these agreements also serve a highly beneficial environmental purpose by guaranteeing substantial stream flows from one State to another to meet the compact obligations.

I have decided to proceed with introduction of this bill to demonstrate how the water issue can logically be solved to balance the interests of all concerned. The water language in this legislation is the result of over 5 years of dialog and debate with the leading water experts in our State and throughout the West. It does not superimpose Federal water rights on the State water system, it requires the Federal Government to acquire water rights for wilderness purposes through

Colorado's existing in-stream flow law. This visionary system is now a well-established means for protecting essential minimum flows within Colorado without disrupting or destroying the water rights of others. Over 7,000 miles of Colorado streams are now guaranteed basic minimum flow as a result of this system.

Most of the areas designated by this legislation encompass headwaters of streams where wilderness will have limited direct impact on water rights. However, action by Congress on this legislation will send a powerful signal to the courts on creation or denial of Federal wilderness water rights and establish a precedent for future designations.

The BLM lands, now under study for wilderness, are generally at lower elevations. These proposed wilderness areas span rivers and streams with literally thousands of adjudicated water rights utilizing a vast system of irrigation ditches, storage dams, municipal water supplies and hydro-generation plants above them. It would be grossly irresponsible to proceed with this legislation without thoroughly understanding the devastating consequences of establishing Federal wilderness water rights.

It is not only fair, but absolutely essential, for the Federal Government to continue to play by the same rules as all other entities competing for scarce water supplies. The bill's water provisions will protect Colorado's water rights system, preserve our options to develop Colorado's allotment of water under the interstate compacts, and utilize a proven method for assuring reasonable stream flows in wilderness areas. All of these requirements must be met before we can proceed with wilderness designation. This legislation meets them.

#### BALANCING THE USES OF PUBLIC LAND

The bill is also the culmination of years of information gathering and debate on wide range of other issues involved in wilderness designation. We in Colorado are now in a position to proceed with confidence that we are extending our wilderness system to the utmost within the framework of protecting Colorado's water system, safeguarding private property rights and balancing all of the interests involved in the use of our public lands.

Public land belongs to everyone and is not the province of the few, either to lock away or exploit. This bill is an honest effort to balance the goal of preserving major tracts of land in their natural state with an increasing demand for outdoor recreational benefits offered by the public lands. It is also a conscientious effort to balance public demands with the protection of private property and with established rights to economic uses of public land.

Because public-use policies of Federal land have such long-term funda-

mental effects, we cannot afford to go to extremes. Wilderness is a form of nonmanagement—a conscious decision to leave an area to the ravages of nature and to preclude any and all activities which could leave the imprint of man's presence. Thus, all designation of wilderness must be in the context of the effect on surrounding areas and the interests of the public at large.

While it is vital to preserve major tracts of land in a natural state, we need not designate all public land as wilderness to protect it. Outdoor recreational uses are managed in an enlightened way to give millions of Americans great pleasure from the public lands. Activities such as cross-country skiing, snowmobiling, hunting and fishing, camping, hiking, canoeing, and various forms of motorized recreation can be carefully managed to protect the basic land resource in perpetuity.

With over one-third of Colorado owned by the Federal Government, the economic well-being of a large number of our people is directly dependent upon continued multiple-use of public lands—whether for water storage, commercial recreation, grazing, timbering, or energy. Scientific harvest of renewable resources on non-wilderness public lands can, if carefully carried out, improve the natural environment while providing essential products to our people.

But, we will never again allow economic uses to despoil the public lands. The new environmental ethic, now widely accepted, is reinforced by Federal, State, and local laws to ensure environmental protection of our public lands. Consequently, most private businesses recognize the imperative of carrying out economic uses of public resources in a manner designed to protect and enhance the environment.

#### WILDERNESS DESIGNATION

The 14 areas proposed for wilderness designation are all worthy additions to Colorado's wilderness system. All meet the wilderness standards outlined in the National Wilderness System Act of 1964 which require the areas to be "with the imprint of man's work substantially unnoticeable," to "have outstanding opportunities for solitude," and "of sufficient size as to make practicable its preservation and use in an unimpaired condition."

These new areas are located in Colorado's beautiful high country and will offer outstanding opportunities for wilderness experience. The largest and most spectacular addition is the 20,000 acre area encompassing the Sangre de Cristo range and includes several 14,000 foot peaks popular with mountain climbers. One downstream area, the Piedra, is included, but the water rights that exist upstream from the wilderness are protected by the care-

fully crafted water language. Taken as a whole, the new additions will round out a system with wilderness areas well distributed throughout Colorado's mountainous areas.

The boundaries of each proposed area have been drawn after an extensive effort to understand and resolve the many conflicts created by wilderness designation. Experience has demonstrated the folly of encompassing significant conflicts in wilderness areas. Such action leaves an aftermath of thorny problems which are expensive and laborious—and sometimes impossible—to solve. Congress has never appropriated sufficient funds to buy preexisting inholdings and private rights in wilderness areas and the exchange process has very slow and laborious. Too often, private property owners face the quandary of enduring preemption of rights by the Government or undertaking costly legal re-dress.

There are a number of difficult problems created by inholdings in existing wilderness. It is far better to avoid as many of these conflicts as reasonably possible at the time of the designation than to spend scarce Federal resources in dealing with endless administrative problems and lengthy litigation.

This bill would also direct the Forest Service to make an immediate study of the problem of conflicts within existing wilderness areas in Colorado, including private inholdings, rights of way, and other valid private rights. The Forest Service would be directed to report back to Congress within 1 year of the enactment of this bill on the extent of the problems and costs now incurred by the agency in dealing with them. Further, the Forest Service would be required to develop a proposed program and budget to resolve these existing conflicts within a reasonable timeframe and with adequate protection for the rights of those involved.

#### NATIONAL RECREATION AREAS

This legislation also creates four national recreation areas, comprised of five of the study areas, none of which can objectively qualify as wilderness. National recreation areas have been created through the years for the preservation and enhancement of recreational opportunities on public lands. It is another level of management which has been used primarily in the past as a means of expanding recreational opportunities in and around major Federal water projects. There is no basic organic national recreation area law comparable to the National Wilderness Act. Each area carries its own definition tailored to the specific resources involved.

I am proposing to use this established designation for the furtherance of outstanding backcountry recreational opportunities in Colorado and

the protection of the natural environment. The legislation outlines general management guidelines for these areas while preserving essential latitude for the Forest Service to prescribe the most appropriate uses for each individual area.

This designation has the advantage of allowing recreational uses and facilities not allowed in wilderness areas and accommodating preexisting uses which are not compatible with wilderness designation. The management of these areas would differ from multiple-use management in that the priority objective is the creation and enhancement of back-country recreational opportunities. Other uses are permitted if compatible with the purposes of the designation. It also provides that active management techniques be used to provide and enhance the recreational opportunities of the areas.

The public land use increasing most rapidly is outdoor recreation. Much of the demand is keyed to a wide variety of off-highway vehicles which enable a broad spectrum of people a chance to experience the back country. Creation of national recreation areas to meet this demand will provide an outlet within a well-managed context and help protect our fragile high-country from unauthorized off-road travel. It also provides a way to give areas like the magnificent Spanish Peaks a protective status which is compatible with extensive inholdings and establish a national designation which many of the local citizens seek as a way to promote their local area.

There are large numbers of people in our society who have to rely on motorized access. Our country's demographics are changing, particularly by dramatic increases in life expectancy. The way we utilize our public lands must change to meet the outdoor recreational needs of increasing numbers of older people. Likewise, we need to become more sensitive to the needs of handicapped citizens by extending their opportunities for back-country experiences. These needs can be met if we maintain sufficient motorized and mechanized access.

We also must respond to the changing needs of American families. It is important to provide practical opportunities for back-country recreation to families that must juggle leave time of working members. Families in this situation often have to schedule short vacations which preclude taking the time required for hiking long distances into the back country. Families with children also have special access needs which should not be overlooked.

Utah's Canyonlands National Park is an example where a unique back-country experience is provided, through all-wheel-drive motorized access, to thousands of Americans who would otherwise be unable to see any significant part of this spectacular area. At

the same time, a powerful use ethic has evolved by visitors who zealously respect the admonition to use only designated trails. This approach enables Americans of all ages and circumstances to enjoy unique natural areas and still preserve and protect the natural environment.

#### THE WILDERNESS DEBATE

It is to everyone's benefit to achieve a reasonable balance between competing public interests in designating wilderness and nonwilderness lands. Many of the issues are controversial with valid points of view on both sides. The protection of our environment and the wisest use of public land are crucial issues and merit the most rigorous adherence to truth and the assembly of the most factual and scientific data available.

It is incumbent upon all who participate in this process to do their part to preserve the integrity of the debate. That is why have devoted so much time to trying to find the basis for a broad consensus and have insisted on gathering as much factual information as possible before finally drafting and introducing this legislation.

I invite all Coloradans to review this legislation with a view to the long-term future of our great State and a fair and reasonable balancing of the important values involved. Our children, grandchildren, and all generations to come will be the beneficiaries of our efforts to protect their increasingly precious natural heritage of wild and scenic lands. It is equally important for us to protect a proud heritage of civil debate, preservation of individual rights, protection of private property and a healthy economic climate in which to grow and prosper. All of these fundamental values are essential to the survival of a great nation committed to the ideals of democracy and freedom.

I ask unanimous consent to include in the CONGRESSIONAL RECORD a section-by-section description of this legislation, and an area-by-area summary of the areas proposed for designation.

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

#### SECTION-BY-SECTION DESCRIPTION

##### TITLE I—ADDITIONS TO THE WILDERNESS PRESERVATION SYSTEM

Sec. 101. Designation of Wilderness Areas—adds fourteen new wilderness areas to Colorado, adding 471,875 acres to the Wilderness Preservation System.

Name of study area	Acres studied	Proposed acres	Name of wilderness area
American Flats.....	4,710	1,200	Addition—Big Blue.
Buffalo Peaks.....	56,950	29,400	Buffalo Peaks.
Cannibal Plateau/ Powderhorn.....	72,470	62,300	Powderhorn.
Davis Peak.....	8,100	9,800	Addition—Mt. Zirkel.
Gremm Mountain.....	22,300	22,000	Gremm Mountain.
Lod Creek.....	23,000	7,000	Lod Creek.
Piedra.....	41,500	41,500	Piedra.
Sangre de Cristo.....	227,742	195,100	Sangre de Cristo.
Service Creek.....	39,850	33,500	Service Creek.

Name of study area	Acres studied	Proposed acres	Name of wilderness area
South San Juan/V Rock/ Montezuma Peak.	32,800	10,800	Addition—South San Juan.
Spruce Creek .....	8,000	8,000	Addition—Hunter-Fryingpan.
Vasquez .....	12,800	11,300	Vasquez Peak.
Weminuche Additions.....	33,660	28,744	Addition—Weminuche, and West Needle.
Wheeler Geologic .....	11,390	15,900	Wheeler Geologic.

Sec. 102. Grazing—reaffirms the allowance of continued grazing within wilderness areas in accordance with the Wilderness Act of 1964 and the Colorado Wilderness Act of 1980.

Sec. 103. State Jurisdiction—protects the State of Colorado's jurisdiction and responsibility with respect to fish and wildlife within national forests in Colorado.

Sec. 104. Administration of Wilderness—directs the Secretary to administer the newly created areas in accordance with the Wilderness Act and this Act.

Sec. 105. Hunter-Fryingpan—deletes the provision of law which created the Spruce Creek Wilderness Study Area, since that area is designated as wilderness by this Act.

Sec. 106. Colorado Wilderness Act Amendments—deletes the provision of law which created the wilderness study and further planning areas in Colorado since those areas are designated as wilderness or national recreation areas, or are released for multiple-use by this Act.

Sec. 107. BLM Wilderness Study Areas—deletes the provision of law which created those BLM Wilderness Study Areas contiguous to Forest Service Study areas which are designated as wilderness or national recreation areas, or are released for multiple-use by this Act.

#### TITLE II—NATIONAL RECREATION AREAS

Sec. 201. Findings—establishes the legislative foundation for designation of national recreation areas.

Sec. 202. Establishment of National Recreation Areas—designates four National Recreation Areas totaling 122,300 acres.

Name of study area	Acres studied	Proposed acres	Name of recreation area
Fossil Ridge .....	47,400	43,300	Fossil Ridge
Oh! Be Joyful .....	5,500	5,500	Oh! Be Joyful
Spanish Peaks .....	19,570	18,400	Spanish Peaks
St. Louis Peak .....	12,800	( <sup>1</sup> )	St. Louis Peak
Williams Fork .....	53,888	55,100	Williams Fork.

<sup>1</sup> St. Louis Peak and Williams Fork are combined, creating one area.

Sec. 203. Mission—sets forth the goals and objectives of national recreation area designation. Provides for active management and enhancement of recreation opportunities.

#### Sec. 204. Administration—

(a) Requires the Secretary of Agriculture to manage the national recreation areas, subject to valid existing rights, to provide for a variety of recreational opportunities, to conserve scenic and historic values, and to utilize natural resources where appropriate.

(b) Authorizes the Secretary to use modern equipment for management purposes as administratively necessary.

Sec. 205. Protection of Existing Rights—ensures protection of existing rights in areas designated as national recreation areas.

#### TITLE III—WATER

##### Sec. 301. Water—

(a) Reservation of water rights—to protect the water law of the State of Colorado, this section denies any new federal water right,

express or implied, for areas designated wilderness or national recreation by this Act, or any previous wilderness act.

(b) United States water rights—to protect the integrity of the areas designated wilderness or national recreation by this Act within the framework of Colorado State law, this section allows the Secretary of Agriculture or the Secretary of the Interior to recommend to the Colorado Water Conservation Board, pursuant to the Colorado instream water flow statutes, the quantity of instream flow rights necessary for management of the designated area.

(c) Reaffirmation of previous acts—refirms previous federal legislation protecting water rights.

(d) Reasonable access—authorizes reasonable access to water rights and facilities.

#### TITLE IV—ADMINISTRATIVE PROVISIONS

##### Sec. 401. Maps—

(a) Filing—requires the Secretary of Agriculture and the Secretary of the Interior to file maps for each area designated wilderness or a national recreation area by this Act with the Committee of Energy and Natural Resources of the United States Senate, and the Committee on Interior and Insular Affairs of the House of Representatives.

(b) Public Inspection—requires the Chief of the Forest Service, and the Director of the Bureau of Land Management to make maps available for public inspection.

##### Sec. 402. Land Outside Wilderness Areas—

(a) Effect of designation—ensures that designation by this Act does not create or imply buffer or protective zones around wilderness or national recreation areas.

(b) Activities outside area—ensures that activities outside wilderness and national recreation areas are not precluded simply because they can be seen or heard from within the area.

Sec. 403. Mineral—requires the Secretary of Interior to continue to make assessment, using environmentally compatible methods, of the mineral potential in wilderness areas in Colorado.

Sec. 404. Access to Valid Existing Rights—reaffirms the allowance of reasonable access, including motorized and mechanized access to valid existing rights within wilderness and national recreation areas.

##### Sec. 405. Release Language—

(a) Findings—recognizes the extensive investigation completed by the Department of Agriculture, the Department of the Interior and the United States Congress concerning the suitability of forest lands in Colorado for designation into the Wilderness Preservation System.

(b) Determination and direction—directs that those forest service lands not designated wilderness by this Act shall be considered adequately studied for wilderness suitability, shall be released for multiple-use management, and shall no longer be managed to protect their suitability for inclusion in the Wilderness Preservation System. Prohibits further statewide wilderness studies on forest service lands in Colorado unless expressly authorized by Congress.

#### TITLE V—STUDY OF CURRENT MANAGEMENT OF WILDERNESS IN COLORADO

Requires the Secretary of Agriculture to report to Congress on the current management problems associated with the inclusion of valid existing rights in wilderness areas in Colorado.

#### AREA-BY-AREA DESCRIPTIONS—THE COLORADO HERITAGE PRESERVATION ACT

This information was compiled by the staff of Senator William L. Armstrong from the following sources; the United States Forest Service, the United States Bureau of Land Management, the Environmental Impact Statements pertaining to Wilderness and Further Study Areas in Colorado, the United States Bureau of Mines, the United States Geological Survey, and citizens of the State of Colorado.

##### AMERICAN FLATS/BILL HARE GULCH/LARSON CREEK

Acreage: 4,710 acres in the Bureau of Land Management Wilderness Study Areas.

Designation Recommendations:

BLM—1,505 (tentative).

Armstrong—1,200.

Wirth—3,900.

Forest: Grand Mesa-Uncompahgre and Gunnison.

County: Ouray/Hinsdale.

Ouray land area sq. miles—542.

Public land percent of total—46.

FS/BLM land percent—37/9.

Hinsdale land area sq. miles—1,115.

Public land percent of total—95.

FS/BLM land percent—78/17.

Location: In the southwestern part of the state, these three areas are contiguous with the 97,700 acre Big Blue Wilderness Area administered by the Forest Service. They are east of the town of Ouray.

Recommendation: The 1,505 acres of the American Flats area considered acceptable by the BLM are proposed for wilderness designation with slight modification. This addition would round out a logical boundary for the Big Blue Wilderness without impacts on areas of most concern to local residents. Bill Hare Gulch and Larson Creek are not recommended for designation.

General features: Most of these WSAs are above timberline. Forest cover occurs on 178 acres and elevations range from 11,000 to 13,000 feet.

Special features: These areas would be small additions to the Big Blue Wilderness and administered by the Bureau of Land Management.

Legislative history: The BLM's wilderness program is a result of the Federal Land Policy and Management Act (FLPMA) of 1976. These areas were identified by the BLM as wilderness study areas, and BLM tentatively recommended 1,505 acres as suitable.

Relation to other wilderness: These areas are adjacent to the Big Blue Wilderness. They are near the Mt. Sneffels, Lizard Head, Weminuche and La Garita Wilderness Areas, and the proposed Cannibal Plateau Study Area.

Vegetation: Much of these WSAs are above timberline. Forest cover occurs on 178 acres and is mainly Engelmann spruce.

Wildlife: Many deer, elk and bear are located in the area and some hunting occurs.

Threatened and Endangered Species: None has been identified.

Conflicts: The local communities are very concerned about expansions of the Big Blue Wilderness because of the substantial impact it will have on development of their tourist industry. Motorized recreation trails which currently exist are considered essential to the stability of these economies. The Engineer Pass road is used as access to the current wilderness by hikers, hunters, and campers. Several mining claims exist, and mineral exploration is ongoing. The Bill Hare Gulch and Larson Creek areas would

add little to the quality of the existing Big Blue Wilderness, but if designated would detract substantially from local tourism.

**Water:** Stream drainages include the North Fork of Henson Creek and other tributaries to Henson Creek plus the headwaters of Cow Creek, which is a tributary to the Uncompahgre River. All streams are a part of the Gunnison River drainage system.

**Minerals:** American Flats is located in the Uncompahgre Caldera complex adjacent to the Eureka graben, where many mining operations contributed to the production of precious and base metals in the late 1800s and early 1900s. In areas immediately adjacent to the WSA, exploration is occurring on both public and private land. There are 40 unpatented mining claims on file with the BLM in the Dolly Varden Mountain, North Fork of Henson Creek and Sunshine Mountain areas. In adjacent areas similar to these, mining has occurred in the past. In addition to precious and base metals potential, geochemical and geophysical analyses indicate the Dolly Varden Mountain areas have potential for economic concentrations of uranium.

**Leases:** No leases exist.

**Claims:** The area directly south of the American Flats area includes 5 unpatented mining claims.

**Timber:** Most of these areas are above timberline. Forest cover occurs on 178 acres and is mainly Engelmenn spruce. Of this, 83 acres is withdrawn from timbering, leaving 95 acres which contain 855 thousand board feet with a potential sustained yield volume of 8 million board feet per year.

**Grazing:** Two grazing allotments are located partly in the American Flats area for a total of 353 animal unit months. The area is grazed by sheep from early July to October 1.

**Recreation:** Many visit the areas to hunt deer, elk and bear. Several groups regularly use the American Flats area during the summer season; for example, the Colorado Outward Bound School has projected a yearly use figure of 1,248 recreations user days. Vehicle travel and viewing of scenery are the recreational activities that receive the greatest use around the periphery of the WSA.

#### BUFFALO PEAKS

**Acreage:** 56,900 acres in the Wilderness Study Area

##### Designation Recommendations:

Forest Service—36,000

Armstrong—29,400

Wirth—58,160

Forest: San Isabel

Country: Chaffee, Lake and Park

Chaffee County land area sq. miles—1,008.

Public land percent of total—79.

Forest Service land percent—71.

Lake County land area sq. miles—379.

Public land percent of total—75.

Forest Service land percent—68.

Park County land area sq. miles—2,192.

Public land percent of total—51.

Forest Service land percent—47.

**Location:** In the center of the state, on the Continental Divide about 80 miles southwest of Denver and 10 miles southeast of Leadville. Elevations range from between 9,200 and 13,236 feet.

**Recommendation:** The proposed boundary generally follows the Forest Service recommendation with a few modifications to avoid existing mining claims, water developments, private property and a Forest Service repeater station. The area is also expanded on the north and east sides to achieve a more

manageable boundary while avoiding infringement of private rights and mineral interests. The southern boundary also excludes a portion of the study area south of West Buffalo Peak which contains a large number of mining claims. The proposed southwestern boundary also excludes a small portion of the study area to avoid conflict with the Homestake pipeline, proposed tunnel and a large number of mining claims. Extending the wilderness boundary to include the large number of mining claims, inholdings and the need for wildlife habitat management for big horn sheep and elk.

**General Features:** The WSA contains heavily timbered mountain slopes as well as alpine tundra. It is located along the northwest-southeast-trending Mosquito Range between the Arkansas and the South Platte Rivers. The Buffalo Peaks are two highly eroded volcanic intrusions of lava and ash that have partially buried the Mosquito Range formation.

**Special Features:** The dominant features are the East and West Buffalo Peaks with elevations of 13,300 and 13,326, and the popular Buffalo Meadows.

**Legislative History:** Buffalo Peaks was recommended to Congress as suitable for Wilderness in 1979 as part of RARE II. It was designated a WSA by the 1980 Wilderness Act. The Forest Service determined that 36,960 acres were suitable for designation.

**Relation to other Wilderness:** There are over 2 million acres of wilderness within 150 miles of the area. The Collegiate Peaks Wilderness is 5 miles to the southwest, the Holy Cross is 15 miles to the northwest, the Mount Evans is 10 miles to the west, and the Mount Massive and Holy Cross Wilderness areas are also close by.

**Vegetation:** Aspen, Engelmenn spruce, subalpine fir, ponderosa pine, Douglas fir, and lodgepole pine are present. Bristlecone pine and subalpine grasses and sedges, mountain meadows, and alpine tundra characterize the higher elevations.

**Wildlife:** Wildlife species which commonly occur are bighorn sheep, elk, mule deer, pine marten, northern three-toed wood pecker, many songbirds and raptors. Important lambing areas for bighorn sheep, calving areas for elk and fawning sites for deer have been identified. In both the northern and southern ends of the WSA habitat management activities must be maintained to sustain the present elk and bighorn sheep herds. These activities would be precluded with wilderness designation.

**Fishing:** Cutthroat and rainbow trout are common in the area.

**Threatened and Endangered Species:** There are no species identified.

**Conflicts:** Several parts of the study area have existing mining claims. The Forest Service has indicated that over 140 claims exist. Parcels of private land and a radio tower on South Peak are excluded from the proposed wilderness designation. The southern portion of the study area is not recommended for designation because of a proposal by Colorado Springs for a tunnel for water development. The area south of the study area is essential habitat for bighorn sheep which must be managed if the bighorn sheep are to be fully protected. Because habitat management is needed to maintain the present population of elk and deer, the areas southeast of the study area are not included in the wilderness. This area also contributes to local firewood needs.

**Water:** Parts of six watersheds occur within this WSA, four of which are tributar-

ies to the Arkansas River and two of which are tributaries to the South Platte River. There are no existing water diversions. Current water yield is estimated to be about 33,000 acre feet per year, with a potential to increase the yield by 1,500 acre feet with treatments in spruce fir and in lodgepole pine stands above 9,000. The water is highly valued for agriculture and domestic use. In the southern part of the area, the boundary is drawn to avoid a pipeline and allow for maintenance and emergency repair.

**Minerals:** Several mining districts surround the WSA including Granite on the west, Weston Pass on the northeast and Fourmile on the south. Silver, gold and lead continue to be mined in the Granite District. Silver, lead and zinc ores occur as replacement deposits in Leadville limestones in the Weston Pass Mining district. The Ruby Mine in this district contained disseminated galena and some sphalerite along with cerussite, calamine and smithsonite. There is high potential for leasable minerals in the southern part of the area. Recently, claims have been staked on the north end. About 54 percent of the area is estimated as high or moderate potential for locatable minerals, while about 10 percent has a high or moderate potential for leasable minerals. The Bureau of Mines reports development of uranium resources and silver and base metal resources will be forgone if the eastern side of the WSA is designated wilderness.

**Leases:** None has been identified.

**Claims:** The Forest Service indicates 140 mining claims exist in or close to the study area. These occur in the southern, northern and eastern sides of the area. Many of these private rights have been avoided with minor boundary adjustments.

**Timber:** Timberline occurs at about 11,800 feet with alpine vegetation, rock outcrops, and talus slopes above this elevation. Vegetation below timberline is generally Engelmenn spruce on the north slopes with Douglas fir on the south slopes. Other trees include aspen, subalpine fir, ponderosa pine and lodgepole pine. Much of the timber is mature or approaching maturity. Approximately 63 percent of the area is capable of producing regulated timber products. Early logging occurred in the late 1800's or early 1900's for railroad ties, mine props, house logs, and bridge timbers. Because of this and a wildfire, the Forest Service considers this area presently understocked in seedlings, saplings and pole-sized stands. The western and southern ends of the WSA can contribute significantly to local firewood demands.

**Grazing:** The area contains parts of seven livestock allotments having a permitted use of 948 animal unit months per year. Range improvements include a few drift fences.

**Recreation:** The southern part of the area is very popular with jeepers. Day hikes are also popular with people from Colorado Springs. Some residents have expressed concern about overuse if this area is designated wilderness. If wise boundaries are established the Forest Service can develop trailheads to provide toilet facilities and garbage cans, as well as appropriate information on low-impact camping. All of this can help mitigate the impact of extensive use on the area.

**Other:** The sights and sounds of the highway and railroad development along the Arkansas River significantly diminish the wilderness characteristics on the west end of the WSA and the boundary is drawn to avoid this.

**CANNIBAL PLATEAU/POWDERHORN PRIMITIVE**

Acreage: 72,470 total acres in study status; 31,990 acres Cannibal Plateau Study Area; 40,480 acres Powderhorn Primitive Area.  
 Designation Recommendations:  
 FS/BLM—56,911.  
 Armstrong—62,300.  
 Wirth—69,940.  
 Forest: Gunnison.  
 County: Hinsdale.  
 Land Area sq. miles—1,115.  
 Public land percent of total—95.  
 FS/BLM land percent—95.

**Location:** In the south central portion of the state, approximately 25 miles southwest of Gunnison, about 3 air miles east of Lake City and 160 air miles southwest of Denver.

**Recommendation:** A substantial portion of the study area is recommended for wilderness designation. The proposed wilderness area boundaries modify the study area to protect water rights along the southwestern edge of the area. The southwestern boundary is drawn to avoid several oil and gas leases and the heavily used snowmobile trail which is under permit to Lake City Snowmobile Club.

**General features:** The topography is rolling and flat plateaus reaching elevations of 12,500 feet and separated by steep rugged canyons. About one-half of the area is above timberline.

**Special features:** The two principal land forms, Cannibal Plateau and Calf Plateau, are recognized as having some of the largest expanses of alpine willow ecosystem in the continental United States. The area was named for Colorado's most famous cannibal, Alferd Packer.

**Legislative history:** The area was studied in RARE II and was recommended as a further planning area (FPA) in the final RARE II EIS. The Colorado Wilderness Act retained its designation as an FPA. The Forest Service recommended 13,599 acres of the area suitable for designation as wilderness, and the BLM recommended 43,311 acres suitable.

**Relation to other wilderness:** There are 904,700 wilderness acres within 50 miles; 1,699,000 wilderness acres within 100 miles, and 1,830,809 wilderness acres within 150 miles of the Cannibal Plateau Further Planning Area. The nearest areas are La Garita two miles east, and the Big Blue five miles west.

**Vegetation:** Vegetation at the lower elevation is characterized by grassy parks surrounded by aspen and Engelmann spruce tree stands. Above timberline, the alpine tundra is interspersed with large areas of willow.

**Wildlife:** Large grassy parks and willow fields on Cannibal Plateau, Calf Creek Plateau, and Mesa Seco are valuable elk summer range. Some winter range occurs along Cebolla Creek.

**Fishing:** Deer Creek, Brush Creek and North Fork of Mill Creek have excellent fisheries principally stocked with brown, brook and cutthroat trout. Fishing pressure is light.

**Threatened and endangered species:** None has been identified.

**Conflicts:** Many recreational users are concerned about the designation of the Mesa Seco area because of historic snowmobiling and other motorized recreational uses, and the important economic impacts these activities have on the surrounding communities. Local recreation-based economic development could be hampered in the communities if they are unable to develop these unique recreation opportunities.

This issue is particularly important to counties like Hinsdale where the local tax base is severely limited by the extensive federal land holdings. Motorized access to manage grazing permits would be prohibited. A wind-driven mechanism currently used to introduce oxygen into Devils Lake to reduce fish kill would be precluded by the designation. Oil and gas leases located in the Mesa Seco region have been avoided by the proposed boundary.

**Water:** Two adjudicated water rights have been identified in the southeastern part of the area. Most of the area lies at the headwaters of Cebolla Creek, with a small portion of drainage into the Lake Fork of the Gunnison River. The area produces an estimated 42,000 acre feet of water annually. The potential for water development is low.

**Minerals:** Offsite mineral intrusions are evident. However, most of the Plateau has a very low potential for locatable minerals and an extremely low potential for oil and gas. The southwest portion of the FPA could contain locatable minerals and the north portion of Slumgullion Earthflow has geologic evidence for potential minerals, however Slumgullion is withdrawn from mineral entry as a National Natural Landmark. The Bureau of Mines reports the south rim near Slumgullion has high potential for molybdenum and precious metals.

**Leases:** 2 oil and gas leases are located in the Mesa Seco region.

**Claims:** 2 unpatented mining claims have been identified.

**Timber:** The area contains 17,410 forested acres containing Engelmann spruce, subalpine fir and aspen. The area contains an estimated 175 million board feet of old sawtimber.

**Grazing:** There are 3 stock ponds, some small scattered dams, and .65 miles of fence used for grazing purposes. The FPA contains 2 cattle and horse allotments and 2 sheep and goat allotments. Current grazing use is 4,716 animal unit months on 10,705 acres of suitable summer pasture.

**Recreation:** The southern part of the area (Mesa Seco) is a popular snowmobile area with loop trails. The area also contains about 20 miles of trail of which 8 are open to motorized vehicles and mountain bikes. The Lake City Snowmobile Club currently uses the area under a special-use permit.

**Other:** Existing recreational use and the economic benefits communities derive from recreation can continue without detracting from the natural beauty. The proposed boundary reflects the careful balancing of all these important needs.

**DAVIS PEAK**

Acreage: 8,100 acres in the Wilderness Study Area.

Designation recommendations:

Forest Service—8,100.

Armstrong—9,800.

Wirth—36,000.

Forest: Routt.

County: Jackson County.

Land area sq. miles—1,614.

Public land percent of total—51.

Forest Service land percent—32.

**Location:** Approximately 33 miles northwest of Walden and adjacent to Mount Zirkel Wilderness.

**Recommendation:** The Forest Service recommendation is proposed for designation with an expansion to the eastern edge of the study area. This compromise would allow for protection of the area while ensuring the continuation of vegetation treatment and timber harvest programs that will improve watershed management, and will

not interfere with motorized recreation or timber management currently being carried on outside the study area. The expansion to the east beyond the study area has no known conflicts.

**General features:** This area is formed by rounded peaks and broad, deeply glaciated valleys. Elevations range from 8,600 to 10,900.

**Special Features:** Dinner Peak to South Hog Park Creek is one of the highest producing watersheds in the state.

**Legislative History:** The area was studied during RARE II and allocated to further planning by the 1980 Colorado Wilderness Act. The study area has been recommended as suitable for wilderness by the Forest Service. Forest Service lands outside the study area were released by Congress in 1980 for multiple use management, and have been managed accordingly by the Forest Service.

**Relation to other wilderness:** There are 3 other wilderness areas within a 50-mile radius of the area—totaling 223,480 acres. The proposed area is contiguous to the Mount Zirkel Wilderness.

**Vegetation:** The majority (72%) of the area is forested, mostly with spruce fir. There are dense stands of spruce, fir and larch, with small groups of aspen interspersed among the conifer. Much of the forested portion is very steep. The remaining area is grassland, most of which is meadowland located in drainage bottoms on the Main and West Forks of the Encampment River.

**Wildlife:** Big game species in the areas include black bear, mule deer, elk and a few bighorn sheep that drift into the area from Wyoming.

**Fishing:** Fishing opportunities are varied.

**Threatened and Endangered Species:** No species has been identified.

**Conflicts:** The Forest Service has identified 800 acres of mineral estate that is privately owned in and around the center of the study area. Expanding the wilderness into areas outside the study area leads to substantial and significant conflicts with mining claims, water rights, and planned and proposed timber harvests. Further, the Manzapares Lake area and areas to the south have well established and maintained motorized recreation trails which have not compromised the natural beauty of the terrain, but this recreation would be lost if the area is designated wilderness.

**Water:** This area averages about 11,000 acre feet annually, with excellent water quality. Most of the water from the area flows into the Encampment River, although a portion (25%) of the east side goes into the North Platte drainage. A Forest Service well supplies water to the Big Creek Campground near Big Creek Lakes. If that source is exhausted the United States will seek the right to drill upstream to guarantee a water supply to the campground. The boundary is drawn to avoid this conflict.

**Minerals:** About 5,000 acres (62%) of the area have moderate to high potential for locatable minerals. However, there has been little mining activity in the past. Three mining claims are located near Big Creek Falls.

**Leases:** No leases exist.

**Claims:** There are 3 unpatented mining claims just outside the southeastern portion of the study area.

**Timber:** About 5,830 acres (72%) is forested with predominantly spruce fir. Practically all is sawtimber size class, with an existing timber volume of 67.1 million board feet.

Expanding the wilderness area to land outside of the study area would have a negative impact on planned timber sales. The Forest Service indicates there are 20,018 acres of land that are tentatively suitable for timber harvest with a standing volume of 228.1 million board feet. Of that, 7,258 acres are considered "suitable" for timber harvest by the Forest Service. The South Fork drainage is managed to improve water yield. Vegetation treatment and timber harvesting have helped produce one of the highest volume watersheds in the state. The area is excluded from designation so management can continue.

**Grazing:** There has been little grazing activity except for recreation horses in the past several years. Grazing conditions are considered good.

**Recreation:** A variety of recreation opportunities occur in the area including camping, hunting, fishing, horseback riding, and hiking. There are about 8 miles of trails which are extensively used. Any expansion of the wilderness designation outside the study area to the west or south would eliminate substantial motorized recreation areas—recreation which helps local economies.

**Other:** The integrity of the wilderness concept could be compromised if the area is expanded substantially. Expanding the current Mount Zirkel wilderness to the edge of developed areas, roads and timber harvests would not provide for "wilderness experience". The area can be adequately protected by designation of a reasonable amount of wilderness, allowing the rest of the area to be properly managed for wise multiple use.

#### FOSSIL RIDGE

Acreage: 47,400 acres in the Wilderness Study Area.

##### Designation Recommendations:

Forest Service—unsuitable.

Armstrong—43,300\*.

Wirth—55,560.

\*Proposed National Recreation Area.

Forest: Gunnison.

County: Gunnison.

Land area sq. miles—3,328.

Public Land percent of total—78.

Forest Service Land percent—61.

**Location:** In the southwest corner of the State, 125 air miles from Denver, about 8 miles NE of Gunnison.

**Recommendation:** This area is unsuitable for wilderness, but is proposed to be designated a National Recreation Area. Given the high mineral potential and extensive motorized trail system, as well as the proximity of the area to other wilderness areas, this area should not be designated as wilderness. The Forest Service has documented over 40 mining claims, 182 acres of private land, and 9 adjudicated water rights in the proposed area. Further, the proposed Union Creek Reservoir Project may conflict with the northern and eastern boundaries of the area. Existing motorized recreation has a substantial beneficial impact on the local economies in the region. The National Park Service is currently studying the Paleozoic fossils in the sedimentary rock to determine if that area should be designated a National Natural Landmark. Wilderness designation would be difficult to administer and is not needed to protect the natural values of the area. Because adequate solitude must be provided to visitors to wilderness areas, the Forest Service believes they may have to resort to a limited permit system, allowing only a certain number of visitors into the area at any given time. Current management practices, coupled with those required

of a National Recreation Area will protect the area without compromising existing rights. A National Recreation Area designation would enable all of the study area to be given protective status, and allow optimum management of the extensive outdoor recreation uses. Trail development and maintenance will be facilitated to meet rising demands for a variety of recreational uses for all ages and groups.

**General features:** The area is characterized by steep V-shaped valleys below timberline and cirque basins with headwalls, serrated ridges, and sharp peaks and cliffs above timberline. Elevation varies from 9,000 to 13,200.

**Special features:** About 2,700 acres of the area is under study by the National Park Service for inclusion in the National Natural Landmarks Program. This designation, if justified, would adequately protect the Paleozoic fossils in the area.

**Legislative history:** The area was studied during RARE II and was recommended unsuitable. It was studied again after the 1980 Colorado Wilderness Act, and again found unsuitable for wilderness designation by the Forest Service.

**Relation to other wilderness:** There are several large wildernesses close to the WSA. 739,500 wilderness acres are within 50 miles, and 2,136,000 within 100 miles of the WSA. The Collegiate Peaks Wilderness is 12 miles to the north, the Maroon-Bells Snowmass Wilderness is 15 miles northwest, the West Elk Wilderness is 18 miles west and the La Garita Wilderness is 35 miles to the southwest.

**Vegetation:** Coniferous vegetation, primarily Engelmann spruce and lodgepole pine, cover 60% of the area. Aspen occurs in 10% of the area. The remainder of the area is mostly grassland and rock. Sedge and fescue are the most abundant other vegetation. The higher peaks consist almost entirely of surface rocks.

**Wildlife:** The area provides summer range for a small herd of mule deer and an estimated 80 to 100 elk. There is no winter range inside the WSA which is the main factor limiting deer and elk populations. The area may be historic range for bighorn sheep, but there is not a resident population there at this time. Bighorn sheep from the nearby Taylor Canyon occasionally move through the area. A herd of mountain goats occupies the Henry Mountain area year round.

**Fishing:** There are six lakes in the area. Fishing pressure is light except for Lamphier Lakes. None of the lakes can withstand heavy fishing pressure due to their small size, low temperatures and the periodic winter-kill problems. Aerial restocking of cutthroat is carried out about every two years. National Recreation Area status will allow this restocking to continue, but wilderness designation would not.

**Threatened and endangered species:** There are no known threatened or endangered species in the area. Although bald eagles occasionally fly over the area, typical bald eagle habitat does not occur.

**Conflicts:** Numerous conflicts exist in the area. Recreation is extensive in the area; it includes many retired persons using mechanized or motorized vehicles, who would be excluded by a wilderness designation. Recreation with motorized and mechanized vehicles has a beneficial impact on several small local businesses, and on the area's economy as a whole. 182 acres near Bush Creek is privately owned, and over 40 mining claims have been identified. The Bureau of Mines

has identified this area as one of high mineral potential. Concern with several agricultural grazing permits has been expressed. Watershed management to increase water yield through small timber harvests is a desirable option. The proposed Union Park Reservoir may be impacted.

**Water:** Although generally a headwaters area, Forest Service records show 6 adjudicated water rights exist. However, the Colorado River Water Conservancy District has documented 16 adjudicated water rights within the proposed area. The area is located on the watershed divide between the Taylor River and Gold Creek. Annual runoff is estimated to be 50,000 acre feet. Data indicate the water is of high quality, and the water yield can be increased by proper timber management. The proposed Union Park Reservoir may encroach on the area when the reservoir is at its highest level, and a parcel of private land within the area also has potential for water storage enhancement along Lottis Creek.

**Minerals:** The proposed wilderness partially encompasses three mining districts (Gold Brick, Cross Mountain, Tincup). The Quartz Creek Mining District is adjacent to the proposed boundary. There are no active mines in the WSA, but the area has substantial resource potential for gold, silver, copper, lead, zinc, molybdenum, uranium, thorium, rare earth elements and high calcium limestone. In the past, these districts produced primarily gold and silver, although lesser amounts of lead, copper, and zinc were also produced. Some mines on Cameron Mountain were being worked in 1982. Green Mountain was the site of core drilling for molybdenum-tungsten in 1982. Mining claims for high purity limestone were staked in the eastern part of the proposed wilderness; many tracts of patented mining claims are also within the proposed wilderness. The Bureau of Mines believes that exploration and development of molybdenum, tungsten, precious metals, and uranium resources would be precluded if the area east of the Summerville trail is designated as wilderness. Apparently, the area has low potential for oil and gas.

**Leases:** No leasing exists and no applications are pending.

**Claims:** The Forest Service has identified over 40 unpatented claims in the area and many tracks of patented mining claims.

**Timber:** The Forest Service indicates the area as a whole has low economic timber potential, although there are 32 thousand acres of tentatively suitable timber which could contribute to the allowable sale quantity. The timber is located on isolated stands on rocky, steep slopes, and as stringers along creek bottoms. Lack of access presents a problem and haul roads would be difficult to construct and expensive to maintain. No sales have been proposed, although limited harvesting is recommended to improve watersheds.

**Grazing:** The area contains portions of several cattle and horse allotments. Although the wilderness designation is to have no impact on grazing, permittees express concern over limitations on motorized use, and the potential pressure to halt existing permits if wilderness is designated. A grazing management fence about a mile long is located in the WSA on Shaw Ridge.

**Recreation:** This area is presently open to motorized vehicle use with the exception of the three mile primitive road to Lamphier Lakes. The area has system trails totaling 42.7 miles used for motorcycling, mountain biking and snowmobiling, as well as horse-

back riding and backpacking. Motorized recreation users work with the Forest Service and have documented numerous hours of trail maintenance and clean-up activities to ensure trails are not damaged. Motorized recreation has a substantial economic impact on the local economies.

Other: Although the area possesses scenic beauty, a viable wilderness would be difficult for the Forest Service to manage. Twice the Forest Service has found this area unsuitable. To designate this area as wilderness would preclude the Forest Service from implementing a forest plan for adequate protection of the natural beauty while allowing it to be enjoyed by a wide variety of different users. A national recreation designation would protect the land, without compromising existing rights and historic uses.

#### **GREENHORN MOUNTAIN**

Acreage: 22,300 acres in the Wilderness Study Area.

##### **Designation Recommendations:**

Forest Service—22,300.

Armstrong—22,000.

Wirth—24,130.

Forest: San Isabel.

County: Huerfano/Pueblo.

Huerfano:

Land area sq. miles—1,584.

Public land percent of total—21.

Forest Service land percent—14.

Pueblo:

Land Area sq. miles—2,377.

Public Land percent of total—4.

Forest Service land percent—2.

Location: On the southern end of the Wet Mountain Range in the San Isabel National Forest, about 130 miles south of Denver and 20 miles southwest of Pueblo.

Recommendation: The Forest Service recommendation is proposed for designation with few minor boundary modifications to avoid known conflicts. The study area is in close proximity to private land except on its northern boundary. With minor modifications the wilderness boundaries should conform to the study area to ensure public access to the wilderness. Retaining a perimeter of public land around the wilderness will ensure publicly owned sites for trail-head development, if necessary.

General features: The area is characterized by steep rocky terrain. About 75% of the area is forested, with species ranging from piñon juniper lands in the dry southern end of the area to alpine tundra on the mountains' upper slopes. Elevation varies from 7,600 to 12,367 feet.

Special features: If designated, Greenhorn Mountain would be the easternmost wilderness in the state.

Legislative history: It was designated a Wilderness Study Area in the Colorado Wilderness Act of 1980. It has been studied extensively since that time and was recommended by the Forest Service as suitable for inclusion in the Wilderness Preservation System.

Relation to other wilderness: There are 5 nearby designated wilderness areas; 257,080 acres are partly or entirely in the Pike and San Isabel Forests, amounting to about 11 percent of the Forests' area. Within 150 miles of the WSA, there are a total of 2,315,098 acres of wilderness—Forest Service, BLM and Park Service Lands. The Greenhorn Mountain WSA is separated from other areas. It is 30 air miles (3 driving hours) from the wilderness areas within the Great Sand Dunes National Monument and 90 air miles (2½ driving hours) from the Collegiate Peaks Wilderness Area. The

Spanish Peaks and the Sangre de Cristo areas are also nearby.

Vegetation: About 65% of the area is forested with piñon juniper and ponderosa pine, Douglas fir and spruce fir. The other 35% is nonforested grass, brushland and rock. A preponderance of steep, rocky slopes characterizes the WSA, making timber harvest difficult.

Wildlife: Winter range for bighorn sheep covers about 2,200 acres.

Fishing: Some fishing, with approximately 1,000 annual recreation visitor days.

Threatened and endangered species: The WSA is a habitat for the greenback cutthroat trout, classified as threatened—3 miles in South Apache Creek, 3 miles potentially in North Apache Creek. The area also has four potential nesting sites for endangered peregrine falcons—two sites along South Apache and Graneros Creeks, and another 2 within ½ mile of the WSA boundary along South Muddy and Little Graneros Creeks.

Conflicts: Concern has been expressed about the fire hazard of a wilderness in such close proximity to the town of Rye, Colorado. Some forest fires have already occurred in the area and there is a strong likelihood of extensive fire in the future where timber management is forbidden. All but one of the adjudicated water rights in the area are excluded from wilderness designation. The road to the summit of Greenhorn Mountain has been closed to motorized access for several years, but its existence detracts from the wilderness characteristics of the area.

Water conflicts: Nine adjudicated water rights are located within the study area, eight of which can be avoided with minor boundary changes. The WSA covers portions of 4 watersheds: Turkey Creek, Maes Creek, Apache Creek, and Greenhorn Creek. Water production from this area averages about .5 acre feet of water per acre per year, with a current annual water yield estimated at 10,260 acre feet per year. There is a potential to increase this yield by 590 acre feet to about 10,850 acre feet per year through vegetation management. This increased yield will be forgone if the area is designated wilderness.

Minerals: The WSA has no developed or proven mineral resources. However, the southern portion of the area was recently staked for minerals (probably uranium). According to the Forest Service, about 85% to 90% of the area has high to moderate potential for locatable minerals. However, the U.S. Geological Survey and the U.S. Bureau of Mines completed a mineral resource study finding there is little likelihood of mineral resources in most of the WSA.

Leases: About 100 acres have pending oil and gas leases.

Claims: One unpatented mining claim exists in the southern part of the area. This conflict is avoided with a small boundary adjustment.

Timber: Little logging has occurred in the WSA due to the many rocky, steep slopes. About 22,330 acres (53%) of the WSA is forest land capable of producing regulated timber products, but the steep slopes of the area make timbering difficult. The eastern side of the area is used by local residents for post and pole cutting.

Grazing: The WSA contains portions of 2 livestock allotments with a permitted use of about 687 animal unit months per year. An additional 951 acres is potentially suitable range with an estimated capacity of 236 animal unit months.

Recreation: 2,700 acres or 97% of the WSA is classified as semiprimitive nonmotorized.

Travel within the area is limited because of the steep rocky terrain and is confined to access trails. The end of Greenhorn Road is near the summit of Greenhorn Mountain. The area is primarily accessible from the Pueblo area, which takes about 2 hours. Driving time to Rye, the access nearest to the east side, is about 1 hour from Pueblo. The Santana Trail provides access from the west across private land controlled by the landowner.

#### **GREENHORN MOUNTAIN**

Acreage: 22,300 acres in the Wilderness Study Area.

##### **Designation recommendations:**

Forest Service—22,300.

Armstrong—22,000.

Wirth—24,130.

Forest: San Isabel.

County: Huerfano/Pueblo.

Huerfano:

Land area sq. miles—1,584.

Public land percent of total—21.

Forest Service land percent—14.

Pueblo:

Land area sq. miles—2,377.

Public land percent of total—4.

Forest Service land percent—2.

Location: On the southern end of the Wet Mountain Range in the San Isabel National Forest, about 130 miles south of Denver and 20 miles southwest of Pueblo.

Recommendation: The Forest Service recommendation is proposed for designation with a few minor boundary modifications to avoid known conflicts. The study area is in close proximity to private land except on its northern boundary. With minor modifications the wilderness boundaries should conform to the study area to ensure public access to the wilderness. Retaining a perimeter of public land around the wilderness will ensure publicly owned sites for trail-head development, if necessary.

General features: The area is characterized by steep rocky terrain. About 75 percent of the area is forested, with species ranging from piñon juniper lands in the dry southern end of the area to alpine tundra on the mountains' upper slopes. Elevation varies from 7,600 to 12,367 feet.

Special features: If designated, Greenhorn Mountain would be the easternmost wilderness in the state.

Legislative history: It was designated a Wilderness Study Area in the Colorado Wilderness Act of 1980. It has been studied extensively since that time and was recommended by the Forest Service as suitable for inclusion in the Wilderness Preservation System.

Relation to other wilderness: There are 5 nearby designated wilderness areas; 257,080 acres are partly or entirely in the Pike and San Isabel Forests, amounting to about 11 percent of the Forests' area. Within 150 miles of the WSA, there are a total of 2,315,098 acres of wilderness—Forest Service, BLM and Park Service Lands. The Greenhorn Mountain WSA is separated from other areas. It is 30 air miles (3 driving hours) from the wilderness areas within the Great Sand Dunes National Monument and 90 air miles (2½ driving hours) from the Collegiate Peaks Wilderness Area. The Spanish Peaks and the Sangre de Cristo areas are also nearby.

Vegetation: About 65% of the area is forested with piñon juniper and ponderosa pine, Douglas fir and spruce fir. The other 35% is nonforested grass, brushland and rock. A preponderance of steep, rocky slopes

characterizes the WSA, making timber harvest difficult.

**Wildlife:** Winter range for bighorn sheep covers about 2,200 acres.

**Fishing:** Some fishing, with approximately 1,000 annual recreation visitor days.

**Threatened and endangered species:** The WSA is a habitat for the greenback cutthroat trout, classified as threatened—3 miles in South Apache Creek, 3 miles potentially in North Apache Creek. The area also has four potential nesting sites for endangered peregrine falcons—two sites along South Apache and Graneros Creeks, and another 2 within  $\frac{1}{2}$  mile of the WSA boundary along South Muddy and Little Graneros Creeks.

**Conflicts:** Concern has been expressed about the fire hazard of a wilderness in such close proximity to the town of Rye, Colorado. Some forest fires have already occurred in the area and there is a strong likelihood of extensive fire in the future where timber management is forbidden. All but one of the adjudicated water rights in the area are excluded from wilderness designation. The road to the summit of Greenhorn Mountain has been closed to motorized access for several years, but its existence detracts from the wilderness characteristics of the area.

**Water conflicts:** Nine adjudicated water rights are located within the study area, eight of which can be avoided with minor boundary changes. The WSA covers portions of 4 watersheds: Turkey Creek, Maes Creek, Apache Creek, and Greenhorn Creek. Water production from this area averages about .5 acre feet of water per acre per year, with a current annual water yield estimated at 10,260 acre feet per year. There is a potential to increase this yield by 590 acre feet to about 10,850 acre feet per year through vegetation management. This increased yield will be forgone if the area is designated wilderness.

**Minerals:** The WSA has no developed or proven mineral resources. However, the southern portion of the area was recently staked for minerals (probably uranium). According to the Forest Service, about 85% to 90% of the area has high to moderate potential for locatable minerals. However, the US Geological Survey and the US Bureau of Mines completed a mineral resource study finding there is little likelihood of mineral resources in most of the WSA.

**Leases:** About 100 acres have pending oil and gas leases.

**Claims:** One unpatented mining claim exists in the southern part of the area. This conflict is avoided with a small boundary adjustment.

**Timber:** Little logging has occurred in the WSA due to the many rocky, steep slopes. About 22,330 acres (53%) of the WSA is forest land capable of producing regulated timber products, but the steep slopes of the area make timbering difficult. The eastern side of the area is used by local residents for post and pole cutting.

**Grazing:** The WSA contains portions of 2 livestock allotments with a permitted use of about 687 animal unit months per year. An additional 951 acres is potentially suitable range with an estimated capacity of 236 animal unit months.

**Recreation:** 2,700 acres or 97% of the WSA is classified as semiprimitive nonmotorized. Travel within the area is limited because of the steep rocky terrain and is confined to access trails. The end of Greenhorn Road is near the summit of Greenhorn Mountain. The area is primarily accessible from the Pueblo area, which takes about 2 hours.

Driving time to Rye, the access nearest to the east side, is about 1 hour from Pueblo. The Santana Trail provides access from the west across private land controlled by the landowner.

#### LOST CREEK

**Acreage:** 23,000 in the Further Planning Area.

**Designation recommendations:**

Forest Service—unsuitable.

Armstrong—7,000.

Wirth—11,000.

Forest: Pike National Forest.

County: Park.

Land area sq. miles—2,192.

Public Land percent of total—51.

Forest Service land percent—47.

**Location:** In the center of the state, on the North end of the Platte River mountains adjacent to the Lost Creek Wilderness Area, about 40 miles southwest of Denver and 19 miles from Bailey.

**Recommendation:** 7,300 acres of the study area are proposed for wilderness designation. Even though approximately 780 acres of State mineral reservation and 10 unpatented mining claims are included, the designation is warranted in order to include the renowned Ben Tyler Trail in the Lost Creek Wilderness.

**General features:** This is an addition to the current Lost Creek Wilderness and has no unique landmarks or areas of geologic interest that are not found in nearby wilderness.

**Special features:** The Ben Tyler Trail, approximately 11 miles long, receives most of the hiking, hunting and horseback use in this study area.

**Legislative history:** The RARE II process inventoried the Lost Creek Area, recommending 71,000 acres as wilderness and 58,040 acres as a Further Planning Area. In 1980, 106,000 acres were designated the Lost Creek Wilderness Area. 23,000 acres were left to be evaluated for wilderness suitability in the forest planning process. After that exhaustive process, the Forest Service determined this area unsuitable for this designation.

**Relation to other wilderness:** There are 5 designated wilderness areas partly or entirely in the Pike National Forest—257,420 acres. This amounts to 11 percent of the forest's area. In addition, other wilderness with about 298,800 acres are adjacent to the forest.

**Vegetation:** The terrain tends to be moderately sloping. The lower elevations are well timbered. Fingers and patches of trees intermingle with the meadows in the subalpine zone. The area contains spruce fir, lodgepole pine, aspen, Douglas fir and ponderosa pine.

**Wildlife:** The area is ideal habitat for deer, elk, and bighorn sheep. Approximately 970 acres is deer winter range and the headwaters of Rock Creek is a bighorn sheep lambing area.

**Fishing:** Fishing opportunities are limited.

**Threatened and Endangered species:** No species has been identified.

**Conflicts:** The study area contains over 3,800 acres of state-owned mineral rights, 35 mining claims and 5 adjudicated water rights. Other concerns have been expressed about motorized recreation trails, existing roads, and watershed management opportunities that would be precluded if timber harvest is prohibited. State-owned mineral rights could be used to enhance state revenues, but the potential to develop these interests is hampered by wilderness designation. The proposed boundaries are drawn to

avoid most of these private and state rights. Over 8,000 acres of the state's mineral reservation and most of the unpatented mining claims would remain outside the proposed wilderness.

**Water:** Five adjudicated water rights have been identified, but are avoided by the boundary modification.

**Minerals:** The entire area has high to moderate potential for locatable minerals. However, no minerals were identified by the Bureau of Mines in the area. The state owns 3,800 acres of the mineral estate in two tracts. The area is covered with mining claims.

**Leases:** Lease applications on some of the 3,800 acres of state owned minerals.

**Claims:** 34 unpatented mining claims exist.

**Timber:** About 13,200 acres contain timber on slopes suitable for logging with conventional methods, with potential production at 2.5 million board feet per year, enough to keep a medium-sized sawmill in operation. There are 19 miles of logging roads, over 600 acres of recently cut area, approximately 60 acres of timber plantation, and two old sawmill sites. Current annual sales for forest land under 45 degree slope is estimated at 2,292,000 board feet.

**Grazing:** There is about 1 mile of range drift fence. Over 3,000 acres are suitable for livestock grazing. The area currently has 200 animal unit months under permit, with no additional capacity.

**Recreation:** The Ben Tyler trail is used by hikers and recreation enthusiasts. Several 4WD roads exist but are avoided with boundary modifications. The area provides popular access for the Lost Creek Wilderness.

#### OH BE JOYFUL

**Acreage:** 5,500 in the Wilderness Study Area.

**Designation recommendations:** Forest Service—unsuitable.

Armstrong—5,500.\*

Wirth—5,500.

Forest: Gunnison.

County: Gunnison.

Land area sq. miles—3,328.

Public Land percent of total—78.

Forest Service land percent—61.

**Location:** In the west-central part of the state, 125 air miles southwest of Denver and 4 miles northwest of Crested Butte.

**Recommendation:** This area is proposed to be designated a National Recreation Area. It is unsuitable for wilderness designation. This area has high mineral potential, contains private land, and a large number of mining claims. Further, an extensively used two mile road bisects the area and provides access to the Ragged Wilderness. Its unique qualities can be protected through designation as a National Recreation Area without compromising existing rights and uses.

**General features:** The area is a superb example of glacially-cut alpine country; its valley is a long, narrow U-shape, with steep walls on three sides.

**Special features:** Numerous small lakes are found at the bases of the mountain walls.

**Legislative history:** This area was studied during RARE II and was listed as unsuitable for wilderness. It was designated a WSA by the 1980 Colorado Wilderness Act. Extensive study by the Forest Service has deter-

\*Proposed National Recreation Area.

mined this area to be unsuitable for wilderness designation.

**Rclation to other wilderness:** There are 4 wilderness areas within a 20 mile radius of the WSA, containing 596,372 acres, including the 463,900 added by the 1980 Colorado Wilderness Act. The Maroon Bells-Snowmass and Ragged Wildernesses are to the north, Collegiate Peaks Wilderness is to the NE, and West Elk Wilderness is to the southwest.

**Vegetation:** The lower, north-facing slopes have sub-alpine fir and Engelmann spruce. The south-facing slopes and upper elevations consist of alpine grass and shrub types. Riparian areas are found along the Oh-Be-Joyful Creek, Peeler Creek, Peeler Lakes, Blue Lake and in Democrat Basin.

**Wildlife:** Species in this area include mule deer and elk during the summer, but there is no winter range. Other mammals in the area are pika, marmot, red squirrel, beaver, coyote, porcupine, black bear, weasel, and fox.

**Fishing:** Brook, rainbow and native trout are found in the Lower Peeler Lake, Peeler Creek, Blue Lake and Oh-Be-Joyful Creek.

**Threatened and endangered species:** None has been identified.

**Conflicts:** The area contains private land—including 50 acres of patented mining claims—over 200 unpatented mining claims, mineral potential, and extensive motorized vehicle use. It would be difficult to administer as wilderness and such a designation would have a negative impact on the private rights held in the area. The area also includes a well-established jeep trail which is used for access to the Ragged Wilderness. National Recreation Area designation would not compromise the private property rights involved, while allowing protection of the land.

**Water:** The average flow at the confluence of the Oh-Be-Joyful and Peeler Creeks is 13,200 acre feet. The town of Crested Butte has considered using Oh-Be-Joyful Creek as an alternative water source. If this is done, a storage reservoir would have to be constructed, with possible sites located inside the WSA boundary. There are no active diversions of water, but there are three relatively senior water rights existing in the drainage. These diversionary water rights include the Columbine Ditch, the Mariposa Ditch and the Mariposa Pipeline.

**Minerals:** The WSA is on the west edge of the Colorado Mineral Belt and is in a geologic setting favorable for economic mineral deposits. It is in the Ruby Mining District. The Bureau of Mines reports 50 percent of the area has substantiated and probable mineral resource potential. There is surface evidence the WSA contains lead, zinc, silver and gold-bearing sulfides. The potential for buried molybdenum is very high. Economic coal deposits are also a possibility. Three inactive mines and many prospects exist. About 84 percent of the area is covered with unpatented claims. There is recorded mineral production of gold, silver, lead and zinc. The Bureau of Mines reports that detailed mapping, geochemical sampling and geophysical surveys are needed, and that inclusion of any of this area will prevent exploration for and development of important deposits of silver, lead-zinc resources and molybdenum resources.

**Leases:** 4 oil and gas leases covering 4,375 acres.

**Claims:** 200 unpatented mining claims, covering 3,105 acres, and 6 patented claims encompassing 50 acres.

**Timber:** Of the total area, only 400 acres of spruce fir is classified as commercial

forest, and has a total standing volume of about 2.74 million board feet. This is considered a marginal resource because of the low volume, poor access and steepness of the slopes.

**Grazing:** There has been minimal recreational stock (horses) grazing. Since 1977 about 200 cattle have been using the WSA during August through October each year.

**Recreation:** The overall management emphasis is on providing primitive non-motorized recreation. However, the area has a high priority for trailhead development for access to the Ragged Wilderness. The area is also becoming popular for mountain biking.

#### PIEDRA

**Acreage:** 41,500 in this Wilderness Study Area.

**Designation recommendations:**

Forest Service—41,500.

Armstrong—41,500.

Wirth—60,000.\*

**Forest:** San Juan.

**County:** Archuleta/Hinsdale.

**Archuleta:**

**Land Area—sq. miles:** 1,353.

**Public Land percent of total:** 51.

**Forest Service land percent:** 49.

**Hinsdale:**

**Land Area—sq. miles:** 1,115.

**Public Land percent of total:** 95.

**Forest Service land percent:** 78.

**Location:** In the southwestern corner of the state between the towns of Durango and Pagosa Springs.

**Recommendation:** The entire study area should be designated as wilderness. This area is suitable for such a designation, and will add a significant resource to the Wilderness Preservation System. However, it is a downstream area, with significant portions of the upper reaches of the Piedra River arising above the study area. Piedra offers an opportunity to demonstrate how downstream wilderness can be created without injuring existing water rights and throwing the state water administration system into chaos. The water language in the legislation is designed specifically to protect Colorado's water in future designation of downstream areas.

It is therefore imperative to protect the integrity of Colorado's water law system specifically and clearly by requiring the federal government to apply under state water law for reasonable, quantifiable instream flow rights for wilderness areas. No express or implied federal wilderness reservations of water or water rights is allowed or necessary.

The avenue for obtaining water for this wilderness is available through Colorado law which provides for a state instream flow program, administered by the Colorado Water Conservation Board.

Designation of Piedra should not be delayed. Piedra has been thoroughly studied for years, and specific water language now has been carefully developed to enable downstream areas to be designated. A million acres of lower elevation BLM lands are now being studied for their wilderness suitability. Colorado needs the experience of designating an area like Piedra to be certain we know precisely how to protect the thousands of water rights involved in the downstream BLM wilderness designations to come.

**General features:** This area contains primarily unroaded, forested lands ranging in

elevation from 6,800 to 10,500 acres. The landform is characterized by south-facing slopes deeply dissected by the Piedra River and its tributaries. A few isolated, plateau-like areas are scattered throughout.

**Special features:** The Piedra River provides outstanding white-water rafting and kayaking opportunities.

**Legislative history:** As a result of RARE II, Piedra was recommended suitable for wilderness designation. It was then designated a WSA by the 1980 Colorado Wilderness Act. This area is suitable for wilderness designation provided Colorado's water rights system is adequately protected. Further study would simply be a waste of scarce Forest Service resources.

**Relation to other wilderness:** There are 15 wildernesses with over 1.3 million acres within a 100 mile radius of the area.

**Vegetation:** Coniferous vegetation covers over 70% of the area with the Douglas fir type representing one half of the total. Spruce fir is second with 17%, and ponderosa pine with 3%. Aspen leads among deciduous species, covering 25% of the area. Only about 5% of the area is not timbered.

**Wildlife:** Principal wildlife includes elk, mule deer, black bear and mountain lion. South and west facing slopes are used by deer and elk as winter range, although the primary big game use of the area is for summer and fall ranges. An important migration corridor for elk and deer passes through the area. Other wildlife species such as cottontail rabbit, snowshoe hare, squirrels, pine and ground squirrels, badger, coyote, various weasels, pine marten, bobcat, band-tailed pigeon, and blue grouse are well represented within their respective habitat niches.

**Fishing:** The Piedra River and its major tributaries contain fair to excellent cold water fish habitat. Species present include cutthroat, brown, rainbow and brook trout. Periodic stocking is necessary to maintain fishable populations under present harvest pressure. This restocking would be prohibited within the wilderness segments of the river.

**Threatened and endangered species:** There are no known federally designated endangered species occupying the area. However, the river otter, on the State of Colorado's threatened and endangered species list, was introduced into the Piedra River in 1978. This appears to be successful.

**Conflicts:** Except for the major water issues involved, there are very few potential conflicts with wilderness designation. Some mineral rights and timber resources exists outside of the study area but are avoided by this designation.

**Water:** Water yield is estimated at 41,500 acre feet on an average annual basis of 1 acre foot/acre/year. All of this water drains into the Piedra River. The Piedra River is being studied for possible wild and scenic river designation. Water quality is considered good to excellent. A potential hydroelectric site exists in the First Box Canyon of the Piedra River and has the capacity of generating 40 million kilowatt hours annually. However, the Federal Energy Regulatory Commission has informed the Forest Service no plans exist for development of this site.

**Minerals:** Mineral activity is relatively low. There are no outstanding lease applications, or claims within the study area. The mineral estate to 640 acres near the Rocky Basin is owned by a private party, this area is not within the proposed wilderness.

**Leases:** None has been identified.

\* Left in further study status.

Claims: None has been identified.

Timber: About 96% (40,018 acres) of the WSA is capable of timber production, 30% of which could be timbered due to degree of the slopes. Most of the trees are Douglas fir.

Grazing: About 70% of the WSA is grazed by cattle and recreation horses. Nine spring developments and 4 miles of drift fences are in the southern half of the area. Current grazing is 2,860 animal unit months per year or 5 different allotments—four cattle and one sheep.

Recreation: There are about 55 miles of trails in the WSA. Access to the WSA from the south is by the First Fork Road and First Notch Road, both of which come within  $\frac{1}{4}$  mile of the boundary. Access through the north is by Piedra Road and Sand Creek Bench Road, both of which come within  $\frac{1}{8}$  mile of the boundary.

Other: All surface and mineral estates within the designated area are owned by the United States.

Acreage: 12,800 acres in the Further Planning Area.

**Designation Recommendations:**

Forest Service—unsuitable.

Armstrong 86—55,100.\*

Wirth—24,160.<sup>†</sup>

Forest: Arapaho.

County: Grand.

Land area sq. miles—1,854.

Public land percent of total—68.

Forest Service land percent—48.

Location: In the central part of the state, about 70 miles west of Denver and a few miles southeast of Kremmling.

Recommendation: This area is unsuitable for wilderness designation, and is proposed to be designated as a National Recreation Area. The southern portion of the study area is an elongated narrow strip of land so close to major industry that it has no discernible wilderness characteristics. The northern portion, because it is contiguous to the Fraser Experimental Forest, makes wilderness management extremely difficult. In order to protect this ongoing experimentation, and to provide recreation opportunities close to the Denver metropolitan area, this study area is added to the Williams Fork proposal to make a large and unique area with varied recreation opportunities.

General features: The elevations of the study area range from 9,000 to 12,800 feet. About 60 percent of the area is forested, with the rest being grassland and rocky or barren areas.

Special features: The area borders the Fraser Experimental Forest.

Legislative history: The area was studied during RARE II, and has been in study status since then. The Forest Service found this area unsuitable for wilderness designation.

Relation to other wilderness: There are 8 existing wildernesses within a 50 mile radius of the study area, totaling 462,169 acres. The closest wilderness areas are Eagle's Nest Wilderness to the southwest and Indian Peak Wilderness to the northeast. The area is located near the Vasquez Peak and the Williams Fork Study Areas.

Vegetation: 7,400 acres or 60 percent is forested with spruce fir and some lodgepole pines. The rest consists of grasslands.

Wildlife: Big game species found in the area are similar to those found in the Vasquez Peak area. They include elk, mule deer, black bear and possibly mountain goat.

Small game species include blue grouse, white-tailed ptarmigan, red squirrel and snowshoe hare.

Fishing: Kinney and Darling Creeks support a small population of brook trout. However, steep gradients and low summer flows limit the fish habitat.

Threatened and endangered species: None have been identified.

Conflicts: A right-of-way and two adjudicated water rights exist on the southern end of the study area. The close proximity to water developments, mining operations and a power line mandate the study area not be designated wilderness.

Water: Two adjudicated water rights exist. Water yield averages about 14,430 acre feet per year with good to excellent quality. Practically all water runs in to Williams Fork River via Keyser and Kinney Creeks.

Minerals: Only a small percent of the study area on the southern end has moderate to high potential for locatable minerals. Some exploration has taken place in the study area, mainly for hard rock minerals. About  $\frac{1}{4}$  of the area (lands south and east of Darling Creek) has moderate to high potential for locatable minerals.

Leases: No oil or gas leases or lease applications.

Claims: No patented or unpatented claims exist.

Timber: About 7,400 acres or 60 percent is forested, predominantly with spruce-fir and some lodgepole pine. The majority of existing timber (81 percent) is of sawtimber size. 16 percent of total area is on slope of greater than 40 degrees.

Grazing: There is one sheep grazing allotment in the study area. All grazing takes place in the alpine zone, and current grazing use totals 210 animal unit months.

Recreation: The area offers recreational camping, hunting, fishing, nature study and horseback riding. There are about 23 miles of trails in the area. Regardless of designation, the area lends itself to non-motorized recreation. Access through the Fraser Experimental Forest may increase with designation.

Other: All of the lands area both surface and subsurface, belong to the United States.

**SANGRE DE CRISTO**

Acreage: 222,743 in a Wilderness Study Area.

**Designation Recommendations:**

Forest Service—190,500.

Armstrong—195,100.

Wirth—252,080.

Forest: San Isabel and Rio Grande Forests.

Country: Fremont/Custer/Huerfano/Alamosa/Saguache.

Fremont land area sq. miles—1,538.

Public land percent of total—44.

Forest Service land percent—2.

Custer land area sq. miles—740.

Public land percent of total—38.

Forest Service land percent—33.

Huerfano land area sq. miles—1,584.

Public land percent of total—21.

Forest Service land percent—14.

Alamosa land area sq. miles—719.

Public land percent of total—18.

Forest Service land percent—6.

Saguache land area sq. miles—3,167.

Public land percent of total—65.

Forest Service land percent—47.

Location: It is in the south-central part of the state, 120 miles southwest of Denver, 40 miles west of Walsenburg, and 10 miles south of Salida.

Recommendation: Most of the study area is proposed for wilderness designation. The boundary is carefully drawn to avoid most of the known existing private rights. The boundary protects the beauty of this majestic mountain range while allowing for appropriate and adequate management. The Rainbow Trail provides a manageable boundary on the eastern side. The trail will remain open for its historic and agreed upon motorized recreational use. The road to South Colony Lake and the surrounding area will not be included in the designation. This area contains three 14,000 foot peaks and is heavily used. If the area were designated wilderness a permit system would have to be developed to ensure solitude. Such a system would unfairly limit access to the area, which is very popular with mountain climbers. Two passes through the 70-mile Sangre de Cristo range are excluded from the wilderness—Hayden Pass and Medano Pass. In addition, the Cloverdale Basin is also excluded to the Continental Divide because of the large concentration of mining claims and 4WD roads. The south end of the study area around Blanca Peak has also been excluded because of a large number of conflicts, including inholdings, water rights, mining claims and the nationally known 4WD road to the summit of Blanca Peak. However, the area east of California Peak to the Ute Trail has been included. Though it is outside the study area, there appear to be no conflicts if the boundary skirts the water development in the upper reaches of the Huerfano River.

General features: This WSA includes the Sangre de Cristo Mountain Range, which is characterized by alpine vegetation along its crest and spruce and fir trees at lower elevations. Elevation ranges between 8,200 and 14,345 feet. The Sangre de Cristo range is over 70 miles long.

Special features: Five mountains, including Blanca, Little Bear, Crestone, Crestone Needle and Humboldt Peaks, exceed 14,000 feet in elevation. The Sangre de Cristo Mountains are highly visible—viewed primarily from the San Luis Valley and the Wet Mountain Valley.

Legislative history: The Sangres were recommended for wilderness designation as a result of the RARE II process. It was designated a WSA by the Colorado Wilderness Act of 1980, and was again recommended suitable for wilderness by the Forest Service.

Relation to other wilderness: There are 5 designated wilderness areas in the Rio Grande National Forest, encompassing 257,420 acres. The Sangres are near the wilderness areas of the Great Sand Dunes National Monument, administered by the National Park Service. It is within 65 air miles of the Lost Creek, South San Juan, La Garita, Mount Massive, Hunter-Fryingpan and Collegiate Peaks Wilderness Areas, which total over 512,000 acres.

Vegetation: Alpine vegetation occurs along the crest of the range with spruce fir, Douglas fir and ponderosa at lower elevations. Riparian area vegetation includes willows, sedges and grasses. A prairie grassland not found in other Colorado wildernesses is located on the west side of the range.

Wildlife: The Sangre de Cristo WSA provides winter range for deer, elk and bighorn sheep. Habitat acreages may overlap as 2 or all 3 species may use the same range. Deer use a total of 16,800 acres, elk use 11,500 acres and bighorn sheep use 27,800 acres. Other species that commonly occur are goshawk, and northern three-toed woodpecker.

\*Proposed National Recreational Area, including Williams Fork.

<sup>†</sup>Includes Vasquez Peak Area.

**Fishing:** The area is used extensively for fishing.

**Threatened and endangered species:** None has been identified. However, about three miles of Cottonwood Creek have been identified as potential habitat for the greenback cutthroat trout, a federally listed endangered species. This portion of Cottonwood Creek is left out of wilderness so the opportunity to develop this habitat remains.

**Conflicts:** There are a variety of conflicts identified by the Forest Service and private individuals. In the study area, and proposed expansion of that area, the Forest Service reports 17 tracts of private land encompassing over 1,123 acres, 3 tracts of land on which mineral rights are reserved encompassing 907 acres, 3 developed 4WD roads, an extensive motorized recreation trail system, an oil and gas lease, easements for several irrigation ditches, mine access, a road right-of-way, and a dam and reservoir.

The Forest Service has also documented 30 adjudicated water rights, and 361 existing mining claims, an electronic station, and several established campsites and administrative buildings. These private rights are respected in the proposed designation. Other considerations include the ability of the Forest Service to manage wildlife habitat for the protection of the many animals in the area, and sufficient allowance for the development of trailheads and parking facilities for those traveling into the wilderness. There are also significant timber resources which would be forgone, including the use of the area by local residents for firewood and Christmas tree harvesting.

**Water:** The Forest Service has identified 30 adjudicated water rights in the area and the proposed expansion, and the Colorado River Water Conservancy District has documented 60 water rights in the area. The eastern portion of the WSA contains parts of 13 watersheds, all of which are tributaries of the Arkansas River. The western part of the WSA includes portions of 14 watersheds, which are all tributaries of the Rio Grande River. All streams are high quality water. Current water yield for the WSA is estimated at 79,000 acre feet per year, but through vegetation management above 9,000 feet, the yield can be increased to 86,400 acre feet per year. Several water improvements are located in the WSA.

**Minerals:** There is much past and present mining activity in the area, mostly concentrated north of Hayden Pass and between Mosca Pass and Blanca Peak. About 53% of the WSA has high or moderate potential for locatable minerals. The high potential occurs at the northwest end of the WSA. Only 5% of the area is considered unlikely to have any mineral potential. The area is believed to have oil and gas potential along both sides of the Continental Divide.

**Leases:** The Forest Service has one lease application pending, and several others have been documented totaling 102,300 acres.

**Claims:** Over 360 unpatented mining claims are present in the area. However, many have been avoided by this boundary.

**Timber:** Most of the WSA has been logged or had some timber cutting in the past. About 25% of the WSA is forest land capable of producing regulated timber products, but about 49% of this land is on slopes of 45 degrees or less. The mountain pine beetle has attacked the ponderosa pine, but is not as prevalent now as in past years. The western spruce budworm is active in Douglas fir/white fir stands throughout the WSA. Defoliation has been severe in some stands and could remain stable or increase in the near future.

**Grazing:** The WSA contains portions of 9 existing livestock allotments in the San Isabel Forest, with a permitted use of 1,037 animal unit months (AUM) per year. There is an additional 8,900 acres of potentially suitable range, with an estimated capacity of 5,350 AUM's per year. Several of the grazing permittees have expressed concern about their ability to exercise their rights if the area is designated, given the increasing pressure to move grazing off public lands.

**Recreation:** The expanse of the area allows for a variety of recreation opportunities to co-exist. Recreation in the area is substantial and varied, including big game hunting, backpacking, hiking, horsepacking, fishing, motorcycling, ATV riding, 4WD recreation, rockclimbing, and mountain climbing. Access is generally from Highway 50 on the northeast side. Major access points on the eastern slope are Hayden Creek Road, Lake Creek Campground, Hermit Lake Road, Alvarado Campground, Medano Pass Road and Mosca Pass Road.

On the west side, the major access points are Hyden Pass Road, Crestone Creek, and the Medano Creek Road from Great Sand Dunes National Monument. Several 4-wheel drive roads penetrate the WSA a short distance. The Rainbow Trail, one of Colorado's most popular motorized recreation trails, parallels the eastern boundary from Music Pass to the north end of the WSA. In the early 1970's a long term management plan was agreed upon by all recreation enthusiasts in the area. The agreement left the Rainbow and several other trails open for motorized use. The Rainbow Trail is the site for several motorcycle events during the year, and is used by many tourists who visit the area. Many trails fork off the Rainbow Trail and provide access to the high mountain lakes, but most of these side trails are closed to motorized access.

#### SARVIS CREEK

Acreage: 39,860 of Further Planning Area.  
Designation Recommendations:

Forest Service—39,860.

Armstrong—33,600.

Wirth—54,700.

Forest: Routt National Forest.

County: Routt

Land area sq. miles—2,367.

Public Land percent of total—44.

Forest Service land percent—39.

**Location:** In the northern part of the state, a few miles southeast of Steamboat Springs.

**Recommendation:** The Forest Service recommendations are proposed with slight modifications. The name of the wilderness is proposed to be Sarvis Creek to conform to long-term local custom. The recommended northern and western boundaries should be modified to avoid conflicts with the proposed ski development of the Catamount Resort, several water rights, and privately owned mineral rights. The southern boundary should be moved to the north side of Silver Creek to allow continued use of the popular Silver Creek bike trail and to avoid water rights and parcels of private property. However, these acreage reductions can be compensated to some extent by expanding the eastern boundary beyond the study area where there are no wilderness conflicts.

**General features:** The area is characterized by broad, smooth slopes with spruce fir, lodgepole pine and aspen vegetation. The area is dissected by three major drainages which exit the area on the west. Elevation ranges from 7,000 to 10,700 feet.

**Special features:** Sarvis Creek is the only lower elevation forested area proposed for

wilderness. The area does not possess unique scenic value; it lacks prominent high points and the landforms and vegetation patterns are common in adjacent areas. But its designation would preserve a lower elevation area and provide balance to the wilderness system.

**Legislative history:** This area was proposed to remain in non-wilderness status by RARE I, but the Administration determined the area needed more study and placed it in further study status. The area was extensively studied, and the Forest Service considers it suitable for wilderness.

**Relation to other wilderness:** The Routt National Forest presently contains 187,029 acres of designated wilderness. This accounts for 14 percent of the Forest, and is distributed among the Mt. Zirkel Wilderness and portions of the Flat Tops, Neota, Never Summer, and Rawah Wildernesses. There are 8 designated wilderness areas within a 50 mile radius of the area totaling 496,116 acres.

**Vegetation:** The area has Douglas fir, which is unusual in northern Colorado. Lodgepole pine is predominant and substantial spruce fir exists. There is a large area of dead spruce (spruce bark beetle kill about 40 years ago). The remainder of the area is grasslands, mountain shrub and some sagebrush.

**Wildlife:** Big game species found within the area include elk, mule deer and black bear. The area is important spring, summer and fall range for elk. Numerous species of both small game and non-game animals are present. Opportunities to enhance vegetation to improve the elk winter range would be lost if the area is designated.

**Fishing:** Brook trout are found in nearly all the streams. Rainbow trout are occasionally in the lower reaches of the larger creeks. Opportunities to enhance fisheries habitat would be foregone with designation.

**Threatened and endangered species:** None has been identified in the area.

**Conflicts:** Many of the known mineral, water and private right conflicts in the study area are avoided with slight boundary modifications. Access rights-of-way owned in the northern part of the area for ditch repair and maintenance and for the Walton Peak Communications Site and mineral rights in three parcels totaling 480 acres are avoided. However, the pre-existing Hubbard life estate in the center of the wilderness area cannot be excluded and these private rights are protected by exemptive language in the legislation.

**Water:** Sixteen adjudicated water rights exist within the proposed area. All are avoided with slight boundary modifications. The water yield of the area is about 44,200 acre feet per year, with excellent quality. All the water from the area drains into the Yampa River. The FPA has a series of municipal water or power projects proposed within its boundaries and one trans-basin diversion out of one watershed immediately above the FPA. The Sarvis Ditch diverts an adjudicated 43 cfs from upper Service Creek to Muddy Creek. The Forest Service has two current water uses totaling 10.4 acre-feet and seven foreseeable uses totaling 2.7 acre feet for livestock within the FPA. Downstream uses of the water include livestock, recreation, fisheries, municipal, industrial, agricultural, and energy development.

**Minerals:** The potential for all minerals is low in the FPA, although considerable mining activity has occurred north and south of the study area. The area encompasses no mining districts. The mineral

estate to 480 acres is owned by a private party.

Leases: None has been identified.

Claims: None has been identified.

**Timber:** Approximately 82% or 31,774 acres are forested, with lodgepole pine predominant and substantial spruce fir. About 78% of the FPA is in sawtimber size trees. Another 20% is a large area of dead spruce (spruce bark beetle kill about 40 years ago). The remainder of the area is grasslands, mountain shrub and some sagebrush. There is an estimated timber volume of 339.1 million board feet in the area.

**Grazing:** A very small number of cattle use the southern edge of the FPA and there is a Service Creek sheep allotment which has been waived by the permittee. At the present time, there are no plans or requests to stock the allotment. Range condition is considered good. Current grazing use is approximately 102 animal unit months per year. Few range developments are within the FPA, but include a sheep bridge over Service Creek, several short drift fences and spring developments.

**Recreation:** Steamboat Springs Area recreation has increased. The Stagecoach Reservoir and subsequent recreational development also may increase recreation in the Wilderness area. Motorized vehicle use is already restricted in the proposed area, but mountain bike use is becoming very popular. The Service Creek trail is touted as one of the most unique experiences in the state. Hunting and fishing exists, although current use is relatively light. There are approximately 21 miles of trails.

#### SOUTH SAN JUAN EXPANSIONS MONTEZUMA PEAK AND V-ROCK

Acreage: 32,800 acres in two wilderness study areas—Montezuma Peak: 13,000 acres; V-Rock: 13,800 acres.

Designation Recommendations:

Forest Service—unsuitable.

Armstrong—10,800.

Wirth—32,800.

Forest: San Juan.

County: Montezuma Peak—Rio Grande/Archuleta/Mineral/Conejos V-Rock—Archuleta/Conejos.

Rio Grande land area sq. miles—913.

Public land percent of total—57.

Forest Service land percent—48.

Archuleta land area sq. miles—1,353.

Public land percent of total—51.

Forest Service land percent—49.

Mineral land area sq. miles—887.

Public land percent of total—94.

Forest Service land percent—94.

Conejos land area sq. miles—1,227.

Public land percent of total—59.

Forest Service land percent—35.

**Location:** Composed of two separate areas in the southwestern part of Colorado, one adjoining the north and the other adjoining the south side of the South San Juan Wilderness Area. The area lies about 20 miles east of Pagosa Springs and is entirely to the west of the Continental Divide.

**Recommendation:**

**Montezuma Peak:** Although the Forest Service, after extensive study, considers this area unsuitable for wilderness, about half of the Montezuma Peak area is proposed for designation while avoiding the known mineral potential and existing mining claims.

**V-Rock:** A portion of the V-Rock area is also proposed for designation. To avoid existing water rights, mineral potential, and several excellent motorized vehicle trails, the southern part of the area is excluded. These additions will nicely complete the current San Juan Wilderness.

**General features:** Both areas contain primarily unroaded, mountainous lands ranging in elevation between 8,200 and over 13,000 feet. However, each area is unique.

**Montezuma Peak:** This area is characterized by rugged glacial terrain. Alpine tundra dominates the steep mountain slopes, and fingers of subalpine forest extend up the U-shaped valleys.

**V-Rock:** The landform is typical of alpine areas in the southern Rocky Mountains, with outstanding alpine scenery, varied topography and high vegetative diversity.

**Special features:** The Colorado Division of Wildlife, the Forest Service and the U.S. Fish and Wildlife Service conducted a cooperative study for the presence of grizzly bear. However, the results showed little. Some sign was observed in 1980, but it was considered to be 2 to 4 years old at the time. Moreover, these areas are generally adjacent to areas heavily affected by man and, consequently, it is unlikely a grizzly population could ever be re-established.

**Legislative history:** Both these areas were studied under RARE I and RARE II, but were not recommended for designation either time. Congress designated them as WSAs with the 1980 Colorado Wilderness Act. The Forest Service considers both these areas unsuitable for wilderness designation.

**Elevation to other wilderness:** There are 19 other wildernesses, totaling almost 1,670,000 acres, within a 100-mile radius of these areas. These include the South San Juan Wilderness running between the two areas, and the huge Weminuche Wilderness to the northeast.

**Vegetation:** Both areas contain spruce, fir and some aspen trees, as well as alpine grassland vegetation.

**Wildlife:** Big game species within the areas include elk, mule deer, bighorn sheep, black bear and mountain lion. The primary use of the areas by bighorn sheep is for summer and fall range. Other wildlife species such as cottontail rabbit, snowshoe hare, pine and ground squirrels, badgers, coyote, weasels, pine marten, bobcat, band-tailed pigeon, and blue grouse are well represented within their respected habitat niches.

**Fishing:** Five species are present including cutthroat, rainbow and brook trout. Periodic stocking has been necessary to maintain fishable populations under present harvest regulations. This stocking would be prohibited in areas designated wilderness.

**Threatened and endangered species:** No federally-designated species has been identified in either area. However, there is some acceptable habitat for wolverine, although no sightings have been confirmed. The wolverine is on the Colorado list of endangered species.

**Conflicts:**

**Montezuma Peak:** Approximately 10 acres of private land and 120 unpatented mining claims exist, but have been avoided. The western boundary borders the East Fork Ski Area, but this will not be impacted.

**V-Rock:** This area contains adjudicated water rights, several grazing permits and a developed motorized trail system. All have been avoided.

**Water:** Some adjudicated water rights have been identified, but are avoided by the proposed boundaries. The water yield is estimated at 49,355 acre-feet per year. Water from Montezuma Peak flows into the east fork of the San Juan River via Quartz Creek, Lost Creek, Bear Creek and Elwood Creek. The northern ¾ths of V-Rock

drains northward into the Rio Blanco River via Fish Creek, South Creek, Castle Creek and Leche Creek. The southern quarter is drained by the little Navajo River. Maximum potential water yield increases could result from clearcutting 20 percent of the accessible spruce-fir and aspen stands and maintaining snowfences in 25 percent of the alpine area.

**Minerals:**

**Montezuma Peak:** About 12,081 acres (36.9 percent) of this area has high to moderate potential for locatable minerals. There has been active exploration by several companies. 120 mining claims exist, but most are avoided by the proposed boundary. The Bureau of Mines notes that exploration of molybdenum deposits (with associated base, and precious metals, indium and gallium) would be lost if the northern portion of the area were to be designated.

**V-Rock:** About 15,632 acres (47.7 percent) of V-Rock has high to moderate potential for leasable minerals. Seismic exploration and oil and gas production have occurred close to the boundary of V-Rock. The area is considered to have low or no potential for geothermal, uranium, coal or natural gas.

**Leases:** Several leases exist.

**Claims:** Approximately 120 unpatented claims exist.

**Timber:** About 22,131 acres (67 percent) of the areas are classified capable of production. The predominant timber type is spruce-fir, covering 69 percent of the capable forest land.

**Montezuma Peak:** About 65 percent of capable forest occurs in slopes greater than 60 degrees, making harvest opportunities difficult.

**V-Rock:** About 54 percent of the timber in this area occurs on slopes less than 30 degrees. Considerable timber activity and roads exist to the west and south of V-Rock.

**Grazing:** Cattle and recreation horses graze about 30 percent of the areas. Current grazing totals about 1,500 animal unit months annually.

**Montezuma Peak:** Grazing takes place on portions of 2 allotments, one sheep and one cattle.

**V-Rock:** Grazing could take place on portions of 7 allotments, one is a vacant sheep allotment. The other 6 are cattle. Three relatively small livestock water developments and about 10 miles of allotment boundary and drift fences exist in the area.

**Recreation:** Recreation activities include big game hunting, hiking, horseback riding, camping, viewing scenery, nature study and cross-country skiing. There is limited motorcycle riding on some of the trails, but because of the steepness of much of these areas, those are few. There are 35 miles of trail in these areas.

**Montezuma Peak:** The Quartz Creek Trail borders the western edge of the area, then traverses through the WSA to its junction with the Continental Divide Trail. The Continental Divide Trail itself borders the eastern edge of the area.

**V-Rock:** Several trails traverse into and out of the V-Rock area, including Fish Creek Trail, Leche Creek Trail, Navajo Peak Trail and V-Rock Trail. Access to this area is provided by the Buckles Lake Road and the Castle Creek Road.

#### SPANISH PEAKS

Acreage: 19,570 in the Wilderness Study Area.

Designation Recommendations:

Forest Service—unsuitable.

Armstrong—18,400 (proposed National Recreational Area).  
Wirth—19,570.  
Forest: San Isabel.  
County: Huerfano and Las Animas.  
Huerfano County land area sq. miles—1,584.  
Public land percent of total—21.  
Forest Service land percent—14.  
Las Animas County land area sq. miles—4,771.  
Public land percent of total—10.  
Forest Service land percent—7.

**Location:** This WSA is in the southern part of the state, 160 miles south of Denver and 20 miles southwest of Walsenburg.

**Recommendation:** This area is unsuitable for wilderness designation, but is proposed to be designated as a National Recreation Area. The area is filled with private inholdings. Opportunities for solitude are only moderate, and opportunities for unconfirmed recreation are limited. The area's small size prohibits extended camping trips. The boundary of the WSA was determined by roads, land ownership and past nonconforming uses rather than geographic features. The absence of natural features and barriers would make the area difficult to manage as wilderness. Exercise of existing private rights would result in road-building or mine development. Attempts to eliminate the private inholdings through boundary modifications would substantially degrade the already marginal wilderness character and suitability. The area has already been designated a National Natural Landmark which protects the unique natural characteristics of the dikes that radiate outward from the peaks. National Recreation Area designation will give the area a special protection without trammeling the rights of private property owners. The area is ideally located to provide outdoor recreation to the nearby population of vacation and permanent residents and will attract growing numbers of hikers and backpackers. Trail development and maintenance to serve these needs can be carried out much more effectively in a Recreation Area.

**General features:** The area is characterized by steep slopes and varied vegetation. Elevation ranges between 8,400 and 13,683 feet. West Spanish Peak is 13,626 feet and East Spanish Peak is slightly higher at 13,683 feet.

**Special features:** The prominent feature aside from the peaks are the unique system of dikes radiating outward from the peaks. The dikes form spectacular free standing walls from 1 to 100 feet high and extend up to 14 miles, many of which are outside the designated area. The peaks and surrounding area were approved for inclusion in the National Registry of Natural Landmarks in January 1977 for protection of their unique character.

**Legislative history:** The area was recommended for inclusion in the Wilderness Preservation System as a result of RARE II. It was designated a WSA by the Colorado Wilderness Act of 1980, and after extensive study was determined unsuitable for designation by the Forest Service.

**Relation to other wilderness:** There are 5 designated wilderness areas partly or entirely in the San Isabel Forest system, totalling 257,420 acres. There is only one wilderness area nearby, that part of the Great Sand Dunes National Monument designated as wilderness. However, the Greenhorn Mountain and Sangre de Cristo study areas are in close proximity to Spanish Peaks.

**Vegetation:** About 73% of the WSA is forested and includes pinon pine and Gambel

oak at lower elevations, ponderosa pine and Douglas fir at mid-elevations, and Engelmann spruce, white fir and bristlecone pine at the higher elevations. The area also contains grasslands, alpine vegetation and oak-brush. Vegetation management is necessary to help reduce insect and disease occurrence and to improve and maintain wildlife habitat.

**Wildlife:** The area contains over 2,500 acres of deer winter range and over 1,000 acres of bighorn sheep winter range. Wildlife species that commonly occur are pine marten, elk, mule deer and northern three-toed woodpecker.

**Threatened and endangered species:** No threatened or endangered species have been identified.

**Conflicts:** The WSA contains 870 acres of private land. They occur in 5 tracts plus several patented mining claims. One is currently used for a dude ranch and contains a log cabin, stable and picnic facilities. Another tract is used as a part of a cattle operation and has 4-wheel drive roads for salting cattle. Oil, gas and mineral rights are reserved on approximately 420 acres in the area. Some of those rights are owned by the state.

**Water:** Seven adjudicated water rights exist in the study area, all of which are avoided by the National Recreation Area proposal. The Cucharas Water and Sanitation District has an immediate need to develop water supply facilities on White Creek and the area is excluded by the Armstrong legislation. The WSA straddles two watersheds, the Spanish Peaks and Apishapa watersheds. Water is of high quality and the current annual water yield is 8,820 acre-feet, with a potential increase to about 9,740 acre-feet through vegetation manipulation above 9,000 feet.

**Minerals:** The WSA has several old mines within its boundaries. Coal deposits have been identified next to the southeastern boundary of the WSA. About 90% of the area has a high or moderate potential for locatable minerals, and approximately 93% has high to moderate potential for leasable minerals. Any coal within the WSA would be found several thousand feet deep and has little likelihood of development.

**Leases:** There are no current leases, but there are pending oil and gas lease applications on about 15,170 acres (78%) of the WSA.

**Claims:** 10 unpatented mining claims exists.

**Timber:** About 73% of the WSA is forested. 65% of the forest is capable of producing regulated timber products, but only 31% is on slopes less than 45 degrees. Little of the area has been logged in the past. The WSA has an annual allowable sale quantity of 1,765 million board feet from suitable lands. The growing stock volume, on suitable lands within the WSA, is about 60.5 million board feet. About 9,600 acres are not suited for timber production because of steep slopes and low timber volume per acre.

**Grazing:** The Spanish Peaks WSA contains portions of 2 livestock allotments with a permitted use of about 138 animal unit months (AUM's) per year. Additional range in the WSA has the potential of increasing that by 151 AUM's to 289 AUM's.

**Recreation:** The area is very popular for hikers and backpackers. There are about 18 miles of trails providing access in the WSA to the area and to the peaks. Roads provide access to the Bull's Eye Mine on the north side and jeep access to private lands tracts on the west. The area, however, is generally

managed for non-motorized recreation. The Forest Service has plans to develop a loop trail around the two peaks to increase access to the area. This could increase the number of visitors, but make opportunities for wilderness solitude difficult.

**Other:** This small WSA is exposed on all sides to population growth, development and semi-urban influences which detract from its wild character.

#### SPRUCE CREEK

**Acreage:** 8,000 acres in the Wilderness Study Area.

**Designation recommendations:**

Forest Service—8,000.

Armstrong—8,000.

Wirth—8,000.

Forest: White River.

County: Pitkin.

Land area sq. miles—968.

Public land percent of total—83.

Forest Service land percent—79.

**Location:** In northeastern Pitkin County about 9.5 miles northeast of Aspen.

**Recommendation:** The Forest Service boundaries are proposed to be designated with minor modifications on the northeastern corner to avoid existing private property rights, and portions of a 4WD road used to access the Hunter-Frying Pan Wilderness. These slight modifications would remove very few acres from designated wilderness, and allow local residents continuation of their historical use of a jeep trail; they would also protect the rights of a property owner.

**General features:** This area is composed of a diverse physical environment. Elevations range from 9,200 to 12,000 feet above sea level and include both alpine and montane life zones. The Spruce Creek drainage consists of a northwesterly facing slope, while the Upper Woody Creek drainage contains both north and south facing slopes.

**Legislative history:** In 1978, Congress enacted the Hunter-Fryingpan Wilderness and directed the Secretary of Agriculture to study the 8,000 acre Spruce Creek addition for designation. This area was determined suitable for wilderness designation by the Forest Service.

**Relation to other wilderness:** Many current wilderness areas are in the immediate vicinity. Within a 15 mile radius of the WSA there are 876 square miles of wilderness, or 560,410 acres. They include the Hunter-Fryingpan (74,450), Maroon Bells-Snowmass (174,060), Holy Cross (126,000), Mt. Massive (26,000), and Collegiate Peaks (159,900).

**Vegetation:** The area contains a limited mix of vegetation types. The dominant ones are Engelmann spruce, subalpine fir and lodgepole pine. There are also small areas of aspen as well as areas of riparian vegetation in the valley bottoms and around the wet areas. Approximately 80% of the land is forested. The non-forested part of the area consists of sub-alpine vegetation and rock outcrops.

**Wildlife:** Wildlife in the area consist of those species commonly associated with mature spruce-fir and lodgepole pine forests such as goshawks, red-backed voles, snowshoe hares, chichadees and pine marten. Deer and elk occur throughout all habitat types during the summer and fall. The area is used as a migration corridor for big game migrating between summer and winter ranges.

**Fishing:** Cutthroat trout are found in the lower reaches of Spruce Creek.

**Threatened and endangered species:** There are no known federally listed, threat-

ened or endangered species within the area. The wolverine and lynx, both on the Colorado list of threatened species have been reported, although sightings have not been confirmed.

**Conflicts:** Very few conflicts exist in the area. However, mineral rights are owned by a private party near Mt. Yeck. Several 4WD and jeep roads are located in that area as well; fortunately, all of these conflicts have been easily avoided with very modest boundary modifications.

**Waters:** No water rights exist in the area. There are no known diversions or substantial consumption of water in the area. Additionally, there is no indication of demand for future water developments for downstream users. The area of land lying upstream from the proposed wilderness is on a steep slope with low potential for water development.

**Minerals:** A mineral survey by the Bureau of Mines and US Geological Survey reported that Spruce Creek has low potential for mineral deposits. Past mining activity has been negligible. Only one small mine, which is no longer active, exists.

**Leases:** None has been identified.

**Claims:** None has been identified.

**Timber:** About 5,200 acres of the area are suitable for timbering. The rest of the area is considered unsuitable because of the wetness and steep slopes which cannot be harvested using conventional methods. The potential average annual sale quantity is between 2.0 and 2.5 million board feet.

**Grazing:** Grazing is currently limited to use by recreation livestock, and regardless of the area's designation, this can be expected to increase slightly in the future.

**Recreation:** The area is used for access to the Hunter-Frying Pan wilderness. Some of the area has been used for motorized recreation in the past.

#### VASQUEZ PEAK

Acreage: 12,800 acres in Wilderness Study Area.

**Designation recommendations:**

Forest Service—12,800.

Armstrong—11,300.

Wirth—24,160\* (includes St. Louis Peak area).

Forest: Arapaho.

County: Grand.

Land area sq. miles—1,854.

Public land percent of total—68.

Forest Service land percent—48.

**Location:** In central Colorado, about 2 miles south of Winter Park Ski Area and four miles south of Fraser. The area is about a 2 hour drive from the Denver metropolitan area.

**Recommendation:** The Forest Service recommendation is proposed with a few minor adjustments to protect existing water rights, and to protect the rights of Berthoud Pass and Winter Park Ski Areas' expansion. The proximity to the Fraser Experimental Forest should be recognized. In order to protect this ongoing experimentation, administrative flexibility is given to the Forest Service to treat for disease and beetle kill, and take active steps to fight fires when necessary. In addition, the right to tunnel under the wilderness area and to carry out maintenance and repair is protected.

**General features:** The WSA lies on the western edge of the Front Range. Alpine meadow vegetation covers over half the area. The elevation in the WSA ranges from 8,600 to 12,000 feet.

**Special features:** The most striking feature of the area is the deeply dissected,

steep-sided valley formed by Vasquez Creek. Vasquez Peak is visible from some areas within the WSA as well as Winter Park Ski Area. The area is adjacent to the Fraser Experimental Forest.

**Legislative history:** The area was evaluated under RARE II and allocated to further planning. The 1980 Colorado Wilderness Act designated to the area a WSA. The area is considered suitable for wilderness by the Forest Service.

**Relation to other wilderness:** There are 9 existing Wilderness areas within a 50-mile radius, totaling 524,200 acres. The closest of these areas are Indian Peaks to the north, Eagle's Nest to the southwest and Mt. Evans to the southeast.

**Vegetation:** About a third of the area, 3,995 acres, is spruce fir, with grasslands making up the majority of the remaining area.

**Wildlife:** Big game species found within the area include elk, mule deer, black bear and mountain goat. Small game species in the area include blue grouse, white-tailed ptarmigan, red squirrel and snowshoe hare. Various songbirds, raptors, small mammals, and furbearers are also present.

**Fishing:** Numerous opportunities exist.

**Threatened and endangered species:** None has been identified.

**Conflicts:** Private easements for tunnels and irrigation ditches exist within the area, and will not be compromised due to wilderness designation. The Berthoud Pass and Winter Park Ski Areas' proposed expansion areas are avoided with small boundary modifications. There are two existing water rights which are also avoided with slight boundary modifications.

**Water:** Two adjudicated water rights exist in the proposed area. Water yield averages 18,700 acre-feet per year, most of which flows into Vasquez Creek. Water quality is excellent. An existing tunnel, which is part of a Denver Water Board transmountain diversion, passes under the WSA. Even though the portals of the tunnel are outside the WSA, the right to essential maintenance of the tunnel must be assured.

**Minerals:** A portion of the WSA has a moderate to high potential for locatable minerals. The potential for leasable minerals, however, is low over the entire area. The WSA lies close to areas of considerable exploration and development, especially to the south and east. In those areas, deposits of lead, zinc, silver, copper, and molybdenum are known to occur. The Berthoud Pass fault zone which extends into the eastern part of the WSA may also contain vein-type uranium.

**Leases:** None has been identified.

**Claims:** None has been identified.

**Timber:** About  $\frac{1}{3}$  of the area is considered tentatively suitable for timber production, with spruce fir as the predominant timber. 80 percent of the area is sawtimber size trees.

**Grazing:** Current grazing use is very light, only 9 animal unit months. There are portions of 3 sheep allotments on the WSA. Two are vacant with no plans to stock them. The one that is stocked involves only a small part of the area.

**Recreation:** There are 14 miles of trails in the WSA. A variety of recreational opportunities exists, including camping, hunting, horseback riding, hiking and limited fishing. There is an old road about 7 miles long between the Vasquez Tunnel and Vasquez Pass, which has been used by 4-wheel drive vehicles and motorcycles. Access to the WSA is from the north via the Vasquez Tunnel Road No. 148, which leaves U.S. 40

at Winter Park. On the eastern boundary, U.S. 40 parallels the WSA at a distance of about  $\frac{1}{2}$  mile, but there are no trailheads and the terrain is steep. Most of the area is not accessible to motor vehicles and current motorized use is minimal. Also, the base of Winter Park Ski Area is less than 2 miles NE of the WSA boundary. When the permitted expansion of the ski area is undertaken, the boundaries of it will be immediately adjacent to the WSA.

**Other:** All land is owned by the United States.

#### WEMINUCHE WILDERNESS ADDITIONS, WEMINUCHE CONTIGUOUS, WHITEHEAD GULCH, NEEDLE CREEK AND WEST NEEDLE

Acreage: 33,660 in the Wilderness Study Areas.

**Designation recommendations:**

Forest Service—28,744.

Armstrong—23,975

Wirth—33,000 (includes 2,240 acres in Puratory Flats Study Area which is left in study status).

Forest: San Juan.

County: San Juan/La Plata.

San Juan land area sq. miles—388.

Public land percent of total—87.

Forest Service land percent—70.

La Plata land area sq. miles—1,692.

Public land percent of total—40.

Forest Service land percent—37.

**Location:** In southwestern Colorado, between Durango and Silverton, it adjoins the western boundary of the existing Weminuche Wilderness Area.

**Recommendation:** All of the Weminuche Wilderness Addition Study Area is proposed to be designated with the exception of a minor boundary change in the eastern portion to exclude mining claims. The proposed northern boundary goes beyond the study area for a short distance near Andrews Lake to achieve a more manageable boundary. However, any further extensions of the area northward would infringe on a major powerline corridor. The Needle Creek area is designated only as far south as Webb Lake to prevent inclusion of a 20 acre inholding. Only the southernmost section of Whitehead Gulch, which encompasses Mount Garfield, is included in the designation due to the large number of mining claims which exist in the rest of the area. All of the Weminuche Contiguous Area recommended suitable is included in the proposed designation.

**General features:** Elevation in the WSA ranges from 8,000 to 13,000 feet. The area is marked by pointed peaks, cirque basins, jagged cliffs and glacial remnants. About 60% of the WSA has particularly notable examples of these features.

**Legislative history:** These areas were studied as part of RARE I and RARE II. As a result of RARE II, the portions were recommended to Congress for inclusion in the wilderness system. However, Congress formally established them as WSA in 1980. The Forest Service has determined that portions of these areas are suitable for wilderness designation.

**Relation to other wilderness:** There are 13 wilderness areas with over 1.3 million acres within a 100-mile radius of the WSA, including Mt. Sneffels and Weminuche Wildernesses.

**Vegetation:** Much of the WSA is relatively devoid of vegetation due to the ruggedness of the terrain. Some Englemann spruce and subalpine fir types cover about 40% of the area. The rest of the area is mostly grassland and rock.

**Wildlife:** Big game species include mule deer, Rocky Mountain bighorn sheep, black bear, and possibly mountain lion. All big game species primarily use the area as spring, summer, and fall habitat. Mountain goats and bighorn sheep make limited use of the area during the winter months. Although acceptable wolverine habitat is present, no wolverines are known to live in the area. Small game species include snowshoe hare, blue grouse and white-tailed ptarmigan. Numerous song birds, raptors, and mammals normally found in coniferous forests and subalpine and alpine regions of Colorado also inhabit the area.

**Fishing:** Cutthroat, rainbow, and brook trout are found in several lakes and streams within the WSA. Very limited natural reproduction occurs in streams. Stream populations are sustained through periodic restocking by the Colorado Division of Wildlife. This wildlife manipulation is forgone in designated wilderness areas.

**Threatened and endangered species:** None has been identified.

**Conflicts:** Approximately 700 acres of private land exist in the area. Many mining claims also exist within the area. Most of the conflicts with these private rights are eliminated with slight boundary modifications that also preserve the integrity of the wilderness characteristics. However, there is a 640-acre section of Colorado state land in the middle of the Weminuche Addition which is included in the designated area. There is a projected powerline corridor in the Molas Pass area that is not infringed upon.

**Water:** Water yield is estimated at 33,000 acre feet per year. The eastern part of the WSA drains into the Animas River via several short, steep drainages. Molas Creek, along the eastern part, is the only perennial stream. The western part of the WSA is drained by tributaries to Lime Creek. The water quality is high and no existing or proposed impoundments, irrigation reservoirs or distribution systems are located in the WSA, and no decreed water rights exist, according to Colorado Water Resource Division records.

**Minerals:** Despite the high number of claims, there has been no recent exploration activities. However, a portion of the WSA borders an active uranium mine, and 31 of the mining claims lie north of Molas Creek. About 94% of the area had moderate to high mineral potential. However, the U.S. Bureau of Mines found only minor base and precious metal values, which do not indicate the presence of mineral resources. Exxon has identified a potentially large uranium deposit at the Elk Park Mine on the WSA's boundary, which could be projected laterally into the study area. Drilling within the WSA would be required to determine depth, extent and ore grade.

**Leases:** No applications or existing leases.

**Claims:** The Forest Service has documented 44 unpatented mining claims.

**Timber:** Only 19% of the area (3,808) is classified as capable for timber production, most of which is spruce fir.

**Grazing:** Domestic sheep grazing is authorized on  $\frac{1}{2}$  of the WSA. Due to the steepness of the terrain, almost 30% of the authorized area is not grazed. Current annual grazing use on the WSA is about 590 animal unit months annually. On the WSA are portions of 3 sheep allotments, 2 are extensively managed and one is currently managed for recreation horses and big game.

**Recreation:** Most of the recreation opportunities in the areas are semi-primitive and

non-motorized. However, snowmobiling, mountain biking and motorcycling use occurs on trails. This activity is especially important to the residents of San Juan and San Luis counties. A balance between the non-motorized and motorized recreation needs is achieved with the proposed boundaries.

**Other:** The Durango-Silverton Narrow Gauge railroad runs along the Animas River. Adequate access for general maintenance and repair for this important tourist-drawing activity is maintained by the boundary.

#### WHEELER GEOLOGIC

Acreage: 11,390 acres in the Wilderness Study Area.

Designation recommendations:

Forest Service—unsuitable.

Armstrong—15,900.

Wirth—25,000.

Forest: Rio Grande National Forest.

County: Mineral/Saguache.

Mineral land area sq. miles—3,309.

Public land percent total—94.

Forest Service land percent—94.

Saguache land area sq. miles—3,167.

Public land percent of total—65.

Forest Service land percent—47.

**Location:** In the southwestern part of the state, within the Upper Rio Grande River drainage on the western slope of the La Garita Mountains and adjacent to the La Garita Wilderness Area. The WSA is about 6 miles northeast of Creede.

**Recommendation:** Although the Forest Service recommended against designation, a substantial portion of the area is proposed to be designated as wilderness to provide additional protection to the geological area. The wilderness proposal is expanded to the east of the study area to follow the jeep road for a more logical boundary, and expanded to the west of the study area to protect the fragile tundra from motorized access. The portion of the study area excluded from wilderness designation is the SE portion above West Bellows Creek Canyon which contains the 4WD access to the geologic formations. The access road must be excluded from wilderness designation if access to the Wheeler formations is to be maintained for families, the elderly and handicapped individuals.

**General features:** The area is part of the La Garita Mountain Range. The spectacular badlands in Rat Creek Tuff are perched in, on and amidst tuffs, flow and breccias of the La Garita caldera. The eroded volcanic ash formations stand out starkly against the surrounding forest and sky. The area south of the formation is separated by the deep, red-walled canyons of East Bellows Creek and West Bellows Creek.

**Special features:** The Wheeler Geologic formations are the main attraction in the study area. Named in honor of Captain George M. Wheeler, who conducted geological surveys of Colorado between 1873 and 1884, the "Wheeler Geologic Area" gained national recognition in 1908, when it was designated a National Monument by President Theodore Roosevelt. In 1933, jurisdiction was transferred from the Forest Service to the Park Service. The Park Service, after developing criteria on what areas belong in the "National Park System," recommended the lands be returned to the National Forest because of difficulties in administering and developing the Monument due to its small size, isolation from other components of the Park system, and the lack of funds. Wheeler National Monument status was abolished in 1945 and the area returned to the Forest

Service for management. In 1960, the Forest Service concluded special protection measures were necessary for the fragile geologic formation, and in July 1962, withdrew a 640-acre tract from mineral prospecting, location, or purchase. The area is protected as a National Geological and Scenic Area.

**Legislative history:** The 1964 Wilderness Act created the La Garita Wilderness just north of Wheeler. Public concern for protection of Wheeler resulted in several proposals for expansion of the La Garita Wilderness. The area was evaluated under RARE I but not recommended for wilderness. The area was also studied under RARE II and recommended unsuitable for wilderness. However, the Carter Administration recommended the area for wilderness designation. The area was designated a WSA by the 1980 Colorado Wilderness Act, and after further study was still considered unsuitable for designation by the Forest Service.

**Relation to other wilderness:** Prior to 1980, 7 wilderness areas lay within a 100-mile radius of the Wheeler Geologic Study Area—totalling 645,987 acres. Two areas were within the National Park System and the remaining areas were on National Forest System lands. The 1980 Colorado Wilderness Act added 7 new wildernesses and enlarged four existing wildernesses within the 100-mile radius, amounting to a total of 1,594,566 acres within 100 miles of the WSA. Moreover, there are twenty wildernesses encompassing a total of 2,298,550 acres within a 150-mile radius of the Area.

**Vegetation:** Dominant tree species are Engelmann spruce and subalpine fir. Most timber stands range in age from 150 to 250 years. About 20% of the area contains timberlands considered suitable for harvest.

**Wildlife:** Big game species within the area include elk, mule deer, and black bear. The area receives moderate hunting pressure. Small-game species occupying the area include blue grouse, cottontail rabbit and snowshoe hare. Various birds, small mammals and furbearers are found in the area. Other species that might be observed include yellow-bellied marmot, pine marten, pika, golden eagle, goshawk and prairie falcon.

**Fishing:** Fishing opportunities are varied.

**Threatened and endangered species:** No threatened or endangered species have been identified. However, the cliffs along East and West Bellows Creek may provide habitat for the peregrine falcon, an endangered species. Introduction of these species would be forgone with wilderness designation. Also, the drainages in the area have been identified as possible release sites for the river otter, a species listed as endangered by the State of Colorado. Again, this type of wildlife manipulation would be forgone because of wilderness designation.

**Conflicts:** The study area, with the exception of 4WD access to the Wheeler formations, is devoid of most conflicts, making this area suitable for wilderness designation. The mechanized and motorized access to the formations can be maintained with slight boundary modifications. Trail #787 to Halfmoon Pass is used for motorized access to the La Garita Wilderness. This historic motorized use would be eliminated by designation of the entire wilderness study area. Four adjudicated water rights outside the study area are avoided by this proposal.

**Water:** The WSA drains into East and West Bellows Creeks, which later flow into the Rio Grande near Wagon Wheel Gap. The area produces about 11,000 acre feet of

water per year, used downstream for irrigation, livestock, recreation and wildlife. Maximum potential water yield increase would result from patch cutting  $\frac{1}{4}$  of all timber stands and constructing snow fences on 70% of the alpine, high grass and old burn areas, resulting in an increased water yield of about 1,370 acre feet per year. This increased water yield would be forgone if the area is designated wilderness.

**Minerals:** Geologic studies by the US Geological Survey and the Colorado Metal Mining Fund Board show metallic ore deposits in the San Juan Mountains in the Creede Mining District immediately to the west of the Wheeler Geologic Study Area. However, there is no evidence they extend into the WSA.

**Leases:** There are no leases.

**Claims:** There are no mining claims.

**Timber:** Within the WSA are 3,628 acres of spruce fir with only 1,980 acres on slopes below 45% containing about 21.6 million board feet—described as overmature for production.

**Grazing:** The WSA has been historically used for grazing and recreation, leaving few intrusions; a primitive log shelter at the base of the formations, a spruce pole fence marking about 700 feet of the geologic area's boundary, a primitive jeep road, and several miles of foot and horse trails. Since the early 1900's, the area has been grazed by sheep. The permitted grazing season is from July 11 to September 30, for about 985 animal unit months—3,283 sheep months. Forage is considered fair to good.

**Recreation:** The area offers both semi-primitive non-motorized and motorized recreation, including hiking, fishing, camping, photography, horseback riding, hunting, trailblazing and jeeping. Trail register data and observation indicate the area receives less recreation visitors than the nearby wildernesses.

#### WILLIAMS FORK

Acreage: 53,888 acres in the Wilderness Study Area.

Designation recommendations:

Forest Service—unsuitable.

Armstrong—55,100 (proposed National Recreation Area, including St. Louis Peak Area).

Wirth—40,000 (the remaining 13,888 acres of the study are left in further study status).

Forest: Arapaho.

County: Summit/Grand.

Summit land area sq. miles—607.

Public land percent of total—81.

Forest Service land percent—80.

Grand land area sq. miles—1,854.

Public land percent of total—68.

Forest Service land percent—48.

Location: In the central part of the state, 70 miles west of Denver and 4 miles north of Dillon.

**Recommendation:** This area is proposed to be designated a National Recreation Area, because it is unsuitable for wilderness designation. Opting for a National Recreation Area designation makes it feasible to designate the entire study area. It would require stretching wilderness standards beyond any reasonable interpretation to classify any of the area as wilderness. This NRA designation will assure substantial outdoor recreational opportunities within a short distance from the Denver metropolitan area. It is easily accessed from all sides and provides outstanding opportunities for high country hiking and backpacking. This area shows many signs of man's permanent imprints on the land. To designate this as a wilderness

would be to compromise the integrity of the definition of wilderness.

**General features:** The area has riparian and alpine ecosystems, similar to the Vasquez and St. Louis Peak areas. A variety of man-made developments are visible from the area which detract from its wilderness potential.

**Special features:** Steelman Creek and Bobtail Creek are affected by past mining and current water development by the Denver Water Board. Traffic noise from Interstate 70 and Colorado Highway 9 impact the west and south parts of the Williams Fork Divide.

**Legislative history:** Evaluated under RARE II and allocated to further planning, this area has been extensively studied and is unsuitable for wilderness designation.

**Relation to other wilderness:** There are 9 existing wilderness areas within a 50-mile radius totaling 651,881 acres. The Vasquez and St. Louis Peak WSA are directly north of Williams Fork.

**Vegetation:** Approximately 68% of the area is forested with spruce fir and lodgepole pine; 58% of the total area, or 31,348 acres, is tentatively suitable for timber production.

**Wildlife:** The area hosts the same variety of wildlife as in the Vasquez and St. Louis Peak Areas. Elk, mule deer, black bear and mountain goat have been identified as have various small game species. Yellow-bellied marmot, pine marten, pika, golden eagle, goshawk, and prairie falcon have been observed.

**Fishing:** Fishing is popular along the numerous watersheds. The middle and south fork of the Williams Fork and their major tributaries support fishable populations of brook and native trout. The lower reaches of the major tributaries to the Williams Fork are periodically stocked with rainbow and brook trout. This activity will be maintained under this designation.

**Threatened and endangered species:** No species has been identified.

**Conflicts:** This study area is surrounded on all sides by extensive development. A stock driveway, trail and firelane is located on the western edge, and proposed expansion of the Loveland Ski area will be foregone if the area to the east is included as wilderness. Adjudicated water rights are located at eight points within the area, and the current Denver Water Board developments are clearly evident. Any future developments may be jeopardized by designation as wilderness. The Henderson Mine and Mill activities are clearly visible from many parts of the area, as is an existing power line, railroad and road developments. The western and southern boundaries run along Colorado Highway 9, Interstate 70 and the Eisenhower Tunnel. Atop Ptarmigan Peak visitors clearly view the town of Dillon and the Dillon Reservoir. Although the area is a scenic and beautiful one, designation as wilderness is not appropriate to protect its unique qualities. Visitors to a wilderness do not expect to see powerlines, mining operations and permanent structures—let alone a major national interstate highway—all of which exist along the boundaries of this area. Further, wilderness visitors do not expect to hear highway traffic and other unavoidable signs of man's presence.

**Water:** Eight adjudicated water rights have been identified by the Forest Service. Average water yield is 68,350 acre-feet per year. There is one major water conflict with the Denver Water Board (DWB). On the northeastern corner of the FPA, the DWB has one diversion on Steelman Creek and

their expansion road has been constructed past Steelman Creek about 4.5 miles into the FPA.

**Minerals:** Much of the area (72%) has moderate to high potential for locatable minerals. There are several producing mines in the area including the Henderson Mine. The study area, however, has a low potential for leasable minerals. There is little effort to develop the mineral potential within the area, and this designation would eliminate all but existing mineral development. Current mining activity would not be jeopardized, however, ensuring that these jobs and important resources, which are important to our state, are allowed to continue.

**Leases:** No leases exist or have been applied for.

**Claims:** The Forest Service has not identified any mining claims.

**Timber:** About 68% of the area is forested predominantly with spruce fir and lodgepole pine; 58% of the total area, or 31,348 acres, is tentatively suitable for timber production.

**Grazing:** Portions of 2 domestic sheep allotments fall in the area. Current use is 710 animal unit months annually. The majority of the range is in fair condition.

**Recreation:** The close proximity to the Denver area makes this a popular recreation area. Much of the visitation is for hunting, hiking, horseback riding, primitive camping and other activities associated with the 41 miles of trail within the area. The area is currently closed to motorized use.

**Other:** All surface and mineral rights are owned by the U.S.®

#### By Mr. SANFORD:

S. 2002. A bill to make certain supplemental appropriations for early childhood education programs, and for other purposes; to the Committee on Appropriations.

#### SUPPLEMENTAL APPROPRIATIONS FOR EARLY CHILDHOOD EDUCATION PROGRAMS

**Mr. SANFORD.** Mr. President, what is the explanation of "A little child shall lead them?" Simply this. A little child, under all circumstances, is its simple honest self; never appearing wealthy when it is in poverty; never appearing learned when it is ignorant; never appearing important when it feels unimportant. Booker T. Washington once said:

In a word, the life of the child is founded upon the great and immutable. There is no pretense. There is no mockery.

Each year, almost 1 million children from low-income families enter school for the first time. While their more fortunate classmates may face the new challenge with assurance, many children from low-income homes begin school with health problems and a lack of self-confidence. Without the will to move ahead, these children often fall behind in their first years of school and find their troubles compounded in later years.

According to the U.S. Census Bureau, one in every five children in America—some 12.6 million youngsters under the age of 18—is living in poverty.

Worse yet, the Bureau's survey shows that children have succeeded old people as the poorest age group in the Nation. Millions live in one-parent families where there is no father to contribute to their support.

As a result of 8 years of cutbacks and deferred priorities during the Reagan administration, there currently exists in the United States an early education deficit, the scope of which is comparable to a chasm, separating children with academic and financial resources from children who have neither. Breaching this chasm will require a substantial and steadily increasing investment in Head Start and chapter 1. Two programs demonstrably effective but severely underfunded.

Since 1990, Federal spending for education has decreased 4.7 percent in real terms, despite a growing population of disadvantaged young people—at whom most Federal education programs are aimed.

What has this meant to children in need, our future work force in the 21st century? It means that while poverty among all children has grown to 22 percent, participation in the chapter 1 program of compensatory education for disadvantaged children has dropped by 500,000 students since 1980.

Chapter 1, which is successfully raising the reading and math competency of 4.5 million children, is serving less than half of the youngsters eligible for this vital help.

It means that Head Start, the proven preschool program for disadvantaged children continues to serve only 453,000 youngsters, or less than 20 percent of its eligible population.

While there is no easy answer to the problem of ingrained poverty, study after study has shown that early childhood education programs for disadvantaged children offers the best opportunity for breaking the cycle of poverty.

Study after study has shown that a \$1 invested in high-quality preschool programs like Head Start and chapter 1 saves \$6 in lowered costs for special education, grade retention, public assistance, and crime later on. Children formerly enrolled in these programs are more likely than other poor children to be literate, employed, and enrolled in postsecondary education. They are less likely to be high school dropouts, teen parents, dependent on welfare, or arrested for criminal or delinquent activity.

Study after study has shown that the common characteristics of a drop-out-prone student includes low socio-economic status, weak academic skills, low self-esteem, and a fatalistic outlook often observed as early as the third grade.

Clearly the Federal Government needs to reaffirm its longstanding commitment to ensuring the disadvan-

taged access to quality education programs such as Head Start and chapter 1. Because without equity—there can be no real “excellence” in education.

That is why I am introducing this bill calling for full funding for the Head Start and chapter 1 programs by 1992. This legislation calls for investments in two programs that work.

Today, the issue is not whether we can afford to make meaningful investments in the future, but that we absolutely cannot afford to maintain the status quo—for we are still trying to make up for lost ground. The children we fail to support now may well be lost to us forever. We simply cannot afford as a nation to give up on 80 percent of our children—condemning them to a life of poverty and despair.

The time to help our most disadvantaged children is while they are still very young. It's those early years that count most. Right now, we're giving only one in five children the help they need. We must do better! The best investments we can make with our Federal dollars is an investment in our disadvantaged children. Those funds are more important than anything else our Government can do. It's time we started spending more wisely and investing heavily in our children, for their sake and for the Nation.

Let's face facts. American education is in a state of crisis and only a massive commitment of resources to fully fund Head Start and chapter 1 will turn things around.

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

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

S. 2002

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the fiscal year ending September 30, 1990, and for other purposes, namely:*

**TITLE I—DEPARTMENT OF HEALTH AND HUMAN SERVICES**

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

HUMAN DEVELOPMENT SERVICES

For an additional amount for carrying out the Head Start Act, \$1,000,000,000.

**TITLE II—DEPARTMENT OF EDUCATION**

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For an additional amount for carrying out the activities authorized by chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended, \$1,700,000,000, which shall become available on July 1, 1990 and shall remain available until September 30, 1991, of which \$73,000,000 shall be available for migrant education activities under subpart 1 of part D, \$70,000,000 shall be available for handicapped education activities under subpart 2 of part D, and \$3,000,000 shall be available

for delinquent and neglected education activities under subpart 3 of part D.

**TITLE III—GENERAL PROVISIONS**

Sec. 301. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Sec. 302. It is the sense of Congress that appropriations for the Head Start Act shall be increased to fully serve the potential, eligible population under the Act by fiscal year 1992.

Sec. 303. It is the sense of Congress that appropriations for chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended, shall be increased to the authorization level by fiscal year 1992.

Sec. 304. This Act may be cited as the “Early Education Supplemental Appropriations Act of 1990”.

By Mr. HOLLINGS:

S. 2003. A bill to establish a commission to advise the President on proposals for national commemorative events; to the Committee on the Judiciary.

**NATIONAL COMMEMORATIVE EVENTS ADVISORY ACT**

• Mr. HOLLINGS. Mr. President, today marks the beginning of the second session of the 101st Congress, and I rise to introduce legislation that will help us get back to business. This legislation will save hundreds of thousands of dollars in printing costs and staff time by establishing a “President’s Advisory Commission on National Commemorative Events.” This Commission would review the hundreds of congressionally sponsored commemorative resolutions which recognize particular days, weeks, months, or years through Presidential proclamation.

Somewhere along the way we've let our zeal for commemoratives get out of hand. During the 95th Congress, we had 34 commemoratives. In the 100th Congress, 258 commemoratives were passed, and in the 101st Congress, we're on track for over 300.

The process of obtaining cosponsors and getting these commemoratives passed is preventing legislators and staff from devoting valuable time to more important issues. I want us to get out of the commemorative business and into the business of doing some real work around here. Therefore I'm introducing a bill to create a Commission on “National Commemorative Events” to sift through these resolutions.

The Commission, which would be modeled on the Stamp Commission, would be comprised of 11 members: two House Members, two Senate Members, and seven Presidential appointees. Their job would be to review all commemorative proposals and make recommendations to the President for approval or disapproval. A Commission would not mean another layer of bureaucracy since the bill does not create salaried support staff for the

Commission. Appointed Commissioners would receive per diem expenses, but staffing requirements would be met by the administration.

I know that sponsoring commemorative legislation on behalf of worthy causes and special interests of constituents is important to Members of Congress. I myself have sponsored a yearly resolution to honor our Nation's law enforcement personnel. However, I am willing to see a Commission take a hard look at these observances.

The bill that I am introducing today is the companion bill to H.R. 539, which was introduced by Representative DAVE McCURDY of Oklahoma. I commend Congressman McCURDY for his work on this bill. H.R. 539 and a similar bill introduced by Representative CLAUDINE SCHNEIDER of Rhode Island (H.R. 746) have a combined 335 cosponsors, and the House Subcommittee on Census and Population has scheduled a hearing on this legislation next month. I hope that the Senate will follow suit and consider the creation of this Commission. We should honor our constituents not by passing commemorative after commemorative, but by spending our time working on legislation that will make a real difference in their lives.❶

By Mr. HEINZ:

S. 2004. A bill to provide for the reliquidation of, and refund of duties on, certain entries of methanol; to the Committee on Finance.

DUTY TREATMENT ON CERTAIN ENTRIES OF  
METHANOL

❷ Mr. HEINZ. Mr. President, although the major policy debate over steel was at least temporarily concluded by President Bush's decision last year to extend the VRA Program until March 31, 1992, further research has emerged that, if nothing else, proves one of the central points I tried very hard to make last year—the determining role of market forces on steel.

I refer to a study by David Cantor of the Congressional Research Service, "Steel Imports: Is the U.S. Market A Profit Center for Foreign Steel?" which was released last December. This study begins with the statistical fact that the VRA limits were not filled in 1987 or 1988, and probably not in 1989, and goes on to demonstrate that one likely reason for that was the fact that for other industrialized producers the U.S. market was less profitable than their own. In other cases, mostly LDC's, prices were higher in the U.S. market, but that was primarily because of price controls in their domestic markets.

While this information may be more of academic interest at this point, it helps make clear the ongoing primacy of market forces in international steel trade despite the VRA Program. And, in fact, it is market forces that are de-

termining the level of imports into the United States.

That may come as something of a shock to those who opposed extension of the VRA's because it is a significant addition to the mountain of evidence demonstrating they were—and are—wrong. No doubt when this issue returns in 1992 they will be back arguing against any further extensions—and they will be wrong once again.

Mr. President, I ask that the text of Mr. Cantor's study be printed at this point in the RECORD.

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

STEEL IMPORTS: IS THE U.S. MARKET A PROFIT CENTER FOR FOREIGN STEEL?  
(By David J. Cantor)

SUMMARY

The decline in U.S. steel imports in recent years has been attributed to the steel import restraint program that was instituted in 1984. But the fact that the quotas established under this program were not filled in 1988 and apparently in 1989 suggests that other factors have influenced imports. One of these factors is that the profitability on sales in the U.S. market is less for certain countries than it would be in their home markets. For other countries, such sales are more profitable than at home.

A recent comparative analysis of costs and price of one major and representative steel product, cold rolled sheet, presents data indicating that advanced industrial countries achieve higher profit margins in their home markets than in the United States. Two of these countries, Japan and West Germany, are estimated to have negative margins on U.S. sales. Third World countries, on the other hand, are found to achieve higher profit margins on U.S. sales than major advanced industrial countries. They also earn more from exports to the United States than in their home markets, largely a result of government price-fixing policies in their home markets.

To a large extent, the profitability of sales of cold rolled sheet in the United States has been influenced by changes in the foreign exchange value of the U.S. dollar. Had the exchange rates prevailing in 1985 remained constant, six major foreign suppliers—Canada, West Germany, Japan, South Korea, Taiwan, and the United Kingdom—would have had estimated pre-tax profit margins in the range from 13.2 percent to 36.2 percent. Given the change in the exchange rates, however, these six countries have estimated profit margins in mid-1989 in the range from -16.1 percent to 1.3 percent.

Since 1984, the share of steel imports into the U.S. market have declined significantly, from 26.4 percent in 1984 to about 17.7 percent in the first eight months of 1989.<sup>1</sup> To some extent, this reduction in import market share was the result of the steel voluntary export restraint (VRA) program that was instituted by President Reagan in 1984. But data on the extent to which the quotas negotiated with the countries participating in this program were filled indicates that

<sup>1</sup> American Iron and Steel Institute, 1988 Annual Statistical Report, Washington, 1989, p. 6; and, American Iron and Steel Institute, Apparent Supply of Steel Mill Products, Year 1989, Washington, 1989, p. 2.

these countries were exporting significantly less tonnage than they were permitted, especially in 1987 and 1988.<sup>2</sup> That VRA quotas were not filled suggests that there are other reasons for the drop in steel imports at least in later years of the steel VRA program.

One reason for the decline in U.S. imports of steel products is that the profit margin on sales of steel mill products in the United States is less for certain countries than it would be in their home markets. In principle, one would expect steel companies (or, for that matter, firms engaged in any line of business), wherever they are located, to develop and expand those markets which are the most profitable in the long run. Alternatively, it is reasonable to expect businesses to withdraw from relatively less profitable markets over the long term.<sup>3</sup>

To a large extent, the ability to achieve a positive profit margin on sales of steel in the United States is tied to the foreign exchange rate. Recent data, discussed herein, indicate that some advanced industrial countries, whose currencies have appreciated in value relative to the U.S. dollar, generally attain lower or even negative profit margins on their steel sales to the United States. Conversely, Third World countries, whose currencies have not increased in value relative to the U.S. dollar or have appreciated less than the currencies of advanced industrial countries, are able to earn relatively high profit margins on steel sales in the United States and other countries than in their home markets.

These general findings are based on estimates of costs, price, and exchange rates developed by The WEFA Group, an independent private economic forecasting organization. The WEFA Group's estimates of cost and price comparisons are for a single product, cold rolled sheet, and for eight countries and the United States. The eight countries are: Brazil, Canada, West Germany, Japan, South Korea, Mexico, Taiwan, and the United Kingdom. While the estimated profit margins of selling steel products other than cold rolled sheet may differ from those for cold rolled sheet, this product is considered to be representative of a major finished steel mill product. In the first eight months of 1989, cold rolled sheet was the largest single category of domestic steel shipments, accounting for 16.9 percent of all shipments to end-users; in addition, it is the basic raw material input to galvanized sheet, which represented 10.1 percent of U.S. steel mill shipments to end-users.<sup>4</sup>

ESTIMATED PROFIT MARGINS ON SALES OF COLD ROLLED SHEET IN THE UNITED STATES AND HOME MARKETS OF MAJOR STEEL-PRODUCING COUNTRIES, MID-YEAR 1989

The United States appears to be a relatively profitable market for cold rolled sheet imported from six of eight major for-

<sup>2</sup> U.S. International Trade Commission, *The Effects of the Steel Voluntary Restraint Agreements on U.S. Steel Consuming Industries*, USITC Publication 2182, May 1989, Washington, 1989, p. 2-1.

<sup>3</sup> In the short run, companies could engage in trade even at a loss, if they are able to recover their variable costs. This may explain why firms in some countries continue to sell steel mill products to the United States, even though the profitability of this activity is relatively low. Such firms may have contractual or other long-standing relationships with U.S. customers which they do not wish to jeopardize.

<sup>4</sup> American Iron and Steel Institute, *Net Shipments of Steel Mill Products, All Grades Including Carbon, Alloy and Stainless, Net Tons*, August 1989, Washington, 1989, 1 p.

ign steel producing countries, for which cost and price estimates are available. Steel exporters from Brazil, Canada, South Korea, Mexico, Taiwan, and the United Kingdom earn more profits before taxes from sales in the United States than they do in their home markets. West Germany and Japan earn lower profits from sales of this product in the United States than they realize in their home markets. Estimates of these pre-tax profit margins are presented in table 1.

#### A COMPARISON OF HOME MARKET PROFIT MARGINS ON SALES OF COLD FOLDED SHEET

The estimates of the pre-tax profit margins in home markets range from -16.3 percent in Brazil to 10.2 percent in the United Kingdom. The estimated profit margin in the United States is about 9.3 percent. Only Japanese and United Kingdom producers have higher profit margins in their home markets than do U.S. steel companies. Three countries—Brazil, South Korea, and Mexico—have negative profit margins on sales of cold rolled sheet in their home markets. With the exceptions of Japan and the United Kingdom, the estimated profit margins on the home market sales of cold rolled sheet are less than the home market profit margin estimated for U.S. producers.

#### Home market profit margins in third world countries

Home market profit margins are lowest in the four Third World countries—Brazil, South Korea, Mexico, and Taiwan—considered herein. As noted previously, the first three of these countries have negative profit margins on home market sales of cold rolled sheet. The estimated pre-tax profit margin on sales of this product in Taiwan is 1.5 percent.

TABLE 1.—ESTIMATED PRE-TAX PROFIT MARGIN ON SALES OF COLD ROLLED SHEET IN HOME AND U.S. MARKETS, FOR SELECTED COUNTRIES, MID-1989

(In percent)

Country	1989 exchange rate <sup>7</sup>	Home market	U.S. market
United States	1.0	9.3	9.3
Brazil	1.1	-16.3	4.9
Canada	1.2	34	1.3
West Germany	1.9	84	-0.1
Japan	145.0	97	-16.1
South Korea	665.0	17	9
Mexico	2,500.0	63	8.0
Taiwan	25.5	15	0
United Kingdom	0.6	10.2	1.3

<sup>7</sup> The exchange rates are expressed as the ratios of units of national currency to one U.S. dollar of mid-1989. The rates shown are those estimated by the WEFA Group. Calculated by CRS, using as its source, The WEFA Group, *Steel Executive Summary*, September 28, 1989, Bala Cynwyd, 1989, p. 12.

The WEFA Group explains the negative or relatively low profit margins on sales in the home markets of Third World countries by pointing to government policies to fix prices in their markets.<sup>8</sup> For example, according to The WEFA Group, Brazilian steel producers have targeted exports as their primary source of sales revenue rather than the domestic steel market, owing to official price regulations.<sup>9</sup> Howell et al. report-

<sup>8</sup> The WEFA Group, *Steel Executive Summary*, August 15, 1989, Bala Cynwyd, 1989, p. 14.

<sup>9</sup> The WEFA Group, *Steel Executive Summary*, September 28, 1989, Bala Cynwyd, 1989, p. 23.

ed that the Mexican government established domestic price controls in order to stimulate the growth of steel-using industries in that country.<sup>10</sup> Similar policies are reported for Korea and Taiwan.<sup>11</sup>

#### Home market profit margins in advanced industrial countries

The four advanced industrial countries for which data are available—Canada, West Germany, Japan, and the United Kingdom—all have positive and pre-tax profit margins on their home market sales of cold rolled sheet. The margins range from 3.4 percent in Canada to 10.2 percent in the United Kingdom. The home market margins of Canadian and West German producers are lower than those of U.S. firms. Japan's margin is slightly higher than in the United States, by about 0.3 percentage points. The margin in the United Kingdom is about 10 percent higher than in the United States. The margins in all of these countries is significantly higher than those in the Third World countries.

To a considerable extent, the profit margins of the advanced industrial countries are generally in the same range as the margin in the United States, because these countries have similar cost structures. Energy and material costs account for about 65 percent of operating cost in these countries; they are estimated to range from about \$290 per metric ton in the United States to about \$303 per metric ton in West Germany. Labor costs per metric ton range from about \$129 in the United Kingdom to about \$156 in Japan. Selling and administrative costs range from about \$17 per metric ton in Canada to about \$20 per metric ton in Japan; the estimate of selling and administrative costs in the United States is about \$19 per metric ton. Financial costs (interest, depreciation, and state and local taxes) range from about \$37 per metric ton in West Germany to about \$88 per metric ton in Japan; these costs in the United States are estimated to be about \$41 for one metric ton.<sup>12</sup> Data on the cost structure of cold rolled sheet production in the four advanced industrial countries are presented in table 2.

The relatively high profit margin on sales of cold rolled sheet in the United Kingdom home market may be explained by lower labor and financial costs for the British steel industry than for the steel industries of the other advanced industrial countries. These two cost components are estimated to be about \$158. These costs average about \$207 per metric ton in the other four advanced industrial countries. The other cost elements in the United Kingdom are estimated to be about \$318 per metric ton; in the other four advanced industrial countries, they average about \$315 per ton. That is, in the United Kingdom, the costs of producing a metric ton of cold rolled sheet, other than labor and financial costs, are nearly equal to those in the other countries.

<sup>7</sup> Howell, Thomas R., William A. Noellert, Jesse G. Kreier, and Alan Wm. Wolff, *Steel and the State*, Boulder, Westview Press, 1988, p. 312 f.

<sup>8</sup> Ibid., p. 289 f., and 334 f.

<sup>9</sup> The WEFA Group, *Steel Executive Summary*, September 28, 1989, Bala Cynwyd, 1989, p. 12.

TABLE 2.—ESTIMATED COSTS OF PRODUCING ONE TON OF COLD ROLLED SHEET IN SELECTED ADVANCED INDUSTRIAL COUNTRIES, MID-1989

(U.S. dollars per metric ton)

Cost component	United States	Canada	Germany	Japan	United Kingdom
Energy/materials.....	290	295	303	295	300
Labor.....	148	141	152	156	129
Selling/administrative.....	19	17	19	20	19
Financial <sup>1</sup> .....	41	62	37	89	29
Total cost <sup>2</sup> .....	497	516	510	561	476

<sup>1</sup> Includes interest, depreciation, and state and local taxes.

<sup>2</sup> Column data may not sum to the total owing to rounding.

Note.—The exchange rates used to express costs in terms of U.S. dollars are those prevailing in mid-1989, as reported by The WEFA Group.

Source: The WEFA Group, *Steel Executive Summary*, September 28, 1989, Bala Cynwyd, 1989, p. 12.

Even if the estimated home market price for cold rolled sheet were equal in all of the relevant countries, the lower labor and financial costs in the United Kingdom enable its steel industry to earn a higher return on sales. But the price estimates are not equal. In the United Kingdom, the price of a metric ton of cold rolled sheet is estimated to be about \$530, which is lower than the home market price estimate in any of the other countries.<sup>13</sup> If these estimates of price and cost are correct, the data suggest that the principal reason for the relatively high home market profit margin in the United Kingdom is the nearly \$50 per ton advantage that its steel industry has over the others with respect to labor and financial costs of production.

The estimated high pre-tax profit margin in Japan and the low margin in Canada are explained by the estimated home market prices of cold rolled sheet in their markets. The WEFA Group estimates that the mid-year price of this product in Japan is \$621 per metric ton, and, in Canada is \$534 per ton. Even though Japan is the highest cost producer of this product among the advanced industrial countries considered herein, its price is also the highest. Similarly, the estimated Canadian home market price of \$534 per metric ton is the lowest of all the advanced industrial countries considered; in addition, Canada's costs of production are estimated to be higher than costs in all of the other industrial countries other than Japan.

The profit margin in West Germany is 0.9 percentage points less than in the United States. This differential appears to be the result of higher energy and material costs in West Germany; these costs are estimated to be \$13 per ton more in West Germany than in the United States. While estimates of labor costs are higher by \$4 per metric ton in West Germany than in the United States, financial costs are lower by the same amount.

#### A COMPARISON OF PROFIT MARGINS ON SALES OF COLD ROLLED SHEET IN THE UNITED STATES

A different picture emerges in comparing the pre-tax profit margins of the several countries on sales of cold rolled sheet in the U.S. market. In general, the Third World countries earn significantly more on these sales than do the advanced industrial countries. In addition, all of the advanced indus-

<sup>13</sup> Ibid. The WEFA Group estimates the home market prices per metric ton for these other advanced industrial countries to be: United States—\$548; Canada—\$534; West Germany—\$557; and Japan—\$621.

trial countries earn less on sales of cold rolled sheet in the United States than they obtain in their home markets. Two of them, West Germany and Japan, are estimated to have negative pre-tax profit margins on their sales in the United States.

The profit margins are estimated as the difference between the home market price in the United States, \$548 per metric ton, and the cost of production (including transportation and related charges) in the exporting country, and dividing this difference by the U.S. home market price. It is assumed that foreign producers would have to sell their product in the United States at no more than the U.S. home market price. Transportation and related charges will be shown to be a significant factor in estimating profit margins on U.S. sales, because the exporting country would have to absorb these charges, assuming that the home market price realized by U.S. producers is the maximum price charged by foreign producers.

In all likelihood, the price of the foreign steel would probably be priced somewhat less than the U.S. price to account for the relative uncertainty of supply. That is, foreign producers generally cannot assure purchasers of delivery dates with absolute certainty owing to possible delays in transit and clearance through customs. Thus, it is probably that the estimates of pre-tax profit margins on imported cold rolled sheet are somewhat overstated. Nevertheless, for purposes of this analysis, it is assumed that the U.S. home market price is the value at which foreign steel is traded in the United States.

#### *Profit margins on U.S. sales of Third World countries*

The average pre-tax profit margins of Third World countries on sales of cold rolled sheet in U.S. markets is about 3.0 percent. The margins for these countries range from about -0.9 percent in South Korea to about 8.0 percent in Mexico. By contrast, the average pre-tax profit margin of the four advanced industrial countries is about -3.4 percent. If these estimates and those for price and costs are correct, the four Third World countries earn about the same amount per metric ton of cold rolled sheet sold in the United States as the four advanced industrial countries lose on their U.S. sales of this product.

Three of the four Third World countries—Brazil, South Korea, and Mexico—earn more per metric ton of cold rolled sheet sold in the United States than they do in their home markets. Brazil is estimated to have a pre-tax profit margin of 4.9 percent on U.S. sales; the profit margin for Mexico is estimated to be about 8.0 percent. Although the profit margin for South Korean cold rolled sheet sold in the United States is estimated to be negative, South Korea still loses less on U.S. sales than on home market sales. These three countries are estimated to have negative profit margins in their home markets, a result of reported government price fixing in those markets.

Only Taiwan, among the Third World countries, is estimated to earn more in its home market than on sales in the United States. Its estimated margin on home market sales is 1.5 percent; on U.S. sales, Taiwan has a zero profit margin. In part, Taiwan's estimated zero profit margin on U.S. sales results from the fact that estimated transportation and related charges offset

completely any realized profits. If these shipping charges were not factored into the calculation of estimated profit margins, Taiwan would have a margin of about 13.7 percent on its sales of cold rolled sheet in the United States.<sup>11</sup>

While it is not surprising that the Third World countries considered herein have higher estimated profit margins on sales of cold rolled sheet to the United States, it is of some interest that those margins are not higher. As discussed previously, the relatively low home market profit margins may be explained by government price-fixing in domestic markets. But one might expect that relatively low labor costs in these countries would affect their overall costs substantially, and permit them to enjoy "very high" profits on sales in relatively high labor cost countries, like the United States.

The data on costs of production in these countries indicates that labor costs are significantly less than in advanced industrial countries. But this labor cost advantage is substantially offset by higher financial costs. Data on the cost structure of cold rolled sheet production in the four Third World countries considered here are presented in table 3 along with similar data for the United States for purposes of comparison.

Estimated employment costs per metric ton of cold rolled sheet in the four Third World countries range from \$33 in Brazil and Mexico to \$77 per ton in Taiwan. These costs in South Korea are estimated to be \$66 per metric ton of output. In each case, these costs are substantially less than the estimated U.S. labor cost to produce a metric ton of cold rolled sheet. In the case of Taiwan, estimated labor costs are nearly 48 percent less than in the United States, where the labor component of cost is estimated to be \$148 per metric ton. In Korea, they are about 55 percent below those in the United States. In Brazil and Mexico, they are nearly 78 percent less than labor costs in the United States. If labor were the only factor in cost of production, the Third World countries would indeed have a substantial cost advantage over the United States.

TABLE 3.—ESTIMATED COSTS OF PRODUCING ONE TON OF COLD ROLLED SHEET IN THE UNITED STATES AND SELECTED THIRD WORLD COUNTRIES, MID-1989

[U.S. dollars per metric ton]

Cost component	United States	Brazil	South Korea	Mexico	Taiwan
Energy/materials.....	290	280	295	300	290
Labor .....	148	33	66	33	77
Selling/administrative .....	19	18	21	20	18
Financial <sup>1</sup> .....	41	124	97	101	87
Total cost <sup>2</sup> .....	497	456	478	454	473

<sup>1</sup> Includes interest, depreciation, and state and local taxes.

<sup>2</sup> Column data may not sum to the total owing to rounding.

Note.—The exchange rates used to express costs in terms of U.S. dollars are those prevailing in mid-1989, as reported by the WFEA Group.

Source: The WFEA Group, Steel Executive Summary, September 28, 1989. Bala Cynwyd, 1989, p. 12.

<sup>11</sup> If shipping charges could be ignored in estimating profit margins on U.S. sales, higher profit margins would be attained in all countries. These margins after disregarding transportation charges would be: Brazil, 16.1 percent; Canada, 5.8 percent; West Germany, 6.9 percent; Japan, -2.4 percent; South Korea, 12.8 percent; Mexico, 17.2 percent; Taiwan, 13.7 percent; and, the United Kingdom, 13.1 percent.

But financial costs (interest, depreciation, and state and local taxes) in these countries are considerable. The estimated financial costs range from \$87 per metric ton in Taiwan to \$124 per ton in Brazil; the estimated financial cost per metric ton of output in South Korea is about \$97; in Mexico, it is an estimated \$101 per ton. In the United States, financial costs per metric ton of output are estimated to be \$41 per ton. That is, the financial cost component of total costs of production in the Third World countries are at least two times greater than in the United States; in the case of Brazil, they are about three times greater than in the United States. The significant differences between these costs in the Third World countries and the United States may be explained by the fact that the steel industry is relatively new to the Third World countries. Expansion of their industries generally and into products, like cold rolled sheet, essentially began in the mid-to-late 1970s. In the United States and other advanced industrial countries, the industry is relatively old and mature; consequently, depreciation expense on much of their physical plant had been taken. Thus, in the Third World countries, one would expect depreciation charges at least to loom large, while they would be considerably less in countries, like the United States.

#### *Profit margins on U.S. sales of advanced industrial countries*

The four advanced industrial countries are estimated to have profit margins that are less than the margins in their home countries. They range from -16.1 percent in Japan to 1.3 percent in Canada and the United Kingdom; the estimated profit margin for West Germany is -0.1 percent. In their home markets, the average pre-tax margin in these four countries is estimated to be about 7.9 percent; on their sales in the U.S. market, their average profit margin is estimated to be about -3.4 percent.

#### **THE EFFECT OF CHANGES IN THE FOREIGN EXCHANGE RATE ON PROFIT MARGINS ON SALES OF COLD ROLLED SHEET IN U.S. MARKETS**

The change in the value of the U.S. dollar relative to the values of the currencies of most of the other countries considered herein appears to be the principal factor explaining the relatively low profit margins on sales of cold rolled sheet in the U.S. market. The pre-tax profit margins based on 1985 and 1989 exchange rates are presented in table 4. Since 1985, the currencies of all of the countries discussed here with the exceptions of Brazil and Mexico appreciated in value against the U.S. dollar. They rose in value in the range from about 14.5 percent in Canada to about 66 percent in Japan between 1985 and mid-year 1989. Had the foreign exchange value of the U.S. dollar not changed since 1985, all other things being equal, steel exporters in these countries would have experienced pre-tax profit margins on U.S. sales of cold rolled sheet in the range from about 13.2 percent in Canada to about 36.2 percent in Taiwan. The change in the value of the U.S. dollar since 1985 reduced profit margins on U.S. sales for all of the countries except Brazil and Mexico to less than 10 percent, and in four instances (West Germany, South Korea, Japan, and Taiwan), to either zero or negative values.

TABLE 4.—ESTIMATED PRE-TAX PROFIT MARGINS ON SALES OF COLD ROLLED SHEET IN THE UNITED STATES BASED ON 1985 AND 1989 EXCHANGE RATES

Country	1985		1989	
	Ex-change rate <sup>1</sup>	Profit margin (per cent)	Ex-change rate <sup>1</sup>	Profit margin (per cent)
Canada	1.4	13.2	1.2	1.3
West Germany	2.9	31.2	1.9	-0.1
Japan	238.5	27.9	145.0	-16.1
Korea	370.0	22.8	655.0	-.2
Taiwan	39.9	36.2	25.5	0
United Kingdom	0.8	26.1	.6	1.3

<sup>1</sup> Exchange rates are expressed as the units of national currencies per U.S. dollar.

Sources: International Monetary Fund, International Financial Statistics, v. XLII, October 1989; Federal Reserve Bulletin, v. 73, July 1987, p. A68; and, The WEFA Group, Steel Executive Summary, September 28, 1989, Bala Cynwyd, 1989, p. 12.

These estimates were obtained as follows. The estimated current cost of production in each of the several countries was restated in terms of the currency of each of the countries using current exchange rates. These estimates of cost were then converted into U.S. dollars using the 1985 exchange rates. The difference between these current cost estimates based on 1985 exchange rates and the current U.S. market price of cold rolled sheet adjusted for transportation and related charges was then divided by the adjusted U.S. market price of cold rolled sheet.

The currencies of the six countries identified in table 3 all appreciated in value against the U.S. dollar since 1985, the year when the drop in the foreign exchange value of the U.S. dollar began. Given that 1989 domestic costs of production denominated in the currencies of each of the six countries would be unaffected directly by the change in the exchange rate, restating them in U.S. dollars at the 1985 exchange rate would result in lower dollar costs. Table 5 presents data on the estimated 1989 costs of production of a metric ton of cold rolled sheet in each of the six countries in terms of domestic currency and U.S. dollars at the 1985 and 1989 exchange rates.

Using 1985 exchange rates, the estimated cost of producing one metric ton of cold rolled sheet (expressed in U.S. dollars) is lower than the dollar cost using 1989 exchange rates in the range from about 12 percent in Canada to about 39 percent in Japan. The effect of using the 1985 exchange rate is to lower the dollar cost in Canada by an estimated \$64 per ton. Japanese dollar costs would be reduced by about \$220. West German costs would drop by \$181 per metric ton; Taiwanese costs would be decreased by \$171 per ton; the dollar-denominated cost in the United Kingdom would be lowered by \$119 per ton; and, those in South Korea would be \$113 less than if the 1989 exchange rates were used.

Brazil and Mexico are not considered here, because their currencies depreciated significantly against the dollar. As discussed previously, the currencies of the other six countries rose in value relative to the U.S. dollar. But the U.S. dollar appreciated against the Brazilian cruzeiro by nearly 200 percent since 1985, and against the Mexican peso by close to 1,000 percent. In both cases, substantial inflationary pressures led to the devaluation of their currencies. The effect of the two devaluations was to bring the cost and price of a metric ton of cold rolled sheet into line with those of the United States and the other six countries.

TABLE 5.—ESTIMATED 1989 COSTS OF PRODUCTION OF COLD ROLLED SHEET IN DOMESTIC CURRENCY AND U.S. DOLLARS AT 1985 AND 1989 EXCHANGE RATES

Country	[Cost per metric ton]		
	1989 Production cost in		
Country/currency	U.S. dollars:		U.S. dollars: exchange rate 1989
	Domestic currency	1985 exchange rate	
Canada/dollar	619.2	454	516
West Germany/deutsche mark	969.0	329	510
Japan/yen	81,345.0	341	561
South Korea/won	317,870.0	365	478
Taiwan/dollar	12,061.5	302	473
United Kingdom/pound	285.6	357	476

Sources: International Monetary Fund, International Financial Statistics, v. XLII, October 1989; Federal Reserve Bulletin, v. 73, July 1987, p. 68; and, The WEFA Group, Steel Executive Summary, September 28, 1989, Bala Cynwyd, 1989, p. 12.

This analysis illustrates the significant role that changes in the foreign exchange value of the U.S. dollar have played in affecting the profitability of the U.S. market for major foreign sellers of steel. Note that, in general, those countries whose currencies have risen in value more than others are estimated to have lower pre-tax profit margins than the others. For example, Japan's yen rose in value against the dollar by over 65 percent as compared with the roughly 15 percent increase in the value of the Canadian dollar. Japan is estimated to lose money in the U.S. market; Canada earns an estimated 1.3 percent pre-tax profit margin. To be competitive with domestic and other foreign sellers in the U.S. market, Japan has to accept the prospects of losses. Countries, like South Korea, do not have to reduce their prices as much as Japan, in part because their currencies have not appreciated in value as much as the Japanese yen or the West German mark.

#### CONCLUDING OBSERVATIONS

The U.S. steel market, as represented by the market for cold rolled sheet, is not universally profitable for foreign producers. The Third World countries that have emerged as major steel producing countries appear to be able to earn more per ton of steel sold in the United States than do traditional exporters to the U.S. market, mainly the advanced industrial countries. The latter group have been affected significantly by the change in the value of their currencies relative to the U.S. dollar and relative to the currencies of some Third World countries. The Third World countries not only benefit from relatively favorable exchange rates in comparison with advanced industrial countries, but also from the ability to earn more in the U.S. market than at home owing to reported government price-fixing. That advanced industrial countries have shipped less steel to the United States than in the past may reflect the fact that their producers can earn higher profits at home than in the United States.

Why, if profits are poor, might advanced industrial countries sell steel at all in the U.S. market? In part, such sales enable them to maintain high operating rates in their steel industries, which have been found to have a significant bearing on costs of production.<sup>12</sup> Canada, for example, is

<sup>12</sup> Barnett, Donald F. and Louis Schorsch, *Steel Upheaval in a Basic Industry*, Cambridge, Ballinger Publishing Company, 1983, p. 193 f.

shipping about 3 million tons of steel mill products to the United States. This volume represents about one-fifth of its finished steel output, and about 18 percent of its steelmaking capacity. Canada's steel industry is estimated to be operating about 81 percent of its capacity.<sup>13</sup> To reduce its exports to the United States by 50 percent, for example, would be to lower its capacity utilization rate to about 72 percent. Similarly, Japan, which is shipping about 3.7 million tons of steel to the United States, is estimated to be operating about 74 percent of its capacity, a relatively low rate of capacity utilization.<sup>14</sup> Cutting its shipments in half could reduce its industry's capacity utilization rate to 72 percent. Even though these foreign producers might earn low profits or incur losses, being able to maintain higher operating rates could permit them to produce steel for their home or other export markets at lower costs.

#### By Mr. GRAHAM:

S. 2005. A bill to repeal the provision of law exempting intercity rail passenger service from certain waste disposal requirements; to the Committee on Commerce, Science, and Transportation.

#### REPEAL OF AMTRAK EXEMPTION FROM WASTE DISPOSAL REQUIREMENTS

Mr. GRAHAM. Mr. President, today I am introducing legislation to repeal the exemption allowed Amtrak from Public Health Service Act regulations. Repealing this exemption will return to the Surgeon General the authority to make and enforce regulations preventing the discharge of wastes by Amtrak.

Mr. President, this is an issue of great concern in our State. The State of Florida is engaged in a court battle against Amtrak to stop the dumping of raw waste. This past November, the passenger rail company was convicted in State court of violating Florida's litter laws. During the proceedings, the President of Amtrak, Mr. W. Graham Claytor, testified that Florida's environmental laws should not apply to the company and cited a Federal exemption in support of this position.

Sentencing of Amtrak was scheduled for January 19, but on January 17 it was postponed indefinitely by U.S. District Judge Howell Melton. The precedent setting decisions relating to jurisdiction over Amtrak will have to wait until the Federal court has an opportunity to hear Amtrak's case.

Mr. President, what we have here is an anomaly. The United States has been engaged in passenger rail traffic since 1825. Throughout that period, railroads have been exempt from most pollution laws.

The Federal exemption which permits the dumping of waste dates back to 1976 when Congress exempted Amtrak from the Public Health Serv-

<sup>13</sup> The WEFA Group, *World Steel Forecast, Mid-Year 1989*, Bala Cynwyd, 1989, p. 22.

<sup>14</sup> Ibid., p. 216. ■

ice regulations and directed the Department of Health, Education, and Welfare [HEW] to conduct a followup study to determine whether the freight railroads and other passenger railroads should be made to comply with the regulations.

HEW concluded that the costs of converting existing rail car disposal facilities to either a retention type toilet or one that fully treats waste before discharge "is excessively high to justify protection against a public health hazard which is potential only and which in fact has never been demonstrated anywhere in the world."

HEW did, however, recommend that passenger cars manufactured after June 1, 1972, be equipped to retain wastes at speeds of less than 25 miles per hour. Above that speed, wastes could be discharged directly onto the roadbed without treatment. In addition, HEW concluded that Amtrak's maceration-type retention-dump systems employed on the new Superliner equipment would be satisfactory provided they released wastes only at speeds in excess of 25 miles per hour.

To date, it has been stated by Mr. Claytor that this practice continues on all except for short-distance coaches used in the Northeast corridor. He added that the Superliner cars used in the West and the Amfleet II cars used on long-distance Eastern routes were specifically designed to release waste en route after maceration once the train is moving at speeds in excess of 35 miles per hour. Amtrak's Heritage sleeping cars, many of which are over 40 years of age and which operate on routes on the east coast release waste to the right-of-way.

Mr. President, the situation in Florida was brought to a head this summer when Lt. Robert Lee, of the Florida Game and Fish Commission, observed an Amtrak train discharging raw sewage into the St. John's River. He has witnessed more than one occurrence. He has taken testimony from individuals who were sprayed by waste while fishing in the river, and he was responsible for the filing of commerce litter charges against Amtrak.

Mr. President, we are allowing to this mode of transportation an exemption which is not available to any other mode of transportation and which, frankly, would be shocking to the conscience of the American public were it to be so. We cannot imagine commercial buses, airlines, or other forms of transportation having this exemption from our basic pollution law. I believe in the principle of leadership by example. If the Federal Government wants to set high health and environmental standards, certainly those agencies which are under its direct control, such as Amtrak, ought to be setting the national standard, and not seeking an exemption.

This is not an issue which is peculiar to Florida. Other States: Arkansas, California, Idaho, Louisiana, Nebraska, the President's State of Nevada, New Mexico, New York, North Carolina, Oregon, Pennsylvania, South Carolina, Utah, Vermont, West Virginia, and Wisconsin have submitted comments at congressional hearings in opposition to a continuation of Amtrak's current waste disposal practices.

Mr. President, I am aware of the difficulties that we face in repealing Amtrak's exemption. I have included in the legislation which I am offering today a 3-year delay in the effective date in order to allow Amtrak that period of time in which to retrofit their cars and change their operational practices to come into compliance.

It is time that we seriously address this issue and eliminate this threat to our Nation's health and environment. It is time to eliminate this scar against the Federal Government's real commitment to the environment of America.

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

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

S. 2005

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 306(i) of the Rail Passenger Service Act (45 U.S.C. 546(i)) is repealed, effective on the first day of the 37th month following the month in which this Act is enacted into law.*

By Mr. GLENN (for himself, Mr. ROTH, Mr. LIEBERMAN, Mr. KOHL, Mr. LEVIN, and Mr. LAUTENBERG):

S. 2006. A bill to establish the Department of the Environment, provide for a global environmental policy of the United States, and for other purposes; to the Committee on Governmental Affairs.

DEPARTMENT OF THE ENVIRONMENT ACT

Mr. GLENN. Mr. President, I rise to introduce the Department of the Environment Act of 1990, a bill that, among other things, transforms the Environmental Protection Agency into a new Cabinet-level department, the Department of the Environment.

I am pleased that the distinguished ranking member of the Governmental Affairs Committee, Senator ROTH, is here to join me in this introduction, since the bill is a product of a joint effort involving ourselves, our staffs, and the administration.

I am also pleased to announce as original cosponsors Senators LIEBERMAN, KOHL, LEVIN, LAUTENBERG, and BINGAMAN.

Mr. President, 20 years ago, the Congress created the Environment Protection Agency as a response to what was perceived as a serious and growing pol-

lution problem that threatened the health and well being of the American people. We have made progress in many areas, though not enough to become complacent in any area. In some areas, problems have gotten worse. Twenty years ago, few persons thought about the long-range transport of pollutants across international boundaries; of acid rain falling in continental Europe because coal was being burned in England; of ocean dumping of toxic substances that wash up on distant shores; of radioactive particles falling from the sky over France, Germany, Belgium, and Poland from a nuclear accident in the Soviet Union; of destruction of the stratospheric ozone layer, that protects us from damaging ultraviolet rays, from the release of millions of tons of chlorofluorocarbon compounds in our spray cans, refrigerators and air conditioners; and of the possibility of a potentially disastrous warming of the Earth from emissions of carbon dioxide resulting from the burning of fossil fuels.

Last November, the Administrator of EPA attended an international meeting with environmental ministers from 67 other countries to discuss and adopt an agreement in principle on the stabilization of carbon dioxide emissions. Like it or not, international agreements to achieve environmental progress are now a necessary feature of sound environmental protection policy.

These global concerns—stratospheric ozone destruction, the creation of ozone "smog" from deteriorating forests, acid rain, desertification, ocean pollution, and trafficking in hazardous waste, as well as the national pollution problems stemming from development and industrialization have induced every major industrialized nation to create a ministerial post for environmental protection with the only exception being the United States, where environmental concerns are handled by subcabinet officers.

As we approach the end of the 20th century, it is time for the United States to move aggressively in a leadership position across the board in the solution of global environmental problems. To do otherwise is to consign the quality of life of all Americans to the policy decisions of others—and what else should one call that except a threat to our national security?

It is a fact of diplomatic life that the seriousness with which one views another government's concerns is influenced by the stature of the person articulating those concerns. A subcabinet EPA does not send the appropriate signal to the rest of the world as to the priority and leadership to be given by the United States to the cause of environmental protection. If this were the only argument in favor of elevat-

ing EPA to Cabinet-level status, it would, and does, carry considerable weight. But there is much more to say.

EPA is our protector to ensure that the air we breathe, the water we drink, the wastes we dispose of, are not harmful to our health or our quality of life. These are among the most profound, fundamental concerns of Americans and will continue to be so for the indefinite future. Can anyone truly claim that there should be no room at the Cabinet table for the agency that grapples with the elements needed to sustain life?

In the last Congress, when the question of elevating the Veterans' Administration to Cabinet-level status came up, we discovered that no one had ever systematically set down criteria by which to judge whether a Federal agency should be given Cabinet status. The Governmental Affairs Committee contracted with the National Academy of Public Administration to produce such a set of criteria—which turned out to have 16 elements. We believe EPA meets nearly all of the 16 individual tests.

The bill I am introducing with Senator Rorh establishes a Bureau of Environmental Statistics to collect, coordinate, and make accessible environmental data of all kinds. It also authorizes the establishment of an Interagency Committee on Global Environmental Change, and calls for new measures by the United States to promote energy conservation in connection with multilateral assistance programs. The bill also calls for convening in the United States of an International Meeting on Energy Efficiency and Renewable Resources as well as the negotiation of a Multilateral Global Climate Protection Convention at a separate international meeting to be held in the United States. The bill does not deal with specifics of environmental policy, but contains a mechanism, in the form of a Presidential commission, for taking a fresh look, across-the-board, at our environmental laws and regulations for the purpose of examining their logic consistency, overlap, and effectiveness.

I am confident that the step we are taking today will strengthen the American commitment to a cleaner and more healthful environment, not only for America, but the global commons.

I urge my colleagues and the President to support this measure, which I intend to move expeditiously through the Governmental Affairs Committee and to the floor of the Senate as soon as possible.

I would like to take this opportunity to acknowledge the efforts of many colleagues, past and present, who have worked hard to raise public consciousness of the need to elevate EPA to cabinet level status. The efforts of Senators DURENBERGER, CHAFEE, and

BAUCUS, as well as the majority leader, Mr. MITCHELL, should be duly recognized and applauded, and I invite all who are interested to work with us to ensure that the final product that gets signed into law brings us a Department of the Environment that we can all be proud of.

I ask unanimous consent that the bill and a section-by-section analysis prepared by the Congressional Research Service 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. 2006

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

#### SECTION I. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Department of the Environment Act of 1990".

(b) **TABLE OF CONTENTS.**—The table of contents is as follows:

#### TITLE I—GENERAL FINDINGS

Sec. 101. Findings.

#### TITLE II—ELEVATION OF THE ENVIRONMENTAL PROTECTION AGENCY TO CABINET LEVEL

Sec. 201. Short title.

Sec. 202. Findings.

Sec. 203. Establishment of the Department of the Environment.

Sec. 204. Assistant Secretaries.

Sec. 205. Deputy Assistant Secretaries.

Sec. 206. Office of the General Counsel.

Sec. 207. Office of the Inspector General.

Sec. 208. Bureau of Environmental Statistics.

Sec. 209. Miscellaneous employment restrictions.

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Sec. 211. Savings provisions.

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#### TITLE III—ESTABLISHMENT OF THE INTERAGENCY COMMITTEE ON GLOBAL ENVIRONMENTAL CHANGE

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#### TITLE V—ESTABLISHMENT OF THE COMMISSION ON IMPROVING ENVIRONMENTAL PROTECTION

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#### TITLE I—GENERAL FINDINGS

SEC. 101. FINDINGS.

The Congress finds that—

(1) the Earth's environment is being altered by human activities such as the generation of solid and toxic wastes, the generation of water and air pollution, inefficient energy utilization, and poor land management practices;

(2) these environmental effects have serious implications for the Earth's ecosystems, agricultural production, water supply, air quality, human health, wetlands, and climate;

(3) Federal energy, natural resources, and environmental policies must be coordinated to take account of the fragility of the Earth's ecosystem; and

(4) adoption and implementation of a high-level, coordinated Federal policy which addresses the environment on a national and international level is necessary to protect the Earth's ecosystem.

#### TITLE II—ELEVATION OF THE ENVIRONMENTAL PROTECTION AGENCY TO CABINET LEVEL

SEC. 201. SHORT TITLE.

This title may be cited as the "Department of the Environment Act."

SEC. 202. FINDINGS.

The Congress finds that—

(1) recent concern with Federal environmental policy has highlighted the necessity of assigning to protection of the domestic and international environment a priority which is at least equal to that assigned to other functions of the Federal Government;

(2) protection of the environment increasingly involves negotiations with the representatives of foreign states, a majority of whom are of minister status; and

(3) the size of the budget and the number of Federal civil servants devoted to tasks associated with environmental protection is commensurate with departmental status.

#### SEC. 203. ESTABLISHMENT OF THE DEPARTMENT OF THE ENVIRONMENT.

(a) **REDESIGNATION.**—The Environmental Protection Agency is hereby redesignated as the Department of the Environment (hereafter referred to as the "Department") and shall be an executive department in the executive branch of the Government.

(b) **SECRETARY OF THE ENVIRONMENT.**—(1) There shall be at the head of the Department a Secretary of the Environment who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

(2) The Secretary may not assign duties for or delegate authority for the supervision of the Assistant Secretaries, the General Counsel, the Director of Environmental Statistics, or the Inspector General of the Department to any officer of the Department other than the Deputy Secretary.

(c) **DEPUTY SECRETARY.**—There shall be in the Department a Deputy Secretary of the Environment, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such responsibilities as the Secretary shall prescribe and shall act as the Secretary during the absence or disabil-

ity of the Secretary or in the event of a vacancy in the Office of Secretary.

(d) OFFICE OF THE SECRETARY.—The Office of the Secretary shall consist of a Secretary and a Deputy Secretary and may include an Executive Secretary.

**SEC. 204. ASSISTANT SECRETARIES.**

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department such number of Assistant Secretaries, not to exceed 10, as the Secretary shall determine, each of whom—

(1) shall be appointed by the President, by and with the advice and consent of the Senate; and

(2) shall perform such responsibilities as the Secretary shall prescribe.

(b) RESPONSIBILITIES OF ASSISTANT SECRETARIES.—The Secretary shall assign to Assistant Secretaries such responsibilities as the Secretary considers appropriate, including, but not limited to—

- (1) enforcement and compliance monitoring;
- (2) research and development;
- (3) air and radiation;
- (4) water;
- (5) pesticides and toxic substances;
- (6) solid waste;
- (7) hazardous waste;
- (8) hazardous waste cleanup;
- (9) emergency response;
- (10) international affairs;
- (11) policy, planning, and evaluation;
- (12) intergovernmental and public affairs; and

(13) administration and resources management, including financial and budget management, information resources management, procurement and assistance management, and personnel and labor relations.

(c) DESIGNATION OF RESPONSIBILITIES PRIOR TO CONFIRMATION.—Whenever the President submits the name of an individual to the Senate for confirmation as Assistant Secretary under this section, the President shall state the particular responsibilities of the Department such individual shall exercise upon taking office.

(d) CONTINUING PERFORMANCE OF ASSISTANT SECRETARY RESPONSIBILITIES PENDING CONFIRMATION.—An individual who, on the effective date of this Act, is performing any of the responsibilities required by this section to be performed by an Assistant Secretary of the Department may continue to perform such responsibilities until such responsibilities are assigned to an individual appointed as an Assistant Secretary of the Department under this Act.

(e) CHIEF FINANCIAL OFFICER.—(1) The Secretary shall designate the Assistant Secretary whose responsibilities include financial management as the Chief Financial Officer of the Department. Such individual shall be selected on a basis of demonstrated ability in financial management.

(2) The Chief Financial Officer shall—

(A) be the principal financial management advisor to the Secretary;

(B) develop and maintain financial management systems for the Department, including accounting and related transaction systems, internal control systems, financial reporting systems, credit, cash, and debt management systems which would provide for the—

(i) development and maintenance of consistent, compatible and useful financial data;

(ii) development and reporting of cost information; and

(iii) integration of accounting and budget information;

(C) supervise and coordinate all financial management activities and operations of the Department, including—

(i) the development of financial management budgets;

(ii) the approval and management of financial management system design or enhancement projects;

(iii) management of internal control processes;

(iv) the development of long-range financial management plans; and

(v) oversight over credit and cash management, credit extension, debt servicing, debt collection, and other credit management activities;

(D) monitor the financial execution of the Department's budget in relation to actual expenditures and prepare timely performance reports for senior managers; and

(E) issue such policies or directives as may be necessary to carry out this section.

(f) CHIEF INFORMATION RESOURCES OFFICER.—(1) The Secretary shall designate the Assistant Secretary whose responsibilities include information management functions as required by section 3506 of title 44, United States Code, as the Chief Information Resources Officer of the Department.

(2) The Chief Information Resources Officer shall—

(A) advise the Secretary on information management activities of the Department as required by section 3506 of title 44, United States Code;

(B) develop and maintain an information resources management system for the Department which provides for—

(i) the conduct of and accountability for any acquisitions made pursuant to a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759);

(ii) the implementation of all applicable government-wide and Department information policies, principles, standards, and guidelines with respect to information collection, paperwork reduction, privacy and security of records, sharing and dissemination of information, acquisition and use of information technology, and other information resource management functions;

(iii) the periodic evaluation of and, as needed, the planning and implementation of improvements in the accuracy, completeness, and reliability of data and records contained with Department information systems; and

(iv) the development and annual revision of a 5-year plan for meeting the Department's information technology needs; and

(C) report to the Secretary as required under section 3506 of title 44, United States Code.

**SEC. 205. DEPUTY ASSISTANT SECRETARIES.**

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department such number of Deputy Assistant Secretaries as the Secretary may determine.

(b) APPOINTMENTS.—Each Deputy Assistant Secretary—

(1) shall be appointed by the Secretary; and

(2) shall perform such functions as the Secretary shall prescribe.

(c) MINIMUM NUMBER OF DEPUTY ASSISTANT SECRETARY POSITIONS IN THE COMPETITIVE SERVICE.—At least one-half of the number of positions established under subsection (a) and filled under subsection (b) shall be in the competitive service.

(d) FUNCTIONS.—(1) Subject to paragraph (2), functions assigned to an Assistant Secretary under section 204(b) may be per-

formed by one or more Deputy Assistant Secretaries appointed to assist such Assistant Secretary.

(2) The following functions may be performed by a Deputy Assistant Secretary only if such Deputy Assistant Secretary is in a competitive service position:

(A) Personnel management and labor relations functions.

(B) Equal opportunity functions.

**SEC. 206. OFFICE OF THE GENERAL COUNSEL.**

There shall be in the Department the Office of the General Counsel. There shall be at the head of such office a General Counsel who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Department and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

**SEC. 207. OFFICE OF THE INSPECTOR GENERAL.**

The Office of Inspector General of the Environmental Protection Agency, established in accordance with the Inspector General Act of 1978, is hereby redesignated as the Office of Inspector General of the Department of the Environment.

**SEC. 208. BUREAU OF ENVIRONMENTAL STATISTICS.**

(a) ESTABLISHMENT.—There is established within the Department an independent Bureau of Environmental Statistics (hereafter referred to as the "Bureau"). The Bureau shall be responsible for—

(1) assembling a comprehensive set of environmental quality measures, not necessarily limited to those aspects of the environment under jurisdiction of the Department; the measures should include (but are not limited to) data—

(A) on the nature and amount of pollutants in the environment; and

(B) regarding the effects on the public and the environment of those pollutants;

(2) promulgating guidelines for the collection of the data required for the measures under paragraph (1) to assure that the data are accurate, reliable, relevant, and in a form that permits systematic analysis;

(3) coordinating the collection of such measures with related information-gathering activities conducted by other Federal agencies; (except the Bureau shall not collect data if the Bureau can obtain that data more efficiently and with equal reliability from another agency and such other agency is already collecting such data);

(4) making readily accessible the data required for the measures under paragraph (1);

(5) preparing, in cooperation with other Federal agencies, the report required under section 201 of the National Environmental Policy Act of 1969 (42 U.S.C. 4341); and

(6) fulfilling the duties and functions under paragraphs (1), (2), (6), and (7) of section 204 of the National Environmental Policy Act of 1969 (42 U.S.C. 4344(1), (2), (6), and (7)).

(b) DIRECTOR OF ENVIRONMENTAL STATISTICS.—The Bureau shall be under the direction of a Director of Environmental Statistics (hereafter referred to as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be a qualified individual with experience in the collection and analysis of environmental statistics. The Director shall report directly to the Secretary. The Director shall be compensated at the rate provided for at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) ENVIRONMENTAL STATISTICS ANNUAL REPORT.—On February 1 of the year following the date of the enactment of this section and annually thereafter, the Director shall submit to the President an Environmental Statistics Annual Report (hereafter referred to as the “Report”). The Report shall include but not be limited to—

(1) data on environmental quality as referred to in sections 201(1) and 204(6) of the National Environmental Policy Act of 1969, (42 U.S.C. 4341(1) and 4344(6)), including the status and condition of the air, aquatic, and terrestrial environments, changes to those environments over time, trends in such conditions and changes, and the underlying causes of the changes;

(2) data on the health of human and non-human species and ecosystems;

(3) documentation of the method used to obtain and assure the quality of the data presented in the Report;

(4) economic information on the current and projected costs and benefits of environmental protection; and

(5) recommendations on improving environmental statistical information.

(d) DESIGNATION OF FUNCTIONS PRIOR TO CONFIRMATION.—Whenever the President submits the name of an individual to the Senate for confirmation as Director under this section, the President shall state the particular functions of the Department such individual will exercise upon taking office.

(e) CONTINUING PERFORMANCE OF THE FUNCTIONS OF THE DIRECTOR PENDING CONFIRMATION.—An individual who, on the effective date of this Act, is performing any of the functions required by this section to be performed by the Director may continue to perform such functions until such functions are assigned to an individual appointed as the Director under this Act.

(f) ADVISORY COUNCIL ON ENVIRONMENTAL STATISTICS.—The Director shall appoint an Advisory Council on Environmental Statistics, comprised of no more than 6 private citizens who have expertise in environmental statistics and analysis, to advise the Director on environmental statistics and analyses, including whether the statistics and analyses disseminated by the Bureau are of high quality and are based upon the best available objective information. The Council shall be subject to the provisions of the Federal Advisory Committee Act.

(g) BUREAU AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated \$2,800,000 in fiscal year 1991 and \$5,400,000 in fiscal year 1992 to carry out the provisions of this section.

#### SEC. 209. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.

(a) LIMITATION ON NUMBER OF NONCAREER SENIOR EXECUTIVES.—Notwithstanding section 3134(d) of title 5, United States Code, the number of Senior Executive Service positions in the Department which are filled by noncareer appointees in any fiscal year may not exceed 12 percent of the total number of senior executives employed in Senior Executive Service positions in the Department at the end of the preceding fiscal year.

(b) PROHIBITED EMPLOYMENT AND ADVANCEMENT CONSIDERATIONS.—Except as otherwise provided in this Act, political affiliation or political qualification may not be taken into account in connection with the appointment of any person to any position in the career civil service or in the assignment or advancement of any career civil servant in the Department.

(c) REPORTS ON IMPLEMENTATION.—The Secretary, at the end of each of the first 4 fiscal years following the date of enactment of this title, shall report to the Senate Committees on Governmental Affairs and Environment and Public Works and to the House of Representatives on the estimated additional cost of implementing this title over the cost as if this title had not been implemented, including a justification of increased staffing not required in the execution of this title.

#### SEC. 210. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining—

(1) to the Administrator of the Environmental Protection Agency shall be deemed to refer to the Secretary of the Environment;

(2) to the Environmental Protection Agency shall be deemed to refer to the Department of the Environment;

(3) to the Deputy Administrator of the Environmental Protection Agency shall be deemed to refer to the Deputy Secretary of the Environment; or

(4) to any Assistant Administrator of the Environmental Protection Agency shall be deemed to refer to an Assistant Secretary of the Department of the Environment.

#### SEC. 211. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, by the Administrator of the Environmental Protection Agency, or by a court of competent jurisdiction, in the performance of functions of the Administrator or the Environmental Protection Agency; and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of the Environment, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending before the Environmental Protection Agency at the time this Act takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this Act shall not affect suits commenced before the date this Act takes effect, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Environmental Protection Agency, or by or against any individual in the official capacity of such individual as an officer of the Environmental Protection Agency, shall abate by reason of the enactment of this Act.

(e) PROPERTY AND RESOURCES.—The contracts, liabilities, records, property, and other assets and interests of the Environmental Protection Agency shall, after the effective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department.

#### SEC. 212. CONFORMING AMENDMENTS.

(a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1) of title 3, United States Code, is amended by inserting before the period at the end thereof the following: “, Secretary of the Environment”.

(b) DEFINITION OF DEPARTMENT, CIVIL SERVICE LAWS.—Section 101 of title 5, United States Code, is amended by adding at the end thereof the following: “The Department of the Environment”.

(c) COMPENSATION, LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following: “Secretary of the Environment”.

(d) COMPENSATION, LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking out “Administrator of Environmental Protection Agency” and inserting in lieu thereof “Deputy Secretary of the Environment”.

(e) COMPENSATION, LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking out “Inspector General, Environmental Protection Agency” and inserting in lieu thereof “Inspector General, Department of the Environment”; and

(2) by striking each reference to an Assistant Administrator of the Environmental Protection Agency and by adding at the end thereof the following: “Assistant Secretary, Department of the Environment (10), General Counsel, Department of the Environment”.

(f) INSPECTOR GENERAL ACT.—The Inspector General Act of 1978 is amended—

(1) in section 2(1)—

(A) by inserting “the Department of the Environment”; after “Veterans Affairs”; and

(B) by striking out “The Environmental Protection Agency.”;

(2) in section 11(1) by striking out “or Veterans Affairs” and inserting “Veterans Affairs, or the Environment.”; and

(3) in section 11(2) by striking out “or Veterans Affairs” and inserting “Veterans Affairs, or the Environment.”.

#### SEC. 213. ADDITIONAL CONFORMING AMENDMENTS.

After consultation with the Committee on Governmental Affairs and the Committee on Environment and Public Works of the United States Senate and the appropriate committees of the House of Representatives, the Secretary of the Environment shall prepare and submit to the Congress proposed legislation containing technical and conforming amendments to the United States Code, and to other provisions of law, to reflect the changes made by this Act. Such legislation shall be submitted not later than 6 months after the effective date of this Act.

#### SEC. 214. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on such date during the 6-month period beginning on the

date of enactment, as the President may direct in an Executive order. If the President fails to issue an Executive order for the purpose of this section, this Act and such amendments shall take effect on January 20, 1991.

### TITLE III—ESTABLISHMENT OF THE INTER-AGENCY COMMITTEE ON GLOBAL ENVIRONMENTAL CHANGE

#### SEC. 301. FINDINGS.

The Congress finds that—

(1) problems of global environmental change, including, but not limited to, changes in climate, depletion of the stratospheric ozone layer, loss of biodiversity and ecosystems (especially tropical rain forests), disposal of wastes, and acidification of the biosphere, must command the coordinated attention of the United States at both domestic and international levels;

(2) development of effective policies to mitigate and cope with human-induced global changes will rely on greatly improved scientific understanding of global environmental processes and on the ability to distinguish between the effects of human activities and the results of natural change;

(3) new developments in interdisciplinary earth sciences, global observing systems, and computing technology make possible significant advances in the scientific understanding and prediction of global changes and their effects;

(4) global environmental change scientific research is coordinated by, among others, the Committee on Earth Sciences of the Federal Coordinating Council on Science, Engineering, and Technology within the Office of Science and Technology Policy and the National Climate Program Office in the National Oceanic and Atmospheric Administration of the Department of Commerce;

(5) to maximize the benefit of this scientific research effort, there must be a parallel policy research effort to provide a basis for international and related domestic policy recommendations; these should evolve in accordance with future gains in scientific understanding of global environmental change;

(6) a coordinating, interagency Committee is required to oversee the design and implementation of Federal policy responses to problems of global environmental change; and

(7) a Committee with such responsibilities should be Cabinet-level and report directly to the President.

#### SEC. 302. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is authorized to be established, within the Executive Office of the President, the Interagency Committee on Global Environmental Change (hereafter referred to as "the Committee") which shall be composed of—

- (1) the Secretary of the Environment;
- (2) the Secretary of Energy;
- (3) the Secretary of the Interior;
- (4) the Secretary of Commerce;
- (5) the Secretary of Transportation;
- (6) the Secretary of Health and Human Services;
- (7) the Secretary of State;
- (8) the Secretary of Agriculture;
- (9) the Director of the Office of Management and Budget;
- (10) the Director of the National Science Foundation;
- (11) the Administrator of the National Aeronautics and Space Administration;
- (12) the Attorney General of the United States;

(13) the Director of the White House Office of Science and Technology; and

(14) the Chairman of the Council on Environmental Quality.

(b) OTHER OFFICIALS AND CHAIRMAN.—The President may name to the Committee such other officers and officials as he deems advisable. The President shall designate a member of the Committee to serve as Chairman of the Committee.

(c) ADMINISTRATIVE PROVISIONS.—(1) The Committee shall appoint an Executive Director who shall be compensated at a rate not to exceed the rate of basic pay prescribed for level IV of the Executive Schedule under section 5316 of title 5, United States Code. With the approval of the Committee, the Executive Director may appoint and fix the compensation of not more than 10 additional technical staff members for the Committee.

(2) Upon the request of the Committee, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Committee to assist the Committee in carrying out its duties.

(3) The Office of Administration shall provide to the Committee such administrative and support service as the Committee may request.

#### SEC. 303. FUNCTIONS OF THE COMMITTEE.

(a) FUNCTIONS.—The Committee shall provide advice and assistance to the President in—

(1) coordinating the domestic and international programs, plans, and policies of all Federal agencies related to global environmental change, including—

(A) surveying the programs, plans, policies, and accomplishments of all Federal departments and agencies engaged in global environmental change activities; and

(B) ensuring cooperation among Federal departments and agencies with respect to their global environmental change activities;

(2) developing and transmitting to the Congress, no later than September 1 of each year, a policy plan which—

(A) covers the upcoming fiscal year;

(B) is parallel to and commensurate with the scientific research coordinated by, among others, the Committee on Earth Sciences and the National Climate Program Office; and

(C) ensures that Federal policy responses to global environmental change problems—

(i) are effectively coordinated among all Federal agencies, among all United States-supported bilateral and multilateral aid institutions (including, but not limited to, the United States Agency for International Development, the International Energy Agency, the World Bank, the International Monetary Fund, the United Nations, the African Development Bank, the Asian Development Bank, and the Inter-American Development Bank), and among other international organizations to which the United States belongs; and

(ii) are designed significantly to improve the global environment;

(D) may make recommendations for legislation as the President considers necessary or desirable for the attainment of the objectives identified by the Committee;

(3) develop and transmit to the Congress on September 1 every other year a report detailing the Committee's progress toward meeting the goals in the plan required by paragraph (2);

(b) CONSULTATIONS.—In carrying out this title, the Committee shall as they may find

necessary and appropriate, consult with such other Federal interagency and advisory groups (including, but not limited to, the White House Economic Policy Council and the White House Domestic Policy Council) and non-Federal organizations as State governments, scientific and public policy research institutions, universities, and industry.

#### SEC. 304. RELATION TO OTHER LAWS.

The President and the Committee shall ensure that the activities carried out by the Department of the Environment and the Department of State under the Global Climate Protection Act of 1987 (15 U.S.C. 2901 note; Pub. Law 100-204, sections 1101-1106) are considered in the conduct and planning of a coordinated Federal global environmental program.

#### SEC. 305. EFFECTIVE DATE.

The provisions of this title shall take effect on such date during the six-month period beginning on the date of enactment, as the President may direct in an Executive Order. If the President fails to issue an Executive Order for the purpose of this section, this title shall take effect on July 1, 1991.

### TITLE IV—ENVIRONMENTAL ROLE OF THE UNITED STATES IN INTERNATIONAL ORGANIZATIONS TO WHICH IT BELONGS

#### SEC. 401. FINDINGS.

The Congress finds that—

(1) the United States should continue to provide leadership in developing and implementing an international response to global environmental change;

(2) the most effective policies for addressing global environmental change will involve issues of the generation and disposal of wastes, the generation of water and air pollution, energy generation and utilization, sustainable development, and land management; and

(3) dealing with these issues will require concerted international agreement and action.

#### SEC. 402. MULTILATERAL LENDING CONSIDERATIONS FOR ENERGY CONSERVATION AND ENVIRONMENTAL PROTECTION.

The Congress strongly urges the Secretary of the Treasury, with the advice of the Committee established in title III, to instruct the United States Executive Director to each of the multilateral development banks to consider and promote the energy conservation and environmental protection efforts of borrowing countries when issuing loans and other financial or technical assistance.

#### SEC. 403. INTERNATIONAL ENERGY CONFERENCE.

The Secretary of State, in consultation with the Secretary of Energy and the Secretary of the Environment, and with the advice of the Committee established in title III, is authorized and strongly urged to convene an international meeting to be held in the United States with invitations to representatives of all countries of the world, the purpose of which shall be to encourage the exchange of information concerning energy efficiency and renewable energy resources that are environmentally acceptable and ecologically sustainable.

#### SEC. 404. MULTILATERAL GLOBAL CLIMATE PROTECTION CONVENTION.

(a) INTERNATIONAL MEETING.—The Secretary of State in consultation with the Secretary of the Environment and the United States science agencies (such as the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Ad-

ministration, and the National Science Foundation), and with the advice of the Committee established in title III, is authorized and strongly urged to convene an international meeting to be held in the United States with invitations to representatives of all countries of the world, the purpose of which shall be to encourage actively the adoption of a multilateral global climate protection convention.

(b) ADDITIONAL MEETINGS.—The Secretary of State, in consultation with the Secretary of Environment, is authorized and strongly urged to sponsor other meetings with the goal that the convention is opened for signature no later than the end of 1993.

**SEC. 405. INTERNATIONAL CARBON DIOXIDE MONITORING PROGRAM.**

The President, with the advice of the Committee established in title III, shall encourage the establishment of an office of the United Nations Environment Programme (UNEP) and the World Meteorological Organization (WMO) to monitor annual generation of carbon dioxide and estimated trace gases on a country-by-country basis. That office shall also be responsible for assisting global negotiations and ultimately administering a global protocol.

**SEC. 406. RELATION TO OTHER LAWS.**

The activities authorized under this title are to be carried out in a manner consistent with the duties assigned the Department of Environment and the Department of State under the Global Climate Protection Act of 1987 (15 U.S.C. 2901 note; Pub. Law 100-204, sections 1101-1106).

**TITLE V—ESTABLISHMENT OF THE COMMISSION ON IMPROVING ENVIRONMENTAL PROTECTION**

**SEC. 501. FINDINGS.**

The Congress finds that Federal environmental statutes and other environmental authorities have resulted in inconsistent approaches to regulating pollutants and problems with cross-media and residuals management, and numerous Federal agencies, offices, and bureaus charged with environmental protection responsibilities.

**SEC. 502. ESTABLISHMENT: MEMBERSHIP.**

(a) ESTABLISHMENT.—There is established the Commission on Improving Environmental Protection (hereafter referred to as "the Commission") whose 13 members other than the Chairman shall be composed of experts in governmental organization (with emphasis on environmental organization), management of organizations and environmental regulation and improved environmental governmental service delivery, including—

(1) seven members to be appointed by the President;

(2) three members to be appointed by the Speaker of the House; and

(3) three members to be appointed by the Senate Majority Leader.

(b) CHAIRMAN.—The Chairman of the Commission shall be appointed by the President in consultation with the Congress.

(c) EX OFFICIO MEMBER.—The Secretary of the Department of the Environment (hereafter referred to as "the Department") shall be a non-voting ex officio member of the Commission.

**SEC. 503. COMMISSION RESPONSIBILITIES.**

The Commission shall be responsible for examining and making recommendations on integrating Federal environmental law and other authorities to improve the ability of the United States to protect the environment. The Commission shall make recom-

mendations and otherwise advise the President and Congress on—

(1) the need for comprehensive pollution control administrative and legislative reforms that would consolidate, rationalize, and strengthen the management of Federal environmental protection;

(2) the advantages and disadvantages of unifying existing major statutory authorities;

(3) new or modified institutional arrangements, processes, or regulations that would improve the integration and delivery of Federal environmental protection, research, and planning programs; and

(4) specific steps and proposals for implementing the Commission's recommendations.

**SEC. 504. REPORT TO THE PRESIDENT AND CONGRESS.**

The Commission shall report to the President and the Congress on its investigation, findings, and recommendations in an interim report no later than 12 months after the effective date of this title, and in a final report no later than 24 months after the effective date of this title. The interim report shall be made available for public review and comment, and the comments taken into account in finalizing the report.

**SEC. 505. COMMISSION STAFF.**

The Commission shall appoint an Executive Director who shall be compensated at a rate not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 title 5, United States Code. With the approval of the Commission the Executive Director may appoint and fix the compensation of staff sufficient to enable the Commission to carry out its duties.

**SEC. 506. ADVISORY GROUPS.**

The Chairman shall convene at least one advisory group to assist the Commission in developing its recommendations. One advisory group shall be composed of past staff of the Department of the Environment and its predecessor Environmental Protection Agency, other Federal and State officials experienced in administering environmental protection programs, members of the regulated community and members of public interest groups organized to further the goals of environmental protection.

**SEC. 507. FUNDING; AUTHORIZATION OF APPROPRIATIONS.**

There is hereby authorized to be appropriated \$3,000,000 in fiscal year 1991 and \$5,000,000 in fiscal year 1992 to carry out the provisions of this title.

[From the Congressional Research Service, the Library of Congress, Environmental and Natural Resources Policy Division, Jan. 22, 1990]

**SECTION-BY-SECTION ANALYSIS OF THE DEPARTMENT OF THE ENVIRONMENT ACT OF 1990**

(By Mary E. Tiemann and Martin R. Lee)

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS**

This section identifies the short title as the "Department of the Environment Act of 1990" and lists the contents of the bill.

*Title I—General Findings*

This title lists congressional findings on the alteration of the Earth's environment, its serious implications, the need for coordinated Federal energy, natural resources, and environmental policies, and the necessity of adopting a high-level coordinated Fed-

eral policy which addresses the environment on a national and international level.

**Title II—Elevation of the Environmental Protection Agency to Cabinet Level**

**SECTION 201. SHORT TITLE**

This section cites title II as the "Department of the Environment Act."

**SECTION 202. FINDINGS**

This section declares the necessity of giving environmental protection a priority at least as high as other Federal functions; recognizing that international negotiations are increasingly involved, and that environmental protection funding and staff levels are commensurate with departmental status.

**SECTION 203. ESTABLISHMENT OF THE DEPARTMENT OF THE ENVIRONMENT**

This section redesignates the Environmental Protection Agency as the Department of the Environment. It establishes a Secretary of the Environmental, appointed by the President, by and with the consent of the Senate, to administer the Department. It prohibits the Secretary from assigning delegating authority for supervising Under Secretaries, Assistant Secretaries, the General Counsel, the Director of Environmental Statistics, or the Inspector General of the Department of any officer of the Department other than the Deputy Secretary. In addition, it authorizes a Deputy Secretary of the Environment, appointed by the President, by and with the consent of the Senate. Also, it establishes an Office of the Secretary consisting of a Secretary, Deputy Secretary and possibly an Executive Secretary.

**SECTION 204. ASSISTANT SECRETARIES**

This section authorizes as many as ten Assistant Secretaries, appointed by the President, and performing responsibilities prescribed by the Secretary. It lists, but does not limit, their responsibilities to 13 functions, including enforcement and compliance monitoring; research and development; air and radiation; water; pesticides and toxic substances; solid waste; hazardous waste; hazardous waste cleanup; emergency response; international affairs; policy, planning, and evaluation; intergovernmental and public affairs; and administration and resource management, including financial and budget management, information resources management, procurement, and assistance management, and personnel and labor relations. It requires that, when nominating, the President state the particular responsibilities an Assistant Secretary will exercise. Further, it allows those performing assistant secretarial-level responsibilities to continue to do so until an Assistant Secretary is appointed. It requires the Secretary to designate the Assistant Secretary whose responsibilities include financial and budget management as the Chief Financial Officer, to be selected on a basis of demonstrated ability in financial management. It lists five broad responsibilities for that officer. It requires the Secretary to designate a Chief Information Resources Officer who will advise the Secretary and develop and maintain an information resources management system.

**SECTION 205. DEPUTY ASSISTANT SECRETARIES**

This section authorizes the Secretary to establish, appoint, and prescribe duties for, any number of Deputy Assistant Secretaries, at least one-half of whom are to be in the competitive service. It allows the Deputy Assistant Secretaries to perform some Assistant Secretaries' functions in certain circumstances.

**SECTION 206. OFFICE OF THE GENERAL COUNSEL**

This section establishes an Office of the General Counsel, headed by a General Counsel appointed by the President with the advice and consent of the Senate.

**SECTION 207. OFFICE OF THE INSPECTOR GENERAL**

This section redesignates the current Office of Inspector General as the Office of Inspector General of the Department of the Environment.

**SECTION 208. BUREAU OF ENVIRONMENTAL STATISTICS**

This section establishes within the Department of the Environment a Bureau of Environmental Statistics, to be headed by a Director of Environmental Statistics, appointed by the President with the advice and consent of the Senate. It requires an annual environmental statistics report. This section also authorizes the Secretary of the Department of the Environment to appoint a six-person Advisory Council on Environmental Statistics to advise the Director. Authorizations for the Bureau would include \$2.8 million for fiscal year 1991 and \$5.4 million for fiscal year 1992.

**SECTION 209. MISCELLANEOUS EMPLOYMENT RESTRICTIONS**

This section limits the number of Senior Executive Service positions filled by noncareer appointees to 12 percent of the total number of senior executives. It also prohibits taking political affiliation into account in employment appointments, assignments and advancements, and requires the Secretary to report annually on the costs of implementing Title II.

**SECTION 210. REFERENCES**

This section provides that current references in law or other documents to the Administrator, the Environmental Protection Agency, the Deputy Administrator, and any Assistant Administrator are deemed to refer to the Secretary, the Department of the Environment, the Deputy Secretary of the Environment, and Assistant Secretary, respectively.

**SECTION 211. SAVINGS PROVISIONS**

This section authorizes the continuing effect of legal documents, proceedings, suits, actions, and property and resources.

**SECTION 212. CONFORMING AMENDMENTS**

This section specifies various technical amendments to the U.S. Code.

**SECTION 213. ADDITIONAL CONFORMING AMENDMENTS**

This section requires the Secretary, after consulting with the Senate Committee on Governmental Affairs and Committee on Environment and Public Works and appropriate House committees, to submit within six months proposed legislation to reflect changes made by this Act.

**SECTION 214. EFFECTIVE DATE**

This sets the Act's effective date as the date the President directs within six months of enactment, or January 20, 1991.

**Title III—Establishment of the Interagency Committee on Global Environmental Change****SECTION 301. FINDINGS**

This section expresses the congressional finding that the United States must coordinate attention to global environmental change at both the domestic and international levels, and that developing effective policies responding to those changes will require greatly improved scientific under-

standing and capability. The Congress further finds that a Cabinet-level inter-agency Committee is required to coordinate the design and implementation of Federal policy responses to problems of global environmental change and that such a Committee should report directly to the President.

**SECTION 302. ESTABLISHMENT**

This section establishes the Inter-agency Committee on Global Environmental Change within the Executive Office of the President. Committee members include: the Secretaries of Environment, Energy, Interior, Commerce, Transportation, Health and Human Services, State, and Agriculture; the Attorney General of the United States; the Director of the Office of Management and Budget; the Director of the National Science Foundation; the Administrator of the National Aeronautics and Space Administration; the Director of the White House Office of Science and Technology; and the Chairman of the Council on Environmental Quality.

Section 302 authorizes the President to name additional officers and officials to the Committee as he deems advisable and to designate a Committee member to serve as Chairman.

**SECTION 303. FUNCTIONS OF THE COMMITTEE**

Section 303 directs the Committee to provide advice and assistance to the President in coordinating domestic and international programs, plans, and policies of all Federal agencies related to global environmental change, and in delivering a policy plan to Congress annually. The plan is to cover the subsequent fiscal year, is to be commensurate with related Federal efforts, and is to ensure that Federal policy responses to global environmental change problems are coordinated among all United States-supported aid institutions.

This section also requires the President to submit biannually to the Congress a report on the Committee's progress toward meeting the plan's goals.

**SECTION 304. RELATION TO OTHER LAWS**

This section directs the President and the Committee to ensure the activities carried out by the Departments of Environment and State under the Global Climate Protection Act of 1987 (P.L. 100-204) are considered in the Federal global environmental program.

**SECTION 305. EFFECTIVE DATE**

This sets the Act's effective date as the date the President directs within six months of enactment, or July 1, 1991.

**Title IV—Environmental Role of the United States in International Organizations to Which it Belongs****SECTION 401. FINDINGS**

The Congress finds that the United States should continue to provide leadership in developing and implementing an international response to global environmental change. Effective response policies will address issues of waste management, air and water pollution, energy generation and use, sustainable development, and land management, and will require concerted international action.

**SECTION 402. MULTILATERAL LENDING CONSIDERATIONS FOR ENERGY CONSERVATION AND ENVIRONMENTAL PROTECTION**

This section strongly urges the Secretary of the Treasury, with the advice of the Interagency Committee on Global Environmental Change, to instruct the U.S. Executive Director to each multilateral develop-

ment bank to consider and promote energy conservation and environmental protection efforts of borrowing countries when issuing loans and other financial or technical assistance.

**SECTION 403. INTERNATIONAL ENERGY CONFERENCE**

This section authorizes and strongly urges the Secretary of State, with the Secretaries of Energy and Environment, and the advice of the Committee, to work toward convening an international meeting in the United States to encourage information exchange on energy efficiency and environmentally sound and ecologically sustainable renewable energy resources.

**SECTION 404. MULTILATERAL GLOBAL CLIMATE PROTECTION CONVENTION**

This section authorizes and strongly urges the Secretary of State, with others, to convene an international meeting in the United States encouraging the adoption of a multilateral global climate protection convention. It also authorizes and urges the Secretary of State, with the Secretary of Environment, to sponsor additional meetings to attain a convention open for signature by the end of 1993.

**SECTION 405. INTERNATIONAL CARBON DIOXIDE MONITORING PROGRAM**

This section calls for the President to encourage the establishment of an office of the United Nations Environment Program (UNEP) and the World Meteorological Organization (WMO) to monitor annual generation of carbon dioxide and trace gases on a country-by-country basis. This office is also to assist negotiations and administration of a global protocol.

**SECTION 406. RELATION TO OTHER LAWS**

This section requires that activities authorized herein are administered in a manner consistent with those duties as signed under the Global Climate Protection Act (P.L. 100-204).

**Title V—Establishment of the Commission on Improving Environmental Protection****SECTION 501. FINDINGS**

This section finds that Federal environmental statutes have resulted in: (1) inconsistent approaches to regulating pollutants; (2) problems with cross-media and residuals management; and (3) numerous Federal agencies, offices and bureaus being charged with environmental protection responsibilities.

**SECTION 502. ESTABLISHMENT, MEMBERSHIP**

This section establishes a Commission on Improving Environmental Protection, with 7 members appointed by the President, 3 by the Speaker of the House, and 3 by the Senate Majority Leader. The President in consultation with the Congress appoints the Chairman, and the Secretary of the Department of the Environment serves *ex officio*.

**SECTION 503. COMMISSION RESPONSIBILITIES**

This section outlines the responsibilities of the Commission to examine and make recommendations on integrating Federal environmental law. It requires the Commission to make recommendations to the Congress and the President on the need for comprehensive pollution control administrative and legislative reforms, the advantages and disadvantages of unifying major statutory authorities, improved institutional arrangements or regulations, and specific steps and proposals for implementing the Commission's recommendations.

**SECTION 504. REPORT TO THE PRESIDENT AND CONGRESS**

This section requires the Commission to report on its investigation, findings and recommendations to the President and Congress in an interim report within 1 year and a final report within 2 years.

**SECTION 505. COMMISSION STAFF**

This section authorizes the Commission to appoint an Executive Director and sufficient staff for carrying out the Commission's duties.

**SECTION 506. ADVISORY GROUPS**

This section allows the Chairman of the Commission to convene at least one advisory group composed of past Department and Environmental Protection Agency staff, other Federal and State environmental officials, members of the regulated community, and members of public interest groups.

**SECTION 507. FUNDING; AUTHORIZATION OF APPROPRIATIONS**

This authorizes \$3 million for fiscal year 1991 and \$5 million for fiscal year 1992.

**MR. ROTH.** Mr. President, I rise today, along with Senator GLENN, to introduce legislation to elevate the Environmental Protection Agency to a cabinet-level Department of the Environment. The changes that are occurring in our environment, whether due to natural process or human influence, can have a vast impact on the welfare of all humans. Few would argue that issues concerning the environment have come to the forefront of the public's mind, and the creation of a Department of the Environment would reflect this level of concern in the Federal Government's organization and structure.

The distinguished chairman of the Governmental Affairs Committee, Senator GLENN, and I have worked for many months on shaping what we now feel is a forward-thinking, prudent piece of bipartisan legislation. Our two staffs worked diligently with a common goal in mind—to create a government institution that best serves its intended purpose. Senator GLENN and I have always worked well together, and I believe this bill reflects a great deal of time well spent.

I believe our Federal planning and decisionmaking on environmental issues must come from an organization with Cabinet-level stature. More and more, environmental factors must become a part of all upper-level government policy decisions, so it is essential that a Secretary of the Environment sit at the table during Presidential cabinet meetings. When the Secretary of Transportation discusses the shipping of oil from one U.S. port to another, the Secretary of the Environment should be there to point out the environmental impact. When the Secretary of Energy discusses the treatment of waste at our Nation's nuclear facilities, the Secretary of the Environment should be there to discuss the environmental implications. And when the Secretary of State discusses a forthcoming meeting with a foreign

leader, the Secretary of Environment should be there to offer input on what global environmental issues should be addressed.

If this bill is enacted, the newly established Secretary of the Environment would be given the ability to not only meet with other cabinet secretaries as an equal domestically, but also to work with foreign Ministers of the Environment as an equal internationally. In the years to come, we will see the nations of the world getting together to reach agreement on the important environmental issues that affect us all. If we are to be taken seriously as global environmental leaders, other nations must realize that they are dealing with an individual of substance when they sit at the negotiating table with the Secretary of the Environment.

The United States must continue to take the lead in facing today's environmental challenges whether it be acid rain, solid waste, smog, or the depletion of the ozone layer. In order for their government to be a true world leader in this area, the American people themselves must be educated and energized. A Secretary of the Environment would be in an ideal position to promote environmental ideals on a large scale.

In considering the reorganization of the EPA, we have built in needed administrative changes to allow for more efficient and effective use of resources within the Department. For example, at the Assistant Secretary level, this bill calls for a Chief Financial Officer and an Informational Resources Manager to coordinate the finances and paperwork within the new Department. Furthermore, this bill would establish a Bureau of Environmental Statistics within the Department to develop and maintain comprehensive environmental data. Given the growing volume of data on environmental change, much of which seems to be contradictory, this Bureau will serve as a beacon of statistical thought. These internal controls will ensure that the Department of the Environment competently fulfills its obligation to the American people, and their success will point the way toward more responsible management throughout the rest of the executive branch.

Whether it be the shores of Lake Erie in Senator GLENN's home State of Ohio, or the banks of the Delaware River in my home State, I think we all realize how precious our environment is to us and how important it is that we be its guardians. When it comes to the Earth's environment there are ultimately no dividends or penalties—simply consequences. It is these consequences that demand the highest form of responsibility and action. The environmental legacy we leave for future generations depends on the right decisions being made today—and I hope

you will agree with me that those decisions must be made by a Department of the Environment.

**MR. LIEBERMAN.** Mr. President, I am honored to cosponsor the Department of the Environment Act of 1990. I commend my colleagues, Senators GLENN and ROTH for their leadership on this bill, which elevates the Environmental Protection Agency to the Cabinet of the United States.

This bill will also establish an Interagency Task Force on Global Climate Change. It will define the role of the United States in International Environmental Organizations. It will establish a Commission on Improving Environmental Protection to make recommendations to the President and to Congress on necessary steps to continue the leadership of our environmental institutions into the 21st century. Finally, the bill establishes a Bureau of Environmental Statistics.

EPA is charged with one of the most complex and challenging missions in our Government. As the only Member of the Senate who sits on both the Government Affairs Committee and the Environment and Public Works Committee, I have something of a unique perspective on this legislation. This bill reflects the growth of our knowledge of the environment and environmental management in the twenty years since EPA was created. While it is not a glamorous bill, it provides the essential institutional framework we need.

The United States is increasingly involved in environmental matters around the globe. In the last several years, we have come to recognize that the Environmental Protection Agency's mission, in reality, extends to the very preservation of life on this planet. The quality of our environment in this country is directly related to the policies of countries across the globe. Whether the issue is stratospheric ozone depletion, global warming, acid rain or the proliferation of toxic materials and hazardous waste, the United States must take an active leadership role in world environmental affairs. We will not fully realize that role until our environmental agency is a full fledged member of the President's Cabinet.

If this is true in global environmental policy, it is even more true in domestic environmental policy. EPA is charged with protecting our health and preserving the quality of our natural environment.

From my own experience on the Environment Committee, I know that EPA is constantly in battles with other parts of the administration about what level of protection is appropriate. Others in the administration concentrate on the economic consequences of environmental policies but EPA is the advocate for our health

and the protection of our lakes and streams.

Many of the solutions to our environmental problems lie beyond the traditional scope of EPA programs. The quality of our air is directly related to energy and transportation policy. The quality of our drinking water is directly related to land use decisions. It may be that we, the Federal Government, are the largest generator of hazardous waste in the Nation. Our environmental future is bound up in the programs and policies of the agencies represented at the Cabinet table. It is time for a Secretary of Environment to be a full partner at that table. This legislation will ensure that every significant environmental decision made by the executive branch will be debated among equals.

It is especially appropriate that this legislation pass this year. In April the Nation and the world will celebrate the 20th anniversary of Earth Day. One of our Government's most important responses to the original Earth Day was the creation of the Environmental Protection Agency. In the ensuing years, we have come to understand that EPA's actions play a critical role in the fabric of our everyday lives, in our economy, and in our foreign policy.

As EPA's mission has evolved, the Agency itself has matured. While I don't always agree with EPA's actions, there is no question that the Agency has proven its ability to contribute at the highest levels of Government.

Today, the Senate begins consideration of the Clean Air Act amendments. Congress will pass that bill this year and it will be EPA's responsibility to enforce it. We don't want to create a first-class bill and put it in the hands of a Government agency with second-class status. We must give EPA the governmental status that environmental protection deserves. Bill Reilly is an able administrator and first-rate environmentalist. When the President calls his team together, Bill Reilly should be there, each and every time, with Cabinet rank.

The creation of a Bureau of Environmental Statistics to collect uniform data and evaluate the effect of pollutants is essential. In spending our country's economic resources, we must know which pollutants pose the greatest risk to human health and the environment. This knowledge will tell us which environmental problems to address first.

This legislation demonstrates our commitment to strong environmental programs in the future. The creation of a Department of Environment sends an unequivocal message to all Americans and to the world that the United States places environmental protection among its most important concerns.

By Mr. CRANSTON (for himself and Mr. LEAHY):

S. 2009. A bill to limit the use of appropriated funds for the B-2 advanced technology bomber aircraft program; to the Committee on Armed Services.

**LIMITATION ON THE USE OF B-2 BOMBER FUNDS**

Mr. CRANSTON. Mr. President, today marks the beginning of the end for the B-2 bomber, a billion dollar bomber we cannot afford and do not need.

Today, with my distinguished colleague from Vermont, Senator PATRICK LEAHY, I am introducing the B-2 termination bill.

I would like to send to the desk a copy of that bill, and Senator LEAHY's statement, and ask that it appear in the RECORD after my statement.

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

Mr. CRANSTON. This legislation is designed to stop funding for any new production starts for the B-2. This legislation is designed to terminate what will prove—if it is built—to be the most expensive weapons system ever bought by mankind.

The Senate is on notice. The B-2 termination bill marks the launching of a sustained campaign to end this irresponsible B-2 weapon buying spree. We will be back again and again debating the merits of the B-2, obtaining rollcall votes, and rallying grassroot support until we prevail. I will continue to expend every reasonable effort to achieve a majority in Congress to terminate the B-2. It is clear to me that the time to terminate the B-2 is now.

For too long the details of the B-2 have been shrouded in secrecy, precluding public debate and effective congressional scrutiny. Last fall we began to develop the public record on the merits of the B-2 bomber. Even then, the debate during consideration of the Defense appropriation bill did not occur until the early hours of the morning, when many did not hear in the Senate and outside of the Senate. Let us consider this program in broad daylight and in the glare of the public eye. Let us debate the merits of this program until the many speeches made in its defense are finally re-voiced.

I have no illusions. This will be a long, uphill journey. We begin today with 32 votes in hand from last fall's rollcall votes. And in the short time since I came to this Chamber last fall to declare my opposition to this program, a number of key members of the defense community have joined us in questioning the merits of proceeding with new production on the B-2. It seems that the tide is beginning to turn.

The Air Force is determined to win this battle. Anticipating our efforts to end this unnecessary program, the Air Force has gone on the offensive—hold-

ing a strategy retreat and even stooping to promotional gimmickry during the recent invasion of Panama. The Air Force decision to send the F-117A, the Stealth fighter, to bomb an airfield in Panama, despite the lack of significant Panamanian air defenses, was a charade. It was a publicity stunt in the middle of a military operation. The only rationale for sending the F-117 was to shape the debate on the future of Stealth technology. The point was certainly made—sending strategic aircraft on conventional missions highlights the fact that we do not need these high-priced toys. We could have accomplished the same mission at less risk with other aircraft.

I am keenly aware that the debate will not be about the B-2 bomber alone. During consideration of the budget resolution in the coming months, we can expect a guns versus butter debate of historic proportion. Our goal is to save the more than \$100 billion that the B-2 would cost, thereby, beginning to realize a substantial peace dividend, spending some of these savings on crucial environmental, education, housing, health, anti-drug, anticrime, and industrial competitiveness programs, not to mention deficit reduction. Although there are sound defense rationales for ending production of the B-2, the obscene costs of the B-2 bomber will surely be at the center of our budget debate.

Nobody—not even the Pentagon—would claim that the B-2 Stealth bomber is “worth its weight in gold.” The sad and horrifying fact is that the B-2, the world's first \$1 billion bomber, costs its weight in gold.

Figure it out for yourself. Based on our experience with the B-1, which ended up costing twice as much as original estimates, the life cycle cost of the B-2 is \$1 billion apiece, and a bit more. Today's price of gold is \$406.10 an ounce, or \$6,544 a pound. The B-2 weighs 174,000 pounds.

That comes to something over \$1.1 billion in simple math, simple math but crazy logic. Imagine building an airplane that literally costs its weight in gold.

Here I have a gold version of the B-2; a ridiculous concept to build a plane worth more than its weight in gold.

Even Midas, who could turn everything into gold just by touching it, would never have been that wasteful.

I believe we can help avoid a tax increase, or at least cut back on the tax increase that may become necessary at some point, by saving money on costly, unnecessary programs like the B-2.

Last fall I proposed that if we keep throwing dollars at this aircraft we might as well adopt a new B-2 budget accounting system.

Let me demonstrate just one moment on the chart I have available here for my colleagues, and others

watching, precisely what it is here that we are talking about.

At a total 30-year lifecycle cost per plane of at least \$1 billion a pop, we could more than double annual federal spending on AIDS research and prevention programs—\$1.6 billion—if we cancelled just 1½ of these B-2 bombers.

Or here we have the total 3-year budget for the Simon-Cranston bill providing aid to Poland and Hungary—some one billion dollars. Now, there are those who have called for a reallocation of foreign aid to meet this growing need. Well, we could double the aid we send—double it, without cutting out the aid we send to Egypt and Israel, and really put the heat on communism in Eastern Europe for the life cycle cost of just one B-2 bomber, a great investment in democracy. We spend billions and trillions to prepare to defend against communism. Now we have communism receding, collapsing in Eastern Europe. We should be able to invest some money in democracy there. That has been our goal all along.

Or let us bring this spending priorities question closer to home. We have all but eliminated Federal aid to cities. But if we were of a mind to, the Federal Government could pay the city of San Jose's budget—and have change left over—with the 30-year costs of just one B-2 bomber.

Obviously this holds true for other cities. They no longer have revenue sharing. They have difficulties. This is one way to help.

Here we have annual spending on Headstart, one of the best programs ever devised to help kids to get a start in life, disadvantaged children, annual spending, which provides only for 20 percent of students eligible for this valuable program. Under present budgeting for the cost of only four B-2's we could have all eligible children enrolled in the Head Start Program, a great advance for our society.

What about the war on drugs? Do you really imagine that we will be sending B-2's to Colombia for the war on drugs? Of course not. We can match the amount of money the Federal Government provides each year for treatment of Americans trying to overcome their drug dependencies with the funds saved from canceling just 1.2 planes. For an additional cost of just one-half of one B-2 per year, we could pay for all Americans seeking help to break their drug dependency, and thus strike a real blow to win the war on drugs.

You want to house the homeless? For the cost of one-tenth of one plane, barely visible on the chart here, we could finance the entire McKinney Act, our landmark Federal program to aid homeless Americans.

As the chart demonstrates, finally we could match all EPA spending on

the environment by canceling just 5½ planes and do more than we are now doing to protect the environment.

When we consider the fiscal 1991 defense authorization bill, we can expect a heated debate on strategic priorities for the 1990's and beyond in light of the dramatic changes taking place in Eastern Europe and the Soviet Union. Although the Iron Curtain is melting, the Bush administration is proceeding blindly on automatic pilot. The swift erosion of Warsaw Pact cohesion and rapid improvement in United States-Soviet relations reduce the need for yet another modern strategic bomber. We are safe militarily. We can afford to be safe fiscally.

Before I close I want to make a final observation regarding the impact of this program on California, my home State.

If we are to change our way of operating in Washington and stop treating the cold war and the defense budget as a jobs program to be funded by borrowing money from future generations, we are all going to have to propose sacrifices, beginning at home.

The vast majority of funds for the B-2 would be spent in my home State and could provide thousands of jobs. I deeply respect the individuals involved and the wondrous technology they have labored to produce. When the B-2 is finally halted, as I am confident it will be ultimately, I pledge to work very hard to provide alternative opportunities for the talented men and women of my home State who have applied their skills to this effort. I will work to provide jobs that can lead to substantial improvements in our quality of life while expanding our GNP. The space station, mass transit, and highway improvements are among the many areas where aerospace and engineering and high-technology skills can be reapplied to programs promising greater benefits to Californians and other citizens of this country than the B-2 offers.

But leadership on cutting the budget deficit and reordering our priorities has to begin at home.

I invite my colleagues to join me in this effort. I urge my colleagues to co-sponsor the B-2 termination bill, and 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. 2009

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

**SECTION 1. LIMITATION ON USE OF APPROPRIATED FUNDS FOR PRODUCTION OF THE B-2 AIRCRAFT**

Notwithstanding any other provision of law—

(1) amounts appropriated for the Department of Defense may not be obligated or expended to commence production of any B-2 aircraft; and

(2) amounts appropriated for the Department of Defense for the B-2 aircraft program may be expended only for—

(A) the completion of B-2 aircraft the production of which was commenced with funds appropriated before the date of the enactment of this Act;

(B) research and development in connection with the B-2 aircraft program; and

(C) flight testing of B-2 aircraft.

Mr. LEAHY. Mr. President, the American people are looking to Washington for leadership—leadership to cut the Federal deficit. Leadership to make tough choices. Leadership to respond to our changing world. We are here today to make one of those tough choices: We are introducing a bill to end production of the B-2 bomber.

The defense budget will be cut this year. President Bush knows that. Secretary Cheney knows that. And the American people know that.

I happen to believe in the Willie Sutton school of deficit reduction: To cut the budget, we must go to where the money is. I believe we do not need to look any further than the B-2 bomber program.

The B-2 bomber is the most expensive plane in the history of the world. It will not enhance our deterrent capability. It is a plane that continues to search for a mission in a world far different than the one in which it was originally conceived.

Last year, when I offered the initial amendment to end the production of the B-2 bomber, I pointed out that the Department of Defense spending plans outpaced the funding it would receive by nearly \$150 billion. It was as clear then as it is now that cuts in the lavish spending plans generated during the Reagan administration would be needed. There is no possible way that a shrinking Defense budget can fund the stealth bomber at twice the level of star wars.

Recent events have made the argument against the B-2 even stronger. Only several months ago, nobody could have predicted the radical changes in Eastern Europe. Tensions between NATO and Warsaw Pact forces are at an all-time low. The warning time of a surprise attack has increased to nearly 1 month. And, perhaps most importantly, Soviet defense spending is on the decline.

Nickel-and-diming the B-2 will only increase the unit and program cost. Last June, Secretary Cheney asked Congress to either fully fund the B-2 or cancel it. There was no way we could afford to efficiently produce this plane so I said we should end production. We are now hearing about a reported stretchout of the B-2 procurement schedule. Such a decision would be unfortunate. Terminating production now would save U.S. taxpayers nearly \$40 billion.

That is \$40 billion wasted on a plane we do not need for our national securi-

ty, American taxpayers just spent \$30 billion to purchase 100 B-1B bombers. The Air Force insists these planes will be effective penetrating bombers into the late 1990's. Their effectiveness will be greatly extended if they are equipped with air launched cruise missiles, particularly the advanced cruise missile which itself will be stealthy. Armed with these weapons, the B-1B will be able to launch an attack from outside Soviet airspace.

Supporters of the B-2 argue that the plane is a bargain. I say that a bomber that costs as much as the annual budget of the State of Vermont is too much. And, the \$500 million per copy price tag will only go up if the Bush administration opts for a program stretchout.

I am angered by those who try to advertise the B-2 at a so-called fly away cost of \$300 million. This phony price is cooked up by excluding the research and development costs of the program, as if the American taxpayer somehow does not pay for research and development.

At the same time, B-2 supporters argue against cancellation of the program because so much has already been spent. Most of that money is on research, development, and testing. But if the program is canceled those efforts are apparently exclusive to the B-2 and the money will go down the drain. I call that talking out both sides of the mouth.

Proponents of the B-2 also claim that the added deterrence of the B-2 is worth the cost. First, they insist the B-2 offers increased stability through flexibility. Penetrating bombers are slow to anger weapons since they take hours to reach their targets. The bombers can be recalled at any point during their mission. However, bombers armed with cruise missiles have a similar flexibility and are much cheaper than the B-2. They, too, take hours to reach their stations and can be easily recalled.

In addition, proponents insist the technological advances of the B-2 justify the cost. But, Mr. President, there is no public information supporting these claims. Last year, Congress passed the fly before you buy amendment to establish a series of requirements the B-2 must meet before any additional money was obligated. Well, since then the plane has flown eight times for a total of 30 hours. But none of these tests involved any radar detection trials. Those critical tests are now reportedly not expected to begin until this summer. By the time the analysis is complete the debate over next year's Defense budget will probably be over. We need facts, not promises to debate this program.

The B-2 termination bill will permit the completion of at least 15 planes—more than an entire wing. I suggest to my colleagues that we should try

before we buy—and not just fly before we buy. The bill continues the research, development, and testing of the program. We can learn a lot from the current program even if we end production now.

Finally, I am alarmed that the Air Force continues to insist that the B-2 is essential to a START agreement. Last year, I attended the START negotiations as a representative of the majority leader. I am convinced that United States negotiating leverage comes from the Soviet desire to reduce the defense burden on its staggering economy. The B-2 is irrelevant to the Soviet interest in a START agreement and it is not needed as a bargaining chip.

A related claim is that the United States needs the B-2 bomber in order to have adequate deterrence under a START agreement. The current START proposal would allow each side to keep 6,000 ballistic and cruise missile warheads. The proposed counting rules, however, count penetrating bombers as only one warhead when these planes actually carry up to 20 warheads. The Air Force insists that it needs more than 6,000 warheads in order to have adequate deterrence. The only possible way to achieve this is to maintain a penetrating bomber force. Again, the B-1B will be able to penetrate into the 1990's.

Regardless, this Senator believes that when each side has 6,000 warheads deterrence is secure. In addition to the air breathing leg of the triad our security is ensured by thousands of warheads on land based missiles and nuclear submarines.

Mr. President, in sum, let us try before we fly and save our taxpayers \$40 billion. The plane is not essential to our national security and we cannot afford such a lavish program at a time when we need to be exercising fiscal restraint.

I ask unanimous consent that a recent article in the Baltimore Sun appear in the RECORD. The article reports that air-conditioned shelters for the B-2 will cost \$1.6 billion. As the chairman of the Subcommittee on Foreign Operations, I would like to note that \$1.6 billion is about half of what our country spends on foreign economic assistance. At a time when the United States is considering an increase in our assistance to Eastern Europe, we should think seriously about spending money on air-conditioned hangars for an airplane we do not need.

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

[From the Baltimore Sun, Jan. 19, 1990]  
AIR FORCE WANTS AIR-CONDITIONED HANGARS  
TO KEEP HEAT FROM DAMAGING B-2S

(By Mark Thompson)

WASHINGTON.—The Air Force's fleet of B-2 "Stealth" bombers costing \$532 million

each will require 120 air-conditioned garages costing \$1.6 billion because—among other reasons—their cockpit windows don't open and can't let damaging heat escape.

Air Force officials have told Congress that B-2s with sealed windows sitting on runways during the summer months would get hot enough to destroy the plane's sophisticated electronics.

The Air Force detailed the cost and need for what it calls B-2 "docks" for the first time in secret testimony recently released by two congressional committees.

"I understand the Air Force wants to buy 120 individual climate-controlled plush-type hangars for the B-2 fleet," Sen. J. James Exon Jr., D-Neb., chairman of the Senate Armed Services Committee's Strategic Forces Subcommittee, told Air Force officials during a closed-door hearing last June. "In this time of great budget austerity, how on earth can we justify this decision?"

"Docks will greatly reduce the extreme cockpit heat buildup which will occur during the summer months because the B-2 does not have openable windows," the Air Force told the panel in a written justification for building the hangars.

"Controlling summertime cockpit temperatures will prevent premature aging and failure of avionics components," it added, referring to the destructive impact heat can have on sensitive electronics.

The Air Force also said the hangars were needed in the winter to protect the B-2 from snow and ice. "Traditional methods of ice and snow removal will degrade the B-2's low-observable [Stealth] characteristics and cannot be used," the service said, referring to the use of brooms to remove snow and deicing fluids to melt ice.

The Air Force said the hangars also were needed for other activities that preserve the bat-like plane's radar-eluding coatings, for protection from fire and for increased security.

"Maintenance activities involving special coating and composite materials are critical to preservation of the B-2's stealth qualities," it said. "These special coatings and composite materials, which are applied during standard maintenance procedures, require controlled environments for proper curing and drying."

Conducting such tasks outside or in standard hangars would require much more time and "will significantly decrease availability of B-2 aircraft for operational and training missions," the Air Force said.

The hangars will include fire-extinguishing gear capable of smothering the plane with foam or other agents within 20 seconds of an alarm.

Storing the B-2 inside the hangars also "reduces the potential for damage from small arms fire and other acts of sabotage and vandalism" and protects the plane's classified innards, exposed during maintenance, from spies, the service added.

The Air Force wants to spend \$70.2 billion for 132 planes.

#### By Mr. CRANSTON:

S. 2010. A bill to amend the Home Owners' Loan Act; to the Committee on Banking, Housing, and Urban Affairs.

#### BONDHOLDERS PROTECTION ACT

Mr. CRANSTON. Mr. President, I am today introducing legislation, the Bondholders Protection Act of 1990, that will allow 20,000 or more individ-

uals who purchased bonds issued by American Continental Corp., the holding company for Lincoln Savings & Loan Association, to seek relief against the United States based upon what appears to be negligence by various Federal agencies and instrumentalities of the United States in approving the sale of these bonds. The legislation would provide for a waiver of sovereign immunity to allow the bondholders to sue the United States and to recover damages in the event that they are not compensated in lawsuits brought against the private parties involved.

Mr. President, I am deeply concerned about what happened to these thousands of individuals, many of them elderly, who bought what are now apparently worthless bonds issued by American Continental Corp., after the sales were approved by both the Federal Home Loan Bank Board [FHLBB] and the Securities and Exchange Commission [SEC]. Material provided to me from the Office of Thrift Supervision [OTS], the successor to the now-defunct Federal Home Loan Bank Board, indicates that these bond sales were approved by the Federal regulators despite information which these agencies had which raised serious questions regarding the solvency of Lincoln Savings & Loan and American Continental Corp.

According to the statements made by OTS in a December 20, 1989 response to the General Accounting Office, these sales could not have gone forward but for the approval of the Federal Home Loan Bank regulators. These materials also state that the primary responsibility for approval of the sale of these bonds rested with the Federal Home Loan Bank Board, whose Chairman at the time the sales began in the offices of Lincoln Savings & Loan was Ed Gray. Although documents provided by OTS also note that both SEC and the California Department of Corporations also had the power to stop the sale of these bonds, there is little question that no agency had more intimate knowledge of the problems associated with Lincoln Savings & Loan and American Continental than the Federal Home Loan Bank Board, and its then-chairman, Ed Gray. It is unconscionable that this agency actually approved these sales and allowed thousands of innocent individuals to lose their life savings, given the internal memorandum and statements made at that time about the condition of these entities. If the FHLBB had not given the green light to this bond sale, it would not have happened and thousands of Californians would not have had their financial well-being destroyed.

Mr. President, according to the information provided by OTS, the FHLBB regulators knew that the bonds were being sold in the lobby of

Lincoln Savings & Loan and continued to approve the sales. Yet, according to OTS, although the FHLBB regulators were also responsible for onsite monitoring the sales of those bonds to assure compliance with Federal regulations designed to protect purchasers from being misled, no such monitoring took place while the bonds were being sold in the Lincoln offices.

Many of the individuals who purchased these bonds believed that they were purchasing federally insured bonds. I believe they were let down by the Federal agencies—particularly the FHLBB—who should have been protecting their interests.

Mr. President, what happened to thousands of Californians in this matter is one of the most upsetting things that has been brought to my attention. I first learned of the plight of the bondholders after the takeover of Lincoln Savings last April. Even though I had earlier discussed with both sides the dispute between Keating and the FHLBB regulators, no one had ever mentioned to me the bonds or any problems associated with them. In retrospect I know that if Ed Gray and his regulators had done what I urged and brought the Lincoln investigation to a conclusion, this financial disaster might have been avoided. But that's no consolation to the victims. As their Senator, I consider it is as if members of my own family had been stripped of their life savings. I intend to do everything in my power and pursue every possible avenue to see to it that the widows and elderly people and others who lost their savings in those bonds get justice.

I will not let up until justice is done.

I have heard in detail from Shirley Lampel, one of the leaders of the bondholders—and from other bondholders—of the tragic conditions now facing many elderly, ill, widowed victims who bought the bonds while believing with good reason that they were backed by the U.S. Government. Many of them are now bereft of all their resources. They can't pay their rent. They can't pay for decent food. They can't even afford to heat their homes.

Some of them are too embarrassed to tell their relatives and friends of their plight, even though they, of course, did nothing wrong and were let down by their own Government—specifically by regulators headed by Ed Gray whose responsibility it was to protect them.

I ask unanimous consent that a copy of the OTS transmittal of facts in this matter along with a chronology of regulatory events surrounding the bond sale be reprinted in the RECORD along with the text of the bill being introduced today and a section-by-section analysis.

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

S. 2010

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Home Owners' Loan Act is amended by adding at the end the following:*

**"SEC. 15. LIABILITY OF THE UNITED STATES.**

**(a) IN GENERAL.**—Any person or class of persons who—

(1) purchased a bond or other debt obligation of American Continental Corporation upon issuance during the period beginning on January 1, 1986, and ending on April 30, 1989;

(2) sustained a financial loss in connection with such bond or other debt obligation, may, notwithstanding the exception contained in section 2680(a) of title 28, United States Code, bring a civil action against the United States for damages allegedly caused by one or more negligent actions or failures to act by an agency or instrumentality of the United States.

**(b) LIMITATION.**—The amount of any liability of the United States under subsection (a) shall be reduced by any amount recovered or recoverable by the persons described in subsection (a) in any other action for damages arising from the sale of such bonds or other obligations.

**(c) RULES GOVERNING ACTIONS.**—Proceedings for the determination in an action described in subsection (a), determination of damages, and review and payment of any judgment on such action, shall be in accordance with the provisions of law applicable to cases of which the court had jurisdiction under section 1346(b) of title 28, United States Code.

**(d) NO INFERENCE OF LIABILITY.**—Nothing in this section shall be construed as an inference of liability on the part of the United States.".

(b) The table of contents of such Act is amended by adding at the end the following:

**"Sec. 15. Liability of the United States."**

(c) This Act may be cited as the "Bondholders Protection Act of 1990".

**SECTION-BY-SECTION ANALYSIS—**

**BONDHOLDERS PROTECTION ACT OF 1990**

**Section 15, subsection a (1) (2)** Identifies the persons eligible to sue under the bill. Waives the defense of sovereign immunity by the government.

**Section 15, subsection (b)** Requires offsetting by the Court of any other amounts recovered by the bondholders against recovery from the U.S. government.

**Section 15, subsection (c)** Sets the jurisdiction of the Court by treating as a diversity of citizenship case.

**Subsection (b) and (c)** Adds new title and a short title of bill.

**ENCLOSURE I**

GENERAL ACCOUNTING OFFICE,

Washington, DC, September 26, 1989.

GENERAL GOVERNMENT DIVISION

Mr. JAMES DEEMER,  
Acting Director of the Controller Division,  
Office of Thrift Supervision

DEAR MR. DEEMER: We have been asked by Senator Cranston to address certain issues related to the issuance of American Continental Corporation debt and the marketing

and sale of the bonds in branches of its subsidiary thrift, Lincoln Savings and Loan. In order to do so, we need responses to the following questions.

1. What federal laws, regulations, and supervisory processes (excluding securities law, regulations, and processes) apply to: (1) the issuance of thrift holding company debt and (2) the use of branches of a subsidiary thrift for marketing and selling the debt. What are the purposes of these provisions. What specific actions (review, approval, implicit approval, disapproval...) are required of or normally taken by entities within the Federal Home Loan Bank Board System. Are such actions required to be or normally documented.

2. With respect to (1) the debt issuance and (2) the use of the thrift branches in the American Continental/Lincoln case, what federal entity was responsible for the actions cited in (1) above. Were any of these responsibilities delegated to the Office of Regulatory Affairs and/or the Federal Home Loan Bank in San Francisco? If so, when? What specific actions were taken, by whom, and when. Were these actions documented? Please provide copies of any supporting documentation.

A. Was the Supervisory Agent and/or any supervisory official of the Federal Home Loan Bank in San Francisco contacted, officially or informally, by the state regulator regarding the use of the Lincoln branches for marketing and selling the American Continental debt. If so, what was their response and what actions, if any, did they take.

B. Was the Supervisory Agent and/or any federal supervisory official aware, or did they become aware through formal or informal means, of the sale of the American Continental debt in the Lincoln branches. If such information had come to their attention, what actions, either required by specific regulations or procedures or called for under general supervisory responsibilities, should and/or did they take.

3. What actions are required of a thrift and/or its holding company by federal (non-securities) law or regulation with respect to (1) debt issuance and (2) use of subsidiary thrift branches for marketing and selling debt. Specify the form and extent of American Continental/Lincoln compliance with all applicable federal requirements.

4. What federal (nonsecurities) laws or regulation, if any, either explicitly or by implication, seek to protect customers of a thrift in situations in which holding company debt is sold in the thrift.

Please respond to these questions in writing by October 12, 1989. You may contact Alison Kern (898-7196) if you have any questions. The job code assigned by GAO is 233259.

Sincerely,  
CRAIG A. SIMMONS,  
Director, Financial Institutions  
and Markets Issues.

#### ENCLOSURE II

OFFICE OF THRIFT SUPERVISION,  
DEPARTMENT OF THE TREASURY,  
Washington, DC, December 20, 1989.  
Mr. CRAIG A. SIMMONS,  
Director, Financial Institutions and Market  
Issues, General Accounting Office,  
Washington, DC.

DEAR MR. SIMMONS: This letter has been prepared in response to your request for information regarding the issuance of subordinated debt by holding companies of savings and loan associations, particularly American

Continental Corporation (ACC), the holding company for Lincoln Savings and Loan Association of Los Angeles, California (Lincoln). The Office of Thrift Supervision (OTS) response is presented in the same order as your questions. Copies of the referenced laws, regulations and supporting documentation are attached.

1. Prior to adoption of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), the incurrence of debt by a non-diversified savings and loan holding company or any subsidiary thereof which was not an insured institution, was subject to Section 408(g) of the National Housing Act and 12 C.F.R. 584.6, copies of which are attached hereto. Subject to certain exceptions not relevant to the ACC/Lincoln situation, these provisions generally mandated that the prior written approval of FSLIC (or its delegate) be obtained for the incurrence of debt in an amount that, when added to existing debt, would exceed 15% of the consolidated net worth of the holding company at the end of the preceding fiscal year. In approving an application filed by a holding company, FSLIC (or its delegate) was generally required to determine that the act or transaction contemplated by the applicant would not be "injurious to the operation of any subsidiary insured institution in light of its financial condition and prospects." In order to obtain the required written approval of FSLIC, the applicant was required to file an Application H-(g). This application required the furnishing of detailed information on the financial effects of the proposed debt issuance on the applicant and its subsidiaries, such as pro forma capitalization information and the ability of the applicant to service the debt proposed to be issued.

Regulation 584.6(g) gave to the Supervisory Agent the authority to determine whether or not a particular holding company would be permitted to issue debt or, in the alternative it permitted him to refer an application to the Office of Regulatory Policy, Oversight and Supervision (ORPOS) in the event a significant issue of policy or law was raised by an application. Thus, the Supervisory Agent was generally empowered to administer the implementation of applicable regulations and policies in matters regarding specific associations and holding companies. ORPOS was the predecessor to the Office of Regulatory Activities (ORA). ORA has since been superseded by Supervision Operations and Supervision Policy of the OTS.

Certain holding companies were not required to submit an application with each proposed debt offering, but rather were provided "blanket debt authority." Such authority was granted to holding companies that had extensive activities other than the ownership and management of an insured thrift subsidiary and required regular access to the capital markets. Under such blanket debt authority, the holding company was required to submit a "debt budget" on an annual basis that set forth the proposed level and use of holding company indebtedness for the ensuing year.

Although no established criteria generally existed for the review of a holding company's proposed annual debt budgets, the Supervisory Agent's review normally consisted of a determination of: (i) the holding company's ability to reasonably service the debt; (ii) whether the proposed level of debt was reasonable; and (iii) whether the assumptions underlying the level of debt and the ability to service the debt were well support-

ed and realistic. The Supervisory Agent could either "take objection to" or "take no objection to" the proposed debt budget. In summary, the debt budget process was generally used as a vehicle to monitor compliance with blanket debt authority and to review the financial impact of certain debt levels upon the holding company, and was not intended to demonstrate how and to whom the debt was to be sold.

**NHA Section 408(d), Regulation 584.3.**—A statutory that, prior to the adoption of FIRREA, governed, in part, the sale of holding company debt through the branches of its insured subsidiary was Section 408(d) of the National Housing Act, and its implementing regulation, 12 CFR 584.3 (copies of which are attached). Regulation 584.3 prohibits certain transactions between a holding company and its insured subsidiaries. Without the prior written approval of the Supervisory Agent (SA), a holding company cannot engage in any transaction with any insured affiliate involving the purchase, sale or lease of property or assets where the amount of consideration paid over a 12-month period exceeds the lesser of \$100,000 or 0.1 percent of the institution's total assets at the end of the preceding fiscal year. This regulation was applicable in that ACC had leased space from Lincoln in order to sell its subordinated debentures. Generally, compliance with any affiliated transaction is reviewed through on-site visits or field examinations of the holding company and/or its insured subsidiary. It should be noted that Section 408(d) of the National Housing Act had been superseded by Section 10(p) of the Home Owners Loan Act as modified by FIRREA.

**Regulation 563g.17.**—12 C.F.R. 563g.17 of the Insurance Regulations (copy attached) further regulates the sale of securities by an insured institution, or its affiliates (including its holding company), through offices of the insured institution. This section requires that the following conditions be met if sales are to be made through the institutions offices: no commissions can be paid to employees or other persons offering securities; no offers or sales can be made by tellers or at the teller counter, or by comparable persons at comparable locations; offers and sales must be made only by regular, full-time employees; and, the institution issuing the securities must be in compliance with its minimum regulatory capital requirement.

Generally, compliance with Regulation 563g.17 is monitored through on-site visits or field examinations of the holding company and/or the insured institution.

#### RECENT DEVELOPMENTS

It should be noted that Section 408(g) of the National Housing Act, which, as described above, governed the incurrence of debt by savings and loan holding companies and their non-insured institution subsidiaries, was repealed by FIRREA. However, Section 10(p) of the Home Owners Loan Act gives to the Director of OTS the ability to impose restrictions on a savings and loan holding company of any activity that constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary savings association. Such restrictions must be issued in the form of a directive and are effective as a final cease and desist order. This provision provides to the Director a wide range of discretion to impose on a savings and loan holding company restrictions on activities and transactions, including the ability to incur debt, and is a provision that was

strongly favored by OTS senior staff during the FIRREA deliberations.

2. The Federal Home Loan Bank Board held primary responsibility for the approval of the debt issued by ACC, excluding any approval requirements imposed by the federal securities laws. The Supervisory Agent held primary responsibility for the review of and objection/non-objective to the annual debt budgets, and for determining compliance with Sections 584.3 and 563.17(g) of the Insurance Regulations regarding affiliated transactions and the sales of holding company securities through an insured institution's branches.

**WHAT SPECIFIC ACTIONS WERE TAKEN, BY WHOM, AND WHEN**

a. *Debt Budget*.—On July 20, 1984, the Federal Home Loan Bank Board, by Resolution No. 84-381, approved ACC's application to issue, sell, renew, or guarantee any debt security of ACC or its non-insured subsidiaries up to an additional principal amount of debt securities not to exceed \$366.5 million over and above the amount outstanding at December 31, 1983 (\$183.5 million). The Resolution also provided that the Corporation (FSLIC) could terminate or modify the approval for good and reasonable cause and also provided that certain conditions be complied with in a manner satisfactory to the Supervisory Agent of the Federal Home Loan Bank of San Francisco (FHLB-SF). One of those conditions was that a proposed debt budget be submitted on an annual basis in a form satisfactory to the Supervisory Agent. This debt budget would be subject to the review and objection/non-objective of the Supervisory Agent.

On November 14, 1986, ACC submitted its proposed debt budget for 1987. Following the receipt of certain additional information that was submitted over a period of several months, on February 6, 1987, the Supervisory Agent sent a letter to ACC objecting to the proposed debt budget. This objection was based on material concerns relating to the following:

- (i) ACC had not shown an ability to adequately meet new and/or existing debt servicing requirements;
- (ii) ACC projected substantial increase in debt such that compliance with the debt limitations imposed by FHLBB Resolution No. 84-381 would not be maintained;
- (iii) Certain investments contemplated by the debt budget were questionable;
- (iv) Certain assumptions made by ACC were not reasonable; and,
- (v) The information submitted was not complete and adequate.

The February 6, 1987 letter objecting to the 1987 debt budget also requested a meeting with ACC to discuss these concerns.

On February 6, 1987, members of ACC and the FHLB-SF held such a meeting and discussed the above-noted concerns as well as ACC's intention to revise its 1987 debt budget proposal in order to alleviate those concerns. The attached March 17, 1987 memo from R.A. Sanchez to C.A. Deardorff summarizes the substance of this meeting. On March 16, 1987, ACC submitted to the Supervisory Agent a revised debt budget providing for the replacement of higher-yielding debt with lower-yielding debt and a modest decline in the overall level of debt by the year end 1987. Additionally, ACC provided revised cash flow and other financial projections that purported to demonstrate its ability to service the debt, exclusive of any cash dividends from Lincoln and the ability to meet its 1987 debt projections. On March 17, 1987, representatives of ACC

met with the Supervisory Agent and other representatives of the FHLB-SF to discuss the revised 1987 debt budget proposal.

Following receipt and review of additional information provided by ACC, on June 19, 1987, the Supervisory Agent notified ACC that it took no objection to the 1987 debt budget, as amended, pursuant to paragraph one of FHLBB Resolution No. 84-381, base upon finding that ACC (1) had demonstrated its ability to service the proposed level of debt without injuring its insured subsidiary, (2) would be replacing high-yielding debt with lower-yielding debt, and (3) would experience a modest decline in its overall level of debt for 1987. However, the Supervisory Agent also communicated certain concerns raised in connection with the review of the debt budget as follows: (i) although ACC's ability to service its debt in 1987 and possibly 1988 appeared reasonable, this ability to continue to roll over existing debt and issue new debt; (ii) ACC did not have a long-term operating strategy; and (iii) the FHLB-SF had material concerns over the viability of Lincoln, which was ACC's primary asset.

On August 31, 1987, ACC responded to the Supervisory Agent's concerns as set forth in the June 19, 1987 letter.

On November 13, 1987, ACC submitted its proposed debt budget for 1988 to the Supervisory Agent. This debt budget provided more conservative assumptions than previous debt budgets and called for further replacement of higher-yielding debt with lower-yielding debt.

An internal FHLS-SF analysis dated March 7, 1988 recommended the 1988 debt budget be approved and that ACC be requested to submit an operating plan detailing its future operating strategy. The recommendation was based on ACC's apparent ability to adequately service its debt; its significant progress in reducing its outstanding debt during 1987; and, its apparent inclination to continue this trend. However, many of the concerns raised in the June 19, 1987, letter approving the 1987 debt budget remained and were aggravated by the fact that ACC had been able to forestall an examination of either Lincoln or ACC that would have ascertained the validity of the holding company's claims regarding its financial strength.

On March 7, 1988, the Supervisory Agent informed ACC that it took no objection to the proposed debt budget for 1988, as amended, pursuant to paragraph one of FHLBB Resolution No. 84-381. Such non-objectation was based upon the above-mentioned findings.

On November 16, 1988, ACC submitted its proposed debt budget for 1989 to the Office of Regulatory Activities. This debt budget was rejected in December 1988 by ORA based on the findings of the September 1988 examination of ACC, which indicated substantial doubt as to ACC's abilities to support the debt.

b. *Sale of ACC Subordinated Debentures Through Lincoln Branches*.—The FHLB-SF became aware that ACC's subordinated debentures were being sold from Lincoln branches when it was notified by the California Department of Savings and Loans (CDSL) in December 1986. The CDSL directed Lincoln to make a full and complete report regarding the sales. After receiving Lincoln's response, the CDSL notified Lincoln that it was in violation of Savings Association Law ("SAL") Section 6503(b) because Lincoln failed to obtain the written consent of the Commissioner to sublease branch office facilities to ACC. CDSL also

conducted an independent review of the manner in which the subordinated debentures were sold and concluded that the practices did not violate applicable regulations. The FHLB-SF also requested and received a legal opinion from ACC's outside counsel, Arnold & Porter, stating that ACC's sublease of Lincoln office space did not violate Regulation 584.3(a)(7)(i). This opinion was based on the representations ACC and Lincoln made to Arnold & Porter regarding the total consideration paid by ACC to Lincoln in connection with the lease (total consideration would be less than \$100,000). As a result, the March 7, 1988 analysis concluded that "based upon the outstanding concerns regarding ACC's long-term viability, ACC's financial condition will be assessed in the next examination, and a recommendation for the revision of ACC's debt authority will be made."

In February 1987 the FHLB-SF informed the FHLBB's Office of General Counsel's, Corporate and Securities Division, the Office of Enforcement and the Office of Examination and Supervision of its concerns regarding the sales of ACC subordinated debentures from Lincoln branches. The Office of Enforcement then notified the SEC of the possibility that ACC was selling securities based upon a false and misleading registration statement and that its periodic filings during the past two years may have been false and misleading. The SEC requested and was granted access to examination reports and other documents concerning ACC and its subsidiaries. Other concerns cited in the FHLB-SF's February 1987 memorandum include: (i) The high risk nature of ACC's activities; (ii) Inadequate underwriting; and (iii) Potential trading based on inside information.

In June 1988, the CDSL notified ACC and Lincoln that sales of the subordinated debentures from Lincoln branches were to be discontinued as of the completion of the original \$200.00 million issuance of August 1, 1988, whichever was earlier.

Please note that the documents that refer to the specific actions taken regarding the debt issuance and the use of Lincoln branches to sell ACC subordinated debentures have been attached. The above summary provides only a brief factual description of the sequence of events which we believe is responsive to your request. For a more detailed assessment of the facts, we recommend a thorough review of the attached documents and interviews with OTS staff.

3. The federal (nonsecurities) laws and regulations that govern the issuance of holding company debt, and the sale of this debt through branches of the insured institution, have been provided in (1) above. The following section will therefore discuss ACC's compliance with those regulations.

a. *Compliance with Regulation 584.6*.—Based upon information gained since the conservatorship/receivership of Lincoln Savings, it is now apparent that ACC/Lincoln intentionally submitted false and misleading information in order to gain approval from the FHLBB and the SA for its applications under 12 C.F.R. 584.6. However, such knowledge of misrepresentation was not possible at the time of the original debt application and the various debt budgets in the absence of a detailed holding company examination. When a holding company examination was conducted from September through December 1988, a determination was made that, contrary to ACC's representations to the FHLB-SF and ORA in its

debt budget applications, it had issued securities that were financially insupportable. This was in violation of the criteria set forth in the National Housing Act and the applicable regulations promulgated thereunder at 12 C.F.R. 584.6 of the Insurance Regulations. As a result, ACC's debt budget for 1989 was rejected.

b. *Compliance with Regulation 584.3.*—Inasmuch as the consideration between ACC and Lincoln for the lease of the branch space was reported to be less than \$100,000, the transaction was considered de minimis in nature and in compliance with 12 C.F.R. 584.3.

c. *Compliance with Regulation 563g.17.*—In 1987, the CDSL conducted an investigation of the sales practices of ACC personnel selling subordinated debentures at Lincoln branches, and found that such personnel were, at that time, complying with the applicable regulatory requirements, including 12 C.F.R. 563g.17. However, a subsequent review by the CDSL in 1988 found that ACC was in violation of Regulation 563g.17 inasmuch as during the period of sales of the first \$200 million issuance, some investors believed that the debentures were the obligations of Lincoln Savings.

4. The federal (non-securities) regulation for which OTS has jurisdiction, that explicitly seeks to protect the consumer from uninformed or misleading purchases of securities is Section 563g.17 of the Insurance Regulations. By restricting the personnel that can offer these securities to those who are not involved with opening accounts or other transactions with the insured institution's customers, this regulation limits the confusion that might arise regarding the difference between subordinated debentures and insured deposits.

It is appropriate to point out that the above discussed laws and regulations regarding affiliated transactions with holding companies and the issuance of debt by holding companies were superseded by FIRREA. In their place, Section 10(p) of the Home Owners Loan Act, as modified by FIRREA, allows the Director of OTS to restrict activities by the holding company that impose serious risk to insured associations. In addition, on April 13, 1989 ORA (succeeded by OTS) issued Thrift Bulletin 23. This bulletin elaborates on the controlling regulations regarding debt sold through branches and specifies that debt issuances in denominations under \$10,000 could be considered an unsafe and unsound practice. The bulletin further requires that the institution: require purchasers to sign an acknowledgment that the securities are not Federally insured; develop procedures to determine whether the investment is appropriate for the proposed purchaser before the sale; train the employees in sales procedures to avoid misleading customers; carefully scrutinize advertising for misleading or insufficient information; carefully review compliance with the applicable federal securities laws; and submit any documentation or advertising to the staff at OTS for review.

The OTS is now reviewing the advisability of restricting savings associations and their affiliates from offering to sell or selling securities through savings and loan branches or deposit gathering operations. The experience of Lincoln, and the apparent ease with which insured deposits can be confused with other securities, has shown OTS that the practice must be more carefully controlled and monitored if it is allowed. Current proposals range from complete prohibition of such sales to greater disclosure along the

same lines as the "Truth in Lending" requirements.

It should also be pointed out that the practice of selling subordinated debt in branches is allowed by the national banking agencies. In general, the reason institutions are allowed to sell their securities through the branch system is that the issuance of debt by other means is very expensive and usually prohibitive for all but the largest institutions. As such, it is an efficient method of raising capital. We must ensure that consumers are properly informed about the risk of certain investments, but the state of the industry demands that institutions raise additional capital. Our office welcomes any suggestions that you might make in this matter.

Although your questions ask specifically about non-securities laws, disclosure practices for holding company securities is primarily regulated by the Securities and Exchange Commission (SEC), and the California Department of Corporations (CDC). In this regard, the securities laws of California and the SEC regarding proper disclosure are controlling. The Federal Home Loan Bank System (and its successor the OTS) has no jurisdiction to enforce the controlling disclosure laws that govern the issuance of securities by holding companies. This authority is held by the SEC which performed a full review of most of the prospectuses used by ACC to sell the subordinated debentures. You will find an attached letter to Representatives Henry B. Gonzalez and Chalmers P. Wylie dated November 16, 1989 that discusses the provision of information by this office to the SEC.

In contrast to the sales of ACC debt, where different regulatory bodies had differing responsibilities, it is notable that a very different result occurred in a proposed sale of subordinated debt of Lincoln, a situation over which the Bank Board did have full authority to oversee the issuance. After review of the proposed offering circular for the planned debt issuance in 1988 by the Washington office, the Bank Board required substantially expanded disclosure regarding the significant risks to investors if they purchased securities, as well as significant additional disclosure relating to the following areas: affiliated transactions, including whether regulatory approvals were received; exposure to loan losses including non-performing loans, loan classifications, collateralization, potential weakness in the real estate economy, loans restructured and others; the FHLB Board Examination; the SEC investigation; the impact of a deflationary market on the real estate investments activities and an accounting of real estate investments in areas with depressed real estate markets; the exposure to rising interest rates; the level of brokered deposits; material GAAP and regulatory accounting differences; the market value of the equity securities portfolio; gains taken in the sale of real estate and securities investments; discussion of the prospect of future gains from the sale of real estate or securities; the financial strategy justifying Lincoln's securities activities; and many others. After requesting that the Bank Board withdraw several of the above comments (such requests were denied), Lincoln abandoned its attempt to register the debt with the Bank Board. The above referenced letter to Representatives Gonzalez and Wylie gives a further discussion of this matter.

The ACC/Lincoln situation illustrates perhaps better than any other recent case why a "dual responsibility" for disclosure mat-

ters regarding savings and loan holding company debt issuances should be considered. The lawyers and accountants at OTS responsible for the securities oversight function have access to the most current information available on particular institutions, including examination reports, have established working relationships with supervisors in the field, and possess broad knowledge of the thrift industry as a result of the various responsibilities they perform in addition to the securities oversight function. These factors all provide advantages in the disclosure area that are unique and greatly contribute to ensuring full and fair disclosure by thrift institutions.

We have collected other supporting documentation which is considered privileged and confidential. Should Senator Cranston desire to review this material, he should make a written request to this agency to receive it.

We apologize for the delay in providing this response. If you have further questions please contact Kevin O'Connell at 331-4526.

Sincerely,  
JAMES B. DEEMER,  
Director, Controllers Division,  
Office of Thrift Supervision.

1. \* Federal Home Loan Bank Board, Resolution No. 84-381, July 20, 1984 (FHLBB-ACC-1815-1817).

2. \* Memo from J. Williams to D. Dochow, November 7, 1989; ACC/Lincoln—analyses of statutes and regulations applicable to the sale of ACC sale of subordinated debt.

3. \* Comparison of Regulatory Oversight in the ACC Subordinated Debt Sales and the proposed sales by Lincoln.

4. \* California Securities laws relating to the ACC sale of the subordinated debt.

5. \* Authority of the SEC to stop the ACC sale of the subordinated debt once it began.

6. \* Regulation of holding company debt issuances (Pre-FIRREA).

7. \* Post-FIRREA treatment of holding company debt issuances.

8. \* OTS regulations applicable to over-the-counter sale of securities.

9. \* Letter from K. Hoyle to H. Gonzalez and C. Wylie, November 16, 1989; Lincoln Hearing.

10. \* Chronology regarding ACC Subordinated debenture issuance.

11. \* Letter from D. Dochow to ACC Board of Directors, December 30, 1988; Report of examination of ACC.

FEDERAL HOME LOAN BANK BOARD  
No. 84-381

*July 20, 1984.*

Whereas, American Continental Corporation ("ACC"), Phoenix, Arizona, a nondiversified savings and loan holding company controlling Lincoln Savings and Loan Association ("Lincoln Savings"), Los Angeles, California, has filed an application, on behalf of itself and its subsidiaries, with the Federal Savings and Loan Insurance Corporation ("Corporation") pursuant to Section 408(g) of the National Housing Act ("Act"), and to Section 584.6 of the Holding Company Regulations ("Regulations") for authority to issue, sell, renew, or guarantee any debt security of ACC or its noninsured subsidiaries or assume any debt or otherwise incur future indebtedness in any fiscal year up to an additional principal amount of debt securities outstanding not to exceed \$366.5 million, without further application; and

Whereas, the Federal Home Loan Bank Board ("Bank Board"), as operating head of

the Corporation, after considering the application and other available materials, has found that the application to incur future debt without further application comports with statutory and regulatory requirements for approval; and

Whereas, the Bank Board has found the incurrence of the proposed indebtedness would not be injurious to the operation of ACC's insured subsidiary, Lincoln Savings, and would not impose an unreasonable or imprudent financial burden on the applicant and its noninsured subsidiaries;

Now therefore, it is hereby resolved, that the applicant's request for authority to issue, sell, renew, or guarantee any debt security of ACC or its noninsured subsidiaries or assume any debt or otherwise incur future indebtedness in any form in any fiscal year, up to an additional principal amount of debt securities not to exceed \$366.5 million over and above the amount outstanding at December 31, 1983, without further application to the Corporation is hereby approved provided that the Corporation may terminate or modify this approval for good and reasonable cause after providing the applicant with notice and an opportunity to be heard, and provided that the following conditions are complied with in a manner satisfactory to the Supervisory Agent at the Federal Home Loan Bank of San Francisco ("Supervisory Agent");

1. ACC, no later than 45 days prior to the beginning of each fiscal year hereafter, shall file a statement of anticipated issuance of debt by ACC and each of its noninsured subsidiaries ("Proposed Debt Budget") for the upcoming fiscal year. The Proposed Debt Budget shall be in a form satisfactory to the Supervisory Agent and is to be filed with the Supervisory Agent with copies to the Bank Board's Office of Examinations and Supervision. Unless notified in writing by the Supervisory Agent within 10 calendar days following receipt of a Proposed Debt Budget or amendment thereto, a Proposed Debt Budget shall be considered complete. If the Supervisory Agent does not object to the Proposed Debt Budget within 30 calendar days following the receipt of a complete Proposed Debt Budget, the Proposed Debt Budget shall be deemed approved and ACC and its noninsured subsidiaries shall have the right to issue, sell, renew, guarantee, or assume indebtedness as set forth in the Proposed Debt Budget without any further filing with respect thereto;

2. In the event that during any fiscal year after the current year, ACC or any of its noninsured subsidiaries plans to incur, sell, renew, guarantee, or assume indebtedness not specifically set forth in or in an amount exceeding the Proposed Debt Budget as approved by the Supervisory Agent, and such unspecified or excess indebtedness, on a cumulative basis for such fiscal year, is greater than 15 percent of the consolidated net worth of ACC as of the end of ACC's most recent fiscal quarter, ACC shall submit to the Supervisory Agent, with copies to the Bank Board's Office of Examinations and Supervision, an Application H-(g). If the Supervisory Agent does not object to the proposed debt transaction within 30 calendar days following the receipt of either said Application H-(g) of any additional information that may be requested by the Supervisory Agent within 10 calendar days of receipt of such Application H-(g), ACC or any noninsured subsidiary may consummate the proposed debt transaction, and within 15 calendar days thereafter, ACC shall notify the Supervisory Agent in writing that the

debt transaction has been consummated in accordance with the provisions of the Application H-(g);

3. ACC and its noninsured subsidiaries will comply with all covenants in its debt instruments imposing limitations on the amount of permissible debt outstanding and any defaults with regard to such covenants will be promptly cured, and if incurred for a period of 30 days or more, will be reported to the Corporation;

4. ACC will submit to the Corporation, through the Supervisory Agent, no later than 90 days following the end of each fiscal year, a report with respect to the issuance and retirement of debt securities during such fiscal year and a report showing compliance with all covenants in its debt instruments imposing limitations on the amount of permissible debt outstanding. Both reports will be in a form satisfactory to the Supervisory Agent;

5. ACC shall submit to the Corporation, through the Supervisory Agent, a stipulation that there shall be no future pledge, mortgage, or hypothecation of any of the capital stock of Lincoln Savings held by ACC or any of its subsidiaries or for the benefit of ACC without the prior written approval of the Supervisory Agent;

6. The Corporation may terminate the indebtedness approval contained herein after reasonable notice and opportunity to be heard, which termination will in no event preclude ACC from filing for Corporation authority to incur indebtedness on a case-by-case basis; and

7. The provisions of this Resolution and the requirements of the Proposed Debt Budget shall not apply to the issuance, sale, renewal, guaranty, or assumption of any debt approved without application under Section 584.6(b) of the Holding Company Regulations.

By the Federal Home Loan Bank Board.  
J.J. FINN.  
Secretary.

MEMORANDUM

To: Darrel Dochow, Senior Deputy Director for Supervision Operations.

From: Julie L. Williams, Deputy Chief Counsel.

Date: November 7, 1989.

Subject: ACC/Lincoln.

As promised at our meeting on last Friday, I have attached several brief analyses of statutes and regulations that were applicable to the ACC sale of subordinated debt. Copies of the enclosed have also been provided to Al Smuzynski and Kevin O'Connell.

If you have any questions on the attached materials, or if we can be of any further help to you, please don't hesitate to give myself or Howard Bluver a call.

COMPARISON OF REGULATORY OVERSIGHT IN THE ACC SUBORDINATED DEBT SALES AND THE PROPOSED SALES BY LINCOLN

American Continental Corp. ("ACC"), the former parent of Lincoln Savings and Loan ("Lincoln"), registered and sold subordinated debt securities through Lincoln branch offices in the 1986-1987 period. After ACC declared bankruptcy in mid-1989, holders of this subordinated debt commenced a class action lawsuit against ACC and many of its former officers and directors in an attempt to recover money invested in the subordinated debt which, because of the bankruptcy filing, was apparently lost. In addition, the GAO commenced an inquiry into the circumstances surrounding the sale of the subordinated debt in an attempt to assess

the role of various federal and state government entities in the situation.

In the ACC sale of debt, the Securities and Exchange Commission ("SEC") had exclusive securities disclosure jurisdiction. The federal securities law gives such exclusive jurisdiction to the SEC in all securities issuances by savings and loan holding companies such as ACC. As a result, ACC filed several registration statements with the SEC in an attempt to register the subordinated debt proposed to be sold. After fully reviewing most of these registration statements, the staff of the SEC cleared them, declared them effective, and permitted the sale of the securities to commence. In reviewing the registration statements filed by ACC, the SEC, because it is not a primary financial institution regulatory agency, did not have access to the kind of current information on ACC and Lincoln that permits a reviewer to go far beyond the information contained in filed documents, such as the most current examination reports on Lincoln, nor did the SEC have the ability to consult with field supervisors that were most familiar with the then current financial and operational condition of Lincoln and ACC. As a result, the review process at the SEC was generally limited to the information that ACC chose to include in the filed documents or was otherwise required to be provided under federal securities laws. The shortcomings of this review process, which are not unique to the ACC situation, had disastrous consequences in the case of ACC's sale of its debt.

When ACC apparently was no longer able to sell its own debt, it then tried to turn to Lincoln to raise funds. Lincoln's attempt to register subordinated debt with the OTS in 1988 is in striking contrast, however, to the experience of ACC. In this regard, § 3(a)(5) of the Securities Act of 1933 coupled with 12 C.F.R. Part 563g of the OTS's regulations, gives OTS exclusive securities disclosure jurisdiction over securities issuances by federally insured savings associations such as Lincoln. From May 27, 1988 to July 22, 1988, Lincoln filed a registration statement and several amendments thereto with the Federal Home Loan Bank Board (predecessor to OTS) in an attempt to obtain clearance for the sale of an aggregate principal amount of \$100,000,000 of subordinated debt. Upon the filing of these documents, the staff assigned to review them immediately reviewed the most current examination reports of Lincoln and had long conversations with field personnel who were most familiar with the then current operations and financial condition of Lincoln and ACC. The staff also spoke with attorneys in Enforcement who had handled recent investigations of Lincoln and ACC. After engaging in these preliminary activities and becoming familiar with the current condition of Lincoln and ACC, the staff then reviewed the documents filed by Lincoln and quickly determined that they were insufficient. In two comment letters dated June 30, 1988 and August 10, 1988 the staff asked for substantial additional information about Lincoln, ACC and their officers and directors, and indicated that substantial additional disclosure would have to be made before the staff would be in a position to declare Lincoln's registration statement effective and permit the proposed offering to commence. The additional information requested and the changes in disclosure compelled related to, among other things, the accuracy of the financial statements included with the filed documents, transactions with affiliates, the significant

risks to investors in the event they purchased subordinated debt, detailed information related to asset classifications and the current status of government investigations that were pending at the time of filing. After several conversations with representatives of Lincoln in which the staff was asked to but declined to waive certain of the comments issued, Lincoln abandoned its attempt to register subordinated debt with the Bank Board.

The ACC/Lincoln situation illustrates significant differences in the way the securities oversight role is implemented by OTS and the SEC because of the status of OTS as a primary financial institution regulator. The lawyers and accountants at OTS responsible for the securities oversight function have access to the most current information available on particular institutions, including examination reports, have established working relationships with supervisors in the field, and possess broad knowledge of the thrift industry as a result of the various responsibilities they perform in addition to the securities oversight function. These factors all provide advantages in the disclosure area that are unique and greatly contribute to ensuring full and fair disclosure by thrift institutions, as now has been unfortunately illustrated by comparing the treatment of the ACC and Lincoln debt offerings.

#### CALIFORNIA SECURITIES LAWS RELATING TO THE ACC SALE OF THE SUBORDINATED DEBT

The California Corporations Code contains several provisions that regulated the sale by ACC of the subordinated debt and provided state officials with the ability to halt the sales under certain circumstances. The following paragraphs briefly summarize the applicable provisions, the full text of which are attached hereto.

A. § 25110 of California Corporate Securities Law (sometimes referred to as the state "blue sky" law) generally provides that it is unlawful for any person to offer or sell any security in California unless such sale has been "qualified" under applicable state law or unless such security or transaction is exempted under applicable state law. In the case of ACC's sale of subordinated debt, no exemption from qualification was available; thus "qualification" of the proposed offering was necessary.

B. § 25111 of California's blue sky law provides for a procedure called "Qualification by Coordination" in cases where the issuer of securities also registers the securities to be issued with the SEC under the Securities Act of 1933. This procedure was apparently used by ACC, since it did register the securities issued with the SEC. The qualification by coordination procedure generally provides that the qualification of securities in California automatically becomes effective (and the securities may be offered and sold) at the moment the registration statement filed with the SEC becomes effective. Thus, in effect, the SEC's clearance of ACC's registration statements (apparently) was relied upon by California as a result of the availability for the "Qualification by Coordination" procedure.

C. It should also be noted, however, that the California Commissioner of Corporations has wide discretion to halt the offer or sale of securities in California for any number of reasons. § 25140 of the blue sky law gives to the Commissioner the ability to issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any qualification of securities, if he finds: (1) that such an order is in the public

interest and (2) that the proposed plan of business of the issuer or the proposed issuance or sale of securities is not fair, just, or equitable, or that the issuer does not intend to transact its business fairly and honestly, or that the securities proposed to be issued or the method to be used in issuing them will tend to work a fraud upon the purchaser thereof. In short, the California Commissioner of Corporations appears to have had the ability to immediately stop the sale of ACC subdebt if information had come to his attention that ACC was engaging in business or selling practices that were not fair, just, equitable or honest.

#### CHAPTER 2—ISSUER TRANSACTIONS

25110. Necessity of qualification of security or exemption of security or transaction.

25111. Qualification by coordination; application; contents; effective date; conditions.

25112. Qualification by notification; application; contents; effective date.

25113. Qualification by permit; application; contents; effective date.

25114. Effective period of qualification.

25115. Signing and verifying applications for qualifications.

*Chapter 2 was added by Stats. 1968, c. 88, p. 256, §2, operative Jan. 2, 1969.*

§25110. Necessity of qualification of security or exemption of security or transaction

It is unlawful for any person to offer or sell in this state any security in an issuer transaction (other than in a transaction subject to Section 25120), whether or not by or through underwriters, unless such sale has been qualified under Section 25111, 25112 or 25113 (and no order under Section 25140 or subdivision (a) of Section 25143 is in effect with respect to such qualification) or unless such security or transaction is exempted under Chapter 1 (commencing with Section 25100) of this part

(Added by Stats. 1968, c. 88, p. 256, operative Jan. 2, 1969. Amended by Stats. 1972, c. 810, p. 1446, §15.)

#### HISTORICAL NOTE

The 1972 amendment substituted "person" for "issuer" and substituted the words "in an issuer transaction" for the words "issued by it".

Section 10 of Stats. 1972, c. 810, p. 1455, provided: "Sections 1.5 and 2.5 of this act do not constitute changes in but are declaratory of existing law."

Prior law: Former § 25500, added by Stats. 1949, c. 384, p. 707, §1; amended by Stats. 1961, c. 1574, p. 3398, §1; Stats. 1963, c. 1592, p. 3171, §1.

Stats. 1917, c. 532, p. 675, §3; Stats. 1931, c. 423, p. 941, §2; Stats. 1941, c. 615, p. 2064, §1.

#### CROSS REFERENCES

Issuance of stock certificates, see §12801. Sale defined, see §25017.

Sale of securities, filing fee, see §25608.

Securities exempted, see §25100 et seq.

Security defined, see §25019.

Transactions exempted, see §25150 et seq.

Violations of corporate security law, see §25540.

#### ADMINISTRATIVE CODE REFERENCES

Checks, drafts and money orders, exemption from this section, see 10 Cal.Admin.Code 260.105.16.

Exemptions from operation of this section, see 10 Cal.Admin.Code 260.105.1 et seq.

Issuer bond, form, see 11 Cal.Admin.Code 310m.

Sales to public agencies, exemption, see 10 Cal.Admin.Code 260.105.14.

#### LAW REVIEW COMMENTARIES

Administrative regulation under California Securities Act of securities sold through syndication. (1930) 18 C.L.R. 373, 391.

Application of doctrines of estoppel, waiver and ratification in actions based upon violation of Corporate Securities Act. (1946) 34 C.L.R. 695, 700.

Application of pari delicto rule in action by buyers based on violation of Corporate Securities Act. (1946) 34 C.L.R. 695, 697.

Availability to syndicator of private offering exemption to California Corporate Securities Law (1966) 17 Hast.L.J. 792.

Conflict of laws as respects Corporate Securities Act, necessity of permit, (1938) 11 So.Cal.L.R. 345.

Effect of failure to obtain permit upon validity of sales or issues of securities. (1938) 18 C.L.R. 149.

Effect of violation of Corporate Securities Act upon validity of contracts. (1946) 34 C.L.R. 543, 550.

Estoppel to deny validity of nonconforming shares. (1938) 26 C.L.R. 495.

Exemptions of cooperative securities. Francis Kerner (1968) 19 Hast.L.J. 313.

Exhibition of permit to sell corporate securities (1934) S.So.Cal.L.R. 43.

For a series of articles regarding regulation and civil liability under the California Corporate Securities Act, see T. W. Dahlquist (1946) 34 C.L.R. 344; (1946) 34 C.L.R. 534; (1946) 34 C.L.R. 695; (1945) 33 C.L.R. 343.

Franchise regulation—the need for a new approach. Anthony R. Pierro (1969) 44 Los Angeles Bar Bull. 501.

Fraud as basis for recovery where securities are sold in violation of Corporate Securities Act. (1946) 34 C.L.R. 543, 554.

Indoctrination of competitive bidding into the field of issuing securities (1951) 3 Hast.L.J. 38.

§25111. Qualification by coordination; application; effective date; conditions; open-end investment companies; unit investment trusts

(a) Any security for which a registration statement has been filed under the Securities Act of 1933 \* \* in connection with the same offering may be qualified by coordination under this section either in an issuer or nonissuer transaction.

(b) Except as provided in subdivision (d), an application for qualification under this section shall contain the following information and be accompanied by the following documents, in addition to the information specified in Section 25160 and the consent to service of process required by Section 25163: (1) a copy of the registration statement under the Securities Act of 1933, together with all exhibits other than exhibits incorporated by reference and those specified by rule of the commissioner, unless requested by the commissioner; (2) an undertaking to forward to the commissioner all future amendments to the registration statement under the Securities Act of 1933, other than an amendment which merely delays the effective date of the registration statement, promptly and in any event not later than the first business day after the day they are forwarded to or filed with the Securities and Exchange Commission, whichever first occurs; and (3) such other information as may be required to evidence compliance with any rules of the commissioner. Such application must be filed with the commissioner not later than the fifth business day following filing of the registration statement with the Securities and Ex-

change Commission, unless such time is extended by rule or order of the commissioner.

(c) Except as provided in subdivision (d), qualification of the sale of securities under this section automatically becomes effective (and the securities may be offered and sold in accordance with the terms of the application as amended) at the moment the federal registration statement becomes effective if all the following conditions are satisfied: (1) no stop order or order under subdivision (a) of Section 25143 is in effect under this law; (2) the application has been on file with the commissioner for at least 10 days; and (3) a statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions has been on file for two business days or such shorter period as the commissioner permits by rule or order and the offering is made within those limitations. The applicant shall promptly notify the commissioner by telephone or telegram of the date and time when the federal registration statement became effective and the content of the price amendment, if any, and shall promptly file a posteffective amendment to the application containing the information and documents in the price amendment. "Price amendment" means the final federal amendment which includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, interest, dividend or conversion rates, call prices and other matters related to the offering price. Upon failure to receive the required notification and posteffective amendment with respect to the price amendment, the commissioner may enter a stop order, without notice or hearing, retroactively denying effectiveness to the application for qualification or suspending its effectiveness until compliance with this subdivision, if he promptly notifies the applicant by telephone or telegram (and promptly confirms by letter or telegram when he notifies by telephone) of the issuance of the order. If the applicant proves compliance with the requirements of this subdivision as to notice and posteffective amendment, the stop order is void as of the time of its entry. The commissioner may by rule or order waive either or both of the conditions specified in clauses (2) and (3) of this subdivision. If the federal registration statement becomes effective before all the conditions in this subdivision are satisfied and they are not waived, the application for qualification automatically becomes effective as soon as all of the conditions are satisfied. If the applicant advises the commissioner of the date when the federal registration statement is expected to become effective, the commissioner shall promptly advise the applicant by telephone or telegram, at the applicant's expense, whether all the conditions are satisfied and whether he then contemplates the institution of a proceeding under Section 25140 or 25143; but his advice by the commissioner does not preclude the institution of such a proceeding at any time.

(d) An open-end investment company or a unit investment trust which has previously qualified the sale of its securities pursuant to this section shall, in lieu of filing the application specified in subdivision (b), file pursuant to this subdivision if it has made no material change in its offering and if it is in compliance with all terms of its prior qualification. An application filed pursuant to this subdivision shall contain the following information and be accompanied by the following documents, in addition to the information specified in Section 25160 and the

consent to service of process required by Section 25165: (A) a statement that the applicant has made no material change in its offering and that it is in compliance with the terms of its qualification; and (B) a copy of its current registration statement under the Securities Act of 1933.

Asterisks \*\*\* indicate deletions by amendment

*If no stop order or orders under subdivision (a) of Section 25143 are in effect under this law, qualification of the sale of securities under this subdivision automatically becomes effective (and the securities may be offered and sold in accordance with the terms of the application) upon the day following the expiration of its prior qualification pursuant to this section or, if such qualification has expired, upon the first business day following the filing of the application pursuant to this subdivision. Nothing contained in this subdivision shall restrict the authority of the commissioner pursuant to Section 25140 or 25143.*

(X) A unit investment trust which has not previously applied to qualify the sale of its securities pursuant to this section but which is substantially the same as one or more unit investment trusts previously qualified under this section, by the same sponsor, shall file pursuant to this subdivision if it can make the statements specified below. An application filed pursuant to this subdivision shall contain the following information and be accompanied by the following documents, in addition to the information specified in Section 25160 and the consent to service of process required by Section 25165: (A) a statement that the applicant, in its organization, its plan of business, its securities and its offering, is substantially the same as a unit investment trust previously qualified under this section by the same sponsor; (B) a statement that such previously qualified unit investment trusts are in compliance with the terms of their qualifications and (C) a copy of its current registration statement under the Securities Act of 1933. \*\*\* If no stop order or orders under subdivision (a) of Section 25143 are in effect under this law, qualification of the sale of securities under this subdivision automatically becomes effective (and the security may be offered and sold in accordance with the terms of the application) at the moment the federal registration becomes effective or, if the registration is effective when the application is filed, upon the first business day following the filing of the application pursuant to this division. \*\*\*

(Amended by Stats. 1980, c. 242, p. 484, § 1, eff. June 26, 1980; Stats. 1982, c. 564, p. 2516, § 3, eff. Aug. 25, 1982, Stats. 1984, c. 577, § 4).

<sup>1</sup> 15 U.S.C.A. § 77a et seq.

#### HISTORICAL NOTES

1980 Amendment. Added subd. (d) and the qualifying phrase at the beginning of subds. (b) and (c).

1982 Amendment. Inserted pars. designations in subd. (d); added "or a unit investment trust" in pars. (1) of subd. (d); undesignated former alternatives (1) and (2) of pars. (1) as (A) and (B); and added the provisions of pars. (2).

1984 Amendment. Added the second paragraph of subd. (d)(1); and substituted the third and concluding sentence of subd. (d)(2) in place of former subd. (d)(3) which read: "(3) If no stop order or order under subdivision (s) of Section 25143 are in effect under this law, qualifications of the sale of securities under this subdivision automatically becomes effective (and the securities

may be offered and sold in accordance with the terms of the application) upon the day following the expiration of its prior qualification pursuant to this section or, if such qualification has expired, upon the first business day following the filing of the application pursuant to this subdivision. Nothing contained in this subdivision shall restrict the authority of the commissioner pursuant to Section 25140 or 25143".

#### NOTES OF DECISIONS

In general 1

Pleadings 2

1. In general

Despite the fact that some of the California securities laws are modeled to some degree after the federal securities laws and references at the former are made to the latter, there is nothing to suggest that the two statutory schemes are to be interdependent rather than separate, autonomous systems. *Blake v. Fallon* C.A. 1977) 554 F.2d 947

2. Pleadings

In action for alleged violations of federal and state securities law, plaintiff was permitted to amend complaint to attempt to state a cause of action under Colorado and California law for alleged failure to file registration statement prior to sale of securities. *Rochambeau v. Brent Exploration Inc.* (D.C. 1978) 79 F.R.D. 381.

Italic indicates change or addition by amendment

#### CHAPTER 5—AUTHORITY OF THE COMMISSIONER

Sec.

25140. Issuance of stop orders affecting qualification of securities; refusal to issue or suspension or revocation of permits; grounds.

25141. Deposit in escrow as condition of qualification of securities.

25142. Application for permit to issue exchange securities; approval of terms and condition; hearing.

25143. Postponement or suspension of effectiveness of qualification; notice; hearing.

25144. Vacation or modification of stop order.

25145. Records and reports of issuer.

25146. Reports required of issuer for 18 months after effective date of qualification.

25147. Sale of security qualified by permit; form of subscription or sale contracts; preservation of copy.

25148. Prospectus or proxy statement.

25149. Escrow; authority of commissioner to act as escrow holder.

25150. Opinions, appraisements and reports of engineers, appraisers or other experts.

25151. Consent to transfer of securities placed in escrow; procedure.

25152 to 25157. Repealed.

Chapter 5 was added by Stats. 1968, c. 88, p. 260, § 1, operative Jan. 2, 1969.

#### ADMINISTRATIVE CODE REFERENCES

Standards for exercise of authority, see 10 Cal. Adm. Code 260.140 et seq.

§ 25140. Issuance of stop orders affecting qualification of securities; refusal to issue or suspension or revocation of permits; grounds

(a) The commissioner may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any qualification of securities under Sections 25111, 25112 or 25131 or may suspend or revoke any permit issued under Section 25113 or 25122 if he finds (1) that the order is in the public interest and (2) that the pro-

posed plan of business of the issuer or the proposed issuance or sale of securities is not fair, just, or equitable, or that the issuer does not intend to transact its business fairly and honestly, or that the securities proposed to be issued or the method to be used in issuing them will tend to work a fraud upon the purchaser thereof.

(b) The commissioner may refuse to issue a permit under Section 25113 unless he finds that the proposed plan of business of the applicant and the proposed issuance of securities are fair, just, and equitable, that the applicant intends to transact its business fairly and honestly, and that the securities which it proposes to issue and the methods to be used by it in issuing them are not such as, in his opinion, will work a fraud upon the purchaser thereof.

(c) The commissioner may refuse to issue a permit under Section 25122 unless he finds that the proposed plan of recapitalization or reorganization and the proposed issuance of securities are fair, just, and equitable to all security holders affected.

(d) Notwithstanding the provisions of subdivisions (a) and (b) of this section, the commissioner shall not have authority to issue any stop order or to refuse to issue or to suspend or revoke any permit on the basis that the price at which the security is to be offered is unfair, unjust or inequitable in any case where the security is being publicly offered for cash pursuant to a registration statement under the Securities Act of 1933 and the offering is the subject of a firm commitment underwriting by an underwriter or syndicate of underwriters all of whom are registered under the Securities Exchange Act of 1934. For the purposes of this subdivision a firm commitment underwriting means an underwriting pursuant to which the underwriter or syndicate of underwriters is committed to take up and pay for the securities subject only to the usual or customary conditions, but not including any "market out" or similar condition operative after the time of commencement of the offering. (A condition relating to the suspension of all trading on a national securities exchange, a banking holding, war, civil insurrection, or the like is not a "market out" or similar condition within the meaning of this subdivision.) Nothing contained in this subdivision shall deny authority to the commissioner to issue a stop order or to refuse to issue or to suspend or revoke a permit because of unreasonable discounts, commissions or other compensation to underwriters, sellers or others, unreasonable promoters' profits or participations or unreasonable amounts or kinds of options.

(Added by Stats. 1968, c. 88, p. 260, § 2, operative Jan. 2, 1969.)

#### HISTORICAL NOTE

Prior law: Former § 25507 added by Stats. 1949, c. 384, p. 709, § 1; Stats. 1965, c. 1078, p. 2727, § 1.

Stats. 1917, c. 532, p. 676, § 4; Stats. 1925, c. 447, p. 966, § 2; Stats. 1931, c. 423, p. 942, § 3; Stats. 1933, c. 898, p. 2312, § 2; Stats. 1935, c. 166, p. 834, § 3; Stats. 1947, c. 130, p. 650, § 1.

#### AUTHORITY OF THE SEC TO STOP THE ACC SALE OF THE SUBORDINATED DEBT ONCE IT BEGAN

A. Section 5 of the Securities Act of 1933 generally provides that, in the absence of any specific exemption enumerated in Sections 3 or 4 of the Securities Act, it is unlawful to make use of any means of interstate commerce for the purpose of selling securities, unless a registration statement filed

with the SEC has been declared effective. In the case of ACC's sale of subordinated debt, no exemption from registration was available; thus, ACC filed several registration statements with the SEC in order to comply with the registration requirements of the Securities Act.

B. The SEC, pursuant to several provisions in the Securities Act, has wide discretion to halt an ongoing offer or sale of securities in the event it discovers (through investigation or otherwise) that information in the registration statements filed by the applicant was false or misleading or that the selling practices pursuant to which an offering is being conducted constitute a violation of federal securities laws. For example, Section 8(d) provides, in pertinent part, that the SEC may, after notice and a hearing, issue a stop order suspending the effectiveness of a registration statement if it "appears to the [SEC] at any time that the registration statement includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading." Similarly, Section 20(b) provides that, whenever it shall appear to the SEC that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the Securities Act or any rule promulgated thereunder, the SEC may, in its discretion, "bring an action in any district court of the United States . . . to enjoin such acts or practices, and upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond." Pursuant to these provisions, the SEC has the authority to investigate possible violations of laws applicable to the public offering of securities and to choose among a range of remedies to halt such violations. In the ACC situation, it appears the SEC could have commenced a stop order proceeding or instituted a court action to halt the sale of the sub debt if the SEC had determined that violations of the federal securities laws may have occurred (including a failure to adequately disclose the financial condition of ACC and Lincoln in the registration statements filed with the SEC).

#### SECURITIES ACT OF 1933

(a) the minimum aggregate sales price per purchaser shall not be less than \$250,000.

(b) the purchaser shall pay cash either at the time of the sale within sixty days thereof; and

(c) each purchaser shall buy for his own account only; or

(ii) where such securities are originated by a mortgagor approved by the Secretary of Housing and Urban Development pursuant to sections 203 and 211 of the National Housing Act and are offered or sold subject to the three conditions specified in subparagraph (A)(i) to any institution described in such subparagraph or to any insurance company subject to the supervision of the insurance commissioner, or any agency or officer performing like function, of any State or territory of the United States or the District of Columbia, or the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Government National Mortgage Association.

(B) Transactions between any of the entities described in subparagraph (A)(i) or (A)(ii) hereof involving non-assignable contracts to buy or sell the foregoing securities which are to be completed within two years, where the seller of the foregoing securities pursuant to any such contract is one of the

parties described in subparagraph (A)(i) or (A)(ii) who may originate such securities and the purchaser of such securities pursuant to any such contract in any institution described in subparagraph (A)(i) or any insurance company described in subparagraph (A)(ii), the Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, or the Government National Mortgage Association and where the foregoing securities are subject to the three conditions for sale set forth in subparagraphs (A)(i)(a) through (c).

(C) The exemption provided by subparagraphs (A) and (B) hereof shall not apply to resales of the securities acquired pursuant thereto, unless each of the conditions for sale contained in subparagraphs (A)(i)(a) through (c) are satisfied.

(6) transactions involving offers or sales by an issuer solely to one or more accredited investors, if the aggregate offering price of an issue of securities offered in reliance on this paragraph does not exceed the amount allowed under section 3(b) of this title, if there is no advertising or public solicitation in connection with the transaction by the issuer or anyone acting on the issuer's behalf, and if the issuer files such notice with the Commission as the Commission shall prescribe.

#### [§ 1071] PROHIBITIONS RELATING TO INTERSTATE COMMERCE AND THE MAILS

Sec. 5. (a) Unless a registration statement is in effect as to a security, it shall be unlawful for any person, directly or indirectly—

(1) to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise; or

(2) to carry or cause to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale.

(b) It shall be unlawful for any person, directly or indirectly—

(1) to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to carry or transmit any prospectus relating to any security with respect to which a registration statement has been filed under this title, unless such prospectus meets the requirements of section 10, or

(2) to carry or to cause to be carried through the mails or in interstate commerce any such security for the purpose of sale or for delivery after sale, unless accompanied or preceded by a prospectus that meets the requirements of subsection (a) of section 10.

(c) It shall be unlawful for any person, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding of examination under section 8.

#### [§ 108] REGISTRATION OF SECURITIES AND SIGNING OF REGISTRATION STATEMENT

Sec. 6. (a) Any security may be registered with the Commission under the terms and conditions hereinafter provided, by filing a registration in triplicate, at least one of which shall be signed by each issuer, its principal executive officer or officers, its

principal financial officer, its comptroller or principal accounting officer, and the majority of its board of directors or persons performing similar functions (or, if there is no board of directors or persons performing similar functions, by the majority of the persons or board having the power of management of the issuer), and in case the issuer is a foreign or Territorial person by its duly authorized representative in the United States, except that when such registration statement relates to a security issued by a foreign government, or political subdivision thereof, it need be signed only by the underwriter of such security. Signatures of all such persons when written on the said registration statements shall be presumed to have been so written by authority of the person whose signature is so affixed and the burden of proof, in the event such authority shall be denied, shall be upon the party denying the same. The affixing of any signature without the authority of the purported signer shall constitute a violation of this title. A registration statement shall be deemed effective only as to the securities specified therein as proposed to be offered.

(b) At the time of filing a registration statement the applicant shall pay to the Commission a fee of one fiftieth of 1 per centum of the maximum aggregate price at which such securities are proposed to be offered, but in no case shall such fee be less than \$100.

(c) The filing with the Commission of a registration statement, or of an amendment to a registration statement, shall be deemed to have taken place upon the receipt thereof, but the filing of a registration statement shall not be deemed to have taken place unless it is accompanied by a United States postal money order or a certified bank check or cash for the amount of the fee required under subsection (b).

(d) The information contained in or filed with any registration statement shall be made available to the public under such regulations as the Commission may prescribe, and copies thereof, photostatic or otherwise, shall be furnished to every applicant at such reasonable charge as the Commission may prescribe.

**[¶ 109] INFORMATION REQUIRED IN  
REGISTRATION STATEMENT**

Sec. 7. The registration statement, when relating to a security other than a security issued by a foreign government, or political subdivision thereof, shall contain the information, and be accompanied by the documents, specified in Schedule A, and when relating to a security issued by a foreign government, or political subdivision thereof, shall contain the information, and be accompanied by the documents, specified in Schedule B, except that the Commission may by rules or regulations provide that any such information or document need not be included in respect of any class of issuers or securities if it finds that the requirement of such information or document is inapplicable to such class and that disclosure fully adequate for the protection of investors is otherwise required to be included within the registration statement. If any accountant, engineer, or appraiser, or any person whose profession gives authority to a statement made by him, is named as having prepared or certified any part of the registration statement, or is named as having prepared or certified a report or valuation for use in connection with the registration statement, the written consent of such person shall be filed with the registration statement. If any

such person is named as having prepared or certified a report or valuation (other than a public official document or statement) which is used in connection with the registration statement, but is not named as having prepared or certified such report or valuation for use in connection with the registration statement, the written consent of such person shall be filed with the registration statement unless the Commission dispenses with such filing as impracticable or as involving undue hardship on the person filing the registration statement. Any such registration statement shall contain such other information, and be accompanied by such other documents, as the Commission may by rules or regulations require as being necessary or appropriate in the public interest or for the protection of investors.

**[¶ 110] TAKING EFFECT OF REGISTRATION  
STATEMENTS AND AMENDMENTS THERETO**

Sec. 8. (a) Except as hereinafter provided, the effective date of a registration statement shall be the twentieth day after the filing thereof or such earlier date as the Commission may determine, having due regard to the adequacy of the information respecting the issuer theretofore available to the public, to the facility with which the nature of the securities to be registered, their relationship to the capital structure of the issuer and the rights of holders thereof can be understood, and to the public interest and the protection of investors. If any amendment to any such statement is filed prior to the effective date of such statement, the registration statement shall be deemed to have been filed when such amendment was filed; except that an amendment filed with the consent of the Commission, prior to the effective date of the registration statement, or filed pursuant to an order of the Commission, shall be treated as a part of the registration statement.

(b) If it appears to the Commission that a registration statement is on its face incomplete or inaccurate in any material respect, the Commission may, after notice by personal service or the sending of confirmed telegraphic notice not later than ten days after the filing of the registration statement, and opportunity for hearing (at a time fixed by the Commission) within ten days after such notice by personal service or the sending of such telegraphic notice, issue an order prior to the effective date of registration refusing to permit such statement to become effective until it has been amended in accordance with such order. When such statement has been amended in accordance with such order the Commission shall so declare and the registration shall become effective at the time provided in subsection (a) or upon the date of such declaration, whichever date is the later.

(c) An amendment filed after the effective date of the registration statement, if such amendment, upon its face, appears to the Commission not to be incomplete or inaccurate in any material respect, shall become effective on such date as the Commission may determine, having due regard to the public interest and the protection of investors.

(d) If it appears to the Commission at any time that the registration statement includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, the Commission may, after notice by personal service or the sending of confirmed telegraphic notice, and after opportunity

for hearing (at a time fixed by the Commission) within fifteen days after such notice by personal service or the sending of such telegraphic notice, issue a stop order suspending the effectiveness of the registration statement. When such statement has been amended in accordance with such stop order the Commission shall so declare and thereupon the stop order shall cease to be effective.

(e) The Commission is hereby empowered to make an examination in any case in order to determine whether a stop order should issue under subsection (d). In making such examination the Commission or any officer or officers designated by it shall have access to and may demand the production of any books and papers of, and may administer oaths and affirmations to and examine, the issuer, underwriter, or any other person, in respect of any matter relevant to the examination, and may, in its discretion, require the production of a balance sheet exhibiting the assets and liabilities of the issuer, or its income statement, or both, to be certified by a public or certified accountant approved by the United States. If the issuer or underwriter shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of a stop order.

(f) Any notice required under this section shall be sent to or served on the issuer, or, in case of a foreign government political subdivision thereof, to or on the underwriter, or, in the case of a foreign or Territorial person, to or on its duly authorized representative in the United States named in the registration statement, properly directed in each case of telegraphic notice to the address given in such statement.

**[¶ 111] COURT REVIEW OF ORDERS**

Sec. 9. (a) Any person aggrieved by an order to the Commission may obtain a review of such order in the court of appeals of the United States, within any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such Court, within sixty days after the entry of such order, a written petition praying that the order of the Commission be modified or be set aside in whole or in part. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission, and thereupon the Commission shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. No objection to the order of the Commission shall be considered by the courts unless such objection shall have been urged before the Commission. The finding of the Commission as to the facts, if supported by evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by evidence, shall be conclusive, and its recommendation, if any, for the modification or

setting aside of the original order. The jurisdiction of the court shall be exclusive and its judgement and decree, affirming, modifying, or setting aside, in whole or in part, any order of the Commission, shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28, United States Code.

(b) The commencement of proceedings under subsection (a) shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

[§ 1121] INFORMATION REQUIRED IN PROSPECTUS

Sec. 10. (a) Except to the extent otherwise permitted or required pursuant to this subsection or subsections (c), (d), or (e)—

(1) a prospectus relating to a security other than a security issued by a foreign government or political subdivision thereof, shall contain the information contained in carry out the policies, provisions, and purposes of this subsection. Any sums so appropriated shall remain available until expended.

(6) Notwithstanding any other provision of law, neither the Commission nor any other person shall be required to establish any procedures not specifically required by the securities laws, as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934, or by chapter 5 of title 5, United States Code, in connection with cooperation, coordination, or consultation with—

(a) any association referred to in paragraph (1) or (3) or any conference or meeting referred to in paragraph (4), while such association, conference, or meeting is carrying out activities in furtherance of the provisions of this subsection, or

(B) any forum, agency, or organization, or group referred to in section 503 of the Small Business Investment Incentive Act of 1980, while such forum, agency, organization, or group is carrying out activities in furtherance of the provisions of such section 503.

As used in this paragraph, the terms "association", "conference", "meeting", "forum", "agency", "organization", and "group" include any committee, subgroup, or representative of such entities.

[§ 1271] INJUNCTIONS AND PROSECUTION OF OFFENSES

Sec. 20. (a) Whenever it shall appear to the Commission, either upon complaint or otherwise, that the provisions of this title, or of any rule or regulation prescribed under authority thereof, have been or are about to be violated, it may, in its discretion, either require or permit such person to file with it a statement in writing, under oath, or otherwise, as to all the facts and circumstances concerning the subject matter which it believes to be in the public interest to investigate, and may investigate such facts.

(b) Whenever it shall appear to the Commission that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this title, or of any rule or regulation prescribed under authority thereof, the Commission may, in its discretion, bring an action in any district court of the United States, or United States court of any Territory, to enjoin such acts or practices, and upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond. The Commission may transmit such evidence as may be available concerning such acts or practices to the Attorney General who may,

in his discretion, institute the necessary criminal proceedings under this title. Any such criminal proceeding may be brought either in the district wherein the transmittal of the prospectus or security complained of begins, or in the district wherein the prospectus or security complained of begins, or in the district wherein the prospectus or security is received.

(c) Upon application of the Commission, the district courts of the United States and the United States courts of any Territory shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this title or any order of the Commission made in pursuance thereof.

[§ 1281] HEARINGS BY COMMISSION

Sec. 21. All hearings shall be public and may be held before the Commission or an officer or officers of the Commission designated by it, and appropriate records thereof shall be kept.

[§ 1291] JURISDICTION OF OFFENSES AND SUITS

Sec. 22. (a) The district courts of the United States and United States courts of any Territory shall have jurisdiction of offenses and violations under this title and under the rules and regulations promulgated by the Commission in respect thereto, and, concurrent with State and Territorial courts, of all suits in equity and actions at law brought to enforce any liability or duty created by this title.

REGULATION OF HOLDING COMPANY DEBT ISSUANCES (PRE-FIRREA)

Prior to adoption of FIRREA, the incurrence of debt by a non-diversified savings and loan holding company or any subsidiary thereof which was not an insured institution, was subject to Section 408(g) of the National Housing Act and 12 C.F.R. § 584.6, copies of which are attached hereto. Subject to certain exceptions not relevant to the ACC/Lincoln situation, these provisions generally mandated that the prior written approval of FSLIC (or its delegate) be obtained for the incurrence of debt in an amount that, when added to existing debt, would exceed 15% of the consolidated net worth of the holding company at the end of the preceding fiscal year. In approving an application filed by a holding company, FSLIC (or its delegate) was generally required to determine that the act or transaction contemplated by the applicant would not be "injurious to the operation of any subsidiary insured institution in light of its financial condition and prospects." In order to obtain the required written approval of FSLIC, the applicant was required to file an Application H-(g). This application required the furnishing of detailed information on the financial effects of the proposed debt issuance on the applicant and its subsidiaries, such as pro forma capitalization information and the ability of the applicant to service the debt proposed to be issued.

Pursuant to the foregoing provisions, FSLIC adopted a practice whereby certain holding companies were allowed to file a proposed "debt budget" on an annual basis in order to satisfy the prior approval requirement set forth in the statute and regulations. This process was sometimes referred to as "blanket debt approval." ACC received blanket debt authority in 1984 and filed annual debt budgets thereafter. It was not until December 1988 that objection was taken to the proposed debt budget filed for 1989. It appears FSLIC (or its delegate) may

have had the ability to step in and prohibit the incurrence of further debt by ACC at any time prior to December 1988, either by declining to continue the debt budget approach and requiring case-by-case approval for incurrence of specified amounts of debt by ACC, or by suspending the debt budget approval in mid-cycle. In either case, blocking further incurrence of debt by ACC would have had to be based upon a finding that the incurrence of such debt by ACC would be injurious to Lincoln in light of Lincoln's financial condition and prospects. Whether such a connection to injury to Lincoln could have been made would have been the critical issue faced had either action been attempted.

[§ 4458] Holding company indebtedness

(1) No savings and loan holding company or any subsidiary thereof which is not an insured institution shall issue, sell, renew, or guarantee any debt security of such company or subsidiary, or assume any debt, without the prior written approval of the Corporation.

(2) The provisions of paragraph (1) of this subsection shall not apply to—

(A) a diversified savings and loan holding company or any subsidiary thereof; or

(B) the issuance, sale, renewal, or guarantee of any debt security, or the assumption of any debt, by any other savings and loan holding company or any subsidiary thereof, if such security or debt aggregates, together with all such other securities or debt then outstanding as to which such holding company or subsidiary is primarily or contingently liable, not more than 15 per centum of the consolidated net worth of such holding company or subsidiary at the end of the preceding fiscal year.

(3) The Corporation shall, upon application approve any act or transaction not exempted from the application of paragraph (1) of this subsection if the Corporation finds that—

[§ 5791]—§ 584.6 Holding company indebtedness

(a) Limitations on holding company indebtedness. Except as otherwise provided in paragraph, no savings and loan holding company or any subsidiary thereof which is not an insured institution may issue, sell, renew, or guarantee any debt security of such company or subsidiary, or assume any debt, without the prior written approval of the Corporation. The restrictions imposed by this section do not apply to:

(1) A diversified savings and loan holding company or any subsidiary thereof; or

(2) The issuance, sale, renewal, or guarantee of any debt security, or the assumption of any debt, by any other savings and loan holding company or any subsidiary thereof (other than an insured institution), if such security or debt aggregates, together with all such other outstanding debt as to which such holding company or any such subsidiary is primarily or contingently liable, not more than 15 percent of the consolidated regulatory capital of such holding company at the end of the preceding fiscal year.

(b) Interim approval by the Corporation. Until further notice by order or regulation, the Corporation hereby approves without application the issuance, sale, renewal, or guarantee of any debt security, or the assumption of any debt, incurred:

(1) In the ordinary course of business in connection with a purchase or acquisition of goods or services, or the execution of an employment contract or lease, for which a sav-

ings and loan holding company or any subsidiary thereof (other than an insured institution) is primarily or contingently liable;

(2) In connection with the extension or renewal for not exceeding 1 year of any outstanding debt for which a savings and loan holding company or any subsidiary thereof (other than an insured institution) is primarily or contingently liable as of February 14, 1968: *Provided*, That such extension or renewal does not impose a substantially greater financial burden upon such holding company or such subsidiary than the debt being extended or renewed;

(3) By a mortgage banking subsidiary of a savings and loan holding company which is fully secured by a first mortgage insured or guaranteed by any Federal agency;

(4) By a savings and loan holding company's subsidiary bank which is a bank as defined in Section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1841(c)), or which is a savings bank as defined in Section 3(a) of the Federal Deposit Insurance Act (12 U.S.C. § 1813(g)), or other a specifically —— by the charter to providing early —— or other subsidiary services or which is —— bank of the Federal Deposit Insurance Corporation and had been acquired by the holding company as was in operation prior to July 1, 1983[.]

(5) In connection with the issuance of any policy or contract of insurance in the ordinary course of business by a savings and loan holding company's subsidiary insurance company which is authorized to do business subject to regulation by appropriate State authorities; and

(6) By a savings and loan holding company or any subsidiary thereof as a result of an indemnification customarily given to an underwriter in connection with making a public offering of the securities of such holding company or subsidiary.

(c) Exemptions from computation of 15 percent limitation. The Corporation, without limitation upon and in addition to the exemption contained in paragraph (a)(2) of this section, hereby approves without application the issuance, sale, renewal or guarantee of any debt security or the assumption of any debt insured:

(1) By a service corporation subsidiary of an insured institution subsidiary of a savings and loan holding company, including any wholly owned subsidiary of such service corporation: *Provided*, that this paragraph (c)(1) does not apply to any service corporation subsidiary or subsidiary of such service corporation that is a bank, other than a bank described in paragraph (b)(4) of this section.

(2) By a finance subsidiary (as defined in § 563.13-2(a)(4) of this chapter) of an insured institution that is a subsidiary of a savings and loan holding company.

(3) In connection with the issuance of any policy or contract of insurance in the ordinary course of business by a savings and loan holding company's subsidiary insurance company which is authorized to do business subject to regulation by appropriate State authorities.

(d) Filing of applications. Applications for prior written approval of the Corporation for the issuance, sale, renewal, or guarantee of any debt security, or the assumption of any debt, shall be filed with the Corporation on the form prescribed in paragraph (e) of § 584.10 of this subchapter. Applications shall be addressed to the the Supervisory Agent of the district in which the principal office of the subsidiary insured institutions which conducts the principal savings and

loan or savings bank business of such holding company as indicated.

(e) Approval by the Corporation.

(1) The Corporation will, upon application, approve any act or transaction not exempted from the application of paragraphs (a) of this section, if the Corporation finds that:

(I) The proceeds of any such act or transaction will be used for either (a) the purchase of permanent, guaranty, or other non-withdrawable stock to be issued by a subsidiary insured institution, or (b) the purpose of making a capital contribution to a subsidiary insured institution; or

(II) Such act or transaction is required for the purpose of refunding, extending, exchanging, or discharging an outstanding debt, security, or for other necessary or urgent corporate needs, and would not impose an unreasonable or imprudent financial burden on the applicant.

#### POST-FIRREA TREATMENT OF HOLDING COMPANY DEBT ISSUANCES

Section 408(g) of the National Housing Act, which governed the incurrence of debt by savings and loan holding companies and their non-insured institution subsidiaries, was repealed by FIRREA. However, new Section 10(p) of the Home Owners Loan Act gives to the Director of OTS the ability to impose restrictions on a savings and loan holding company if he determines "that there is reasonable cause to believe that the continuation by a savings and loan holding company of any activity constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary savings association." Such restrictions must be issued in the form of a directive and are effective as a final cease and desist order. This provision provides to the Director a wide range of discretion to impose on a savings and loan holding company restrictions on activities and transactions, including the ability to incur debt, and is a provision that was strongly favored by OTS senior staff during the FIRREA deliberations. This provision would appear to be most useful in a situation like ACC/Lincoln, where transactions between the two entities were occurring quite frequently and it became increasingly clear that activities and transactions involving ACC were becoming inextricably intertwined with the operations of Lincoln, thereby at least presenting a "serious risk" to Lincoln's safety, soundness or stability.

"(p) HOLDING COMPANY ACTIVITIES CONSTITUTING SERIOUS RISK TO SUBSIDIARY SAVINGS ASSOCIATION.—

(1) DETERMINATION AND IMPOSITION OF RESTRICTIONS.—If the Director determines that there is reasonable cause to believe that the continuation by a savings and loan holding company of any activity constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary savings association, the Director may impose such restrictions as the Director determines to be necessary to address such risk. Such restrictions shall be issued in the form of a directive to the holding company and any of its subsidiaries, limiting—

"(A) the payment of dividends by the savings association;

"(B) transactions between the savings association, the holding company, and the subsidiaries or affiliates of either; and

"(C) any activities of the savings association that might create a serious risk that the liabilities of the holding company and

its other affiliates may be imposed on the savings association.

Such directive shall be effective as a cease and desist order that has become final.

#### "(2) REVIEW OF DIRECTIVE.—

"(A) ADMINISTRATIVE REVIEW.—After a directive referred to in paragraph (1) is issued, the savings and loan holding company, or any subsidiary of such holding company subject to the directive, may object and present in writing its reasons why the directive should be modified or rescinded. Unless within 10 days after receipt of such response the Director affirms, modifies, or rescinds the directive, such directive shall automatically lapse.

"(B) JUDICIAL REVIEW.—If the Director affirms or modifies a directive pursuant to subparagraph (A), any affected party may immediately thereafter petition the United States district court for the district in which the savings and loan holding company has its main office or in the United States District Court for the District of Columbia to stay, modify, terminate or set aside the directive. Upon a showing of extraordinary cause, the savings and loan holding company, or any subsidiary of such holding company subject to a directive, may petition a United States district court for relief without first pursuing or exhausting the administrative remedies set forth in this paragraph.

#### OTS REGULATIONS APPLICABLE TO OVER-THE-COUNTER SALE OF SECURITIES

12 C.F.R. Section 563g.17 (copy attached) generally governs the sale of securities by a savings association or an affiliate thereof at an office. Such direct sales are permitted by the regulation so long as the institution issuing the securities is in compliance with its regulatory capital requirements, no commissions are paid to any employee or other person, no offers or sales are made by tellers or at the teller counter, and offers and sales are made only by regular, full-time employees.

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#### § 563g.17 Direct sales of securities at an office.

Securities of an insured institution or an affiliate may only be offered or sold at an office of an insured institution or an affiliate if:

(a) No commissions are paid to any employer or other person;

(b) No offers or sales are made by tellers or at the teller counter, or by comparable persons at comparable locations;

(c) Offers and sales are made only by regular, full-time employees; and

(d) The institution issuing the securities is in compliance with the Corporation's regulatory capital requirements during the time the offering is made, except that such compliance is not required for repurchase agreements issued in compliance with § 563.8-4 of this subchapter.

OFFICE OF THRIFT SUPERVISION,  
DEPARTMENT OF THE TREASURY,  
Washington, DC, November 16, 1989.

Hon. HENRY B. GONZALEZ,  
Chairman, Committee on Banking, Finance  
and Urban Affairs, House of Representa-  
tives, Washington, DC.

Hon. CHALMERS P. WYLIE,  
Ranking Republican, Committee on Banking,  
Finance and Urban Affairs, House  
of Representatives, Washington, DC.  
DEAR MR. CHAIRMAN AND CONGRESSMAN  
WYLIE: As you know, we have urged that

the hearings of the Committee into the Lincoln Savings and Loan situation produce a full, fair and accurate airing of the facts regarding the regulatory oversight of that institution. With this in mind, we have read the statement of Richard C. Breeden, Chairman of the Securities and Exchange Commission, submitted to the Committee on November 14, 1989, and have followed Chairman Breeden's oral testimony in front of the Committee on that same date. In the interests of an accurate and complete description of events, certain aspects of Chairman Breeden's remarks require correction.

Unfortunately, significant factual statements made by Chairman Breeden in both his prepared testimony and his oral testimony are simply not true. In particular, the statements to the effect that the Bank Board ultimately accepted Lincoln's accounting and evaluation treatment as to every dollar in dispute between the Bank Board and Lincoln, does not comport with the facts. On the contrary, substantial asset writedowns and sales of substantial disputed assets occurred as a direct result of the Bank Board's examination report and because the Bank Board staff insisted upon such firm action. Numerous meetings between SEC and Bank Board staff regarding these matters were held in which the effect of these actions on Lincoln were made abundantly clear.

Similarly, statements regarding the adverse effect on the ongoing SEC investigation of ACC that were caused by certain agreements executed between the Bank Board and Lincoln do not comport with the facts. These agreements had no effect on the ability of the SEC to vigorously pursue its investigation of ACC. This point was made clear in several meetings held between the SEC and Bank Board staff, most notably in a meeting which was held immediately after these agreements were executed, specifically for the purpose of explaining their scope and effect to SEC staff.

For your information, we have attached to this letter a chronology detailing all relevant events that occurred from the time the Bank Board first referred this matter to the SEC in late 1986. We hope all members of the Committee consider this information as we move forward.

Sincerely,

KARL T. HOYLE,  
Senior Deputy Director for Congressional  
Relations and Communications.

#### CHRONOLOGY

**Late 1986:** Bank Board staff informally notifies SEC staff by telephone that an ongoing examination of Lincoln indicated substantial issues were being raised with respect to the adequacy of Lincoln's loan loss reserves and other possible accounting irregularities.

**January 30, 1987:** These concerns are communicated by a letter to a branch chief in the SEC's Enforcement Division. The letter indicates that examiners would be questioning the adequacy of Lincoln's loan loss reserves, the accounting treatment for various loan and direct investments, other regulatory deficiencies and possible insider trading in ACC securities. The letter specifically raises the possibility that ACC was selling securities based on false and misleading offering documents that were filed with the SEC during 1986 and cleared by the SEC staff, and that ACC's periodic securities filings for the preceding two years may have been false and misleading.

**April 20, 1987:** The Bank Board's 1986 examination report relating to Lincoln is mailed to Lincoln. The final report identifies an aggregate of \$167.4 million in writedowns to be taken on certain identified assets as a result of accounting improprieties, appraised losses, misclassified joint ventures and improperly characterized interest and expenses, all of which were determined by the staff of the Federal Home Loan Bank of San Francisco.

**July 6, 1987:** Following final review by the Bank Board, the final examination report on Lincoln is provided to the SEC after the staffs of both the SEC and the Bank Board resolve certain issues relating to the privacy rights of depositors and other legal issues. At this point in time, Lincoln has not yet responded to the issues raised in the report.

**September 15, 1987:** An inquiry concerning Lincoln and ACC is opened by the SEC staff.

**July-September 1987:** Substantial telephone contacts are made between Bank Board staff and SEC staff concerning the contents of the examination report.

**October 1987:** A meeting is held between the staffs of the two agencies to further discuss the contents of the examination report and issues raised therein.

**December 31, 1987:** Lincoln's regulatory reports filed with the Bank Board for the period ending December 31, 1987, reflect that Lincoln agrees to and takes specific losses on identified assets in the amount of \$36 million as directed by the San Francisco supervisors. Further, of the aggregate of \$167.4 million in writedowns directed on the assets discussed in the examination report, the Federal Home Loan Bank of San Francisco, after receiving additional information from Lincoln relating to the Phoenician development project, an asset it had identified as one apparently requiring an \$80 million writedown in the original examination report, withdraws its determination that a loss reserve should be established for that project. Also, as a result of the sale of a substantial portion of the remaining disputed assets at issue, the amount of losses in dispute has been reduced to an aggregate of \$18 million. Thus, at December 31, 1987, the aggregate amount of losses in dispute is \$18 million because of (1) specific writedowns actually taken by Lincoln (2) the decision of the San Francisco supervisors not to require an \$80 million writedown on the Phoenician development, and (3) the sale of substantial disputed assets by Lincoln. (As discussed below, the remaining \$18 million in dispute was ultimately required to be established in a supervisory agreement obtained by the Bank Board.)

Thus, statements in Mr. Breeden's testimony to the effect that the Bank Board ultimately accepted Lincoln's accounting and evaluation treatment as to every dollar in dispute, are simply not true. In fact, substantial writedowns and sales of substantial disputed assets occurred as a direct result of the findings of the 1986 examination and were added to Lincoln's financial statements filed with the Bank Board for the year ended December 31, 1987.

**April 14, 1988:** ACC files an S-2 registration statement with the SEC in order to register for sale \$300 million principal amount of subordinated debentures to be sold at Lincoln branches. The SEC did not, as it frequently does in other cases involving savings and loan holding companies, send a copy of the document to the Bank Board for comment or otherwise seek input from the Bank Board with respect to the disclosures

and the financial statements included with the filing. The April 14, 1988 registration statement met the SEC's criteria for full review, according to Mr. Breeden, and thus, presumably, was fully examined by the SEC staff. Nevertheless, despite the ongoing investigation of ACC, the offering was allocated to proceed.

**May 9, 1988:** ACC files an amendment to its registration statement and two days later, on May 11, 1988, the SEC staff affirmatively declares the registration statement effective. This affirmative action by the SEC staff permitted ACC to commence the selling of the debt securities covered by the registration statement in Lincoln offices. This action is taken by the SEC almost 1½ years after the Bank Board first notified the SEC staff of the problems at Lincoln and 10 months after the Bank Board provided to the SEC staff a copy of the examination report on Lincoln.

**May 20, 1988:** A supervisory agreement (the "Agreement") and a separate memorandum of understanding ("MOU"), both dated May 20, 1988, are executed by Lincoln and the Bank Board relating to both matters raised by the original 1986 examination and other issues arising as a result of Lincoln's equity risk investments. Among other things, Lincoln agrees that, of existing reserves recorded at December 31, 1987, it will designate as specific reserves for regulatory purposes, \$18,269,000 related to assets questioned in the 1986 examination report. This action effectively resolved in the Bank Board's favor all remaining disputes with respect to the writedown of assets identified in the original 1986 examination report.

Thus, contrary to the assertion by Mr. Breeden in his testimony to the effect that the Bank Board did not require any adjustments to, or restatement of prior or current financial statements of Lincoln, or did not require any addition to Lincoln's loan loss reserves, in fact, Lincoln was required to and did in fact make substantial additions to its loan reserves for regulatory purposes because of the examination report and because the Bank Board staff insisted upon such additions.

**May 27, 1988:** A meeting is held between SEC and Bank Board staff relating to Lincoln. At this meeting, the attendees review the supervisory agreement and MOU, with the Bank Board staff explaining the effect of the various provisions on Lincoln for regulatory purposes. In addition, the meeting covers the additions to loan loss reserves that Lincoln had taken prior to the execution of the two agreements and the additional losses taken as a result of the agreements. The points are conveyed at this meeting that the Bank Board is now satisfied that Lincoln reflects on its books accurate loan loss reserves for matters raised in the Bank Board's 1986 examination, and that this action, by its nature, was a prospective type correction not entailing a restatement of Lincoln's prior regulatory reports to the Bank Board. It is emphasized that if the SEC disagrees with the timing of taking those reserves for purposes of ACC's consolidated financial statements filed with the SEC, or if subsequent developments reveal other problems, the SEC could certainly pursue those issues with a view toward forcing a restatement of ACC's prior period financial statements. In this regard, the point is emphasized that neither the Agreement nor the MOU between the Bank Board and Lincoln specifically covered this timing issue or precluded the SEC from otherwise vigorously pursuing its investigation of ACC.

May 27, 1988 to July 22, 1988: Lincoln files a registration statement and two amendments thereto with the Bank Board in an attempt to register an aggregate principal amount of \$100,000,000 of subordinated debt. (Unlike the ACC offerings, for which the SEC was the exclusive disclosure oversight regulator, the Bank Board was the primary disclosure oversight regulator for Lincoln).

June 1988: Apparently, ACC files a registration statement with the SEC. The ultimate status of this document is unclear. No notice of this filing is given to the Bank Board and no copy of the registration statement is referred to the Bank Board for comment.

June 30, 1986 and August 30, 1988: Staff of the Bank Board ask for substantial additional information about Lincoln, ACC, and its officers and directors, and indicate that substantial additional disclosure would have to be made before the Bank Board staff would be in a position to declare the documents effective and permit the offering of Lincoln debt to commence. Areas for which the staff asks for substantial additional disclosures include the accuracy of the financial statements included with the filing, transactions with affiliates, the significant risks to investors in the event they purchased debt, detailed information relating to asset classifications and the then current status of all ongoing government investigations, including the then (and still) pending SEC investigation.

September 1988: After several conversations with representatives of Lincoln in which the Bank Board staff is asked to but declines to withdraw several of the comments previously issued, Lincoln abandons its attempt to register and sell debt on the Lincoln level.

October 1988: The staff of the Bank Board receives an interim report on ACC from the Chicago District Bank which contains some very troubling information on ACC. This information relates to stock repurchase programs by ACC and its ESOP which benefits ACC insiders while weakening ACC, possible stock price manipulation, the use of Lincoln for cash flow through the upstreaming to ACC of deferred tax payments and exceedingly high salaries and other compensation to ACC insiders. This report is promptly furnished to the SEC staff.

November 10, 1988: A series of meetings between the SEC and Bank Board staff are commenced and continue periodically well into early 1989. In addition, numerous telephone contacts are made with the SEC staff from Bank Board supervisory and accounting staff on an ongoing basis until the date Lincoln is placed into conservatorship.

Today: The SEC has not taken any enforcement action against ACC.

#### CHRONOLOGY RE: ACC SUBORDINATED DEBTENURE ISSUANCE

Lincoln was acquired by ACC in February 1984. ACC was deemed to be a non-diversified holding company despite the fact that ACC had significant activities outside of the insured subsidiary even after acquisition. A non-diversified holding company is a holding company that receives the majority of its income from activities that are related to its insured subsidiary. On December 31, 1983, ACC had \$844 million in assets, \$124 million in shareholder's equity, and had shown net earnings for the year of \$7.3 million. Prior to acquiring Lincoln, ACC's primary activity was real estate investment and development. Because of the apparent

health of ACC, the FHLB Board granted ACC a blanket debt authority on July 20, 1984. Generally, this authority is granted so that a holding company can readily access the credit markets to fund activities that do not involve the insured subsidiary.

Under this authority, ACC could issue up to \$367 million in debt over the debt level of December 31, 1983 as long as the debt fell under the provisions of 12 CFR 584.6(b). This section of the regulation specifies the conditions and limitations under which a non-diversified holding company may incur debt. Included in this section are provisions stating that the holding company should not issue debt that would pose a significant financial burden on the insured subsidiary. Also included in the board's resolution are provisions requiring ACC to submit a report on issuances or retirement of debt during the proceeding year and a yearly debt budget that showed the amount of debt to be incurred during the year following. ACC could only incur the debt described in the debt budget if there were no objection from the supervisory agent. ACC submitted debt budgets to the FHLB of San Francisco for the years 1985 through 1988. The supervisory agent made no objection to these budgets.

As of December 31, 1983, ACC had \$619 million in long term debt, most of which was secured. Of this total, \$112 million was unsecured senior notes and debentures, and \$29 million was unsecured subordinated notes and debentures.

During 1984 ACC's senior notes and debentures increased to \$114 million and the subordinated notes and debentures remained at \$29 million, giving a total of \$143 million in long term unsecured borrowing.

The debt budget for 1985 was not objected to by the Supervisory Agent because the operations of ACC had not changed substantially from the time the debt authority was granted.

In 1985 ACC issued a \$50 million 14% senior subordinated offering, with the payment of principal guaranteed by American Continental Mortgage Corporation (ACM). This debt was underwritten by Drexel Burnham Lambert, Inc. and was sold primarily to institutional investors. The additional unsecured borrowing raised total unsecured debt to ACC to \$189 million, made up of \$116 million in senior debt, \$49 million in senior subordinated debt, and \$24 million in subordinated debt.

During 1985 ACC sells its Arizona homebuilding subsidiary and cuts back operations of other homebuilding operations. As well, the mortgage banking operation was allowed to wind down and the mortgage bonds that made up the majority of the balance sheet was allowed to self liquidate.

The debt budget for 1986 was not objected to by the Supervisory Agent because the operations of ACC had not changed substantially from the time the debt authority was granted.

In 1986 ACC issued \$25 million in 12% senior debentures. This issue was sold in amounts as low as \$2,000 through securities dealers. Also in 1986, ACC initiated a \$200 million subordinated debt offering that was to be sold on a "best effort" basis through Lincoln offices in space leased by ACC. This issue was sold in denominations as low as \$2,000 and was not sold out until sometime in 1988. By December 31, 1986 ACC had \$142 million in senior debt, \$49 million in senior subordinated debt and \$2.5 million in subordinated debt giving a total of \$194 million.

On November 14, 1986 ACC submitted its debt budget for 1987. It anticipates issuing \$295 million in new debt and retiring \$100 million in debt.

On November 26, 1986 The FHLBank asks for significantly more information regarding the debt budget.

On December 29, 1986 ACC provides a response to FHLBank's request for further information. The response still fails to give substantive answers to questions regarding cash flows and earnings prospects.

In a letter dated December 17, 1986 the CDSL informs ACC that the sale of debt through the branches is a violation of California law and directs ACC to provide information to justify the practice.

ACC responds to the CDSL's letter on January 6, 1987. The letter explains sales practices and claims that the Federal restriction on affiliated transactions was not violated because the bonds are sold in space that requires de minimis compensation from ACC to Lincoln.

In a letter dated January 9, 1987 the FHLBank requests further information to support ACC's debt budget submitted for 1987.

The CDSL informs ACC in a letter dated January 12, 1987 that the Federal regulation regarding de minimum transactions does not absolve ACC of its requirement to request approval before selling ACC debt in Lincoln branches. The letter requires a response within 10 days.

ACC sends a response to the FHLBank's request for additional information in a letter dated January 26, 1987.

An internal memo of the FHLBank dated January 30, 1987 reviews ACC's debt budget. The memo cites serious question as to the viability of the budget projections and discusses rejecting the debt budget by February 8, 1987.

A letter dated January 30, 1987 from Steve Herskowitz of OE to the SEC expresses concern that the latest examination of Lincoln indicates that ACC's registration statements may misstate ACC's condition.

In a letter dated February 2, 1987 the SEC requests that the FHLBBoard grant access to information regarding ACC and Lincoln.

An internal memo dated February 2, 1987 cites outstanding questions about the debt budget.

An internal memo to Lincoln's Supervisory Agent dated February 3, 1987 summarizes questions and concern about ACC debt budget.

Letter from Supervisory Agent to Al Smuzynski dated February 3, 1987 stating concerns about ACC's disclosure of its financial condition and cites possible inability to service the debt into the future.

Letter from OE to SEC dated February 5, 1987 granting access to information on ACC and Lincoln.

Letter from Supervisory Agent to ACC dated February 6, 1987 objecting to the 1987 debt budget.

Internal memo of FHLBank dated February 13, 1987 on ACC's debt burden. Concludes that ACC may not have the ability to service the debt in the long term.

Meeting between ACC representatives and the FHLBank on February 24, 1987 to discuss ACC's debt budget and operations. Concludes that more support is needed for the debt to be approved but that current indications are that debt authority should be revoked.

In a letter dated March 16, 1987 ACC responds to the FHLBank's questions regard-

ing its ongoing operations and its ability to service the debt in a revised application.

In a phone conversation on April 23, 1987 the FHLBank requests additional information regarding ACC's debt.

A letter dated April 28, 1987 from ACC to FHLBank responds to additional questions regarding debt application.

A letter dated June 18, 1987 from ACC to FHLBank supplied additional information on debt levels at ACC in 1985 and 1986.

An internal memo to the Supervisory Agent dated June 19, 1987 recommends that debt budget be approved as amended but cites continuing concern about ACC's long term viability and ability to service the debt.

In a letter to ACC dated June 19, 1987 the Agent approves the debt budget but expresses strong concern over ACC's continued ability to generate positive earnings and cash flows sufficient to service the debt and that a business plan for ACC should be produced.

In a letter dated August 31, 1987 ACC responded to the FHLBank's concern regarding their long term viability and lack of specific business plan.

In a September 1987 memo to file at the FHLBank it is concluded that the ACC letter does not quell concerns about the company, that the cash flow of ACC should be monitored and the states that the Agent will recommend recession of ACC blanket debt authority.

In 1987 senior debt declined to \$93 million, senior subordinated debt declined to \$11 million and subordinated debt increased to \$93 million from sales of the \$200 million issue. Total unsecured long term debt was \$197 million.

ACC submits its 1988 debt budget in a letter dated November 13, 1987.

A letter from FHLBank to ACC dated November 25, 1987 requesting additional information regarding the 1988 debt budget.

In a letter dated January 22, 1988 ACC responds to the FHLBank's request.

Internal memo to the Supervisory Agent dated March 7, 1988 explains that ACC should be able to support the issuance of further debt on a cash flow basis but continues to cite a lack of long term viability.

In a letter dated March 7, 1987 the Supervisory Agent takes no objection to ACC's debt budget but expresses serious concern about ACC's financial condition and cites FHLBank conclusion that Lincoln will require a capital infusion from ACC.

An internal memo dated April 6, 1988, FHLBank staff discuss a call by the California Department of Corporations (CDC) regarding Lincoln's condition and information in the 10-K stating that ACC was negotiating with the FHLBoard regarding Lincoln's status. No information was given but a note was made to contact the FHLBoard and ask that the Board contact the CDC.

In a letter from FHLBank to Jordan Luke dated April 7, 1988 the Agent passes along CDC's request for information on Lincoln's status and the negotiations mentioned in the 10-K.

In 1988 senior debt declined to \$60 million due to repayments, senior subordinated debt also declined to \$8 million and subordinated debt increased to \$224 million. The increase in subsidiary debt was partly due to sales under a \$300 million issue that was initiated during the year. Like the \$200 million issue, this debenture was sold on a best effort basis in denominations as low as \$1,000.

Included in the 10-K filed by ACC for the year ended December 31, 1987, and the offering circulars for the subordinated debt, is

a discussion of an investigation of ACC by the Securities and Exchange Commission (SEC). The SEC subpoenaed documents relating to issues raised in an examination of Lincoln by the FHLB Board. Also discussed in the 10-K is the Report of Examination of the FHLB Board, transmitted April 21, 1987. It is explained that the examination "proposed certain adjustments to Lincoln Savings' net worth" that Lincoln Savings believes were erroneous.

The California Department of Savings and Loan state in a letter dated June 20, 1988, that no further space should be leased by ACC for the purpose of selling ACC subordinated debt. It further asserted that some investors believed the debentures are obligations of Lincoln. The letter directs that ACC may lease space from Lincoln until the \$200 million issue is sold out or August 1, 1988, whichever is sooner.

In a letter dated November 16, 1988, to Darrel Dochow, ACC submitted the debt budget under the blanket debt authority. This budget was rejected.

In November 1988 the California Department of Savings and Loan conducted an informal investigation into ACC's subordinated debt selling practices. It was found that Lincoln branch employees were "toutting" the subordinated debt of ACC. Such actions would have been a violation of 12 CFR 563g.17(b). As discussed above, this regulation states that no teller or similar employee may offer or sell securities of an institution or its affiliates.

Other than the possible violation mentioned above, no violations of the regulations regarding the issuance of this debt were noted. Up to this point, the California Department of Corporations had no record of any complaints or calls for inquiry into the sales practices of ACC.

In December 1988 ACC ceased selling subordinated debt in their Arizona offices at the same time that a investigation was begun by the Arizona Department of Banking into allegations that Lincoln was illegally accepting deposits in Arizona. Although ACC and Lincoln have offices in Arizona, the insured institution is located only in the state of California.

On December 22, 1988 an examination of ACC by the FHLB System was transmitted to ACC management. This examination disclosed: serious operating deficits, a shortage of liquid assets, that ACC had pyramidized debt in order to meet its obligations, and significant regulatory violations. ACC failed to properly disclose this fact in the subsequent offering circulars, only attaching a copy of a press release regarding the examination to the back of the circular.

By March 1, 1989, debt balances had declined further due to repayments. At that time senior debt totaled \$50 million, senior subordinated debt totaled \$10 million and subordinated debt totaled \$193 million.

In a letter dated October 25, 1989 Dirk Adams recalls telling Julie Williams and Steve Hershkowitz his concerns regarding ACC's sale of sub debt in the branches in light of ACC's and Lincoln's financial condition. He referenced a statement of supervisory concerns from the FHLBank that would provide background.

#### OFFICE OF REGULATORY ACTIVITIES, December 30, 1988.

BOARD OF DIRECTORS,  
*American Continental Corp.,  
Phoenix, AZ.*  
Attention: Robert Kielty, Corporate Counsel.

DEAR DIRECTORS: Enclosed please find the Report of Examination of American Continental Corporation (ACC) and its non-FSLIC insured subsidiaries as of September 6, 1988. The findings of this examination raise serious concerns regarding the financial condition of ACC. These findings and the findings of the July 11, 1988 examination report of your wholly owned subsidiary, Lincoln Savings and Loan Association (Lincoln), indicate that the board of directors should take immediate steps to ensure the financial strength of both ACC and Lincoln, and to correct any deficiencies noted in the Report of Examination of ACC. The board of directors should provide us with a written response to the concerns noted in both the Report of Examination and this letter by January 17, 1989.

Based upon the Report of Examination of ACC, we are concerned with ACC's continued ability to support its levels of debt. Therefore, we are disapproving the proposed debt budget filed on November 16, 1988, pursuant to the debt budget authority granted by Federal Home Loan Bank Board resolution 84-381, dated July 20, 1984. However, this office will entertain individual debt applications by ACC, and will take into consideration your response as it pertains to ACC's ability to service its debt and provide financial support to Lincoln.

In addition, your response should include the reasons why this office should not consider revoking your authority to incur debt, pursuant to resolution 84-381. Your response will better enable this office to determine the appropriate course of action regarding ACC and its debt level.

Since ACC is responsible for ensuring the capital adequacy of Lincoln, the board of directors of ACC should take steps to restore Lincoln's capital levels to at least the amount required by the Insurance Regulations. At the same time, the board should also take all appropriate measures to repay or fully collateralize with cash or cash equivalents, all contingent and actual liabilities to Lincoln. The board should also take steps to reduce the operating expenses of ACC.

This office is obviously aware of the proposed sale of Lincoln, and we will work with all parties to promptly process any application for a change in control. In the interim period, please be assured that we remain available to answer any questions you may have.

Sincerely,

WILLIAM L. ROBERTSON,  
(for and on instruction from  
Darrel W. Dochow, Acting Principal Supervisory Agent.)

#### ATTACHMENT A

#### CHRONOLOGY OF EVENTS SET FORTH IN OTS 12/20/89 RESPONSE TO GAO

(1) 7/20/84: FHLBB grants blanket authority for sale of ACC bonds; requires annual approval of debt budget (bond sales) by SF Supervisory Agent (SF) (p. 4); SF agent approves annual bond sales budgets from 1985 to 1988 (attachment 10).

(2) 1986: ACC initiates the \$200 million bond sales in Lincoln branches in space leased by ACC. Bonds were sold in denominations as low as \$2,000 and were not sold out until sometime in 1988 (attachment 10).

(3) 11/14/86: ACC submits 1987 debt budget (bond sales) (p. 4).

(4) 12/17/86: CDSL notifies SF that ACC bonds are being sold in Lincoln branches (p. 6); CDSL requests Lincoln to report on

sales; CDSL notifies Lincoln it is in violation of law for failure to obtain prior written approval (p. 7; attachment 10).

(5) 12/86: CDSL conducts review of the manner in which the bonds were sold and concluded that the practices did not violate applicable regulations (p. 7).

(6) 12/86: SF requests and receives legal opinion from ACC's outside counsel (Arnold & Porter) stating that sale of ACC bonds in Lincoln offices does not require prior written approval under Regulation 584.3(a)(7)(i) because the lease of space was less than \$100,000. (p. 7).

(7) Late 1986: FHLBB staff "informally" notifies SEC staff that examination of Lincoln raises substantial questions re Lincoln and "irregularities". (attachment 9).

(8) 1/6/87: ACC responds to CDSL re sales practices in Lincoln branches (attachment 10).

(9) 1/12/87: CDSL informs ACC prior approval required before sale of ACC debt in Lincoln branches (attachment 10).

(10) 1/30/87: Internal memo of SF cites serious questions re viability of budget projections and discusses rejecting debt budget by 2/8/87 (attachment 10).

(11) 1/30/87: Letter from FHLBB to SEC expresses concern that latest examination of Lincoln indicates ACC's registration statements may misstate ACC's condition (attachment 10); letter specifically raises possibility that ACC was selling securities based on false and misleading offering documents filed in SEC in 1986 (attachment 9).

(12) 2/6/87: SF objects to 1987 debt budget on grounds (1) ACC had not shown ability to meet adequately new and/or existing debt servicing requirements, (2) increases in debt projected not in compliance with blanket authority granted in 1984, (3) certain investments contemplated were questionable, (4) certain assumptions not reasonable, and (5) information submitted not complete and adequate (p. 4-5).

(13) 2/24/87: Meeting between SF and ACC (p. 5); concludes that more support needed for approval and that current indications are that entire debt authority should be revoked (attachment 10).

(14) 2/87: SF notified FHLBB's General Counsel's Office, Corporate Securities Division, Office of Enforcement and Office of Examination of its concerns regarding the sales of ACC bonds from Lincoln offices. Office of Enforcement notifies SEC of possibility that ACC was selling bonds based upon false and misleading registration statement and that its periodic filings during the past two years may have been false and misleading. SEC requests and is granted access to examination reports and other documents relating to ACC and its subsidiaries. SF also expresses concerns about high risk nature of ACC's activities, inadequate underwriting, and potential trading based upon inside information. (p. 7).

(15) 3/16/87: ACC submits revised budget (p. 5).

(16) 3/17/87: Meeting between SF and ACC (p. 5).

(17) 4/20/87: FHLBB sends 1986 examination of Lincoln to Lincoln; cites an aggregate of \$167.4 million in writedowns on assets as a result of accounting improprieties and improperly characterized or classified activities (attachment 9).

(18) 6/19/87: SF approves ACC 1987 debt budget (bond sales) based upon finding that ACC (1) had demonstrated its ability to service the proposed level of debt without injuring Lincoln (2) it would be replacing high-yielding debt with lower-yielding debt,

and (3) it would experience a modest decline in its overall level of debt for 1987. SF also expressed "concern" over (1) ability of ACC to continue to roll over existing debt and issue new debt, (2) lack of long-term operating strategy and (3) SF had material concerns over the viability of Lincoln, ACC's primary asset. (p. 5-6).

(19) 8/31/87: ACC responds to concerns re long-term viability (attachment 10).

(20) 9/87: Memo to file at FHLBB concludes that 8/31/87 response from ACC does not quell concerns and states that SF will recommend recession of blanket debt authority. (attachment 10).

(21) 11/13/87: ACC submits 1988 debt budget (bond sales) (p. 6).

(22) 1987: CDSL conducts on site reviews of bond sales at Lincoln and concludes in compliance. (p. 8, no date specified).

(23) 3/7/88: Internal SF memo recommends approval of 1988 debt budget (bond sales), but expresses the same concerns expressed in the 1/19/87 approval of the 1987 sales which were "aggravated by the fact that ACC had been able to forestall an examination of either Lincoln or ACC that would have ascertained the validity of the holding company's claims regarding its financial strength (p. 6). 3/7/88 analysis concludes that "based upon the outstanding concerns regarding ACC's long-term viability, ACC's financial condition will be assessed in the next examination, and a recommendation for the revision on of ACC's debt authority will be made." (p. 7).

(24) 3/7/88: SF approves 1988 debt budget (bond sales) (p. 6).

(25) 4/14/88: ACC files with SEC to sell \$300 million in notes to be sold at Lincoln branches (attachment 9).

(26) 5/11/88: SEC approves new ACC filing; ACC commences selling new bonds in Lincoln branches (attachment 9).

(27) 5/27/88: SEC and FHLBB meet to review Lincoln (attachment 9).

(28) 6/20/88: CDSL orders discontinuation of further sales of ACC bonds in Lincoln branches as of the completion of the original \$200 million issuance on August 1, 1988, whichever is sooner (p. 7); CDSL further states some investors believed the bonds are obligations of Lincoln (rather than ACC) (attachment 10).

(29) 10/88: FHLBB receives "some very troubling" information (re stock manipulation, use of Lincoln funds by ACC, etc.) on ACC from Chicago District Bank (attachment 9).

(30) 11/16/88: ACC submits 1989 budget (bond sales) to Washington ORA (now OTS) (p. 6).

(31) 11/88: CDSL conducts informal investigation of ACC bond selling practices; finds Lincoln branch employees were "touting" ACC bonds in violation of CFR 563.g17(b). (attachment 10).

(32) 12/30/88: ORA disapproves the 1989 debt budget (bond sales) based upon the 9/6/88 examination of ACC and the 7/11/88 examination of Lincoln (attachment 11).

(33) 1/10/90: California Commissioner of Savings and Loans (William Crawford) states he never heard of the 12/30/88 order from FHLBB disapproving further bond sales. (SF Chronicle, 1/10/90).

**NOTE:** FHLBB is Federal Home Loan Bank Board. ACC is American Continental Corporation. CDSL is California Department of Savings and Loans. SF is the San Francisco branch of FHLB.

#### ATTACHMENT B

#### EXCERPTS FROM OTS 12/20/89 RESPONSE TO GAO

#### RESPONSIBILITIES OF THE FEDERAL HOME LOAN BANK BOARD WITH RESPECT TO THE SALE OF AMERICAN CONTINENTAL BONDS

(1) *Issuance of bonds:* "The Federal Home Loan Bank Board held primary responsibility for the approval of the debt issued by ACC, excluding any approval requirements imposed by the federal securities laws." OTS letter, 12/20/89, p. 4.

(2) *Monitoring sales of bonds in the Lincoln Savings and Loan branches:*

"The federal (non-securities) regulation for which OTS has jurisdiction, that explicitly seeks to protect the consumer from uninformed or misleading purchases of securities is Section 563g.17 of the Insurance Regulations. By restricting the personnel that can offer these securities to those who are not involved with opening accounts or other transactions with the insured institution's customers, this regulation limits the confusion that might arise regarding the difference between subordinated debentures and insured deposits."—OTS letter, 12/20/89, p. 9.

"Generally, compliance with Regulation 563g.17 is monitored through on-site visits or field examinations of the holding company and/or the insured institution."—OTS letter, 12/20/89, p. 3.

#### By Mr. DeCONCINI:

S. 2011. A bill to authorize the expansion of the Tumacacori National Monument; to the Committee on Energy and Natural Resources.

#### EXPANSION OF TUMACACORI NATIONAL MONUMENT

• Mr. DeCONCINI. Mr. President, today I am introducing a companion measure to a bill introduced in the House by the senior member of the Arizona delegation and the chairman of the House Interior Committee, Congressman MORRIS K. UDALL. This bill would authorize the Secretary of Interior to acquire from the Archeological Conservancy of Santa Fe, NM, two important sites which will be added to the existing Tumacacori National Monument in southern Arizona. It is my firmly held belief that these sites should be under the jurisdiction of the National Park Service in order that they may be protected and interpreted so that we can gain a better understanding of this important and exciting period in American history: the Spanish exploration of the American Southwest in the 17th and 18th centuries.

As many of my colleagues are aware, Father Eusebio Francisco Kino established a line of missions along the Santa Cruz River in what is now northern Mexico and southern Arizona. These missions, to a great extent, resulted in the settlement of this portion of the United States. The first of the sites to be acquired includes the ruins of the Los Santos Angeles de Guevavi, the first known mission within the current boundaries of Arizona. It possesses a wealth of archeo-

logical information, particularly on the relationships of the early missionaries and the Pima Indians. The Conservancy acquired this site from Ralph Wingfield, a rancher and pioneer Arizonan in his own right. For years, Mr. Wingfield cared for and protected the remains of this mission.

The other site addressed by this legislation contains the Kino visita and the rancheria ruins of Calabazas. Like the Los Santos Angeles de Guevavi, it is rich with information that will shed light on what southern Arizona was like in the 17th century.

The bill I am introducing differs in only one respect from that of Chairman UDALL'S. My bill retains the name of the Tumacacori National Monument rather than changing its designation to the Kino Missions National Monument. The residents in the area expressed a preference for keeping the current name of this Park Service unit. Accordingly, Chairman UDALL has indicated to me that he intends to modify his bill to retain the Tumacacori name.

I want to commend the Archeology Conservancy for its efforts to acquire these sites. It is through endeavors such as these that we are able to expand our knowledge about the diverse cultural history of this country.

I also want to extend my appreciation to Chairman Mo UDALL for his efforts to protect and preserve this legacy of Father Kino. This legislation, in my opinion, is further testament to the leadership that Mo has demonstrated over the years in the protection and preservation of both our natural and cultural heritages.

Mr. President, I ask unanimous consent that the bill appear in the RECORD at this point.

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

S. 2011

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

#### SECTION 1. HISTORIC PROPERTIES.

In order to protect and interpret, for the education and benefit of the public, sites associated with the early Spanish missionaries and explorers of the 17th and 18th centuries, the Secretary of the Interior, hereinafter referred to as the "Secretary," is authorized to acquire the following described properties in the State of Arizona:

(1) the ruins of Los Santos Angeles de Guevavi, the first mission in Arizona, consisting of approximately 7 acres; and

(2) the Kino visita and rancheria ruins in Calabazas, consisting of approximately 22 acres.

The properties are those generally depicted as "proposed additions" on the map entitled, "Kino Missions," numbered \_\_\_\_\_ and dated 1989, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior.

#### SEC. 2. ACQUISITION AND ADMINISTRATION.

Within the boundaries depicted on the map referred to in Section 1 of this Act, the Secretary of the Interior is authorized to acquire lands and interests in lands by donation, purchase with donated or appropriated funds, or exchange, except that property owned by the State of Arizona or any political subdivision thereof may be acquired only by donation. Lands and interests in lands acquired pursuant to this Act shall be administered by the Secretary as part of Tumacacori National Monument, subject to all the laws and regulations applicable to such a monument.

#### SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mrs. KASSEBAUM (for herself and Mr. HATCH):

S. 2012. 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.

#### INDEPENDENT AUDIT OF CERTAIN FINANCIAL STATEMENTS

Mrs. KASSEBAUM. Mr. President, today I am offering legislation on behalf of myself and Senator HATCH 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. In 1988 employer 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 a thorough and independent audit. 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 of 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.

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

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

S. 2012

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

#### SECTION 1. INDEPENDENT AUDIT OF CERTAIN STATEMENTS REGARDING EMPLOYEE BENEFIT PLAN ASSETS.

(a) IN GENERAL.—Paragraph (3) of section 103(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023(a)(3)) is amended by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

##### (b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 103(a)(3) of such Act (29 U.S.C. 1023(a)(3)(A)) is amended by striking "Except as provided in subparagraph (C), the" and inserting "The".

(2) Subparagraph (A) of section 104(a)(5) of such Act (29 U.S.C. 1024(a)(5)) is amended by striking "section 103(a)(3)(D)" and inserting "section 103(a)(3)(C)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to annual reports required to be published after the date of the enactment of this Act.

Mr. HATCH. Mr. President, I am pleased today to cosponsor legislation introduced by Senator NANCY KASSEBAUM to eliminate a provision in current law that permits limited scope audits of private pension plans under the Employee Retirement Income Security Act of 1974 [ERISA].

I agree with Senator KASSEBAUM that our pension insurance system is strong today. I also share with Senator KASSEBAUM and the Secretary of Labor the concern that we remain vigilant in our efforts to ensure the continuing integrity of our Nation's system.

This bill represents an important step in that regard. Further, I understand that the Secretary of Labor is currently reviewing a number of proposals aimed at improving and strengthening ERISA enforcement. I look forward to working with the administration in the coming months in developing appropriate measures to further ensure the continued strength and integrity of private pension plans.

By Mr. BRYAN (for himself, Mr. REID, and Mr. DASCHLE):

S. 2013. A bill to require that the surplus in the Highway Trust Fund be expended for the Federal-Aid Highway System; to the Committee on Environment and Public Works.

**EXPENDITURES FOR THE FEDERAL-AID HIGHWAY SYSTEM**

Mr. BRYAN. Mr. President, traffic congestion and highway and bridge deterioration are priorities facing the Nation now and in the decade to come. As these problems escalate, there is considerable debate about how to fund surface transportation programs. Along with Senators REID and DASCHLE, I am introducing legislation today which takes several steps in the right direction.

While back in our States, many of us saw first-hand the problem of traffic congestion. From I-15 in Las Vegas to 395 South in Reno, NV's traffic problems grow worse by every day. Having grown 50 percent since 1980, Nevada is the fastest growing State in the country. Combined with a booming tourist industry, this growth has led to massive traffic congestion that has severe negative economic impacts.

The Federal Highway Administration estimates that traffic delays nationwide burn up about 1.4 billion gallons of fuel annually and cause over \$9 billion in user costs in terms of wasted time and fuel.

Not only does congestion have severe economic consequences, but the condition of our roads and bridges are disasters waiting to happen. Only when a bridge collapses or some other tragedy occurs do people see the accumulation of maintenance needs that should have been addressed long before the catastrophe.

Aging highways and bridges across the United States are virtually falling apart, threatening the Nation's infrastructure from the core. In my State of Nevada, of a total of 545 rural and urban roads, 8.4 percent are in need of repairs.

In Nevada, we have identified \$4.5 billion in urgent transportation needs. But only \$2 billion is in the pipeline under existing funding sources. That leaves a \$2.5-billion shortfall over the next 10 years. Other States across the Nation are facing problems.

As a former Governor, I can attest that States are making major efforts to deal with traffic problems. In my State of Nevada, we have one of the highest gas taxes in the country—23 cents—which is dedicated to transportation. It is time for the Federal Government to step up its commitment.

The revenues raised from Federal gas taxes must be dedicated for transportation purposes. Unfortunately, highway trust fund moneys have been diverted for other purposes. My legislation would bring this to a halt.

Ironically, the money collected to repair our highways and build desperately needed new roads through a 9-cent-per-gallon Federal gasoline tax is going unspent. Over \$10 billion sits in the highway trust fund while our transportation infrastructure is in desperate need of repair and expansion.

My legislation would require the Secretary of Transportation to spend the accumulated balances in the highway trust fund over a 3-year period. The trust fund has more than \$10 billion that has been collected in gas taxes that has not been spent. An additional \$3 billion a year would help put a dent in our transportation backlog.

Additionally, my legislation would require the Secretary of Transportation to spend each year what the highway trust fund collects in revenues.

I believe investment in and preservation of surface transportation systems is essential to the Nation's economic growth and productivity.

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

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

S. 2013

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

SECTION 1. Notwithstanding any other provision of law, the Secretary of Transportation is authorized and directed to expend out of the Highway Trust Fund for programs and projects authorized under title 22, United States Code, or under any other provision of law, for Federal-aid highways—

(1) in addition to amounts otherwise authorized to be expended—

(A) \$3,000,000,000 for the fiscal year in which this Act is enacted, and

(B) \$3,000,000,000 for each of the 2 succeeding fiscal years, and

(2) for the third fiscal year beginning after the fiscal year in which this Act is enacted, and for each succeeding fiscal year, such sums as are deposited into the Highway Trust Fund during the fiscal year.

SEC. 2. (a) Section 105 of the Federal-Aid Highway Act of 1987 (13 U.S.C. 104, note) is hereby repealed.

(b) Any limitation imposed on the total amount of obligations for Federal-aid highways and highway safety construction programs for any fiscal year that is contained in any law enacted prior to the enactment of this Act shall have no force or effect after the date of enactment of this Act.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2014. A bill to direct the Secretary of Agriculture and the Secretary of the Interior to provide interpretation and visitor education regarding the rich cultural heritage of the Chama River gateway region of northern New Mexico; to the Committee on Energy and Natural Resources.

**CHAMA RIVER GATEWAY TO THE PAST  
INTERPRETATION AND VISITOR EDUCATION ACT**

• Mr. BINGAMAN. Mr. President, I rise today to introduce legislation to establish interpretive and visitor education programs in the Chama River gateway region of north-central New Mexico. This bill will result in enhanced public understanding of the rich cultural heritage and additional protection of cultural resources in the Chama River region.

Human groups probably first entered the Chama River gateway region about 12,000 years ago. Living in small groups, they traveled with the seasons to take advantage of available wild plant and animal resources. This hunting and foraging way of life continued with many variations for thousands of years. Around A.D. 400, a shift to greater reliance on domesticated plants made a more settled way of life possible, and sometime after A.D. 1200, people began to congregate in large settlements. These settlements were short-lived, however, and all are thought to have been abandoned by the time the Spaniards arrived.

In 1540, a small contingent from the Coronado expedition traveled through the area. The Spanish conquistadores returned in 1598 and established the farthest outpost of the Spanish empire, the first Spanish settlement in New Mexico near the confluence of the Chama and the Rio Grande Rivers.

Navajo, Comanche, Utes, and Apache continued to frequent the area for hunting, grazing, and trading. Around 1850, after the departure of the Utes and other groups, Hispanic homesteads and communities were established throughout the Chama River region.

Hundreds of prehistoric and historic sites have been identified in the Chama River drainage. The ruins of massive multi-storyed pueblos, that contained over 2,000 rooms, stretch across the mesa tops. These particular prehistoric villages are among the largest pueblos in the Southwest. Other cultural remains include smaller pueblos, ancient rockshelters, Spanish settlements, historic forest ranger stations, and Civilian Conservation Corps camps. Many of these properties are nationally significant.

Annually, several hundred thousand people visit the Chama River region. Few visitors, however, are aware of the rich history of the area as only one of the properties in the Chama River drainage is currently interpreted for the public.

Interpretation of the Indian, Hispanic, and Anglo history of the area would greatly enhance public understanding and enjoyment. Through interpretation and education, visitors can better comprehend the relationship between people and the land, and

how that relationship has changed over time.

Fortunately many cultural resource properties in the Chama River region are in public ownership on lands managed by the USDA Forest Service, the Bureau of Land Management, and the U.S. Army Corps of Engineers. Both the USDA Forest Service and the Bureau of Land Management have a clear mandate to provide public education concerning cultural resources and both agencies are placing increased emphasis on interpretation and public outreach programs. My bill would result in the creation and implementation of an interagency program to interpret the prehistoric and historic resources of the Chama River region. A system of interconnected interpretive loops linking the cultural resource sites in the area would be developed.

The agencies have already begun such a coordination effort and have produced an interpretive prospectus entitled "Living with the Land: People and Cultures of the Chama." This document lays a foundation for interpretive and visitor education programs to develop the public's comprehension of the relationship of people to the land, by focusing on topics such as ancient farming techniques, early settlement patterns, archaic lifeways, stone tool technology, Spanish colonial frontier culture, Navajo, Apache, and Comanche life and today's living Tewa legacy. This plan contains innovative and cost effective proposals to utilize cultural resources to stimulate local economic development.

Chama River gateway region interpretation and education programs will stimulate visitor interest in the past, increase the public's appreciation of the values of cultural resources, and provide visible agency presence which will enhance protection of these valuable resources. In addition, they will increase the involvement of local residents, especially the Indian and Hispanic communities, in the management and interpretation of their heritage.

Development of Chama River interpretation programs and facilities will also enhance tourism and economic growth in rural northern New Mexico. The area of New Mexico currently suffers from a depressed local economy; job opportunities are limited and unemployment is high. This bill offers the prospect of additional jobs and increased spending.

A multitude of creative and cost effective interpretive techniques might be employed for Chama River gateway region. An interagency visitor facility will be developed at the current USDA Forest Service Ghost Ranch Living Museum to provide visitors an orientation to the Chama region. Other interpretive options, such as guided and self-guided tours for automobiles, hikers and rafters, audiovisual presen-

tations, living history demonstrations, signs, exhibits and brochures, are all existing possibilities.

Partnerships between the public and private sectors will help make the Chama River interpretation and education a reality. The Federal agencies will engage State entities, local communities, Indian and Hispanic groups, commercial recreation providers, existing museums, archeological groups, and others in this endeavor.

Partnerships and a focus on interpretation of our Nation's cultural heritage further the goals of the USDA Forest Service's "National Recreation Strategy" and the Bureau of Land Management's "Recreation 2000." Each agency has developed an initiative to expand and improve its recreation program to meet the growing demands for the use of public lands in this country. The objectives of these initiatives to enhance customer satisfaction, emphasize the multiple uses of our public lands and collaborate with others will be achieved through the implementation of the Chama River Gateway Region Interpretation and Visitor Education Act.

Part of the Chama River region's history involves Spanish colonization. Certainly interpretation will remind people of the Hispanic heritage of the area. These programs will play a role in the celebration of the quincentennial of Columbus's discovery of America.

Attention will be focused on the diverse cultural heritage of north-central New Mexico and will engender a sense of discovery for local residents and visitors alike. Chama River interpretation and education programs will open a window on the past to the public. I urge my colleagues to join me in supporting this legislation to interpret and protect a part of our Nation's cultural heritage.

Mr. President, I ask unanimous consent that the text of the bill be placed in the RECORD.

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

S. 2014

*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 "Chama River Gateway to the Past Interpretation and Visitor Education Act of 1990".

**SEC. 2. FINDINGS.**

The Congress finds that—

(1) the Chama River Gateway Region, including the Chama River and its tributaries stretching from El Vado Lake on the north, to the Rio Grande on the south, to the Rio Gallina on the west and to the Rio Vallecitos and Rio Ojo Caliente on the east, is known for its striking landscapes and scenic beauty;

(2) the Rio Chama River, a segment of which has been designated as a wild river in section 3(a)(108) of the Wild and Scenic

River Act (16 U.S.C. 1274(a)(108)), is located within the Chama River Gateway Region;

(3) few visitors are aware that people have lived in the Chama River Gateway Region for the past 12,000 years;

(4) hundreds of prehistoric and historic properties exist on public lands managed by the Bureau of Land Management, the United States Army Corps of Engineers and the Forest Service that reflect the Chama River Gateway Region's Indian, Hispanic, and Anglo heritages;

(5) many prehistoric cultural properties in the Chama River Gateway Region are potentially nationally significant, especially the 2,000-room prehistoric villages that are among the largest in the Southwest;

(6) the Chama River Gateway Region includes many historic cultural properties that reflect northern New Mexico's Hispanic heritage, including the earliest Spanish settlement in the State and the remains of later homesteads and villages;

(7) only one of these prehistoric and historic properties is currently interpreted for the public;

(8) the Act entitled "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966, commonly known as the "National Historic Preservation Act" (16 U.S.C. 470 et seq.), directs that federally owned prehistoric and historic properties be administered in a spirit of stewardship for the inspiration and benefit of present and future generations;

(9) the Forest Service's "National Recreation Strategy" and the Bureau of Land Management's "Recreation 2000" initiatives both foster increased opportunities for public recreation and interpretation of cultural resources;

(10) development of interpretation and visitor education programs in the Chama River Gateway Region will enhance tourism and economic growth in rural northern New Mexico; and

(11) interpretation of the prehistoric and historic properties of the Chama River Gateway Region will enhance public understanding, appreciation, and protection of our Nation's cultural heritage and will open a "Gateway to the Past" for visitors and residents alike.

**SEC. 3. INTERPRETATION AND VISITOR EDUCATION.**

(a) **PROGRAM.**—The Secretary of Agriculture, acting through the Chief of the Forest Service, and the Secretary of the Interior, acting through the Director of the Bureau of Land Management (referred to as the "Secretaries"), shall cooperatively develop and implement a program of interpretation and visitor education regarding the prehistoric and historic resources within the area generally referred to as the Chama River Gateway Region (referred to as the "Region"), north of Santa Fe, New Mexico.

(b) **PLANNING.**—(1) The Secretaries shall locate and identify the historic and cultural resources of the Region that are available and suitable for interpretation and education for the Region's visitors.

(2) Not later than 12 months after the date of enactment of this Act, the Secretaries shall develop an Interpretation and Visitor Education Plan (referred to as the "Plan") for the Region describing and prioritizing opportunities for interpretation and visitor education regarding the prehistoric and historic resources identified pursuant to paragraph (1).

(3) The Plan shall consider a diverse range of opportunities for such interpretation and education, including—

- (A) guided and self-guided tours for automobile, hikers, and rafters;
- (B) interpretive centers and displays;
- (C) audio-visual presentations;
- (D) demonstrations; and
- (E) signs, exhibits, and brochures.

(4) The Plan shall be updated periodically.

(5) The Secretaries shall develop, for the cultural resource properties managed by the Bureau of Land Management and the Forest Service in the Region, uniform policies and consistent procedures for—

- (A) compliance with the National Historic Preservation Act;
- (B) issuance of permits pursuant to the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.);

(C) consultation with Indian, Hispanic, and other local residents and communities;

- (D) visitor center development;
- (E) on-site interpretations;
- (F) publications; and
- (G) patrol and monitoring.

(c) **IMPLEMENTATION.**—(1) The Secretaries shall—

(A) develop and periodically update a long range strategy for implementation of the Plan;

(B) not later than 2 years after the date of enactment of this Act, establish, designate, and sign tour routes (identified in the Plan) consisting of interconnected interpretive loops, which may be modified from time to time as determined in the periodic updates the Plan;

(C) direct interpretive and visitor education efforts initially toward properties, especially those accessible by public road or trail, managed by the Bureau of Land Management or the Forest Service;

(D) publish and periodically update a brochure describing the interpretive and educational opportunities in the Region that are available to the public;

(E) consult with and enter into cooperative agreements with other Federal agencies, State and local agencies, Indian tribes, Hispanic groups, individuals, organizations, and other interested parties to carry out this Act; and

(F) develop a long range strategy for completion of needed inventory, evaluation, nomination, protection, and interpretation of significant cultural resource properties on Bureau of Land Management and National Forest System lands in the Region.

(2) The Secretary of Agriculture shall develop, maintain, and operate, in cooperation with other Federal agencies and other public and private entities, a portion of the Ghost Ranch Living Museum as a "Gateway to the Past" visitor center to provide information, orientation, interpretation, and education regarding the prehistoric and historic resources of the Region.

#### SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act. •

By Mr. DODD (for himself, Mr. LEAHY, Mr. DeCONCINI, Mr. ROCKEFELLER, Mr. WIRTH, Mr. KOHL, Mr. HEFLIN, Mr. LIEBERMAN, Mr. HARKIN, Mr. HUMPHREY, Mr. BRYAN, Mr. ADAMS, and Mr. ROBB).

S. 2015. A bill to amend the Ethics in Government Act of 1978 and the Ethics Reform Act of 1989 to apply

the same honoraria provisions to Senators and officers and employees of the Senate as apply to Members of the House of Representatives and other officers and employees of the Government, and for other purposes; to the Committee on Governmental Affairs.

#### BAN ON HONORARIA

Mr. DODD. Mr. President, today I am introducing legislation to ban the receipt of honoraria by U.S. Senators. It has long been my contention that Senators ought to be paid by the people they work for—the taxpayers. The pay system that has evolved over the years—with the public paying part of a Senator's salary and a handful of interest groups picking up the rest—is untenable, and it must be changed. This is the time to do it—at the start of the new session, in the wake of the House-passed honoraria ban, in these early months before our attentions turn to the other demands of a busy election year. I am pleased to be joined in my efforts here today by my colleagues, Senator LEAHY, Senator DECONCINI, Senator ROCKEFELLER, Senator WIRTH, Senator KOHL, Senator HEFLIN, Senator LIEBERMAN, Senator HARKIN, Senator HUMPHREY, Senator BRYAN, Senator ADAMS, and Senator ROBB.

This bill is quite straightforward. It would conform the Senate's rules on honoraria and outside income to those approved by the House last November. As such, the bill would prohibit acceptance of honoraria by Senators beginning January 1, 1991, and would, at the same time, limit outside earned income to 15 percent of a Senator's salary. The bill does not affect cost-of-living increases which the Ethics Reform Act of 1989 granted Senators retroactively for 1988 and 1989 nor the COLA scheduled for 1990.

In additional conformity with the House, beginning in 1991, no payments in lieu of honoraria may be paid on behalf of a Senator, officer or employee directly to a charitable organization if such payments exceed \$2,000 or are made to a charitable organization from which the individual or immediate family member derives any direct financial benefit.

The bill also places some other limitations on outside income. Beginning in 1991, a Senator may not: First, affiliate with or be employed by a firm, partnership, association, corporation, or other entity to provide professional services which involve a fiduciary relationship for compensation; second, permit that Senator's name to be used by any such firm, partnership, association, corporation, or other entity; third, practice a profession which involves a fiduciary relationship for compensation; fourth, serve for compensation as an officer or member of the board of any association, corporation, or other entity; or fifth, receive compensation for teaching without

prior notification and approval of the Senate Ethics Committee.

Some may ask why it is necessary to revisit this issue after the long and grueling debates of the last session surrounding both the honoraria and pay raise issues. After all, did we not settle this debate in the last days of the last session? The fact of the matter is that all the Senate ended up doing last session as it related to honoraria was to agree not to settle the issue. Valiant attempts by the leadership to couple a pay raise with a corresponding ban on honoraria were thwarted at the 11th hour. When the doors closed on the first session of this congress, the Senate found itself in the bizarre position of being the only place in the Federal Government where the receipt of honoraria was still legal.

I happen to believe that the best way to rid ourselves of honoraria is to couple the ban with a corresponding pay raise—much like the House did. I offered legislation coupling the pay raise with a corresponding ban on honoraria in June of last year. I did this because I strongly believe that the vitality of our Nation's future is linked to our ability to attract our best young people into public service. We cannot attract our best into public service in a world of inflation and economic uncertainty if we are not willing to pay them salaries that can allow them to remain committed to a government of integrity that is a necessary catalyst for improving the quality of our Nation's future.

Absent the political will to vote a pay raise, however, the integrity of this institution remains threatened by the continued receipt of honoraria. Even with elaborate disclosure and accounting requirements, the notion of special interest groups supplementing Senators' incomes with speaking fees is a system burdened by the potential for abuse. Even the appearance of conflict should be enough to end a system that does nothing but add fuel to the fire of public cynicism about the motives of its highest elected officials.

"Who pays the Senate?" The answer should be a simple one: as public servants, our Senate salaries should come from the public. I look forward to working with my colleagues in making our answer to that question finally and unequivocally clear.

Mr. President, I ask unanimous consent that a copy of the bill and section-by-section summary be printed in the RECORD.

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

S. 2015

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

## SECTION 1. AMENDMENTS TO TITLE 5 OF THE ETHICS IN GOVERNMENT ACT OF 1978.

(a) ADMINISTRATION.—Section 503(1) of the Ethics in Government Act of 1978 is amended by inserting "or the Senate" after "House of Representatives" the first place it appears and by inserting "or the Senate, as the case may be" before the semicolon.

(b) DEFINITIONS.—Section 505 of the Ethics in Government Act of 1978 is amended—

- (1) in paragraph (1) by inserting "a Senator or" after "means"; and
- (2) in paragraph (2) by striking "(A)" and all that follows through "(B)".

## SEC. 2. AMENDMENTS TO THE ETHICS REFORM ACT OF 1989.

Section 1101(b) of the Ethics Reform Act of 1989 is repealed and section 1101(c) is redesignated section 1101(b).

## SEC. 3. CONFORMING AMENDMENTS.

(a) FEDERAL ELECTION CAMPAIGN ACT OF 1971.—Section 323 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441) is repealed.

(b) SUPPLEMENTAL APPROPRIATIONS ACT, 1983.—Section 908 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1) is repealed.

## SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect on January 1, 1991.

## SECTION BY SECTION ANALYSIS ON S. 2015

## SECTION 1. DEFINITIONS

Amends two terms used in new Title V, Section 505 of the Ethics in Government Act of 1978. The term "Member" is defined to include a Senator. The term "officer or employee" is defined to mean any officer or employee of the government—i.e., the exemption for Senate officers and employees is deleted. Administrative responsibility for the law's provisions as they apply to the U.S. Senate is given to the appropriate Senate committee.

## SECTION 2. ELIMINATION OF HONORARIA AND LIMITATIONS ON OUTSIDE EARNED INCOME AND EMPLOYMENT

Section 1101 of the Ethics Reform Act of 1989 is amended by repealing subsection (b) which provides for annual cost-of-living salary increases for U.S. Senators and concurrent reductions in the limit on honoraria.

## SECTION 3. CONFORMING AMENDMENTS

(a) Repeals provision of the Federal Election Campaign Act of 1971 limiting honoraria.

(b) Repeals provision of Supplemental Appropriations, 1983, defining and restricting honoraria.

## SECTION 4

Provides that the effective date is January 1, 1991.

By Mr. MOYNIHAN (for himself, Mr. SANFORD, Mr. PELL, EXON, and Mr. HOLLINGS):

S. 2016. A bill to cut Social Security contribution rates and return Social Security to pay-as-you-go financing; to the Committee on Finance.

## SOCIAL SECURITY CONTRIBUTION ADJUSTMENTS

Mr. MOYNIHAN. Mr. President, on December 29, I announced that on the first day of this second session of the 101st Congress, I would introduce legislation to rescind the January 1, 1990 increase in the FICA contribution, and

also in the same bill return the Social Security system to a pay-as-you-go basis on the first day of 1991.

I do so now, sir, in the distinguished company of my colleagues, Mr. EXON, who is on the floor, Mr. SANFORD, Mr. PELL, and Mr. HOLLINGS.

This legislation would strengthen the Social Security System, restore honesty and integrity to our Federal finances, and provide a fair tax cut to 132 million Social Security taxpayers.

The Social Security tax rate increased on January 1 from 6.06 percent for employees and employers each to 6.2 percent—excluding the 1.45 percent rate for Medicare. The bill would repeal this rate increase retroactively, further cut the rate effective January 1, 1991 to 5.1 percent, and schedule future tax rate increases starting in 2012.

This would be a \$55 billion tax cut for working people in 1991. For a couple with combined earnings at the Social Security taxable maximum in 1991—an estimated \$54,300—the tax cut savings would be about \$600 in that year alone. Savings in future years would be even greater.

At the same time, future Social Security benefits would be even more secure than they are under present law. The legislation would put Social Security on a sound current cost, or pay-as-you-go, financial basis that would keep the system solvent for the next 75 years—or 20 years longer than under the current arrangements.

Using the flat-rate Social Security payroll tax to finance a growing share of Government expenses places an unfair burden on middle-class working Americans. Unfair because income tax cuts for the rich and payroll tax increases for everyone else have left middle-income workers bearing a disproportionate burden.

Mr. President, I do not take this measure lightly, or without awareness of the complexity of the matter. To the contrary, at the beginning of last year I made it quite explicit that this option might have to be chosen.

Specifically, the report of the Democratic Commissioners of the National Economic Commission, issued on March 1, 1989, dealt primarily with the opportunities presented by the existence of large and growing surpluses in the Social Security trust funds. We stated that if the administration and Congress could bring about a balanced operating budget, the Social Security surplus would allow us to retire privately held Government debt. This would automatically translate into an increase in national savings—perhaps doubling the current savings rate—which offered a means of insuring a strong productive U.S. economy capable of supporting retirees in the next century. We recommended this.

At the same time, Commissioners Strauss, Gray, Iacocca, Kirkland, Ro-

hatyn, and myself were explicit in stating that unless this were done, there would be no defensible reason for continuing the payroll tax at present levels, and that Social Security would have to be returned to pay-as-you-go financing as a matter of simple fairness.

The General Accounting Office made the same recommendation in their report, "Social Security: The Trust Fund Accumulation, the Economy, and the Federal Budget," released January 19, 1989. The GAO suggested:

If the Congress and the President are unable to agree upon and implement a strategy for restoring fiscal balance in the non-Social Security part of the budget, we believe that the Congress should reconsider the pattern of payroll tax increases that is producing the current and projected social security surpluses. To implement this option, it would be appropriate to return the social security program to a pay-as-you-go financing basis once the social security reserves have reached a desirable contingency level of about 100 to 150 percent of annual outlays.

A year has gone by. Early on there were various suggestions from the administration that our warning has been heard, and that some general agreement would be reached. Then silence. Silence can denote but one thing. The administration is content to see the budget deficit gradually eliminated by the growing Social Security tax revenue.

As we pointed out in our NEC report, and as was made very clear in the GAO study, the operating budget deficit is not declining. It is growing. The deficit for fiscal year 1989 was \$204 billion without the Social Security surplus. The Congressional Budget Office baseline projections show the deficit in the operating budget growing to \$268 billion in the year 2000. In that same year the Social Security surplus will be \$236 billion. A \$268 billion deficit financed almost exclusively by the Social Security payroll tax.

This is totally unacceptable. The tax structure of the United States is fast becoming one of the most regressive of any Western nation. The 1980's have witnessed a decline in the progressivity of Federal taxes as a whole—income, payroll, and excise taxes combined—despite improvements made in the Tax Reform Act of 1986. As CBO Director Robert D. Reischauer recently noted: "federal taxes in 1990 will be less progressive than they were in either 1977 or 1980. \* \* \*" This is so because the Social Security payroll tax has come to make up an increasingly large share of total federal tax levies. Social Security tax revenue as a percent of total federal revenue rose by 23 percent from 1980 to 1988, while personal and corporate income tax revenue as 1 percent of total Federal revenue declined by 6 percent and 23 percent, respectively. And the Social

Security Administration reports that of those taxpayers who will pay any Social Security tax in 1990, about 74 percent will pay more in FICA taxes—including the employer's share—than in income taxes.

The 1983 decision to move the Social Security trust funds to a partially funded basis was a responsible one. But the only justification there can be for running large Social Security surpluses is to use the surpluses to increase national savings—and thereby provide for higher future productivity and income to support the retirement of the baby boom generation. This was the aim, but we have not achieved it. It was a good idea that was eclipsed by the Reagan-Bush budget deficits of the 1980's, and now 1990's. So the time has come to return Social Security to pay-as-you-go financing.

Social Security was financed on a pay-as-you-go basis for decades prior to 1983. Under this financing method, we schedule Social Security tax rates that will produce the revenue needed for current and future benefits and for maintaining a reserve equal to about a year's worth of outlays. We have not had a reserve of a year's worth of benefits since 1970, but under this bill we would have such a reserve at the end of 1990, and at the end of 2065, and at the end of every year in between.

Robert J. Myers, who helped create our Social Security system in 1934 and who for 23 years was its chief actuary, has urged a return to pay-as-you-go financing. In testimony of May 1988 before the Senate Finance Subcommittee on Social Security, Myers stated:

I believe that OASDI [Old-Age, Survivors, and Disability Insurance, or Social Security] should be financed on close to a current cost basis. Income should, on the whole, slightly exceed outgo each year, in order to build up a fund which is about equal to one year's outgo—and certainly no more. This should be accomplished by changing the future tax-rate schedule so as to more nearly match the trend of outgo.

We have tailored our proposal to Mr. Myers' specifications. A Social Security tax rate of 5.1 percent starting in 1991 will be sufficient to finance benefits through 2011 while maintaining a reserve of about a year's worth of benefits. In 2012 the tax rate would rise to 5.6 percent. The legislation schedules a tax rate of 6.2 percent—the current rate—for 2015, 7 percent for 2020, and 7.7 percent for 2025. The rate would peak at 8.1 percent for 2045 and later years.

Let me stress that the reserve that would build up under the current law would be exhausted in 2045 in any event, so at that point we would have to go to the same 8.1 percent rate anyway. Also, assuming only modest rates of economic growth between now and 2045, workers at that time will make twice as much in real terms as workers today. Finally, the proposed

rise in the rate over the next 55 years is modest compared to the historical rise over the past 55 years. In 1935, the rate was set at 1 percent of the first \$3,000 of wages. This has risen, with full public support, to 6.2 percent of the first \$51,300 of wages. This is a sixfold increase in the rate over the past 55 years, compared to a 59-percent proposed increase over the next 55 years.

We must end the shameful practice of using Social Security revenues to finance budget deficits. This proposal will restore honesty and integrity to the Federal fisc, strengthen the Social Security system, and provide a much-needed tax cut for low- and middle-income American workers.

Mr. President, I ask unanimous consent that a column written by Robert J. Myers that appeared on January 17, 1990, in the Washington Times in support of this proposal be included in the RECORD at this point. I also ask unanimous consent that the bill be printed in the RECORD.

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

S. 2016

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

**SECTION 1. REDUCTION IN FICA TAXES AND TAXES ON SELF-EMPLOYMENT INCOME.**

(a) **FICA TAXES.—**

(1) **TAX ON EMPLOYEES.**—The table in section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax on employees for old-age, survivors, and disability insurance) is amended to read as follows:

"In the case wages received during:	The rate shall be:
1990 .....	6.06 percent
1991 through 2011 .....	5.1 percent
2012 through 2014 .....	5.6 percent
2015 through 2019 .....	6.2 percent
2020 through 2024 .....	7.0 percent
2025 through 2044 .....	7.7 percent
2045 or thereafter.....	8.1 percent."

(2) **TAX ON EMPLOYERS.**—The table in section 3111(a) of such Code (relating to rate of tax on employers for old-age, survivors, and disability insurance) is amended to read as follows:

"In the case wages paid during:	The rate shall be:
1990 .....	6.06 percent
1991 through 2011 .....	5.1 percent
2012 through 2014 .....	5.6 percent
2015 through 2019 .....	6.2 percent
2020 through 2024 .....	7.0 percent
2025 through 2044 .....	7.7 percent
2045 or thereafter.....	8.1 percent."

(3) **REALLOCATION TO FEDERAL DISABILITY INSURANCE TRUST FUND.**—Section 201(b)(1) of the Social Security Act (42 U.S.C. 401(b)(1)) is amended by striking out "(O) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 2000, and so reported, and (P) 1.42 per centum of the wages (as so defined) paid after December 31, 1999, and so reported" and inserting in lieu thereof "(O) 1.16 per centum of the wages (as so defined) paid after December 31, 1989, and before Janu-

ary 1, 2000, and so reported, (P) 1.34 per centum of the wages (as so defined) paid after December 31, 1999, and before January 1, 2012, and so reported (Q) 1.6 per centum of the wages (as so defined) paid after December 31, 2011, and before January 1, 2015, and so reported, (R) 1.64 per centum of the wages (as so defined) paid after December 31, 2014, and before January 1, 2020, and so reported, (S) 1.7 per centum of the wages (as so defined) paid after December 31, 2019, and before January 1, 2025, and so reported, (T) 1.76 per centum of the wages (as so defined) paid after December 31, 2024, and before January 1, 2045, and so reported, and (U) 1.82 per centum of the wages (as so defined) paid after December 31, 2044, and so reported".

(b) **TAX ON SELF-EMPLOYMENT INCOME.—**

(A) **IN GENERAL.**—The table in section 1401(a) of the Internal Revenue Code of 1986 (relating to rate of tax on self-employment income for old-age, survivors, and disability insurance) is amended to read as follows:

"In the case of a taxable year

Beginning after:	And before:	Percent:
December 31, 1989.	January 1, 1991.	12.12
December 31, 1990.	January 1, 2012.	10.2
December 31, 2011.	January 1, 2015.	11.2
December 31, 2014.	January 1, 2020.	12.4
December 31, 2019.	January 1, 2025.	14.0
December 31, 2024.	January 1, 2045.	15.4
December 31, 2044.	.....	16.2."

(2) **REALLOCATION TO FEDERAL DISABILITY INSURANCE TRUST FUND.**—Section 201(b)(2) of the Social Security Act (42 U.S.C. 401(b)(2)) is amended by striking out "(O) 1.20 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, and before January 1, 2000, and (P) 1.42 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1999" and inserting in lieu thereof "(O) 1.16 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, and before January 1, 2012, (Q) 1.6 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2011, and before January 1, 2015, (R) 1.64 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2014, and before January 1, 2020, (S) 1.7 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2019, and before January 1, 2025, (T) 1.76 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2024, and before January 1, 2045, and (U) 1.82 per centum of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2044,".

[From the Washington Times, Jan. 17, 1990]

**IS IT TIME TO LOWER THE SOCIAL SECURITY LEVY? YES: RETURN TO PAY-AS-YOU-GO**

(By Robert Myers)

Sen. Daniel Moynihan, New York Democrat, recently announced his intention to submit a bill that would change the financing of the Social Security program back to the pay-as-you-go basis that prevailed from the mid-1950s to the early 1980s.

Under pay-as-you-go financing, a moderate fund balance is accumulated and maintained—about one year's outgo.

The purpose of this fund is to provide adequate short-range financing during periods of economic recession. Also, the interest earnings of the fund's investments are of some assistance in financing the program.

When Social Security was started in 1935, it was designed to accumulate a large fund that would provide interest earnings to finance a significant part of the cost of the program.

Widespread discussion occurred on this point, and it was concluded that this was unwise. As a result, subsequent legislation increased benefits in the early years and decreased them in later years. Contributions were not allowed to rise as originally scheduled.

Thus in actual practice, the financing was on a pay-as-you-go basis from the mid-1950s until legislation in 1972 more formally provided for pay-as-you-go financing.

The financing basis was changed in 1977 and again in 1983. The emphasis of the 1983 legislative process was to assure that the program would have no financial crisis in the 1980s (and now it can be said that this was most certainly achieved), and to provide, on the average, adequate financing over the next 75 years.

The result was to provide substantially more income than outgo in the first half of the period and, counterbalancingly, less in the second part. We will have a mammoth fund balance—as much as \$12 trillion—40 years from now. But that will be depleted in the two decades that follow.

The problem with the present “roller coaster” method of funding the Social Security program is that after the fund is exhausted, the tax rate will have to be increased significantly—about 2 percent each on employer and employee—to maintain benefits.

Two problems occur under the present method of financing, under which a mammoth fund builds up.

The annual excesses of income over outgo are invested in government bonds. The ready availability of these large excesses, which will soon be as much as \$100 billion a year, make the government's borrowing problems much easier and thus can result in lack of fiscal discipline in general government spending.

Further, the financing of a major portion of government debt is done through the payroll tax, which is regressive for this purpose.

The second problem relates directly to the Social Security program. Even in the next few years, because a mammoth fund balance of billions of dollars is accumulated, irresistible pressure from beneficiaries will arise for the liberalized benefits of all sorts.

If such liberalizations are made, they cannot readily be undone when the baby boomers retire, and the costs at that time will be correspondingly higher—and that much more difficult to finance.

The solution to these problems is to revert to pay-as-you-go financing for Social Security, as Mr. Moynihan is urging.

What this means is that the present 6.2 percent tax on employers and employees (exclusive of the 1.45 percent for the hospital insurance portion of Medicare) could be reduced to 5.1 percent for the next 25 years.

Then, a gradual increase would be made every five years, until an ultimate rate of 8.1 percent is reached in 2045. The later rate is slightly less than would be required under present law after the trust balance had been depleted.

The effect of this proposed tax schedule would be to develop a fund balance that, beginning in 1991, would be very close to one year's outgo at all times, never going below 85 percent and never rising above 130 percent.

This approach is fiscally and economically sound, as well as intellectually honest in giving the public a clear view of the cost of the program and of the general budget situation of the government.

Mr. President, I see that my distinguished cosponsor, the Senator from Nebraska, is on the floor. As I am sure he would want to speak, I am happy to yield the floor. I thank the Chair for this courtesy.

The PRESIDING OFFICER. The Senator from Nebraska.

MR. EXON. I thank the Chair and I thank my friend and colleague from the State of New York.

Mr. President, I am pleased to sign on as a cosponsor of this measure. It is a very ingenious thought and suggestion by a man in the U.S. Senate that has been Mr. Social Security for a long, long time.

I have listened with interest to the remarks that Senator MOYNIHAN has just made, and I think he cuts through the cloud, the misunderstanding, very well.

I am signing on as a cosponsor of this measure not certain that it, as introduced by the Senator from New York, will eventually become law without some amendments, without some changes. I want to be a cosponsor of the law because then I will be in a position to be consulted by my friend from New York on what changes are made down the line.

It is not a perfect piece of legislation. There are very few of us who have ever introduced a perfect piece of legislation on the floor of the U.S. Senate and I suspect this again will follow along those lines that we make some changes.

What it has done, above everything else, Mr. President, it caused people to think about what we are doing with the Social Security trust fund. There is no fund and therefore I suggest there is very little trust as far as the baby boomers are concerned. Certainly there is a buildup, as the Senator from New York has presently indicated, that gives us the largest reserve that we have ever had since the early 1970s and that is good. But if something like what the Senator has suggested becomes law, it would not further in-

crease the reserve, it would not further increase the temptation to steal that money or embezzle that money, call it what you will, to run the Federal Government. The facts are that is what we are doing today.

And even before the Moynihan bill came out, this Senator, for the last year, has been trying to ring the bell. And I got very little attention. I was ringing the bell to try and bring some honesty in budgeting to the Federal process, to talk about fair policies of taxation. As the Senator has so well pointed out, this is not a tax, it is supposed to be a trust fund that we save, but we are spending it.

I thought it was interesting, the Senator will probably remember in the Budget Committee a year ago, this Senator dubbed the budget that we were working on as uglier than Rosemary's baby and one of the reasons it was so ugly, among other things, was the fact that we were using the Social Security trust fund, which is a trust to offset, to mask the real deficit.

Mr. President, we are never going to be able to solve the magnificent and scary deficit problem that we have in this country, which has accumulated to where it is over \$3 trillion in national debt, unless we have an honest point to start from.

Above everything else, I suggest that the Senator from New York has at least sparked with his ingenious proposal reduction to cut taxes to give the people back money that we do not need now rather than have us continue to finance the Federal Government under a guise for which it was certainly not intended.

I would say to my colleague from New York that even after the ringing of the bell and several speeches and comments that I have made where I have said time and time again that if anyone could find the Social Security trust fund in Washington, DC, there would be \$60 billion in there according to the sign on it but if you opened the drawer there is nothing but a bunch of IOU's. The money has been spent.

My daughter-in-law, during the Christmas season, said to me, “Dad, what is this about? Have they spent our Social Security money?” She is a baby boomer, a 38-year-old young professional. And I told her what had happened. She said, “They can't do that.”

I said, “Well, that is a nice attitude, but the facts of the matter are, they have.”

So I congratulate my colleague from New York. I am proud to be a cosponsor of this bill, thanking him for bringing it up. I am not sure that it is ever going to be law as introduced today but it is the first time we have had a clear-cut signal, something that we could get our teeth into, and the people of the United States begin to

understand finally what really is going on with our mismanagement, our embezzlement, or call it what you will, with the so-called sacred Social Security trust fund that myself and most Members of this body are very much dedicated to protect. Because Social Security is something that most of us have stood for and stood behind and demanded it be financed in a fundamental honest way and we want that to continue in the future.

I thank my friend from New York, and I yield the floor.

Mr. MOYNIHAN. Mr. President, I would like to take this opportunity to say that it is with pleasure that I find myself associated once again—as we have on many issues over 14 years—with the able, indomitable Senator from Nebraska. He is given to making comments from time to time about the Syracuse football team with which I cannot wholly associate myself, but otherwise he is an estimable force in this body. He has been with us on Social Security from the beginning, and I accept his thoughts in exactly the sense in which they were offered.

Mr. PELL. Mr. President, I am pleased to join with the distinguished senior Senator from New York, Senator MOYNIHAN, in introducing today a bill to reduce the Social Security payroll withholding tax paid by workers and their employers.

In my view this legislation is essential to stop a huge, if unintended, fraud on American workers and their employers: the use of billions of dollars in Social Security taxes to hide the size of the true Federal budget deficit, and the use of those Social Security funds to finance a large part of the deficit.

I emphasize the bill in no way poses any threat to current or future Social Security benefit payments, nor will it prevent payment of future cost-of-living adjustments in Social Security benefits. The bill will simply stop the current misuse of Social Security taxes now being collected from workers and their employers.

The bill will essentially restore the Social Security system to the pay-as-you-go basis upon which it was established and upon which it operated until a few short years ago. It was just 7 years ago, in 1983, that the Congress approved a series of Social Security withholding tax increases designed to produce for the first time annual surpluses in the Social Security fund. The idea was to set the money aside to pay benefits in 25 or 30 years when there would be a larger number of retirees.

I voted for that legislation, but in all honesty we should now admit it is not working. The annual Social Security surplus is not really being set aside or invested productively. Instead the surplus taxes, taken from today's working men and women, are being used to hide the size of the Federal Govern-

ment deficit and to help finance that deficit. Those surplus funds are used to purchase U.S. Treasury bonds and thus to help pay for current operating expenses of the Government—from the Pentagon, to the weather service to farm subsidies. And 25 or 30 years from now, when the Social Security system cashes in those Treasury bonds, our Government will have to tax the people again to pay off the bonds. And thus the people will pay twice for their Social Security benefits—once now and again in 25 or 30 years.

It is simply wrong and it must be stopped.

The bill will repeal retroactively the Social Security tax increase that went into effect on January 1 of this year, and on January 1 of next year will reduce the Social Security withholding rate to 5.1 percent, compared to the current rate of 6.1 percent. The change does not affect the Medicare system or its financing at all.

For a single worker, the rate reduction would mean a tax cut of nearly \$300 in 1991, and an identical saving for his employer. And for a working married couple the tax cut would be nearly \$600 a year.

Mr. President there are those who question this tax cut proposal, stating it will increase the deficit and asking how we intend to make up for the lost revenue. But this bill does not create a deficit: this bill eliminates a surplus in the Social Security system that is being misused. In doing so, the bill reveals the true size of the Government deficit that already exists—but it does not create the deficit.

Although this bill is being introduced only today there has already been a great deal of public discussion of it. Even those who are critical of the bill, however, agree that Social Security surpluses are being misused; they just disagree with the solution provided by this bill. With them rests the responsibility of finding a better solution. I know of no better solution than to eliminate the unfair tax.

Mr. President, we are taxing the working men and women of America unfairly for Social Security; we are taxing small, medium and large businesses unfairly for Social Security; we are taxing nonprofit organizations and their workers unfairly for Social Security. The Government will collect surplus taxes of \$55 billion for Social Security next year and use it to finance other activities.

This bill will eliminate that unfair use, and restore honesty to our budget and to our Social Security system. I commend and congratulate Senator MOYNIHAN for his leadership in developing this proposal and I am pleased to support his effort.

By Mr. DOLE (for himself, Mrs. KASSEBAUM, Mr. HEINZ, Mr. HEFLIN, and Mr. CHAFEE):

S. 2017. A bill to provide a permanent endowment for the Eisenhower Exchange Fellowship Program; to the Committee on Foreign Relations.

**PERMANENT ENDOWMENT FOR THE EISENHOWER EXCHANGE FELLOWSHIP PROGRAM**

Mr. DOLE. Mr. President, I rise today to introduce legislation to provide a permanent endowment for the Eisenhower Exchange Fellowship Program.

As we enter the centennial year of the birth of President Eisenhower, I am proud to propose this bill, which will honor our Nation's 34th President for his character, courage, and patriotism, and for his leadership based on moral integrity and trust.

President Eisenhower, though born in Texas, grew up in Abilene, KS. For two decades his character and beliefs were shaped by his family and the environment of this city in America's heartland. Here he attended high school and excelled as an athlete. In order to help his family meet expenses, Ike worked in a creamery and grew and sold vegetables.

Eisenhower's interest in military history began when he was just a boy. His military career began at West Point, and didn't reach its climax until he became Commander in Chief of the Armed Forces. In 1952 he was elected the 34th President of the United States and was reelected in 1956.

The 1990 centennial year could easily be seen as an exercise in nostalgia, but in fact should be recognized as much more. It should be seen as an opportunity to reflect on the former president's legacy and to realize the issues we must confront in the 1990's and on into the next century are directly related to the decisions and policies of Dwight Eisenhower.

One of the most important lessons from Ike's leadership is the belief in the interdependence of life in the modern world. He knew, and we should all be aware, there is much we as a Nation can gain from working together with other nations—gains both political and economic in nature. Working together though, requires keeping sight of America's interests—it does not mean compromising on the principles of freedom and liberty.

There is a lot of talk these days about America's responsibilities to other nations—aid in all forms including food, shelter, and as always dollars. But underneath these tangibles, I think there is something much more basic that must be addressed—our responsibility as a Nation and as individuals to develop an understanding of the people and cultures found in foreign countries.

The Eisenhower Exchange Fellowships was established for such pur-

pose. Established in 1953, it was the first Eisenhower-named organization in President Eisenhower's administration. Ike envisioned this program as a means through which the national interests of the United States could be furthered, and the dignity of other peoples recognized.

Since its founding, the program has served to invite rising leaders from other countries for in-depth visits to the United States, and to give outstanding Americans similar exposure to other countries. In 1953, President Eisenhower hailed the new program as "something that could well become the most meaningful thing that has happened in our time."

Eisenhower Exchange Fellowships are dedicated to mutual influence through the exchange of practical knowledge. Promising young leaders, both from the United States and our overseas neighbors, have the opportunity to prepare for, and enhance their own professional careers while at the same time work toward advancement of peace through international understanding.

The program has clearly helped demonstrate Eisenhower's conviction that world peace could best be achieved through friendships between individuals. The organization has a good track record: two former fellows have become heads of state and more than 100 have been cabinet appointees, Supreme Court judges, ambassadors, or college presidents.

Thus, with the centennial year of Dwight Eisenhower's birth upon us, and in effort to provide a meaningful, and lasting commemorative with an eye to the future, I ask my colleagues on both sides of the aisle to join me in supporting the \$5 million permanent endowment for the Eisenhower Exchange Fellowships. Additionally, this bill will match the funds the Eisenhower Exchange Fellowships Program can raise from the private sector, up to an additional \$2.5 million, over the next 4 years.

Mr. President, I would like to make clear to my colleagues that half of the money provided from the endowment as well as from the matching funds will be used for the specific purpose of sending Americans to emerging European democracies, where we clearly have national interests in and a need for developing mutual understanding.

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

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

S. 2017

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

**SECTION 1. PURPOSES.**

The purposes of this Act are—

(1) to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

(2) to honor Dwight D. Eisenhower for his character, courage, and patriotism, and for his leadership based on moral integrity and trust;

(3) to pay tribute to President Eisenhower's leadership in war and peace, through his diverse understanding of history, practical affairs, and the hearts of humankind;

(4) to address America's need for the best possible higher education of its young talent for a competitive world which shares a common and endangered environment;

(5) to advance the network of friendship and trust already established in President Eisenhower's name, so that it may continue to grow to the imminent challenges of the 21st century;

(6) to complete Dwight David Eisenhower's crusade to liberate the people's of Europe from oppression;

(7) to deepen and expand relationships with European nations developing democracy and self-determination; and

(8) to honor President Dwight D. Eisenhower on the occasion of the centennial of his birth through permanent endowment of an established fellowship program, the Eisenhower Exchange Fellowships, to increase educational opportunities for young leaders in preparation for and enhancement of their professional careers, and advancement of peace through international understanding.

**SEC. 2. AUTHORIZATION.**

(a) **IN GENERAL.**—To provide a permanent endowment for the Eisenhower Exchange Fellowship Program, there are authorized to be appropriated to Eisenhower Exchange Fellowships, Incorporated, not to exceed—

(1) \$5,000,000, plus

(2) the lesser of—

(A) \$2,500,000; or

(B) an amount that is equal to the amount that is obtained by Eisenhower Exchange Fellowships, Inc., from private sector sources during the 4-year period beginning on the date of enactment of this Act.

(b) **PAYMENTS.**—Amounts appropriated under subsection (a)(2) shall be made available to Eisenhower Exchange Fellowships, Inc., in annual installments in the amounts appropriated under such subsection.

**SEC. 3. USE OF INCOME ON THE ENDOWMENT.**

Not less than 50 percent of the annual income on the permanent endowment provided under this Act shall be available only to assist United States fellows in traveling to and studying in emerging European democracies.

**SEC. 4. ANNUAL REPORT.**

Following any fiscal year in which Eisenhower Exchange Fellowships, Inc., receives funds under this Act, it shall prepare and transmit to the Comptroller General of the United States a report on its activities. Not later than 60 days after receipt of such report, the Comptroller General of the United States shall transmit to the Congress any comments on such report.

**Mrs. KASSEBAUM.** Mr. President, I am pleased to join Senator DOLE in sponsoring legislation to provide a permanent endowment for the Eisenhower Exchange Fellowship Program.

This endowment would support the work of the Eisenhower Exchange Fellowship Program, which brings foreign professionals to this country to gain a better understanding of the work of

their counterparts in the United States. In addition, this legislation would expand the existing exchange program to help United States fellows travel to and study in emerging European democracies.

This year marks the 100th anniversary of the birth of Dwight D. Eisenhower, and this legislation represents a most fitting memorial to him. As a man who knew well and cared deeply about the international community, President Eisenhower would have moved quickly to extend the hand of help and friendship to the peoples of Eastern Europe in their struggle to be free. The rapid and astonishing developments in those nations during the past year stand in stark contrast to the gloomy Cold War atmosphere which existed when Eisenhower left office in 1961.

In his parting comments to the American public, President Eisenhower expressed his vision of hope with these words:

To all the peoples of the world, I once more give expression to America's prayerful and continuing aspiration:

We pray that peoples of all faiths, all races, all nations may have their great human needs satisfied; that those now denied opportunity shall come to enjoy it to the full; that all who yearn for freedom may experience its spiritual blessings; that those who have freedom will understand, also, its heavy responsibilities; \* \* \* and that, in the goodness of time, all peoples will come to live together in a peace guaranteed by the binding force of mutual respect and love.

The Eisenhower Exchange Fellowship Program has been working to forge these ties. This legislation, which provides for a permanent endowment of up to \$7.5 million, will allow the program to build upon this record of service.

As members of the Eisenhower Centennial Commission, Senator DOLE and I will be engaged in a number of activities throughout the country. I hope our colleagues in the Senate will join us in paying tribute to this distinguished man through their support for this legislation.

**By Mr. LAUTENBERG:**

**S. 2018.** A bill to provide for the temporary suspension of duty on certain types of veneer; to the Committee on Finance.

**TEMPORARY SUSPENSION OF DUTY ON CERTAIN TYPES OF VENEER**

**Mr. LAUTENBERG.** Mr. President, today I am introducing a bill to temporarily suspend the duty on certain types of wood veneer. The International Trade Commission has reviewed this bill, which offers prospective duty relief through 1994, and has determined that there are no domestic producers of these veneers. Similar legislation, H.R. 3231, has been introduced by Congressman DWYER in the House.

I urge my colleagues to support this bill.

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. 2018

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

SECTION 1. CERTAIN VENEER.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by inserting in numerical sequence the following new heading:

"9902.44.21 Manmade or recomposed wood veneer sliced from a block composed of wood veneer sheets veneered from logs and fitches (provided for in subheading 4421.90.90.	Free ..... No Change... No Change... On or before 12/31/94."
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SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after the date that is 15 days after the date of enactment of this Act.●

By Mr. SYMMS (for himself, Mr. McCCLURE, and Mr. SHELBY):

S. 2019. A bill to amend title XVIII of the Social Security Act to eliminate the reimbursement differential between hospitals in different areas; to the Committee on Finance.

REIMBURSEMENT DIFFERENTIAL ELIMINATION

ACT

● Mr. SYMMS. Mr. President, I rise today to reintroduce a bill I sponsored with the senior Senator from Idaho and Senator SHELBY of Alabama in the first session of this Congress. This bill will eliminate the reimbursement differential between urban and rural hospitals under Medicare, bringing some equity into the system. We are reintroducing the legislation with a change from the previous language, thus speeding up the elimination process.

The fiscal year 1990 Budget Reconciliation Act, passed by Congress last November, included a provision to phase out the reimbursement differential. While this was definitely a step in the right direction, the process is not scheduled to begin until 1992. This is a long wait for many of our hospitals which are threatening to close their doors as I speak. They need financial relief now, not in 1992.

The present Medicare payment system does not adequately account for the fact that small rural hospitals compete for the same doctors and nurses, buy from the same suppliers,

and have other costs comparable to those paid by hospitals in metropolitan areas. In fact the rural/urban differential is entirely capricious, penalizing a hospital if it happens to be located in an area which is certainly in need of a health care provider, but is termed "rural."

Medicare payments have a particularly large impact on rural hospitals. Because most rural hospitals are small, they cannot adjust easily to fluctuations in inpatient admissions or case mix, whereas larger hospitals can average the fluctuations from year to year and over many cases. For small rural hospitals which tend to operate closer to the margins of their costs, and cannot take advantage of spreading Medicare losses across large numbers of patients, as done by large metropolitan hospitals, these fluctuations can be devastating financially. Because a large proportion of rural hospital patients are Medicare patients, rural health providers are doubly at risk when the prospective payment system fails to compensate them adequately for their special circumstances or when inequities in payment policies exist.

Too many of our hospitals are suffering, thus endangering the health and well-being of millions of Americans. If this differential is not adjusted, my State of Idaho will likely lose at least five hospitals in the near future, not to mention numerous facilities around the country.

I know that this is not a problem which is unique to my State of Idaho. Rural hospitals everywhere are in need of assistance. Therefore, I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

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

S. 2019

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

SECTION 1. ELIMINATION OF SEPARATE AVERAGE STANDARDIZED AMOUNTS FOR HOSPITALS IN DIFFERENT AREAS.

(a) IN GENERAL.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(i)(1)(A) On or before April 1, 1990, the Secretary and the Prospective Payment Assessment Commission established under subsection (e) (in this subsection referred to as the 'Commission') shall each submit to the Congress a report recommending a methodology that provides for the elimination of the system of determining separate average standardized amounts for subsection (d) hospitals (as defined in subsection (d)(1)(B)) located in large urban, other urban, or rural areas. The methodologies set forth in such reports shall provide for a graduated reduction of the differences in

the average standardized amounts applicable to large urban, other urban, or rural area hospitals during the 36-month period beginning October 1, 1990 and shall provide for the complete elimination of such differences for discharges occurring on or after October 1, 1992. Such methodologies may provide for such changes to any of the adjustments, reductions, and special payments otherwise authorized or required by this section as the Secretary or the Commission determines to be necessary and appropriate to carry out the purposes of this subsection.

"(B) Not later than May 1, 1990, the Congressional Budget Office (in this subsection referred to as 'CBO') shall submit to the Congress an analysis of each of the reports submitted under subparagraph (A).

"(C) Not later than June 1, 1990, the Secretary shall promulgate proposed regulations to implement the recommendations of the Secretary under subparagraph (A) (including any recommended changes in the adjustments, reductions, and special payments otherwise authorized or required by this section).

"(D) Not later than August 30, 1990, the Secretary shall promulgate final regulations to implement the recommendations and changes described in subparagraph (C).

"(E) If the Congress does not enact legislation after the date of the enactment of this subsection and before October 1, 1990, with respect to the average standardized amounts applicable to large urban, other urban, or rural area hospitals, then, notwithstanding any other provision of this section, the average standardized amounts for such hospitals for discharges occurring on or after October 1, 1990, shall be determined in accordance with the final regulations promulgated under subparagraph (D).

"(2)(A) On or before April 1, 1991, the Secretary and the Commission shall each submit to the Congress a report specifying the manner in which the average standardized amounts determined under the regulations becoming effective in accordance with paragraph (1)(E) should be adjudicated appropriately to reflect legitimate differences in the operating costs of inpatient hospital services (as defined in subsection (a)(4)) for different categories of subsection (d) hospitals.

"(B) Not later than May 1, 1991, CBO shall submit to the Congress an analysis of each of the reports submitted under subparagraph (A).

"(C) Not later than September 1, 1991, the Secretary shall promulgate proposed regulations to implement the recommendations of the Secretary under subparagraph (A).

"(D) Not later than December 30, 1991, the Secretary shall promulgate final regulations to implement the Secretary's recommendations under subparagraph (A).

"(E) If the Congress does not enact legislation after the date of the enactment of this subsection and before January 31, 1992, with respect to adjustments to the average standardized amounts applicable to large urban, other urban and rural area hospitals, then, notwithstanding any other provision of the section, the average standardized amounts for such hospitals for discharges occurring on or after January 31, 1992, shall be determined in accordance with the final regulations promulgated under paragraph (1)(D) and subparagraph (D) of this paragraph.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.●

By Mr. WIRTH:

S. 2020. A bill to prohibit Members of the Senate and Senate staff from receiving honoraria; to the Committee on Governmental Affairs.

BAN ON HONORARIA FOR SENATE MEMBERS AND STAFF

Mr. WIRTH. Mr. President, today I am introducing legislation to ban honoraria. In addition, I am no longer accepting honoraria payments and will continue not to accept honoraria payments regardless of the outcome of this bill.

In the past years, while I have accepted honoraria from various groups, I have been careful in selecting the groups to which I spoke. For example, while chairing a major subcommittee in the House of Representatives, I did not accept speaking fees from companies with legislation before my subcommittee.

This care in selecting audiences and honoraria was important in order to avoid the reality or appearance of a conflict of interest. But the public climate has changed, and even this careful policy is now not acceptable. So I am changing my personal policy and will no longer accept honoraria.

I had hoped that this issue would be resolved during the last session of Congress. Congress approved ethics legislation that contained a number of reforms for both congressional and administration officials. Unfortunately, the Senate did not have an opportunity to vote on an honoraria ban during consideration of this bill. The final bill, which I opposed, included a 25-percent pay raise for the House of Representatives and a 10-percent cost-of-living adjustment for Senators. The bill only included a partial reduction of the honoraria limit for Senators.

My bill bans honoraria outright for Senators, Senate officers, and employees effective January 1, 1991. It does allow honoraria appearances for which payment is made directly to a charitable organization. Also, in the event the House repeals its pay raise and returns to the status quo ante, the prohibition against honoraria remains in place for the Senate.

It is clear to me that the system needs reform. Steps must be taken to restore confidence in the Congress and our Government—the elimination of honoraria is crucial to accomplishing this goal. I am hopeful that 1990 will bring about an opportunity to pass a full ban on honoraria into law.

Finally, I hope that when the Senate resolves the honoraria issue, it will move on to the even more important issue of campaign finance reform. I am a cosponsor of broad sweeping campaign finance legislation which will be considered by the Senate in the near future.

By Mr. HUMPHREY (for himself and Mr. DeCONCINI):

S.J. Res. 235. Joint resolution proposing a constitutional amendment to limit congressional terms; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT TO LIMIT CONGRESSIONAL TERMS

• MR. HUMPHREY. Mr. President, on behalf of Senator DeCONCINI and on my own behalf, I introduce a joint resolution proposing an amendment to the Constitution limiting the number of terms one may serve in Congress. Although this measure may not be welcomed with open arms by some in this body, I believe it presents a sound and serious remedy for the fundamental flaws which have developed in our system of representative democracy. A recent Gallup poll shows that 70 percent of the American public favor a term limitation, and I believe we in Congress must give careful consideration to this strong popular sentiment.

This resolution is a slightly modified version of Senate Joint Resolution 17, which was introduced earlier in this Congress by Senator DeCONCINI. I strongly commend Senator DeCONCINI for his initiative on this important issue.

The proposed amendment to the Constitution would limit Senators to two full terms and Members of the House to six full 2-year terms. Like Senate Joint Resolution 17, this proposed amendment would authorize an additional period of service beyond the term limitation to accommodate the situation of Members who are elected or appointed to complete an unfulfilled term. It would thus limit future Senators to 14 years total service and future House members to 13 years total service, where the circumstance of appointment or election to fill an unfulfilled term arises.

I also stress that both measures exclude the past and current terms served by current Members of Congress from the limitations imposed. In other words, no matter how many terms have been served by a current Member at the time the amendment might be adopted, he or she could still serve two additional Senate terms and six additional House terms under this measure. I hope this provision will make the proposal more palatable.

Frankly, I prefer not to include that provision. It is, after all, a grandfathering provision, and in the case of more than a few Members a grandmothering provision. But I feel that the measure has no hope whatsoever without that provision in it. Thus I included it.

Mr. President, near-guaranteed incumbency has rendered elections nearly meaningless. Members of Congress have increasingly become creatures of the Washington establishment. Both the House and the Senate need more new Members who are willing and able to isolate themselves from this narrow, self-contained cul-

ture. This can only be achieved by greater turnover and greater diversity in both Houses of Congress.

Institutionalization of incumbency makes it nearly impossible for a challenger to defeat an incumbent. Franking privileges, legions of eager staffers, and lavish financial and in-kind support from special interest groups often make it all but impossible for well-qualified new candidates to mount a meaningful challenge to sitting Members of Congress. For example, in the 1988 elections, over 98 percent of House Members seeking reelection were successful. By comparison, only 79 percent of the House Members were successful some 40 years ago.

This system of entrenched incumbency is reinforced by the special advantages of accumulated seniority. Seniority leads to key chairmanships, additional platoons of staff, and even greater power to command the financial support of the business and interest groups which are most affected by the committee where the Member wields power.

Because of these circumstances, few elections today are really decided on the relative merits of the opposing candidates. Instead, the outcome is generally predetermined by the institutional and financial advantages of the incumbent. This is nothing less than a malfunctioning of representative democracy.

Some will suggest, no doubt, the remedy for this real problem is to provide for public financing of elections. Whatever the merits of that idea may be, it will not help, because all other things being equal, incumbency will still predominate in most situations.

In fact, I think the argument can be made that public funding of elections is an incumbent protection scheme itself. Others may not think so, but many do.

The fact is that incumbents have always found—I am sure this has been so in every legislative body—incumbents have always found ways to protect and enhance the advantages of incumbency, and they always will because it is human nature to do so.

The reasonable term limitations proposed by this resolution will go a long way toward restoring a more truly representative Congress. No longer would seats in the House and the Senate be the equivalent of personal fiefdoms, as they are today. No longer would meritorious new candidates be effectively barred from seeking to represent their States or districts by the unassailable advantages of a perpetually entrenched incumbent.

Term limitations would have another beneficial effect. The recurring debates over the need for congressional pay raises largely result from the fact that so many Members of Congress are now career legislators. Since

these Members expect to spend their entire active careers in Congress, they claim that recurring pay raises are the only way they can maintain a comfortable standard of living for their families.

And it is true. I do not deny the economics. I have argued that very case. But the point is one should not make a career of serving in Congress.

Mr. President, I am convinced that the term limitations contained in this proposal will produce a more responsible Congress. I urge the Judiciary Committee to hold hearing on this proposal in the near future, and I ask my colleagues for their support.

Mr. President, in their consideration of this resolution, I would ask each Member to ask himself this question: Would it not work an enormous change in attitudes in this institution of Congress if Members knew upon the first day of their first term that no matter how clever they were in enhancing and using the advantages of incumbency, no matter how clever they were in marshaling the support of special interest groups, there would be no possible way to make a career of serving in Congress?

The answer to that question is surely yes; if Members knew on day 1 that no matter what they did, they could not make a lifetime career of serving in Congress, I believe to the depth of my soul that we would see an enormous change in this institution, that we would begin to see the kind of intellectual honesty and political courage that are so sorely needed in dealing with the difficult issues of our time and which are so sorely absent on most occasions in this body.

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

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

S.J. RES. 235

*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 for ratification:*

**"ARTICLE —**

**"SECTION 1.** No person shall be elected to the Senate for more than two full terms. No person shall be elected to the House of Representatives for more than six full terms.

**"SECTION 2.** Notwithstanding section 1, a person may serve not more than fourteen years as a Senator and not more than thirteen years as a Representative.

**"SECTION 3.** For purposes of determining eligibility for election under section 1, no election occurring before the date on which this article is ratified shall be taken into account. For purposes of determining years of service under section 2, no service of any

part of a term of office of a Senator or Representative elected to such term before the date this article is ratified shall be taken into account."•

Mr. DECONCINI. Mr. President, today, I rise to reintroduce with my colleague, Senator HUMPHREY from New Hampshire, a joint resolution proposing a constitutional amendment to limit the number of congressional terms. On January 25, 1989, I introduced Senate Joint Resolution 17 which would also limit congressional terms in both bodies. The joint resolution we introduce today differs from Senate Joint Resolution 17 only in that it would limit elected terms to the House of Representatives to 6 instead of 7 and correspondingly limit total service to 13 years instead of 15.

As Senator HUMPHREY pointed out in his statement, this minor alteration to Senate Joint Resolution 17 will provide symmetry to the term limitation provision in that the limitation of 2 terms in the Senate and 6 in the House would both constitute 12 years of service. The basic tenet behind Senate Joint Resolution 17 stays intact. This amendment would put an end to a system which makes our Government less, rather than more, democratic. We must do all we can to ensure that our Government is as representative as possible. This goal can only be reached by passage of this amendment.

As I stated when I introduced Senate Joint Resolution 17 earlier this term, justifications for limiting the number of congressional terms are more compelling today than they have ever been. The current seniority system, with unlimited numbers of possible congressional terms, creates an inequality among Senators. Senators, merely by virtue of tenure in office, are able to gain powerful positions as chairs of standing committees. Senators in such positions are able to secure benefits for their home States which are out of proportion to a rational allocation of Federal resources. Junior Senators, on the other hand, are at a competitive disadvantage from the first day on the job and may be unable to shepherd meritorious legislation through the complex legislative process.

Because this seniority system creates inequality among Senators, the States we represent receive unequal representation in this body. The amendment we propose will cure that problem and return the idea of equal representation embedded in the roots of our democracy.

I have continued to advocate this amendment even as I entered my third term. Had I left the Senate after 2 terms, the very system I condemn today would have detrimentally affected my State because, had I departed, Arizona would have had a total of 2 years of senatorial seniority. The

present rules of the game would have placed my State at an extreme disadvantage had I not sought reelection. It is because of this disadvantage that I pursue passage of this amendment, so that we can submit it to the States for ratification and eventually it may become part of our Constitution.

By amending the Constitution to maximize political participation, we are perfecting the fundamental law that governs us. We will have reaffirmed our commitment to the principle that the laws which govern this great land should be democratic and without prejudice toward any State or region.

I would like to thank Senator HUMPHREY for joining me in this cause to break down the barriers that have limited political participation in these bodies.

By Mr. WILSON (for himself, Mr. THURMOND, Mr. HATFIELD, Mr. HEFLIN, and Mrs. KASSEBAUM):

S.J. Res. 236. Joint resolution designating May 6 through 12, 1990 as "Be Kind to Animals and National Pet Week"; to the Committee on the Judiciary.

**BE KIND TO ANIMALS AND NATIONAL PET WEEK**

• Mr. WILSON. Mr. President, I rise today to introduce a joint resolution designating the week of May 6-12, 1990 as "Be Kind to Animals and National Pet Week." I am pleased that Senators THURMOND, HATFIELD, HEFLIN, and KASSEBAUM have joined me as original cosponsors of this resolution.

The week of May 6-12, 1990 holds great significance to the animal welfare community as it marks the 75th anniversary of the American Humane Association's Be Kind to Animals Week and the 10th anniversary of National Pet Week, sponsored by the American Veterinary Medical Association [AVMA], the auxiliary to the AVMA, and the American Animal Hospital Association.

This resolution provides the Congress with the opportunity to recognize the contributions of veterinarians and humane organizations to animal health and welfare and highlight the important role that companion animals play in over 50 million American households.

Additionally, the designation of May 6-12, 1990 as "Be Kind to Animals and National Pet Week," will provide a national focus for the efforts of veterinarians and humane organizations to inform pet owners of the health needs of their animals. The American public has an obligation to promote responsible care of animals and pets and guard against irresponsible treatment. This resolution is an effective, low-cost way to educate the public about this obligation.

It is also important to note that this measure represents a cooperative effort between the scientific and animal protection communities toward increasing public awareness of proper animal care and welfare. Veterinarians and animal shelters in every State in this country are supporting this initiative.

I encourage my colleagues to cosponsor this resolution and designate the week of May 6-12, 1990, as "Be Kind to Animals and National Pet Week." I thank those Senators who have joined me as original cosponsors, and I ask unanimous consent that the joint resolution be printed in the RECORD.

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

S.J. Res. 236

Whereas 1990 marks the 75th anniversary of the American Humane Association's "Be Kind to Animals Week" and the 10th anniversary of "National Pet Week", sponsored by the American Veterinary Medical Association, the Auxiliary to the American Veterinary Medical Association, and the American Animal Hospital Association;

Whereas animals and pets give companionship and pleasure in daily living, share the homes of nearly 50,000,000 individuals or families in the United States, and provide special benefits to elderly persons and children;

Whereas the people of the United States have a firm commitment to promote responsible care of animals and pets and guard against cruel and irresponsible treatment;

Whereas teaching kindness and respect for all living animals through education in schools and communities is essential to the basic values of a humane and civilized society;

Whereas the people of the United States are grateful to the veterinary medical profession for providing preventive and emergency medical care and assistance to animals, spaying and neutering animals to combat overpopulation, and contributing to the education of animal owners; and

Whereas the people of the United States are indebted to animal protection organizations, State humane organizations, and local animal care and control agencies for promoting respect for animals and pets, educating children about humane attitudes, and caring for lost, unwanted, abused, and abandoned animals: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 6 through 12, 1990, is designated as "Be Kind to Animals and National Pet Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.●*

By Mr. DOLE (for himself, Mrs. KASSEBAUM, Mr. SPECTER, Mr. HEINZ, Mr. EXON, Mr. HEFLIN, and Mr. CHAFFEE):

S.J. Res. 237. Joint resolution providing for the commemoration of the 100th anniversary of the birth of Dwight David Eisenhower; to the Committee on the Judiciary.

COMMEMORATION OF THE 100TH ANNIVERSARY OF THE BIRTH OF DWIGHT DAVID EISENHOWER

Mr. DOLE. Mr. President, I am pleased to introduce this joint resolution today, providing for the commemoration of the 100th anniversary of the birth of our Nation's 34th President, Dwight David Eisenhower.

Eisenhower is a name that stands tall among the giants of American history. It is a name synonymous with courage, vision, and leadership. Eisenhower's mark was that of a true leader—of men in war, of the people of his country, and of all nations striving for peace.

It almost goes without saying, his public career produced some remarkable achievements, including leading the Allies to victory in World War II, forging the creation of NATO, ending the Korean war, exercising real fiscal discipline as evidenced by his three balanced budgets. Ike is also responsible for creating the Interstate Highway System, and establishing NASA. Not bad for a small-town boy from Kansas.

He gave his country two terms of outstanding service, giving America 8 years of peace and prosperity while he was in the White House. He saw the addition of Alaska and Hawaii to the Union, and he sent the Army to Little Rock, AR, to enforce the landmark racial desegregation decision.

The list of accomplishments could, literally, go on and on—I trust my colleagues are aware of what an outstanding man and leader he was.

Although our paths never officially crossed in Washington—I was elected to Congress in 1960, the last year of Eisenhower's Presidency—he has had significant influence on me, as well as on my home State of Kansas. The combination of Ike's military accomplishments and his devotion to public service has made him a hero not only in the Sunflower State, but also across our Nation and around the globe.

I am proud to serve as the chairman of the national nonpartisan Dwight David Eisenhower Centennial Commission, which has been working with many organizations in the private sector, as well as with the Kansas State Centennial Commissions to organize and plan commemorative activities. Interest is building both here on Capitol Hill, throughout America, as well as in more than 13 foreign countries. It is truly remarkable to see the degree of effort and dedication put forth by so many individuals in coordinating the centennial events.

Thus, with the centennial year of Eisenhower's birth upon us, I believe it is especially appropriate to honor the former President by designating October 14, 1990, the anniversary date of his birth, as "Dwight David Eisenhower Day" and also by holding a joint meeting of the Congress on March 27, 1990.

The 1990 centennial gives us a new opportunity to reflect on Eisenhower's greatness. Moreover, this reflection should actually give us a new perspective on the future. In this century, we have marked the centennials of only three other U.S. Presidents—Herbert Hoover, Franklin Delano Roosevelt, and Harry S. Truman—so I ask all of my colleagues to join me in this historic celebration.

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

S.J. RES. 237

Whereas October 14, 1990, marks the 100th anniversary of the birth of Dwight David Eisenhower;

Whereas Eisenhower was born on October 14, 1890, in Denison, Texas, and soon thereafter moved with his family to Abilene, Kansas;

Whereas Eisenhower developed an interest in military history early in childhood, and attended the United States Military Academy at West Point, New York, from 1911 through 1915;

Whereas in 1915, upon graduation from the United States Military Academy, Eisenhower was commissioned as second lieutenant and assigned to the 19th Infantry at Fort Sam Houston, Texas;

Whereas at the conclusion of World War I, Eisenhower assumed the rank of captain, and was promoted to the rank of major shortly thereafter;

Whereas in 1935, Eisenhower accompanied General Douglas MacArthur to the Philippines, where he served as a senior military assistant to General MacArthur;

Whereas Eisenhower was promoted to the rank of lieutenant colonel during his service in the Philippines;

Whereas Eisenhower was subsequently assigned to Fort Lewis, Washington, where he served as executive officer of the 15th Regiment of the 3d Infantry Division from January through November, 1940, and as chief of staff to General Kenyon A. Joyce of the 9th Corps from March through June of 1941;

Whereas in March 1942, Eisenhower was promoted to the rank of General and named Chief of the Operations Division for the General Staff of the United States Army;

Whereas in June 1942, Eisenhower achieved the rank of Lieutenant General, and in December 1944, he became a General of the Armies;

Whereas Eisenhower served as President of Columbia University from 1948 through 1950;

Whereas Eisenhower was appointed by President Harry S. Truman as Supreme Commander of the North Atlantic Treaty Organization forces in Europe, and served in that position from 1951 through 1952;

Whereas Eisenhower was elected the 34th President of the United States on November 4, 1952, and was reelected to serve a second term on November 6, 1956;

Whereas President Eisenhower hosted 115 foreign chiefs of state and heads of government on visits to the United States, traveled to 28 foreign countries, and participated in 20 summit talks with foreign government leaders;

Whereas Eisenhower strongly supported education and promoted international understanding through education;

Whereas Eisenhower had a long and productive association with Gettysburg College,

serving as a member of the College's Board of Trustees, using a campus office to write his memoirs and to fulfill the numerous duties of former President, and receiving an honorary doctorate from the College;

Whereas after leaving office on January 20, 1961, Eisenhower retired with his wife to their farm and home in Gettysburg, Pennsylvania;

Whereas Eisenhower died on March 28, 1969, and was buried in military uniform in the place of mediation on the grounds of the Eisenhower Center in Abilene, Kansas; and

Whereas throughout 1990, various public and private organizations, including the Eisenhower Society, the Eisenhower Foundation, the Eisenhower World Affairs Institute, the Eisenhower Exchange Fellowship Program, Inc., the Eisenhower Centennial Commission, and others, will be sponsoring and conducting events across the Nation to commemorate the centennial of the birth of Dwight David Eisenhower: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 14, 1990, the 100th anniversary of the birth of Dwight David Eisenhower, is designated as "Dwight D. Eisenhower Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.*

**Sec. 2.** The members of the Senate and the House of Representatives who are members of the Dwight David Eisenhower Centennial Commission, with the assistance of the other members of that commission (referred to hereinafter as the "Commission"), shall—

(1) make arrangements for a joint meeting of the Congress to be held on Tuesday, March 27, 1990, or such other day as may be designated by the Speaker of the House of Representatives, in the Hall of the House of Representatives in commemoration of the centennial of the birth of Dwight David Eisenhower;

(2) plan the proceedings of and issue appropriate invitations to the joint meeting; and

(3) coordinate the foregoing arrangements with the activities of the Dwight David Eisenhower Centennial Commission.

**Sec. 3.** The expenses of carrying out this joint resolution shall not exceed \$25,000 and shall be paid from the contingent fund of the House of Representatives upon vouchers approved by Speaker of the House of Representatives.

**Mr. SPECTER.** Mr. President, today I join Senator DOLE as an original co-sponsor in introducing a joint resolution which will honor the 100th anniversary of the birth of Dwight David Eisenhower by designating October 14, 1990, as "Dwight D. Eisenhower Day" and calling for a joint meeting of Congress to commemorate this centennial.

In furtherance of this national celebration, the Eisenhower Foundation, an organization devoted to promoting the goals, ideals, and legacy of Dwight Eisenhower, the Dwight D. Eisenhower Society, which conducts programs to highlight the work of Eisenhower, Gettysburg College, and other organizations will host a series of events during the year to celebrate this anniversary. The activities will include a 4-

day symposium comprised of international scholars, government leaders, and military leaders at Gettysburg College in October 1990, as well as presentations, seminars, art exhibits, and other events in honor of President Eisenhower.

Raised in Abilene, KS, President Eisenhower developed his interest in military history early in his childhood. He began an honorable career of military service with his enrollment in the U.S. Military Academy at West Point in 1911. Following graduation in 1915, Eisenhower spent several years serving his country in ranking military positions. After World War I, he resumed the permanent rank of captain and soon was promoted to major. Receiving a series of promotions, Eisenhower continued his loyal service to the United States throughout World War II. In 1944, his superior military skill was recognized with the award of the rank of five-star general of the U.S. Army.

Dwight Eisenhower subsequently went on to serve as president of Columbia University and as the Supreme Commander of the North Atlantic Treaty Organization [NATO]. On November 4, 1952, the country recognized Eisenhower's ability and vision by electing him the 34th President of the United States. He was reelected 4 years later.

As President of the United States, Eisenhower was known for his staunch anticommunism. His personal dislike of this oppressive system evolved into a policy of aiding any country threatened by Communist aggression or subversion—the Eisenhower doctrine. In 1961, Eisenhower delivered a farewell address which articulated a four-point agenda for the Nation. The themes identified by Eisenhower almost 30 years ago are among the most pressing issues of our time, typifying Eisenhower's wisdom and foresight.

It is fitting that Gettysburg should honor Eisenhower since his connection to the town can be traced back to 1915 when he first traveled there as a senior cadet at West Point to study military tactics. Three years later Eisenhower returned as commander of Camp Colt, a deserted Gettysburg campsite which underwent transformation into a training center for the newly formed Tank Corps. Upon completion of his duty, Eisenhower left the area, but returned once again in 1946 to receive an honorary doctor of laws degree from Gettysburg College. In 1950, President Eisenhower purchased land in Gettysburg and built a home for his family, in which he lived at various times during his Presidency and thereafter. He later served as a trustee of Gettysburg College from 1961 to 1969. The Eisenhower farm in Gettysburg today is maintained by the U.S. National Park Service as a con-

tinuing tribute to the significant contributions of Dwight Eisenhower.

Last October at Gettysburg College, which sponsored one of the many kickoff ceremonies nationwide for the Eisenhower centennial, David Eisenhower, grandson and biographer of the former President, shared his thoughts about his grandfather and Gettysburg:

Dwight D. Eisenhower's identification with Gettysburg was profound. This was the place I knew him best and the place he felt natural and at home. I always hoped the town and the college would respond in the way they have today.

Mr. President, I urge my colleagues to join in supporting this important resolution to recognize the service of President Dwight D. Eisenhower on the 100th anniversary of his birth.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. GLENN, Mr. MATSUNAGA, Mr. HOLLINGS, Mr. SIMON, Mr. DECONCINI, Mr. BURDICK, Mr. KERRY, Mr. FELL, Mr. NUNN, Mr. DOMENICI, and Mr. DODD):

**S.J. Res. 238.** Joint resolution to designate the week beginning March 5, 1990, as "Federal Employees Recognition Week"; to the Committee on the Judiciary.

#### FEDERAL EMPLOYEES RECOGNITION WEEK

• **Mr. SARBANES.** Mr. President, today I am introducing a joint resolution to designate the week beginning March 5, 1990, as Federal Employees Recognition Week. I have introduced similar resolutions in previous Congresses to honor the men and women who work in jobs that are so critically important to the strength and vitality of our Nation. The individuals who make up the Federal work force have made significant contributions to improve the quality of life and provide essential services for Americans and indeed for others throughout the world. I again want to commend the more than 3 million men and women who perform those jobs.

Federal workers continue to be the source of growth and development in America, helping Americans achieve strong, energetic, and prosperous communities. I am proud that our Government has such a highly qualified and competent work force. If our Government did not have such knowledgeable, capable hardworking individuals, America would not be in the forefront of medical and scientific research and the development of new technology. Great achievements have been made by Federal employees over the years in these areas.

In my view, the Nation as a whole, and perhaps the entire world has benefited from the accomplishments of Federal workers. The men and women who work for our Government are positive about their work and the op-

portunity to accomplish something worthwhile. They deserve recognition for the expertise they provide.

Federal Employee Recognition Week will give the public an opportunity to recognize the advancements made by Federal employees, as well as a week for Federal employees to reflect on their contributions. I am pleased today to introduce legislation which recognizes and acknowledges the invaluable contributions that Federal employees have made to our Nation and urge you to join my colleagues Senators MIKULSKI, GLENN, MATSUNAGA, HOLLINGS, SIMON, DECONCINI, BURDICK, KERRY, PELL, NUNN, DOMENICI, and DODD in supporting this resolution.●

By Mr. DOLE:

S.J. Res. 239. Joint resolution to urge the Washington Metropolitan Airport Authority to use its existing authority to change the name of Washington Dulles International Airport to Eisenhower International Airport; to the Committee on Commerce, Science, and Transportation.

**CHANGING THE NAME OF WASHINGTON DULLES INTERNATIONAL AIRPORT TO EISENHOWER INTERNATIONAL AIRPORT**

Mr. DOLE. Mr. President, I rise today to introduce a joint resolution to urge the Washington Metropolitan Airport Authority to use its existing authority to change the name of the Washington Dulles International Airport to the Eisenhower International Airport.

Washington Dulles International Airport was constructed during the Eisenhower administration and by Executive order, Eisenhower named the airport after Secretary of State John Foster Dulles.

I understand there is tremendous support among the Airport Authority to change the name of the airport, for reasons directly related to the considerable confusion between Dulles and Dallas Airports.

Some of my colleagues may ask, why Eisenhower? I think the answer is clear—this airport is of considerable importance in our region, and in global transportation. It makes good sense to me that if a name change is to take place, as I understand the plan to be, it should carry a name of an internationally known figure.

Renaming the airport that serves the Capital of the free world is a fitting tribute to Dwight Eisenhower. He is still recognized around the world as the man who helped save the world from tyranny and his legacy continues to inspire international peace and cooperation.

Mr. President, I ask all of my colleagues to support this resolution, and I ask unanimous consent that the joint resolution be printed in the RECORD.

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

S.J. RES. 239

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Washington Metropolitan Airport Authority is urged to use its existing authority to change the name of the Washington Dulles International Airport to the Eisenhower International Airport, and at the same time retain the name of the main terminal, the Dulles Terminal.*

**ADDITIONAL COSPONSORS**

S. 87

At the request of Mr. THURMOND, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of S. 87, a bill to amend title 18 to limit the application of the exclusionary rule.

S. 88

At the request of Mr. THURMOND, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of S. 88, a bill to reform procedures for collateral review of criminal judgments, and for other purposes.

S. 92

At the request of Mr. THURMOND, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 92, a bill to redefine "extortion" for purposes of the Hobbs Act.

S. 346

At the request of Mr. WIRTH, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 346, a bill to amend the Alaska National Interest Lands Conservation Act, and for other purposes.

S. 419

At the request of Mr. SIMON, the names of the Senator from Kansas [Mr. DOLE], and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of S. 419, a bill to provide for the collection of data about crimes motivated by race, religion, ethnicity, or sexual orientation.

S. 434

At the request of Mr. REID, the name of the Senator from Arizona [Mr. McCAIN] was added as a cosponsor of S. 434, a bill to prohibit a State from imposing an income tax on the pension income of individuals who are not residents or domiciliaries of that State.

S. 520

At the request of Mr. DECONCINI, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 520, a bill to encourage the States to enact legislation to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities.

S. 577

At the request of Mr. HOLLINGS, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 577, a bill to clarify the congressional intent concerning, and to codify, certain requirements of the Communications Act of 1934 that ensure that broadcasts afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

S. 619

At the request of Mr. SARBANES, the names of the Senator from Colorado [Mr. WIRTH], the Senator from Wisconsin [Mr. KOHL], the Senator from Delaware [Mr. BIDEN], the Senator from Illinois [Mr. SIMON], the Senator from Rhode Island [Mr. PELL], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of S. 619, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr. in the District of Columbia.

S. 714

At the request of Mr. MCCLURE, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 714, a bill to extend the authorization of the Water Resources Research Act of 1984 through the end of fiscal year 1993.

S. 747

At the request of Mr. DECONCINI, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 747, a bill to amend chapter 44 of title 18, United States Code, regarding assault weapons.

S. 878

At the request of Mr. WILSON, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 878, a bill to grant a Federal charter to the Michael Jackson International Research Institute.

S. 1000

At the request of Mr. MCCLURE, the names of the Senator from Idaho [Mr. SYMMES], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 1000, a bill to amend the Agricultural Act of 1949 to require the Secretary of Agriculture to exclude the malting barley price from the national weighted market price for barley in determining the payment rate used to calculate deficiency payments for the 1989 and 1990 crops of barely, and for other purposes.

S. 1049

At the request of Mr. SPECTER, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 1049, a bill to recognize the organization known as the Montford Point Marine Association, Inc.

S. 1081

At the request of Mr. LAUTENBERG, the name of the Senator from Hawaii

[Mr. INOUYE] was added as a cosponsor of S. 1081, a bill to authorize the Secretary of Housing and Urban Development to carry out a cost-effective community-based program for housing rehabilitation and development to serve low- and moderate-income families.

S. 1150

At the request of Mr. CONRAD, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1150, a bill to provide for the payment by the Secretary of the Interior of undedicated receipts into the Refuge Revenue Sharing Fund.

S. 1430

At the request of Mr. KENNEDY, the names of the Senator from Texas [Mr. BENTSEN] and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 1430, a bill to enhance national and community service, and for other purposes.

S. 1511

At the request of Mr. PRYOR, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1511, a bill to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

S. 1624

At the request of Mr. THURMOND, the names of the Senator from Georgia [Mr. NUNN], the Senator from Montana [Mr. BURNS], and the Senator from Utah [Mr. Hatch] were added as cosponsors of S. 1624, a bill to grant a Federal charter to the National Association of Women Veterans, Inc.

S. 1651

At the request of Mr. McCAIN, the names of the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. INOUYE], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of S. 1651, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States Organization.

S. 1664

At the request of Mr. HEINZ, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Colorado [Mr. WIRTH], the Senator from Montana [Mr. BURNS], the Senator from Tennessee [Mr. SASSER], and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of S. 1664, a bill to establish a congressional commemorative medal for members of the Armed Forces who were present during the attack on Pearl Harbor on December 7, 1941.

S. 1669

At the request of Mr. BENTSEN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1669, a bill to provide Hispanic-

serving institutions of higher education with financial assistance to improve their capacity to expand Hispanic educational attainment.

S. 1675

At the request of Mr. KENNEDY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1675, a bill to provide financial assistance for teacher recruitment and training, and for other purposes.

S. 1692

At the request of Mr. NUNN, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1692, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain timber activities under passive loss rules.

S. 1696

At the request of Mr. KENNEDY, the names of the Senator from Washington [Mr. ADAMS], the Senator from Delaware [Mr. BIDEN], the Senator from Missouri [Mr. DANFORTH], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 1696, a bill to amend title 28 of the United States Code to prohibit racially discriminatory capital sentencing.

S. 1758

At the request of Mr. GLENN, the names of the Senator from Minnesota [Mr. BOSCHWITZ], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1758, a bill to provide for the establishment of an Office for Small Government Advocacy, and for other purposes.

S. 1791

At the request of Mr. ROCKFELLER, the names of the Senator from California [Mr. CRANSTON], and the Senator from California [Mr. WILSON] were added as cosponsors of S. 1791, a bill to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes.

S. 1832

At the request of Mr. LAUTENBERG, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 1832, a bill to amend and reauthorize the Public Housing Drug Elimination Act of 1988.

S. 1835

At the request of Mr. WILSON, the names of the Senator from North Carolina [Mr. SANFORD], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of S. 1835, a bill to amend the Drug-Free Schools and Communities Act of 1986 to provide for the awarding of grants for drug abuse resistance education instruction for students, and for other purposes.

S. 1876

At the request of Mr. KOHL, the names of the Senator from Indiana [Mr. COATS], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 1876, a bill to amend the Internal Revenue Code of 1986 to provide a refundable tax credit for the costs of small businesses in providing accessibility for disabled individuals.

S. 1890

At the request of Mr. THURMOND, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Mississippi [Mr. COCHRAN], the Senator from Wyoming [Mr. SIMPSON], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Virginia [Mr. WARNER], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of S. 1890, a bill to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.

S. 1893

At the request of Mr. LAUTENBERG, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1893, a bill to reauthorize the Asbestos School Hazard Abatement Act of 1984.

S. 1898

At the request of Mr. REID, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 1898, a bill to provide Federal Government guarantees of investments of State and local government pension funds in high-speed intercity rail facilities.

S. 1902

At the request of Mr. KENNEDY, his name was withdrawn as a cosponsor of S. 1902, a bill for the relief of Temistocles Ramirez de Arellano, T. Ramirez & Company, Inc., and Empacador Del Norte, S.A.

S. 1911

At the request of Mr. DODD, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 1911, a bill to provide assistance in the development of new or improved programs to help younger individuals through grants to the States for community planning, services, and training; to establish within the Department of Health and Human Services an operating agency to be designated as the Administration on Children, Youth, and Families; to provide for a White House Conference on Young Americans; and for other purposes.

S. 1912

At the request of Mr. CRANSTON, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 1912, a bill to protect the re-

productive rights of women, and for other purposes.

## S. 1925

At the request of Mr. SPECTER, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 1925, a bill to amend the Higher Education Act of 1965 to require colleges and universities to establish and disclose campus security policies and to inform students and employees of campus crime statistics, and for other purposes.

## S. 1930

At the request of Mr. GORE, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1930, a bill to amend the Higher Education Act of 1965 to require colleges and universities to establish and disclose campus security policies and to inform students and employees of campus crime statistics, and for other purposes.

## S. 1945

At the request of Mr. WIRTH, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1945, a bill to authorize a land exchange in South Dakota and Colorado.

## S. 1955

At the request of Mr. COATS, his name was withdrawn as a cosponsor of S. 1955, a bill to amend the Controlled Substances Act to provide the death penalty for engaging in a continuing criminal drug enterprise involving a large quantity of drugs.

## S. 1956

At the request of Mr. D'AMATO, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1956, a bill to amend the Internal Revenue Code of 1986 to provide a mechanism for taxpayers to designate any portion of any overpayment of income tax, and to contribute other amounts, for payment to fight the war on drugs, and for other purposes.

## S. 1971

At the request of Mr. THURMOND, the names of the Senator from New Hampshire [Mr. HUMPHREY], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 1971, a bill to establish a constitutional death penalty and strengthen and improve Federal criminal penalties and procedures.

## SENATE JOINT RESOLUTION 71

At the request of Mr. HELMS, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 71, a joint resolution designating April 16 through 22, 1989, as "National Ceramic Tile Industry Recognition Week."

## SENATE JOINT RESOLUTION 103

At the request of Mr. BRADLEY, the names of the Senator from Hawaii [Mr. INOUE], the Senator from Wis-

consin [Mr. KOHL], and the Senator from Maine [Mr. COHEN] were added as cosponsors of Senate Joint Resolution 103, a joint resolution to designate the period commencing February 18, 1990, and ending February 24, 1990 as "National Visiting Nurse Associations Week."

## SENATE JOINT RESOLUTION 190

At the request of Mr. HEINZ, the names of the Senator from Texas [Mr. BENTSEN], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate Joint Resolution 190, a joint resolution designating April 9, 1990 as "National Former Prisoners of War Recognition Day."

## SENATE JOINT RESOLUTION 195

At the request of Mr. D'AMATO, the names of the Senator from Maryland [Ms. MIKULSKI], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Joint Resolution 195, a joint resolution proclaiming Christopher Columbus to be an honorary citizen of the United States.

## SENATE JOINT RESOLUTION 206

At the request of Mr. GORE, the names of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of Senate Joint Resolution 206, a joint resolution calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative parties, for the full protection of Antarctica as a global ecological commons.

## SENATE JOINT RESOLUTION 208

At the request of Mr. SIMON, the names of the Senator from Washington [Mr. ADAMS], the Senator from Texas [Mr. BENTSEN], the Senator from Oklahoma [Mr. BOREN], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from New Jersey [Mr. BRADLEY], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. BURDICK], the Senator from West Virginia [Mr. BYRD], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Indiana [Mr. COATS], the Senator from South Dakota [Mr. DASCHLE], the Senator from Arizona [Mr. DECONCINI], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DOBB], the Senator from New Mexico [Mr. DOMENICI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Nebraska [Mr. EXON], the Senator from Ohio [Mr. GLENN], the Senator from Tennessee [Mr. GORE], the Senator from Washington [Mr. GORTON], the Senator from Utah [Mr. Hatch], the Senator from Alabama [Mr. HEFLIN], the Senator from Pennsylvania [Mr. HEINZ], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Hawaii [Mr. INOUE], the Senator from Wisconsin [Mr. KASTEN], the Senator from Massachusetts [Mr. KERRY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Michigan [Mr.

LEVIN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Florida [Mr. MACK], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Idaho [Mr. McCLURE], the Senator from Ohio [Mr. METZENBAUM], the Senator from Maryland [Ms. MIKULSKI], the Senator from Maine [Mr. MITCHELL], the Senator from New York [Mr. MOYNIHAN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Georgia [Mr. NUNN], the Senator from Rhode Island [Mr. PELL], the Senator from South Dakota [Mr. PRESSLER], the Senator from Michigan [Mr. RIEGLE], the Senator from Alabama [Mr. SHELBY], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Alaska [Mr. STEVENS], the Senator from South Carolina [Mr. THURMOND], the Senator from Wyoming [Mr. WALLOP], the Senator from Virginia [Mr. WARNER], the Senator from California [Mr. WILSON], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of Senate Joint Resolution 208, a joint resolution designating February 16, 1990, as "Lithuanian Independence Day."

## SENATE JOINT RESOLUTION 229

At the request of Mr. CRANSTON, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Delaware [Mr. ROTHSCHILD], the Senator from Iowa [Mr. GRASSLEY], the Senator from Texas [Mr. BENTSEN], the Senator from Nevada [Mr. BRYAN], the Senator from Nevada [Mr. REID], the Senator from Washington [Mr. ADAMS], the Senator from Georgia [Mr. NUNN], and the Senator from West Virginia [Mr. BYRD] were added as cosponsors of Senate Joint Resolution 229, a joint resolution to designate April 1990, as "National Prevent-A-Litter Month."

## SENATE CONCURRENT RESOLUTION 62

At the request of Mr. DODD, the name of the Senator from Hawaii [Mr. INOUE] was added as a cosponsor of Senate Concurrent Resolution 62, a concurrent resolution commanding the decision of the Board of Immigration appeals to allow Joseph Patrick Doherty to apply for political asylum, expressing concern at the Attorney General's June 30, 1989, decision to deny Joseph Patrick Doherty a political asylum hearing, and asking the Attorney General to respect the BIA decision on political asylum and immediately to release Joseph Patrick Doherty on bond pending final completion of the immigration proceedings.

## SENATE CONCURRENT RESOLUTION 87

At the request of Mr. KENNEDY, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from New York [Mr. D'AMATO], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of Senate Concurrent Resolution 87, a concurrent resolution in support of the United Na-

tions Secretary General's current efforts regarding Cyprus.

**SENATE RESOLUTION 228—INFORMING THE HOUSE OF REPRESENTATIVES THAT A QUORUM OF THE SENATE IS ASSEMBLED**

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. Res. 228

*Resolved*, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

**SENATE RESOLUTION 229—INFORMING THE PRESIDENT OF THE UNITED STATES THAT A QUORUM OF THE SENATE IS ASSEMBLED**

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. Res. 229

*Resolved*, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

**SENATE RESOLUTION 230—RELATING TO THE PRINTING OF ADDITIONAL COPIES OF A GOVERNMENTAL AFFAIRS COMMITTEE HEARING**

Mr. GLENN submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. Res. 230

*Resolved*, That there be printed for the use of the Committee on Governmental Affairs three hundred additional copies of its hearing of the One Hundred and First Congress entitled "Prospects for Development of a United States HDTV Industry"; and that there be printed for the use of the committee such additional copies not to exceed the cost of \$1,200.

**SENATE RESOLUTION 231—URGING SUBMISSION OF THE CONVENTION ON THE RIGHTS OF THE CHILD TO THE SENATE**

Mr. BRADLEY (for himself, Mr. LUGAR, Mr. PELL, Mr. DODD, and Mr. BOSCHWITZ) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 231

Whereas the future peace and prosperity of all nations depend upon the good health and well-being of the world's children;

Whereas the Congress has long recognized the vulnerability of children and has enacted numerous laws that afford them special protections in this country;

Whereas similar protections for children are either totally lacking or inadequately enforced in much of the world;

Whereas, in part as result of this lack of protection, millions of children are threatened daily by poverty, malnutrition, homelessness, exploitation and abuse, depriving both family and society of their productivity and potential;

Whereas the Child Survival and Development Revolution, launched in 1982 to attack the root causes of infant mortality and child ill-health through low-cost means such as universal child immunization and oral rehydration therapy, is saving the lives of more than 2 million children each year and has demonstrated that the number of child deaths can be reduced significantly if available resources are used appropriately;

Whereas despite these gains and an emerging international consensus about the importance of protecting children, children both here and abroad will continue to face poverty, sickness, and ill-treatment;

Whereas on November 20, 1989, the United States and other members of the United Nations unanimously endorsed the Convention on the Rights of the Child and urged national governments to ratify the Convention and make possible its application as international law;

Whereas this convention, if implemented, will help establish universal legal standards for the care and protection of children against neglect, exploitation, and abuse;

Whereas the United States Government, scores of private voluntary organizations, and hundreds of American citizens were actively involved in the drafting of this Convention; and

Whereas the United States must continue playing a leading role in the implementation of the Convention to ensure that it becomes a force for improving the lot of children, both in this country and abroad; Now, therefore be it

*Resolved*, That it is the sense of the Senate that the issue of children's rights and their well-being is important both to the United States and the world at large and that, in consideration thereof, the President should promptly seek the advice and consent of the Senate to the ratification of the Convention on the Rights of the Child, adopted by the United Nations with the support of the United States on November 29, 1989.

• Mr. BRADLEY. Mr. President, today, I am pleased to submit with Senator LUGAR a resolution calling on the President to send to the Senate as expeditiously as possible the Convention on the Rights of the Child for ratification.

The United States and the other members of the United Nations unanimously endorsed the Convention on the Rights of the Child on November 20, 1989.

This unanimous approval reflects, first and foremost, the world's awareness that we need universal standards for the care and protection of children against neglect, exploitation and abuse.

America has long recognized that children are particularly vulnerable and need special protections. Congress has passed many laws to provide these protections. But even in this country, we know all too well the tragedy of

infant mortality, the terror of child abuse, the scourge of drugs and the wasted potential of school drop outs.

In the rest of the world, where legal protections are weak or nonexistent and resources scarce, the plight of the child is considerably worse. Children are born stateless, unwanted, without any government to assume responsibility for them. Some work under appalling conditions. Some are literally bought and sold, through illegal adoption schemes. Armed conflict devours many and few know any semblance of protection for what we would consider basic rights—freedom of speech, of thought, religion, assembly, privacy. And where government policies don't attack children, poverty and ignorance do. Far too many children die needlessly of easily preventable diseases or treatable conditions.

Mr. President, the Convention on the Rights of the Child will help focus needed attention on these problems, here and abroad. Ten years in the making, it establishes minimum standards for measuring the way governments treat their children. It entitles children to a name and nationality at birth. It stresses the importance of child survival and the need for primary health care. It emphasizes primary education, where 4 years of schooling can turn potential beggars into productive citizens. It requires governments to protect their children against child labor, drug abuse, sexual exploitation. It provides for special protections in adoption, and mandates proper care for orphaned children.

Whereas countries to establish minimum standards of juvenile justice. It prohibits states from using children as cannon fodder during war. And, if implemented, it becomes international law, binding on all signatories, with a committee of experts to monitor and publicize the extent to which governments meet these standards. The Convention will become a powerful voice in promoting and protecting children, in this country and abroad.

Mr. President, for us, the need for these rights and protections is self-evident. But getting all countries to agree on the text of the Convention was a difficult process. The unanimous adoption was possible because the Convention is the product of 10 years of intensive negotiations among all members of the United Nations, with each and every provision agreed to by consensus. The U.S. Government was actively involved in the drafting process, and indeed can take considerable credit for the inclusion in the Convention of the language guaranteeing the political and civil rights of children.

The United States must continue to play a leading role in promoting the Convention on the Rights of the Child. We should be the first, not the last, to sign. And we should encourage

others to join us. If we do not put our weight behind this Convention, we cannot expect others to do so.

I urge all Senators to join me in sponsoring this resolution. We need to show the President the importance we place upon the issue. We need to ensure that the executive branch completes its review of the Convention as expeditiously as possible, so that the President can send it to the Senate for ratification.

I ask unanimous consent that the attached statements by the U.S. Government be included in the RECORD.

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

**STATEMENT BY TOM JOHNSON, REPRESENTATIVE TO THE U.N. COMMISSION ON HUMAN RIGHTS UPON PASSAGE OF RESOLUTION FAVORING THE CONVENTION ON THE RIGHTS OF THE CHILD, MARCH 8, 1989**

Thank you, Mr. Chairman. My statement is in the nature of a comment and an explanation of vote before the vote on Draft Resolution L88. Mr. Chairman, my delegation is pleased to be able to express its support for Draft Resolution L88 as it has been placed before us and of course that includes support for adoption by this Commission of the Draft Convention on the Rights of the Child as it has been submitted by the Working Group in document E/CN.4/1989/29 and co-agenda 1. We believe that this draft resolution and incorporating by reference the Draft Convention should be adopted by this Commission by consensus.

Mr. Chairman my delegation is pleased to be able to note our support for draft resolution L88 because it represents many years of work by members of this Commission, by observers and by Non-Governmental Organizations. My government has been active at every stage of the process and as one who participated in the very early years of the Working Group, my delegation would agree with the many speakers who have said today that there has been quite an evolution in the process since 1978 when it all began.

Like some other delegations, Mr. Chairman, my delegation had its doubts whether in the end we would be able to support a resolution like L88. This is because the Draft Convention did not originate in a broad based proceed need for such a Convention. Rather at the outset it appeared to be a symbolic effort in connection with the International Year of the Child. And secondly, the approach taken in the original draft was more like that in a Declaration rather than in a Convention. And finally, my delegation had its doubts that we would ever get to a draft resolution like L88 because the original draft took an approach that, in our view, implied that the approach that should be taken in the final Convention would be that of a centralized government approach to all matters concerning the child rather than any consideration to private sectors.

Our ability to join consensus on L88 stands from the achievement of the Working Group in accomplishing three objectives, Mr. Chairman. The first, as we have heard from many speakers today, this final version of the Draft Convention includes articles on many important subjects which were not addressed in the original draft. Secondly, Mr. Chairman, the Working Group ensured that the Draft Convention

recognizes parents rights vis-a-vis governmental intervention as well as the civil and political rights of children themselves. And finally, Mr. Chairman, the Working Group over the years was able to correct the systematic bias in the original draft in favor of assuming centralized government control over all aspects of society and the corresponding disregard of the private sector.

Mr. Chairman, as I indicated earlier, what we have in resolution L88 represents a great deal of hard work by government representatives and by Non-Governmental Organization representatives and in that regard, my delegation would note the positive changes in the nature of the composition of the Working Group over the years and by the last few years of the Working Group's existence, there was great deal of expertise among both government and NGO representatives. We still had the difficult problems of maintaining a balance between legal, technical and diplomatic expertise but nevertheless the Working Group had come a long way in its ten years of existence.

Mr. Chairman, despite our readiness to join consensus on Draft Resolution L88, my delegation is disappointed with certain provisions in the Convention just as many other speakers have noted today, but this is part of the consensus process and my delegation will note to specify which provisions we had difficulties with, we did that in the Working Group and this Commission is pressed for time at the moment. But, as the Working Group report makes clear, Mr. Chairman, the entire text of this Convention, every article, every paragraph has been adopted by consensus, except for the financing provisions in article 43. Mr. Chairman, without going into great detail, we would note that many remarks have been made today about article 38 of the Draft Convention which concerns children in armed conflicts. It's been the view of my government that this Commission, the General Assembly are not the appropriate forums to rewrite or revise existing humanitarian law and again, without going into the merits of the debate because we did that extensively in the Working Group, my delegation would note the comments just made by the International Committee of the Red Cross and to cite the specific words used, the International Committee of the Red Cross suggested that article 38 be confined to the first paragraph and stated that that constituted the most reasonable solution. My delegation thinks that if that very reasonable approach had been taken at the outset, many of the difficulties that have been experienced could have been avoided.

Mr. Chairman, my delegation takes great pleasure in being able to announce our support for draft resolution L88 for 3 additional reasons. First, Mr. Chairman, we think that the delegation of Poland, the government of Poland deserves a great deal of credit for pursuing this initiative. It can be said that, if Poland had not taken this initiative some other government might have done so at some point, and that may be true but the fact remains that Poland did take the initiative, maintained its interest and involvement in this matter over a 10-year-period, put up with all sorts of frustrations from a wide variety of viewpoints and a wide variety of governments and each year, the Commission on the Human Rights and in the General Assembly, introduced the resolution, gathered the co-sponsors and was able to obtain adoption of the resolution in each case. So we think that Poland deserves a great deal of credit for bringing us to this

point where draft resolution L88 can, we hope, be adopted by consensus.

Secondly, Mr. Chairman, my delegation would join those who have saluted the chairman of the Working Group for all 10 of its years, Mr. Adam Lopatka of Poland. Before he left today, my delegation told him privately what we will now say publicly, and that is that over the 10 years that this product—referring to L88—was in the gestation stage, 6 different members of the Department of State, office of the legal adviser had the privilege of representing the United States. All six are still employed by the Department of State, and all six of us would agree that not only can we join the consensus, but in fact we would be willing to vote in favour of the proposition that draft resolution L88 and what it represents is doing a great part to the dedication, determination, and virtually unlimited patience of Professor Adam Lopatka, the kind of patience that you would expect to see from a very kind and caring father no matter how exasperating the situation and I can assure you that over the last ten years, there have been many exasperating situations some of which my delegation has contributed to and he has without question, without exception, been patient in the face of almost overwhelming frustration.

And finally, Mr. Chairman, my delegation would like to pay tribute to the Secretariat in this matter. We think that if delegations simply look at the volume of documentation connected with draft resolution L88, namely the report of the Working Group plus the various stages of the Convention itself that have had to be produced and had to be produced in all languages and had to be produced fairly quickly, we think that Mr. Martenson and his staff deserve tremendous praise and credit for the job they have been able to do with a minimum level of typographical errors and other problems. So my delegation thinks that draft resolution L88 has been a team effort involving governments, Non-Governmental Organizations and the Secretariat and we are very pleased at the prospect that draft resolution L88 will be adopted by consensus. Thank you, Mr. Chairman.

[Press release from the U.S. Mission to the United Nations, New York, NY, Nov. 10, 1989]

**STATEMENT BY HON. CHRISTOPHER H. SMITH, U.S. ALTERNATE REPRESENTATIVE TO THE 44TH SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY, IN THE THIRD COMMITTEE, ON ITEM 108, ADOPTION OF A CONVENTION ON THE RIGHTS OF THE CHILD**

Thank you very much, Mr. Chairman. After ten years of constructive dialogue, seemingly endless consultations and finally an agreement, the Commission on Human Rights has presented the Convention on the Rights of the Child to the United Nations General Assembly for adoption. The United States participated actively in the drafting of the Convention. We believe that it represents a notable step forward in the needed promotion and protection of the rights of children. Although the Convention is far from perfect—no agreement ever is—the United States strongly believes in the enumerated commitments and goals of the Convention, and it is our hope that the General Assembly will adopt the text without change.

Mr. Chairman, the Government of Poland deserves much of the credit for the conclusion of this Convention. The version we

have before us today represents many years of debate and revisions to the Government of Poland's first draft; but if it were not for that initial effort over ten years ago, we might not be considering adoption of a Convention on the Rights of the Child during the forty-fourth session of the General Assembly. We must also make special mention of Professor Adam Lopatka of Poland, who served with distinction as Chairman of the working group established to draft the Convention.

Mr. Chairman, the United States also recognizes the valuable contribution made by many non-governmental organizations during the drafting process. The promotion of human rights standards inevitably creates a certain tension between what might be best in an ideal world and what governments are prepared to accept today. Although in the end it is governments that are bound to uphold human rights standards, the participation of non-governmental organizations in the drafting of these conventions—and in the United Nations generally—serves to push us to higher standards over and above our parochial interests. In addition, it prevents us from being content to settle for the lowest common denominator.

The Convention on the Rights of the Child grapples with many difficult issues and rests on several hard-fought compromises. A number of these compromises were necessitated by the differing cultural, legal, and religious views of the unique relationship between the rights of the child, the rights and responsibilities of parents, and the state's obligations of legal and moral protection. Other concessions were necessary on other matters. My government, like many others, is not completely satisfied with some of these compromises. But because we recognize the importance and desirability of adopting the Convention without further delay, we do not wish to reopen negotiation on any part of the text.

For the record, Mr. Chairman, I would like to make a brief statement of my government's views on several aspects of the Convention.

#### PROTECTION OF THE UNBORN

The United States fully supports the inclusion within the Preamble of the Convention language from the 1959 Declaration of the Rights of the Child confirming that "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth."

Birth is an event which happens to each of us. The most tender, formative 9 months prior to this great event will forecast the healthiness of the child after birth. One of the most positive protections for a healthy childhood—after life itself—is proper prenatal care.

We in the United States are just now fully recognizing the positive effects of basic maternal and prenatal care. This does not demand elaborate, expensive medical facilities; the basics cost little but are extremely effective. For instance, sound nutritional education and tetanus toxoid inoculation for mothers produce resounding positive effects. Neonatal tetanus is the single most important identifiable cause of infant mortality in the developing world. Mr. Chairman, this threat can be wiped out if the child inherits the benefits of his or her mother's tetanus inoculation.

The United States Agency for International Development has launched a new project for maternal and neonatal health and nutrition in developing countries. Com-

prehensive research and experience, domestically and internationally—through organizations such as the World Health Organization—have proven that proper prenatal and neonatal care spell the difference between a healthy or health-threatened mother, and between a strong or vulnerable child. Healthy babies, right from the start, will help provide brighter futures for all of our children, who represent our own future and our legacy for the next generation.

#### RELIGIOUS RIGHTS AND FREEDOM OF CONSCIENCE

My Government concurs fully and is pleased that the Convention reaffirms "the right of the child to freedom of thought, conscience and religion." The international community has long agreed that all people, including children, must be guaranteed religious rights. As early as 1948, when the General Assembly adopted the Universal Declaration of Human Rights (the one document which was deposited with the United Nations Charter in the cornerstone of this building), the General Assembly declared that "Everyone"—and I wish to emphasize the word everyone—"has the right to freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance" (Article 18).

Although parents or guardians must of course offer guidance and assist young children in the exercise of their right to freedom of conscience, we must recognize that this inherent and inalienable right of religious freedom is a precious right of each individual, including children. If possible, the United States would have wished for a stronger reaffirmation of this in the Convention.

In particular, Mr. Chairman, we would have liked to specify that children continue to have such supplementary rights as the freedom to have or to change a religion, the right to worship according to their beliefs alone or with others, and the right to teach, learn, and practice their religion in public and in private. The Universal Declaration on Human Rights and other international instruments include references to such supplementary rights, and the United States continues to believe that they apply to everyone, including children.

#### FUNDING

The United States firmly believes that the costs of the Committee on the Rights of the Child that will be established by the Convention should be borne exclusively by the States that ratify the Convention. In our view, Mr. Chairman, the Committee established by the Convention is not a United Nations body, but an instrument of the States Parties to the Convention. Only those States may nominate and elect members of the Committee; only those States submit reports to it. Moreover, the Convention will enter into force when only twenty States have ratified it. We believe that it would be inappropriate for the entire membership of the United Nations to bear the expenses of a body created to serve so small a number of States, at least initially.

In any event, United Nations financing is no guarantee of full financing for committees such as this one. In times of budgetary constraint, the Members of the United Nations can and very well may decide which functions the Committee will have to forgo. The United States believes that State-party financing is more likely to preserve the independence of the Committee on the Rights

of the Child for that financing method would give the Committee complete power to decide how to use its funds.

The current draft of the Convention on the Rights of the Child addresses many of the social concerns facing the children of the world. I would like to highlight a number of the key elements that the United States Government supports.

#### FAMILY REUNIFICATION

We are particularly concerned about the reunification of families, so that children and parents can live together. Families have been torn apart by wars, restrictive borders, and indiscriminate limits on emigration rights. This disruption in cohesive families is especially detrimental to the lives of children, who are generally the ones who suffer the most from forced separations. The Convention obligates the States parties to address reunification applications by children or their parents "in a positive, humane and expeditious manner." This is an easily obtainable goal, and governments should not have difficulty in doing this.

#### ABUSE AND NEGLECT

The prevention of physical and mental abuse against children demands constant vigilance, a moral and ethical consciousness throughout our society—from government agencies, to churches, synagogues and mosques, to local community awareness efforts, to neighbors and families. The scourge of child abuse—whether physical or sexual abuse, whether negligence, neglect, or other forms of exploitation—is all too prevalent throughout the world. Governments must be committed to providing legal and administrative protection to children, as well as supporting social and educational programs that help prevent this gross scourge which has infected many of our communities.

#### ADOPTION

With the strong and active encouragement of President Bush, the United States Government has promoted the adoption of children by loving and caring families. Through legal safeguards and constructive adopting agencies, governments can help ensure that eligible children or orphaned children enjoy the love and nurture of a family. As an example of how a government can promote adoption, President Bush is scheduled to sign into law a bill which will designate the last week of this month as "National Adoption Week" in the United States.

This initiative of the Congress and the President of the United States will help bring attention to the rewards of adoption, both for children and for parents. A specific commemorative week will help promote legal adoption, and it will call special attention to the needs of children with mental and physical handicaps who do not have a family to care for their special requirements. This brings to mind Article 23 of the Convention, which deals with disabled children.

#### DISABLED CHILDREN

The United States is keenly aware of the special needs of mentally or physically disabled children, and we fully support the Convention's call for a "full and decent life" for these children.

The world has come a long way from the days when the handicapped were locked away far from the support base of their family and the loving care of those who are able to help rehabilitate, train, and educate these children with special needs. Recogni-

tion of the rights of the handicapped has been slow. We hope that there will be a strong commitment to this particular goal in helping ensure that children with special needs receive proper guidance, so that they may "achieve the fullest possible social integration and individual development."

#### CONCLUSION

As I made clear at the outset, the United States is satisfied that the working group which drafted the Convention on the Rights of the Child made such progress and achieved consensus on all substantive issues. We sincerely hope that the General Assembly will adopt the Convention without a vote and without changing any of the text.

The United States does believe, however, that we must view the Convention in a sober, realistic light. It is not a perfect document, and its entry into force will not solve all problems and all threats for all children. Only by recognizing this can the international community work together to make the best possible use of the Convention. Necessary protection for our societies' vulnerable and helpless will ultimately have to be demanded by the moral commitment of men and women throughout the world, and will have to be guaranteed by Member States.

To borrow from the teachings recorded in the Book of Luke, "he who is the least among you all—he is the greatest." Our children are the greatest hope among our generation. They deserve our protection, our loving care, and the opportunity to achieve their best with their talents. The adoption of the Convention on the Rights of the Child will serve as a starting point—a launching pad—for improving the status and situation of all children of all nationalities, creeds, and social status. Thank you, Mr. Chairman.●

● Mr. LUGAR. Mr. President, I am pleased to join my colleague Senator BRADLEY today in introducing a resolution encouraging the administration to review and quickly forward to the Senate for ratification of the Convention on the Rights of the Child.

I share Senator BRADLEY's intense interest in ensuring the basic rights and freedoms for children the world over. Today, we underscore our belief that children are our most precious resource and deserving of the protections we as caring adults are committed to provide. That is why children have special protection in the United States. Our laws punish child abusers, regulate and oversee adoption and foster care, help parents provide for child care, assure collection of child support payments, and attempt to educate all our children. However, we are painfully aware that assurances are not provided or guaranteed universally. The purpose of this convention is to prod all countries to subscribe to higher standards of treatment and protection for children.

Throughout the world, children are subject not only to social and economic difficulties, but also to intentionally inflicted abuses of their most fundamental rights. In many countries, governments refuse to acknowledge any responsibility for their children and have abdicated responsibility for pre-

paring their future generations for the challenges ahead. In parts of the world, children work under appalling conditions, are bought and sold in illegal adoption schemes, and are used as cannon fodder in war. Around the world, nearly 40,000 children die of lack of immunization against preventable disease.

The U.N. Convention on the Rights of the Child is an international treaty guaranteeing children the fulfillment of their basic needs, protections, and freedoms. The Convention was unanimously endorsed by the United States and other members of the United Nations on November 20, 1989, after 10 years of study and debate. The Convention establishes minimum standards for measuring the way governments treat their children and includes many of the rights guaranteed under our Bill of Rights. Today, we encourage President Bush to take the next important step by embracing the convention and promptly seeing the advice and consent of the Senate on its ratification. Ratification will not incur any cost or appropriation by the United States. It would set high standards for all nations to agree to in the treatment of children and for all to judge compliance. Hopefully, it will help build a commitment by other nations to improve the lives of children and to give greater priority to their needs.

Senator BRADLEY and I intend to work closely to speed the progress of the ratification process. We have agreed to serve on an advisory council to urge adoption of this Convention. We believe that the United States has a special leadership role to play in ensuring that the most basic protections long afforded children in our country become a part of the lives of children worldwide. I encourage our colleagues to join us in this effort.●

#### NOTICES OF HEARINGS

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the Senate and the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony from the Department of Energy on its decision plan related to the opening of the waste isolation pilot plant in Carlsbad, NM. Testimony will also be received on any proposed legislation to withdraw the public lands surrounding the WIPP site.

The hearing, originally scheduled to take place on February 1, 1990, has been rescheduled. The hearing will now take place on Thursday, March 8, 1990, at 9:30 a.m., in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attn: M.L. Wagner.

For further information, please contact Mary Louise Wagner at (202) 224-7569.

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the Senate and the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony from the Department of Energy's implementation of the civilian nuclear waste program.

The hearing will take place on Thursday, February 22, 1990, at 9:30 a.m., in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Those wishing to submit written testimony for this hearing should send it to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please contact Mary Louise Wagner at (202) 224-7569.

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

##### SUBCOMMITTEE ON WATER AND POWER

Mr. BRADLEY. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources to receive testimony on S. 1554, the Truckee-Carson-Pyramid Lake Water Rights Settlement Act.

The hearing will take place on February 6, 1990, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the subcommittee, SD-364, Washington, DC 20510.

For further information, please contact Tom Jensen, counsel for the subcommittee at (202) 224-2366.

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on February 7, 1990, beginning at 2 p.m. The purpose of the hearing is to receive testimony on two major provisions of H.R. 987, the House-passed Tongass

reform legislation, which have not been directly addressed at previous subcommittee hearings. Specifically, the subcommittee will take testimony on those portions of H.R. 987, relating to fisheries protection and buffer zones (sec. 104(e)), and those provisions relating to the designation of additional wilderness areas on the Tongass National Forest (title III).

The hearing will be held in room SD-366 of the Senate Dirksen Office Building in Washington, DC. Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, SD-364, Washington, DC 20510.

For further information regarding the hearing, please contact Beth Norcross of the subcommittee staff at (202) 224-7933.

**SUBCOMMITTEE ON LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS**

Mr. HARKIN. Mr. President, I am pleased to advise the Senate that the Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies will hold its fiscal year 1991 public witness hearings on the following dates: March 20, 21, 22, 27, 28, and 29. The first day of hearings will include any testimony from Members of Congress.

The deadline for interested groups or individuals to submit their request to testify is Wednesday, February 14. All requests must be in writing and should be addressed to me in care of the Labor, Health and Human Services, Education, and Related Agencies Appropriations Subcommittee, Senate Dirksen 186, Washington, DC 20510.

Unfortunately, the subcommittee can no longer accept reservations for multiple slots made by Washington representatives but instead must have signed requests from the individual organizations.

It should be noted that again this year, because of time constraints, the number of public witnesses will be limited to 150. Therefore I urge interested parties to respond in a timely manner.

Those first 150 persons whose requests are received by February 14 will receive a letter providing instructions for their appearance before the subcommittee. Interested groups or individuals who are not among the first requests will be given the opportunity to have their written testimony published in the committee's hearing record.

The deadline for those who wish to submit statements for the hearing record will be Monday, April 9. Such statements must be no longer than

five double-spaced pages, and three copies should be sent to me in care of the subcommittee.

For those Senate offices which I believe may be interested, I ask unanimous consent that the regular hearing schedule for the subcommittee be printed in the RECORD.

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

**FISCAL YEAR 1991 HEARING SCHEDULE**

**SENATE APPROPRIATIONS SUBCOMMITTEE ON LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES**

*Friday, February 2, 10:00 a.m.-12 noon, SD-192*

Department of Education: Secretary of Education; Special Institutions.

*Friday, February 2, 1:30 p.m.-3:00 p.m., SD-192*

Assistant Secretaries; Inspector General.

*Tuesday, February 6, 10:00 a.m.-12 noon, SD-138*

Department of Labor: Secretary of Labor; Inspector General.

*Wednesday, February 7, 10:00 a.m.-12:15 p.m., SD-192*

Department of HHS: Secretary—Overview, Office of Civil Rights, Policy Research; Family Support Administration; Human Development Services; Inspector General.

*Wednesday, February 7, 1:15 p.m.-3:00 p.m., SD-192*

Social Security Administration; Health Care Financing Administration.

*Friday, February 9, 10:00 a.m.-12 noon, SD-192*

Office of the Assistant Secretary for Health; Office of Health Care Policy and Research; Centers for Disease Control; Alcohol Drug Abuse and Mental Health Administration; Health Resources and Services Administration.

*Tuesday, February 20, 10:00 a.m.-12:30 p.m., SD-138*

National Institutes of Health: Overview (includes Office of Director and Buildings & Facilities); National Cancer Institute; Heart, Lung and Blood Institute; National Dental Institute; Diabetes, Digestive, and Kidney; Allergy & Infectious Diseases; Child Health & Human Development; Environmental Health.

*Tuesday, February 20, 1:30-4:00 p.m., SD-138*

National Institutes of Health: Neurology Institute; Deafness Institute; General Medical Sciences; National Eye Institute; National Institute on Aging; Arthritis Musculoskeletal & Skin; Division of Research Resources; Nursing Research; Human Genome; National Library of Medicine.

*Wednesday, February 28, 10:00 a.m.-12:30 p.m., SD-192*

Related Agencies: ACTION; National Council on Disability; Federal Mediation and Conciliation Service; National Mediation Board; Railroad Retirement Board; Federal Mine Safety and Health Review Commission; National Labor Relations Board; Occupational Safety and Health Review Commission.

*Wednesday, February 28, 1:30-3:30 p.m., SD-192*

Related Agencies: Physician Payment Review Commission; Corporation for Public Broadcasting; National Commission on Libraries; U.S. Institute of Peace; National

Commission on AIDS; Prospective Payment Assessment Commission; National Commission to Prevent Infant Mortality; Soldiers' and Airmen's Home.

**PUBLIC WITNESSES**

*Tuesday, March 20, 9:30 a.m.-12 noon, SD-138*

*Wednesday, March 21, 9:30 a.m.-12 noon, SD-192*

*Thursday, March 22, 9:30 a.m.-12 noon, SD-138*

*Tuesday, March 27, 9:30 a.m.-12 noon, SD-138*

*Wednesday, March 28, 9:30 a.m.-12 noon, SD-192*

*Thursday, March 29, 9:30 a.m.-12 noon, SD-116*

**ADDITIONAL STATEMENTS**

**RULES OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES**

• Mr. JOHNSTON. Mr. President, in accordance with the standing rule XXVI(2), I submit the rules of the Committee on Energy and Natural Resources for publication in the CONGRESSIONAL RECORD.

The rules of the Committee on Energy and Natural Resources follow:

**RULES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES**

**GENERAL RULES**

Rule 1. The Standing Rules of the Senate as supplemented by these rules, are adopted as the rules of the Committee and its Subcommittees.

**MEETINGS OF THE COMMITTEE**

Rule 2. (a) The Committee shall meet on the third Wednesday of each month while the Congress is in session for the purpose of conducting business, unless, for the convenience of Members, the Chairman shall set some other day for meeting. Additional meetings may be called by the Chairman as he may deem necessary.

(b) Business meetings of any Subcommittee may be called by the Chairman of such Subcommittee, Provided, That no Subcommittee meeting or hearing other than a field hearing, shall be scheduled or held concurrently with a full Committee meeting or hearing, unless a majority of the Committee concurs in such concurrent meeting or hearing.

**OPEN HEARINGS AND MEETINGS**

Rule 3. (a) Hearings and business meetings of the Committee or any Subcommittee shall be open to the public except when the Committee or such Subcommittee by majority vote orders a closed hearing or meeting.

(b) A transcript shall be kept of each business meeting of the Committee or any Subcommittee unless a majority of the Committee or the Subcommittee involved agrees that some other form of permanent record is preferable.

**HEARING PROCEDURE**

Rule 4. (a) Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee or any Subcommittee at least one week in advance of such hearing unless the Chairman of the full Committee or the Subcommittee involved determines that the hearing is non-controversial or that special circumstances

require expedited procedures and a majority of the Committee or the Subcommittee involved concurs. In no case shall a hearing be conducted with less than twenty-four hours notice.

(b) Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee or Subcommittee, at least 24 hours in advance of the hearing, a written statement of his or her testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

(c) Each member shall be limited to five minutes in the questioning of any witness until such time as all Members who so desire have had an opportunity to question the witness.

(d) The Chairman and ranking Minority Member or the ranking Majority and Minority Members present at the hearing may each appoint one Committee staff member to question each witness. Such staff member may question the witness only after all Members present have completed their questioning of the witness or at such other time as the Chairman and ranking Majority and Minority Members present may agree.

#### BUSINESS MEETING AGENDA

Rule 5. (a) A legislative measure or subject shall be included on the agenda of the next following business meeting of the full Committee or any Subcommittee if a written request for such inclusion has been filed with the Chairman of the Committee or Subcommittee at least one week prior to such meeting. Nothing in this rule shall be construed to limit the authority of the Chairman of the Committee or Subcommittee to include legislative measures or subjects on Committee or Subcommittee agenda in the absence of such a request.

(b) The agenda for any business meeting of the Committee or any Subcommittee shall be provided to each Member and made available to the public at least three days prior to such meeting, and no new items may be added after the agenda is so published except by the approval of a majority of the Members of the Committee or Subcommittee. The Staff Director shall promptly notify absent Members of any action taken by the Committee or any Subcommittee on matters not included on the published agenda.

#### QUORUMS

Rule 6. (a) Except as provided in subsections (b), (c), and (d), seven Members shall constitute a quorum for the conduct of business of the Committee.

(b) No measure or matters shall be ordered reported from the Committee unless ten Members of the Committee are actually present at the time such action is taken.

(c) Except as provided in subsection (d), one-third of the Subcommittee Members shall constitute a quorum for the conduct of business of any Subcommittee.

(d) One Member shall constitute a quorum for the purpose of conducting a hearing or taking testimony on any measure or matter before the Committee or any Subcommittee.

#### VOTING

Rule 7. (a) A rollcall of the Members shall be taken upon the request on any Member. Any Member who does not vote on any rollcall at the time the roll is called, may vote (in person or by proxy) on that rollcall at any later time during the same business meeting.

(b) Proxy voting shall be permitted on all matters, except that proxies may not be counted for the purpose of determining the

presence of a quorum. Unless further limited, a proxy shall be exercised only upon the date for which it is given and upon the items published in the agenda for that date.

(c) Each Committee report shall set forth the vote on the motion to report the measure or matter involved. Unless the Committee directs otherwise, the report will not set out any votes on amendments offered during Committee consideration. Any Member who did not vote on any rollcall shall have the opportunity to have his position recorded in the appropriate Committee record or Committee report.

(d) The Committee vote to report a measure to the Senate shall also authorize the staff of the Committee to make necessary technical and clerical corrections in the measure.

#### SUBCOMMITTEES

Rule 8. (a) The number of Members assigned to each Subcommittee and the division between Majority and Minority Members shall be fixed by the Chairman in consultation with the ranking Minority Member.

(b) Assignment of Members to Subcommittees shall, insofar as possible, reflect the preferences of the Members. No Member will receive assignment to a second Subcommittee until, in order of seniority, all Members of the Committee have chosen assignments to one Subcommittee, and no Member shall receive assignment to a third Subcommittee until, in order of seniority, all Members have chosen assignments to two Subcommittees.

(c) Any Member of the Committee may sit with any Subcommittee during its hearings and business meetings but shall not have the authority to vote on any matters before the Subcommittee unless he is a Member of such Subcommittee.

#### SWORN TESTIMONY AND FINANCIAL STATEMENTS

Rule 9. Witnesses in Committee or Subcommittee hearings may be required to give testimony under oath whenever the Chairman or ranking Minority Member of the Committee or Subcommittee deems such to be necessary. At any hearing to confirm a Presidential nomination, the testimony of the nominee and at the request of any Member, any other witness shall be under oath. Every nominee shall submit a statement of his financial interests, including those of his spouse, his minor children, and other members of his immediate household, on a form approved by the Committee, which shall be sworn to by the nominee as to its completeness and accuracy. A statement of every nominee's financial interest shall be made public on a form approved by the Committee, unless the Committee in executive session determines that special circumstances require a full or partial exception to this rule. Members of the Committee are urged to make public a statement of their financial interests in the form required in the case of Presidential nominees under this rule.

#### CONFIDENTIAL TESTIMONY

Rule 10. No confidential testimony taken by or confidential material presented to the Committee or any Subcommittee, or any report of the proceedings of a closed Committee or Subcommittee hearing or business meeting, shall be made public, in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee at a business meeting called for the purpose of making such a determination.

#### DEFAMATORY STATEMENTS

Rule 11. Any person whose name is mentioned or who is specifically identified in, or who believes that testimony or other evidence presented at, an open Committee or Subcommittee hearing tends to defame him or otherwise adversely affect his reputation may file with the Committee for its consideration and action a sworn statement of facts relevant to such testimony or evidence.

#### BROADCASTING OF HEARINGS OR MEETINGS

Rule 12. Any meeting or hearing by the Committee or any Subcommittee which is open to the public may be covered in whole or in part by television broadcast, radio broadcast, or still photography. Photographers and reporters using mechanical recording, filming, or broadcasting devices shall position their equipment so as not to interfere with the seating, vision, and hearing of Members and staff on the dais or with the orderly process of the meeting or hearing.

#### AMENDING THE RULES

Rule 13. These rules may be amended only by vote of a majority of all the Members of the Committee in a business meeting of the Committee: Provided, That no vote may be taken on any proposed amendment unless such amendment is reproduced in full in the Committee agenda for such meeting at least three days in advance of such meeting.

#### FULL COMMITTEE ISSUES

Jurisdiction of the Full Committee includes oversight and legislative responsibilities for strategic petroleum reserves; intergovernmental relations; Outer Continental Shelf leasing; investigation and oversight; international energy affairs; global climate change; natural gas pricing and regulation; utility policy; nuclear waste and insurance programs; territorial affairs including Commonwealths; Free Associated States; and Antarctica. (In addition, other issues are retained in the Full Committee on an ad hoc basis. Generally, these are issues which (1) require extremely expeditious handling or (2) substantially overlap two or more subcommittee jurisdictions, or (3) are of exceptional national significance in which all Members wish to participate fully.)

#### MEMBERSHIP AND JURISDICTION OF SUBCOMMITTEES

##### SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Howard M. Metzenbaum, *Chairman*

Bill Bradley

Jeff Bingaman

Timothy E. Wirth

Don Nickles

Frank H. Murkowski

Pete V. Domenici

J. Bennett Johnston and James A. McClure are Ex Officio Members of the Subcommittee

Jurisdiction of the Subcommittee includes oversight and legislative responsibilities for Federal energy conservation programs; energy information; commercialization of new technologies (e.g., wind, solar, ocean thermal energy conversion); liquefied natural gas projects; oil and gas pipelines and pipeline regulation including regulation of Alaska Natural Gas Transportation System, Trans-Alaska Pipeline System, and other oil or gas pipeline transportation systems within Alaska (e.g., the Trans-Alaska Gas line system); regulatory functions of ERA; refinery policy; gasoline rationing; emergency preparedness; petroleum allocation; and coal conversion.

NOTE.—Italic denotes Republican Members.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Wendell H. Ford, *Chairman*  
John D. Rockefeller IV, *Vice Chairman*  
Dale Bumpers  
Howard M. Metzenbaum  
Timothy E. Wirth  
Howell T. Heflin  
*Pete V. Domenici*  
*Mitch McConnell*  
*Don Nickles*  
*Conrad Burns*  
*Jake Garn*

J. Bennett Johnston and *James A. McClure* are Ex Officio Members of the Subcommittee

Jurisdiction of the Subcommittee includes oversight and legislative responsibilities for nuclear R&D; coal and synfuels R&D; nuclear and nonnuclear energy commercialization projects; nuclear fuel cycle policy, including uranium resources; new technologies R&D (e.g., conservation, solar, OTEC, and MHD); nuclear facilities siting; and breeder reactor development.

NOTE.—Italic denotes Republican Members.

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

Jeff Bingaman, *Chairman*  
Howell T. Heflin, *Vice Chairman*  
Dale Bumpers  
Wendell H. Ford  
Kent Conrad  
*Frank H. Murkowski*  
*Mitch McConnell*  
*Malcolm Wallop*  
*Don Nickles*

J. Bennett Johnston and *James A. McClure* are Ex Officio Members of the Subcommittee

Jurisdiction of the Subcommittee includes oversight and legislative responsibilities for energy and nonfuel mineral resources; Federal mineral leasing; national mining and minerals policy and general mining laws; surface mining, reclamation and enforcement; coal production, distribution and utilization; oil and gas production and distribution; mining education and research; minerals exploration development and production from public and acquired lands; mineral conservation; royalty management; coal severance tax, Naval Petroleum and Oil Shale Reserves; deep water ports; and deep seabed mining.

NOTE.—Italic denotes Republican Members.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Dale Bumpers, *Chairman*  
Timothy E. Wirth, *Vice Chairman*  
Bill Bradley  
Jeff Bingaman  
Kent Conrad  
John D. Rockefeller IV  
*Malcolm Wallop*  
*Mark O. Hatfield*  
*Conrad Burns*  
*Jake Garn*  
*Pete V. Domenici*

J. Bennett Johnston and *James A. McClure* are Ex Officio Members of the Subcommittee

Jurisdiction of the Subcommittee includes oversight and legislative responsibilities for the public lands administered by the Bureau of Land Management; National Forest System; National Park System; Na-

tional Wilderness Preservation System; Wild and Scenic Rivers System; National Trails System; establishment of wildlife refuges on public lands; Alaska Native Claims Settlement Act; Alaska National Interest Lands Conservation Act; reserved water rights; military land withdrawals; national recreation areas; national monuments; historic sites; military parks and battlefields; Land and Water Conservation Fund; historic preservation; renewable resources; outdoor recreation resources; and on the public domain, preservation of prehistoric ruins and objects of interest.

NOTE.—Italic denotes Republican Members.

SUBCOMMITTEE ON WATER AND POWER

Bill Bradley, *Chairman*  
Kent Conrad, *Vice Chairman*  
Wendell H. Ford  
Howard M. Metzenbaum  
Howell T. Heflin  
*Conrad Burns*  
*Mark O. Hatfield*,  
*Jake Garn*  
*Malcolm Wallop*

J. Bennett Johnston and *James A. McClure* are Ex Officio Members of the Subcommittee

Jurisdiction of the Subcommittee includes oversight and legislative responsibilities for irrigation; reclamation projects; including related flood control purposes; power marketing administration (e.g., Bonneville Power, Alaska Power, Southwestern Power, Western Area Power, Southeastern Power); energy development impacts on water resources; groundwater resources and management; small power producers; hydroelectric power; low head hydro.

NOTE.—Italic denotes Republican Members.●

RETIREMENT OF DELZA MARTIN

● Mr. WILSON. Mr. President, it is with enormous admiration for her life-long dedication to the Old Globe Theatre in San Diego, CA, that I join with her community in saluting Delza Martin on the occasion of her retirement from the Old Globe's board of directors.

Delza has been at the heart and soul of the Old Globe Theatre, as instigator and visionary leader of its growth and global distinction, as a guiding light toward its excellence, and as guardian of a most important part of San Diego's cultural fabric.

The title given her by an appreciative community as president emeritus of the Old Globe Theatre is eloquent testimony to the extraordinary contributions she has made to this theater since its inception as the San Diego Community Theater in 1937 both as an actress and as one who has defined the structure and essence of this theater. She has seen the Old Globe through its good times, and in a time when courage and fortitude were required to rebuild it from the ashes of a destructive fire.

In writing many pages of San Diego history in the course of her association with the Old Globe, Delza has given her community, and its treasured theater, an uncommon legacy of

service. I am proud to honor her in this Chamber of the U.S. Senate as she closes this productive chapter and I join with her fellow San Diegans in congratulating her and in wishing her every future happiness.●

SEVENTIETH ANNIVERSARY OF THE BUTLER INSTITUTE OF AMERICAN ART

● Mr. METZENBAUM. Mr. President, October 19, 1989, marked the 70th anniversary of the Butler Institute of American Art, located in Youngstown, OH. A pioneer among American art museums and the first museum in the United States founded for the care and collection of American art, the Butler Institute serves as a cultural center of the northeastern Ohio and western Pennsylvania region. The permanent collection of the Butler Institute includes the works of such noted artists as Benjamin West, John Singleton Copley, Winslow Homer, Thomas Eakins, Martin Johnson Heade, Mary Cassatt, Albert Bierstadt, Frederick Remington, Fitzhugh Lane, Edward Hopper, Raphael Soyer, Jack Levine, Joan Mitchell, Philip Pearlstein, Helen Frankenthaler, and Andy Warhol.

In celebration of its 70th anniversary, the Butler Institute is hosting a premier exhibition of major drawings and prints of the world-renowned American artist Jasper Johns from the collection of the distinguished New York gallery owner Leo Castelli. Mr. Johns, an artist who personifies the true greatness of American postwar art, has been a major influence on the direction of contemporary American art for 30 years. Mr. Castelli, founder of the Leo Castelli Gallery, the premier gallery of contemporary American art in the world, has promoted excellence among American contemporary painters and sculptors and has made a unique and lasting contribution to the visual arts culture of the United States.

The historic Butler Institute of American Art continues to offer free admission to all in keeping with the wishes of the museum's founder, industrialist Joseph G. Butler, Jr. With its 18 art-filled galleries containing numerous artistic treasures, the Butler Institute has been called America's Museum.

Mr. President, it is with great pleasure that I take this opportunity to extend my congratulations to Dr. Louis A. Zona and the board of trustees of the Butler Institute on the occasion of the museum's 70th anniversary.●

**NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION**

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by the foreign government or organization.

The select committee has received a request for a determination under rule 35 for Mr. Karl Hausker, economist for the Committee on Energy and Natural Resources, to participate in a program in Venezuela, sponsored by the Petroleos de Venezuela, from November 25 to 30, 1989.

The committee has determined that participation by Mr. Hausker in the program in Venezuela, at the expense of the Petroleos de Venezuela, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Ms. Mary K. Wakefield, a member for the staff of Senator Burdick, to participate in a program in Taiwan, sponsored by the Soochow University, from November 29 to December 5, 1989.

The committee has determined that participation by Ms. Wakefield in the program in Taiwan, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. James T. Bruce, senior counsel for the Committee on Energy, to participate in a program in Venezuela, sponsored by the Petroleos de Venezuela, from November 25 to 30, 1989.

The committee has determined that participation by Mr. Bruce in the program in Venezuela, at the expense of the Petroleos de Venezuela, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Ms. Laura Hudson, a member of the staff of Senator JOHNSTON, to participate in a program in Austria, sponsored by the Austrian Federal Economic Chamber, from February 9 to 24, 1989.

The committee has determined that participation by Ms. Hudson in the program in Austria, at the expense of the Austrian Federal Economic Chamber, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. C. Richard D'Amato, a member of the staff of Senator BYRD, to participate in a program in France, sponsored by the Center of Analysis and the Future, in cooperation with the Association for the Reception of Foreign Personalities of the French Foreign Ministry, from December 4 to 23, 1989.

The committee has determined that participation by Mr. D'Amato in the program in France, at the expense of the Center of Analysis and the Future, in cooperation with the Association for the Reception of Foreign Personalities of the French Foreign Ministry, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Alfred Cumming, a member of the staff of Senator GRAHAM, to participate in a program in Venezuela, sponsored by the Petroleos de Venezuela, from November 25 to 30, 1989.

The committee has determined that participation by Mr. Cumming in the program in Venezuela, at the expense of the Petroleos de Venezuela, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Ms. Denise Greenlaw Ramonas, a member of the staff of Senator DOMENICI, to participate in a program in Turkey, sponsored by the Foreign Policy Institute, from December 8 to 17, 1989.

The committee has determined that participation by Ms. Ramonas in the program in Turkey, at the expense of the Foreign Policy Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Mitchell Bainwol, the administrative assistant to Senator MACK, to participate in a program in Taiwan, sponsored by the Soochow University, from November 29 to December 5, 1989.

The committee has determined that participation by Mr. Bainwol in the program in Taiwan, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Brent Franzel, a member of the staff of Senator BOND, to participate in a program in Turkey, sponsored by the Foreign Policy Institute, from December 8 to 17, 1989.

The committee has determined that participation by Mr. Franzel, in the program in Turkey, at the expense of the Foreign Policy Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Dr. Harry G. Broadman, chief economist of the Committee on Governmental Affairs, to participate in a program in Korea, sponsored by the Korean Development Institute, from December 8 to 17, 1989.

The committee has determined that participation by Dr. Broadman in the program in Korea, at the expense of the Korean Development Institute is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Anthony H. Cordesman, a member of the staff of Senator McCAIN, to participate in a program in Zurich, sponsored by the Center for Security Studies and Conflict Research, from January 12 to 14, 1990.

The committee has determined that participation by Mr. Cordesman in the program in Zurich, at the expense of the Center for Security Studies and Conflict Research, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Anthony H. Cordesman, a member of the staff of Senator McCAIN, to participate in a program in Geneva, sponsored by the Graduate Institute of International Studies at the University of Geneva, from December 19 to 21, 1989.

The committee has determined that participation by Mr. Cordesman in the program in Geneva, at the expense of the Graduate Institute of International Studies at the University of Geneva, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Dan Rich, a member of the staff of Senator CRANSTON, to participate in a program in the People's Republic of China, sponsored by the Chinese People's Institute for Foreign Affairs, from December 7-21, 1989.

The committee has determined that participation by Mr. Rich in the program in the People's Republic of China, at the expense of the Chinese People's Institute for Foreign Affairs, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. William Conway, a member of the staff of Senator JOHNSTON, to participate in a program in Austria, sponsored by the Austrian-American Friendship Program, from January 6-20, 1990.

The committee has determined that participation by Mr. Conway in the program in Austria, at the expense of the Austrian-American Friendship Program, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Rob Soofer, a member of the staff of Senator GORTON, to participate in a program in the People's Republic of China, sponsored by the Tamkang University, from January 11-19, 1990.

The committee has determined that participation by Mr. Soofer in the program in the People's Republic of China, at the expense of the Tamkang University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Andrew Samet, a member of the staff of Senator MOYNIHAN, to participate in a program in Malaysia, sponsored by the U.S.-Asia Institute, from January 3-16, 1990.

The committee has determined that participation by Mr. Andrew Samet in the program in Malaysia, at the expense of the U.S.-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Brian McKeon, a member of the staff of Senator BIDEN, to participate in a program in South Korea, sponsored by the A-san Foundation, from January 6-13, 1990.

The committee has determined that participation by Mr. McKeon in the program in South Korea, at the expense of the A-san Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Ms. Sarah Sewall, a member of the staff of Senator MITCHELL, to participate in a program in the People's Republic of China, sponsored by the U.S.-Asia Institute, from December 7-21, 1989.

The committee has determined that participation by Ms. Sewall in the program in the People's Republic of China, at the expense of the U.S.-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Saul Singer, a member of the staff of Senator MACK, to participate in a program in Ankara, Turkey, sponsored by the Foreign Policy Institute, from December 8-17, 1989.

The committee has determined that participation by Mr. Singer in the program in Ankara, Turkey, at the expense of the Foreign Policy Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Ms. Sharon Soderstrom, a member of the staff of Senator COATS, to participate in a program in Taiwan, sponsored by the Chinese Cultural University, from December 10-18, 1989.

The committee has determined that participation by Ms. Soderstrom in the program in Taiwan, at the expense of the Chinese Cultural University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Michael Hoon, a member of the staff of Senator WALLACE, to participate in a program in the People's Republic of China, sponsored by the Chinese Cultural University, from December 11-18, 1989.

The committee has determined that participation by Mr. Hoon in the program in the People's Republic of China, at the expense of the Chinese Cultural University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Richard J. Tarplin, a member of the staff of Senator DODD, to participate in a program in Taiwan and the People's Republic of China, sponsored by the Chinese Cultural University, from December 9-18, 1989.

The committee has determined that participation by Mr. Tarplin in the program in Taiwan and the People's Republic of China, at the expense of the Chinese Cultural University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Ms. Marjorie Chorlins, a member of the staff of Senator DANFORTH, to participate in a program in Korea, sponsored by the Korea Development Institute, from December 8-17, 1989.

The committee has determined that participation by Ms. Chorlins in the program in Korea, at the expense of the Korea Development Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Ms. Kathleen Harrington, a member of the staff of Senator DODD, to participate in a program in the People's Republic of China, sponsored by the Chinese People's Institute of Foreign Affairs in conjunction with the U.S.-Asia Institute, from December 7-22, 1989.

The committee has determined that participation by Ms. Harrington in the program in the People's Republic of China, at the expense of the Chinese People's Institute of Foreign Affairs in conjunction with the U.S.-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Bill Johnstone, a member of the staff of Senator FOWLER, to participate in a program in Kuala Lumpur, Malaysia, sponsored by the Institute of Strategic and International Studies of Malaysia in conjunction

with the U.S.-Asia Institute, from January 3 to 16, 1990.

The committee has determined that participation by Mr. Johnstone in the program in Kuala Lumpur, Malaysia, at the expense of the Institute of Strategic and International Studies of Malaysia in conjunction with the U.S.-Asia Institute, from January 3 to 16, 1990, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. John Moseman, a member of the staff of Senator MURKOWSKI, to participate in a program in Oman and the United Arab Emirates, sponsored by the National Council on U.S.-Arab Relations, from January 13 to 21, 1990.

The committee has determined that participation by Mr. Moseman in the program in Oman and the United Arab Emirates, at the expense of the National Council on U.S.-Arab Relations, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Mark Seetin, a member of the staff of Senator BOSCHWIRZ, to participate in a program in Malaysia, sponsored by the U.S.-Asia Institute, from January 3 to 16, 1990.

The committee has determined that participation by Mr. Seetin in the program in Malaysia, at the expense of the U.S.-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Brett O'Brien, a member of the staff of Senator MITCHELL, to participate in a program in Malaysia, sponsored by the U.S.-Asia Institute, from January 3 to 16, 1990.

The committee has determined that participation by Mr. O'Brien in the program in Malaysia, at the expense of the U.S.-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Riemenschneider, a member of the staff of Senator LEAHY, to participate in a program in Australia, sponsored by the Australian Special Visits Program, from January 9 to 20, 1990.

The committee has determined that participation by Mr. Riemenschneider in the program in Australia, at the expense of the Australian Special Visits Program, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Ms. Michelle Maynard, a member of the staff of the Committee on Foreign Relations, to participate in a program in Taiwan, sponsored by

the Taiwan Culture University, from January 8 to 15, 1990.

The committee has determined that participation by Ms. Maynard in the program in Taiwan, at the expense of the Taiwan Culture University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Cesar Conda, a member of the staff of Senator KASTEN, to participate in a program in South Korea, sponsored by the A-san Foundation, from January 6 to 13, 1990.

The committee has determined that participation by Mr. Conda in the program in South Korea, at the expense of the A-san Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Robert Vastine, a member of the staff of Senator CHAFEE, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs and the Far East Studies Institute, from February 11-17, 1990.

The committee has determined that participation by Mr. Vastine in the program in China, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Ms. Patricia Davis-Watters, a member of the staff of Senator BREAX, to participate in a program in Taiwan, sponsored by the Chinese Culture University, from January 7-15, 1990.

The committee has determined that participation by Ms. Watters in the program in Taiwan, at the expense of the Chinese Culture University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Ms. Barbara Larkin, a member of the staff of Senator SANFORD, to participate in a program in Malaysia, sponsored by the Institute of Strategic and International Studies of Malaysia, from January 3-16, 1990.

The committee has determined that participation by Ms. Larkin in the program in Malaysia, at the expense of the Institute of Strategic and International Studies of Malaysia, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Jim Fitzhenry, a member of the staff of Senator HATFIELD, to participate in a program in Malaysia, sponsored by the Institute of Strategic and International Studies of Maiaysia, from January 3-16, 1990.

The committee has determined that participation by Mr. Fitzhenry in the

program in Malaysia, at the expense of the Institute of Strategic and International Studies of Malaysia, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. John Deeken, a member of the staff of Senator BOREN, to participate in a program in Malaysia, sponsored by the Institute of Strategic and International Studies of Malaysia, from January 3-16, 1990.

The committee has determined that participation by Mr. Deeken in the program in Malaysia, at the expense of the Institute of Strategic and International Studies of Malaysia, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Ed Quick, a member of the staff of Senator PRYOR, to participate in a program in South Korea, sponsored by the A-san Foundation, from January 6-13, 1990.

The committee has determined that participation by Mr. Quick in the program in South Korea, at the expense of the A-san Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Ms. Gwendolyn van Paasschen, a member of the staff of Senator McCART, to participate in a program in Taiwan, sponsored by the Soochow University, from January 6-14, 1990.

The Committee has determined that participation by Ms. Paasschen in the program in Taiwan, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Ms. Sherman, a member of the staff of Senator SIMPSON, to participate in a program in Taiwan, sponsored by the Soochow University, from January 5-14, 1990.

The committee has determined that participation by Ms. Sherman in the program in Taiwan, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Rolf Lundberg, a member of the staff of Senator PACKWOOD, to participate in a program in Taiwan, sponsored by the Soochow University, from January 6-14, 1990.

The committee has determined that participation by Mr. Lundberg in the program in Taiwan, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Eric Thoemmes, a member

of the staff of Senator COATS, to participate in a program in Taiwan, sponsored by the Tamkang University, from January 11-19, 1990.

The committee has determined that participation by Mr. Thoemmes in the program in Taiwan, at the expense of the Tamkang University, is in the interest of the Senate and the United States.●

#### PROJECT GOOD TURN: KEEPING MONTANA CLEAN

• Mr. BAUCUS. Mr. President, I want to take just a moment today to recognize an example of the Montana spirit of voluntarism.

Under the sponsorship of the Montana Council of the Boy Scouts of America, an organization known as Project Good Turn has mobilized to clean up over 5,000 tons of trash from Montana's highways and public lands. Though it involves over 1,500 concerned Montanans, this remarkable effort does not cost the American taxpayer a single dime.

Mr. President, I salute the hundreds of Montanans involved in Project Good Turn. I ask that a description of the accomplishments of Project Good Turn be printed in the RECORD.

The summary follows:

#### SUMMARY OF PROJECT "GOOD TURN"

On April 23, 1988 approximately 15,000 participants including boy scouts and their leaders along with numerous civic organizations throughout the state of Montana scoured the highways, parks, campgrounds, and other public areas to rid our environment of the large amount of litter being dumped onto our public lands. This clean up campaign known as Project "Good Turn" led to the ultimate removal and disposal of approximately 2,000 tons of trash in only a 3-hour period.

Project "Good Turn" is an outgrowth of the original clean up birthed in 1985 called Project "93" which was designed to clean up a 500-mile span of Highway 93 and involved 1,100 scouts. Since the first project was completed, the clean up has grown to include cleaning highways, parks, campgrounds and many other public areas throughout the entire state and has brought an untold number of civic organizations to help the boys with this tremendous project. During the 5 years of its existence, Project "Good Turn" has removed approximately 5,000 tons of trash from our public lands. The service project has raised public interest in the condition of our land and has enhanced the beauty of Montana, promoted recycling, and has given the young boys a new pride in their State. Since youth are our future, we hope to implant in them an attitude of stewardship and responsibility for the natural resources in America.

We have received significant support from the Governor's office, the Montana State Highway Patrol, the Montana Sheriff's and Peace Officer's Association, the state Amateur Radio Club, the Montana State Department of Highways, and many other organizations who helped support the project in various capacities.

The project has been extremely successful since its conception, we have been chosen

the winner in the "Take Pride in America" campaign for 3 consecutive years and we just recently received a call from the awards committee to offer their special congratulation on the fact that Project "Good Turn" is 1 of only 4 groups nationwide who have been national winners 3 times in a row since the awards program began in 1984.●

#### UKRAINIAN INDEPENDENCE DAY

• Mr. D'AMATO. Mr. President, I rise today to ask that the following proclamation be printed in its entirety in the CONGRESSIONAL RECORD.

I believe that the Ukrainians should celebrate their day of Independence. I urge my colleagues to recognize the efforts of all Ukrainians.

The proclamation follows:

##### CITY OF BUFFALO—PROCLAMATION

Whereas, the past has brought to some parts of Central Eastern Europe long awaited changes, and where we are witnessing the opening of the Berlin Wall together with positive changes in Poland, Hungary and elsewhere; and

Whereas, there monumental events vividly demonstrated the total bankruptcy of the Communist system and electrified the free world, heightening the hopes and aspirations of the Captive Nations within the Soviet Union; and

Whereas, freedom and independence for each nation has been guaranteed by numerous international treaties, covenants and agreements, with all participating signatories pledging these rights; and

Whereas, notwithstanding these binding treaties and guarantees, only the massive outrage of the populace can undo Russian Communist oppression; and

Whereas, the Ukrainian people have solemnly declared in 1918, and reaffirmed in 1919, their determined will to lead an independent sovereign existence and have repeatedly and amply demonstrated their resolve of attainment of same; and

Whereas, there are signs that Mikhail Gorbachev is maintaining a different stance vis-a-vis Ukraine, the Baltic States, Georgia, Azerbaijan and others, and the fate of these once free nations hangs in limbo; and

Whereas, these enslaved nations form a powerful third force in the world and this force is closely bound to our moral and political convictions as an unbreakable bond declaring that freedom is indivisible and birthright to all,

Now, therefore, I, James D. Griffin, Mayor of the City of Buffalo, do hereby proclaim Monday, January 22, 1990, as "Ukrainian Independence Day" in the City of Buffalo, and urge all our citizens to give renewed devotion to the just aspirations of the people of Ukraine who seek to regain national independence and individual liberty.●

#### RULES OF THE SELECT COMMITTEE ON ETHICS

• Mr. HEFLIN. Mr. President, Senator RUDMAN joins me to ask that, in accordance with rule XXVI of the Standing Rules of the Senate, the Rules of Procedure of the Select Committee on Ethics, which were adopted February 23, 1978, and amended on December 21, 1989, be printed in the first publication of the CONGRESSIONAL

RECORD for the 2d session of the 101st Congress, and we ask that the rules be so published.

The amendments adopted by the committee on December 21, 1989, included changes which allow a reduced quorum to take testimony except during an adjudicatory hearing, and which clarify the authority provided for subpoenas and depositions. [See, rule 1(d)(3), rule 3(c)(2), rule 4(b)(2), and rule 7.]

The material follows:

##### SELECT COMMITTEE ON ETHICS JURISDICTION AND AUTHORITY

*S. Res. 338, 88th Cong., 2d Sess. (1964).<sup>1</sup>*

*Resolved*, That (a) there is hereby established a permanent select committee of the Senate to be known as the Select Committee on Ethics (referred to hereinafter as the "Select Committee") consisting of six Members of the Senate, of whom three shall be selected from members of the majority party and three shall be selected from members of the minority party. Members thereof shall be appointed by the Senate in accordance with the provisions of Paragraph 1 of Rule XXIV of the standing rules for the Senate at the beginning of each Congress. For purposes of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member or chairman of the Select Committee shall not be taken into account.

(b) Vacancies in the membership of the Select Committee shall not affect the authority of the remaining members to execute the functions of the committee, and shall be filled in the same manner as original appointments thereto are made.

(c)(1) A majority of the Members of the Select Committee shall constitute a quorum for the transaction of business involving complaints and allegations of misconduct, including the consideration of matters involving sworn complaints, unsworn allegations or information, resultant preliminary inquiries, initial reviews, investigations, hearings, recommendations or reports and matters relating to Senate Resolution 400, agreed to May 19, 1976.

(2) Three Members shall constitute a quorum for the transaction of routine business of the Select Committee not covered by the first paragraph of this subparagraph, including requests for opinions and interpretations concerning the Code of Official Conduct or any other statute or regulation under the jurisdiction of the Select Committee, if one Member of the quorum is a Member of the Majority Party and one Member of the quorum is a Member of the Minority Party. During the transaction of routine business any Member of the Select Committee constituting the quorum shall have the right to postpone further discussion of a pending matter until such time as a majority of the Members of the Select Committee are present.

(3) The Select Committee may fix a lesser number as a quorum for the purpose of taking sworn testimony.

(d)(1) A member of the Select Committee shall be ineligible to participate in any initial review or investigation relating to his

own conduct, the conduct of any officer or employee he supervises, or the conduct of any employee of any officer he supervises, or relating to any complaint filed by him, and the determinations and recommendations of the Select Committee with respect thereto. For purposes of this subparagraph, a Member of the Select Committee and an officer of the Senate shall be deemed to supervise any officer or employee consistent with the provision of paragraph 11 of rule XXXVII of the Standing Rules of the Senate.

(2) A member of the Select Committee may, at his discretion, disqualify himself from participating in any initial review or investigation pending before the Select Committee and the determinations and recommendations of the Select Committee with respect thereto. Notice of such disqualification shall be given in writing to the President of the Senate.

(3) Whenever any member of the Select Committee is ineligible under paragraph (1) to participate in any initial review or investigation or disqualifies himself under paragraph (2) from participating in any initial review or investigation, another Member of the Senate shall, subject to the provisions of subsection (d), be appointed to serve as a member of the Select Committee solely for purposes of such initial review or investigation and the determinations and recommendations of the Select Committee with respect thereto. Any Member of the Senate appointed for such purposes shall be of the same party as the Member who is ineligible or disqualifies himself.

Sec. 2. (a) It shall be the duty of the Select Committee to—

(1) receive complaints and investigate allegations of improper conduct which may reflect upon the Senate, violations of law, violations of the Senate Code of Official Conduct and violations of rules and regulations of the Senate, relating to the conduct of individuals in the performance of their duties as Member of the Senate, or as officers or employees of the Senate, and to make appropriate findings of fact and conclusions with respect thereto;

(2) recommend to the Senate by report or resolution by majority vote of the full committee disciplinary action (including, but not limited to, in the case of a Member: censure, expulsion, or recommendation to the appropriate party conference regarding such Member's seniority or positions of responsibility; and in the case of an officer or employee: suspension or dismissal) to be taken with respect to such violations which the Select Committee shall determine, after according to the individuals concerned due notice and opportunity for hearing, to have occurred;

(3) recommend to the Senate, by report or resolution, such additional rules or regulations as the Select Committee shall determine to be necessary or desirable to insure proper standards of conduct by a Member of the Senate, and by officers or employees of the Senate, in the performance of their duties and the discharge of their responsibilities; and

(4) report violations by a majority vote of the full committee of any law to the proper Federal and State authorities.

(b)(1) Each sworn complaint filed with the Select Committee shall be in writing, shall be in such form as the Select Committee may prescribe by regulation, and shall be under oath.

(2) For purposes of this section, "sworn complaint" means a statement of facts

<sup>1</sup> As amended by S. Res. 4, 95th Cong., 1st Sess. (1970), S. Res. 110, 95th Cong., 1st Sess. (1977), S. Res. 204, 95th Cong., 1st Sess. (1977), S. Res. 230, 95th Cong., 1st Sess. (1977), S. Res. 312, 95th Cong., 1st Sess. (1977), S. Res. 78, 97th Cong., 1st Sess. (1981).

within the personal knowledge of the complainant alleging a violation of law, the Senate Code of Official Conduct, or any other rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as Members, officers, or employees of the Senate.

(3) Any person who knowingly and willfully swears falsely to a sworn complaint does so under penalty of perjury, and the Select Committee may refer any such case to the Attorney General for prosecution.

(4) For the purposes of this section, "investigation" is a proceeding undertaken by the Select Committee after a finding, on the basis of an initial review, that there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred.

(c)(1) No investigation of conduct of a Member or officer of the Senate, and no report, resolution, or recommendation relating thereto, may be made unless approved by the affirmative recorded vote of not less than four members of the Select Committee.

(2) No other resolution, report, recommendation, interpretative ruling, or advisory opinion may be made without an affirmative vote of a majority of the members of the Select Committee voting.

(d)(1) When the Select Committee receives a sworn complaint against a Member or officer of the Senate, it shall promptly conduct an initial review of that complaint. The initial review shall be of duration and scope necessary to determine whether there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred.

(2) If as a result of an initial review under paragraph (1), the Select Committee determines by a recorded vote that there is not such substantial credible evidence, the Select Committee shall report such determination to the complainant and to the party charged together with an explanation of the basis of such determination.

(3) If as a result of an initial review under paragraph (1), the Select Committee determines that a violation is inadvertent, technical or otherwise of a de minimis nature, the Select Committee may attempt to correct or prevent such a violation by informal methods.

(4) If as a result of an initial review under paragraph (1), the Select Committee determines that there is such substantial credible evidence but that the violation, if proven, is neither of a de minimis nature nor sufficiently serious to justify any of the penalties expressly referred to in subsection (a)(2), the Select Committee may propose a remedy it deems appropriate. If the matter is thereby resolved, a summary of the Select Committee's conclusions and the remedy proposed shall be filed as a public record with the Secretary of the Senate and a notice of such filing shall be printed in the Congressional Record.

(5) If as the result of an initial review under paragraph (1), the Select Committee determines that there is such substantial credible evidence, the Select Committee shall promptly conduct an investigation if (A) the violation, if proven, would be sufficiently serious, in the judgment of the Select Committee, to warrant imposition of one or more of the penalties expressly referred to in subsection (a)(2), or (B) the vi-

lation, if proven, is less serious, but was not resolved pursuant to paragraph (4) above. Upon the conclusion of such investigation, the Select Committee shall report to the Senate, as soon as practicable, the results of such investigation together with its recommendations (if any) pursuant to subsection (a)(2).

(2) Upon the conclusion of any other investigation respecting the conduct of a Member or officer undertaken by the Select Committee, the Select Committee shall report to the Senate, as soon as practicable, the results of such investigation together with its recommendations (if any) pursuant to subsection (a)(2).

(e) When the Select Committee receives a sworn complaint against an employee of the Senate, it shall consider the complaint according to procedures it deems appropriate. If the Select Committee determines that the complaint is without substantial merit, it shall notify the complainant and the accused of its determination, together with an explanation of the basis of such determination.

(f) The Select Committee may, in its discretion, employ hearing examiners to hear testimony and make findings of fact and/or recommendations to the Select Committee concerning the disposition of complaints.

(g) Notwithstanding any other provision of this section, no initial review or investigation shall be made of any alleged violation of any law, the Senate Code of Official Conduct, rule, or regulation which was not in effect at the time the alleged violation occurred. No provisions of the Senate Code of Official Conduct shall apply to or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code. The Select Committee may conduct an initial review or investigation of any alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Select Committee.

(h) The Select Committee shall adopt written rules setting forth procedures to be used in conducting investigations of complaints.

(i) The Select Committee from time to time shall transmit to the Senate its recommendation as to any legislative measures which it may consider to be necessary for the effective discharge of its duties.

Sec. 3. (a) The Select Committee is authorized to (1) make such expenditures; (2) hold such hearings; (3) sit and act at such times and places during the sessions, recesses, and adjournment periods of the Senate; (4) require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents; (5) administer such oaths; (6) take such testimony orally or by deposition; (7) employ and fix the compensation of a staff director, a counsel, an assistant counsel, one or more investigators, one or more hearing examiners, and such technical, clerical, and other assistants and consultants as it deems advisable; and (8) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, by contract as independent contractors or, in the case of individuals, by employment at daily rates of compensation not in excess of the per diem equivalent of the highest rate of compensation which may be paid to a regular employee of the Select Committee.

(b)(1) The Select Committee is authorized to retain and compensate counsel not employed by the Senate (or by any department or agency of the executive branch of the Government) whenever the Select Committee determines that the retention of outside counsel is necessary or appropriate for any action regarding any complaint or allegation, which, in the determination of the Select Committee is more appropriately conducted by counsel not employed by the Government of the United States as a regular employee.

(2) Any investigation conducted under section 2 shall be conducted by outside counsel as authorized in paragraph (1), unless the Select Committee determines not to use outside counsel.

(c) With the prior consent of the department or agency concerned, the Select Committee may (1) utilize the services, information and facilities of any such department or agency of the Government, and (2) employ on a reimbursable basis or otherwise the services of such personnel of any such department or agency as it deems advisable. With the consent of any other committee of the Senate, or any subcommittee thereof, the Select Committee may utilize the facilities and the services of the staff of such other committee or subcommittee whenever the chairman of the Select Committee determines that such action is necessary and appropriate.

(d) Subpoenas may be issued (1) by the Select Committee or (2) by the chairman and vice chairman, acting jointly. Any such subpoena shall be signed by the chairman or the vice chairman and may be served by any person designated by such chairman or vice chairman. The chairman of the Select Committee or any member thereof may administer oaths to witnesses.

(e)(1) The Select Committee shall prescribe and publish such regulations as it feels are necessary to implement the Senate Code of Official Conduct.

(2) The Select Committee is authorized to issue interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction.

(3) The Select Committee shall render an advisory opinion, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nomination for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(4) The Select Committee may in its discretion render an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(5) Notwithstanding any provision of the Senate Code of Official Conduct or any rule or regulation of the Senate, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraphs (3) and (4) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such

act, be subject to any sanction by the Senate.

(6) Any advisory opinion rendered by the Select Committee under paragraphs (3) and (4) may be relied upon by (A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; Provided, however, that the request for such advisory opinion included a complete and accurate statement of the specific factual situation; and, (B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(7) Any advisory opinion issued in response to a request under paragraph (3) or (4) shall be printed in the Congressional Record with appropriate deletions to assure the privacy of the individual concerned. The Select Committee shall, to the extent practicable, before rendering an advisory opinion, provide any interested party with an opportunity to transmit written comments to the Select Committee with respect to the request for such advisory opinion. The advisory opinions issued by the Select Committee shall be compiled, indexed, reproduced, and made available on a periodic basis.

(8) A brief description of a waiver granted under paragraph 2(c) of rule XXXIV or paragraph 1 of rule XXXV of the Standing Rules of the Senate shall be made available upon request in the Select Committee office with appropriate deletions to assure the privacy of the individual concerned.

Sec. 4. The expenses of the Select Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Select Committee.

Sec. 5. As used in this resolution, the term "officer or employee of the Senate" means—

(1) an elected officer of the Senate who is not a Member of the Senate;

(2) an employee of the Senate, any committee or subcommittee of the Senate, or any Member of the Senate;

(3) the Legislative Counsel of the Senate or any employee of his office;

(4) an Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) a member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

(6) an employee of the Vice President if such employee's compensation is disbursed by the Secretary of the Senate; and

(7) an employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate.

#### RULES OF PROCEDURE

135 Cong. Rec. S2933 (daily ed. Mar. 17, 1989), amended Dec. 21, 1989

#### RULE 1. GENERAL PROCEDURES

(a) OFFICERS: The Committee shall select a Chairman and a Vice Chairman from among its members. In the absence of the Chairman, the duties of the Chair shall be filled by the Vice Chairman or, in the Vice Chairman's absence, a Committee member designated by the Chairman.

(b) PROCEDURAL RULES: The basic procedural rules of the Committee are stated as a part of the Standing Orders of the Senate in Senate Resolution 338, 88th Congress, as amended, as well as other resolutions and laws. Supplementary Procedural Rules are stated herein and are hereinafter referred

to as the Rules. The Rules shall be published in the Congressional Record not later than thirty days after adoption, and copies shall be made available by the Committee office upon request.

#### (c) MEETINGS:

(1) The regular meeting of the Committee shall be the first Thursday of each month while the Congress is in session.

(2) Special meetings may be held at the call of the Chairman or Vice Chairman, if at least forty-eight hours notice is furnished to all members. If all members agree, a special meeting may be held on less than forty-eight hours notice.

(3)(A) If any member of the Committee desires that a special meeting of the Committee be called, the member may file in the office of the Committee a written request to the Chairman or Vice Chairman for that special meeting.

(B) Immediately upon the filing of the request the Clerk of the Committee shall notify the Chairman and Vice Chairman of the filing of the request. If, within three calendar days after the filing of the request, the Chairman or the Vice Chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, any three of the members of the Committee may file their written request in the office of the Committee that a special meeting of the Committee will be held at a specified date and hour; such special meeting may not occur until forty-eight hours after the notice is filed. The Clerk shall immediately notify all members of the Committee of the date and hour of the special meeting. The Committee shall meet at the specified date and hour.

#### (d) QUORUM:

(1) A majority of the members of the Select Committee shall constitute a quorum for the transaction of business involving complaints and allegations of misconduct, including the consideration of matters involving sworn complaints, unsworn allegations or information, resultant preliminary inquiries, initial reviews, investigations, hearings, recommendations or reports and matters relating to Senate Resolution 400, agreed to May 19, 1976.

(2) Three members shall constitute a quorum for the transaction of the routine business of the Select Committee not covered by the first subparagraph of this paragraph, including requests for opinions and interpretations concerning the Code of Official Conduct or any other statute or regulation under the jurisdiction of the Select Committee, if one member of the quorum is a Member of the Majority Party and one member of the quorum is a Member of the Minority party. During the transaction of routine business any member of the Select Committee, constituting the quorum shall have the right to postpone further discussion of a pending matter until such time as a majority of the members of the Select Committee are present.

(3) Except for an adjudicatory hearing under Rule 6 and any deposition taken outside the presence of a Member under Rule 7, one Member shall constitute a quorum for hearing testimony, provided that all Members have been given notice of the hearing and the Chairman has designated a Member of the Majority Party and the Vice Chairman has designated a Member of the Minority Party to be in attendance, either of whom in the absence of the other may constitute the quorum.

(e) ORDER OF BUSINESS: Questions as to the order of business and the procedure of

the Committee shall in the first instance be decided by the Chairman and Vice Chairman, subject to reversal by a vote by a majority of the Committee.

(f) HEARINGS ANNOUNCEMENTS: The Committee shall make public announcement of the date, place and subject matter of any hearing to be conducted by it at least one week before the commencement of that hearing, and shall publish such announcement in the Congressional Record. If the Committee determines that there is good cause to commence a hearing at an earlier date, such notice will be given at the earliest possible time.

(g) OPEN AND CLOSED COMMITTEE MEETINGS: Meetings of the Committee shall be open to the public or closed to the public (executive session), as determined under the provisions of paragraphs 5(b) to (d) of Rule XXVI of the Standing Rules of the Senate. Executive session meetings of the Committee shall be closed except to the members and the staff of the Committee. On the motion of any member, and with the approval of a majority of the Committee members present, other individuals may be admitted to an executive session meeting for a specified period or purpose.

#### (h) RECORD OF TESTIMONY AND COMMITTEE ACTION:

An accurate stenographic or transcribed electronic record shall be kept of all Committee proceedings, whether in executive or public session. Such record shall include Senators' votes on any question on which a recorded vote is held. The record of a witness' testimony, whether in public or executive session, shall be made available for inspection to the witness or his counsel under Committee supervision; a copy of any testimony given by that witness in public session, or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session shall be made available to any witness if he so requests. (See Rule 6 on Procedures for Conducting Hearings.)

#### (i) SECRECY OF EXECUTIVE TESTIMONY AND ACTION AND OF COMPLAINT PROCEEDINGS:

(1) All testimony and action taken in executive session shall be kept secret and shall not be released outside the Committee to any individual or group, whether governmental or private, without the approval of a majority of the Committee.

(2) All testimony and action relating to a sworn complaint shall be kept secret and shall not be released by the Committee to any individual or group, whether governmental or private, except the respondent, without the approval of a majority of the Committee, until such time as a report to the Senate is required under Senate Resolution 338, 88th Congress, as amended, or unless otherwise permitted under these Rules. (See Rule 9 on Procedures for Handling Committee Sensitive and Classified Materials.)

(j) RELEASE OF REPORTS TO PUBLIC: No information pertaining to, or copies of any Committee report, study, or other document which purports to express the views, findings, conclusions or recommendations of the Committee in connection with any of its activities or proceedings may be released to any individual or group whether governmental or private, without the authorization of the Committee. Whenever the Chairman or Vice Chairman is authorized to make any determination, then the determination may be released at his or her discretion. Each member of the Committee shall be given a reasonable opportunity to have separate views included as part of any Com-

mittee report. (See Rule 9 on Procedures for Handling Committee Sensitive and Classified Materials.)

**(k) INELIGIBILITY OR DISQUALIFICATION OF MEMBERS AND STAFF:**

(1) A member of the Committee shall be ineligible to participate in any Committee proceeding that relates specifically to any of the following:

(A) The member's own conduct;

(B) The conduct of any employee or officer that the member supervises, as defined in paragraph 11 of Rule XXXVII of the Standing Rules of the Senate;

(C) The conduct of any employee or any officer that the member supervises; or

(D) A complaint, sworn or unsworn, that was filed by a member, or by any employee or officer that the member supervises.

(2) If any Committee proceeding appears to relate to a member of the Committee in a manner described in subparagraph (1) of this paragraph, the staff shall prepare a report to the Chairman and Vice Chairman. If either the Chairman or the Vice Chairman concludes from the report that it appears that the member may be ineligible, the member shall be notified in writing of the nature of the particular proceeding and the reason that it appears that the member may be ineligible to participate in it. If the member agrees that he or she is ineligible, the member shall so notify the Chairman or Vice Chairman. If the member believes that he or she is not ineligible, he or she may explain the reasons to the Chairman and Vice Chairman, and if they both agree that the member is not ineligible, the member shall continue to serve. But if either the Chairman or Vice Chairman continues to believe that the member is ineligible, while the member believes that he or she is not ineligible, the matter shall be promptly referred to the Committee. The member shall present his or her arguments to the Committee in executive session. Any contested questions concerning a member's eligibility shall be decided by a majority vote of the Committee, meeting in executive session, with the member in question not participating.

(3) A member may also disqualify himself from participating in a Committee proceeding in other circumstances not listed in subparagraph (k)(1).

(4) The President of the Senate shall be given written notice of the ineligibility or disqualification of any member from any initial review, investigation, or other proceeding requiring the appointment of another member in accordance with subparagraph (k)(5).

(5) Whenever a member of the Committee ineligible to participate in or disqualifies himself from participating in any initial review, investigation, or other substantial Committee proceeding, another Member of the Senate who is of the same party shall be appointed by the Senate in accordance with the provisions of paragraph 1 of Rule XXIV of the Standing Rules of the Senate, to serve as a member of the Committee solely for the purposes of that proceeding.

(6) A member of the Committee staff shall be ineligible to participate in any Committee proceeding that the staff director or outside counsel determines relates specifically to any of the following:

(A) the staff member's own conduct;

(B) the conduct of any employee that the staff member supervises;

(C) the conduct of any Member, officer or employee for whom the staff member has worked for any substantial period; or

(D) a complaint sworn or unsworn, that was filed by the staff member. At the direction or with the consent of the staff director or outside counsel, a staff member may also be disqualified from participating in a Committee proceeding in other circumstances not listed above.

**(l) RECORDED VOTES:** Any member may require a recorded vote on any matter.

**(m) PROXIES; RECORDING VOTES OF ABSENT MEMBERS:**

(1) Proxy voting shall not be allowed when the question before the Committee is the initiation or continuation of an initial review or an investigation, or the issuance of a report or recommendation related thereto concerning a Member or officer of the Senate. In any such case an absent member's vote may be announced solely for the purpose of recording the member's position and such announced votes shall not be counted for or against the motion.

(2) On matters other than matters listed in paragraph (m)(1) above, the Committee may order that the record be held open for the vote of absentees or recorded proxy if the absent Committee member has been informed of the matter on which the vote occurs and has affirmatively requested the Chairman or Vice Chairman in writing that he be so recorded.

(3) All proxies shall be in writing, and shall be delivered to the Chairman or Vice Chairman to be recorded.

(4) Proxies shall not be considered for the purpose of establishing a quorum.

**(n) APPROVAL OF BLIND TRUSTS AND FOREIGN TRAVEL REQUESTS BETWEEN SESSIONS AND DURING EXTENDED RECESSSES:** During any period in which the Senate stands in adjournment between sessions of the Congress or stands in a recess scheduled to extend beyond fourteen days, the Chairman and Vice Chairman, or their designees, acting jointly, are authorized to approve or disapprove blind trusts under the provision of Rule XXXIV, and to approve or disapprove foreign travel requests which require immediate resolution.

**(o) COMMITTEE USE OF SERVICES OR EMPLOYEES OF OTHER AGENCIES AND DEPARTMENTS:** With the prior consent of the department or agency involved, the Committee may (1) utilize the services, information, or facilities of any such department or agency of the Government, and (2) employ on a reimbursable basis or otherwise the services of such personnel of any such department or agency as it deems advisable. With the consent of any other committee of the Senate, or any subcommittee, the Committee may utilize the facilities and the services of the staff of such other committee or subcommittee whenever the Chairman and Vice Chairman of the Committee, acting jointly, determine that such action is necessary and appropriate.

**RULE 2: PROCEDURES FOR SAWN COMPLAINTS**

**(a) SWORN COMPLAINTS:** Any person may file a sworn complaint with the Committee, alleging that any Senator, or officer, or employee of the Senate has violated a law, the Senate Code of Official Conduct, or any rule or regulation of the Senate relating to the conduct of any individual in the performance of his or her duty as a Member, officer, or employee of the Senate, or has engaged in improper conduct which may reflect upon the Senate.

**(b) FORM AND CONTENT OF COMPLAINTS:** A complaint filed under paragraph (a) shall be in writing and under oath, and shall set forth in simple, concise and direct statements:

(1) The name and legal address of the party filing the complaint (hereinafter, the complainant);

(2) The name and position or title of each Member, officer, or employee of the Senate who is specifically alleged to have engaged in the improper conduct or committed the violation (hereinafter, the respondent);

(3) The nature of the alleged improper conduct or violation, including if possible, the specific provision of the Senate Code of Official Conduct or other law, rule, or regulation alleged to have been violated.

(4)(A) A statement of the facts within the personal knowledge of the complainant that are alleged to constitute the improper conduct or violation.

(B) The term "personal knowledge" is not intended to and does not limit the complainant's statement to situations that he or she personally witnessed or to activities in which the complainant was a participant.

(C) Where allegations in the sworn complaint are made upon the information and belief of the complainant, the complaint shall so state, and shall set forth the basis for such information and belief.

(5) The complainant must swear that all of the information contained in the complaint either (a) is true, or (b) was obtained under circumstances such that the complainant has sufficient personal knowledge of the source of the information reasonably to believe that it is true. The complainant may so swear either by oath or by solemn affirmation before a notary public or other authorized official.

(6) All documents in the possession of the complainant relevant to or in support of his or her allegations may be appended to the complaint.

**(c) PROCESSING OF SAWN COMPLAINTS:**

(1) When the Committee receives a sworn complaint against a Member, officer or employee of the Senate, it shall determine by majority vote whether the complaint is in substantial compliance with paragraph (b) of this rule.

(2) If it is determined by the Committee that a sworn complaint does not substantially comply with the requirements of paragraph (b), the complaint shall be returned promptly to the complainant, with a statement explaining how the complaint fails to comply and a copy of the rules for filing sworn complaints. The complainant may resubmit the complaint in the proper form. If the complaint is not revised so that it substantially complies with the stated requirements, the Committee may in its discretion process the complaint in accordance with Rule 3.

(3) A sworn complaint against any Member, officer, or employee of the Senate that is determined by the Committee to be in substantial compliance shall be transmitted to the respondent within five days of that determination. The transmittal notice shall include the date upon which the complaint was received, a statement that the complaint conforms to the applicable rules, a statement that the Committee will immediately begin an initial review of the complaint, and a statement inviting the respondent to provide any information relevant to the complaint to the Committee. A copy of the Rules of the Committee shall be supplied with the notice.

**RULE 3: PROCEDURES ON RECEIPT OF ALLEGATIONS OTHER THAN A SAWN COMPLAINT; PRELIMINARY INQUIRY**

**(a) UNSAWN ALLEGATION OR INFORMATION:** Any member or staff member of the Com-

mittee shall report to the Committee, and any other person may report to the Committee, any credible information available to him or her that indicates that any named or unnamed Member, officer or employee of the Senate may have—

(1) violated the Senate Code of Official Conduct;

(2) violated a law;

(3) violated any rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as Members, officers, or employees of the Senate; or

(4) engaged in improper conduct which may reflect upon the Senate. Such allegations or information may be reported to the Chairman, the Vice Chairman, a Committee member, or a Committee staff member.

(b) SOURCES OF UNSWORN ALLEGATIONS OR INFORMATION: The information to be reported to the Committee under paragraph (a), may be obtained from a variety of sources, including but not limited to the following:

(1) sworn complaints that do not satisfy all of the requirements of Rule 2;

(2) anonymous or informal complaints, whether or not satisfying the requirements of Rule 2;

(3) information developed during a study or inquiry by the Committee or other committees or subcommittees of the Senate, including information obtained in connection with legislative or general oversight hearings;

(4) information reported by the news media; or

(5) information obtained from any individual, agency or department of the executive branch of the Federal Government.

(c) PRELIMINARY INQUIRY:

(1) When information is presented to the Committee pursuant to paragraph (a), it shall immediately be transmitted to the Chairman and the Vice Chairman, for one of the following actions:

(A) The Chairman and Vice Chairman, acting jointly, may conduct or may direct the Committee staff to conduct, a preliminary inquiry.

(B) The Chairman and Vice Chairman, acting jointly, may present the allegations or information received directly to the Committee for it to determine whether an initial review should be undertaken. (See paragraph (d).)

(2) A preliminary inquiry may include any inquiries, interviews, sworn statements, depositions, and subpoenas that the Chairman and the Vice Chairman deem appropriate to obtain information upon which to make any determination provided for by this Rule.

(3) At the conclusion of a preliminary inquiry, the Chairman and Vice Chairman shall receive a full report of its findings. The Chairman and Vice Chairman, acting jointly, shall then determine what further action, if any, is appropriate in the particular case, including any of the following:

(A) No further action is appropriate, because the alleged improper conduct or violation is clearly not within the jurisdiction of the Committee;

(B) No further action is appropriate, because there is no reason to believe that the alleged improper conduct or violation may have occurred; or

(C) The unsworn allegations or information, and a report on the preliminary inquiry, should be referred to the Committee, to determine whether an initial review should be undertaken. (See paragraph (d).)

(4) If the Chairman and the Vice Chairman are unable to agree on a determination

at the conclusion of a preliminary inquiry, then they shall refer the allegations or information to the Committee, with a report on the preliminary inquiry, for the Committee to determine whether an initial review should be undertaken. (See paragraph (d).)

(5) A preliminary inquiry shall be completed within sixty days after the unsworn allegations or information were received by the Chairman and Vice Chairman. The sixty day period may be extended for a specified period by the Chairman and Vice Chairman, acting jointly. A preliminary inquiry is completed when the Chairman and the Vice Chairman have made the determination required by subparagraphs (3) and (4) of this paragraph.

(d) DETERMINATION WHETHER TO CONDUCT AN INITIAL REVIEW: When information or allegations are presented to the Committee by the Chairman and the Vice Chairman, the Committee shall determine whether an initial review should be undertaken.

(1) An initial review shall be undertaken when—

(A) there is reason to believe on the basis of the information before the Committee that the possible improper conduct or violation may be within the jurisdiction of the Committee; and

(B) there is reason to believe on the basis of the information before the Committee that the improper conduct or violation may have occurred.

(2) The determination whether to undertake an initial review shall be made by recorded vote within thirty days following the Committee's receipt of the unsworn allegations or information from the Chairman or Vice Chairman, or at the first days, unless this time is extended for a specified period by the Committee.

(3) The Committee may determine that an initial review is not warranted because (a) there is no reason to believe on the basis of the information before the Committee that the improper conduct or violation may have occurred, or (b) the improper conduct or violation, even if proven, is not within the jurisdiction of the Committee.

(A) If the Committee determines that an initial review is not warranted, it shall promptly notify the complainant, if any, and any known respondent.

(B) If there is a complainant, he or she may also be invited to submit additional information, and notified of the procedures for filing a sworn complaint. If the complainant later provides additional information, not in the form of a sworn complaint, it shall be handled as a new allegation in accordance with the procedures of Rule 3. If he or she submits a sworn complaint, it shall be handled in accordance with Rule 2.

(4)(A) The Committee may determine that there is reason to believe on the basis of the information before it that the improper conduct or violation may have occurred and may be within the jurisdiction of the Committee, and that an initial review must therefore be conducted.

(B) If the Committee determines that an initial review will be conducted, it shall promptly notify the complainant, if any, and the respondent, if any.

(C) The notice required under subparagraph (B) shall include a general statement of the information or allegations before the Committee, and a statement that the Committee will immediately begin an initial review of the complaint. A copy of the Rules of the Committee shall be supplied with the notice.

(5) If a member of the Committee believes that the preliminary inquiry has provided

sufficient information for the Committee to determine whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred, the member may move that the Committee dispense with the initial review and move directly to the determinations described in Rule 4(f). The Committee may adopt such a motion by majority vote of the full Committee.

**RULE 4: PROCEDURES FOR CONDUCTING AN INITIAL REVIEW**

(a) BASIS FOR INITIAL REVIEW: The Committee shall promptly commence an initial review whenever it has received either (1) a sworn complaint that the Committee has determined is in substantial compliance with the requirements of Rule 2, or (2) unsworn allegations or information that have caused the Committee to determine in accordance with Rule 3 that an initial review must be conducted.

**(b) SCOPE OF INITIAL REVIEW:**

(1) The initial review shall be of such duration and scope as may be necessary to determine whether there is substantial credible evidence which provides substantial cause of the Committee to conclude that a violation within the jurisdiction of the Committee has occurred.

(2) An initial review may include any inquiries, interviews, sworn statements, depositions, and subpoenas that the Committee deems appropriate to obtain information upon which to make any determination provided for by this Rule.

(c) OPPORTUNITY FOR RESPONSE: An initial review may include an opportunity for any known respondent or his designated representative, to present either a written or oral statement, or to respond orally to questions from the Committee. Such an oral statement or answers shall be transcribed and signed by the person providing the statement or answers.

(d) STATUS REPORTS: The Committee staff or outside counsel shall periodically report to the Committee in the form and according to the schedule prescribed by the Committee. The reports shall be confidential.

(e) FINAL REPORT: When the initial review is completed, the staff or outside counsel shall make a confidential report to the Committee on findings and recommendations.

(f) COMMITTEE ACTION: As soon as practicable following submission of the report on the initial review, the Committee shall determine by a recorded vote whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred. The Committee may make any of the following determinations:

(1) The Committee may determine that there is not such substantial credible evidence. In this case, the Committee shall report its determination to the complainant, if any, and to the respondent, together with an explanation of the basis for the determination. The explanation may be as detailed as the Committee desires, but it is not required to include a complete discussion of the evidence collected in the initial review.

(2) The Committee may determine that there is such substantial credible evidence, but that the alleged violation is inadvertent, technical, or otherwise of a de minimis nature. In this case, the Committee may attempt to correct or to prevent such violation by informal methods. The Committee's final

determination in this matter shall be reported to the complainant, if any, and to the respondent, if any.

(3) The Committee may determine that there is such substantial credible evidence, but that the alleged violation, if proven, although not of a *de minimis* nature, would not be sufficiently serious to justify the severe disciplinary actions specified in Senate Resolution 338, 88th Congress, as amended (i.e., for a Member, censure, expulsion, or recommendation to the appropriate party conference regarding the Member's seniority or positions of responsibility; or for an officer or employee, suspension or dismissal). In this case, the Committee, by the recorded affirmative vote of at least four members, may propose a remedy that it deems appropriate. If the Committee's conclusions and the remedy proposed and agreed to shall be filed as a public record with the Secretary of the Senate and a notice of the filing shall be printed in the Congressional Record.

(4) The Committee may determine, by recorded affirmative vote of at least four members, that there is such substantial credible evidence, and also either:

(A) that the violation, if proved, would be sufficiently serious to warrant imposition of one of the severe disciplinary actions listed in paragraph (3); or

(B) that the violation, if proven, is less serious, but was not resolved pursuant to the Committee shall order that an investigation promptly be conducted in accordance with Rule 5.

#### RULE 5: PROCEDURES FOR CONDUCTING AN INVESTIGATION

(a) **DEFINITION OF INVESTIGATION:** An "investigation" is a proceeding undertaken by the Committee, by recorded affirmative vote of at least four members, after a finding on the basis of an initial review that there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within its jurisdiction has occurred.

(b) **SCOPE OF INVESTIGATION:** When the Committee decides to conduct an investigation, it shall be of such duration and scope as is necessary for the Committee to determine whether a violation within its jurisdiction has occurred. In the course of the investigation, designated outside counsel, or if the Committee determines not to use outside counsel, the Committee or its staff, may conduct inquiries or interviews, take sworn statements, and compulsory process as described in Rule 7, or take any other actions that the Committee deems appropriate to secure the evidence necessary to make this determination.

(c) **NOTICE TO RESPONDENT:** The Committee shall give written notice to any known respondent who is subject of an investigation. The notice shall be sent to the respondent no later than five working days after the Committee has voted to conduct an investigation. The notice shall include a statement of a nature of the possible violation, and a description of the evidence indicating that a possible violation occurred. The Committee shall offer the respondent an opportunity to present a statement or to respond to questions from members of the Committee, the Committee staff, or outside counsel.

(d) **RIGHT TO A HEARING:** The Committee shall accord a respondent an opportunity for a hearing before it recommends disciplinary action against that respondent to the Senate.

(e) **PROGRESS REPORTS TO COMMITTEE:** The Committee staff or outside counsel shall periodically report to the Committee concerning the progress of the investigation. Such reports shall be delivered to the Committee in the form and according to the schedule prescribed by the Committee, and shall be confidential.

#### (f) REPORT OF INVESTIGATION:

(1) Upon completion of an investigation, including any hearings held pursuant to Rule 6, the outside counsel or the staff shall submit a confidential written report to the Committee, which shall detail the factual findings of the investigation and which may recommend disciplinary action, if appropriate. Findings of fact of the investigation shall be detailed in this report whether or not disciplinary action is recommended.

(2) The Committee shall consider the report of the staff or outside counsel promptly following its submission. The Committee shall prepare and submit a report to the Senate, including a recommendation to the Senate concerning disciplinary action, if appropriate. A report shall be issued, stating in detail the Committee's findings of fact, whether or not disciplinary action is recommended. The report shall also explain fully the reasons underlying the Committee's recommendation concerning disciplinary action, if any. No recommendation or resolution of the Committee concerning the investigation of a Member, officer or employee of the Senate may be approved except by the affirmative recorded vote of not less than four members of the Committee.

(3) Promptly, after the conclusion of the investigation, the Committee's report and recommendation shall be forwarded to the Secretary of the Senate, and a copy shall be provided to the complainant and the respondent. The full report and recommendation shall be printed and made public, unless the Committee determines by majority vote that it should remain confidential.

#### RULE 6: PROCEDURES FOR HEARINGS

(a) **RIGHT TO HEARING:** The Committee may hold a public or executive hearing in any inquiry, initial review, investigation, or other proceeding. The Committee shall accord a respondent an opportunity for a hearing before it recommends disciplinary action against that respondent to the Senate. (See Rule 5(e).)

(b) **NON-PUBLIC HEARINGS:** The Committee may at any time during a hearing determine in accordance with paragraph 5(b) of Rule XXVI of the Standing Rules of the Senate whether to receive the testimony of specific witnesses in executive session. If a witness desires to express a preference for testifying in public or in executive session, he or she shall so notify the Committee at least five days before he or she is scheduled to testify.

(c) **ADJUDICATORY HEARINGS:** The Committee, may, by majority vote, designate any public or executive hearing as an adjudicatory hearing; and, any hearing which is contrary with possible disciplinary action against a respondent or respondents designated by the Committee shall be an adjudicatory hearing. In any adjudicatory hearing, the procedures described in paragraph (j) shall apply.

(d) **SUBPOENA POWER:** The Committee may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such correspondence, books, papers, documents or other articles as it deems advisable. (See Rule 7.)

(e) **NOTICE OF HEARING:** The Committee shall make public an announcement of the

date, place, and subject matter of any hearing to be conducted by it, in accordance with Rule 1(f).

(f) **PRESIDING OFFICER:** The Chairman shall preside over the hearings, or in his absence the Vice Chairman. If the Vice Chairman is also absent, a Committee member designated by the Chairman shall preside. If an oath or affirmation is required, it shall be administered to a witness by the Presiding Officer, or in his absence, by any Committee member.

#### (g) WITNESSES:

(1) A subpoena or other request to testify shall be served on a witness sufficiently in advance of his or her scheduled appearance to allow the witness a reasonable period of time, as determined by the Committee, to prepare for the hearing and to employ counsel if desired.

(2) The Committee may, by majority vote, rule that no member of the Committee or staff or outside counsel shall make public the name of any witness subpoenaed by the Committee before the date of that witness' scheduled appearance, except as specifically authorized by the Chairman and Vice Chairman, acting jointly.

(3) Any witness desiring to read a prepared or written statement in executive or public hearings shall file a copy of such statement with the Committee at least two working days in advance of the hearing at which the statement is to be presented. The Chairman and Vice Chairman shall determine whether such statements may be read or placed in the record of the hearing.

(4) Insofar as practicable, each witness shall be permitted to present a brief oral opening statement, if he or she desires to do so.

(h) **RIGHT TO TESTIFY:** Any person whose name is mentioned or who is specifically identified or otherwise referred to in testimony or in statements made by a Committee member, staff member or outside counsel, or any witness, and who reasonably believes that the statement tends to adversely affect his or her reputation may—

(1) Request to appear personally before the Committee to testify in his or her own behalf; or

(2) File a sworn statement of facts relevant to the testimony or other evidence or statement of which he or she complained. Such request and such statement shall be submitted to the Committee for its consideration and action.

(i) **CONDUCT OF WITNESSES AND OTHER ATTENDEES:** The Presiding Officer may punish any breaches of order and decorum by censure and exclusion from the hearings. The Committee, by majority vote, may recommend to the Senate that the offender be cited for contempt of Congress.

#### (j) ADJUDICATORY HEARING PROCEDURES:

(1) **NOTICE OF HEARINGS:** A copy of the public announcement of an adjudicatory hearing, required by paragraph (e), shall be furnished together with a copy of these Rules of all witnesses at the time that they are subpoenaed or otherwise summoned to testify.

#### (k) PREPARATION FOR ADJUDICATORY HEARINGS:

(A) At least five working days prior to the commencement of an adjudicatory hearing, the Committee shall provide the following information and documents to the respondent, if any:

(i) a list of proposed witnesses to be called at the hearing;

(ii) copies of all documents expected to be introduced as exhibits at the hearing; and

(iii) a brief statement as to the nature of the testimony expected to be given by each witness to be called at the hearing.

(B) At least two working days prior to the commencement of an adjudicatory hearing, the respondent, if any, shall provide the information and documents described in divisions (i), (ii) and (iii) of subparagraph (A) to the Committee.

(C) At the discretion of the Committee, the information and documents to be exchanged under this paragraph shall be subject to an appropriate agreement limiting access and disclosure.

(D) If a respondent refuses to provide the information and documents to the Committee (see (A) and (B) of this subparagraph), or if a respondent or other individual violates an agreement limiting access and disclosure, the Committee by majority vote, may recommend to the Senate that the offender be cited for contempt of Congress.

(3) **SWEARING OF WITNESSES:** All witnesses who testify at adjudicatory hearings shall be sworn unless the Presiding Officer, for good cause, decides that a witness does not have to be sworn.

(4) **RIGHT TO COUNSEL:** Any witness at an adjudicatory hearing may be accompanied by counsel of his or her own choosing, who shall be permitted to advise the witness of his or her legal rights during the testimony.

(5) **RIGHT TO CROSS-EXAMINE AND CALL WITNESSES:**

(A) In adjudicatory hearings, any respondent who is the subject of an investigation, and any other person who obtains the permission of the Committee, may personally or through counsel cross-examine witnesses called by the Committee and may call witnesses in his or her own behalf.

(B) A respondent may apply to the Committee for the issuance of subpoenas for the appearance of witnesses or the production of documents on his or her behalf. An application shall be approved upon a concise showing by the respondent that the proposed testimony or evidence is relevant and appropriate, as determined by the Chairman and Vice Chairman.

(C) With respect to witnesses called by a respondent, or other individual given permission by the Committee, each such witness shall first be examined by the party who called the witness or by that party's counsel.

(D) At least one working day before a witness' scheduled appearance, a witness or a witness' counsel may submit to the Committee written questions proposed to be asked of that witness. If the Committee determines that it is necessary, such questions may be asked by any member of the Committee, or by any Committee staff member if directed by a Committee member. The witness or witness' counsel may also submit additional sworn testimony for the record within 24 hours after the last day that the witness has testified. The insertion of such testimony in that day's record is subject to the approval of the Chairman and Vice Chairman acting jointly within 5 days after the testimony is received.

#### (6) ADMISSIBILITY OF EVIDENCE:

(A) The object of the hearing shall be to ascertain the truth. Any evidence that may be relevant and probative shall be admissible, unless privileged under the Federal Rules of Evidence. Rules of evidence shall not be applied strictly, but the Presiding Officer shall exclude irrelevant or unduly repetitious testimony. Objections going only to the weight that should be given evidence will not justify its exclusion.

(B) The Presiding Officer shall rule upon any question of the admissibility of testimony or other evidence presented to the Committee. Such rulings shall be final unless reversed or modified by a majority vote of the Committee before the recess of that day's hearings.

(7) **SUPPLEMENTARY HEARING PROCEDURES:** The Committee may adopt any additional special hearing procedures that it deems necessary or appropriate to a particular adjudicatory hearing. Copies of such supplementary procedures shall be furnished to witnesses and respondents, and shall be made available upon request to any member of the public.

#### (8) TRANSCRIPTS:

(1) An accurate stenographic or recorded transcript shall be made of all public and executive hearings. Any member of the Committee, Committee staff member, outside counsel retained by the Committee, or witness may examine a copy of the transcript retained by the Committee of his or her own remarks and may suggest to the official reporter any typographical or transcription errors. If the reporter declines to make the requested corrections, the member, staff member, outside counsel or witness may request a ruling by the Chairman and Vice Chairman, acting jointly. Any member or witness shall return the transcript with suggested corrections to the Committee offices within 5 working days after receipt of the transcript, or as soon thereafter as is practicable. If the testimony was given in executive session, the member or witness may only inspect the transcript at a location determined by the Chairman and Vice Chairman, acting jointly. Any questions arising with respect to the processing and correction of transcripts shall be decided by the Chairman and Vice Chairman, acting jointly.

(2) Except for the record of a hearing which is closed to the public, each transcript shall be printed as soon as is practicable after receipt of the corrected version. The Chairman and Vice Chairman, acting jointly, may order the transcript of a hearing to be printed without the corrections of a member or witness if they determine that such member or witness has been afforded a reasonable time to correct such transcript and such transcript has not been returned within such time.

(3) The Committee shall furnish each witness, at no cost, one transcript copy of that witness' testimony given at a public hearing. If the testimony was given in executive session, then a transcript copy shall be provided upon request, subject to appropriate conditions and restrictions prescribed by the Chairman and Vice Chairman. If any individual violates such conditions and restrictions, the Committee may recommend by majority vote that he or she be cited for contempt of Congress.

#### RULE 7: SUBPOENAS AND DEPOSITIONS

##### (a) SUBPOENAS:

(1) **AUTHORIZATION FOR ISSUANCE:** Subpoenas for the attendance and testimony of witnesses at depositions or hearings, and subpoenas for the production of documents and tangible things at depositions, hearings, or other times and places designated therein, may be authorized for issuance by either (A) a majority vote of the Committee, or (B) the Chairman and Vice Chairman, acting jointly, at any time before a preliminary inquiry, for the purpose of obtaining information to evaluate unsworn allegations or information, or at any time during a preliminary inquiry, initial review, investigation, or other proceeding.

(2) **SIGNATURE AND SERVICE:** All subpoenas shall be signed by the Chairman or the Vice Chairman and may be served by any person 18 years of age or older, who is designated by the Chairman or Vice Chairman. Each subpoena shall be served with a copy of the Rules of the Committee and a brief statement of the purpose of the Committee's proceeding.

(3) **WITHDRAWAL OF SUBPOENA:** The Committee, by majority vote, may withdraw any subpoena authorized for issuance by it or authorized for issuance by the Chairman and Vice Chairman, acting jointly. The Chairman and Vice Chairman, acting jointly, may withdraw any subpoena authorized for issuance by them.

##### (b) DEPOSITIONS:

(1) **PERSONS AUTHORIZED TO TAKE DEPOSITIONS:** Depositions may be taken by any Member of the Committee designated by the Chairman and Vice Chairman, acting jointly, or by any other person designated by the Chairman and Vice Chairman, acting jointly, including outside counsel, Committee staff, other employees of the Senate, or government employees detailed to the Committee.

(2) **DEPOSITION NOTICES:** Notices for the taking of depositions shall be authorized by the Committee, or the Chairman and Vice Chairman, acting jointly, and issued by the Chairman, Vice Chairman, or a Committee staff member or outside counsel designated by the Chairman and Vice Chairman, acting jointly. Depositions may be taken at any time before a preliminary inquiry, for the purpose of obtaining information to evaluate unsworn allegations or information, or at any time during a preliminary inquiry, initial review, investigation, or other proceeding. Deposition notices shall specify a time and place for examination. Unless otherwise specified, the deposition shall be in private, and the testimony taken and documents produced shall be deemed for the purpose of these rules to have been received in a closed or executive session of the Committee. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness' failure to appear, or to testify, or to produce documents, unless the deposition notice was accompanied by a subpoena authorized for issuance by the Committee, or the Chairman and Vice Chairman, acting jointly.

(3) **COUNSEL AT DEPOSITIONS:** Witnesses may be accompanied at a deposition by counsel to advise of their rights.

(4) **DEPOSITION PROCEDURE:** Witnesses depositions shall be examined upon oath administered by an individual authorized by law to administer oaths, or administered by any Member of the Committee if one is present. Questions may be propounded by any person or persons who are authorized to take depositions for the Committee. If a witness objects to a question and refuses to testify, or refuses to produce a document, any Member of the Committee who is present may rule on the objection and, if the objection is overruled, direct the witness to answer the question or produce the document. If no Member of the Committee is present, the individual who has been designated by the Chairman and Vice Chairman, acting jointly, to take the deposition may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from the Chairman or Vice Chairman of the Committee, who may refer the matter to

the Committee or rule on the objection. If the Chairman or Vice Chairman, or the Committee upon referral, overrules the objection, the Chairman, Vice Chairman, or the Committee as the case may be, may direct the witness to answer the question or produce the document. The Committee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to testify or produce documents after having been directed to do so.

(5) **FILING OF DEPOSITIONS:** Deposition testimony shall be transcribed or electronically recorded. If the deposition is transcribed, the individual administering the oath shall certify on the transcript that the witness was duly sworn in his or her presence and the transcriber shall certify that the transcript is a true record of the testimony. The transcript with these certifications shall be filed with the chief clerk of the Committee, and the witness shall be furnished with access to a copy at the Committee's offices for review. Upon inspecting the transcript, within a time limit set by the Chairman and Vice Chairman, acting jointly, a witness may request in writing changes in the transcript to correct errors in transcription. The witness may also bring to the attention of the Committee errors of fact in the witness' testimony by submitting a sworn statement about those facts with a request that it be attached to the transcript. The Chairman and Vice Chairman, acting jointly, may rule on the witness' request, and the changes or attachments allowed shall be certified by the Committee's chief clerk. If the witness fails to make any request under this paragraph within the time limit set, this fact shall be noted by the Committee's chief clerk. Any person authorized by the Committee may stipulate with the witness to changes in this procedure.

**RULE 8: VIOLATIONS OF LAW; PERJURY; LEGISLATIVE RECOMMENDATIONS; AND APPLICABLE RULES AND STANDARDS OF CONDUCT**

(a) **VIOLATIONS OF LAW:** Whenever the Committee determines by majority vote that there is reason to believe that a violation of law may have occurred, it shall report such possible violation to the proper state and federal authorities.

(b) **PERJURY:** Any person who knowingly and willfully swears falsely to a sworn complaint or any other sworn statement to the Committee does so under penalty of perjury. The Committee may refer any such case to the Attorney General for prosecution.

(c) **LEGISLATIVE RECOMMENDATIONS:** The Committee shall recommend to the Senate by report or resolution such additional rules, regulations, or other legislative measures as it determines to be necessary or desirable to ensure proper standards of conduct by Members, officers, or employees of the Senate. The Committee may conduct such inquiries as it deems necessary to prepare such a report or resolution, including the holding of hearings in public or executive session and the use of subpoenas to compel the attendance of witnesses or the production of materials. The Committee may make legislative recommendations as a result of its findings in an initial review, investigation, or other proceeding.

(d) **APPLICABLE RULES AND STANDARDS OF CONDUCT:**

(1) No initial review or investigation shall be made of an alleged violation of any law, rule, regulation, or provision of the Senate Code of Official Conduct which was not in effect at the time the alleged violation occurred. No provision of the Senate Code of Official Conduct shall apply to, or require

disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code.

(2) The Committee may conduct an initial review or investigation of an alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Committee.

**RULE 9: PROCEDURES FOR HANDLING COMMITTEE SENSITIVE AND CLASSIFIED MATERIALS**

(a) **PROCEDURES FOR HANDLING COMMITTEE SENSITIVE MATERIALS:**

(1) Committee Sensitive information or material is information or material in the possession of the Select Committee on Ethics which pertains to illegal or improper conduct by a present or former Member, officer, or employee of the Senate; to allegations or accusation of such conduct; to any resulting preliminary inquiry, initial review, or investigation by the Select Committee on Ethics into such allegations or conduct; to the investigative techniques and procedures of the Select Committee on Ethics; or to other information or material designated by the staff director, or outside counsel designated by the Chairman and Vice Chairman.

(2) The Chairman and Vice Chairman of the Committee shall establish such procedures as may be necessary to prevent the unauthorized disclosure of Committee Sensitive information in the possession of the Committee or its staff. Procedures for protecting Committee Sensitive materials shall be in writing and shall be given to each Committee staff member.

(b) **PROCEDURES FOR HANDLING CLASSIFIED MATERIALS:**

(1) Classified information or material is information or material which is specifically designated as classified under the authority of Executive Order 11652 requiring protection of such information or material from unauthorized disclosure in order to prevent damage to the United States.

(2) The Chairman and Vice Chairman of the Committee shall establish such procedures as may be necessary to prevent the unauthorized disclosure of classified information in the possession of the Committee or its staff. Procedures for handling such information shall be in writing and a copy of the procedures shall be given to each staff member cleared for access to classified information.

(3) Each member of the Committee shall have access to classified material in the Committee's possession. Only Committee staff members with appropriate security clearances and a need-to-know, as approved by the Chairman and Vice Chairman, acting jointly, shall have access to classified information in the Committee's possession.

(c) **PROCEDURES FOR HANDLING COMMITTEE SENSITIVE AND CLASSIFIED DOCUMENTS:**

(1) Committee Sensitive and classified documents and materials shall be segregated in secure filing safes. Removal from the Committee offices of such documents or materials is prohibited except as necessary for use in, or preparation for, interviews or Committee meetings, including the taking of testimony, or as otherwise specifically approved by the staff director or by outside counsel designated by the Chairman and Vice Chairman.

(2) Each member of the Committee shall have access to all materials in the Committee's possession. The staffs of members shall not have access to Committee Sensitive or

classified documents and materials without the specific approval in each instance of the Chairman, and Vice Chairman, acting jointly. Members may examine such materials in the Committee's offices. If necessary, requested materials may be taken by a member of the Committee staff to the office of a member of the Committee for his or her examination, but the Committee staff member shall remain with the Committee Sensitive or classified documents or materials at all times except as specifically authorized by The Chairman or Vice Chairman.

(3) Any Member of the Senate who is not a member of the Committee and who seeks access to any Committee Sensitive or classified documents or materials, other than documents or materials which are matters of public record, shall request access in writing. The Committee shall decide by majority vote whether to make documents or materials available. If access is granted, the Member shall not disclose the information except as authorized by the Committee.

(4) Whenever the Committee makes Committee Sensitive or classified documents or materials available to any Member of the Senate who is not a member of the Committee, or to a staff person of a Committee member in response to a specific request to the Chairman and Vice Chairman, a written record shall be made identifying the Member of the Senate requesting such documents or materials and describing what was made available and to whom.

(d) **NON-DISCLOSURE POLICY AND AGREEMENT:**

(1) Except as provided in the last sentence of this paragraph, no member of the Select Committee on Ethics, its staff or any person engaged by contract or otherwise to perform services for the Select Committee on Ethics shall release, divulge, publish, reveal by writing, word, conduct, or disclose in any way, in whole, or in part, or by way of summary, during tenure with the Select Committee on Ethics or anytime thereafter, any testimony given before the Select Committee on Ethics in executive session (including the name of any witness who appeared or was called to appear in executive session), any classified or Committee Sensitive information, document or material, received or generated by the Select Committee on Ethics or any classified or Committee Sensitive information which may come into the possession of such person during tenure with the Select Committee on Ethics or its staff. Such information, documents, or material may be released to an official of the executive branch properly cleared for access with a need-to-know, for any purpose or in connection with any proceeding, judicial or otherwise, as authorized by the Select Committee on Ethics, or in the event of termination of the Select Committee on Ethics, in such a manner as may be determined by his successor or by the Senate.

(2) No member of the Select Committee on Ethics staff or any person engaged by contract or otherwise to perform services for the Select Committee on Ethics, shall be granted access to classified or Committee Sensitive information or material in the possession of the Select Committee on Ethics unless and until such person agrees in writing, as a condition of employment, to the non-disclosure policy. The agreement shall become effective when signed by the Chairman and Vice Chairman on behalf of the Committee.

**RULE 10: BROADCASTING AND NEWS COVERAGE OF COMMITTEE PROCEEDINGS**

(a) Whenever any hearing or meeting of the Committee is open to the public, the Committee shall permit that hearing or meeting to be covered in whole or in part, by television broadcast, radio broadcast, still photography, or by any other methods of coverage, unless the Committee decides by majority vote that such coverage is not appropriate at a particular hearing or meeting.

(b) Any witness served with a subpoena by the Committee may request not to be photographed at any hearing or to give evidence or testimony while the broadcasting, reproduction, or coverage of that hearing, by radio, television, still photography, or other methods is occurring. At the request of any such witness who does not wish to be subjected to radio, television, still photography, or other methods of coverage, and subject to the approval of the Committee, all lenses shall be covered and all microphones used for coverage turned off.

(c) If coverage is permitted, it shall be in accordance with the following requirements:

(1) Photographers and reporters using mechanical recording, filming, or broadcasting apparatus shall position their equipment so as not to interfere with the seating, vision, and hearing of the Committee members and staff, or with the orderly process of the meeting or hearing.

(2) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(3) Personnel providing coverage by the television and radio media shall be currently accredited to the Radio and Television Correspondents' Galleries.

(4) Personnel providing coverage by still photography shall be currently accredited to the Press Photographers' Gallery Committee of Press Photographers.

(5) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and the coverage activities in an orderly and unobtrusive manner.

**RULE 11: PROCEDURES FOR ADVISORY OPINIONS****(a) WHEN ADVISORY OPINIONS ARE RENDERED:**

(1) The Committee shall render an advisory opinion, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nomination for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within the Committee's jurisdiction, to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(2) The Committee may issue an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within the Committee's jurisdiction, to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(b) **FORM OR REQUEST:** A request for any advisory opinion shall be directed in writing to the Chairman of the Committee and shall include a complete and accurate statement of the specific factual situation with respect to which the request is made as well as the specific question or questions which

the requestor wishes the Committee to address.

**(c) OPPORTUNITY FOR COMMENT:**

(1) The Committee will provide an opportunity for any interested party to comment on a request for an advisory opinion—

(A) which requires an interpretation on a significant question of first impression that will affect more than a few individuals; or  
(B) when the Committee determines that comments from interested parties would be of assistance.

(2) Notice of any such request for an advisory opinion shall be published in the Congressional Record, with appropriate deletions to insure confidentiality, and interested parties will be asked to submit their comments in writing to the Committee within ten days.

(3) All relevant comments received on a timely basis will be considered.

**(d) ISSUANCE OF AN ADVISORY OPINION:**

(1) The Committee staff shall prepare a proposed advisory opinion in draft form which will first be reviewed and approved by the Chairman and Vice Chairman, acting jointly, and will be presented to the Committee for final action. If (A) the Chairman and Vice Chairman cannot agree, or (B) either the Chairman or Vice Chairman requests that it be taken directly to the Committee, then the proposed advisory opinion shall be referred to the Committee for its decision.

(2) An advisory opinion shall be issued only by the affirmative recorded vote of a majority of the members voting.

(3) Each advisory opinion issued by the Committee shall be promptly transmitted for publication in the Congressional Record after appropriate deletions are made to insure confidentiality. The Committee may at any time revise, withdraw, or elaborate on any advisory opinion.

**(e) RELIANCE ON ADVISORY OPINIONS:**

(1) Any advisory opinion issued by the Committee under Senate Resolution 338, 88th Congress, as amended, and the rules may be relied upon by—

(A) Any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered if the request for such advisory opinion included a complete and accurate statement of the specific factual situation; and

(B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(2) Any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of Senate Resolution 338, 88th Congress, as amended, and of the rules, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction by the Senate.

**RULE 12: PROCEDURES FOR INTERPRETATIVE RULINGS**

(a) **BASIS FOR INTERPRETATIVE RULINGS:** Senate Resolution 338, 88th Congress, as amended, authorizes the Committee to issue interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction. The Committee also may issue such rulings clarifying or explaining a rule or regulation of the Select Committee on Ethics.

(b) **REQUEST FOR RULING:** A request for such a ruling must be directed in writing to

the Chairman or Vice Chairman of the Committee.

**(c) ADOPTION OF RULING:**

(1) The Chairman and Vice Chairman, acting jointly, shall issue a written interpretative ruling in response to any such request, unless—

(A) they cannot agree,

(B) it requires an interpretation of a significant question of first impression, or

(C) either requests that it be taken to the Committee, in which event the request shall be directed to the Committee for a ruling.

(2) A ruling on any request taken to the Committee under subparagraph (1) shall be adopted by a majority of the members voting and the ruling shall then be issued by the Chairman and Vice Chairman.

(d) **PUBLICATION OF RULINGS:** The Committee will publish in the Congressional Record, after making appropriate deletions to ensure confidentiality, any interpretative rulings issued under this Rule which the Committee determines may be of assistance or guidance to other Members, officers or employees. The Committee may at any time revise, withdraw, or elaborate on interpretative rulings.

(e) **RELIANCE ON RULINGS:** Whenever an individual can demonstrate to the Committee's satisfaction that his or her conduct was in good faith reliance on an interpretive ruling issued in accordance with this Rule, the Committee will not recommend sanctions to the Senate as a result of such conduct.

(f) **RULINGS BY COMMITTEE STAFF:** The Committee staff is not authorized to make rulings or give advice, orally or in writing, which binds the Committee in any way.

**RULE 13: PROCEDURES FOR COMPLAINTS INVOLVING IMPROPER USE OF THE MAILING FRANK**

(a) **AUTHORITY TO RECEIVE COMPLAINTS:** The Committee is directed by section 6(b) of Public Law 93-191 to receive and dispose of complaints that a violation of the use of the mailing frank has occurred or is about to occur by a Member or officer of the Senate or by a surviving spouse of a Member. All such complaints will be processed in accordance with the provisions of these Rules, except as provided in paragraph (b).

**(b) DISPOSITION OF COMPLAINTS:**

(1) The Committee may dispose of any such complaint by requiring restitution of the cost of the mailing if it finds that the franking violation was the result of a mistake.

(2) Any complaint disposed of by restitution that is made after the Committee has formally commenced an initial review or investigation, must be summarized, together with the disposition, in a notice promptly transmitted for publication in the Congressional Record.

(3) If a complainant is disposed of by restitution, the complainant, if any, shall be notified of the disposition in writing.

(c) **ADVISORY OPINIONS AND INTERPRETATIVE RULINGS:** Requests for advisory opinions or interpretative rulings involving franking questions shall be processed in accordance with Rules 11 and 12.

**RULE 14: PROCEDURES FOR WAIVERS**

(a) **AUTHORITY FOR WAIVERS:** The Committee is authorized to grant a waiver under the following provisions of the Standing Rules of the Senate:

(1) Section 101(h) of the Ethics in Government Act of 1978, as amended (Rule XXXIV), relating to the filing of financial disclosure reports by individuals who are ex-

pected to perform or who have performed the duties of their offices or positions for less than one hundred and thirty days in a calendar year;

(2) Section 102(a)(2)(D) of the Ethics in Government Act, as amended (Rule XXXIV), relating to the reporting of gifts;

(3) Paragraph 1 of Rule XXXV relating to acceptance of gifts; or

(4) Paragraph 5 of Rule XLI relating to applicability of any of the provisions of the Code of Official Conduct to an employee of the Senate hired on a per diem basis.

(b) REQUESTS FOR WAIVERS: A request for a waiver under paragraph (a) must be directed to the Chairman or Vice Chairman in writing and must specify the nature of the waiver being sought and explain in detail the facts alleged to justify a waiver. In the case of a request submitted by an employee, the views of his or her supervisor (as determined under paragraph 11 of Rule XXXVII of the Standing Rules of the Senate) should be included with the waiver request.

(c) RULING: The Committee shall rule on a waiver request by recorded vote, with a majority of those voting affirming the decision.

(d) AVAILABILITY OF WAIVER DETERMINATIONS: A brief description of any waiver granted by the Committee, with appropriate deletions to ensure confidentiality, shall be made available for review upon request in the Committee office. Waivers granted by the Committee pursuant to the Ethics in Government Act of 1978, as amended, may only be granted pursuant to a publicly available request as required by the Act.

#### RULE 15: DEFINITION OF "OFFICER OR EMPLOYEE"

(a) As used in the applicable resolutions and in these rules and procedures, the term "officer or employee of the Senate" means:

(1) An elected officer of the Senate who is not a Member of the Senate;

(2) An employee of the Senate, any committee or subcommittee of the Senate, or any Member of the Senate;

(3) The Legislative Counsel of the Senate or any employee of his office;

(4) An Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) A member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

(6) An employee of the Vice President, if such employee's compensation is disbursed by the Secretary of the Senate;

(7) An employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate;

(8) An officer or employee of any department or agency of the Federal Government whose services are being utilized on a full-time and continuing basis by a Member, officer, employee, or committee of the Senate in accordance with Rule XLI(3) of the Standing Rules of the Senate; and

(9) Any other individual whose full-time services are utilized for more than ninety days in a calendar year by a Member, officer, employee, or committee of the Senate in the conduct of official duties in accordance with Rule XLI(4) of the Standing Rules of the Senate.

#### RULE 16: COMMITTEE STAFF

##### (a) COMMITTEE POLICY:

(1) The staff is to be assembled and retained as a permanent, professional, nonpartisan staff.

(2) Each member of the staff shall be professional and demonstrably qualified for the position for which he or she is hired.

(3) The staff as a whole and each member of the staff shall perform all official duties in a nonpartisan manner.

(4) No member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election.

(5) No member of the staff or outside counsel may accept public speaking engagements or write for publication on any subjects that is in any way related to his or her employment or duties with the Committee without specific advance permission from the Chairman and Vice Chairman.

(6) No member of the staff may make public, without Committee approval, any Committee sensitive or classified information, documents, or other material obtained during the course of his or her employment with the Committee.

##### (b) APPOINTMENT OF STAFF:

(1) The appointment of all staff members shall be approved by the Chairman and Vice Chairman, acting jointly.

(2) The Committee may determine by majority vote that it is necessary to retain staff members, including a staff recommended by a special counsel, for the purpose of a particular initial review, investigation, or other proceeding. Such staff shall be retained only for the duration of that particular undertaking.

(3) The Committee is authorized to retain and compensate counsel not employed by the Senate (or by any department or agency of the Executive Branch of the Government) whenever the Committee determines that the retention of outside counsel if necessary or appropriate for any action regarding any complaint or allegation, initial review, investigation, or other proceeding, which in the determination of the Committee, is more appropriately conducted by counsel not employed by the Government of the United States as a regular employee. The Committee shall retain and compensate outside counsel to conduct any investigation undertaken after an initial review of a sworn complaint, unless the Committee determines that the use of outside counsel is not appropriate in the particular case.

(c) DISMISSAL OF STAFF: A staff member may not be removed for partisan, political reasons, or merely as a consequence of the rotation of the Committee membership. The Chairman and Vice Chairman, acting jointly, shall approve the dismissal of any staff member.

(d) STAFF WORKS FOR COMMITTEE AS WHOLE: All staff employed by the Committee or housed in Committee offices shall work for the Committee as a whole, under the general direction of the Chairman and Vice Chairman, and the immediate direction of the staff director or outside counsel.

(e) NOTICE OR SUMMONS TO TESTIFY: Each member of the Committee staff shall immediately notify the Committee in the event that he or she is called upon by a properly constituted authority to testify or provide confidential information obtained as a result of and during his or her employment with the Committee.

#### RULE 17: CHANGES IN SUPPLEMENTARY PROCEDURAL RULES

(a) ADOPTION OF CHANGES IN SUPPLEMENTARY RULES: The Rules of the Committee, other than rules established by statute, or by the Standing Rules and Standing Orders of the Senate, may be modified, amended, or suspended at any time, pursuant to a ma-

jority vote of the entire membership taken at a meeting called with due notice when prior written notice of the proposed change has been provided each member of the Committee.

(b) PUBLICATION: Any amendments adopted to the Rules of this Committee shall be published in the Congressional Record in accordance with Rule XXVI(2) of the Standing Rules of the Senate.●

#### DRUNK AND DRUGGED AWARENESS WEEK

● Mr. COATS. Mr. President, I rise today to commend President Bush on his declaration of December 10-16, 1989, as "Drunk and Drugged Awareness Week." As the Republican leader of the Labor and Human Resources Subcommittee on Children, Family, Drugs and Alcoholism, and, more importantly, as a father of three, I am very concerned about the destruction caused by drug and alcohol abuse in our country.

During the past year, Congress has devoted much time and energy to the "War on Drugs." The President's declaration reminds us of something we sometimes overlook. Alcohol abuse is as much a part of our war as crack or cocaine, and, like illegal drugs, alcohol has torn apart many families and shattered many lives.

The affects of alcohol abuse know no bounds, and tragically, these consequences are not limited to the abusers themselves. Look no further than the American family for a sobering view of alcohol's devastating influence. Divorce is more than seven times higher among alcoholics and their spouses, and today, more than 40 percent of all problems which surface in family courts around the country involve alcohol abuse.

I applaud the President's declaration and I am happy to see that many Americans are taking steps to make the public aware of this serious problem. Groups such as M.A.D.D., Community Watch, and Just Say No have made great strides in showing the American people the cold realities of substance abuse.

In particular, I would like to single out the fine work of the National Citizens Commission on Alcoholism [NCCA]. The NCCA has made significant contributions by supporting research and educating society as to the calamitous effects of alcohol misuse. I am especially pleased with its efforts to raise on-campus awareness at our colleges and universities.

Further, the NCCA's program of public service announcements, in both English and Spanish, reaches out to millions with its important message of sobriety and moderation. In fact, this year's intensive media efforts are expected to result in over \$50 million in contributed broadcast time and print space. I am proud to serve as honorary

chairman of the NCCA and I am even prouder of its persistence in combating substance abuse.

Mr. President, I commend all of these life-saving organizations, and encourage their vitality and growth throughout the country. I believe it is crucial that we recognize the problems associated with substance abuse and take the necessary steps to make our citizens aware of the magnitude of this issue. Every inch of ground that we gain in this war will bring our Nation that much closer to winning the battle against drug and alcohol abuse once and for all.●

**MS. CYNTHIA ANN BROAD,  
MICHIGAN TEACHER OF THE  
YEAR**

• Mr. RIEGLE. Mr. President, I rise today to pay tribute to Ms. Cynthia Ann Broad who was recently selected as Michigan's "Teacher of the Year" for the 1989-90 school year. Ms. Broad's outstanding work in the field of education and her unending dedication to her students make Ms. Broad most deserving of this special honor.

Ms. Broad has made invaluable contributions on both a State and local level. She was instrumental in organizing and developing activities for a cultural exchange program for 40 visiting Chinese educators. She has conducted over 30 workshops to discuss and develop the special education curriculum in Michigan. In 1978 she became the first special education teacher to score 100 percent on a classroom audit by the Macomb Intermediate School District. Her research and creative ideas have had a substantial impact on the quality of special education in Macomb County and throughout the State.

Administrators, parents, and students alike have the utmost respect and admiration for this outstanding educator. Dan Sapp, director of special education, had this to say about her performance: "Cynthia is one teacher that every parent wishes for their child and each administrator hopes to meet once during his career."

Mr. President, I am very pleased to join in honoring Ms. Broad for her commitment to excellence in education. We are all grateful to her and to all teachers who have devoted their lives to helping our children develop to their fullest potential.●

**CENTRAL INTELLIGENCE  
AGENCY**

• Mr. SIMON. Mr. President, in Newsday, David Wise, the author of a book about the Central Intelligence Agency [CIA], has an article which admonishes us not to use the CIA for assassinations.

His advice is sound.

I believe my colleagues in the House and Senate would find his article of real interest. I encourage Members and their staffs to read the article.

I ask to insert it into the RECORD at this point.

The article follows:

[From New York Newsday, Oct. 22, 1989]

**No LICENSE To KILL**

(By David Wise)

Early in 1961, the Central Intelligence Agency fed gelatin capsules containing botulinum toxin to a group of monkeys. The monkeys died.

This result, while predictable, pleased the CIA officials who had ordered the laboratory experiment. Because the deadly poison would next be administered, they hoped, to Fidel Castro, Cuba's prime minister.

To that end, the CIA contacted John Rosseli, a dapper Chicago mobster regarded as an expert in the elimination of objectionable persons. At a meeting at the Fontainebleau Hotel in Miami Beach, the capsules and a bundle of cash were delivered by a CIA representative to Rosseli. The mobster was cautioned that the poison would not work in "boiling soups." Rosseli in turn gave the capsules to a Cuban who worked in a restaurant frequented by Castro, and who was supposed to slip the poison into the Cuban leader's food.

The plot failed—Castro stopped going to the restaurant—as did a number of other CIA schemes to incapacitate or murder Castro, several of which seemed to have been invented by Woody Allen: a plan to impregnate Castro's cigars with something like LSD, in the hope he would smoke one before delivering a speech; another plan to dust his shoes with thallium to cause his beard to fall out, thus ruining his macho image; and an effort to sprinkle his diving suit with a fungus that would produce a hideous chronic skin disease known as Madura foot.

The CIA was involved, directly or indirectly, in plots against seven foreign leaders: Castro, Patrice Lumumba of the Congo, Rafael Trujillo of the Dominican Republic, President Salvador Allende of Chile, President Ngo Dinh Diem of South Vietnam, President Francois Duvalier of Haiti and President Sukarno of Indonesia. Four of these leaders died violently, with the CIA's level of complicity and involvement varying widely.

All of this, including the details about the monkeys, the botulinum pills and the mob, is set forth in one of the most remarkable documents ever issued about the U.S. government, "Alleged Assassination Plots Involving Foreign Leaders." The 347-page report was made public in 1975 by the Senate intelligence committee then headed by Sen. Frank Church, an Idaho Democrat.

The committee also revealed that the CIA had a unit called Executive Action, which was in charge of planning to bump off foreign leaders, and something called the "Health Alteration Committee," the purpose of which was exactly what its name stated. It was just such ghastly details—including the CIA's effort to infect Lumumba's toothbrush with a deadly African disease—that led President Gerald Ford to issue an executive order on Feb. 18, 1976, banning assassinations by U.S. agencies.

From that day forward, the United States, on paper at least, has been out of the assassination business. Every subsequent president—Jimmy Carter, Ronald Reagan and George Bush—has continued the ban. The

Reagan executive order on intelligence, issued in 1981, still stands. It states: "No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination."

That 22-word prohibition, is, of course, at the heart of the debate over the Bush administration's handling of the failed coup in Panama earlier this month against dictator Manuel Antonio Noriega.

Only last week, CIA director William Webster called on Congress and the president to give the intelligence agency greater freedom to deal with coup plotters, even if there is risk—and there usually is—that the target will be murdered. While the United States does not engage in "selective, individual assassination," Webster said, the CIA's authority to deal with plotters should be more clearly defined.

Stung by congressional criticism that the administration muffed an opportunity to rid the hemisphere of the Panamanian强人, White House officials have blamed the Senate intelligence committee for interpreting the ban on assassination to mean that the United States could have virtually no contact with coup plotters in Panama.

Brent Scowcroft, the president's national security advisor, went on television in the wake of the coup attempt and excoriated the Senate committee—the permanent successor to the Church panel—for "micromanagement of the executive branch going clear back to the executive order prohibiting assassinations, which was forced by the Congress."

Behind Scowcroft's complaint was the committee's objection in 1988 to a proposal by the Reagan administration that the CIA support a group of Panamanian officers plotting a coup against Noriega. The senators said the plan might violate the assassination ban. The CIA covert operation was ended, although officials disagree about whether the CIA or the Senate committee caused the plan to be abandoned.

But the political maneuvering and finger-pointing over the Panama coup has raised, in the stinkiest possible terms, the larger question of whether the United States is prepared to use political assassination as an instrument of foreign policy. Does the ban on assassination mean that the U.S. government cannot encourage, or even talk with, coup plotters? It isn't clear, which makes Webster's call for better guidelines understandable.

The White House, in fact, has supported Webster's position and is reportedly drafting just such new guidelines for American officials in Panama. The new rules are not likely to be restrictive, given Bush's repeated exhortations to Panamanians to overthrow Noriega, who has been indicted on drug-trafficking charges in the United States.

"I'd like to see him out of there," the president reiterated after the coup attempt.

One difficulty is that the executive order on intelligence does not define "assassination."

Unlike most laws, executive orders do not always spell out the meaning of the terms used. Although hiring a Mafia hit man to plug Fidel Castro would fairly clearly be prohibited by the president's order, it is much less clear whether a conversation between a CIA officer in Panama and a dissident colonel planning a coup—which might or might not result in the death of its target—would violate the order.

As Gen. Maxwell Taylor put it, after the murder of South Vietnam's Diem in a coup

supported by the Kennedy administration, "a coup is not like a tea party." Once it begins, in other words, people may get killed.

Trying to define assassination, and attempting to spell out what kind of activity by U.S. officials might be permissible without violating the ban, is to set foot on what lawyers call a "slippery slope." In the coup in Vietnam, Diem was killed, but Johnny Rosseli might argue that it was not a hit directed by the CIA. Except that Rosseli cannot make that point because his body was found wrapped in chains inside a 55-gallon oil drum floating in Biscayne Bay in 1976, not long after he testified to the Church committee.

To an extent, the presidential ban on assassination appears to conflict with, or certainly to restrict, the authority claimed by presidents since Harry Truman to conduct covert operations under the National Security Act of 1947. Although that law, which created the CIA, does not explicitly authorize such operations, it allows the president to order the agency to carry out "other functions and duties." That loophole has been cited as the legal basis for covert operations that have ranged over the years from the Bay of Pigs invasion of Cuba to the Iran-contra arms-for-hostages scheme.

As a practical matter, U.S. diplomats and intelligence officers talk to opposition leaders around the world. No one would suggest that the president issue a blanket ban on such contacts, although the White House has complained that congressional interference could have that result. Beyond mere talk, however, when the United States encourages coup plotters, or channels money or arms to them, it risks violating the presidential assassination ban.

There was good reason for that ban, as the 1975 revelations of CIA murder plots demonstrated. No one appointed the president of the United States to overthrow the governments in peacetime, much less to assassinate their leaders, as nasty or corrupt as they may be. The government should confine itself to collecting intelligence about potential coups, but it should not instigate them or promise military aid. Aside from all other reasons, and there are many, there is the risk that assassination of a head of state could lead to retaliation against our own leaders. In the absence of a declaration of war by Congress, the Constitution would not seem to provide for hit men operating out of the White House.●

#### CHILDREN'S TELEVISION LEGISLATION

• Mr. INOUYE. Mr. President, on January 8, 1990, Newsweek carried an article "Watch What Kids Watch." The article points out that the overwhelming majority of new children's fare available on commercial television has little educational material and that these programs cannot even be argued to promote prosocial behavior. To make matters worse, many of these programs have products associated with them, such as candy and toys.

The education of our youth is a national crisis. On average, 25 percent of elementary and secondary students drop out of school each year; 40 percent of these dropouts are blacks and over 50 percent are Hispanics. Ap-

proximately 13 percent of 17 year olds cannot read, write or count.

As further evidence of this disturbing trend, the 1989 "Report to the Nation on the Future of Mathematics Education" by the National Research Council concluded that the United States is experiencing a decline in mathematical skills and interest. For example, in 1987, only 55 percent of the 700 tellers hired by Chemical Bank passed an eighth grade level mathematics test. In 1983, more than 70 percent passed the test. In addition, from 1976 to 1986, high school student interest in mathematics declined by 50 percent.

The results of the "Second International Math Study" (1982) indicate that the performance of the top 5 percent of United States math students is matched by the top 50 percent of students in Japan. In addition, the top 1 percent of U.S. students scored lowest of the top 1 percent of all participating countries. Thus, our best math students ranked the lowest when compared to their counterparts in other countries.

If we are going to improve the education of this country's youth, we cannot rely on schools alone. Nor can we rely solely on their parents. Instead, we must be creative and determine how best to reach them.

Our children spend more time watching television than any other single activity—except for sleep. The fact is that children from all socioeconomic groups watch educational programming and the large body of evidence shows that children learn from educational television programming. Yet, only public broadcasting provides a significant amount of educational children's programming; and while public broadcasting is to be praised for these efforts, it is not enough. Commercial broadcasters must also participate, but today commercial television is practically devoid of educational children's programming.

I believe that this article highlights the reason that we need to enact legislation designed to increase the amount of educational and informational programming available to this Nation's children and to restrict the amount of commercial matter aired during these programs. In an effort to begin to address this deficiency, I have sponsored two bills: S. 797, the national endowment for children's educational programming; and S. 1992, the Children's Television Act of 1989. The objective of S. 797 is to establish a national endowment for children's educational television which will provide funding for the production of programming aimed at educating children. The bill was reported by the full committee on May 16, 1989 and passed the Senate on August 4, 1989. I hope the House will consider this bill shortly. I know they

share my deep concern about this issue.

S. 1992 is complementary legislation designed to increase the amount of educational and informational broadcast television programming available to children on commercial stations. It also protects children from overcommercialization of programming. S. 1992 was reported out of committee late last year and is pending before the full Senate. I want everyone to know that I intend to bring this legislation before the Senate within the next 2 months. I will not let it languish.

It is clear that unless we take steps to stimulate the production and carriage of educational and informational children's programming and restrict the amount of commercial matter, we can only expect more of the same as described in this article. I ask that this article be printed in the Record at this point.

The article follows:

#### WATCH WHAT KIDS WATCH

(By Harry F. Waters)

The name of our town, folks, is Grover's Corners. The time is Saturday morning. Over there at the Gibbs house, 8-year-old George has skipped basketball practice again. Yet he's in front of the T.V. New show, it appears. Called "Captain N: The Game Master." All about a young boy who gets sucked inside a video game and likes it so much he refuses to return home. Wonder what Mrs. Gibbs would think of that. And over here at the Webbs, little Emily is watching "Beetlejuice." This one's about a mighty disgusting ghoul who teaches a young girl how to become—let's listen in a second—"the grossest kid in school." Well! Now both George and Emily have switched to "Slimer and the Real Ghostbusters." Or is it "Rude Dcg & The Dweebs"? My. Things sure have changed in Grover's Corners.

Too bad the same can't be said for the state of children's television: while Grover's Corners was imagined by Thornton Wilder, its Saturday-morning video diversions are depressing real. After four decades of protests and promises, network "kidvid" remains a national embarrassment—a brain-rotting assault of animated comic books and shrieking commercials that borders on child abuse. But all of a sudden (Hey, kids!) there's tangible hope for significant reform (Hey, parents!). Later this winter, Congress is expected to approve a landmark bill obligating television stations to upgrade the air quality of children's programming. No one, however, knows whether George Bush will sign the bill or veto it. The man who would be our "education president" is about to confront a decision directly affecting almost every child in America.

It is to be hoped that Bush won't take his cue on the kidvid issue from his predecessor. Ronald Reagan vetoed nearly identical legislation as one of his last acts in office, claiming that it infringed upon broadcasters' First Amendment rights to free expression. In rebuttal, children's TV reformers cite the Communications Act's mandate that, to retain its license, every station must "serve the public interest." What's indisputable is that the Reagan administration bears heavy responsibility for kidvid's darkest age.

Under its deregulatory policies, stations jettisoned their few intelligent small-fry programs and replaced them with more lucrative shows that were, in effect, 30-minute commercials for toys. Though that trend has waned somewhat, crusaders like Peggy Charren, president of Action for Children's Television, have managed to contain their joy. The best that can be said about the current network offerings, muses Charren, is that "they don't make kids' hair fall out." But, she angrily adds, "most of them are just dumb. Is this the best that the wealthiest institutions in broadcasting can come up with? They should be ashamed of themselves."

To understand Charren's ire, one need only observe what's passing for the "new" kidvid season. Essentially, ABC's "The Adventures of the Gummi Beers" is a program-length commercial for a jellied candy, while NBC's "Captain N: The Game Master" is a program-length commercial for a video game (its youthful protagonist keeps encountering Nintendo's most popular heavies). CBS, however, has topped them both. "The California Raisins," which stars those toe-tapping little pitch-persons for the raisin industry, amounts to a commercial for another commercial.

As for the other new series, a grown-up viewer doesn't have to suffer from a case of sour grapes to discern some equally dubious messages. CBS, justifiably acclaimed for brightening everyone's weekends with "Pee-wee's Playhouse," deserves a big demerit for unleashing "Rude Dog & The Dweebs." Its canine hero is exactly what his name suggests—an incredibly obnoxious wise-cracker who drives a hot-pink Caddy and disgustedly advises his nerdy companions to "Get rude!" Adult characters, on the other hand, tend to be stereotyped as hopeless klutzies. The bumbling head counselor on NBC's "Camp Candy" appears to possess the IQ of a deer tick. He's forever falling out of trees and into lakes; the show's real authority figures are the moppets in his charge who must constantly rush to his rescue. And while we're on the subject of undermining authority, the same network's "Saved by the Bell" (a sitcom about high-school life) features the most, er, unusual teacher ever to pop up in kidvid. She's a grossly pneumatic black who wears skin-tight leather, six-inch earrings and three-inch spikes. If there's a message here, it may be X-rated.

Relief of sorts can still be found on weekday afternoons. ABC's "Afterschool Specials," its Emmy-winning series of one-hour dramas, launched its latest season with the story of a teenage boy coming to grips with his father's mental illness. CBS's own variation, called "Schoolbreak Specials," recently aired the true tale of a California girl who pioneered the passage of a state law protecting student rights. Unfortunately, both ABC and CBS run fewer than a dozen such specials a year, while NBC has abandoned the genre entirely. That's left the daily afternoon airwaves to such syndicated cartoon dreck as "Snorks," "Transformers" and "Teenage Mutant Ninja Turtles."

As some see it, kidvid's most grievous transgression is the advertising the programs interrupt. To watch it is to be engulfed in a torrent of slickly exploitative spuels for the unnecessary and possibly unhealthy: the Barbie Power Wheels convertible and Soda Shoppe, the Li'l Miss Makeup doll, Pocket Rockers tapes, Cinnamon Rolls, Corn Pops, Froot Loops and Fruity Pebbles. There's also more of it than anywhere else

on the dial. While commercials in prime time account for about 8-minutes-per hour, the number on some stations on Saturday mornings can add up to nearly twice that figure. Charren, who has been leading the kidvid reform movement for 20 years, offers a less obvious reason for regulation. "Contrary to adults," she says, "children like TV ads. They like to be told what to lobby for. They're uniquely vulnerable, and that's why they have to be protected from overcommercialization."

**Limit ads:** The bill currently before Congress aims to make a modest start. One of its provisions would limit ad time on weekend children's programming to 10½ minutes per hour. But it is the bill's second provision that has inspired the most hope. This requires the Federal Communications Commission to determine how well every TV station has served the "educational needs" of the young as a condition of license renewal. Exactly how the FCC would measure the quality of that service has yet to be spelled out—and therein lies the bill's last negotiating hurdle before landing on the President's desk. Though the TV industry grudgingly accepts the inevitability of kidvid legislation, some remain troubled over how such a law would work. CBS vice president Judy Price, perhaps the most highly regarded kidvid programmer, sums up their concern when she wonders: "Who's going to be sitting in judgment over what's appropriate for our children? What are the rules and standards?"

Others at the networks maintain that public TV and cable TV are better suited to take up the kidvid slack. That claim is, at best, disingenuous. Yes, the PBS schoolhouse delivers some terrific lessons, but it possesses neither the time, money nor reach to serve the entire young population. And yes, such cable innovations as the Nickelodeon children's channel—currently marking its 10th anniversary—manage to offer something for every age (box). The problem here is one of home economics. Not only are many urban areas still unwired for cable, but the households who can't afford to subscribe are precisely those whose children most need cable's educational uplift. For millions of poor youngsters, the "let them eat cable" philosophy constitutes an invitation to remain intellectually malnourished.

What the activists want and what the kidvid bill would presumably encourage is diversity as well as quality. If the networks can provide newscasts, documentaries, talk shows and mini-series for adults, why not for their most impressionable constituency? Who decided that kids won't sit still for anything that isn't animated? On the other hand, no one wants to see reform become the only norm. The 20 million youngsters who use weekend kidvid to unwind are just as entitled to their video escapism as their elders. Or in the words of CBS's Price: "Saturday mornings should not be a sixth day of school." Wait a minute. Maybe making it precisely that would bring about the most salutary solution of all:

It's another Saturday morning in our town and there's George and Emily heading for the TV again. Let's see what they've turned on. "Miss Manners' Neighborhood" (click) . . . "The Wonderful World of Grains and Greens" (click) . . . "Prepping for the SATs: It's Later Than You Think" (click, click). My, look at that. George and Emily are running straight for the front door! Ah, well. Guess there's plenty of worse places for a child to be on a beautiful morning than outdoors in Grover's Corners.

#### REVENGE OF THE "VEGETABLE NETWORK"

This is about a 10-year old that started out wrong and ended up a precociously accomplished, nationally celebrated force. When the Nickelodeon children's network premiered on cable in 1979, it quickly drew a flunking grade from its prime demographic targets. Audience research discovered that Nickelodeon's programming tone—earnestly educational, full of what's-good-for-you preachers—was precisely what the kids didn't want. One dubbed it "the green-vegetables network" suitable only for "dorks and doo-doo heads." Today Nickelodeon is the biggest thing in children's television, reaching 48 million households with a dawn-to-dusk lineup of more than 50 different shows.

How did Nickelodeon win over all those cynics in training? By giving the kids what they really wanted, which turned out to be their own versions of adult programs. "Don't Just Sit There" is a small-fry talk show and "Hey Dude" a teenage sitcom. "Kids' Court," a mini-knock-off of "People's Court," casts youngsters as judges, jury members and impassioned litigants (typical case: a boy stands accused of reading his sister's diary). "You Can't Do That on Television" is a junior "Laugh-In" featuring adolescent comics and skits that invariably (and inexplicably) conclude with a dousing of green slime. Messiest of all is "Super Sloppy Double Dare," a new game show. Contestants stomp on oatmeal-filled balloons with their legs tied and plummet down slides into giant sundaes.

If most of this seems silly, it's meant to be. "Our mission isn't to teach kids reading," says Nickelodeon president Geraldine Laybourne. "It's to make them feel good about being kids. Today's children are being pressured very severely to grow up too fast. Our goal is to provide a safe haven that accepts them for what they are." Not that the cable network doesn't slip some messages into the froth. When "You Can't Do That on Television" portrays adults as ogreish scolds, explains Laybourne, its viewers receive reassurance that their own nagging parents are anything but unique. Sometimes the solace gets delivered more directly. Comedienne Whoopi Goldberg, who recently made a guest appearance on "Don't Just Sit There," poignantly recalled her childhood despair over being too tall, too skinny and too black. "I felt left out of life," she remarked to a rapt circle of gangly young black girls.

Nickelodeon shapes its programming to the times with extraordinary solicitude. To create a show for the surging numbers of preschoolers in day care, the producers consulted child psychologists and educators, then conducted focus-group sessions with working mothers and their young. The result, called "Eureeka's Castle," deftly uses puppetry and animation to explore problems that newcomers to day care face: handling competition, making friends and dealing with bullies. So what could ABC, CBS and NBC learn from Nickelodeon? "Show more respect for your audience," suggests Laybourne. "Kids today want to be taken seriously." Of course the tricky part is to make the serious stuff fun to watch. After all, not even a network president can afford to be labeled a doo-doo head.—Harry F. Waters.●

**HOW MUCH IS POLAND WORTH?**

● Mr. SIMON. Mr. President, recently, Ira L. Straus, executive director of the Association to Unite the Democracies, an organization based in Washington, issued a statement with a simple title, "How Much Is Poland Worth?"

It outlines why Western nations should respond quickly and vigorously to the Polish challenge.

And, I hope we will be precisely that.

The Financial Times of London had an editorial recently along the same line, which touches on the Polish situation from a little different perspective, but, again, it points out to the West the urgency of the Polish situation.

I urge my colleagues in the House and Senate and their staffs to read these articles. At this point, I ask to insert them in the RECORD.

The articles follow:

**How Much Is POLAND WORTH?**

(By Ira Straus)

For 2 months an ever-growing mass of commentators, left and right, European and American, has pleaded with the Bush Administration to do more to help democracy in Poland. For 2 months the Administration has stonewalled.

This week the pleading ended. Senator Paul Simon introduced legislation to up the ante by a factor of ten. It is still a small sum that he proposes—\$1 billion over 3 years—but at least the issue is now engaged politically, with power being wielded on both sides. It is no longer a question of begging the Administration to listen to reason, it is a question of debating and voting in Congress.

Partisanship will now enter the picture. It will not be an exercise in pure reason. But the dialectic of political conflict can at least be expected to insure attention to the big questions.

The debate will focus first of all on money: how much can we afford, how much is needed, how much is appropriate. To put it crudely: How much is Poland worth?

It is time to establish criteria for planning and evaluating expenditures on Poland. It is time to get our priorities straight.

First we must figure out how much getting rid of Communism would be worth. Congressman Solarz suggested that it would be worth the entire defense budget. That is the right starting point—the defense budget is a variable dependent primarily on Communism—but the wrong conclusion. On basic investment principles, the end of Communism would be worth far more than that.

The U.S. spends \$300 billion a year for defense against Soviet Communism. If \$2 trillion would bring Soviet bloc Communism to an end (a peaceful end, leaving democracy rather than something worse in its stead), then it would bring real returns in U.S. defense savings of 15% of principal per annum. That would make it a brilliant investment. So the end of Communism would be worth at least \$2 trillion up front to the U.S.

Actually this is a gross underestimation of the value: a government investment need not earn anywhere near a 15% return; and Russia as a friendly democracy would bring America huge positive gains as well as huge negative savings. A more plausible valuation would be \$5-10 trillion. But for now let us be

cautious and stick with what is crystal clear: that a peaceful, democratic end to Soviet bloc Communism is worth at minimum \$2 trillion up front to the U.S.

Since Poland counts for 10% of the Soviet bloc and is a key demonstration case for democratization there, a peaceful democratic end to Communism in Poland is worth at least \$200 billion up front to the U.S.

The point is not to spend all \$200 billion, but to seek ways to help on a scale commensurate with the need and the opportunity. The more the U.S. can genuinely help, the more fortunate this is for the U.S. The U.S. should not balk at the price tag unless it begins to get within range of \$200 billion.

Solidarity asked the West for \$10 billion before Jaruzelski had agreed to a Solidarity government. That was a modest figure even then, and far too modest today. Yet the Bush Administration has refused to go beyond the \$100 million range. This has strained the politeness of Lech Walesa, who has blurted out that if the Solidarity government falls, the blame will in large part be with the Administration.

It is no use pleading bankruptcy. Deficits are bad but Communism is worse. Perhaps the U.S. cannot afford another generation of cold war and defense budgets at \$300 billion a year, which is what it will have to pay if the reform governments in the Soviet bloc go under. But it can afford to invest up to \$200 billion, no matter whether at the cost of higher taxes or a greater budget deficit this year, in making possible a massive reduction in defense needs. With GNP of \$4 trillion, the money is there. What the U.S. cannot afford is not to do it.

—  
[From Financial Times, Aug. 31, 1989]

**THE POLISH CHALLENGE**

Just once or twice in a normal politician's career there comes a challenge that far transcends the small change of politics. A statement is no more than a politician who has the ability to recognize and meet such challenges. So it is now with Poland. As Mr. Tadeusz Mazowiecki comes into office at the head of the first, fragile non-communists government in an eastern bloc country, the challenge is extraordinary—and not for the Poles alone.

Failure of this government would ensure political and economic chaos in Poland, undermine perestroika in the Soviet Union, and greatly increase the likelihood of instability throughout eastern Europe. At best, Western Europe would be threatened with a flood of refugees. Worst, the hope of a peaceful transition from the communist cul-de-sac would be revealed as an illusion.

Success, by contrast, would go far to heal the wounds inflicted by the Second World War, the anniversary of whose beginning is—with apt symbolism—now upon us. The war began with a cynical deal to divide and subjugate Poland. It would be an occasion for rejoicing if its anniversary were to see secured the ostensible aim of the Western Allies at that time: a free Poland. Now the West now treats Poland would also be seen as both a precedent and an incentive for the rest of eastern Europe.

For Poland to remain free and styable, it will also have to become prosperous. The Government must introduce a programme of economic reform that gives a chance of successful market-oriented economic development. In return, the western allies and particularly western Europe must be prepared to ensure both the required resources and market access.

That programme of reform must be comprehensive; it must be radical; and it must be implemented swiftly. This is the lesson of successful adjustment elsewhere, but it is a lesson of still more relevance to Poland.

**WINDOW OF OPPORTUNITY**

The conjunction of the Solidarity-led coalition government in Poland with perestroika in the Soviet Union creates a narrow window of opportunity. The most objectionable features of the socialist omelette need to be unscrambled before concerted opposition—within and outside Poland—can even be mounted. Equally, if ever a Government could reasonably expect a honeymoon, this is the one. But it will be short.

The status quo is, in any case, not an option. Poland's economy is sliding downhill. Food deliveries have plummeted and industrial production is in decline. In a land of shortages only cash is abundant, with prices rising by 85 per cent over the first seven months of the year compared with the corresponding period of 1988.

More fundamentally, an economy as distorted as that of Poland cannot be liberalised piecemeal. What is the point of freeing prices if there is no competition? What is the use of liberalising domestic prices if they bear no relation to prices abroad? How can entrepreneurs function if an army of bureaucrats interferes at random in all their decisions?

Economic reform must have three elements: macroeconomic stabilisation; reform of incentives; and privatisation. Each is necessary, but only together will they be sufficient.

The Government must find a way of financing itself without resort to the printing press and, in addition, must reform the currency. Beyond a certain amount, monetary holdings might be swapped into long term indexed bonds or real assets (perhaps housing).

The most important change in incentives is comprehensive trade liberalisation. (To the extent that responsibilities to Comecon remain, they would have to be dealt with separately, just as India continues to conduct barter trade with the Soviet Union.) There should also be reform of personal taxation and a unified market in foreign exchange, along with convertibility on current account.

But this would not be enough. In the socialist state hundreds of thousands of people may interfere in economic life, but nobody benefits directly from the efficient use of productive assets. If improved incentives are to bring corresponding changes in supply, there must be privatisation, with failure by enterprises bringing clear penalties and success equally clear rewards.

The details need to be worked out carefully, but it will be swifter and more sensible to give assets away than attempt to sell them. Those assets could perhaps be divided among the population at large, the workers in individual enterprises and, as compensation for the army of bureaucrats who need to lose their jobs, the members of the *nomenklatura*.

**CROSSING THE ABYSS**

This is a daunting programme, but no more so than the task. An abyss cannot be crossed in two strides. Even so, the new Polish government will not succeed unaided. Western governments should offer technical assistance and encourage their firms to invest in the Polish economy. Above all, they must open their markets to Polish ex-

ports and offer to eliminate the Polish debt in return for comprehensive reform.

Fortunately, western governments account for almost two-thirds of Poland's debt. They can, therefore, provide the bulk of the required relief without "bailing out the banks." Small-minded people will bleat about the precedent of debt forgiveness. The Brady plan has, however, already recognised the principle of debt reduction. More important, unique and fragile opportunity to further the principal strategic objective of the western alliance of the past 45 years is no occasion to emphasise petty principles or count petty cash.

More important is how such programme should be monitored. The International Monetary Fund is inevitably involved as a source of new funds (along with the World Bank). But the role of western Europe suggests a corresponding role for the European Community. At the very least the EC will play a decisive role as Poland's principal western trading partner, while the European Free Trade Association could become a new home for a reformed Polish economy.

There is another institution into which Poland should also be invited: the Organisation for Economic Cooperation and Development, the progeny of the organisation that oversaw the Marshall Plan. What Poland needs, after all, is no more than the policies and the resources denied it during the post-war recovery of western Europe.

This is the heart of the moral case for active and generous western involvement. Not that the case is moral alone, since the practical consequences of failure are so grave. But none of the great western powers can be unaware of their responsibility for Poland's present plight.

To create the conditions for successful economic development in Poland will take some years. To reap the fruits will take longer still. The new Government is doomed to be bold, but it will need generous help if it is to succeed. Poland's entire debt is, however, only \$39 bn and its gross national product less than \$80 bn. Against this, the combined GNP of the members of the western alliance is now some \$9 trillion. It is not a matter of not being able to afford to help. It is a matter of not being able to afford not to.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination:

Calendar No. 488—Edwin L. Nelson, to be U.S. district judge for the Northern District of Alabama; and

Calendar No. 490—Susan Webber Wright, to be U.S. district judge for the Eastern and Western Districts of Arkansas.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the Record as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

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

The nominations considered en bloc and confirmed en bloc are as follows:

#### THE JUDICIARY

Edwin L. Nelson, of Alabama, to be U.S. district judge for the Northern District of Alabama; and

Susan Webber Wright, of Arkansas, to be U.S. district judge for the Eastern and Western Districts of Arkansas.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to the consideration of legislative business.

#### ORDER FOR STAR PRINT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the annual report of the Senate Intelligence Committee, Senate Report 101-219, be star printed to reflect the changes I now send to the desk.

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

#### PROVIDING FOR A 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 242, a concurrent resolution providing for a joint session of Congress on January 31, 1990, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

#### H. CON. RES. 242

*Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Wednesday, January 31, 1990, 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 request of the majority leader?

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

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 242) was agreed to.

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

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

The motion to lay on the table was agreed to.

#### ORDERS FOR WEDNESDAY, JANUARY 24, 1990

#### RECESS UNTIL 9:30 AND MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m. tomorrow, Wednesday, January 24, and that following the time for the two leaders there be a period for morning business until 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

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

#### PROGRAM

Mr. MITCHELL. Mr. President, at 10 a.m. tomorrow with Senate will resume debate on S. 1630, the clean air bill.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

#### UNANIMOUS-CONSENT AGREEMENT—VETO MESSAGE ON H.R. 2712

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate receives from the House the veto message on H.R. 2712, the Chinese Student Immigration Status Act, it be immediately spread upon the Journal, the reading be waived and the message be laid aside until called up by the majority leader after consultation with the Republican leader.

I further ask unanimous consent that when the Senate considers this veto message it be considered under the following time limitation: 4 hours for debate to be equally divided between Senators KENNEDY and SIMPSON, or their designees, and that when all time is used or yielded back the Senate proceed to vote, without any intervening action, on whether or not the President's veto shall be sustained.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Reserving the right to object, and I shall not object, I think it should be reflected on the Record that we hope that vote will come early afternoon. Is that the hope of the majority leader?

Mr. MITCHELL. Yes, Mr. President. I have discussed it with the distinguished Republican leader. It appears to be most convenient for Members on both sides to commence the debate on Thursday morning and to complete it

Thursday afternoon and have the vote then. We will spend overnight and in the morning attempting to determine the convenience of the largest number of Members on both sides, with Senators traveling both to and from the Nation's Capital on that day.

Mr. DOLE. I thank the majority leader. I have no objection.

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

**RECESS UNTIL 9:30 A.M.  
TOMORROW**

Mr. MITCHELL. Mr. President, if the distinguished Republican leader has no further business, and if no Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order until 9:30 a.m. on Wednesday, January 24.

There being no objection, the Senate, at 6:47 p.m., recessed until Wednesday, January 24, 1990, at 9:30 a.m.

**NOMINATIONS**

Executive nominations received by the Senate January 23, 1990:

**DEPARTMENT OF STATE**

EVERETT ELLIS BRIGGS, OF NEW HAMPSHIRE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PORTUGAL.

PAUL C. LAMBERT, OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ECUADOR.

EDWARD MORGAN ROWELL, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO LUXEMBOURG.

**U.S. ARMS CONTROL AND DISARMAMENT AGENCY**

SUSAN JANE KOCH, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT DIRECTOR OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY, VICE WILLIAM H. FITE, RESIGNED.

COLIN RILEY McMILLAN, OF NEW MEXICO, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE JACK KATZEN, RESIGNED.

ENRIQUE MENDEZ, JR., OF PUERTO RICO, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE WILLIAM E. MAYER, RESIGNED.

**DEPARTMENT OF JUSTICE**

THOMAS W. CORBETT, JR., OF PENNSYLVANIA, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF PENNSYLVANIA FOR THE TERM OF 4 YEARS, VICE J. ALAN JOHNSON, RESIGNED.

**U.S. SENTENCING COMMISSION**

JULIE E. CARNES, OF GEORGIA, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 1995, VICE PAUL H. ROBINSON, RESIGNED.

**DEPARTMENT OF AGRICULTURE**

GARY C. BYRNE, OF CALIFORNIA, TO BE ADMINISTRATOR OF THE RURAL ELECTRIFICATION ADMINISTRATION FOR A TERM OF 10 YEARS, VICE HAROLD V. HUNTER, RESIGNED.

**DEPARTMENT OF COMMERCE**

L. JOYCE HAMPERS, OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE ORSON G. SWINDELL III, RESIGNED.

BARBARA EVERITT BRYANT, OF MICHIGAN, TO BE DIRECTOR OF THE CENSUS, VICE JOHN G. KEANE, RESIGNED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**  
ANTONIA COELLO NOVELLO, OF THE DISTRICT OF COLUMBIA, TO BE SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE FOR A TERM OF 4 YEARS, VICE C. EVERETT KOOP, RESIGNED.

**DEPARTMENT OF VETERANS AFFAIRS**

DWAYNE GRAY, OF VIRGINIA, TO BE CHIEF BENEFITS DIRECTOR, DEPARTMENT OF VETERANS AFFAIRS (NEW POSITION).

**BOARD FOR INTERNATIONAL BROADCASTING**

MALCOLM S. FORBES, JR., OF NEW JERSEY, TO BE A MEMBER OF THE BOARD FOR INTERNATIONAL BROADCASTING FOR A TERM EXPIRING APRIL 28, 1992 (REAPPOINTMENT).

**THE JUDICIARY**

ANNICE M. WAGNER, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS FOR THE TERM OF 15 YEARS, VICE JULIA P. COOPER MACK, RESIGNED.

**EXECUTIVE OFFICE OF THE PRESIDENT**

THE FOLLOWING-NAMED PERSONS TO BE ASSOCIATE DIRECTORS OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY (NEW POSITION): WILLIAM D. PHILLIPS, OF MISSOURI; EUGENE WONG, OF CALIFORNIA.

**FEDERAL COMMUNICATIONS COMMISSION**

ERVIN S. DUGGAN, OF SOUTH CAROLINA, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM OF 5 YEARS FROM JULY 1, 1989, VICE PATRICIA DIAZ DENNIS, RESIGNED.

**FEDERAL MARITIME COMMISSION**

DONALD ROBERT QUARTEL, JR., OF FLORIDA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 1994, VICE EDWARD J. PHILBIN, TERM EXPIRED.

**FEDERAL RESERVE SYSTEM**

DAVID W. MULLINS, JR., OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPRIRED TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 1982, VICE K. ROBERT HELLER, RESIGNED.

EDWARD W. KELLEY, JR., OF TEXAS, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF 14 YEARS FROM FEBRUARY 1, 1990 (REAPPOINTMENT).

**MERIT SYSTEMS PROTECTION BOARD**

JESSICA L. PARKS, OF GEORGIA, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE REMAINDER OF THE TERM EXPIRING MARCH 1, 1995, VICE SAMUEL W. BOGLEY.

**NATIONAL COUNCIL ON DISABILITY**

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE NATIONAL COUNCIL ON DISABILITY FOR THE TERMS INDICATED:

FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 30, 1991:

MARY MATTHEWS RAETHER, OF VIRGINIA, VICE PHYLLIS D. ZLOTNIK, TERM EXPIRED.

FOR A TERM EXPIRING SEPTEMBER 17, 1992:

SANDRA SWIFT PARRINO, OF NEW YORK (REAPPOINTMENT).

ALVIS KENT WALDRUP, JR., OF TEXAS (REAPPOINTMENT).

ANTHONY HURLBURTT FLACK, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1991, VICE JOHN F. MILLS.

**NATIONAL LABOR RELATIONS BOARD**

DENNIS M. DEVANEY, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF 5 YEARS EXPIRING DECEMBER 16, 1994 (REAPPOINTMENT), TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

JOSEPH H. GOVIND, JR., OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE REMAINDER OF THE TERM EXPIRING AUGUST 27, 1993, VICE WILFORD W. JOHANSEN, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

**NATIONAL RAILROAD PASSENGER CORPORATION**

TONNY G. THOMPSON, OF WISCONSIN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL RAILROAD PASSENGER CORPORATION FOR A TERM OF 4 YEARS, VICE ROBERT D. ORR, RESIGNED.

**NATIONAL TRANSPORTATION SAFETY BOARD**

JAMES L. KOLSTAD, OF COLORADO, TO BE CHAIRMAN OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM OF 2 YEARS, VICE JAMES EUGENE BURNETT, JR., TERM EXPIRED.

**OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**

VELMA MONTOYA, OF CALIFORNIA, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND

HEALTH REVIEW COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING APRIL 27, 1991, VICE ROBERT E. RADER, JR., RESIGNED.

**THE JUDICIARY**

RONALD M. HOLDAWAY, OF WYOMING, TO BE AN ASSOCIATE JUDGE OF THE UNITED STATES COURT OF VETERANS APPEALS FOR THE TERM OF 15 YEARS (NEW POSITION).

**FOREIGN SERVICE**

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF AGRICULTURE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

ROLLAND E. ANDERSON, JR., OF VIRGINIA.

CHARLES J. OMARA, OF MARYLAND.

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF AGRICULTURE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE AS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

CHRISTOPHER E. GOLDTHWAIT, OF NEW YORK.

MATTIE R. SHARPLESS, OF NORTH CAROLINA.

**PUBLIC HEALTH SERVICE**

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAP. CORPS OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT:

*To be medical director*

KENNETH J. BART	HENRY METZGER
HENRY FALK	ABNER L. NOTKINS
PETER GREENWALD	

*To be senior surgeon*

J. MICHAEL MCCGINNIS	STEPHEN W. HEATH
EUGENE R. PASSAMANI	NORRIS S. LEWIS
STEPHEN J. ROJCEWICZ	STEVEN M. PAUL
JR.	MARC D. REYNOLDS

*To be surgeon*

RUTH L. BERKELMAN	STEPHEN W. HEATH
MICHAEL R. BOYD	NORRIS S. LEWIS
CLAIRE BROOME	STEVEN M. PAUL
STEPHEN L. COCHI	MARC D. REYNOLDS
MARY C. DUPOUR	

*To be senior assistant surgeon*

ANDREW M. FRIEDE	PATRICK W. O'CARROLL
JAMES M. GALLOVAY	GARY F. ROSENBERG
THOMAS R. NAVIN	JOSEPH E. SNIZEK

*To be dental surgeon*

WILLIAM W. SAVAGE, JR.	
<i>To be senior assistant dental surgeon</i>	
STEVEN J. BAUNE	RAY M. MCCULLOUGH
JOHN S. BETZKE	THOMAS R. PALANDECH
DALE E. BURKE	MIGUEL RICO
MILTON J. EISIMINGER	EUGENE K. ROBBINS
ANDREA G. FEIGHT	CAROL E. SHERMAN
Douglas D. GORTHY	JEANINE R. TUCKER
SHAWNEQUA M. HARRIS	WALTER L. VANHOOSE
JAN T. JOSEPHSON	HORACE M. WHITT
LAWRENCE B. LANE	RUSSELL C. WILLIAMS, JR.
JEFFREY C. MABRY	

*To be nurse officer*

LYNN E. MCCOURT

*To be senior assistant nurse officer*

ARLENE B. BARTH	ROY C. LOPEZ
WERNER H. BECKERHOFF	CLEOPHAS LYONS, SR.
JR.	ELLEN P. MADIGAN
PAULINE A. CAHALAN	REBECCA M. MCLEROY
GAYLEN N. CLARK	RUSS P. METLER
ROBIN M. DANIELZUK	RAELENE PEIN
KAREN J. D'ANGELO	ANITA P. PENTE
MARGARET J. D'CLEMENTE	DIANE F. RUBY
ALAN D. GOLDSTEIN	ABRAHAM SIMMONS
JOVCE E. HIGGINS	PEGALIE C. SNESRUD
PENNY M. HLAVNA	RUTH P. WALKER
BYRON N. HOMER, JR.	

*To be assistant nurse officer*

FERN S. DETSOI	BARBARA A. ISAACS
THOMAS J. EDWARDS	JANE P. RUIZ
KIMBERLAE A. HOLLEY	JOCELYN W. WYNNE

*To be engineer officer*

JOHN M. DEMENT	RICHARD J. WAXWEILER
CURTIS F. FEHN	

*To be senior assistant engineer officer*

LEO M. BLADE	KELLY R. TITENSOR
JOSE F. CUZME	MARVIN L. WEBER
LARRY W. STRAIN	ROBERT C. WILLIAMS

January 23, 1990

*To be assistant engineer officer*

TODD M. SCOFIELD

*To be senior scientist*

MARILYN A. FINGERHUT

*To be scientist*

EVE K. MOSICKI

*To be senior assistant scientist*DAVID L. ASHLEY DAVID F. WILLIAMSON  
RANDY L. TUBBS*To be sanitarian*PAUL T. DAY  
THEODORE J.  
MEINHARDT*To be senior assistant sanitarian*DANIEL ALMAGUER KEVIN TONAT  
LYNN E. JENKINS L.J. DAVID WALLACE III  
KENNETH J. SECORD PETER P. WALLIS  
CHARLES D. STANLEY*To be senior assistant veterinary officer*RICHARD F. CULLISON CHERI A. REID-QUINN  
MARY L. MARTIN*To be pharmacist*

STEVEN R. MOORE

*To be senior assistant pharmacist*CHERYL L. AUNE MARLA L. KENT  
DAVID C. BOZZI MICHAEL R. LILLA  
JAMES L. BUTLER JAMES W. MITCHELL  
DAVID L. CHRISTENSEN JAMES M. MCLOUGHLIN  
LUIS D. COUCHACH WILLIAM D. SAGE  
BEN GLIDEWELL MARTIN L. SMITH  
SCOTT W. HAYES JAMES P. STABLES  
JAMES D. HAZELWOOD JAMES P. STUMPF  
IRENE J. HUMPHREY SHEILA E. VEIKUNE  
JAMES C. JORDAN CYNTHIA A. WAY*To be assistant pharmacist*

REBECCA J. LIDEL

*To be senior assistant dietitian*JANICE M. HUY JAMES M. PEARCE  
JOYANNE P. MURPHY*To be senior assistant therapist*MARK W. DARDIS JOSEPH HUNTER  
ELAINE A. DENNIS*To be assistant therapist*

KAREN N. LOHMANN

*To be senior assistant health services officer*DUANE R. BECKWITH ANN G. MAHONY  
MARY B. COOPER LURA S. ORAVEC  
ROCHELLE E. CURTIS MAX A. TAHSUDA  
CHERYL A. LAPOINTE THOMAS R. TAHSUDA  
STEVEN R. LOPEZ HENRY A. WALDEN, JR.NATIONAL OCEANIC AND ATMOSPHERIC  
ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW,  
THE FOLLOWING FOR PERMANENT APPOINTMENT  
TO THE GRADES INDICATED IN THE NATIONAL OCE-  
ANIC AND ATMOSPHERIC ADMINISTRATION.

*To be rear admiral*

JAMES A. YEAGER

*To be rear admiral (lower half)*

RAY E. MOSES

RAYMOND L. SPEER

SIGMUND R. PETERSEN

*To be captain*MELVYN C. GRUNTHAL  
MICHAEL A. MCCALLISTER  
MARTIN R. MULHERN  
ALBERT E. THEBERGE, JR.ARTHUR N. FLIOR  
FREDERICK J. JONES  
DONALD L. SUOFF  
NICHOLAS A. PRAHL*To be commander*GEORGE C. PLAYER III  
PAMELA R. CHELGREN  
KOTERBA  
TERRY M. LAYDON  
GREGORY V. SECUR  
EDWARD E. SEYMOUR, JR.  
GARTH W. STROBLE  
ANDREW M. SNELLAEDWARD B. CHRISTMAN  
DENNIS J. SIGRIST  
THOMAS L. MEYER  
ROBERT J. PAWLowski  
DOUGLAS G. HENNICK  
DAVID C. MCCONAUGHEY  
WILLIAM J. HARRIGAN*To be lieutenant commander*NEAL G. MILLETT  
CHARLES E. GROSS  
MICHAEL P. JOHNSON  
BRIAN P. HAYDEN  
DEREK C. SUTTON  
JOHN D. WILDER  
JOHN C. CLARY III  
MILES M. CROOM  
LEEANNE ROBERTSJOHN W. BLACKWELL  
SAMUEL P. DE BOW, JR.  
MARK S. FINKE  
ROBERT X. MCCANN, JR.  
TIMOTHY D. RULON  
JAMES M. HERKELRATH  
MICHAEL K. MALLETTER  
ELIZABETH A. WHITE*To be lieutenant*MICHAEL F. CHOLKO  
RANDAL J. SHRUELL  
DUANE A. TIMMONS  
JOHN E. LOWELL, JR.  
DAVID M. MATTENS  
JOE E. RIX  
CLIFFORD C. WILSON  
TIMOTHY J. CLANCYDAVID W. MOELLER  
GREGG LAMONTAGNE  
LEE M. COHEN  
MARK H. PICKETT  
JOHN S. GRIFFIN  
THOMAS W. HURST  
MARK W. HULSBEC  
CHRISTOPHER A. MEBANE*To be lieutenant (junior grade)*GERD F. GLANG  
RAYMOND C. SLAGLE  
EDWARD R. CASSANO  
PHILIP J. MEIS  
DEWAYNE J. NODINE  
DANIEL W. CHENG  
TINA L. BERTUCCI  
BRENT M. BERNARDCHRISTOPHER S. MOORE  
ANDREW L. BEAVER  
STACY L. BINK-BUSHEIM  
ANGELA M. LUIS  
JEFFREY A. FERGUSON  
MICHAEL R. LEMON  
PHILIP S. HILL  
WILLIAM B. KEARSE

MARK S. LARSEN  
JAMES S. VERLAQUE  
SCOTT K. SULLIVAN  
DANA S. WILKES  
DONNAL M. JUROSKEY  
CYNTHIA N. CUDABACK  
GARY R. MAY  
JOSEPH S. McDOWELL

THOMAS A. NIICHEL  
STEVEN P. LABOSSIÈRE  
DAVID K. ZIMMERMAN  
JOHN E. HERRING  
PATRICK I. WADDINGTON  
ROBERT S. PAPE  
LAURIE A. RAFFETTO  
THOMAS R. WADDINGTON

*To be ensign*TIMOTHY T. MADSEN  
MATTHEW J. HAWKINS  
HARRIE W. BONNAH II  
DOUGLAS G. LOGAN  
SUSAN L. GAERTNER  
MICHAEL J. HOSHLYK  
DENISE J. SWALLOW  
KAREN L. SCHOOONOVERANDREA M. HRUSOVSKY  
RICHARD A. FLETCHER  
KURT E. BROWN  
ANDREW J. PATE  
BARRY K. CHOY  
WILBUR E. RADFORD, JR.  
NINA I. ROOKSJAMES T. WALPES  
NANCY A. DAUBOL  
RALPH R. HARRERS  
MICHELE A. FINN  
LEE D. WEINER  
MATTHEW J. WINGATE  
FRANZ Y. ZINK  
CYNTHIA M. RUHSAM  
HEIDI J. MUENCH  
PHILIP A. GRUCCIO  
KIM T. MCDONOUGH  
LISA M. SCRIBA  
FRANCIS W. NOWADLAYRICHARD R. WINGROVE  
KIMBERLY R. CLEARY  
MICHAEL D. FRANCISCO  
KEITH E. GLOD  
ALAN C. HUTCHINS  
KATHERINE A. MCNITT  
HAROLD E. ORLINSKY  
RANA D. PRICE  
GEOFFREY S. SANDORF  
CHRISTOPHER J. WARD  
PAMELA K. WEBER  
CRAIG E. WINKLER  
JAMES L. YEATTS, JR.

## CONFIRMATIONS

Executive nominations confirmed by  
the Senate January 23, 1990:

## THE JUDICIARY

EDWIN L. NELSON, OF ALABAMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ALABAMA.

SUSAN WEBER WRIGHT, OF ARKANSAS, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN AND WESTERN DISTRICTS OF ARKANSAS.

## WITHDRAWAL

Executive message received January 23, 1990, withdrawing from further Senate consideration the following nomination:

## MERIT SYSTEMS PROTECTION BOARD

SAMUEL W. BOGLE, OF MARYLAND, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF 7 YEARS EXPIRING MARCH 1, 1995. VICE DENNIS M. DEVANEY, RESIGNED, WHICH WAS SENT TO THE SENATE ON JANUARY 3, 1989.

## EXTENSIONS OF REMARKS

## ELECTRIC VEHICLE TECHNOLOGY DEVELOPMENT AND DEMONSTRATION ACT OF 1990

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. BROWN of California. Mr. Speaker, I am pleased to introduce today the Electric Vehicle Technology Development and Demonstration Act of 1990. This measure will help our Nation to achieve very important—and heretofore mutually exclusive—goals: Clean air and convenient transportation. Joining me today as original cosponsors are Representatives VIC FAZIO, JERRY LEWIS, CARLOS MOORHEAD, TOM CAMPBELL, RON PACKARD, HENRY WAXMAN, and JIM BATES.

The scope of the problem is clear. We know that over 100 urban areas do not meet existing Clean Air Act standards for ozone and that more than 40 areas fail to meet standards for carbon dioxide. We know that programs directed at reducing emissions from mobile source will be central to air quality restoration efforts in these areas.

Electric vehicles must be part of any clean air solution because they may be the single most effective means of reducing transportation sector emissions in nonattainment areas. A recent report by the California Air Resources Board compared emissions of gasoline and alternately fueled vehicles, finding that even when the incremental emissions resulting from increased electrical generation are considered, electric vehicles can reduce up to 98 percent of emissions of reactive hydrocarbons, 89 percent of nitrogen oxides and 99 percent of carbon monoxide compared to gasoline powered vehicles. When the Air Resources Board compared other alternative fuels with electric vehicles, such vehicles still came out significantly ahead. For example, in carbon monoxide emissions, electric vehicles are 124 times better than methanol, 174 times better than liquefied petroleum gas and 11 times better than compressed natural gas. Replacement of gasoline powered vehicles with electric vehicles also offers the potential for actually reducing carbon dioxide emissions as well.

In fact one study has concluded that replacement of just 1 percent of the vehicles registered in the United States with electrically powered vehicles could eliminate 160,000 tons of pollutants emitted per year.

Electric vehicles have another important benefit: energy security. More than 60 percent of U.S. oil consumption is attributable to the transportation sector. One successful way of reducing oil imports is to use electric vehicles. Substitution of 1 percent of the vehicles registered today would save over 60,000 barrels of oil per day, and the U.S. balance of trade deficit would be reduced by \$1 billion.

Unfortunately, electric vehicles have not always been given the prominent role they deserve in the national policy debate about alternative vehicle fuels. While there may be a number of reasons for this—some technological, some economic—the real issue facing Congress today is how to move electric vehicles from the drawing boards onto our Nation's roads, particularly in those urban areas where they can contribute significantly to air quality improvement efforts. Even a combination of regulatory mandates to use alternative fuels may not resolve the obstacles which combine to thwart the development of an electric vehicle market in time to make EV's a viable option by the middle of this decade.

This legislation is a natural expansion of the effort to encourage development of electric vehicle technologies that we called for in the electric and Hybrid Vehicle Research, Development and Demonstration Act in 1976. In 1976, we identified electric vehicles as being an important means of reducing our national use of petroleum products. We recognized that our dependence on foreign petroleum products was a threat to our national security as well as to our balance of payments. We saw introduction of electric and hybrid vehicles—particularly in urban areas—as an effective means of reducing our use of imported petroleum. We observed that electric vehicles "do not emit any significant pollutants or noise," and for these reasons we set forth a program aimed at facilitating the development of and removing barriers to the use of electric and hybrid vehicles and to promote their substitution for gasoline and diesel-powered vehicles in appropriate applications.

The ambitious objectives of the act have yet to be fully realized, even though the benefits of electric vehicles from both an environmental and an energy security standpoint are unsurpassed by any other alternative vehicle fuel. Part of the reason that we have not achieved the goals of the 1976 Act is due to the decreased pressure for developing alternatives to petroleum-based fuels resulting from the drop in world oil prices. Nor has technology, particularly in the area of electric storage batteries, proceeded at the pace we expected in 1976.

The increasing environmental costs of continued near-exclusive reliance on gasoline are exerting renewed pressure for the development of alternative fuels. We have an important opportunity today to act.

The sponsors of this legislation are well aware that there are also real technological barriers to be overcome. Electrical drive trains must be improved, and the range and performance of current generation of electric vehicles must be enhanced if full consumer acceptance is to be achieved. Battery research and development efforts, both federally supported programs and those of private industry, must continue and intensify.

But we do not have the luxury of waiting until electric vehicle battery technologies are perfected to move forward with a commercialization program. If we do, electric vehicles simply will not be available in the mid-1990's timeframe contemplated by the alternative fuels programs now under consideration. The technology available today is adequate for certain applications, primarily for fleet use in urban areas. Getting that technology on the road and creating niche markets for EV's offers us an effective means to pull private sector research and development funds into battery programs at a far greater pace.

Our legislation proposes a Federal cost-sharing program to stimulate market demand for electric vehicles by cutting the high per vehicle purchase cost of initial models off the production line. Our goal is twofold: To establish a domestic production capability and to drive down the cost of electric vehicles by achieving favorable economies of scale through greater production to the point at which EV costs will be at least comparable, on a life-cycle basis, with conventionally-fueled vehicles.

The program will be oriented to areas not in compliance with Clean Air Act standards. The Federal Government's role would be limited to competitively selecting a manufacturer or manufacturers and specifying minimum performance standards for electric vehicles along with methods of integrating advances in battery technology into the initial production models. The private sector would be responsible for finding purchasers for the electric vehicles to be supported. The program will also generate data needed by consumers to assess the usefulness of electric vehicles for particular applications.

Mr. Speaker, I believe this legislation is a way to bring electric vehicle technologies to their rightful place in the forefront of national efforts to increase the use of alternative vehicle fuels. It offers a means to introduce the marketplace to the benefits of electric vehicles through a program that will attack directly consumer reluctance attributable to high initial vehicle costs. I hope that our colleagues will support our proposal and that we will be able to move forward promptly with its consideration during the current session. A summary of the bill is provided below:

## SECTION-BY-SECTION ANALYSIS OF THE ELECTRIC VEHICLE DEVELOPMENT AND DEMONSTRATION ACT OF 1990

## Section 1: Short Title.

## Section 2: Findings.

The section recites the important benefits of widespread use of electric vehicles, including improving air quality, permitting the efficient utilization of electrical generating capacity, enhancing national energy security and encouraging electric vehicle production in the United States. The findings also acknowledge the barrier to electric vehicle commercialization caused by the high

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

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

January 23, 1990

initial cost to users or owners. In view of the benefits of electric vehicles to national energy and environmental policy, it is in the public interest for the federal government to assist in the development, demonstration and commercialization of electric vehicles.

**Section 3: Identification of Nonattainment Areas; Eligible Nonattainment Areas.**

A two-step procedure is created to provide for the designation of areas in which electric vehicles should be introduced. First, within 30 days of enactment of the legislation, the Administrator of the Environmental Protection Agency would identify those nonattainment areas with the highest number of nonattainment days where mobile sources are a significant cause of the nonattainment. Subsequently, within 30 days after being notified of the identification of these nonattainment areas by the EPA Administrator, the Secretary of Energy will designate which of these nonattainment areas will be eligible areas for electric vehicle sales ("eligible nonattainment areas") under the program.

**Section 4: Application.**

Within 120 days of the date of enactment, the Secretary of Energy must implement a program to request applications from manufacturers to manufacture, distribute, sell, warranty and service electric vehicles in one or more eligible nonattainment areas. If the responses received to the initial request for applications are deemed inadequate, additional requests for applications may be made.

The request for applications would require responding manufacturers to identify the sales area, quantity of vehicles proposed, distribution means, the type of vehicles to be produced, along with specifications and performance characteristics, price, life cycle cost information and such other information as the Secretary may require. It is expected that requirements for minimum performance standards would be developed by the Department of Energy and included in the request for applications.

**Section 5: Selection of Manufacturers.**

Within 300 days of enactment, and in consultation with the Secretaries of Commerce and Transportation and the EPA Administrator, the Secretary of Energy is to select one or more manufacturers to sell electric vehicles. Criteria on which the Secretary's selection would be based are set forth, including the capability of the manufacturer to provide the vehicles, the suitability of the vehicles for cargo or passenger applications, the technical viability of the technology proposed, the ability of the manufacturer to achieve life cycle cost reductions, the price proposed for the vehicle, and other criteria specified by the Secretary.

**Section 6: Discount to Purchaser.**

This section sets forth the mechanism for federal cost-sharing for purchases of electric vehicles. The amount of federal cost-sharing is expressed as a "discount" that may be offered to the ultimate purchaser and will consequently be reflected in the price the ultimate purchase pays for the vehicle. The discount will be equal to either (1) the amount by which the estimated life cycle cost of the electric vehicle exceeds the life cycle cost of a comparable conventionally fueled vehicle, or (2) the amount by which the selling price to be charged by the manufacturer exceeds the suggested manufacturer's retail price of a comparable conventionally fueled vehicle. (Such discount not to exceed 50% of the manufacturers' selling price.)

Cost-sharing payments will be made directly to the manufacturer, and passed

## EXTENSIONS OF REMARKS

through to the ultimate purchaser in the form of a reduced purchase price for the vehicle. To receive payment, manufacturers will be required to certify to the Secretary (1) that the discount will not lower the manufacturer's selling price of the electric vehicle below a manufacturer's suggested retail price of a comparable vehicle; and (2) that the electric vehicle will be used in the eligible nonattainment area in which the vehicle is purchased.

Once initiated, the commercialization program will be an ongoing program, with cost sharing to be available to the selected manufacturer or manufacturers for five fiscal years, unless the Secretary of Energy determines that a manufacturer is not performing under applicable contractual terms and conditions, in which case further assistance may be withheld.

**Section 7: Definitions.**

Electric vehicles are powered by electric motors drawing current from rechargeable storage batteries, fuel cells, or other portable sources of electrical current, permitting the use of different powering technologies and not restricting the nature of the vehicles to be included in the commercialization program.

Life cycle costs are defined as all the costs associated with the purchase, operation maintenance and disposal of a vehicle.

**Section 8: Authorization of Appropriations.**

The legislation authorizes the appropriation of \$10,000,000.00 for each of the five fiscal years following the date of enactment of this Act.

### INTRODUCTION OF THE ELECTRIC VEHICLE TECHNOLOGY COMMERCIALIZATION ACT

**HON. VIC FAZIO**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. FAZIO. Mr. Speaker, in the debate on ways to improve the quality of our environment, much attention is now being focused on alternatives to conventional motor vehicle fuels. In my experience, however, inadequate attention has been paid to one important alternative fuel option—electricity. For this reason, my colleagues, Mr. BROWN, Mr. LEWIS, and I are introducing legislation, the Electric Vehicle Technology Commercialization Act of 1990, to encourage the widespread use of electric vehicles [EV's] in this country.

The legislation we are proposing calls for a multiyear Federal cost-sharing program that will demonstrate the environmental and energy benefits of electric vehicles. The measure will also serve to stimulate market demand for electric vehicles and encourage technical enhancements to improve today's available technologies.

Using EV's instead of gasoline-powered vehicles will produce substantial reductions in the emissions that produce urban smog. In addition, increased use of EV's offers an important means to improve our energy security by cutting our growing reliance on supplies of foreign oil.

When compared with the benefits of other alternate fuel technologies the environmental benefits of EV's often exceed those offered by other frequently cited alternatives.

Yet given their current state of development, vehicles using these other alternate fuels may be closer to commercial availability than are electric vehicles. If our Nation is to realize the substantial environmental benefits offered by EV's, we must begin efforts now that will assist in the accelerated commercialization of EV's.

We have recognized at least since the passage of the Electric and Hybrid Vehicle Research, Development and Commercialization Act in 1976 that sound national energy policy should include increased reliance on electric vehicles. Still there is presently no electric vehicle alternative available to potential users. A myriad of problems combine to frustrate the widespread development of electric vehicles, including high per vehicle cost. These high costs are, in part, a result of the fact that economies of scale and facilities to produce electric vehicles are not available. This lack of production facilities is itself the result of a lack in consumer demand for electric vehicles. Consumer resistance is also an outgrowth of the lack of consumer experience with electric vehicle technology. We have a completed circle for inaction.

The legislation we are offering today will address these impediments to electric vehicles. The Electric Vehicle Technology Commercialization Act calls for the Department of Energy to issue a competitive solicitation for one or more manufacturers to assume responsibility for producing, delivering, servicing, and selling electric vehicles. Specifications for the solicitation would be prepared by the Department of Energy, to assure that the highest technical standards are met by the proposers and the best available technology is produced.

Manufacturers responding to the DOE solicitation would be required to commit to distribute vehicles in the most serious nonattainment areas, as determined by the Administrator of the Environmental Protection Agency and the Secretary of Energy. In this way, the program would demonstrate the contribution that electric vehicles can make to air quality restoration efforts in severely polluted, urban areas.

I have also introduced legislation to reform Federal procurement policies to encourage the acquisition of alternately fueled vehicles. However, the legislation we introduce today has a different goal of generating enough experience with electric vehicles and information on the capabilities of the available technology to encourage the eventual development of a self-sustaining electric vehicle market.

Our other key element of the proposal is private sector cost-sharing. Under the legislation, the Federal share of the cost of any electric vehicle to be produced by a manufacturer is limited to 50 percent of the vehicle's selling price. This limitation is designed to assure that Federal funds are leveraged to the greatest extent possible with private sector funds. In addition, during the multiyear life of the demonstration program, economies of scale and technical advances will produce reductions in per vehicle costs. The legislation also provides that in no circumstance may the purchase price of an electric vehicle supported under this program be reduced to less than the manufacturer's suggested retail price of a

comparable, gasoline fueled vehicle. An alternative means of calculating the Federal cost-share is also provided, which is based on the difference in life cycle costs between an electric vehicle produced under the program and a gasoline powered vehicle.

The planned multiyear duration of the program will provide stability and permit the integration of technology improvements, such as advanced batteries, that are foreseen in the next several years. With improved battery technologies will come improvements in vehicle range and performance characteristics, all of which are essential before the electric vehicle can be viewed by consumers as an acceptable mode of transportation or delivery. I believe that we may even encourage additional private sector research and development efforts in electric vehicle batteries once manufacturers realize that a market for the batteries is being developed.

The importance of electric vehicle technology development must be addressed in conjunction with the clean air debate, and particularly the alternative fuels programs being discussed as part of those efforts. This legislation complements the objectives of the alternative fuel proposals already under consideration, and I am hopeful that we can look forward to action on this proposal in the very near future.

#### REPEAL SOCIAL SECURITY TAX INCREASE

**HON. PAT WILLIAMS**

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. WILLIAMS. Mr. Speaker, I rise today to introduce legislation to cut the payroll tax for Social Security this year. This reduction would be retroactive to January 1, 1990. My bill would reduce the tax rate to 7.51 percent in 1990 for both employees and employers while permitting the wage base to rise to \$51,300. In 1991, and calendar years thereafter, the rate would fall to 7.35 percent. This bill applies the same tax cut to tier I railroad retirement.

This act would save workers and employers in Montana a combined total of \$11.9 million in 1990. This is vital to the workers and employers in my State.

We have allowed Social Security trust funds to be used to pay for increases in defense spending, servicing the interest on our national debt, and reducing the deficit. It is time to face reality and move away from this regressive form of taxation as a major source of revenue.

We have borrowed trust funds to the point where we will have to find new revenue sources to pay Social Security benefits when they become due regardless of action on this bill. This trust fund is not the only one that we are borrowing from to meet the increases in defense spending, interest payments and deficit reduction, but it is clearly the largest. We are also committing the same hoax with highway, retirement, and unemployment insurance

#### EXTENSIONS OF REMARKS

funds. The following table from CBO's August 1989 Economic and Budget Outlook (p. 51) displays the magnitude of this problem:

TABLE II-6.—TRUST FUND SURPLUSES IN THE CBO BASELINE  
[By fiscal year, in billions of dollars]

	Actual 1983	1989	1990	1991	1992	1993	1994
Social Security.....	79	54	65	75	86	99	113
Medicare.....	15	21	23	21	17	15	13
Military Retirement.....	14	15	14	14	15	15	16
Civilian Retirement <sup>1</sup> .....	19	20	21	23	24	26	28
Unemployment.....	8	8	9	6	4	4	3
Highway and Airport.....	2	4	2	1	1	1	1
Other <sup>2</sup> .....	1	( <sup>3</sup> )	2	2	2	1	( <sup>3</sup> )
Total trust fund surplus.....	28	121	135	143	150	162	175
Federal funds deficit.....	-213	-283	-276	-287	-291	-304	-303
Total deficit.....	-185	-161	-141	-144	-141	-143	-128

<sup>1</sup> Includes Civil Service Retirement, Foreign Service Retirement, and several smaller funds.

<sup>2</sup> Primarily Railroad Retirement, Employees' Health Insurance and Life Insurance, and Hazardous Substance Superfund.

<sup>3</sup> Less than \$500 million.

Source: Congressional Budget Office.

This legislation will further protect the Social Security trust fund by taking these funds out of the calculation used to meet the Gramm-Rudman target, and therefore the Congress and the Nation to develop a more progressive form of revenue increases or face a higher, more honest deficit level.

#### UKRAINIAN INDEPENDENCE DAY

**HON. BENJAMIN A. GILMAN**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. GILMAN. Mr. Speaker, this week is the 71st anniversary of the Declaration of Independence by the Ukraine. After years of oppression by the Soviets, the independence of the Ukrainian people has long ago ceased to be a political reality. However, the spirit of independence which lives on in the hearts of Ukrainians remains unabated and stronger than ever.

The Ukrainian nationality enjoys one of the richest histories and cultures of all European peoples. Under the 19th century leadership of that literary giant, Taras Shevchenko, Ukrainian literature has been the envy of scholars and linguists since the mid-1800's. Shevchenko was not satisfied with leading the revival of Ukrainian writing, however; he also spearheaded the Ukrainian cultural revival, which proved to be the bedrock for the subsequent efforts to achieve Ukrainian political independence.

Michael Drahomanov formulated a political program for the Ukraine during the latter part of the 1800's. Drahomanov, a political moderate, envisioned the liberation of the Ukrainian people by means of democracy, federalism, and social reform. These moderates worked on the local level through cooperatives, but found their work thwarted by the repressive nature of the Czarist regime. The door was open for the Ukrainian radicals, who founded the Revolutionary Ukrainian Party in 1899.

Thus, the stage was set for Ukrainian independence when World War I engulfed the peoples of Europe.

The magnitude of the First World War proved too burdensome to the already corrupt and weakened Czarist regime. The March Revolution of 1917 overthrew monarchy forever in the Russian Empire. Later that year, the November revolution brought the Communists to power. The Ukrainian leaders were quick and adept in seizing this initiative to formulate a national state. On January 22, 1918, the independent Republic of the Ukraine was established.

Despite the determination of the Ukrainian people, under the sterling leadership of Simon Petlyura, Ukrainian independence proved to be extremely short lived. The Bolsheviks, who gained control of Russia, invaded the Ukraine from the north and the east. Poland invaded the Ukraine from the west. The White Russians conducted a fifth-column civil war from within the Ukraine. Against these combined forces, the armed services of the Ukraine didn't stand a chance, despite their courage on the battlefield. When the shooting came to an end, the Ukrainian Republic had ceased to exist. The U.S.S.R. and Poland divided Ukrainian lands between themselves. Even the newly created nation of Czechoslovakia gobbled up some Ukrainian territory.

Under the dictatorial heel of Josef Stalin, the Ukrainian people suffered greatly. A famine in the early 1920's claimed many lives. But this tragedy paled when the great famine of the 1930's took place. Forced collectivization of agriculture caused the death of some 3 to 5 million Ukrainians. As a member of the Ukrainian Famine Commission, I joined with my colleagues on that Commission in culled through substantial testimony regarding the inhumanity and the crimes which took place during those terrible days—a deliberate effort to crush the spirit and the heart of the Ukrainian people, and to thoroughly Russianize the Ukrainian homeland.

Those efforts were not successful. Today, the Ukrainian people remain more determined than ever to preserve their rich cultural heritage and their political integrity.

Mr. Speaker, in my own congressional district, Ukrainian Independence Day was commemorated by numerous Ukrainian-Americans as well as Americans of Ukrainian ancestry. In Glen Spey, NY, one active Ukrainian-American community conducted commemorative services which stressed the deep religious faith of the Ukrainian people. In Rockland County, NY, the Ukrainian-American Veterans Association memorialized the many Ukrainians who died on the battlefield both in the Ukraine, to achieve independence, and throughout the world, to protect the liberties of the United States.

Mr. Speaker, I invite all of our colleagues to salute a proud people on a proud occasion, and to join with us in praying for the day that Ukrainian independence will be revived, total and permanent.

**WE TRY HARDER—U.S. FUNDING EFFORT FOR EDUCATIONAL EXCELLENCE LAGS OTHER NATIONS**

**HON. MATTHEW G. MARTINEZ**  
OF CALIFORNIA  
IN THE HOUSE OF REPRESENTATIVES  
*Tuesday, January 23, 1990*

Mr. MARTINEZ. Mr. Speaker, if you want better results, you try harder. At last September's education summit, President Bush declared that the United States "lavishes unsurpassed resources" on education. Shortly before the summit, Bush's Chief of Staff, John Sununu, declared "(w)e spend twice as much (on education) as the Japanese and almost 40 percent more than all of the other major industrialized nations of the world." According to the administration, we are spending more and getting less.

"It ain't necessarily so" according to a recent study from the Economic Policy Institute, a nonpartisan research organization. Economists will argue until the Moon turns blue over the best way to compare activities across nations. Multiple indicators are vital: Different measures tell us different things. Policy differences—such as national programs for health care and pensions and definitions of who is a teacher—can make comparisons of even basic things, such as teacher salaries—one of the largest factors in cost-per-pupil ratios—tricky to compare. Wild fluctuations in the value of the U.S. dollar, due in large part to the twin deficits that emerged during the Reagan administration, make currency conversions difficult. Despite complexities, the issue of how we are doing is too important to ignore.

"Shortchanging Education: How U.S. Spending on Grades K-12 Lags Behind Other Industrial Nations" by the Economic Policy Institute opens a vital dialog. One would expect the United States to spend more on education than more centralized and homogeneous nations. Given decentralization, immigration, big regional differences and rapid economic change, one would expect the United States to spend more on education. Moreover, our Nation's commitment to building educational excellence for the disadvantaged and for the handicapped in order to keep America a land of opportunity for all demands higher levels of expenditures than in lands where students are tracked at an early age into vocational and college prep programs.

Effort is important in solving problems—and we have problems. Study after study tells that United States students lag relative to our goals and relative to other nations. The proportion of gross domestic product devoted to education is probably the best single measure of this effort. As CRS points out, among other things, there are fewer problems with data expressed relative to a nation's own currency. The proportion of national product going into an activity—such as health care or defense—is widely used as one measure of effort. Issues of how those resources are used—such as the fair chance of a local school to obtain an equitable share of those resources to educate its students—are equally vital, and an area that international comparisons could

**EXTENSIONS OF REMARKS**

also inform as we appear to lag many nations in this area as well.

This is not the first study to suggest that the United States may not be trying harder when it comes to funding education. A 1988 study by the Congressional Research Service pointed out that the United States primary school teacher-student ratio was equal or higher than for all other nations in the study except Japan—and even Japan had lower ratios for early elementary grades. CRS also found that average teacher compensation was below that for 4 of the 7 other nations in the study. CRS noted that the United States was devoting significantly less of its educational finance effort to K-12 education than nations such as Germany and Japan—with Japan spending a tenth of a percent more of its huge GNP than did the United States.

It is not just CRS that has raised concerns in this area. For example, a 1986 Comparison of Teachers' Salaries in Japan and the United States contracted by the Department of Education found that while salaries of entering teachers in Japan could be less than in the United States, salaries of senior Japanese teachers were as much as 30 to 40 percent higher than in the United States—and Japan had much higher retention rates for teachers as indicated by seniority. As the study put it: "This means that the average Japanese teacher's salary buys a significantly larger share of the nation's goods and services than does the average teacher's salary in the United States."

I have always said that "Education is the first line of defense." As tidal waves of change reshape the "Soviet Block"—and as the need to improve our schools to meet domestic and international challenges grows—the question of where we should put our financial muscle again comes to the fore.

As the banker said, "That which is not financed does not exist." The EPI study points out the need to strengthen our knowledge of the competition. That is why I strongly support U.S. participation in the OECD educational indicator project, and why I authored provisions in the pending reauthorization of the Perkins Vocational Education Act to develop internationally comparative data on technological education.

The Department of Education has attacked the "Shortchanging Education" study with such vigor that I believe that it is vital that members have the opportunity to examine the study first-hand as part of the larger debate over building educational excellence in America. Major excerpts from the study follow; the full text is available from the Economic Policy Institute.

**SHORTCHANGING EDUCATION: HOW U.S. SPENDING IN GRADES K-12 LAGS BEHIND OTHER INDUSTRIAL NATIONS**

(By M. Edith Rasell and Lawrence Mishel)

Over the past decade, Americans have become increasingly concerned about the educational and academic achievements of US students, particularly at the primary and secondary levels. Numerous high-level commissions, composed of leaders from government, education, and business, have examined the schools, and most recently state governors and Administration officials, including President Bush, met at the "Education Summit" to discuss needed reforms. Im-

*January 23, 1990*

proving the education of US students has risen to the top of the public agenda.

President Bush, who has declared his desire to be known as the "education president" has, however, attempted to limit the discussion of educational reform initiatives to those which do not involve spending additional public funds. At the "Education Summit" in September President Bush declared that the US "lavishes unsurpassed resources on (our children's) schooling." Therefore, "our focus must no longer be on resources, it must be on results." At this same conference, Secretary of Education Lauro Cavazos stated that the problem with US education "is not . . . an issue of dollars . . . (Funding is truly not an issue.)"

The President and administration officials have justified this anti-spending stance by asserting that the US education system is already well-funded in comparison with other industrial nations. Two measures of spending have been used by Administration officials and others to compare US expenditures with those of other countries. One measure is spending per pupil. According to Secretary Cavazos, "we are already spending more money per student than our major foreign competitors, Japan and Germany." President Bush's Chairman of the Council of Economic Advisers, Michael Boskin, agrees: "(w)e spend more, per pupil, than most of the other major industrialized economies." In the New York Times, Chester Finn, Jr., former Assistant Secretary of Education in the Reagan Administration wrote "(w)e already spend far more per pupil than any other nation."

The second measure of spending which is used to make international comparisons is the share of national income devoted to education. In appearances on the NBC "Today Show" . . . President Bush's Chief of Staff, John Sununu declared, "(w)e spend twice as much (on education) as the Japanese and almost 40% more than all of the other major industrialized countries of the world." The Council of Economic Advisors Chairman Boskin stated, "we spend a very large amount of our national income on education."

The Administration's proposition that US education is well-funded and therefore poor student performance cannot be a matter of insufficient monies is a key element in the national debate over education. It has provided policymakers at federal, state, and local levels a convenient rationale for not devoting more resources to education in a time of budgetary stress.

This paper is an examination of the statistical under-pinnings of the Administration's claims. It concludes that the assertions about funding are misleading and therefore invalid guides to educational policy. Specifically, our examination of education expenditures in 16 industrialized countries, adjusted for differences in national income, shows:

US public and private spending on pre-primary, primary and secondary education, the levels of schooling which have been the focus of most concern, is lower than in most other countries. The US ties for 12th place among 16 industrialized nations, spending less than all but three countries.

When expenditures for K-12 are further adjusted to reflect differences in enrollment rates, the US falls to 14th place, spending less than all the other countries but two.

When US public spending alone is compared to public spending abroad, we rank 14th in spending for all levels of schooling, 14th in spending on K-12, and 13th on K-12 spending adjusted for enrollments.

If the US were to increase spending for primary and secondary school up to the *average* level found in the other 15 countries, we would need to raise spending by over \$20 billion annually . . .

This paper is focused on education spending. It is not a prescription for improving the US education system. We recognize that money does not guarantee excellence and we suspect that other changes—in curriculum, in the status of teachers, and in expectations about students, to name just a few, will also be fundamental to any improvement in education quality and student achievement. But to begin a process of education reform by denying the need to increase spending, especially when US schools are under-funded compared to those in other industrial countries, places a severely limiting constraint on any plans for educational improvement.

This paper compares education spending in 16 industrialized countries: most of western Europe, Canada, Japan, and the US. Our data source is the UNESCO, virtually the only commonly accepted source for such comparisons and the same source used by Administration officials. US 1985 expenditure data come from the Digest of Education Statistics.

#### INTERNATIONAL COMPARISONS: EDUCATION SHARE OF NATIONAL INCOME

We will begin our study by comparing education expenditures expressed as a percentage of national income (Gross Domestic Product). This is a common method used for international comparisons which allows us to avoid the distortions caused by fluctuating exchange rates. Also, education expenditures expressed as a percentage of national income provide a measure of the national effort which each country directs toward education.

Table I shows education expenditures as a percentage of national income for 16 countries in 1985, the last year for which such data are available. At first, but as we will show later, misleading glance shows that US spending for all levels of schooling . . . amounted to 6.8% of national income. This places the US in a three-way tie for second place with one of the highest expenditure levels among the 16 countries studied. By this measure it appears that only Sweden spends a larger share of national income on education than does the US, and Canada and the Netherlands spend equivalent amounts. This figure showing the US to spend a relatively large percentage of national income on education is the basis for claims made by the President and others that the US spends "lavishly" on education and that we spend more than most other countries.

This comparatively high expenditure on education is due, in large part, to the substantial sums the US spends on higher education. A relatively larger number of US students are enrolled in post-secondary education than in most other countries. In 1985, 5.1% of the entire US population was enrolled in some form of higher education, a figure two to three times larger than the percentage enrollments of any other country except Canada. Larger enrollments, in what is also a more expensive form of education, raise US total education expenditures above levels in many other countries.

But the current crisis of American schools is not higher education; it is in the primary and secondary school systems. A comparison of funding for all levels of education combined thus obscures the main focus of concern about American education. If spending

#### EXTENSIONS OF REMARKS

on K-12 only is compared, in 1985 the US tied for 12th place spending less than 11 of the other countries . . .

But this picture of relative spending is still incomplete. Calculations of funding adequacy must also be related to the size of the school age population in each country. Among the countries studied, the US enrolls a relatively large percentage of the population in pre-primary, primary, and secondary school. For example, over 19% of the US population is enrolled in K-12, but less than 15% of the West German population . . . (When expenditure figures) are adjusted to take into account the relative size of each country's K-12 enrollment . . . among the 16 countries studied, the U.S. spends less on preprimary, primary, and secondary education than all but two other countries. Only Australia and Ireland spend less than the U.S. for the critically important grades K-12 (see Figure 1).

We can also compare U.S. education spending as a share of national income with the average share of the other 15 countries. . . . The U.S. spent 4.1% of its national income on K-12 education in 1985, while the average abroad was 4.6%. If the U.S. were to have reached this average in 1985, we would have needed to raise spending for pre-primary, primary, and secondary school by over 12%, or by \$20.6 bn. annually.

All the international comparisons made thus far still give an incomplete picture of comparative education spending. Large U.S., Japanese, and German trade imbalances skew the data and make the U.S. education expenditure appear larger than is actually the case. A more accurate picture of education spending, taking into account trade imbalances, would lower U.S. spending and raise Japanese and German spending beyond the levels shown in Table 1.

FIGURE 1.—Comparison of Country Education Expenditure, 1985

	Percent
Sweden .....	7.0
Austria.....	5.9
Switzerland.....	5.8
Norway.....	5.3
Belgium.....	4.9
Denmark .....	4.8
Japan .....	4.8
Canada .....	4.7
West Germany .....	4.6
NonUnited States average.....	4.6
France.....	4.6
Netherlands.....	4.5
United Kingdom .....	4.5
Italy .....	4.2
United States.....	4.1
Australia .....	3.9
Ireland .....	3.8

#### SPENDING ON GRADE K-12 AS PERCENT OF GROSS DOMESTIC PRODUCT PUBLIC SPENDING ON EDUCATION COMPARED

We have seen that the U.S. spends a smaller share of its national resources on K-12 than do most other industrialized countries. But there is another dimension in which characterization of the U.S. as a big spender on education is wrong—public expenditures.

For most of the 16 countries studied UNESCO assembles data on public expenditures for education because public revenues provide virtually all the money spent on education . . . The two exceptions are Japan and the U.S. where 20-25% of all educational funding comes from private sources. For these two countries UNESCO provides data on public and private education expenditures . . . If we educated public and private

K-12 students at the actual per public expenditure found in public schools, this would increase spending and raise the U.S. ranking from 14 to 13.

#### INTERNATIONAL COMPARISONS: EXPENDITURES PER PUPIL

Thus far we have focused on education's share of national income in different countries. Education investment can also be analyzed by comparing expenditures per pupil. . . . However, there are two potential sources of error in the use of per pupil expenditures to compare nation's spending on education. The first is the instability of exchange rates. Before cross-national comparisons can be made, expenditures measured in each country's national currency must be expressed in some common unit of measurement, e.g. dollars, yen, marks, etc. But whatever measure one chooses, it requires converting data collected in all other currencies to one currency. However, exchange rates fluctuate, sometimes markedly, and this has been particularly true in the 1980s. For instance, in 1985, if \$100,000 would have purchased a German school bus, by 1988, due to a decline in the value of the dollar, the same bus could have cost \$166,000 . . . The size of the German expenditure measured in German marks would be unchanged, but fluctuations in the exchange rate used to convert marks to dollars would markedly change the dollar value of the expenditure. . . . Using 1985 exchange rates . . . the U.S. ranked fourth among the 16 countries studied. But if some other value of the dollar is used to make the conversion, e.g., the 1988 exchange rate, then the U.S. ranking changes to ninth.

The second problem in using per pupil expenditures is that they do not necessarily reflect the national effort devoted to education. The real issue underlying cross-national comparisons is not the number of dollars . . . which each country spends, but the relative national effort devoted to education. For example, a poorer country could spend a relatively larger share of national income on education, i.e. could make a large national effort to educate its youth, but have a much lower spending per pupil than a richer country devoting a smaller share of its income to education. Before meaningful international comparisons can be made, education expenditure levels must be related to some measure of total national income.

Moreover, countries with high per capita incomes will also have higher wages reflecting a higher standard of living . . . Therefore, we would expect education expenditures per pupil to be higher in the U.S. than in other countries.

Per pupil expenditures can be used to make international comparisons if two conditions are met: exchange rates are avoided, and if some measure of national income is included in the calculation. Such a measure is shown in table 6 . . . We find that of the 16 countries studied, US spending on pre-primary, primary, and secondary education is lower than in all but two other countries.

#### THE HISTORICAL RECORD

Despite the increase in overall US education funding of K-12 between 1980 and 1985, our position relative to other countries declined . . . In 1980 the US ranked 12th in adjusted spending on K-12, spending less than 11 other countries. But by 1985 the US had fallen in rank to number 14 . . .

#### CONCLUSION

We have seen that when public plus private spending on all levels of education is

compared with the spending in other industrialized countries, the US is in a three-way tie for second place among the countries studied. However, when spending for primary and secondary education alone is compared with expenditures abroad, the US ranking falls to a tie for 12th place. And when adjustments are made for enrollment size, the US falls further to 14th place, spending less than all the other countries except two.

When levels of public spending on education only are compared, showing the social commitment to education, again the US compares unfavorably with the other countries. Comparisons of public spending for all levels of education and for K-12 alone, both place the US in 14th place. In enrollment adjusted K-12 public expenditures, the US does slightly better, ranking number 13th. But by all comparisons, the US devotes fewer resources to primary and secondary education than do most industrialized nations.

The claim that the US spends more than other nations on education is misleading. By all comparisons, the US devotes a smaller share of its resources to pre-primary, primary and secondary education than do most industrialized countries.

The comparatively weak US investment in K-12 is not a result of a more efficient administrative structure or favorable demographics. In fact, the US might be expected to spend proportionally more than other countries because of the particular characteristics of the US school system and American society. Our decentralized school system gives more local autonomy and local choice, but is also more expensive than a single, centrally administered system. Our population is more heterogeneous than in most other countries. Some immigrants do not speak English. Students come from a variety of cultural backgrounds. The very high number of children living in poverty makes additional demands on the school system.

Available data do not permit cross-country comparisons to be made in much more detail, but other evidence suggests that the spending gap is particularly wide between the youngest American and foreign children. For example, it is generally accepted that the US Head Start Program of early childhood education for disadvantaged children age three to five is valuable and cost effective, yet limited federal funding permits only 20% of eligible children to take part. Many of our competitors seem to have a stronger commitment to early childhood education, and some of them have nearly universal pre-kindergarten enrollments. In France, 100% of four and five year olds attend school/educational day care, 90% of three year olds attend, and 36% of the two-year-olds. In Belgium, 96% of three- to six-year-olds are in school, and in the Netherlands, 98% of four- and five-year-olds.

Spending may only answer to the difficult problem of revitalizing primary and secondary education in the US. But the data presented here indicate that in education, as in every other service, we may "get what we pay for." Given the level of investment in our pre-primary, primary, and secondary schools, it is not surprising that we are slipping behind in comparative measures of performance as well.

## EXTENSIONS OF REMARKS

### LEGISLATION TO RESCIND THE SOCIAL SECURITY [FICA] TAX

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. PENNY. Mr. Speaker, today I am introducing legislation to rescind the Social Security [FICA] tax increase that went into effect on January 1, 1990, and to further reduce the FICA tax in 1991 by 1.1 percent on both employees and employers. A similar proposal has been advanced in the other body by Senator DANIEL PATRICK MOYNIHAN.

Specifically, my bill will reduce the FICA tax to its 1989 level of 6.06 percent from the current level of 6.2 percent. In 1991, the FICA tax would be further reduced to 5.1 percent. This legislation would result in a \$7 billion saving for Social Security taxpayers in 1990 and a \$55 billion saving in 1991. The FICA tax levels proposed in my bill are based on the recommendations of Robert J. Myers, who was Social Security's chief actuary for 23 years, in testimony before Senator MOYNIHAN's Social Security Subcommittee last year.

This tax reduction will mean an additional \$600 per-year to a couple with combined earnings at the Social Security taxable maximum (\$54,300 in 1991). For the 74 percent of working Americans who pay more FICA taxes than Federal income taxes, this will be real tax cut. It will produce an immediate positive impact on the overall economy and should assist in creating new job opportunities.

My legislation will also put to an end the "great budget charade of the 1980's," namely: using Social Security tax receipts to fund the general operations of government, a purpose for which they were never intended. Enactment of this legislation will finally force the President and the Congress to focus on real deficit reduction while protecting future Social Security retirees.

I know this is a controversial and provocative proposal. However, dramatic action is necessary to force Congress and the administration to talk about how to set national priorities and balance the budget. With the actual deficit exposed we will be required to look at a combination of specific budget cuts and/or tax increases to bring us to our goal of a balanced budget. Second, it will once again stimulate discussion on the long-term solvency of the Social Security system, including the possible adjustment of benefits in the future for those in the Baby Boom generation. We want to guarantee a tax increase on 21st century workers. In the near future, I plan to introduce additional reforms to address these concerns.

Reducing the payroll tax is a dramatic step, but one that may be necessary to bring us to our senses about the deficit. There are many options available to achieve this objective, but it is clear that we must act now.

H.R. —

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

*January 23, 1990*

### SECTION 1. REPEAL OF SCHEDULED INCREASE IN SOCIAL SECURITY TAXES; REDUCTION OF TAXES IN 1991.

(a) **TAX ON EMPLOYEES.**—Subsection (a) of section 3101 of the Internal Revenue Code of 1986 (relating to tax on employees) is amended by striking the last 2 items in the table and inserting the following:

"1988, 1989, or 1990..... 6.06 percent.  
"1991 or thereafter..... 5.10 percent."

(b) **TAX ON EMPLOYERS.**—Subsection (a) of section 3111 of such Code (relating to tax on employers) is amended by striking the last 2 items in the table and inserting the following:

"1988, 1989, or 1990..... 6.06 percent.  
"1991 or thereafter..... 5.10 percent."

(c) **SELF-EMPLOYMENT TAX.**—Subsection (a) of section 1401 of such Code (relating to self-employment tax) is amended by striking the last 2 items in the table and inserting the following:

"December 31, 1987—January 1, 1991..... 12.12.  
"December 31, 1990..... 10.20."

(d) **TIER 1 RAILROAD RETIREMENT TAX ON EMPLOYEES.**—Subsection (a) of section 3201 of such tax on employees) is amended by striking the last 2 items in the table and inserting the following:

"1988, 1989, or 1990..... 7.51.  
"1991 or thereafter..... 6.55."

(e) **TIER 1 RAILROAD RETIREMENT TAX ON EMPLOYEE REPRESENTATIVES.**—Subsection (a) of section 3211 of such Code (relating to tier 1 railroad retirement tax on employee representatives) is amended by striking the last 2 items in the table and inserting the following:

"1988, 1989, or 1990..... 15.02.  
"1991 or thereafter..... 13.10."

(f) **TIER 1 RAILROAD RETIREMENT TAX ON EMPLOYERS.**—Subsection (a) of section 3221 of such Code (relating to tier 1 railroad retirement tax on employers) is amended by striking the last 2 items in the table and inserting the following:

"1988, 1989, or 1990..... 7.51.  
"1991 or thereafter..... 6.55."

### (g) EFFECTIVE DATES.—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to remuneration paid after December 31, 1989.

(2) **SELF-EMPLOYMENT TAX.**—The amendment made by subsection (c) shall apply to taxable years beginning after December 31, 1989.

**REMEMBERING THE BUDAPEST GHETTO**

**HON. STEPHEN J. SOLARZ**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. SOLARZ. Mr. Speaker, the bright new dawn rising over Europe is being felt around the world. The Iron Curtain that had descended over Hungary so many years ago has been lifted as relations between that nation and the State of Israel have been renewed.

To mark the resumption of diplomatic relations between these two great nations, and to celebrate the increasing liberalization of human and religious rights by the Hungarian Government, the Emanuel Foundation for Hungarian Culture will sponsor a gala dinner at the Hotel Pierre on January 31, 1990.

The proceeds of the dinner will benefit the new Hungarian Holocaust Victims and Heroes Memorial which is currently being erected on the site of the Budapest Ghetto. It was there that thousands of Jews died of disease and starvation, victims of the depraved Nazi slaughter that swept over Europe a half century ago. Funds raised at the dinner will also support the renaissance of Jewish culture and Jewish institutions in Hungary, including the Dohany and Kzinczy Synagogues.

The memorial itself will represent a tree in the shape of an inverted menorah, with the names of those who perished inscribed on the tree's leaves as a lasting memorial to the past and as a symbol of hope for the future.

The most extraordinary part of the memorial will be the site itself. Located on the corner of Rumbach and Wesselényi Streets in downtown Budapest, and adjacent to a mass grave where thousands of Holocaust victims were interred anonymously, the plaza has been donated by the Hungarian Government.

For the survivors of the Nazi terror, and for Jews around the world, this rebirth of a community once nearly obliterated by the blind brutality of fascism is indeed a miracle. Were these extraordinary events merely a great new day for world Jewry, it would be enough.

The events of the last few months are a sign of hope for all humanity: the chipping away at the Iron Curtain, the memorialization of the victims of the Holocaust, the restoration of human rights are all events that have captured the imagination of the world. People of all nations are rejoicing in the fresh breeze blowing across the continent.

I am proud to note the active role our Nation, and its Jewish community, has played in these exciting events. The work of the Emanuel Foundation for Hungarian Culture is a shining example of the activist role being played by these partisans of freedom.

The foundation will honor five great Americans at its dinner:

Richard Roth, of the architectural firm of Emery Roth & Sons, is a native New Yorker and the firm's chairman since 1988. While the name Emery Roth & Sons may not be well known to the man on the street, its buildings are. Its best known works are the World Trade Center, the Pan Am Building, and the Citicorp Building. These striking and innovative structures are as much a part of the New York

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landscape as Central Park or the Brooklyn Bridge.

The firm's founder Emery Roth, immigrated to the United States in 1884 and lived the American dream, founding his own firm at the age of 32. His buildings are now landmarks and the firm he began one of New York's most respected.

Michael Hont of the brokerage house of Asiel & Co. has been active in the effort to erect a monument to the martyrs and heroes of the Budapest ghetto. In recognition of his efforts, he will receive the Humanitarian Award. A member of the board of the Emanuel Foundation, he is a fountain of energy and commitment.

Most of all, Michael Hont has been a builder for the future of Hungary's Jewish community. He has worked to forge bonds of understanding between people of all faiths and nationalities. Through his work he is helping to give life to the words "never again!"

Erwin and Madeleine Herling will receive the Memorial Builder Award for their dedicated support of the Hungarian Holocaust Victims and Heroes Memorial and for the Dohany Synagogue in Budapest.

Erwin Herling helped rebuild Hungarian industry after the war and, as president of the Getex Corporation, is a highly successful importer of clothing from Eastern Europe. It was on one of his early trips to Hungary that he met his wife, Madeleine, whom he married in the Dohany Synagogue.

Madeleine Herling is also a successful business person. As president of Jolie Gabor Ltd. and the Countess Madeleine Galleries, Ltd., she brings her own special talents and creative instincts to the world of fine jewelry and art.

Erwin and Madeleine Herling have never forgotten the importance of repaying good fortune. As Mr. Herling has often said, "The more we give, the closer we approach Godliness."

Ibi Adler will be presented with the Memorial Patron Award. A native of Nyiregyhaza, Hungary, she has long been known for her quiet, unassuming, yet effective assistance to the elderly in both Hungary and the United States. Bringing food, and subsidizing medical care, she has become a guardian angel for these communities.

With her husband, George, Ibi Adler has worked tirelessly on behalf of the Emanuel Foundation as a board member and advocate for the establishment of a monument to the Hungarian Jews killed by the Nazis.

The evening's speaker will be the acclaimed author Leon Uris, who has traveled across the United States and to Hungary to promote the work of the foundation and the memorial in Budapest.

Mr. Speaker, from the ashes of a divided and war-torn Europe, a new Europe is rising. We must never forget the terrible events of the past, but we must strive to overcome the burden of that bitter legacy. The opening of Europe, the establishment of relations between Hungary and Israel, the restoration of human rights in Hungary, and the construction of a Holocaust memorial on the site of the Budapest ghetto are all signs of extraordinary change. I am pleased and honored to join the Emanuel Foundation for Hungarian Culture in

celebrating these historic events and in honoring these exceptional individuals.

**INTRODUCTION OF LEGISLATION TO ADDRESS THE HOME HEATING OIL CRISIS**

**HON. SILVIO O. CONTE**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. CONTE. Mr. Speaker, today I will introduce a comprehensive legislative response to the recent crisis in home heating oil supplies and prices.

In December of last year and earlier this month, the Northeast and other areas of the country experienced and felt the greed of big oil first hand. In the middle of one of the coldest periods in history, the supply of home heating oil to New England was restricted and the price jumped through the roof. On December 4, the average retail price per gallon was 90 cents. Within a week, it jumped 12 cents to \$1.02, and the next week it jumped another 8 cents to \$1.10 per gallon. And that was just the beginning. In just 3 days, between December 18 and December 21, the price jumped another 13 cents. For the next 13 days, the price increased an average of over 2 cents per day, skyrocketing from \$1.23 on December 21 to \$1.51 on January 1. And there's no way anyone can tell me the costs of production caused this unconscionable gouging of American consumers.

This avaricious conduct on the part of the oil companies has a real and dangerous impact on the people of my region and down the eastern seaboard. In Boston, the price rose 52 percent during December. In Philadelphia, the people were subject to a 51-percent price increase. In Baltimore, it was 45 percent, and in Washington, DC the increase was 49 percent during this short period. Overall, this money grab by big oil produced the greatest monthly increase in home heating oil ever recorded, and the impact was substantial, real, and painful.

In testimony submitted earlier this month, the Governor of Massachusetts reported a few real life effects of this crisis. There's the elderly woman, sitting huddled in her chair in her small living room, bundled up in winter coat, boots and hat, with the thermostat set at 60°. When she was told by a visiting nurse that she must turn up the thermostat for her own well being, the lady told her that she was unable because she couldn't afford to buy food and pay the high cost of oil at the same time. And there's the elderly woman on social security who receives fuel assistance. She called the State energy office, shaking and scared, with a desperate plea for help. Her \$675 fuel stipend which normally lasts the winter is now down to \$87. She still had half of January, February, and March to pay for, and she is keeping her thermostat at 55°.

Mr. Speaker, in my 32 years in this House, I've rarely seen such uncontrolled greed, even during the energy crisis of the 1970's. It's unconscionable the way these companies exploited the necessities of human life for profit,

for the bottom line. Such gluttony will not go unchecked, and to address this crisis, I am introducing a comprehensive legislative package. It's a four-point plan designed to address past actions, the present crisis and the future.

First, we must find out what happened and get those who broke the law. I will introduce a joint resolution directing the Secretary of Energy, in consultation with the Attorney General, the General Accounting Office, and the Federal Trade Commission, to conduct an emergency study to determine the direct and indirect causes of the price increases and to recommend measures to avoid such a disruption in the future. The resolution also directs the Secretary to report any violations of the law to the Attorney General for prosecution.

Second, we must disgorge excess profits from those who abused the free market system. I will introduce a bill imposing a retroactive windfall profits tax on all those profits in excess of the average company profit for November 1989. The revenues from this tax will be placed in an emergency fund and will be made immediately available for use by the Low Income Home Energy Program.

Third, we must respond immediately, with direct Federal appropriations, to help those most affected by the rapid and unparalleled increase in the price of home heating oil. I will introduce a dire emergency supplemental appropriations bill to provide immediate relief for low income energy consumers. The bill will appropriate \$300 million for the Low Income Home Energy Assistance Program.

Fourth, we must provide as much insurance as possible against the likelihood of a crisis of this type happening again. I will introduce a bill to establish regional petroleum products reserve in New England. The reserve will be available to ease the effects of severe price increases, and it will be funded through receipts from the naval petroleum reserves. The bill also requires private companies to establish industrial petroleum reserves to ensure that there is an adequate private sector supply of petroleum products.

Mr. Speaker, this comprehensive legislative response is not necessarily the final solution to this particular crisis or to situations like one that may happen in the future. Big oil and those who profit from the business of selling home heating oil, a necessity of life, should engage in some self restraint. The American people are generally willing to pay the price for a free market economy. After all that's what America is all about. But when that free market turns into a price gouging binge which affects the necessities of human life, the Federal Government will step in with sure, swift, and effective justice.

The Congress must act now, to ease the impact on those who have suffered and to ensure that this situation will not reoccur. I urge all members to cosponsor these bills and support this effort to address this dire emergency energy crisis.

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### INTRODUCTION OF THE CHAMA RIVER GATEWAY LEGISLATION

**HON. BILL RICHARDSON**

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. RICHARDSON. Mr. Speaker, the Chama River Gateway region is one of most attractive hidden treasures in northern New Mexico. Hundreds of prehistoric and historic landmarks exist that are of national significance. Scenic landscapes in the area are unmatched. Anyone who visits the area will surely be fascinated by the mystery of the past and the scenic beauty of the present.

In the past, I have worked with the Congress to successfully designate a segment of the Rio Chama River, located within the Chama River Gateway region, as wild and scenic. Today, I am introducing legislation to establish the "Chama River Gateway", a series of interpretive trails and a visitor center that would allow visitors to experience the rich cultural heritage of the Chama River Valley region.

Few people realize that 12,000 years ago small bands of hunter-gatherers traveled with the seasons through the Chama area. These early groups hunted and foraged for thousands of years before a reliance on domesticated plants allowed for a more settled way of life. However, these early settlements were abandoned by the time the Spanish arrived.

Spanish settlement in the Chama River Valley began in the early 1700's but was relatively sparse. Navajo, Comanche, Utes, and Apache also used the area for hunting, grazing, trading, and occasional raids. The combination of Indian, Spanish, and more recent anglo heritage make the Chama River Valley a multicultural bonanza.

The legislation I am introducing today directs the Forest Service and the Bureau of Land Management, to develop a program of interpretation and visitor education so that the rich cultural heritage of the Chama River Valley is available to all. The concept of a "Gateway to the Past" visitor center where visitors can learn about the cultural resources and pose questions about the past is a key component of the development program.

Visitors will also be able to enjoy interpretative trails pointing out ancient Indian ruins, archaeological and historic sites, and scenic views in the area. The Forest Service and the Bureau of Land Management will cooperatively manage the area providing tours, talks, and exhibits for the public. I urge my colleagues to support this legislation and provide a valuable historic resource for our Nation.

### CONVOCATION REMARKS OF DAVID W. BROWN ON SEPTEMBER 13, 1989

**HON. RICHARD J. DURBIN**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. DURBIN. Mr. Speaker, I am submitting the following convocation remarks by David

*January 23, 1990*

W. Brown, president of Blackburn Community College, in Carlinville, IL.

It is with great pleasure that I submit the following remarks, which reflect President Brown's attitudes about the role higher education institutions play in preparing students for a multicultural and interdependent world.

### CONVOCATION REMARKS OF DAVID W. BROWN ON SEPTEMBER 13, 1989

I accept with pleasure the office of President which this ceremony confirms. On this occasion, I should first acknowledge those women and men who have come before us in the long history of Blackburn—who watch now what we will do with their distinguished legacy. I should next acknowledge all of you who are here, our trustees, faculty, students, staff, alumni, neighbors and friends of Blackburn who want this College to have a distinguished future. My charge and opportunity as Blackburn's new president is to keep the faith with those who have come before us and to earn your support for the hard work we share in making Blackburn an exemplary learning community. A ceremony today can confer authority of presidential office on me but for authority to have real consequence, it must be earned every day. And that I will try to do. Alice and I have come here to serve your community—a community not of our making but of yours and the loving ghosts who watch all of us now.

What then will become of Blackburn? Let me begin by noting that no matter how old an institution may be, each generation who volunteer to sustain that institution's traditions and provide for its future must make their own case that there is a vital connection between what the institution offers and what our larger society needs. Without that vital connection, institutions falter, fail and finally disappear. Their history alone cannot sustain them. Like the authority conferred on me today, the authority of an institution must also be earned every day by what it does for what needs doing in the larger society which it presumes to serve. Part of leadership then is for me to make clear on behalf of the College that there is a vital connection between what we offer and what our society needs. Let me begin to do that now.

During the past several years I have written and lectured on the need to prepare young women and men for a world that will be increasingly multicultural and interdependent. It will be a world in which the individual, no matter how much he has paid for his educational credentials or how well trained she is for performing specific skills, will be relatively powerless to effect change unless they have also been educated to work together for their common good. That is why I said recently, "to empower young women and men requires that they first learn how to empower each other through shared forms of membership and enterprise. What is at stake is an idea about the kind of education they need for the kind of world that is coming . . ."

Most institutions of higher education today only focus on individual empowerment. They establish competitive, rather than cooperative, learning environments where students are tested on their individual abilities to survive alone. They are rarely offered any learning structures of membership and enterprise on campus that resemble the complex organizations and diverse communities which await them after graduation. It is like teaching a public office

holder how to draft a legislative bill without any instruction on how to get elected in the first place. It is like teaching a business executive how to sell a widget without any instruction on how to motivate employees to produce a good widget so it can be sold.

The consumer model, as I have called it, in higher education assumes a relatively unchanging society where the individual is educated to be self-sufficient, equipped to succeed on his or her own. It reflects the long prevailing American ethos that celebrates individualism. But it ignores the long prevailing American experience that we rarely accomplish anything of significance solely by ourselves. Those on the frontier shared in the work of helping a neighbor put up a needed barn; diseases were conquered by public health measures that required most everyone's cooperation, shoemakers had to come together in Massachusetts to improve their work conditions; Texas farmers learned to form cooperative alliances to gain access to better markets; black church members advanced the cause of civil rights only when they were all willing to boycott the city buses in Montgomery, Alabama. But more important than clarifying our history, is to take note of our future. The American experience of mutual dependence is bound to become even more central as urban areas grow, environmental concerns increase and economic markets become truly global.

The consumer model in higher education offers a coveted undergraduate degree but it is not enough. It is why so many young women and men, that I know, still feel the ache of powerlessness despite their individual accomplishment of getting ahead. The prevailing consumer model does not challenge them to explore ways of coming together, of working together on common problems. So they find themselves ill-equipped for influencing events or solving collective problems in the workplace, in the neighborhood, in the environment, or in international exchange. Collective problems require collective action. An individual's credentials and skills are not enough. Collective problems require a common effort mobilized by those educated to cope with the diversity of race, gender, religion and ethnic identity, by those who have already learned from the experience of membership in a community what it means to share a commitment, serve interests beyond their own, and contribute to a common good.

There seem to be few colleges and universities which are intent on developing the habits and lessons of community life. Furthermore, many young women and men who enroll are without any compensating experience of their own. Increasingly, they may be from families which have broken up. They no longer have any contact with church membership. They don't know what it means to be a member of any private association. College life may be the first and the last time when there can be an intentional effort to have them be part of a community, to learn what it means to be a member, to look out for more than just themselves. We can no longer take for granted that they will learn about such things somewhere else.

And this is where Blackburn has so much to offer as we use our work program and attentive staff and faculty to build community right here during a student's important undergraduate years. Flawed and confused as any community will be, we have the conditions necessary to provide a campus laboratory, so to speak, that is both multicultural and interdependent. Although the commu-

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nity model is an alternative to the consumer model, it does not ignore the need for educating the individual mind and developing individual skills. It does these things, however, within the context of an intentional community. It is the community context that approximates the organizational life and collective problems that our graduates will confront when they leave here.

I hope that I can help make Blackburn's community model more visible, something that is engaging for people both here and for those looking for such an enterprise. So that at one place, at one time in a small college in this vast country, a vital connection is made that addresses the needs of the larger society of which we remain inextricably a part. If the community model can be made to work here for the sake of our students and the kind of world that is upon us all, then we have the answer to the question I began with, "What will become of Black-

burn?"

tribute to my constituent and dear friend, Al Teglia, on the occasion of his retirement from the San Mateo Union High School District. It is also our sincere hope, however, that Al will continue his dedicated and active involvement in community service for the residents of our peninsula.

### TRIBUTE TO DR. RALPH WYATT ADAMS

#### HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. DICKINSON. Mr. Speaker, as we move into the new year, I would like to note the accomplishments of a special Alabamian who retired in 1989, Dr. Ralph Wyatt Adams of Troy, AL.

Born on June 4, 1915, at Samson, AL, Dr. Ralph Adams received his A.B. degree from Birmingham-Southern College, then the LL.B., LL.D., and J.D. degrees from the University of Alabama. He is married to Dorothy Kelly Adams and they have three grown children.

On September 1, 1989, Dr. Ralph Adams retired from the duties of both president of Troy State University and chancellor of the Troy State University system. He had assumed the duties of president of Troy State University on October 1, 1964, after completing a long, honorable tour of duty with the U.S. Air Force, the U.S. Air Force Reserve, and the Alabama Air National Guard. He retired from the military as a major general on June 3, 1975.

Dr. Adams served under President John F. Kennedy as head of the Alabama Selective Service System, then under President Gerald R. Ford as a member of his Presidential Clemency Board. He has also served as chairman of the council of presidents for the Alabama Commission on Higher Education, the Alabama State Personnel Board, and the Alabama State Insurance Board. He has also served as president of the Alabama Association of College and University Presidents. Indeed, a list of his positions of responsible leadership could be continued at great length.

Through his performance as a community and academic leader, Dr. Ralph Wyatt Adams has distinguished himself by securing many noteworthy honors. He was Man of the Year for Troy, AL (in both 1968 and 1975); distinguished alumnus of Birmingham-Southern College in 1978, and designated one of the top 100 Most Effective College Presidents by the Exxon Education Foundation in 1986. For his dedication to the enhancement of the multicultural education program on his campus at Troy State University, Dr. Adams received the Order of the Rising Sun from the Government of Japan in May 1989.

Dr. Adams has attracted many scholars of international acclaim to address Troy State University students, and through his close association with the English-Speaking Union, Dr. Adams was named to the National Board of Directors of the English-Speaking Union in the USA. Ever since 1972, Troy State University has provided a full 1-year scholarship to a student from England. The criteria for receipt of

### TRIBUTE TO AL TEGLIA

#### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. LANTOS. Mr. Speaker, I rise today to pay tribute to my dear friend, Al Teglia, on the occasion of this retirement after 37 1/2 years of loyal and dedicated service to the Mateo Union High School District. Al has been operations manager, and he holds the longest tenure in the school district. His service to the schools of San Mateo County represents the highest and finest tradition of public service.

Mr. Speaker, Al Teglia was born in the city of Colma in San Mateo County of Genoese immigrant parents in 1931. He grew up in Daly City, attended Jefferson High School and then the College of San Mateo. Upon graduation he began work with the San Mateo Union High School District.

Al has served the people of our peninsula in a number of key posts. He has been elected a Daly City Councilman for three terms, and he held the office of Daly City mayor three times. Al is a member of the San Mateo Council Transportation Authority, the SamTrans Board of Director, and numerous other boards and commissions serving the citizens of our peninsula. He also was elected to three terms as members of the board of trustees of Jefferson Union High School, president of the San Mateo County School Boards Association, and delegate to the assembly of the California School Boards Association. Al Teglia has served our peninsula community on the boards of the San Mateo County Historical Society, the Daly City-Colma Historical Society, the San Mateo County Arts Council and many other organizations.

In 1988, he received the Columbus Award of the San Mateo County Italian American Federation, and in 1985 was given the Humanitarian-of-the-Year Award from the San Mateo County Easter Seal Society. He has been honored by the Daly City Jaycees, the Hispanic Concilio of San Mateo County and a number of other community groups and organizations.

Mr. Speaker, I invite my colleagues in the Congress to join me in paying well-deserved

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this scholarship has been that the person must have been accepted for entrance at either Oxford or Cambridge, and be identified as a person who could conceivably become a Prime Minister. The Troy State University campus has been most fortunate to have had some truly outstanding scholars and students leaders among alumni of this program.

As a companion to the scholarship opportunity for an English person to Troy State University each year, Troy State has sent two students each summer to the annual English-Speaking Union summer program at Jesus College, Oxford, entitled "Britain Today."

Dr. Adams also initiated somewhat similar programs offering scholarships to outstanding Japanese university students who are nominated by the America-Japan Society and to German university students nominated by the German-American Friendship Clubs of the Federal Republic of Germany. These programs are continuing to show great rewards for the students chosen, for the students and faculty of the Troy State University main campus, and for better cultural understanding of all societies concerned.

I take particular pride in inviting the attention of Congress to this outstanding citizen of Alameda who has successfully opened the minds of our young people to the fresh realm of international living and multicultural education.

**BLOODSHED AND VIOLENCE IN AZERBAIJAN MUST BE BROUGHT TO AN END**

**HON. WM. S. BROOMFIELD**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. BROOMFIELD. Mr. Speaker, as we follow the Soviet Government's efforts to bring stability in Soviet Azerbaijan, and when we read about the deaths that occurred, the large anti-Soviet demonstrations by the Azeris, and their threat to secede from the Soviet Union, it is important to keep this event in perspective.

It is important to remember that until the Soviet troops went into the Azerbaijani capital of Baku, a brutal anti-Armenian pogrom was taking place in that city. Some 60 people were killed and about 150 people were injured—the majority of whom were Armenians. There were reports of Armenian neighborhoods being ransacked, and Armenians being attacked by mobs of Azeris, being burned alive and hurled from balconies.

In other parts of Azerbaijan, Armenian communities were forming guerrilla units and were becoming armed camps with protective trenches as they prepared to protect themselves from Azeri attack, and the term "civil war" was becoming used more and more. Automatic rifles, machine guns, helicopters, and armored personnel carriers were utilized in battle between the communities. Since last June, an Azeri blockade of rail lines and roads into earthquake-damaged Armenia and the Armenian community of Nagorno-Karabagh stopped needed food and supplies from reaching the Armenians.

I fully agree with the President that the Soviet actions are fully understandable. As the administration stated, "It is the responsibility of any government to maintain order and protect its citizens." As the administration further pointed out, "the effort to establish order should not become a cloak for the abridgment of the exercise of political rights."

Mr. Speaker, the reestablishment of stability in Azerbaijan and the breaking of the blockades of Armenia and Nagorno-Karabagh, however, must not be the end of Soviet efforts in the Transcaucuses. The issue of the political administration of the Armenian-populated region of Nagorno-Karabagh must be resolved or this will constantly serve as a source of trouble in the relationship between these two Soviet Republics.

Under the administration of Azerbaijan, the people of Nagorno-Karabagh have had to endure second-class citizenship in their own province. They have been subjected to cultural oppression, cut off from Armenian-language mass media, and forbidden to teach the Armenian language in their schools. When economic support was provided by Moscow to the Azerbaijan region, Nagorno-Karabagh got the leftovers. It is no wonder that they have shared the dream of their cousins in Armenia of wanting to once again be under the political administration of Armenia, and have sought the right of self-determination within the Soviet Union.

I would certainly hope that this bloodshed and violence directed against the Armenians in Azerbaijan will be brought to an end, and I encourage President Gorbachev to go to the heart of the matter in helping to resolve the issue of Nagorno-Karabagh. It is hard to see how lasting peace can be brought to this area until this is done.

**TRIBUTE TO TROOP 44'S EAGLE COURT OF HONOR**

**HON. JAMES A. TRAFICANT, JR.**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Boy Scout Troop 44's Eagle Court of Honor of my 17th Congressional District. On November 27, 1989, the Fall Court of Honor Troop 44 had three members receive the highest award possible in scouting, the Eagle Scout Award. The three young men receiving the prestigious award were Stephen E. Morris, Michael E. Colyer, and John Zastany. Stephen E. Morris is 17 years old and has been a member of Troop 44 since 1983. He has earned 21 merit badges, the 50 Miler Award, Mile Swim, and the World Crest. Stephen plans to attend either Miami University or Ohio State University and wants to major in systems analysis.

Michael E. Colyer is 16 years old and has been a member of Troop 44 since 1984. He has earned 24 merit badges, the Mile Run, the Mile Swim, 50 Mile Award, and the World Conservation Award. Michael is a junior at Poland Seminary High School and is a member of the Delta Society with a 4.0 grade point average. He plans on attending the U.S. Naval Academy.

John Zastany is 18 years old and has been a Boy Scout since 1982 and joined Troop 44 in 1989. He earned 22 merit badges, the Alpha Omega Religious Award, Senior Patrol Leader Medal, and the Stambaugh Emblem. John is a graduate of Campbell Memorial High School and is presently attending Youngstown State University. He is majoring in math and secondary education and plans to complete Army Reserve Officer Training as second lieutenant.

I would also like to commend Ray Slaven who has been Scoutmaster for Troop 44 for 27 years. Through his time and inspiration Mr. Slaven has helped 88 Scouts achieve the Eagle Scout Award.

Mr. Speaker, I would like to take this opportunity to congratulate Stephen E. Morris, Michael E. Colyer, and John Zastany on achieving such a prestigious award. The hard work and dedication they have shown is no doubt an indication of their future success. I am proud to represent all these outstanding individuals.

**MILITARY AID TO EL SALVADOR**

**HON. GLENN M. ANDERSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. ANDERSON. Mr. Speaker, I believe today that it is time to reevaluate our policy in El Salvador. A decade has gone by and billions of dollars have been spent in the effort to establish a democracy in that war-torn country. Once more, we are confronted with funding a government whose military is admittedly involved in the murder of civilians. Once more, we must ask ourselves the tough question of whether it is right to provide U.S. tax dollars to a death-squad supporting military fighting an equally violent leftist guerrilla group. We long for democracy in El Salvador. So, while our case is noble, the means to that end appear questionable.

We have tried to turn the Salvadoran military into a force capable enough to defeat the FMLN guerrilla movement. I will have to say that effort has not succeeded. While the recent FMLN offensive was a failure, it still demonstrated that the FMLN continues to grow in strength. But worse than our failure to achieve our military goals is the fact that we have created a monster in the process. The military, supplanting the oligarchy, has become the dominant political player. Corruption runs rampant, with nonexistent soldiers receiving pay and officers running extortion rackets.

We have given the military guns and helicopters, but not taught the responsibility those weapons imply. We have given bullets without an accompanying sense of democratic duty and values. The United States-created Salvadoran military is a monster because its ends are only to see itself stronger and more powerful. We hope for a democracy, with armed services who will be that democracy's protector. What we get is a military seeking only to protect itself.

While our intentions in El Salvador are good, the means defeat the purpose. Support

for the FMLN will disappear when civilians can look to the military for support, not repression. I hope that in the upcoming session we will listen to our past promises of restricting aid if the military does not reform. Or else, I fear that the killing of nuns and Jesuits, opposition candidates, and labor organizers, of peasants and merchants will continue. Our constituents support democracy, but not the way we are trying to achieve it. The Salvadoran military must know that the American people and their elected government will not stand for the killing of civilians and political opponents.

**IN MEMORY OF PATRICK  
POUZAR**

**HON. BOB CLEMENT**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. CLEMENT. Mr. Speaker, I would like to pay tribute to Patrick Pouzar, a gentleman from the 5th District of Tennessee who died tragically earlier this month while in service to our country.

Patrick Pouzar of Nashville was on a mission in the Republic of Chile in his capacity as a senior investigator for the U.S. Food and Drug Administration. Mr. Pouzar was traveling with another FDA official and representatives from the Chilean Government and a fruit export association when the light aircraft that ferried them to the fruit-producing region of northern Chile disappeared.

Mr. Pouzar and his party were in Chile at the request of that government to visit several cities and to observe the various security measures that have been taken to ensure the safety of fresh fruit during processing for export.

Many Americans recall that last spring, the FDA halted the importation of Chilean-grown grapes and other fruit products following the discovery of grapes which contained traces of cyanide. That revelation led the Chilean Government to incorporate new protective and emergency measures to avoid contamination of or tampering with fresh fruit. It was those actions that prompted a formal invitation from the Chilean Ambassador last November to the FDA for an inspection tour. Because of Mr. Pouzar's involvement with the fruit-tampering incident last year, he volunteered to undertake this mission.

Patrick Pouzar's career with the FDA spanned more than 26 years. His professionalism and special dedication to his work earned him tremendous respect from his peers and subordinates and a succession of career promotions. At the time of his death, Mr. Pouzar was stationed at FDA's Nashville office, where he served as the director of a field investigative unit. Although last year's fruit crisis had no direct effect on the operations at the Nashville office, he willingly offered his services in the management of this episode. For his contributions, Mr. Pouzar received FDA's award of merit for outstanding dedication and personal sacrifice in conducting foreign inspections to assure the safety of fruit exported to the United States.

Mr. Speaker, we often overlook the men and women in our civil service who, like Pat-

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rick Pouzar, confront dangerous working conditions to complete their tasks. Their service is integral to promoting the general welfare. Regrettably, it is on occasions when tragedy has befallen one of these individuals that we remember to thank them for their work.

On behalf of all the citizens of the 5th District of Tennessee, I want to extend our deepest sympathies to Patrick's wife, Judy, and to his daughters, Paige, Lori, and Emily.

**TREAT ME LIKE A DOG, PLEASE!**

**HON. FORTNEY PETE STARK**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. STARK. Mr. Speaker, the January 12, 1990 issue of the American Medical Association's newspaper contains an article which starts as follows:

When the patient began losing his eyesight, he was taken to an ophthalmologist. He was then referred to a neurologist who did a computed tomographic scan. The scan showed a large pituitary tumor, which was declared inoperable. But the patient started radiation treatments, and after his 18th visit, a new CT scan revealed that the tumor was gone.

The patient, a 13-year-old pointer [dog], could go back to chasing squirrels.

Mr. Speaker, I love cats and dogs. That is why I am worried about the AMA's headline on this story, which reads, "Animal medical care now rivaling treatment level delivered to humans."

I hope not.

In all our congressional districts, mothers give birth without ever seeing a doctor. People who cannot raise a cash deposit are turned away from hospital emergency rooms to die. Nursing home costs devastate families and lead to suicide.

I wouldn't want to treat a dog like that.

In 1990, I would hope we could resolve that all human animals have access to quality health care. Surely a society that can spend over \$5 billion on pet health care can find a way also to provide health insurance for everyone.

**WILLIAM G. THOMAS, NEW MARITIME PARK SUPERINTENDENT**

**HON. NANCY PELOSI**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Ms. PELOSI. Mr. Speaker, on January 26, 1990, many San Franciscans will gather to congratulate Bill Thomas on his work in behalf of our national parks and to welcome him to his new post as superintendent of the San Francisco Maritime National Historical Park. I would like to enter my comments honoring Bill at this event into the CONGRESSIONAL RECORD:

Bill Thomas is an old friend to San Francisco.

Years ago, he worked with Congressman Phillip Burton to create the GGNRA and now

he stands before us as the superintendent of a new national park for our city.

There is the popular conspiracy theory—that this was the plan all along. Knowing Phil Burton, it would not surprise me.

When you look over the achievements of Bill's past, it is clear that his life's work was leading him to this point.

From his early journalism days to his work with Phil to create the GGNRA, and then with the National Park Service, Bill was destined to this post.

I can think of no better person to lead the maritime park. With the combination of public relations skills and park knowledge, to say nothing of what he might have picked up from Phil Burton, Bill will be a great success.

It's good to have Bill looking after the historic ships. The fleet is an important resource that deserves our attention, as community supporters as well as national park users.

The maritime park now has an excellent superintendent and the planning process for its future is underway. Let's all work with Bill to make this a good example of what an activist community can do to preserve this national treasure.

**PROTECT CHINESE STUDENTS**

**HON. JOE BARTON**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. BARTON of Texas. Mr. Speaker, recently I received a letter from Mr. Xun Ge a student at Texas A&M University located in College Station, TX, which is in my congressional district.

For the information of my colleagues, I am inserting into the RECORD the following letter from Mr. Ge. This letter will show that Chinese students are not victims of political repression in China—they are the target of it.

Hon. JOE L. BARTON,  
U.S. House of Representatives,  
Washington, DC.

DEAR REPRESENTATIVE BARTON: My name is Xun Ge, a graduate student in Physics Department Texas A&M University. I came to Texas A&M University on Aug. 15, 1986 with a F-1 visa. I have been in Texas A&M for three years, current GPA is 3.9. I was born in Beijing, China on July 12, 1959 and grew up in Beijing. My mother, my sister and a little nephew are still in Beijing now. I'd like to tell you some stories I have experienced.

Before I came to Texas A&M University, I worked in the Institute of Atomic Energy. At that time (in 1985) I had a good friend and colleague Mr. Xuetaian Tang. We worked together in the same department. In 1984, Mr. Tang visited West Germany for about one year and stayed in Japan for a short period of time. During his visit in West Germany, he experienced the atmosphere of freedom and democracy. He admired this. Then he wrote a letter with some others to Mr. Deng Xiaoping to express his own idea. Not long after, the Communist Security Bureau sent men to my Institute to investigate Mr. Tang (you know this is very serious), and forced him to come back. Unfortunately he came back. After he came back, the Communist Party asked him

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to do a lot of things he did not want to do, such as self criticism. He had to report his activities to the police. He could not travel freely. Therefore, he felt that he was under great pressure. For several months he could not sleep well. Finally he committed suicide by hanging himself on one dark night in his small apartment. On his desk the last thing he wrote was an unfinished application to attend an academic conference in Brazil. He knew there was absolutely no chance for him to go. He was a very good theoretical physicist, did a lot of beautiful research work. He died and left his two young children behind, left his aging mother in a small mountain village.

Now think about our Chinese students are facing right now. We are facing even worse situation than Mr. Tang was. I have another friend Mr. Juntao Wang. We were in the same study group. He graduated from Beijing University, which has the tradition of Freedom and Democracy. He is 31 years old, young and smart. He was on the top of the Communist Party most wanted list, because he went to the peaceful demonstration in May. He was just arrested several days ago. I really hope he can endure the dirty Chinese jail and harsh torture. From these stories, it is not hard to understand why we, Chinese students, would like to send our highest appreciation to you for your support the legislation to protect Chinese students studying here in the United States. As you know, a lot of Chinese students' visas will be expired soon, and the most important thing is, they are deeply involved in the demonstration demanding the basic human rights in China. We really need the legislation be passed as soon as possible.

Now the Chinese Government is continuing to punish the people who participated in the pro-democracy movement this spring. At this moment, should the United States continue economic aid and loans to China? Should the United States continue high-tech transfer and military aid to China? The answer is NO. It is really hard to understand why more than 30 Chinese engineers resumed their work to modify F-8 fighters in New York State. As a Chinese student, I know Chinese people don't need F-8 fighters. What we need is the American people's support for our freedom and democracy, to stop severe repression and killing by the Communist Party. Economic sanctions against China are very necessary. I hear American people say: "China will not be free until America moves." That is true! The people killed in Tiananmen Square and in Beijing will not die in vain. We'll continue our struggle for basic human rights in China. We, Chinese people say: "Give me liberty or give me death".

I watched the TV news recently, tears came down from my eyes. I strongly believe that today's East Europe will be tomorrow's China.

Yours sincerely,

XUN GE.

**TRIBUTE TO JANET SAINER  
COMMISSIONER, NEW YORK  
CITY DEPARTMENT FOR THE  
AGING**

**HON. THOMAS J. DOWNEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. DOWNEY. Mr. Speaker, as the chairman of the House Select Committee on Aging's Subcommittee on Human Services, I am very proud to pay tribute to an individual who has become a legend among New York City's senior citizens. Janet Sainer, who has served as commissioner of the New York City Department for the Aging for the past 12 years, will be leaving her position this year. It is my pleasure to share Janet's extremely successful career with my colleagues, who I know join me in wishing her all the best.

First, I must tell you a little about the department that Janet has administered for over two decades. The New York City Department for the Aging, originally established 22 years ago as the Mayor's Office on Aging, became the Nation's largest area agency on aging in 1975. This agency has as its mission improving the quality of life of more than 1.3 million New Yorkers who are 60 years of age and older. To help maintain the independence and dignity of Older New Yorkers, the department, under the Older Americans Act, and through State and city funds, supports a broad range of services. Most services are provided through contracts with community-based agencies. Others are programs directly operated by the department.

During Janet's tenure as commissioner, the New York City Department for the Aging saw many changes come about. New services and programs were made possible not only with Federal funds, but State and city resources as well. State funding was provided for recreation and cultural activities at the local level, as was additional support for elderly crime victims assistance. In 1979, New York State enacted the Community Services for the Elderly [CSE] program, providing additional funds specifically targeted to serve the frail elderly in areas of homecare transportation, and expanded home delivered meals.

While the 1970's saw tremendous development in new programs for the aging, by the early 1980's, cutbacks in Federal funds brought this growth to a standstill. Had the city not stepped in, at Commissioner Sainer's request, to ensure that support for aging services would be sustained, there would have been a critical reduction in services at that time. During the 1980's, State resources for services were expanded through two new programs, the Supplemental Nutrition Assistance Programs [SNAP] for additional services to the nutritionally at-risk elderly and the Expanded In-Home Services for the Elderly Program [EISEP], which provided State funds for the first time, for nonmedical, in-home services for the near-poor elderly who do not meet Medicaid eligibility criteria.

Janet Sainer has been a responsive administrator of the New York City Department for the Aging and has helped to raise public awareness of concerns of the elderly, locally

as well as nationally, by leading and participating in, conferences, presenting testimony before Congress and other legislative bodies, and by broad outreach and public relations campaigns. I am proud to say that Commissioner Sainer has appeared before the House Select Committee on Aging at least eight times testifying on subjects from Medicare to the needs of the low-income and minority elderly. In addition, Janet has been recognized internationally in the field of aging, having been appointed as a board member of the Brookdale Institute of Gerontology and Adult Development in Israel. Janet has also helped to increase the department's responsiveness to the needs of the elderly in New York through community-based planning, and she developed additional resources by stimulating public/private/voluntary sector involvement.

During Commissioner Sainer's administration, she was responsible for many new Department initiatives, which include:

**1. CITYMEALS ON WHEELS.**

This new partnership was formed with public, private, and voluntary sectors whose annual donations—\$4.3 million last year—and pro bono activities have brought this supplemental nutrition program for the homebound elderly from 6,000 holiday meals in 1981 to more than 700,000 weekend, holiday, and emergency meals in 1988. Citymeals on Wheels is the mode for the national Meals on Wheels America, a new nutrition program for the homebound elderly now in 30 cities across the Nation.

**2. ALZHEIMER'S RESOURCE CENTER**

This center is the first municipal counseling and referral program for patients and families of patients.

**3. JOB AND TRAINING OPPORTUNITIES**

Commissioner Sainer worked with the private sector to expand employment opportunities for older people through such programs as the Ability Is Ageless Fair, Job Search Club, Senior Employment Service, and subsidized programs.

**4. HEALTH PROMOTION**

The New York City Department for the Aging has community hypertension control, education, and self-help programs to foster better health among the elderly in 87 senior centers.

**5. PARTNERSHIP FOR ELDERCARE**

I was proud to have been part of the inaugural luncheon for this new program, which was established for the growing number of working people who are also caring for elderly relatives. Partnership for Eldercare was designed to provide counseling services on available community services. It also offers education and training on aging issues to employees groups in the public and private sectors, as well as personnel responsible for employee relations.

**6. FOSTER GRANDPARENT PROGRAM**

Under Janet's direction, new initiatives were developed which utilize foster grandparents in services to AIDS babies, those in danger of child abuse, boarder babies, and other at-risk children.

**7. HISPANIC ENHANCEMENT PROGRAM**

This new program was established for Hispanic elderly in order to increase their access

to entitlements, benefits, and services, including the Hispanic Helpline which responded to over 10,000 New Yorkers in the past year, and English as a second language classes, conducted in selected senior centers. This unit also provides technical assistance to community-based minority programs throughout New York, and is responsible for translating all major department publications.

#### B. INTERGENERATIONAL WORK/STUDY PROGRAM

This dropout prevention program, conducted in cooperation with the New York City Board of Education, helps high school students gain work experience while providing services to the elderly in 82 senior centers and senior programs. It was initiated with private resources and 18 months after its inception it became a program supported by the city.

Janet Sainer's professional career has been one of excellence and commitment to the aged. Her professional affiliations include:

Gerontological Society of America, treasurer;

Health Systems Agency of New York City, member, board of directors;

National Council on Aging, member, board of directors;

Brookdale Institute of Gerontology and Adult Human Development in Israel, board member;

Member of the U.S. Commissioner on Aging's Task Force on Public/Private Services Initiatives;

National Resource Center on Health Promotion and Aging of AARP, board member;

New York City Transportation Disabled Committee, board member;

Chair, Interdepartmental Council on Aging of New York City.

Commissioner Sainer has been recognized many times in her career for her work on behalf of the elderly. Among her awards are the Presidential Citation for RSVP; the Community Service Award from the National Council on Aging; New York State's Association for Human Services Award for Outstanding Community Service; the Distinguished Service Award from the Wurzweiler School of Social Work; the Humanitarian Service Award from the Hebrew Home for the Aged in Riverdale, NY, and she has been elected to the Hunter College Hall of Fame.

Prior to becoming commissioner, Mrs. Sainer directed aging programs for 14 years at the Community Service Society where she developed a demonstration program that led to the establishment of the Retired Senior Volunteer Program [RSVP]. RSVP is currently operating in some 700 communities across the country and has now been established abroad as well. She also developed the Jamaica Service Program for Older Adults [JSPOA] and the Community Agency for Senior Citizens [CASC] on Staten Island.

There is so much that could be said about Janet Sainer. She has been a valued resource for so many. She is an accomplished author, and has presented papers at many conferences across the Nation. Her counsel has guided so many city, State, and Federal officials, aging professionals, geriatric students, and everyday citizens to better understand the aging process. She had been a hands-on commissioner, one who has not been timid at

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taking a stand in order to help the thousands of seniors in need of services and assistance.

Commissioner Sainer leaves with a record of accomplishment that will endure for years to come. She recognized that hers was an important mission, namely, to improve the quality of life for New York City's large, diverse, and growing elderly population. She did this and more. She provided leadership in the city, and her example allowed her to be a national and international spokesperson on aging issues.

The Older Americans Act established during the early 1970's what is now known as the aging network. It consists not only of State and area agencies on aging, but providers of service as well. Area agencies on aging exist in more than 670 communities around the Nation. Yet, the single largest one was run by Janet Sainer these past 12 years. She set the standard for what an area agency should be. It is a unit of local government which coordinates a service plan to meet the needs of its at-risk population. It works to leverage all forms of financial support for services, the public dollar, the private dollar, the corporate dollar. No one has done it better than Janet Sainer these past 12 years.

It has been my honor to pay tribute to this remarkable, committed, compassionate, and indefatigable public servant. Janet Sainer is an advocate's advocate. She fights. She wins. Yes, sometimes she loses. But, she is always there fighting for her constituents—the elderly. That is why there is such a reservoir of respect and affection for Janet as she moves on to new endeavors. The city and the State of New York as well as the national aging network have benefited from Janet Sainer's leadership. I salute her and wish her all the best for the future.

#### A NOAH'S ARK OF SPECIES

#### HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. LAUGHLIN. Mr. Speaker, today I want to take the opportunity to share with my colleagues an article about the Aransas Wildlife Refuge that appeared in the January/February edition of the National Geographic publication, *Traveler*. Although, it is well known in the State of Texas that Aransas National Wildlife Refuge in the 14th District is home to some of the most beautiful avian wildlife in the country, the *Traveler*, which has an annual readership of more than 700,000, described the vastness and greatness of Aransas with an article entitled, "Avian Eden: Texas' Aransas National Wildlife Refuge." Aransas is a place where radiant white whooping cranes, great blue heron, ducks, alligators, javelina, and numerous other species make their home. Mr. Speaker, it truly is a "Noah's ark of species."

I would like to mention some of the highlights of Aransas featured in the article. The 60,000 acres plus of forest, grassland, and marsh have many gems of our National Wildlife Refuge System. Aransas is the winter home to the only flock of whooping cranes left in the wild, and when the whooping crane count dropped to an all time low of 16 birds in

1941 the concerned and informed wildlife management worked over the course of five decades to bring the count of this rare bird up to the more than 130 in existence today.

In addition, a visit to Aransas will allow the visitor to catch a glimpse of the many uncommon animals in its thousands of acres of marsh. This includes some of its 250 alligators, gray foxes, cougars, bobcats, snow geese, hill cranes, black-necked stilts, spotted skunks, and innumerable other species.

Mr. Speaker, part of the reason why the Aransas Wildlife Refuge is one of the crown jewels of our Nation's Wildlife Refuge System is the hard work, and dedication of the game wardens and staff of the Aransas Refuge. As a native of this area I am pleased to bring the Aransas Wildlife Refuge to the attention of my colleagues in this Chamber. As the Congressman from the 14th District of Texas I am proud to have the Aransas Refuge in my district.

#### FATHER AND SON POLICE CHIEFS

#### HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. RINALDO. Mr. Speaker, I wish to call the attention of my colleagues to the contributions of father and son police chiefs in the community of New Providence, NJ.

On December 31, 1989, Chief James J. Venezia, Sr., officially retired from the New Providence Police Department after nearly 40 years of outstanding service in which he protected the lives, liberty, and property of the residents and businesses in this community of 13,000 residents. He helped to build its reputation as one of the safest communities in New Jersey.

What is unique is that Chief Venezia is being succeeded by his son, James, Jr., who for the past 4 years has trained many of the young men in the department. An excellent profile by Steven Coleman appeared in the *Courier-News*, and I ask that it be included in the RECORD.

NEW PROVIDENCE POLICE CHIEF HAD A GOOD TEACHER

(By Steven Coleman)

**NEW PROVIDENCE.**—James Venezia Jr. gave up his job in education for a police officer's badge 15 years ago, yet he never lost the desire to teach.

Venezia will take over as police chief here on Jan. 1, and he says skills he developed as a teacher at Union Catholic Regional High School in Scotch Plains in the early '70s have shaped his philosophy in law enforcement.

He will replace his father, James J. Venezia Sr., who spent nearly 40 years with the Police Department, the past 14½ years as chief. The elder Venezia suffered a heart attack in August and has been on sick leave since.

During the past four years, the younger Venezia has been responsible for training veteran officers and rookies in the 24-member department. He also has served as an instructor at the Union County Police Academy for the past nine years.

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"I enjoy teaching," the 41-year-old acting police chief said. "Training and education are very important, and they add to the professionalism of the officer and his ability to perform effectively."

He also maintains that officers must be better-trained today to protect both themselves and their departments from lawsuits.

As chief, Venezia said the communication skills he learned teaching Spanish to high schoolers and the management skills he learned while serving two years as the school's athletic director will come in handy.

Venezia said his interest in law enforcement developed over time, adding that his father never pressured him into the field.

"One of the things he was good at was pointing out the pros and the cons of things and letting you make the decision," he said.

However, Venezia said his ability to work under his father has made their relationship much closer.

"When I was growing up, I didn't see much of my father because he was doing shift work," said Venezia, adding that his father would often work odd jobs during his time off to support his wife and four children.

Filling the shoes of his father won't be easy, Venezia said.

"It's a challenge," he said. "He ran a pretty efficient operation. The challenge of improving on that is what I face."

Venezia joined the department in September 1975. He was promoted to sergeant in 1980 and was assigned to supervise the detective bureau. He made lieutenant in 1982, and has been assigned to administrative services and training for the past four years.

The elder Venezia is retiring after seeing his town of 13,000 people become one of six communities in the state and 110 nationwide cited in the book "Safe Places for the '80s."

Since joining the department in May 1950, the elder Venezia has watched the department grow from a staff of just three officers. He was responsible for adding the positions of crime prevention officer and juvenile officer. Before becoming chief, he also served as the department's first detective.

"He was an open, fair individual who cared very much about the community and the department," the younger Venezia said.

**IN HONOR OF THOMAS A.  
MCNUNN**

**HON. VIC FAZIO  
OF CALIFORNIA  
IN THE HOUSE OF REPRESENTATIVES**

*Tuesday, January 23, 1990*

Mr. FAZIO. Mr. Speaker, I rise today to honor a longtime friend, adviser, and one of Solano County's most outstanding civic leaders, Thomas A. McNunn.

Born and raised in Nebraska, Tom moved to Solano County after serving with the U.S. Air Force in Korea. He started his postmilitary service career with the Vallejo Chamber of Commerce, and he remained there until he relocated to Vacaville in 1966.

As the chief executive officer of the Vacaville Chamber of Commerce from 1966 to 1989, Tom's progressive approach to economic development and community enrichment has greatly benefited Vacaville and Solano County.

With unending stamina, Tom has always worked extremely long hours and gone beyond the call of duty to provide service to his community. His former secretary of 10 years, Betty Ladd, said, "Tom's ability to dedicate endless hours to a good cause sets a very fast pace for the entire working staff."

Vacaville businessman Glen Miller also commended Tom for his "boundless energy, good attitude, and on-call devotion to community and civic endeavors." Mr. Miller praised Tom for applying these attributes to create "one of California's most outstanding chambers of commerce."

Tom has held many prominent community positions including: chairman of the local United Way Telethon, general chairman of the Vacaville Fiesta Days Committee, chairman of the Vacaville Onion Festival, director of the Solano County Private Industry Council, and Vacaville chairman of the Vaca Valley Hospital Fund Drive. Tom has also served as director of the California Association of Chamber of Commerce Executives, vice president of the Vacaville Art League, president of the Vacaville Host Lions Club, and president of the 20-30 Club. As one of Solano County's most generous volunteers, Tom has set a standard for others to follow.

As Tom leaves the Vacaville Chamber of Commerce after 23 years of distinguished leadership, Solano County pauses to say, "Thank you, Tom, for enriching our community and our lives; Solano County appreciates and respects your many contributions." Having worked with Tom for many years, I know firsthand the valuable and unselfish service he has given to Vacaville and the entire Solano County community.

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**THE BADGER-TWO MEDICINE  
ACT OF 1990**

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**HON. PAT WILLIAMS  
OF MONTANA**

**IN THE HOUSE OF REPRESENTATIVES**

*Tuesday, January 23, 1990*

Mr. WILLIAMS. Mr. Speaker, today I rise to introduce the Badger-Two Medicine Act of 1990. This legislation creates a congressional study area in the Badger-Two Medicine roadless area, and avoids costly court actions against the Federal Government.

My purpose is to avoid costly court action and further delay of a final determination of the management of this area. This will not be the first time that the Congress will have considered this legislation; it was included in the Montana Natural Resource Protection and Utilization Act of 1989, which passed both the House and Senate in the 100th Congress. That bill passed both the House of Representatives and the Senate on voice votes. The legislation was then vetoed by President Reagan, however, although the Badger-Two Medicine portion of the bill (section 12 2751) was not cited in the veto message.

I am again introducing this portion of the vetoed bill because the crisis Congress hoped to avoid with that legislation is about to be quickly upon us. Actions on the part of the Forest Service has threatened to circumvent congressional intent for the area and has

started another round of conflicts with the Blackfeet Tribe and Montana's conservationists and sportsmen.

The land covered by this legislation is just south of Glacier National Park on the Lewis and Clark National Forest. The Badger-Two Medicine is not a typical portion of the national forest, however, because it is subject to treaty rights between the Federal Government and the Blackfeet Tribe. An agreement between the Federal Government and the tribe was consummated in 1896 and ceded the Badger-Two Medicine lands to the Government. This treaty also stipulated certain rights over the area which would remain with the tribe.

This area has been the subject of controversy regarding those rights for many years, and just recently the tribe contacted the Forest Service and indicated its desire to again assume control of the area. It is the tribe's belief that the agreement was a 50-year lease of the "Rocky Ridges" and not a cessation. The tribe has continued over these years to utilize the area for religious practices and the names of the land's peaks reflect the stories of Blackfeet legend. Morning Star Mountain, Badger Creek, and Two Medicine River are not just place names but pillars of the Blackfeet religion.

The Congress clearly recognized the very real possibility of conflicts with Indian treaty rights when it passed S. 2751 in 1988. Section 12 of that bill established a 3-year study in order to determine how management activities should take into account rights left with the tribe at the time of cessation. This approach was supported by the tribe. The Congress and the Blackfeet Tribe believed then, and I still hold, the best way to establish appropriate management is by involving the tribe in formulation of a joint management plan. Given the opportunity to have their rights considered in the Lewis and Clark National Forest management plan would go a great ways to addressing the tribe's concerns.

Failure to recognize this approach will almost inevitably lead, as the Congress believed, to a lengthy court challenge and needless expense for the Government and U.S. taxpayers. Recent actions by the tribe only validate that to push forward with the leasing approach, outlined by the supervisor of the Lewis and Clark Forest, creates conflict between the tribe and the Forest Service, conflict between the Congress and the Forest Service, and conflict between Montanans and the Forest Service, with no clear hope of resolution except in litigation.

The Forest Service has learned the hard way that redoing Forest Plans, Environmental Impact Statements, Environmental Assessments, Management Alternatives and Roadless Area Reviews is a duplicative, expensive, exasperating process. The legislation I introduce today says clearly that we want to avoid having the courts decide management this time around.

Contrary to the Forest Service's belief, proceeding with development is not the only option that they have. Discussions with the tribe and consultation with Congress prior to movement on any development is an acceptable and frankly much more prudent alternative

for protecting the public's clear right to decide the use of these lands.

It should also be noted that it is not only the tribe that has questioned development of the Badger-Two Medicine. The State of Montana's Division of Fish, Wildlife, and Parks has publicly expressed grave reservations about development in this area and the impact it would have on this Nation's second largest elk herd and largest Big Horn sheep populations, both of which rely heavily on the Badger-Two Medicine for their very survival.

Montana's conservationists and sportsmen have long advocated this area for inclusion in the National Wilderness Preservation system and do not support development.

The Congress appropriately and reasonably moved once to assure that in this case treaty rights are protected. With this legislation I am attempting to again do so.

#### TRIBUTE TO VINCENT RANIÈRE

**HON. STEPHEN J. SOLARZ**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. SOLARZ. Mr. Speaker, the district I represent encompasses some of this Nation's most diverse and colorful ethnic neighborhoods. One such area which is especially known for its rich cultural flavor is the Bensonhurst community, located in the central portion of my congressional district.

Contrary to popular belief, great neighborhoods don't just happen; they are most often the product of hard work and dedication on the part of community activists. In Bensonhurst, such leadership and vision has been amply supplied over many years by Vincent Raniere, outgoing two-term chairman of Community Board 11. It gives me great pleasure to rise today to pay tribute to this wonderful man who will be honored on February 1, 1990, as he steps down from this position after 4 years.

Bensonhurst residents for the last 25 years, Vincent and his wife, Phyllis, are the proud parents of three children: Vincent, Jr.; Susan; and Geraldine. The family belongs to St. Frances Cabrini parish and has been active in parish organizations for many years. A member of the parish council, Vincent has also served as chairman of St. Frances' Home School Association and as coach and athletic director of the school's Little League through the years.

In addition to being a devoted family man, Vincent is one of those exceptional human beings who has dedicated much of his life to the benefit of the entire community in which he lives. His talents are well known, and the list of his accomplishments is long and distinguished.

Vincent has been a member of Community Board 11 since 1977. In addition to being chairman for 4 years, he has also served the board as youth chairman, budget chairman, and 1st vice chairman. A gentle, kind man, Vincent's cool head and warm heart have allowed him to lead the board through many tough community issues with sensitivity and intelligence.

In light of Vincent's long record of achievement, I am delighted to salute him for his ef-

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forts. I have been privileged to know him for many years and to count on his wise counsel and effective assistance.

Vincent is truly a man of the people and for the people who I am proud to count as a constituent and a friend. I look forward to working with him for many more years to come.

#### COMMEMORATING THE RETIREMENT OF RALPH J. GIONET

**HON. SILVIO O. CONTE**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. CONTE. Mr. Speaker, I rise today to pay tribute to a man who has served his community with notable distinction. The name of this great American is Ralph Gonet, and on January 26 a testimonial will be held for him in recognition of his retirement after more than 35 years of activity within the school department of Pittsfield, MA.

In 1954, Ralph accepted a teaching position at North Junior High School in Pittsfield. Since that time, he has held a number of educational posts, including teacher, guidance counselor, as well as department head for the occupational education division at Pittsfield High School: the position from which he now retires. Throughout the years, Ralph has established himself as a pillar on which his colleagues and students have leaned for support and turned to for guidance, and I am proud to note that he has always searched for ways in which he could do more for his pupils and community.

Some of the words used to describe this fine man include warm, professional, fair, and compassionate. I have been assured by the members of the department which he leaves behind that no one individual will ever be able to take his place, as his constitution consists of such a remarkable combination of caring and dedication, not easily found among most individuals.

As if his efforts on behalf of education were not enough, Ralph has consistently devoted himself to a wide scope of community services throughout the area I am fortunate to represent in Congress. These activities have ranged from coaching with the Boys Club Hockey League to acting as president of the Goodwill Industries Advisory Board, and even chairman of the parish council at St. Teresa's Church. The work he has contributed to these volunteer organizations stands as a shining example of concerned citizenship, and his actions should inspire all those who know him to emulate his splendid example.

Despite his active lifestyle, Ralph and his lovely wife, Elizabeth, have managed to raise five sons: Mark, Bruce, David, Alan, and Gary; each of whom was educated within the same school system of which their father has been a part these past 35 years. Undoubtedly, the experience of having a father as kind and attentive as Ralph has enabled each of the boys to better handle the adversities that life often presents, and has provided them with the tools needed to attain their highest goals.

To say that Ralph Gonet will be sorely missed is an understatement. To fill the shoes

of such a committed individual is no easy task, but fortunately there are many who have learned from his example and will do their best to carry on his tradition of excellence. Nevertheless, considering Ralph's undying efforts on behalf of others, I doubt that we have heard the last of him. Besides his love for fishing and Agatha Christie novels, Ralph Gonet also has a love for people. Knowing that, I am sure he will continue to make a difference in our world, and thank God for that!

I salute you Ralph Gonet, and I wish you the most enjoyable of retirements.

#### INTERNATIONAL VISITOR MONTH

**HON. BILL RICHARDSON**

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. RICHARDSON. Mr. Speaker, today, I am introducing a resolution designating September 1990 as "International Visitor Month."

This resolution recognizes an outstanding program, administered by the U.S. Information Agency, which brings foreign leaders to the United States to develop a more personal understanding of our people and culture. This program: Helps shape American foreign policy; draws on an array of experts to examine current domestic problems; complements the curriculum of elementary and higher educational programs nationwide; creates opportunities for international business ventures; brings money into American cities and towns; and, introduces American people of all backgrounds to future world leaders visiting the United States.

American Embassies overseas select only the most promising midcareer professionals to participate in the month long exchange program. Last year the program brought more than 5,000 visitors to our country. Once the visitors arrive, the members of the National Council for International Visitors [NCIV] carry out the program in communities in nearly every State.

This is a worthwhile program that deserves the Congress' support. I urge my colleagues to join me in cosponsoring International Visitor Month. The resolution follows:

#### INTERNATIONAL VISITOR MONTH

Whereas the United States Information Agency conducts educational and cultural exchange programs that bring current and future foreign leaders to the United States, often for their first visit;

Whereas the experiences of these visitors affect attitudes and decisions regarding our country and international relations in general;

Whereas the success of these programs depends on the visitors seeing American democracy in all its openness and diversity;

Whereas such broad and meaningful exposure requires thousands of volunteers, who open their homes, businesses, and communities to more than 5,000 visitors each year;

Whereas such volunteer efforts are coordinated by the 103 not-for profit community organizations throughout the United States, and the 42 national programming agencies which form the National Council for International Visitors;

Whereas these international visits not only enrich the United States and the world in cultural, social, and human terms, but also provide the United States and foreign nations opportunities in international trade, commerce, and economic development; and

Whereas the continuing vitality and growing value of such programs depend upon community awareness and support: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 1990 is designated as "International Visitors Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate ceremonies and activities.*

#### PUTTING THE SECURITY BACK IN SOCIAL SECURITY

**HON. RICHARD J. DURBIN**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. DURBIN. Mr. Speaker, today I am introducing legislation with Representative BYRON DORGAN to repeal the FICA payroll tax increase that took effect on January 1, 1990. I do so because the time has come to put an immediate end to the practice of using Social Security Trust Fund revenues to mask the true Federal budget deficit. If we cannot take stop this practice, then I think we must level with the American people and halt the increases in the Social Security payroll tax.

Simply put, the working men and women of this country are being misled. Each week, contributions to the Social Security Trust Fund are deducted from their paychecks. Most believe that these contributions are left in the trust fund to pay for their future retirement costs.

They are wrong. In fact, the revenues in the trust fund are invested in Government securities, providing a new and expanding source of revenue for the Treasury. Instead of using these trust fund revenues for their intended purpose, to build a reserve and stimulate future economic growth, Treasury has been allowed to use these reserves to mask the growing Federal budget.

What was supposed to be an exercise in good government has become nothing more than a budget device to disguise the true size of the Federal budget deficit. If you exclude the \$68 billion in trust fund revenues for fiscal year 1990, we have a real budget deficit approaching \$200 billion. If we put off taking these surplus revenues out of the budget process until after 1993, we will waste another \$420 billion. In fact, if you discount this transfer of trust fund revenues, we have made little progress on reducing the budget deficit over the past several years.

This practice should not be allowed to continue. It removes discipline from the budget process, since the growing revenues from the Social Security Trust Fund enable us to meet the Gramm-Rudman targets without cutting spending. It uses a regressive payroll tax to fund an increasing share of Federal spending, continuing the trend toward an inequitable Tax Code. And it deceives the working men and

#### EXTENSIONS OF REMARKS

women of this country into thinking that their retirement savings in Social Security are being protected.

Representative DORGAN of North Dakota and I have supported legislation to protect the Social Security Trust Fund by immediately blocking the use of trust fund revenues for deficit reduction under Gramm-Rudman. If that plan is adopted, the President and Congress will have to face the real deficit.

If, however, trust fund revenues continue to be used to mask the deficit, hard-earned taxpayer money will be squandered and the Social Security benefits of today's workers cannot be guaranteed. In that case, the only responsible approach will be to reduce the Social Security payroll tax. The legislation I am introducing with Representative DORGAN of North Dakota today would start down that road by rolling back the payroll tax increase for 1990.

It is intended as a signal that it is not good enough to admit the problem but put off the solution. The American people deserve an end to this practice, not in 1997, nor in 1993, but now.

#### TRIBUTE TO JACKIE SPEIER

**HON. TOM LANTOS**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. LANTOS. Mr. Speaker, California State Assemblywoman Jackie Speier has been selected by the South San Francisco Chamber of Commerce as its "Citizen of the Year." I join my friends at the South San Francisco Chamber in paying tribute to Ms. Speier and invite my colleagues in the Congress to join me in honoring her.

Jackie Speier was elected to the California State Assembly in 1986 representing the 19th Assembly District which includes parts of San Francisco and San Mateo Counties. She has been recognized by her assembly colleagues as a competent and effective legislator, serving as a member of the key ways and means and rules committees and as majority whip.

Prior to her service in the State assembly, Ms. Speier was elected a member of the San Mateo County Board of Supervisors, where she served from 1981 to 1987. As county supervisor she was known for her outstanding work in focusing attention on women's issues. She was instrumental in establishing the San Mateo County Advisory Council on Women, the Household Hazardous Waste Clean-Out Program, Sexual Assault Care Center, and a number of initiatives on child care and parental leave.

Jackie Speier is no stranger to Washington. She was a legislative assistant to our former colleague Leo J. Ryan, who served in Congress until his untimely death in Guyana in 1978.

As a grandfather of 13, I consider one of Ms. Speier's finest accomplishments to be the distinction she achieved as the first member of the California Legislature to have a child while in office. She and her husband, Steve Sierra, are the parents of Jackson Kent Sierra, born July 18, 1988, on the opening day of the last Democratic National Convention.

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Mr. Speaker, I invite my colleagues in the Congress to join me in paying well-deserved tribute to my constituent and friend, Jackie Speier, member of the California State Assembly and the South San Francisco Chamber of Commerce "Citizen of the Year."

#### WILL HILL TANKERSLEY

**HON. WILLIAM L. DICKINSON**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. DICKINSON. Mr. Speaker, effective October 19, 1985, Secretary of Defense Caspar Weinberger appointed the Honorable Will Hill Tankersley, a native of Montgomery, AL, to a 4-year tour Chairman of the Reserve Forces Policy Board of the Department of Defense. This Board was established in 1952 by Congress as the principal policy advisor to the Secretary of Defense on matters concerning the National Guard and the Reserve of all the armed services.

The Reserve Forces Policy Board, under Chairman Tankersley's direction, has advised the Secretary of Defense on matters that have helped to modernize and integrate the National Guard and Reserve into a genuine and ready total force. The Board was created by Congress as an independent source of advice to the Secretary of Defense and to Congress. Its annual report has become the most comprehensive document available on Guard and Reserve programs and serves as the definitive reference document for reserve component data. Mr. Tankersley's commitment, dedication, and devotion have assured the success of the Board in meeting its congressional mandate.

Will Hill spent 8 years in the regular Army and is a decorated combat infantry veteran of six campaigns of the Korean war, a ranger, and a master parachutist. When he retired from the Army Reserve as a major general, he was awarded the Army's Distinguished Service Medal. He served on all levels from platoon to the Department of Army staff. The Secretary of the Army appointed him to the Army Reserve Forces Policy Committee. His final assignment was commander of the 87th U.S. Army Maneuver Area Command in Birmingham.

From 1969 to 1974 he was civilian aide to the Secretary of the Army for the State of Alabama. President Ford nominated him to be Deputy Assistant Secretary of Defense on September 5, 1974. He was confirmed by the Senate, and sworn in by then Secretary of Defense, James R. Schlesinger. He served in this post until July 1977.

Not only was Will Hill interested in the overall welfare of our defense posture, but he was equally committed to his community. Will Hill is vice chairman of the board of directors of the Montgomery Area Chamber of Commerce. He is a member of the Auburn University Research Advisory Council, he is a past president of the Montgomery Rotary Club, he was director of the Montgomery Area United Way, the Montgomery Academy and the Tukabatchee Area Council of the Boy Scouts of America. And he served as director of the Gover-

nor's Management Improvement Program for State Government. Will Hill is currently the president of Sterne, Agee & Leach, Inc., Alabama's oldest and largest securities firm.

A true southern gentleman, Will Hill Tankersley was a tremendous asset to our Department of Defense, and he remains a devoted champion of Montgomery and the State of Alabama.

**COMMEMORATING UKRAINIAN INDEPENDENCE DAY**

**HON. WM. S. BROOMFIELD**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. BROOMFIELD. Mr. Speaker, during this past year, we have witnessed momentous changes in Eastern Europe. We have seen an expansion of participatory government and a new commitment to human rights in those countries. There has been important movement toward market-oriented economies that allow individuals greater freedom in determining their economic lives. It has been an exciting and heartwarming experience to see the Berlin Wall come down and to observe the other important events that have characterized these past few months.

To a great degree, President Gorbachev had much to do with allowing these changes to take place without far greater bloodshed and repression. Yet in the Soviet Union itself, the winds of freedom and human rights have yet to blow freely.

The Ukrainian American community has observed January 22 as a day commemorating the time seven decades ago when the Ukraine was an independent, democratic nation, and reaffirmed its support for the dream of self-determination for the people of the Ukraine. At the same time, they reminded all of us that while notable changes have been made in the Soviet Union, we must not ignore the fact that there is much further to go.

After centuries of foreign domination, the Ukrainian National Assembly, meeting in Kiev on January 22, 1918, proclaimed the independence of the Ukraine. This period of independence was short-lived. By the early 1920's, the Soviet Union militarily occupied eastern Ukraine creating the Ukrainian S.S.R.

From the early 1920's to today, harsh and brutal efforts were made to destroy the spirit and the culture of the people of the Ukraine. For the past 4 years, I have served as one of four congressional commissioners to the Commission on the Ukrainian Famine of 1932-33. During those 4 years we took extensive testimony from eyewitnesses to the famine that took millions of Ukrainian lives. We came to the inescapable conclusion that the famine was man-made as a deliberate part of Stalinist policy of genocide to break the back of the Ukraine.

When that failed, the Soviet Government took other harsh steps. From 1934 to 1940, thousands of Ukrainian intellectuals were shot or sent to labor camps, and under the policy of Sovietization, Ukrainian churches were outlawed, Russian was taught in the schools, and

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expressions of Ukrainian culture were suppressed.

It is time for President Gorbachev to allow perestroika to enter into the political relationship among the various republics of the Soviet Union. Sovietization has failed in the Baltic States and it has failed in the Ukraine. A first step has been taken by allowing the Ukrainian Catholic Church to register as a religion to be observed in the Soviet Union.

However, there is still much further to go. The people should be allowed to freely worship whether they are Ukrainian Catholic, Russian Orthodox, Ukrainian Orthodox, or any other denomination or religion. People must also be allowed to take pride in their full identity. As Americans take pride in their ethnic identity while still being American, the Soviet Government must realize people cannot have an alien identity forced upon them. Finally, a political relationship needs to evolve that recognizes the aspirations of the people of the Ukraine.

Mr. Speaker, during this commemoration of the independence of the Ukraine we must continue to support the aspirations of the people there and encourage President Gorbachev to let necessary changes take place. The Soviet Government must finally accept that the status quo is no longer acceptable and shape its policy toward the Ukraine accordingly.

**TRIBUTE TO DARLA RAE PERLOZZI**

**HON. JAMES A. TRAFICANT, JR.**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Darla Rae Perlozzi who is an aspiring musician from my 17th Congressional District. Darla Rae, who is from Struther, OH, recorded her first single in 1989 which was released in the United States and Europe.

Darla Rae has been playing the drums for more than 15 years and recently released her first single, "Let There Be Drums," which is a rendition of Sandy Nelson's recording from the 1960's. Along with "Let There Be Drums," she recorded "A Brighter Day," which is intended as a song of hope for the less fortunate people of the world. She feels that music is an international language and that it can be used to communicate messages that spoken language cannot.

Ms. Perlozzi graduated from Struthers High School in 1985 and has received a number of musical awards including, six superior ratings in the Ohio Music Education State Competition, Whose Who in Music, the Governor Youth Recognition Award in 1986, and a scholarship from the Music Association of the Music Club. Presently Darla Rae is a member of the musicians' union 86-242 and a member of the band Cloverleaf.

Mr. Speaker, I would like to take this opportunity to congratulate Darla Rae Perlozzi on the release of her first single and commend her on her concern for her fellow man. Darla Rae has a bright future ahead of her and I wish her the best of luck.

**TRIBUTE TO DUANE B. BEESON, ESQ.**

**HON. NANCY PELOSI**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Ms. PELOSI. Mr. Speaker, I rise today to share with my colleagues the valuable contributions of Duane B. Beeson, Esq., who was honored by All-Charities as a "Great Bay Area Humanitarian" on January 20, 1990. Duane has touched many people in great and small ways over the years.

Duane's stellar legal career began when he graduated from Harvard Law School in 1948, and got off to an auspicious start when he obtained a highly esteemed appointment as a Federal law clerk for the Honorable William E. Orr, judge of the U.S. Court of Appeals, Ninth Circuit. His career with the National Labor Relations Board validated that early promise and many of the cases that Duane shepherded during his tenure at the NLRB remain landmark decisions in labor law.

Duane has not limited his contributions to the practice of labor law alone. In addition, he had served as an instructor at the University of San Francisco Law School, Hastings Law School, George Washington Law School and the University of California Law School. His contributions also extend to constitutional law as Duane's victorious decision in the 1965 case United States versus Seeger before the U.S. Supreme Court on conscientious objections still stands as an important milestone in that area.

Duane joined the firm of Besson, Tayer, Silbert, Bodine & Livingston in 1961 and has represented many unions, including the Teamsters, California Nurses Association, International Typographical Union, Mailers, and the American Federation of Television and Radio Artists.

Duane B. Beeson has woven a thread of humanitarianism throughout all of his dealings. He has maintained a reputation as a thoughtful, fair, and skillful advocate both in litigations and in negotiations.

**A CONGRESSIONAL SALUTE TO BILL TREJO, JR.**

**HON. GLENN M. ANDERSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to bring to the attention of my colleagues Mr. Bill Trejo, Jr., an individual that has played a major role in the U.S. shipbuilding and repair industry. At a time when this vital domestic industry is experiencing adversity, it is reassuring to know that there are still individuals willing to stand by what they believe in.

Recently the San Pedro News Pilot ran a profile story of Mr. Trejo, and his role in the on-going difficulties faced by Todd Shipyards, San Pedro. For those of you that do not know, this company was forced to close recently leaving 2,000 workers unemployed. It is my

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hope that my colleagues will read the following article on Mr. Trejo, both as a tribute to the man, and to demonstrate the need to save our domestic shipbuilding and ship repair industry before it is extinct.

**UNIONIST'S LOVE IS LABOR—BILL TREJO, JR.  
A SELF-TAUGHT NEGOTIATOR AT TODD**

(By Bob James)

**Bill Trejo Jr. likes to do things the hard way.**

Whether negotiating a contract on behalf of his members, earning an education or simply finding time for his family, the executive secretary for Local 9 of the Industrial Union of Marine and Shipbuilding Workers of America rarely takes the easiest route.

"I feel good in doing things the hard way," he said. "I feel good because I have a conscience that tells me I'm doing the right thing."

Raised in East Los Angeles by his mother, Trejo saw gang and prison violence eventually take three family members. But during those years, he also got his first taste of Los Angeles Harbor's salt air when he visited his father, a Todd Shipyards worker, on the weekends.

"I was always awed and amazed by the harbor," he said as he sat in the living room of his San Pedro home. "Being from East L.A., this is another world."

Since then, Trejo has emerged as a major force in the harbor's shipbuilding and repair industry. After beginning his labor career as a shop steward in Todd's dry dock department, trustee and treasurer for the local, he stepped into Local 9's top post almost a year ago—just as the union's main employer, Todd, began its swan song.

The stocky father of two has also earned a reputation as a devoted union man who above all else represents his membership fairly. He often takes a low-key approach to negotiating, but also can be confrontational and hot-tempered.

"His heart is really into it," said Rene Herrera, president of Local 13 of the International Longshoremen's and Warehousemen's Union.

"He really believes in what he's doing," said Herrera, who has known Trejo since their days at Todd in 1978. "All you have to do is stop by and see how hard he works to know that."

"He's good," said Kevin Sullivan, the shipbuilder's union West Coast representative. "He always represented his men well and fairly. He's had to make some tough decisions and has done well."

In the days when young Billy Trejo attended Todd Christmas parties at the Warner Grand Theater in San Pedro, he never planned to follow in his father's footsteps, but after graduating from high school in 1974, the former athlete found that, thanks to a serious knee injury, he had no way to attend college.

So he picked up odd jobs as a bouncer in a Hollywood nightclub, in a surf shop looking for shoplifters and finally at Todd, where he obtained off-and-on work as a shipfitter's helper.

Working in the same department as his father did for more than 20 years, the younger Trejo learned the craft of piecing together giant sections of sea-going vessels as his father had been taught—from the veterans.

In 1977, when Todd began work on the mammoth 18-ship Navy frigate program, Trejo moved to the dry dock. As the youngest man in the department, he got the dirti-

est, hardest jobs and a ton of overtime, he recalled.

In 1978, Trejo married his high school sweetheart, Sylvia, in Hawaii. For the next couple years they traveled around the country and to Eastern Europe, returning to the Harbor Area periodically to work again at Todd.

Trejo, 33, returned to Todd full time in 1982, right around the time his first child, Christina, was born. He returned to the dry dock—and the union.

"I wasn't involved in the beginning. I was doing my own thing," Trejo recalls of his relationship with the union.

"But I remember getting disgusted at certain issues, like the distribution of overtime and always hearing that 'personnel said this' and 'personnel said that.'"

"So I started saying, 'Just because personnel said that doesn't make it right. Let's look at where we stand with this contract.' And then I started getting involved in contracts and the next thing you know I'm the shop steward."

Trejo's involvement deepened and he said he "began filing grievances and going into arbitrations" on behalf of his department.

Sullivan said not only was his friend of 10 years a good steward, "he was good at his trade too."

"That's always a good combination because someone who works hard at his trade will usually work hard for the union," Sullivan said, noting that Trejo also earned the respect of management because he was not "overzealous" in his position.

But the shipbuilder's mettle was put to the test when Todd began installation of the synchro-lift in 1986. The high-tech device essentially replaced the older method of dry-docking vessels by hand by raising and lowering the ship by hydrologic lifts. Trejo said the company also planned to dismantle his department with the old drydock.

A lot of different departments wanted to take it over, but he fought hard to make sure his department got it," Sullivan said. "The winning argument was that he had the expertise in operating dry docks and that this was a similar piece of equipment."

"It was needless. That should have been negotiated square from the beginning," Trejo said of the issue. "But (the negotiators) told me I was secure, but when it came down to it, I wasn't."

The episode marked a change in philosophy for him. From that point on, Trejo said, he wouldn't really trust anyone except himself.

"I've paid a price for it, but I've also paid a price when I did trust people," Trejo said.

From shop steward, Trejo became trustee of the local and then moved on to treasurer and was labeled "The Watchdog" because of his tenacious control over the books. Sullivan said he was one of the most outstanding treasurers the local ever had.

"These guys had their own way of doing things and people let things go as they would," Trejo said, recalling Local 9's fiscal health when he came in.

"But I was doing things, making the company justify what it was doing and so some of that rubbed off with the union hall," Trejo said, admitting his actions cost him some popularity. "But I never challenged anything unless I thought I was right."

Despite his fiscal acuity, Trejo found his real calling in 1986 on the panel negotiating Local 9's new contract with Todd. Even then, company officials said the firm was in trouble and that the union had to take cuts

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to prevent the yard from closing. Trejo and company stood firm, forcing Todd to issue its "final offer" about 20 times, Trejo said.

Negotiating "is what it's all about. That's where you're able to make a big difference," Trejo said. "That's why the labor movement is there—to make an impact negotiating certain benefits on behalf of the membership."

Having had no formal training in the art of bargaining, Trejo did what he did when the synchro-lift issue arose—hit the books. He read about how to read facial expressions, body language and the art of listening and comprehension. He used tape recorders and takes copious notes and when the issues get really touchy, he said he simply takes a break to mull over in his mind what was said.

"He always conducts himself like a gentleman," said Bill Campbell, vice president of Dockside Marine and Industrial Co. of Wilmington, which was struck by Local 9 for five weeks earlier this year. "I only saw him lose his temper once. He got kind of out of control, but he came back and apologized later."

"Billy does do a good job representing his membership," said John O'Hara, industrial relations manager for Todd. "He mirrors what Local 9 stands for and operates the way they expect him to operate."

When Todd declared bankruptcy in 1987, Local 9 expected even more out of him.

"He spent most of his evenings at the union hall and then when he came home, he had business on his mind," said Mrs. Trejo. "And then people would call all night asking 'How's it going? Is it closing?' It was very stressful."

Mrs. Trejo said there were always rumors the yard was closing, but she didn't believe them.

"(Bill) said there was no way they would close it, that it was just scare tactics. But when they started laying everybody off, it was clear they were closing."

These days, with Todd closed and 2,000 union members out of work, Trejo's responsibility has increased even more. The priority now, he said, is getting a buyer for the yard in there that won't pack up in a couple years. But the road to that goal is filled with obstacles.

"Things are moving so quickly, I try to read a lot now, probably too much because we've stopped communicating," Trejo said, flashing a toothy grin at his wife. "That's how I've educated myself, picking up law books, case histories, books on negotiating tactics, psychology, comprehension, reading facial expressions—anything that would be advantageous for the labor movement."

"One wrong move can cost me and this local our survival," Trejo said.

But dedication has its price. Just as the synchro-lift and treasurer episodes cost him, so has the fight to save Todd. This time, however, his private life paid the bill.

"Since Chapter 11 there hasn't been a whole lot of fun," Trejo said as he opened the door to a garage filled with barbells, scuba diving gear, fishing poles and other toys he hasn't used in a long time.

"You get so deep into a certain issue that sometimes you lose sight of everything else, including your family. That's when you have to take a step back."

While Trejo said his family understands, he admits he felt "a little guilty about not being home for dinner when I should have."

"It took some time for me to learn to say, 'Adios, I'm out of here,' then lock the door of the hall and go home."

Trejo gives his wife a lot of credit for keeping him sane. "She's been great," he said, noting that he is finding more time for his family. Christina, 7, and he are part of the YMCA's Indian Princess program for fathers and daughters and Trejo loves to play with 4-year-old Michael.

"I've been blessed," he said. "I never asked to be in this position and I've felt good when I was able to be successful and felt bad when I lost. But I owe the union for everything that I have."

#### PAUL CORBIN: THE COMMANDER

#### HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. CLEMENT. Mr. Speaker, I want to pay tribute today to a man who was once one of the most colorful political figures of this century, Mr. Paul Corbin.

The Commander, as he described himself, died following a bout with cancer on Tuesday, January 2, 1990, at the age of 75. Today in Nashville a group of Corbin's friends and acquaintances will pay tribute to this man, and I'd like to honor his memory myself as we begin the second session of the 101st Congress. Considering the political legacy Paul Corbin left, I think this is most fitting.

Following his death various political columnists described Paul Corbin as "a national political operative, a most unforgettable character, brash, energetic, controversial, a prankster and a confidante." Paul Corbin was many things, including a very savvy and experienced adviser to some of the leading political figures of the past three decades. Paul Corbin was one of the most respected political minds of our time.

I borrow excerpts from newspaper articles written for the Nashville Banner and Tennessean newspapers in my hometown, Nashville, TN, and from the Janesville, WI, Gazette, to paint a picture of this unique individual.

I would like to submit for the RECORD an article by reporter Jim O'Hara which appeared on Wednesday, January 3, 1990 in the Tennessean.

#### PAUL CORBIN, POLITICAL FIGURE, DIES

(By Jim O'Hara)

Paul Corbin, confidante of the late Robert F. Kennedy and a national political operative for more than two decades, died yesterday of cancer at his home in Alexandria, Va. He had both political and business ties to Nashville, dating back to the late 1960s.

Services for Mr. Corbin, 75, will be at 11 a.m. Friday at the De Maine Funeral Home in Alexandria. Burial will be in St. Mary's Cemetery in Alexandria.

Mr. Corbin was born in Winnipeg, Manitoba, in 1914 and moved to Janesville, Wis., in 1935.

He became a U.S. citizen in 1943 and joined the U.S. Marine Corps during World War II. When he was honorably discharged in 1945, Corbin had attained the rank of master sergeant.

Returning to Wisconsin after service in the South Pacific, he became active in the Marine Corps League, eventually becoming the league's national chief of staff. He was

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also president of the Wisconsin Veterans Council in 1946.

Before and after Corbin's military service, he worked as a labor organizer and that activity eventually resulted in a 1962 appearance before the House Un-American Activities Committee.

He bluntly told the congressmen on the committee that reports of his having ties to the Communist Party were false. Corbin was represented before the committee by Nashville attorney John J. Hooker Jr.

In 1960, Corbin met John F. Kennedy, who was seeking the Democratic presidential nomination, and Corbin worked for him in the Wisconsin and West Virginia primaries.

During the 1960 general election, Corbin worked for John Kennedy in New York state.

From 1961-64, Corbin was a staff member of the Democratic National Committee. He left that position after President Lyndon Johnson pointedly excluded Robert F. Kennedy from consideration as his running mate in 1964.

Corbin then worked for Robert Kennedy in his 1964 election to the U.S. Senate from New York. He also worked in the Democrat's 1968 presidential campaign during the California primary.

For Corbin, politics was founded on personal loyalty and friendships.

He was fond of telling friends that while most people lived their lives like funny paper characters in the daily newspapers, he intended to live his like the Sunday comics—in full color.

There was no doubt that Corbin was colorful. He favored long overcoats with fur collars and broad-brimmed black fedoras.

Corbin was also controversial—and sometimes seemed to enjoy that role.

Even Corbin's closest friends were never certain when to separate the fiction from the fact surrounding his activities. Consequently, they were almost never surprised by a Corbin story although they were often left shaking their heads in wonder.

That was the case in 1983 when reports surfaced in the media that Corbin was involved in obtaining briefing papers for a debate from the campaign of President Carter and turning them over to Ronald Reagan's campaign manager, William J. Casey.

And Corbin left it a mystery.

"The Commander." "The Colonel." Those were just two of the sobriquets by which Corbin would conspiratorially identify himself to strangers.

But there was no mistaking the gravelly voice that invited reporters and politicians into Corbin's world where legend and fact were gleefully mixed—and usually to Corbin's advantage.

Corbin's political ties in Tennessee included working for Republican Lamar Alexander in the 1982 governor's race and drumming up support for Democrat Ned McWherter in the 1986 gubernatorial contest.

In May 1989, Corbin was called to testify before a federal grand jury here investigating Sheriff Fate Thomas and was asked by a female reporter to discuss his testimony.

"I don't kiss and tell, do you?" he responded.

That did not stop him from then privately regaling friends with a story of his wanting to smoke while in the grand jury room. When told he couldn't, Corbin said he turned to the grand jury and asked the smokers on the panel if they didn't want to light up.

A recess in the proceedings for the smokers was then called. Corbin said as he proclaimed another personal victory over established authority.

A Corbin story did not have to be believed, only enjoyed.

"The world of politics has lost one of its most colorful characters and I have lost a close, personal friend," said John Seigenthaler, chairman, publisher and chief executive officer of The Tennessean.

Robert and Ethel Kennedy were Corbin's godparents when Corbin and his wife, Gertrude, converted to Catholicism.

After Robert Kennedy's assassination, Corbin moved to Nashville where he was curator of the Country Music Wax Museum.

He then moved to Washington, DC., where he worked as a political consultant.

Corbin was founder of the American Institute for Public Service and served on its board to select recipients of the Jefferson awards. He was also a founder of the Federal City Club in Washington and a member of the Mt. Kenya Safari Club.

Mr. Corbin is survived by his wife, Gertrude; two sisters, Irene Culter of Winnipeg and Freida Shankman of Suisun, Calif.; and a daughter, Darlene Corbin of Marina Del Rey, Calif.

The family asks that donations be made to the Robert F. Kennedy Memorial, 1031 31st Street NW, Washington, DC., 20007.

Following Mr. Corbin's death, the Nashville Banner reported that Mr. Corbin was very proud of the friendships he formed with Kennedy insiders, including John Seigenthaler, now chairman, publisher and chief executive officer of the Tennessean, describing the relationships as "a band of brotherhood that was never broken."

Seigenthaler used to joke that "Corbin is our cross to bear."

Other Kennedy pals claimed that they drew straws after Robert Kennedy's death to see who got Corbin, "and Seigenthaler lost."

Robert Kennedy's biographer, Arthur Schlesinger, described Mr. Corbin as a "natural born con man" who took "cheerful delight in causing trouble and reorganizing the truth."

In 1961, Republican U.S. Representative Melvin Laird accused Mr. Corbin of having Communist ties. John Jay Hooker, who also worked in the Kennedy campaign, served as Mr. Corbin's attorney at hearings before the House Un-American Activities Committee.

The hearings never produced proof that Mr. Corbin had Communist links.

But Mr. Corbin had a lot of laughs in later years recounting how he broke the tension during the hearings by announcing in a very loud voice, "Nothing doing, John Jay. I'm going to tell the truth."

COLUMNIST Mitch Bliss in Corbin's hometown paper, the Janesville Gazette, described Mr. Corbin as "an ex-Marine with a gravelly voice and rapid fire delivery. Corbin was not big physically, but gave you the feeling you would sure want him on your side in a war or any other kind of fight."

Fascinating, engaging, savvy and tough as a bantam rooster, Paul Corbin was the kind of man whose exploits became political legends. Perhaps the highest tribute I can pay Paul Corbin today is to say that I admired and respected him and the advice he gave. When Paul Corbin talked, I wanted to listen.

Like hundreds of his family members and friends, I will miss Paul Corbin. But I also understand that legends grow and live on forever.

#### BANK ROBBERY ON A GRAND SCALE

#### HON. FORTNEY PETE STARK OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. STARK. Mr. Speaker, the Christian Science Monitor contains a recent editorial by Richard Morin and Joseph Ellis, titled "Bank Robbery on a Grand Scale." Morin and Ellis have eloquently described the S&L mess, caused by an era of deregulation coupled by a lack of needed oversight and Federal Government administration. The costs of the resulting waste, fraud, and abuse will be felt by every taxpayer for years to come.

The second session of the 101st Congress will provide an opportunity to resolve potential disasters in the pension guarantee, home mortgage, farm mortgage, and banking industries. I fear, however, that too many special interest groups will bury their heads in the sand and deny that potential problems exist. The time to act is now, and we ought to be willing to make the difficult decisions before the next crisis' financial costs have mushroomed beyond comprehension.

I recommend the following article to my colleagues:

#### BANK ROBBERY ON A GRAND SCALE

(By Richard Moran and Joseph Ellis)

Until recently, the most memorable comment on bank robbery was made by the legendary stickup man Willy Sutton. When asked why he robbed banks, Sutton explained, "Because that's where the money is." But the recent savings-and-loan scandal has produced a worthy rival in the quotation sweepstakes. Testifying before Congress, the California S&L commissioner observed, "The best way to rob a bank is to own one."

It is time we realized the enormous cost imposed on society by corporate criminals. Until this new breed of bank robbers showed up, there never was a robbery that bankrupted a bank. According to the Justice Department, the average take from a bank job is less than \$3,000. Although Willy Sutton, John Dillinger, Bonnie and Clyde, and Jesse James have grabbed all the notoriety, the truth is, they don't amount to a hill of beans when compared to their modern-day counterparts.

Over the next 30 years the cost of bailing out the S&L industry is estimated at between \$300 billion and \$473 billion. During the next decade, every American taxpayer will be forced to contribute between \$2,000 and \$3,000 to finance the losses. The savings-and-loan scandal is the most costly crime in recorded history.

The fact is, most of these banks failed not because of deregulation, bad loans, or shifting commercial real estate markets, but because they were either bled dry by a bunch of pin-striped bandits or bankrupted by gamblers who took illegal risks with developers' money.

A recent Government Accounting Office study found that criminal activity played a

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central role in the 26 most costly thrift failures. Of the 11,319 S & L bankruptcies referred to the Justice Department for possible prosecution, criminal behavior is believed to have played a significant role in 80 percent of them.

The illegal strategies and criminal techniques employed are much too complex to describe in detail here. Essentially they involved siphoning funds, illegal risk taking, and covering up. Siphoning, or bleeding-dry, was the most common and lucrative method employed. Top management paid themselves exorbitant salaries in violation of federal regulations, purchased luxury homes, boats, and cars, and arranged sweetheart deals for friends and relatives. In short, they robbed their own banks.

In defense of federal laws and regulations, saving-and-loan managers made illegal high-risk acquisition, development, and construction loans, often requiring no down payment and relieving the developer of liability if the project went broke. If successful the bank would receive high profits. If unsuccessful, the taxpayers would foot the bill, since all deposits up to \$100,000 are insured by the federal government. It's a "heads I win, tails you lose" investment strategy.

And, finally, the executives and managers covered up. They inflated their net worth by financing the purchase of their own stock. They sold land back and forth to each other at inflated prices, thereby creating false increases in total assets. They "cooked" the books, hiding theft, fraud, and insolvency.

If you are having trouble seeing these bank executives as real criminals, consider that the Mafia has been doing the same thing for years. Once gangsters gain a foothold in a legitimate business, they too milk it dry by siphoning off cash, building up large credit lines from suppliers, and then liquidating inventories. When they pull out, all that remains is a shell of a company with creditors holding the bag. They leave behind a snarled network of paper which makes it difficult and costly to prosecute. When the Mafia does this it is called as a "bust-out." When bank managers do it, it is called an insolvency.

While it is true that deregulation of the banking industry created an atmosphere in which corporate crime flourished, this argument serves only to explain how the thievery got so out of hand. It does not excuse the executives' behavior or make it any less criminal. After all, prohibition explains how the mob was able to grow and prosper. And street crime can be traced to the conditions in the ghetto. Drug trafficking, auto theft, prostitution, take your pick, they all can be explained by pointing to the environment in which they are nourished.

Willy Sutton stole from banks the old-fashioned way—he robbed them. The new breed of bank robbers steal sums of money that Sutton never imagined in his most larcenous dreams. Yet very few of them will ever see the inside of a prison, even though they have perpetrated the greatest heist in American history.

January 23, 1990

#### FATHER DRINAN ON SOVIET JEWS

#### HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. FRANK. Mr. Speaker, my predecessor in the House, Father Robert Drinan, was one of the first Members of Congress to recognize the importance of human rights across the world as an issue which demanded the attention of Americans. Among the areas where he provided moral leadership was that of the question of Jews in the Soviet Union who were facing severe persecution. Although he is no longer in Congress, Father Drinan continues to be an extremely dedicated advocate of human rights and he continues to apply his expertise to these questions. Earlier this month he published an article in the Boston Globe giving an up-to-date review of the situation of Jews in the Soviet Union, and discussing some of the important policy questions that arise out of the changes that have occurred there. Because of his acknowledged status of one of the experts in this area, and because the issues he raises are so timely, I ask that that article be printed here so that our colleagues may get the benefit once again of Father Drinan's analysis.

[From the Boston Globe, Jan. 1, 1990]

#### To EMIGRATE—OR STAY?

(By Robert F. Drinan)

For the million Jews in the Soviet Union, it is the best of times and the worst of times.

The numbers able to leave are astonishing. In the first 11 months of 1989, 62,504 Soviet Jews emigrated, easily exceeding the record of 51,333 in all of 1979. In addition, 500,000 Soviet Jews have applied for permission to leave or have documents enabling them to make an application.

The dream of the last exodus is being fulfilled. It was Elie Wiesel's 1967 book "The Jews of Silence" which began the worldwide aspiration to liberate the 20 percent of the Jews in the world who, because they lived in the USSR, were denied the right to practice their religion.

The first World Conference on Soviet Jewry, held in Brussels in 1971, began the organized global efforts which have brought about astonishing freedom for Jews in Russia. I participated in the second world conference in 1976 and the third in Jerusalem in 1984. No one at those gatherings could possibly have predicted that up to 70,000 Jews would be able to leave the Soviet Union in 1989.

But amid the rejoicing of Soviet Jews there is widespread anxiety. Should everyone leave—with all of the traumatic experience that entails? Could freedom for Jewish culture become so available in the Soviet Union that it would not be necessary to emigrate? Or, is the ancient memory and tradition of anti-Semitism likely to revive if Jews openly practice their faith and develop their culture?

As angry nationalities come alive in the Soviet Union, grass-roots anti-Semitism and ancient prejudices seem to be growing. The London Economist for Dec. 23, 1989, documents some of the ugly anti-Semitic threats that are emerging in the Soviet Union.

But anti-Semitism is officially banned. The flow of anti-Jewish propaganda copied from Nazi hate books, which the government sponsored for many years, has stopped. There is not yet any legal apparatus to guarantee all Jewish students access to universities, but freedom for Jews has expanded far beyond anything ever dreamed of in the 72 years from 1917 to 1989.

For the first time in 50 years there is a rabbinical school in Moscow. Teaching Yiddish, Hebrew, and Jewish history is no longer forbidden. For the first time since Stalin died in 1953, there is a Jew in the Politburo.

To consolidate these gains, Jewish leaders recently held a congress in Moscow, the first such gathering since the 1917 revolution. Sentiment at that conference was deeply divided. Some urged that most Jews should emigrate lest new waves of anti-Zionist prejudices erupt.

Others felt that the spectacular turn in favor of human rights in the USSR and in Eastern Europe meant that Soviet Jews have many reasons to feel that they will be appreciated in the new country that is emerging.

Anti-Semitism has had a long and dark history in Russia. The poison of that stain is now being revived by a movement called Pamyat. Since its start in the early 1970s, Pamyat has claimed that it is dedicated to the preservation of Russia's cultural history.

But it has revived some of the nation's oldest anti-Semitic prejudices and has added a few more.

Pamyat alleges that Jews are "over-represented" in Soviet public life and consequently urges that Jews should not be admitted to universities and scientific academies. Pamyat has been instrumental in the new wave of anti-Semitism which has led to desecrated Jewish graves, graffiti on synagogues walls, and threatening letters.

The repression that has produced anguish in the Soviet Union for millions since 1917 is hopefully coming to a welcome end. But Jews who remain must daily confront the problem of whether they should prefer certain exodus today or possible extermination tomorrow.

From 1970 to 1989, the US Congress was enormously helpful in making the emigration of 270,000 Soviet Jews possible. The work of the Congress on behalf of all of the Jews in the Soviet Union is entering a new and daunting phase.

#### NATIONAL EYE DONOR MONTH: MARCH 1990

**HON. FRANK J. GUARINI**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. GUARINI. Mr. Speaker, the efforts of Congress have helped make possible the enormous humanitarian and economic benefits of organ and tissue transplantation: Lives saved, bodies repaired, sight restored, thousands of men, women, and children returned to the workplace, classroom, and community. Our support of eye donation, in particular, has dramatically impacted Americans today.

Thanks to the increased public awareness of the benefits of eye donation, a record number of humanitarian-minded citizens are choosing to pledge their eyes to be used after

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death for sight restoring surgery and research. Last year alone, more than 80,000 donor eyes were received by eye banks across the United States and Canada. Of this number, the Eye Bank Association of America, [EBAA] reports that more than 36,000 were used for other sight enhancing surgical procedures and in important research projects, to speed the day when thousands of persons with other types of blindness might also have their sight restored.

Since 1961, when the EBAA was founded by the American Academy of Ophthalmology, more than 336,000 corneal transplants have been performed with a 90-percent success rate, making this surgery the most successful and frequent of all transplant procedures. Persons who have received the precious gift of sight through this surgery have come from all walks of life and all parts of the country, including a 9-day-old infant and a 103-year-old great-great-grandfather.

The EBAA coordinates various activities across the United States and Canada through its 98 member eye banks in order to increase eye donations, expedite research and ensure the maintenance of high standards for the screening and distributing of corneas for transplantation. The EBAA is supported by its allied organizations, the Association of Nurses Endorsing Transplantation [ANET] and the National Ambassadors for Corneal Transplant [NACT], whose members are former blind persons whose sight has been restored through corneal transplantation.

Despite this remarkable effort, thousands of blind men, women and children still wait in darkness because of a shortage of eye donations. Eye banking experts are convinced that one of the most effective means for increasing donations is to increase public awareness of the donation process. They indicate that many people do not realize all eyes are acceptable for donation, regardless of the donor's age or quality of vision.

Therefore, it is fitting that we in Congress inform the public of the need for eye donations and encourage more Americans to become organ and tissue donors, as we have done each year since 1983. We do so by designating March 1990 as "National Eye Donor Month" and call on all citizens to support this humanitarian cause.

#### HER SON'S FLAG

**HON. WILLIAM J. HUGHES**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. HUGHES. Mr. Speaker, I rise today to recognize one of my constituents, Mrs. Dee Scerni of Galloway Township, who has written a beautifully touching poem about our flag. The woman who is the focus of Mrs. Scerni's poem, suffers a tragic loss at the death of her son. Although the woman's loss was great, she took comfort in the courage of her son, symbolized by the American flag. I sincerely believe that Dee Scerni's poem captures the spirit, symbolism, and deep meaning that our flag has engendered for Americans since the founding of the Republic.

Accordingly, it is with great pleasure that I present the full text of Mrs. Scerni's poem which follows:

#### HER SON'S FLAG

She clutched the folded flag to her breast,  
somehow she felt closer to him;  
She closed her eyes as tears fell, her memories  
would not grow dim.  
They took her back to a hot Fourth of July,  
when he was only three,  
As he stood and waved his flag, for everyone  
to see.  
Her arms caressed the folded flag, lovingly,  
once more;  
The same arms that held this child, that  
she once bore.  
Tears fell upon the folded cloth, she gently  
wiped them away;  
But with it in her arms, she felt closer to  
him that day.  
She remembers when he was twelve, it was a  
Boy Scout jamboree:  
He led the parade carrying our flag, he was  
as proud as he could be.  
She placed the flag upon her lap, the very  
spot he'd lay his head,  
When he was but a child, and she'd carry  
him to bed.  
How proud he was of our country, the freedom  
that we know;  
And when the day came to defend it, off to  
war he'd go.  
She placed the flag near his picture, it was  
all she had left you see;  
But for a heart full of sorrow and a proud  
memory.  
She remembers yet another day, he carried  
his flag home;  
It was draped upon his casket, she stood  
there all alone.  
Through tears she was glad he knew not, of  
the burnings they want allowed;  
Of the flag of his country, while living, he  
held so proud.

#### HONORING BEN REIFEL

**HON. TIM JOHNSON**

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. JOHNSON of South Dakota. Mr. Speaker, our Nation recently lost one of its leaders, former Congressman Ben Reifel of my State of South Dakota, who served in this body from 1960 to 1970. Ben was an enrolled member of the Rosebud Sioux Tribe, and distinguished himself in the House by being quietly effective. I would like to insert into the RECORD the editorial printed in the January 6, 1990, Sioux Falls Argus-Leader, which eloquently pays tribute to Ben and his career:

#### STRAIGHT SHOOTER REIFEL'S MARK IN HISTORY WILL GROW

As time goes on, Ben Reifel's stature in South Dakota history likely will grow.

As the first American Indian to serve in the U.S. House of Representatives, he helped bridge cultural gaps, nationally and in South Dakota. He was a believer in education who worked his way to success.

But to thousands of South Dakotans, he was simply a popular congressman who served the state throughout the 1960s.

Reifel, who died Tuesday of cancer, will be remembered for more than his political service to South Dakota. He campaigned as

a straight shooter, and he earned a reputation as one.

He also will be remembered for his concern for agriculture, the arts and Indians. He was known as *Wiyaka Wanjila*, Lone Feather, among his Indian family.

Funeral services for the 83-year-old Lake Poinsett resident will begin at 10 a.m. today in Calvary Episcopal Cathedral in Sioux Falls. Burial will be at 2:30 p.m. in Erwin Cemetery.

Reifel was born in 1906 near Parmalee on the Rosebud Reservation. He was the son of a German rancher and a Sioux mother. He learned to speak both English and Lakota, and hungered for more education.

He earned a bachelor's degree from what is now South Dakota State University and a master's and doctorate from Harvard University.

Before serving in Congress, he taught agriculture at the Pine Ridge Reservation, served in the Army for four years during World War II, was superintendent of the Fort Berthold Reservation in North Dakota and the Pine Ridge Reservation, and was Aberdeen area director for the Bureau of Indian Affairs.

South Dakotans elected him to Congress in 1960, and he was re-elected four times. At the time, the state had two seats in the U.S. House, not just one. Reifel represented the eastern portion of the state.

He often has been credited with helping to bring the Earth Resources Observation System data center to rural Sioux Falls and for helping to keep open Ellsworth Air Force Base near Rapid City.

After retiring from Congress, Reifel served briefly under President Ford as interim commissioner of Indian affairs and on various boards.

He was not loud or flashy, but former colleagues say he was effective. He made few enemies.

Even in the last years of his life, he kept trying to bring Indians and non-Indians closer together.

"We (Indian people) can't relive the past. We find ourselves where we are," he said last year in an interview published in *South Dakota Magazine*. "We have our feet in two worlds. We want to preserve our old values and that is good. But we cannot continue the same value systems as we had with the buffalo economy."

Reifel asked that whites recognize the cultural struggle that American Indians are up against in assimilating into American culture. "Be patient," he said. "Be careful not to stereotype. Be understanding."

That is good advice from a man whose words will deserve more than passing mention in state history.

SAMP LAW OFFICES,  
January 8, 1990.

Hon. TIM JOHNSON,  
U.S. Representative, Sioux Falls, SD.

DEAR TIM: We are handling the estate and final matters relating to Ben Reifel's estate.

In that regard, I would appreciate your assistance in checking on the following:

1. We need the form to transfer payment on the Congressional retirement benefit from Ben to Mrs. Reifel's guardianship (copy enclosed);

2. We need to know of any other Congressional benefits paid to deceased members. For instance, we believe there is a life insurance or death benefit available, but we do not have any paperwork on the same;

3. Could you check to see whether Mrs. Reifel has the health benefit coverage referred to herein?

## EXTENSIONS OF REMARKS

We appreciate your assistance on this. In addition, we will be sending all Honorary Pallbearers and other close associates of Ben a compilation of news articles, editorials, etc. on his passing. If there are any remarks included in the Congressional Record or if you note any stories in the Washington papers, we would certainly like to include them.

Thank you for your help.  
Sincerely yours,

ROLYN H. SAMP.

## SALUTING GEORGE KNOX ROTH

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. MINETA. Mr. Speaker, this past decade has seen a desire to review and reconsider some momentous events which occurred 48 years ago. Given this Nation's common thirst for the future and disinterest in the past, such a reconsideration is as unique as it is fruitful.

These events of a previous generation were powerful enough to pull the attention of today's historians, lawmakers, civil libertarians, and artists. As a result, we are now taking steps to redress some wrongs committed long ago and thus to reaffirm our great Constitution and the freedoms guaranteed therein.

Our reflections on the past must include acknowledgement of those few who had the vision and strength, when these wrongs were executed, to stand up in protest. George Knox Roth was one of this small group. He, and a few others, spoke out and followed their hearts and their principles, rather than the winds of popularity. They suffered for their stand.

On February 19, 1942, President Roosevelt signed Executive Order 9066, which was to lead to the wholesale abrogation of civil rights of thousands of loyal Americans of Japanese ancestry. These acts and the tragedies which thus resulted were the result of wartime hysteria, racial prejudice, and a failure of political leadership.

At the time of the evacuation and internment of this group of loyal Americans, few voices were raised in protest. Often, those who spoke in favor of the freedom and rights of Americans of Japanese ancestry and of their belief in the loyalty of these hard-working citizens were themselves ostracized as were those of Japanese ancestry. George Knox Roth spoke out, and saw his personal life destroyed.

Such a stigma can cling for years, many years. To this day I receive mail from people who have not yet realized the difference between Americans of Japanese ancestry and a long-gone government of Japan. These letters still attempt to place a stigma on the shoulders of Americans of Japanese ancestry.

The costs of such senseless prejudice are high—to the people ostracized as well as to those others who spoke out for justice. Our Nation, however, pays the highest price of all through the loss of human resources, ideas and contributions. We pay the price in the erosion of progress toward the ideals which we seek and in the undermining of the institutions and principles on which our Nation is built.

January 23, 1990

Mr. Speaker, we should be especially grateful to those voices who struggled for what was right. We must recognize their cries for justice, cries unclouded by fear, or anger, or ambition.

It has taken many years for this Nation to face up to a shameful wrong. But only by admitting this wrong can we begin to hope that such a tragedy never again occurs.

On March 9, George Knox Roth will be 83 years old. I ask my colleagues to join me in a salute to George and to his leadership. His stand caused him to suffer many sacrifices over the years. We cannot rectify those losses, but we can thank him for his unwavering vision. Without the efforts of men like him, the tragedy of the evacuation and internment would never have been redressed.

Thank you.

## NEW YEAR ADDRESS OF CZECH-OSLOVAK PRESIDENT VACLAV HAVEL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. LANTOS. Mr. Speaker, the highlight of my recent visit to Europe with members of the U.S. congressional delegation to the European Parliament was our meeting with the new President of Czechoslovakia, Vaclav Havel.

As my colleagues know Vaclav Havel has been a beacon for human rights in Czechoslovakia since the Charter 77 human rights organization was first organized in January 1977. This year, Havel was one of the key individuals who led Czechoslovakia from totalitarian dictatorship toward democracy. Thanks to his inspiring leadership of the Civic Forum, Czechoslovakia's "Velvet Revolution" transformed the country.

Mr. Speaker, the people of Czechoslovakia are fortunate indeed to have a man of such stature, integrity, and commitment to democracy and human rights, leading them at this critical time in their history.

As the new year began, just a few days after Vaclav Havel took office, he delivered the traditional new year's address. Mr. Speaker, I ask that President Havel's address be placed in the CONGRESSIONAL RECORD. His realism, commitment to democracy and pluralism, and his dedication to the people of Czechoslovakia is something that all of us should share.

## OUR FREEDOM

Dear fellow citizens: For the past 40 years on this day you have heard my predecessors utter different variations on the same theme, about how our country is prospering, how many more billion tons of steel we have produced, how happy we all are, how much we trust our government and what beautiful prospects lie ahead of us. I do not think you put me into this office so that I, of all people, should also lie to you.

Our country is not prospering. The great creative and spiritual potential of our nation is not being used to its full potential. Whole sectors of industry are producing things in which no one is interested, while the things we need are in short supply.

The state, which calls itself a state of the working people, is humiliating and exploiting the workers. Our outdated economy is squandering energy, of which we are in short supply. A country which could once be proud of the standard of education of its people spends so little on education that today it occupies 72nd place in the world. We have laid waste to our soil and the rivers and the forests that our forefathers bequeathed to us, and we have the worst environment in the whole of Europe today. Adults in our country die earlier than in most other European countries.

Allow me to tell you about a little personal experience of mine. Flying to Bratislava recently, I found time to look out of the window. What I saw was the Slovnaft oil refinery complex and the Petrzalka suburb immediately beyond it. That view was enough for me to understand that our statesmen and politicians had not even looked, or did not even want to look, out of the windows of their planes. None of the statistics available to me would have enabled me to understand more quickly or more easily the situation we have gotten ourselves into.

But not even all of that is the most important thing. The worst thing is that we are living in a decayed moral environment. We have become morally ill, because we have become accustomed to saying one thing and thinking another. We have learned not to believe in anything, not to have consideration for one another and only to look after ourselves. Notions such as love, friendship, compassion, humility and forgiveness have lost their depth and dimension, and for many of us they represent merely some kind of psychological idiosyncrasy, or appear to be some kind of stray relic from times past, something rather comical in the era of computers and space rockets. Few of us managed to cry out that the powerful should not be all-powerful, and that the special farms which produce ecologically sound and high quality foodstuffs for them should send their produce to the schools, children's hotels and hospitals, since our agriculture is not yet able to offer this to everyone.

The previous regime, armed with its arrogant and intolerant ideology, denigrated man into a production force and nature into a production tool. In this way it attacked their very essence and the relationship between them. It made talented people who were capable of managing their own affairs and making an enterprising living in their own country into cogs in some kind of monstrous, ramshackle, smelly machine whose purpose no one can understand. It can do nothing more than slowly but surely wear itself down, along with all the cogs in it.

When I talk about a decayed moral environment, I do not mean merely those gentlemen who eat ecologically pure vegetables and do not look out of their airplane windows. I mean all of us, because all of us have become accustomed to the totalitarian system, accepted it as an inalterable fact and thereby kept it running. In other words, all of us are responsible, each to a different degree, for keeping the totalitarian machine running. None of us is merely a victim of it, because all of us helped to create it together.

Why do I mention this? It would be very unwise to see the sad legacy of the past 40 years as something alien to us, handed down to us by some distant relatives. On the contrary, we must accept this legacy as something which we have brought upon ourselves. If we can accept this, then we will

understand that it is up to all of us to do something about it. We cannot lay all the blame on those who ruled us before, not only because this would not be true but also because it could detract from the responsibility each of us now faces—the responsibility to act on our own initiative, freely, sensibly and quickly . . .

Throughout the world, people are surprised that the acquiescent, humiliated, skeptical Czechoslovak people who apparently no longer believed in anything suddenly managed to find the enormous strength in the space of a few weeks to shake off the totalitarian system in a completely decent and peaceful way. We ourselves are also surprised at this, and we ask where the young people, in particular, who have never known any other system, find the source of their aspirations for truth, freedom of thought, political imagination, civil courage and civic foresight. How is it that their parents, the generation which was considered lost, also joined in with them? How is it even possible that so many people immediately grasped what had to be done, without needing anyone else's advice or instructions?

I think that this hopeful aspect of our situation today has two main reasons. Above all, man is never merely a product of the world around him, he is always capable of striving for something higher, no matter how systematically this ability is ground down by the world around him. Second, the humanistic and democratic traditions—which are often spoken about in such a hollow way—nonetheless lay dormant somewhere in the subconscious of our nations [ethnic groupings] and national minorities, and were passed on quietly from one generation to the next in order for each of us to discover them within us when the time was right, and to put them into practice.

Of course, for our freedom today we also had to pay a price. Many of our people died in prison in the '50s, many were executed, thousands of human lives were destroyed, hundreds of thousands of talented people were driven abroad. Those who defended the honor of our nations in the war were persecuted, as were those who resisted totalitarian government, and those who simply managed to remain true to their own principles and think freely. None of those who paid the price in one way or another for our freedom today should be forgotten. Independent courts should justly assess the appropriate guilt of those responsible, so that the whole truth about our recent past comes out into the open.

Neither should we forget that other nations paid an even higher price for their freedom today, and thus they also paid indirectly for us too. The rivers of blood which flowed in Hungary, Poland, Germany and recently also in such a horrific way in Romania, as well as the sea of blood shed by the nations of the Soviet Union, should not be forgotten primarily because all human suffering affects every human being. But more than that, they must not be forgotten because it was these great sacrifices which weaved the tragic backdrop for today's freedom or gradual liberation of the nations of the Soviet bloc, and the backdrop of our newly charged freedom too.

Without the changes in the Soviet Union, Poland, Hungary and the GDR, the developments in our country could hardly have happened, and if they had happened, they surely would not have had such a wonderful peaceful character. The fact that we had favorable international conditions, of course, does not mean that anyone was helping us

directly in these weeks. For centuries, in fact, both our nations have risen up by themselves, without relying on any help from more powerful states or big powers.

This, it seems to me, is the great moral stake of the present moment. It contains the hope that in the future we will no longer have to suffer the complex of those who are permanently indebted to someone else. Now it is up to us alone whether this hope comes to fruition, and whether our civic, national and political self-confidence reawakens in a historically new way.

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#### REGARDING "NATIONAL ARAB-AMERICAN DAY"

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**HON. JAMES A. TRAFICANT, JR.**  
OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. TRAFICANT. Mr. Speaker, today, I have reintroduced legislation that would honor Arab-Americans for their contributions to American society by designating October 25, 1990 as "National Arab-American Day." Arab-Americans across the Nation are grateful for the honor we bestowed upon them by granting them a national day last year.

Unfortunately, House Joint Resolution 241, the resolution that became law last year, was not signed by the President until 5 days after the commemoration date. Arab-Americans were unable to partake in any festivities. My hope is that this year the resolution become law prior to October 25, 1990, so that Arab-Americans across the Nation have a chance to celebrate their day of commemoration.

Arab-Americans contribute extensively to the social, cultural, economic, and political make-up of American society. It is estimated that 2.5 million Americans of Arab origin reside in the United States. They deserve a chance to celebrate a national day dedicated exclusively to them. Therefore, I encourage all my colleagues to become cosponsors of this important resolution. Your continued support of this effort to recognize Arab-Americans as an important ethnic group in the United States is much-appreciated by Arab-Americans across the Nation.

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#### BRING PERESTROIKA TO U.S. FARM POLICY

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**HON. DANA ROHRABACHER**  
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. ROHRABACHER. Mr. Speaker, my good friend and colleague, DICK ARMEY of Texas, has written an excellent article on the problem of continued subsidization and price control of the farm industry. This is a problem that we need to address and I hope that my colleagues take time to read Congressman ARMEY's article and take his suggestions to heart.

**MOSCOW ON THE MISSISSIPPI: AMERICA'S SOVIET-STYLE FARM POLICY**  
 (By Representative Dick Armey)

Even as perestroika comes to the Communist world, our own federal farm programs remain as American monuments to the folly of central planning. Through subsidies, price supports, import barriers, and countless regulations, the Department of Agriculture continues to try to manage half of U.S. farming, with the predictable result of staggering waste and inefficiency of almost Soviet proportions. If we have reached the end of history with the vindication of the free economy, the USDA has not yet heard the word.

Fifty years ago, when the Roosevelt administration announced certain "temporary emergency measures," farm programs were highly controversial. Something about paying farmers not to farm, as many of the programs did, struck the public as ludicrous. Even Henry Wallace, the Agriculture Secretary who conceived the idea remarked, "I hope we shall never have to resort to it again. To destroy a standing crop goes against the soundest instincts of human nature." The USDA has been resorting to it ever since.

Under the current farm law, passed in 1985, the Department of Agriculture has paid dairy farmers to kill 1.6 million cows and take five-year vacations from farming. It has enforced regulations that have led to the squandering of 3 billion oranges, 2 billion lemons, and hundreds of millions of pounds of nuts and raisins. It has rewarded crop farmers for leaving idle 61 million acres of farmland—an area equal to all the territory of Ohio and Indiana, and half of Illinois. For these dubious contributions to American competitiveness, the USDA has charged the taxpayers about \$20 billion a year and forced consumers to pay \$10 billion a year in higher food costs.

As James Bovard has recently written in *The Farm Fiasco*:

"Farm subsidies are the equivalent of giving every full-time subsidized farmer two new Mercedes-Benz automobiles each year. Annual subsidies for each dairy cow in the United States exceed the per capita income for half the population of the world. With the \$260 billion that the government and consumers have spent on farm subsidies since 1980, Uncle Sam could have bought every farm, barn, and tractor in 33 states. The average American head of household worked almost one week a year in 1986 and 1987 simply to pay for welfare for fewer than a million farmers."

Farm programs are unrivaled for their sheer economic absurdity, and they are fertile ground for serious spending reductions. Sadly, however, they are being neglected by key policymakers—even as the new farm bill comes under consideration on Capitol Hill.

**FIVE-YEAR PLANS**

Our farm economy is governed by a series of five-year plans. (Surely Stalin would appreciate the irony.) The last five-year farm bill, which has cost over \$100 billion to date, was signed by President Reagan in 1985. The next, which will guide farm spending through 1995, is now being considered by Congress.

Although the Reagan administration failed to terminate or privatize many deserving government programs, it at least restructured the major entitlements, saving billions of dollars in the long run. Cost controls were imposed on Medicare, the huge military and civil service pension programs

**EXTENSIONS OF REMARKS**

were completely reorganized, and even Social Security benefits were trimmed in the reform of 1983. Virtually the only major program to escape is agriculture, which remains a stubborn pocket of resistance to the Reagan Revolution.

In fact, the cost of farm programs has exploded under the Republicans. As recently as 1980, farm price supports cost the taxpayers only about \$3 billion. By 1986, they had skyrocketed to an unprecedented \$26 billion, making farm programs the fastest growing part of the federal budget during the Reagan years, dwarfing the percentage increases of defense and health care. The farm sector was practically a free market economy when Jimmy Carter was president.

Today, farm programs are so generous and distort markets so severely that even the most self-reliant farmer has little choice but to sign up. In 1982, when farm programs were mushrooming, only one in five Indiana corn farmers signed up for federal benefits. David Rapp of Congressional Quarterly explains, "In Indiana, taking money from the federal government was a sign of poor farm management or, worse, socialistic political tendencies." By 1987, however, half the corn farmers in the state had joined the programs. Nationally, the amount of corn-growing land covered by federal programs jumped from 30 to 90 percent between 1982 and 1987. "It's almost to a point where it's mandatory for a farmer to be in the program," an Indiana banker says.

The Reagan administration's repeated unwillingness to make even minor agriculture reforms were to David Stockman "the smoking gun which proved that the White House couldn't tackle the fabulous excesses of the farm pork barrel, and that was the very bottom of the whole spending barrel."

**PENNIES FROM WILLIE NELSON**

Unfortunately, the Bush administration may be preparing to surrender the field as well. The administration has apparently only begun to think about its farm policy. The opportunity to propose and achieve major farm reform is rapidly slipping away. In fact, despite the billions of dollars at stake, this year's farm debate may be the quietest in a decade. In 1985, farm programs had become a "cause" on a level with the Nuclear Freeze. Cissy Spacek and Jessica Lange testified before Congress to share the insight on agricultural policy they had gained while starring in Hollywood movies about farming. Country singer Willie Nelson held a Farm Aid concert, which collected a few million dollars for farmers above the \$26 billion that Congress would soon be sending them. In the general hysteria of a "crisis on the farm," conservatives and liberals alike scrutinized the farm bill. But, as of this writing, the media has not yet discovered a new farm crisis to draw attention to the coming debate this year.

More important, the farm lobby is now using, with some effect, the breathtaking argument that farm programs are actually contributing to deficit reduction. They point out that this year's price support spending of \$12 billion represents a decline from the \$26 billion we spent in the record-shattering year of 1986 (which, of course, says more about spending in 1986 than it does about spending today).

When the 1981 farm bill came before Congress, the USDA said it would cost \$12 billion over four years. It actually cost \$60 billion. When the 1985 farm bill came to the floor, the USDA said it would cost \$52 billion over five years. It has already cost more than \$100 billion. Any recent reduction in

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farm spending is thus only a partial reduction of a spectacular cost overrun—a cost overrun larger than the gross national product of several countries. To fail to reform the USDA after such monumental prodigality would be comparable to making Deborah Gore Dean the new Secretary of HUD.

**HOME-GROWN INDUSTRIAL POLICY**

The farm lobby's most important advantage is that few people understand its programs. As one farmer told *Insight* magazine, "Sitting here on the farm and knowing the money being spent on farm programs, I think if people understood it more and knew they were paying that kind of price, there'd be an uprising." Even the eyes of otherwise well-informed policymakers glaze over at terms like "nonrecourse loans," "base acreage," and "deficiency payments." They tend to leave farm policy to the farm lobby and legislators from farm states. While the Armed Services Committee has its Pat Schroeder and Ron Dellums, there are no fundamental critics of farm subsidies on the Agricultural Committees.

This is unfortunate. For all their apparent complexity, the general idea behind the biggest of the farm programs is simple. Basically, they work like this:

First, the government spends hundreds of millions of dollars to raise farm incomes by raising the prices of certain farm commodities. This has the effect of encouraging farmers to produce those commodities in large amounts, while encouraging customers (like those in our overseas export markets) to buy them in small amounts. Soon a massive surplus occurs. Then the government spends hundreds of millions of dollars to encourage farmers to stop producing them.

By analogy, suppose Congress decided that American cars should be sold for at least \$15,000 apiece. Even though a Ford Escort might sell for half that on the open market, Congress might argue that making cars is expensive and the Great American Autoworker deserves to be adequately rewarded for his labors. So it passes a bill, and the government announces that, henceforth, no car will sell for a nickel less than that target price—even if the government has to buy them itself.

There is gaiety in Detroit. Suddenly, everyone wants to be in the car business. New factories open, old ones are expanded, some that were going to produce other things continue producing autos instead. Cars begin rolling off the assembly line by the thousands, then the tens of thousands.

But then something completely unexpected happens. A huge surplus of American cars mysteriously appears. Foreign sales vanish, domestic sales drop. There aren't enough people willing to pay \$15,000 for Ford Escorts. Baffled, government bureaucrats find themselves having to buy more and more. Soon government parking garages are overflowing. For a time, the crisis is eased when the government gives some of the extra cars to Zimbabwe under the "Drive for Peace" program. Others are given to poor people and students through the welfare system. But these measures are inadequate.

Eventually, the government hits upon a solution. Stop guaranteeing a \$15,000 sticker price for cars? Not at all. Instead, the government decides to pay Detroit to shut down its factories (at which point there is gaiety in Tokyo).

**THE OPEC SCHOOL OF FARMING**

The largest farm programs apply to wheat, corn, rice, cotton, and a few other

crops. The prices on these commodities are artificially supported by various government policies. For example, the government may make a loan to farmers, based on a loan rate set by Congress. If the farmer can sell his crop for more than the loan amount, he does so, and returns the government's money. But if he cannot, he can keep the loan money and give the government his crop instead. In effect, the farmer is guaranteed that he can sell his crop at the government's price. The problem is that Congress sets that price above market level.

This leads to massive surpluses. At that point, the government buys the surplus and tries to distribute it through the welfare system, foreign aid, or other programs, and begins paying farmers not to farm in a frantic effort to reduce production. The government manages farms like a man trying to drive a car by putting his feet on the accelerator and the brake at the same time.

Other farm programs hike prices and cut production in other ways. Under the dairy program, local dairy cooperatives are allowed to form government-protected monopolies. Because there is no competition, people have no choice but to buy milk at high prices—which is a good arrangement for the big cooperatives, but a bad arrangement for parents who buy milk for their children. The resulting dairy surpluses have been reduced by the government's paying dairy farmers to slaughter or export their cows and leave dairy farming for five years. (Can anyone imagine the government paying automakers to destroy or export their machines? And then not to work for five years?)

Similar rules, called marketing orders, allow a few large California orange growers to decide how many California oranges may be released to the market. By forcing all the state's orange growers to withhold as much as two-thirds of their crops (and watch them rot), the large producers can set the price for the rest of their fruits at a high level. If a small producer defies the large growers and tries to sell his oranges at a lower price, he is prosecuted by the federal government. This is great for Sunkist, bad for everyone else. One grower merely tried to give away his oranges to a church helping the needy, and the USDA threatened to sue him for it. In effect, the government is the enforcer of a cartel—a miniature OPEC for oranges.

#### DEPORTING OUR FARMLAND

"Supply control" policies—paying farmers not to farm—epitomize the attitude, prevalent throughout the USDA and the Agriculture Committees in Congress, that farm productivity is a problem rather than a national asset. In the 1985 Farm Bill and in other legislation, Congress has given the USDA a number of weapons to use against farmers who are too productive. The Acreage Reduction Program is typical. A farmer is told that if he wants to receive federal farm benefits, he must first agree to take a percentage of his land out of production. It is not uncommon for a wheat farmer, for instance, to be told to leave a quarter of his land idle.

There is also a "paid land diversion" program, in which a farmer simply receives a check from the government of idling acres; a conservation program, in which he is paid to take erosion-prone land out of production (as if he cannot himself see the wisdom in preserving his land); and a new "0/92" program in which he can get up to 92 percent of his federal benefits if he agrees not to plant anything at all.

#### EXTENSIONS OF REMARKS

Like any central planning effort, whether in the Soviet Union or the American Corn Belt, all supply-control policies are riddled with irrationalities and unintended consequences. Even though the USDA has one bureaucrat for every six full-time farmers, fine-tuning the farm economy is a difficult task.

While the set-asides are supposed to be good for farmers, they inadvertently devastate the rural businesses that depend on farming, and end up hurting almost as many people as they are intended to help. Just as a government policy that would pay automakers not to make cars would hurt the glass, steel, and rubber industries, paying farmers not to farm hurts everyone from the fertilizer companies to the tractor dealers. According to the USDA's own figures, payments to farmers to idle acreage cost the economy 300,000 potential jobs and \$4 billion in lost sales for the "farm input" industry in 1987.

Then there is unfair competition. Under the Dairy Termination Program, the government's final solution to the "problem" of milk productivity, dairy farmers were paid to slaughter their cows and take five-year vacations. It apparently never occurred to the USDA or Congress that this might have an effect on the ranchers who raise beef cattle. It did. When the government announced that it was going to have a million dairy cows killed, everyone realized that the market would soon be inundated with tons of additional meat. The market instantly collapsed, and cattlemen lost \$25 million in the first week alone.

The government typically behaves as if its many different policies were conceived by different groups of people who never talk to each other. At the same time one part of the government is spending billions of dollars to encourage farmers to take their land out of production, another is spending billions more (and wasting precious water resources) to irrigate new farmland in the Southwest. While the government is paying some dairy farmers to take a vacation from farming for five years, it is giving cheap loans to other farmers to expand their operations. Our farm programs are at war with themselves.

For all their contradictions and unintended consequences, however, supply controls ultimately represent a calculated government effort to lower the productivity of one of our largest industries. Telling farmers to idle their land is like telling factory managers to operate their plants far below full capacity. It is tremendously inefficient, and the consequences are predictable. While U.S. farmers are being directed by the government to take their land out of production, farmers in Canada, Australia, Argentina, and Europe have been eagerly planting. As the USDA has paid U.S. farmers to idle 61 million acres, foreigners have planted 70 million new acres since 1986. In effect, the USDA deported our farmland.

The problem at the root of farm programs is this: While a sound economy should produce an abundance of goods that can then be sold at a low price, our farm programs are designed to create a scarcity of goods that can then be sold at a high price. Having a "surplus" of corn does not mean that farmers produce too much corn, only that they produce more corn than can be sold at the government-inflated price. Farm productivity is good, so long as the market is permitted to function. If the government did not artificially inflate the price of corn and wheat, efficient U.S. farmers could

plant fencerow to fencerow and dominate global markets. If high production then forced the price of corn and wheat very low—which wouldn't be the worst thing that could happen in a hungry world—then some farmers would switch to growing crops that people need more. And some farmers might even leave farming.

#### LATTER-DAY LUDDITES

This last possibility—that even a single farmer might quit farming—haunts some farm legislators. The guiding spirit of much of our farm policy seems to be a desire to freeze the farm economy in time—to stop all change, prevent all innovations, scorn all efficiencies—out of a fear that somebody in the farming business might have to switch jobs. In 1988, the House Agriculture Committee even voted to outlaw an automatic egg-breaking machine, "The Egg King," because it would hurt egg producers who package powdered eggs for the armed services and cafeterias. More recently, a milk producers' lobby opposed the use of a hormone that would vastly increase the production of milk. As we move into the competitive 1990s, one of America's largest industries is being run by latter-day Luddites.

Many believe that farming is a uniquely uncertain business because of the weather. Without some government cushions in the form of price supports and other programs, no farmer according to this argument could survive the vagaries of the farm marketplace.

But how would the farmer fare without farm programs? Contrary to popular misconception, almost half of U.S. farmers grow crops that receive no federal price supports. Anything from meat to vegetables to specialty crops are produced by farmers operating in a free or nearly free economy. The bankruptcy rate of those farmers has actually been lower than the bankruptcy rate of farmers "benefiting" from federal programs. If potatoes can be grown without federal help, corn can as well.

The fluctuations in the market caused by the USDA's inept attempts at central planning have caused the modern farmer more grief than Mother Nature ever has. Any cattleman who was nearly bankrupted when the USDA and Congress had a whim to pay for the slaughter of a million cows can tell us much about the vagaries of the marketplace.

In a number of ways, federal programs hurt the farmers they are intended to benefit. For example, federal crop subsidies raise the value of farmland, which is good for the landowners, but almost half of American farmers rent their land. When the government raises the value of the land, their rents rise.

The Farm Credit System provides cheap, subsidized loans to farmers who are uncreditworthy and cannot receive loans elsewhere. This means that farmers who saved their money and managed their farms wisely have to compete against those who have been bailed out by the government. It also means that inept farmers are encouraged by the government to stay in farming longer than many of them should. Rather than move to town after a few bad years, the cheap federal money encourages them to stay on the farm until they have lost everything. Then the government forecloses on them.

The family farm might flourish in the absence of farm programs. The current subsidy system compels farmers to concentrate on maximizing their yields rather than on

## EXTENSIONS OF REMARKS

minimizing their costs. This gives an advantage to large, heavily mechanized farms over smaller, family operations. Wealthy farmers can afford the huge combines that allow them to outproduce small farmers and even buy them out. Without price supports, however, the advantage would shift to small operations with low production costs and free labor—the family farm. As Dennis Avery, an analyst with the Hudson Institute, has written: "Federal farm programs have led to an overcapitalization of agriculture with less actual employment than what it would otherwise have." Contrary to the fears of the Agriculture Committees, without farm programs, we might have more farmers than we do today.

## WORLD CHAMPION LOG ROLLERS

The farm lobby cannot prevail through its numbers alone. According to Bernal Green and Thomas Carlin, two economists with the USDA, while no one expects farming to be a dominant industry in large metropolitan areas, "it's surprising to find that farming isn't all that important to most of the nation's rural counties either." They estimate that only 46 of the 435 congressional districts are farm oriented.

Like the labor unions, however, farm groups have used political organizing skill to amplify their power far beyond their numbers. First differences between the various groups are minimized. Although the dairy farmers have different interests than do the sugar producers, for example, they tend to support each other's claims before Congress. They are champion logrollers. David Nagle, a Democrat from Iowa, took the floor last fall and referred quite explicitly to a deal farm state legislators had cut with the maritime unions. In return for congressmen from farm states supporting "cargo preference requirements" (sort of a "ship-American" rule), the maritime interests agreed to support the farm programs. As Magle explained it:

Had we been forced to rely on our own farm state votes, none of those [agriculture] programs would have been enacted. Our numbers are small and getting smaller. So—back in 1985—we farm state members sat down with other groups facing the same problem and reached an agreement on the proper scope of the cargo preference requirements.

Nevertheless, the strength of the farm bloc may be overrated. As recently as 1980 the farm economy was relatively free of intrusive farm programs. The dairy program could have been terminated in 1985 had it not been for the general "farm crisis" hysteria that year. The House voted to abolish both the sugar and honey programs in 1981 (although they still survived).

## AN AGENDA FOR PERESTROIKA

As we continue the farm debate this spring, there are several initiatives that should be considered in Congress. While major reforms are unlikely without the active involvement of the administration, public discussion of many points could cause the farm lobby some healthy discomfiture and cast farm programs in their proper light. The policies we consider should:

Shift from price supports to welfare for farmers. If the goal of our farm programs is to help needy farmers, we should do so directly with welfare payments rather than with the complex and costly system of price supports. Agricultural economist Clifton B. Luttrell estimates that such a welfare policy would cost \$4 billion a year at most, far less than the \$12 billion the USDA is now spending.

Repeal all marketing orders. The semi-feudal regulations that prohibit free Americans from selling oranges in California without the approval of Sunkist are perhaps the most offensive element of our farm programs in principle. Current law prohibits the Office of Management and Budget from even studying them. Marketing orders should be repealed.

Terminate the dairy program. This is the program in which farmers were paid to kill their cows and take five-year vacations from farming so that parents can pay higher prices for milk at the grocery store. It should not exist.

Stop paying farmers not to farm. The average man on the street does not want the USDA to pay farmers not to farm. It is an affront to common sense, an insult to farmers, and an attack on American competitiveness. An amendment should be attached to this year's farm bill repealing the USDA's authority to reward farmers for idling their land.

When I was an economics professor, I like to tell my students about Armeey's Axiom No. 1: "The market is rational; the government is dumb." Farm programs are replete with examples that validate that principle. In the stench of billions of rotting oranges, the spectacle of a million slaughtered cows, and the stillness of 61 million acres of idled farmland, one can discern the fundamental truth: The free market works and central planning does not.

## LANE KIRKLAND: AN AUTHENTIC HERO

## HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. LAFALCE. Mr. Speaker, I would like today to pay tribute to an unsung hero who helped advance the cause of democracy and freedom in Eastern Europe. He is, however, not an Eastern European. He is very much American. And his name is Lane Kirkland.

Today, in the wake of democracy's emerging triumphant in Eastern Europe, it is all too easy to forget the long struggle which preceded it. We should recall that the change which is now sweeping Eastern Europe first got its start in Poland. For it was there that Lech Walesa and the Solidarity movement, after a near decade of struggle, succeeded in forming the first non-Communist government in Eastern Europe.

During that near-decade of struggle, Lane Kirkland, as the president of the AFL-CIO, played a crucial role in sustaining Poland's Solidarity movement. When the prospects for Solidarity's survival seemed much in doubt, the AFL-CIO, under Kirkland's leadership, came through with sorely needed money and equipment. And by its advocacy, the AFL-CIO also focused much needed international attention on the struggles of the Polish labor movement. In a very real way, Lane Kirkland and the AFL-CIO helped to change the course of history.

M.S. Forbes, Jr., the deputy editor-in-chief of Forbes magazine, recently wrote a salute to Kirkland, calling him "an authentic hero" for his role in sustaining Solidarity. At this time, I

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would like to share that salute with my colleagues.

## AN AUTHENTIC HERO

One man who deserves special recognition for the extraordinary wave of freedom sweeping through Eastern Europe is AFL-CIO President Lane Kirkland.

In the dark days of the early 1980s, when Solidarity was being actively persecuted by Poland's martial-law government, Kirkland and his American labor colleagues provided the sustenance that helped keep Walesa's organization alive. The AFL-CIO poured in badly needed money and provided the Polish underground with smuggled printing presses and electronic equipment. It made sure the beleaguered movement received valuable worldwide publicity when observers thought Solidarity was on the ropes.

The movement thus stayed alive and gradually gained the strength to topple Warsaw's communist government. It did so, of course, not through an armed uprising, but through depriving the Red regime of its last vestiges of authority and legitimacy. With Poland's economy collapsing, with its population sullen and uncooperative, the Kremlin decided this summer not to use force to keep out a non-communist-dominated cabinet. Solidarity's assumption of power started the landslide that is sweeping away Europe's repressive Red governments.

This writer came to know Lane Kirkland through our membership on the Board of International Broadcasting, which oversees Radio Free Europe and Radio Liberty, two of the most powerful, underappreciated (in the West) incubators of democracy in the former Eastern bloc. While engaging and witty, Kirkland is an unwavering champion of democracy and human rights. Unlike other Western labor organizations, the AFL-CIO never dealt with unions associated with communist regimes.

By acting upon their principles, Kirkland and American labor played a vital part in the most dramatic expansion of human freedom this century has seen.

## MINERAL EXPLORATION AND DEVELOPMENT ACT OF 1990

## HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. RAHALL. Mr. Speaker, today I am introducing legislation to revise the Mining Law of 1872. This bill is aimed at providing a focal point for debate in the House of Representatives, after a hiatus spanning more than a decade, on some very pressing issues facing the future of mineral exploration and development on public domain lands in this country.

Joining me in introducing this bill is my colleague on the Committee on Interior and Insular Affairs, BRUCE VENTO, the chairman of the Subcommittee on National Parks and Public Lands.

In fashioning this legislation, I have been extremely mindful of the divergent views held by those with an interest in this matter. I anticipate that the mere introduction of legislation to reform the Mining Law of 1872, regardless of the contents of the bill, will be roundly criticized by certain parties. I also realize that there will be those who will say this bill does

not go far enough, or goes too far, in its proposals to revise the mining law regime.

This is, of course, something to be expected when dealing with a law that has accumulated so much history, and which has generated so much controversy since its inception. Signed into law by President Ulysses S. Grant on May 10, 1872, serious efforts to revise the mining law commenced within a decade thereafter. However, over the years the Mining Law of 1872 has remained relatively intact and survives as the last vestige of such 19th century western settlement measures as the Homestead Act. Today, this law continues to govern the disposition of minerals from western public domain lands in much the same manner as it did when it was enacted, with the major exceptions of the energy and fertilizer minerals, placed under a leasing system in 1920, and common varieties of mineral materials such as sand, stone, gravel, and clay which were made subject to sale in 1947.

Under the Mining Law of 1872, mining claims are located on public domain lands for minerals such as gold, silver, lead, copper, and zinc. No payments of any kind for the use of Federal lands are required and a claimholder need spend only \$100 per year in order to maintain a claim. If valuable minerals are found, the claimholder can purchase the land for \$2.50 an acre.

Nonetheless, much has changed in the area of public land policy and mineral exploration and development techniques since 1872. While the mining law remained static, the world around it has evolved. Despite administrative and judicial attempts to twist and mold the Mining Law of 1872 into some semblance of compatibility with the mineral requirements, modern business practices, and public land use philosophies of today's America, some of the more archaic provisions of the law that thwart efficient mineral exploration and development remain. Nothing short of legislation can fix this situation.

I do think that if the father of the Mining Law of 1872, Senator William Stewart of Nevada, were to sit down today and draft mining law legislation, he would do it differently. Would even an unabashed mining industry attorney like Senator Stewart in this day and age devise a system which allows public lands to be disposed of for \$2.50 an acre? Would he stipulate that the diligent development of a claim only required the expenditure of \$100 per year? In light of the type of mineralization of interest today would he stipulate that there must be a discovery of a valuable mineral in order to locate and hold a mining claim? For my part, I cannot conceive of any of this being the case.

In effect, while the mining law of 1872 over the years has done great service to the development of this Nation, I believe that we have already passed the point in time when this 19th century law can be depended upon to serve the country's 21st century mineral needs.

Entitled the "Mineral Exploration and Development Act of 1990," this legislation revises the mining law to eliminate some of its 118-year-old abuses and deficiencies. At the same time, it will ensure the availability of a continued supply of minerals so desperately needed

## EXTENSIONS OF REMARKS

for the health of our economy and the maintenance of our very standard of living.

This is a mining claim bill, based on the principles of access to public domain lands and the right of self-initiation. One of the major thrusts of this legislation is to provide locators of mining claims with the type of security of tenure they currently do not have.

The mining law of 1872 provides that claims cannot be located until there is a discovery of a valuable mineral. At some point in the past, while the mining law dictum of discovery and the judicially promulgated concept of pedis possessio may have made sense, they simply do not comport well with today's modern mineral exploration techniques, or for that matter, the types of mineralization involved. Making a discovery of a valuable mineral was a lot easier to do during the 19th century when there could still be found surface manifestations of minerals. Today, for the most part, in this age of mining "no see-um" gold this simply is not the case.

In my view, discovery is an illusory concept that is grounded in a quagmire of judicial and administrative pitfalls and fraught with time consuming and expensive legal proceedings. I do not deny that the most fervent proponents of discovery are lawyers. Perhaps the least support for the discovery concept comes from the folks who do not sit around in office buildings all day but who are actually out on the ground exploring for minerals.

This legislation says, quite simply, that once you locate and record a mining claim, your possessory rights are protected against any other party so long as there is compliance with the rental, diligent development, and filing requirements of the bill. The proposed rental rate is not set so as to burden small prospectors, yet at the same time, it would provide some return to the public for the use of their lands.

In the same sense, the proposed diligent development requirements of the legislation are set low enough during the first few years after the location and recordation of a mining claim so as to facilitate, and not hinder, mineral prospecting and exploration activities.

I believe the national interest is best served if mining claimants spend their money toward the development of minerals. As such, this bill is not aimed at extracting revenue from holders of mining claims. This should not be the purpose of mining legislation. While I have incorporated a rental, which shows good faith among those who lay claim to public domain lands, I am not proposing that a production royalty be imposed on minerals produced from mining claims.

Over the years I have had a great deal of experience with our Federal onshore oil, gas, geothermal, and coal royalty system. While royalty payments are appropriate for these minerals, I believe that the Federal Government would spend more money that it would net in attempting to devise valuation guidelines, collect and audit royalty payments from the almost countless types of minerals, from the widespread to the extremely rare, subject to the mining law of 1872.

To wit, even with the royalties the Government collects from Federal onshore energy minerals it nets less than 10 cents on the dollar after disbursing 50 percent of collec-

tions to the States, 40 percent to the reclamation fund, and deducting all administrative costs for royalty collections from the remaining 10 percent. Further, as a witness to the years-old struggle to devise Federal valuation standards for royalty purposes for that would appear to be a relatively simple commodity such as coal, I tremble to think of the dilemma in which Interior Department bureaucrats would find themselves in attempting to set forth valuation regulations, audit, and collect royalties for minerals such as yttrium, let alone tungsten or zinc.

Unless something drastically changes to improve the Federal Government's royalty management capabilities, I cannot in good conscience support the imposition of royalties on hardrock mineral production.

By eliminating the concept of discovery and a number of other arcane aspects of the mining law of 1872, such as the distinction between lode and placer claims, and causing claims to be held on the basis of sound market-based business decisions I believe this legislation offers the mining industry a much more superior legislative framework under which to operate.

At the same time, this legislation does recognize some other basic values held by our society. It requires that mineral development be subjected to surface management regulations and the land-use planning process. It also dispenses with the mining law's authority to dispose of public domain lands. Finally, it seeks to provide for better administrative efficiencies by vesting jurisdiction over mining law activities with the surface management agency involved.

This legislation has been a year in the making, and we have taken great pains to solicit input from anyone who cared to work with us. However, I do not purport to have devised a perfect piece of legislation. Be that as it may, this proposal is representative of some very basic tenets that I believe should be discussed as part of any consideration of legislation in this area.

I would also note that in 1987 I challenged industry and environmentalists to drop their long-standing mistrust of each other on mining law issues and work together toward a mutually acceptable legislative package. As a result, a dialcg group was formed and continues to meet on a sporadic basis. This is the sort of forum that I hope to look toward for consensus recommendations on some of the issues raised by this legislation, especially in the areas of surface management and land use planning.

Mr. Speaker, as I stated earlier, the purpose of this legislation is to begin once again consideration of the need to improve upon the type of regime set forth by the mining law of 1972. I am extremely open to comments from all interested parties and look forward to our future deliberations.

**THE UNDERGROUND RAILROAD  
HISTORIC TRAIL**

**HON. PETER H. KOSTMAYER**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. KOSTMAYER. Mr. Speaker, today I am introducing legislation to establish the Underground Railroad Historic Trail. The Underground Railroad was a secret avenue from slavery to freedom in the Northern States and Canada for somewhere between 30,000 and 100,000 slaves from approximately 1815 through the 1860's. Slaves were hidden in stables, attics, and secret passages in homes across the country. Many of these sites are still standing today. This legislation would help preserve these way stations for our descendants. Preceding the establishment of the trail would be a study and evaluation of the locations, their historic significance, architectural integrity, and physical condition.

I would also like to take the opportunity to insert portions of an article by Lacy McCrary entitled "Liberty Train, Lingering Tracks" that appeared in the Philadelphia Inquirer on January 16.

**LIBERTY TRAIN, LINGERING TRACKS**

The underground Railroad [was] a train that had no tracks, no stations, no timetables. Instead, it was a network of paths through the woods and fields, river crossings, boats and ships and wagons. Its stations were churches, homes, farmhouses, barns and cellars of white and black people who opposed slavery and risked their lives in many cases to help the slaves escape their Southern masters . . .

U.S. Rep. Peter H. Kostmayer (D., Pa.) wants the federal government to formally identify those perilous paths to freedom. Kostmayer says he will introduce a bill to establish the "Underground Railroad Historic Trail" as a fitting and appropriate national commemoration to those who fled to freedom on the railroad and to those who aided slaves seeking their freedom.

"It is a part of our history which reflects well on the country, but which has an unhappier side," Kostmayer said in a recent interview. "We need to remember we were a country in which slavery existed. And at the same time remember there were people who thought it was wrong and were willing to risk their lives to change it," Kostmayer said.

He said some of the stations had been individually designated, "but I don't think any comprehensive effort has been made to recognize as many stations as possible."

Kostmayer's bill would direct the Secretary of the Interior to designate a route as the Underground Railroad Historic Trail, install suitable signs and markers and provide maps, brochures and other informational devices to assist the public.

Mount Gilread A.M.E. Church, a neat, two-story fieldstone building, stands in a grove of trees atop Buckingham Mountain in Buckingham Township, Bucks County. The church, originally built of logs in 1835, was the last main stop on the Underground Railroad in Pennsylvania. From the church, fugitive slaves were transported across the Delaware River into New Jersey. It is marked as a "historic place" by the Bucks County Conservancy, but there is nothing

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to indicate it was a part of the road to freedom \* \* \*.

No one knows how many slaves traveled the Underground Railroad to freedom. Charles L. Blockson, a prominent historian at Temple University, says it could have been as few as 30,000 or as many as 100,000 who fled roughly between 1830 and 1860, in what he called "an epic of American heroism."

Later Blockson learned about people such as Harriet Tubman, called Moses to other blacks, who was born a slave in Maryland and fled north to freedom in 1849, to the Philadelphia area, where she joined and inspired the Underground Railroad. At least 19 times, Tubman returned south to conduct more than 300 fugitives, including her own family, northward. He learned about William Still, of whom it was said that 19 of every 20 fugitives passing through Philadelphia stopped at his home on Lombard Street in Society Hill.

Blockson said he was elated at the idea of a historic trail.

"I think it would help foster better interracial understanding and give the present generation a sense of the past and the tribulations of people of all races and creeds who came together for a just cause," said Blockson, now curator of the Afro-American Collection named after him at Temple.

"In my 19 years of research on the subject I have discovered we are losing quite a few of these historic sites because of urban renewal," Blockson said.

"This church is like many throughout the United States which harbored fugitive slaves escaping from the South through Pennsylvania to Canada and freedom," Kostmayer said.

Blockson in an earlier interview said Pennsylvania was the key state in the Underground Railroad and that there was overwhelming evidence that free blacks of the state and its black churches were the primary cause of the success of its clandestine operations.

He said Quakers won an early and richly deserved reputation as friends to fugitive slaves. However, in a 1984 National Geographic magazine article, he wrote that "the fellowship of the Underground Railroad was truly ecumenical, including Roman Catholics, Jews and Protestants as well as free-thinkers \* \* \*."

Blockson said runaway slaves entering Philadelphia—as many as 9,000 before 1860—were forwarded to points along the Reading and Pennsylvania Railroads and put on trains to New York state and New England.

Philadelphia's Mother Bethel A.M.E. Church hid hundreds of fugitive slaves, according to Blockson, and stands on the oldest piece of ground continuously owned by blacks in the nation.

Clarence Still, 61, a great-great-grandnephew of William Still, says his family still talks about their famous ancestor and his exploits in forwarding hundreds of slaves to freedom.

He said that Lawnside, N.J. was an all-black community of about 1,000 homes in 1840 and that it was easy to hide runaways there.

Marilyne Wilkins, whose great-great aunt was Harriet Tubman, said she believed Tubman rescued more slaves than history books give her credit for.

"The history books say she freed about 300, but she told my mother it was more than that. She told my mother she traveled at night and on weekends. She was supposed

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to be an ignorant little black woman, but she had God-given sense," said Wilkins, who lives in North Philadelphia.

"I think the bill is worthwhile," she said. "Many people think the Underground Railroad was just a myth. It was not a myth."

**STOP EFFORTS TO PRIVATIZE  
SOCIAL SECURITY**

**HON. MARY ROSE OAKAR**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Ms. OAKAR. Mr. Speaker, today I have introduced a sense-of-the-House resolution urging the House to resist and defeat recent efforts to privatize the Social Security Program. My resolution is designed to galvanize congressional support to resolve the true concerns of the American people regarding the Social Security trust fund reserves.

I think the Congress should recognize the proposal to privatize the Social Security System for what it is: an effort to take advantage of the current debate regarding the misuse of Social Security trust fund reserves in order to ultimately serve the most important social contract ever devised. The Social Security System has been the most important, popular, and intelligent Government program for the last 50 years. Its social contract with the American people continues to form the bedrock of American social policy. To privatize the system would alter a successful and popular program and would be tantamount to congressional abdication of the most important Government-citizen agreement of all time.

One of the reasons for Social Security's extreme popularity is its central role in meeting the needs of Americans of all ages. Not only does Social Security provide supplemental or total retirement income for senior citizens, it also provides critical income for many of the most vulnerable citizens in our Nation. Social Security provides income for the disabled, the blind, and for motherless and/or fatherless children. Indeed, the positive effects of Social Security are felt across all generations.

To convert this extremely well-run program to a system of private accounts would, in effect, tell our constituents that the Congress is no longer interested in helping Americans prepare for their retirement years. It would also say that by decoupling the retirement accounts from the other accounts within the Social Security System we really don't care about the disabled, the blind, and motherless and/or fatherless children. Furthermore, it undermines the fairness and progressivity of the present system with a plan designed to give our citizens only what they pay into the system. In many ways, this is an extension of the basic Reagan administration theme of shifting the burdens of Government to the poor and middle class. I strongly resist this concept and call for all Members of the House to join me.

The 1983 bipartisan commission that devised the present funding schedule for the Social Security System was correct when it set up the current trust fund reserve system. The commission properly foresaw the need

for increased national savings to fund the retirement needs of the baby boom generation. All accounts of the commission's work indicate that the financing plan is working perfectly and should not be tampered. Privatizing the Social Security System would unwisely change our success. Short, if it ain't broke, don't fix it!

The true solution to our present dilemma is to change the Federal budget deficit calculations to remove the Social Security trust funds from the deficit calculations. Only by changing the deficit calculations can we secure the trust fund reserves for future retirees. If, instead, we vote to retain the current deficit calculation, we are allowing the robbery of dedicated Social Security revenues to continue. This is the only responsible, reasonable, and honest public policy for America.

Mr. Speaker, again I urge all of my colleagues to cosponsor my resolution to resist the attempt to convert the Social Security Program to a private system which would undermine the most important, successful, and popular social contract of the last 50 years.

#### **WOMEN HAVE A RIGHT TO CHOOSE**

**HON. JOSEPH E. BRENNAN**

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. BRENNAN. Mr. Speaker, yesterday marked the seventeenth anniversary of Roe versus Wade, the landmark Supreme Court decision protecting a woman's right to choose.

Men and women in virtually every major city across this Nation rallied Monday to recognize the importance of this decision. I joined them in affirming the wisdom of the court 17 years ago by sending the following letter to be read to those who gathered in Bangor, MA, to show their support for choice.

JANUARY 22, 1990.

DEAR FRIENDS: Seventeen years ago, in the *Roe v. Wade* decision, the United States Supreme Court guaranteed a woman's right of choice on the difficult issue of abortion.

As a Member of Congress, I have consistently supported *Roe v. Wade*, and a woman's right to make her own decision on this very personal issue. But within the last year, women's rights have been threatened by the Court's Webster decision, and its consideration of other abortion cases.

Congress now has the opportunity to affirm its support for *Roe v. Wade*. I am pleased to announce today that I am a co-sponsor of the Freedom of Choice Act, which simply codifies into law the rights guaranteed in that landmark decision.

Abortion is not an easy issue. I have struggled with it myself, as many people have. But I thought deeply about the issue, and the conclusion I reached, while I was still Governor, is that government should not be involved in making this most personal of all decisions for a woman. The ultimate decision should be left where it belongs: not with a Congressman, not with a policeman, but with the woman herself.

As Supreme Court Justice Harry Blackmun said: "Few decisions are more personal and intimate, more properly private, or

#### **EXTENSIONS OF REMARKS**

more basic to individual dignity and autonomy."

I will continue to oppose any efforts, at the state or federal level, to retreat from the rights guaranteed women in *Roe v. Wade*. I will work for passage of the Freedom of Choice Act in Congress.

Thank you and best wishes.

Sincerely,

**JOSEPH E. BRENNAN,**  
Member of Congress.

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#### **LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM EMERGENCY APPROPRIATION**

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**HON. OLYMPIA J. SNOWE**

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1989

Ms. SNOWE. Mr. Speaker, today I am introducing legislation that will appropriate an additional \$200 million for the Low-Income Energy Assistance Program. We are all aware of the dramatic rise of oil prices that impacted much of the Nation in the past 2 months. This is a critical issue for the people of the United States and one which must be fully investigated by the Congress and the executive branch. I have written to the Energy and Justice Departments urging a full investigation by both Departments. I know that many of my colleagues and many Governors have made similar requests.

However, the reason for the oil price increase is only one issue that must be addressed. There is another, more immediate, crisis that has resulted from the high fuel oil prices. Lower temperatures, which increased demand, and higher oil prices, which reduced the benefit of energy assistance to consumers, combined to severely deplete the Low-Income Home Energy Assistance Program funds for many States.

The State of Maine was particularly affected by this problem. Not only was the State faced with the coldest December on record, but they were also faced with oil prices that increased an average of 80 percent in the space of a month. These two factors combined to severely impact Maine's Home Energy Assistance Program and the Community Action Agencies that are responsible for distributing energy assistance funds. Overall, 1,900 more applications for energy assistance had been received at the end of December than at the same time a year ago. This, combined with the abnormally high oil prices, caused recipients to receive less oil for the assistance they received.

These demands have depleted Maine's Federal low-income energy assistance grants and have caused the State to seek emergency funding to keep the program funded through the remainder of the winter. While Governor McKernan and the State legislature move to release \$1.7 million in oil overcharge money, even this may not be enough to serve the qualified applicants in the State. I have asked that the Office of Management and Budget release remaining funds for LIHEAP, but it is also clear that more funds will be needed if this program is to continue serving those in need. That is why I am introducing

this legislation for a supplemental appropriation to this program.

Mr. Speaker, I believe that the Congress must act quickly to address the unprecedented oil price increases that devastated much of the United States. I hope that our efforts will lead to an understanding of why the increase occurred and to solutions for preventing a recurrence. It is critical that we take the necessary steps to ease the impact on those who suffered as a result of the unparalleled price increases for home heating oil. I ask my colleagues to join with me in seeking additional assistance for the States that have been so severely impacted by the weather and the high oil prices.

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#### **TEACHING DEMOCRACY IN NEW MEXICO**

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**HON. JOE SKEEN**

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. SKEEN. Mr. Speaker, we have just witnessed the closing of a decade in which millions of people who had long suffered from repressive regimes have toppled those regimes in their quest for freedom and democracy. We, who have benefited from the longest lasting constitutional democracy in history, should rejoice in the overthrow of those tyrannical governments and in the recognition by their citizens of the importance of the principles and values of free government we have cherished for so long.

We must wish the people of these nations well in the difficult tasks that lie ahead. And, we must do everything we can to ensure the success of their endeavors to establish governments based upon the principles of constitutional democracy.

At the same time, we must not neglect to pass on to our own youth the understanding of the fundamental principles and values of our democratic institutions that leads to a reasoned commitment to their preservation and improvement. In this regard, I am most pleased to commend the efforts of Nancy Blaugrund, an educational leader in New Mexico's Second Congressional District, whose dedication to the improvements of the civic education of our students has been exemplary. Nancy coordinates the "We the People \* \* \* bicentennial programs on the Constitution and Bill of Rights, which include the National Bicentennial Competition, its non-competitive companion program, Congress and the Constitution, and the National Historical Pictorial Map Contest in the Second Congressional District.

Through the dedicated and voluntary efforts of Nancy Blaugrund, thousands of upper elementary, middle, and high school students have studied the program's curriculum. This curriculum, incorporated in the "We the People \* \* \* text, introduces students to the philosophical ideas of our founders, the historical background of the Philadelphia Convention, and the issues and debates that shaped the writing of our Constitution. Students learn how our Government is organized and how it protects the rights and liberties of all citizens.

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Finally, and most important, students learn of the responsibilities which accompany the rights of citizenship in a democracy.

It is ironic that while those who have experienced repressive regimes throughout the world are clamoring for the right to vote in free elections, in the United States, only one out of five eligible voters under the age of 30 takes advantage of that very right. With so few young people understanding the purpose and importance of our Constitution, it is clear that we must do all we can to turn the tide of political apathy into a wave of active and informed participating. I am pleased to express my admiration and appreciation to Nancy Blaugrund for her impressive contributions to the development of competent and responsible citizenship.

## TRIBUTE TO ROSE KUSHNER

## HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mrs. MORELLA. Mr. Speaker, Montgomery County, the State of Maryland, and the entire country suffered a tragic loss with the death of Rose Kushner, a psychologist, journalist, and advocate for breast cancer patients.

Rose Kushner was internationally known for her advocacy of the rights of breast cancer patients, writing a number of books and articles on the subject, and lobbying State and Federal officials on these issues for many years. First diagnosed with breast cancer 16 years ago, Rose worked to ensure the rights of women to participate in the decisions surrounding the diagnosis and treatment of their breast cancer. The current procedure, known as the two-step procedure, in which the woman is first told of the results of her biopsy before any decisions are made about the treatment, is now the norm throughout the world. Rose has received much of the credit for the use of this procedure.

She worked tirelessly for progress in the treatment of breast cancer, a disease which she believed was ignored. Rose played an integral role in the organization of the National Institutes of Health Consensus Conference on Breast Cancer and promoted the use of hormonal therapy, rather than chemotherapy. Sacrificing her own privacy, she used her own personal case in order to advance her cause. She offered counsel, support, and advice to countless breast cancer patients, even opening a hotline from her own home.

Rose wrote many books and articles on breast cancer, and founded the National Breast Cancer Advisory Center and, most recently, organized Breastpac, a political advocacy and lobbying organization. In 1980, she was appointed by President Carter to the National Cancer Advisory Committee, on which she served for 6 years. Rose was a member of the Montgomery County Commission on Health and was appointed last year to the American Cancer Society Breast Cancer Task Force. She received many awards for her work, including the layman's award from the Society of Surgical Oncology for "outstanding contributions to the fight against cancer" which she was to have accepted in May.

Rose Kushner was one of my constituents, a Kensington, MD resident who had lived in Montgomery County since 1955. She attended Johns Hopkins University, Baltimore Junior College, and Montgomery College. She graduated with honors from the University of Maryland in 1972.

I had the privilege of working with her for the passage of several bills to improve the rights and benefits of Medicare and Medicaid breast cancer patients, and to increase funding for breast cancer research at the National Institutes of Health. Rose was a compassionate, tireless, and extremely effective advocate for her cause, and she will be missed.

I know many of my colleagues join me in conveying my sympathies to her husband Harvey and the other members of her family. Certainly, there is some comfort in knowing that Rose's memory will live on to inspire future strides in breast cancer research and the rights of the women who suffer from this disease.

THE GOLDEN BUFFALOES—  
WHAT A SEASON

## HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. HEFLEY. Mr. Speaker, I am honored today to recognize the University of Colorado Buffalo football team as they are the consensus No. 1 team in the Nation for the first time in their history.

From my home State of Colorado, the Golden Buffaloes will go head-to-head against Notre Dame in the 1990 Orange Bowl. This will be CU's fourth journey to Miami, the first time since 1977.

Celebrating its 100th season of intercollegiate football, Colorado is enjoying their fourth longest winning streak in the school's history.

Head Coach Bill McCartney is in his eighth season at the helm of the Buffaloes, compiling a 46-44-1 record. McCartney's careful guidance and inspiration have led Colorado to the most successful season of their history.

Although preseason publications had not projected the Buffaloes as conference champs, they have proven themselves worthy of challenging the Fighting Irish for the national championship. Their successes have brought them much well-deserved acclaim.

Quarterback Darian Hagan was selected the Sporting News' "Player-of-the-Year" in college football for 1989. Plus the Colorado Heisman Trophy candidate was the first CU quarterback since 1975 to complete over 50 percent of his passes.

I see a bright future for the Golden Buffs. I wish them the very best of luck in Miami and hope that this is the first step in a long line of national championships that will come their way.

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HAROLD RUPP: WE NEED MORE  
MEN LIKE HIM

## HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. TRAXLER. Mr. Speaker, I rise today to pay tribute to a gentleman who is a great humanitarian, and whom I am proud to call my close and dear friend.

Harold Rupp of Bay City, MI, is an individual who has selflessly dedicated his time throughout his life so that others in his community may have a chance for a happier and better life. He is being honored on February 21 by the Boys and Girls Clubs of Bay County at a "Night to Remember" in appreciation for his 25 years of invaluable service to the clubs. I am very pleased to be joining in this special celebration.

The program for the celebration of Harold's generosity quotes his philosophy which is such an important hallmark for the question of how we can help the youth of today: "Give a kid a place to go, something to do, some guidance, lots of love, the kid will beat the streets." If only more of us could adopt his philosophy as our own, the news would be filled with many more stories of accomplishment, and fewer of frustration.

Over Harold's many years of civic involvement, he has served as a president of the Bay County Baseball Federation. He has been the president and a board member of the Bay County Recreation Commission. He has been a member of the Lions Club, the Elks Club, the American Legion, and the Disabled American Veterans. He has supported the business community, of which he is a vital part, through the Bay Area Chamber of Commerce.

He has held many other positions of public responsibility, including an appointment by President Jimmy Carter to the President's Council on Small Business, an appointment by Michigan's Gov. Jim Blanchard to the Governor's Council on Small Business, and a number of additional years of service to the Michigan Department of Social Services, Bay County, and the Bay County Medical Care Facility.

Harold's crowning glory has been his service to the Boys and Girls Clubs of Bay County. As a charter member of the clubs foundation, he has been responsible for several very successful fund raising efforts. His work on both the first and second capital campaigns has helped to raise nearly \$1 million, while additional efforts have enabled him to raise over \$5,000 each year for the past 10 years for the operations of the clubs.

Mr. Speaker, some people say "why doesn't somebody do something to help create more opportunities for our youth". Harold Rupp is one of those "somebodies" who does do something. His enthusiasm and his devotion have encouraged many others to share their time and resources for the boys and girls of Bay County so that his grandchildren Jennifer and Patrick can be very proud to say that Harold Rupp is their grandfather. His wife Norine, while sacrificing time with Harold, can be very proud to be associated with a

man who cares so much about others around him.

Mr. Speaker, Harold Rupp is an outstanding individual who has made the time to give back to his community to help make it a better place. We truly do need more men like him.

**MIMI EBERHARDT,  
STOCKTONIAN OF THE YEAR**

**HON. NORMAN D. SHUMWAY  
OF CALIFORNIA  
IN THE HOUSE OF REPRESENTATIVES**

*Tuesday, January 23, 1990*

Mr. SHUMWAY. Mr. Speaker, at this time I ask that my colleagues join with me in paying tribute to an outstanding woman who is not only my constituent, but also a very close friend of mine: Mrs. Mimi Eberhardt, of Stockton, CA. Mimi has just been selected "Stocktonian of the Year."

With Mimi Eberhardt's selection as the 36th Stocktonian of the Year, Stockton can boast the first-ever husband and wife team to be so honored: her husband received the award in 1975. Appropriately enough, Mimi was surprised with the news of her selection by being presented with a UOP-promoting teddy bear. Mimi's leadership as a founding director of "Hug-Me-Bears" to help abused children, as well as her founding membership in "Orange-Aid," which promotes UOP's community relations, are both well known in our community.

In praising Mimi Eberhardt for her full-time job of being a volunteer, the Stockton Board of Realtors could not have chosen a more apt description! In fact, I find it difficult to pinpoint an area of community involvement which has not benefited from Mimi's leadership, commitment and compassion. That she has done so while raising four daughters and being a devoted and supportive wife is even more indicative of Mimi's caring and competence.

Mimi's dedication to our youth is embodied in so many of her undertakings. Not only has she worked on behalf of abused children and welcomed college students—she has also served as a founding member of the Stockton Police Youth Activities, raising funds for athletic activities for young Stocktonians, many of whom are underprivileged. She is also a charter member of former Police Chief Julio Cecchetti's Blue Ribbon Task Force Committee which raised funds for underprivileged youth. Special Olympics has benefited from Mimi's efforts since the group was founded; she continues to serve as food cochairman. Women's athletic programs at UOP also receive Mimi's help through her active support and fundraising efforts.

Mimi contributed 13 years to the board of directors of the Bacon Bash, and she has served as cochair of the pregame fundraising luncheon.

She is a founding member of the Friends of the Blind Center, as well as a 10-year member of the board of directors of the Community Blind Center. Mimi also has worked on behalf of San Joaquin County Parents of Deaf Children.

Goodwill Industries has benefited from Mimi's service as a past director, and as an executive committee member.

**EXTENSIONS OF REMARKS**

Ducks, Unlimited, has enjoyed Mimi's dauntless commitment through her service as a co-founder of Ruffled Feathers, the ladies' auxiliary which has raised \$90,000 in just 4 years to help maintain and develop breeding habitat for waterfowl.

The Haggan Museum Junior Women's Group, a valuable and effective fundraising arm for the museum, has benefited from Mimi's founding membership. She is also a former director of the Alan Short Gallery.

The Easter Seal Society, the Rape Crisis Center, the Gemini Sickle Cell Anemia Program, the Hanot Foundation, the Asparagus Festival, the Neighborhood Watch Program—these are but a few more of the many worthy causes to which Mimi Eberhardt has donated time, attention, and expertise. She is committed to Stockton and all of its residents, and has greatly improved the quality of life for so many Stocktonians.

Mimi Eberhardt embodies all the qualities and traditional values that we treasure as Americans. She symbolizes neighbor helping neighbor, the generous, caring, voluntary spirit which is so capable of accomplishing so much. Stockton is fortunate to have Mimi, and all of us owe her not only our admiration, but also our gratitude.

Speaking personally, I have always been very pleased to count Mimi among my personal friends. To Mimi, as well as her husband and daughters, I am pleased to say thank you from the bottom of my heart for duty above and beyond the call, and every best wish for continued success and fulfillment.

**BERKS COUNTY FEDERATION  
OF WOMEN'S CLUBS CELE-  
BRATES 65TH ANNIVERSARY**

**HON. GUS YATRON  
OF PENNSYLVANIA**

**IN THE HOUSE OF REPRESENTATIVES**

*Tuesday, January 23, 1990*

Mr. YATRON. Mr. Speaker, this year, the Berks County Federation of Women's Clubs will celebrate its 65th anniversary and, therefore, I would like to take a moment to recognize this truly outstanding organization which has contributed so much to the communities of the Sixth District of Pennsylvania.

Made up of 36 women's clubs with a membership of over 2,400 women, the Berks County Federation of Women's Clubs has had an extraordinary and profound impact on the lives of many people. Through the hard work and dedication of its membership, the federation has helped improve community services in our area and has made these services more accessible to those in need.

Established on March 6, 1925, the Berks County Federation of Women's Clubs will celebrate 65 years of outstanding service on April 24, 1990. In addition, February 24, 1990 will mark the 25th annual Federation Day, a day set aside specifically to recognize the organizations such as the Berks County Federation of Women's Clubs.

Committed to making a difference through service, the members of the Berks County Federation of Women's Clubs have devoted their time, talents and energy to helping

others. Indeed, Mr. Speaker, these outstanding citizens have made a difference and they are to be commended for making the lives of others better and brighter. Thus, it is with great pleasure that I take this opportunity to congratulate all the members of the Berks County Federation of Women's Clubs on their 65th anniversary and to thank them for their continuing commitment to improving our community.

**CONGRATULATIONS TO KATH-  
LEEN BRAUN FOR HER EF-  
FORTS TO INCREASE CIVIC  
AWARENESS**

**HON. JIM MOODY**

OF WISCONSIN

**IN THE HOUSE OF REPRESENTATIVES**

*Tuesday, January 23, 1990*

Mr. MOODY. Mr. Speaker, I rise today to salute Kathleen Braun for her dedication to education and civic awareness in the Milwaukee community. Ms. Braun coordinates the "We the People" bicentennial programs on the Constitution and Bill of Rights for Wisconsin's Fifth Congressional District which I am proud to represent.

In the United States, one of the world's oldest democracies, voter participation has reached a new low. For younger voters the statistics are even more troubling: only one in five eligible voters under the age of 30 goes to the polls. Surveys of geographical knowledge among high school students reveal a distressing lack of education; some students are unable to pick out the United States itself on an unmarked world map.

The "We the People" programs seek to address these disturbing trends by educating young people about the Constitution, the three branches of Government, and the Nation's geography. Ms. Braun has volunteered her time and efforts to bring these valuable programs to thousands of upper-elementary, middle and high school students in Milwaukee. Through promotion and administration of the "We the People" national bicentennial competition, Congress and the Constitution program and the National Historical Pictorial Map Contest, Ms. Braun has helped to teach students about how the Government is structured, how it protects the rights and liberties of all its citizens and about the civic responsibilities which accompany the rights of citizenship in a democracy.

Mr. Speaker, I am proud today to salute Kathleen Braun for her leadership and dedication in educating students in Milwaukee about government and responsible citizenship.

**LIGHHOUSE CELEBRATION**

**HON. CHARLES E. BENNETT**

OF FLORIDA

**IN THE HOUSE OF REPRESENTATIVES**

*Tuesday, January 23, 1990*

Mr. BENNETT. Mr. Speaker, on November 12, Jacksonville celebrated "Lighthouse Celebration Day," and I include Mayor Hazouri's proclamation to that effect. I also include re-

## EXTENSIONS OF REMARKS

marks made by Adm. James Libscomb at the celebration which included a tour of the modern lighthouse facilities at Jacksonville and of the 1859 predecessor, now on the National Historic Register.

Admiral Libscomb admits to me that his story of the lighthouse is apocryphal, but I think it is worth repeating.

The proclamation and remarks follow:

## PROCLAMATION

Whereas: The first lighthouse at the mouth of the St. Johns River was erected in 1830, followed by a replacement lighthouse in 1834; but both were abandoned because of heavy seas and drifting sand; and

Whereas: A brick lighthouse, first lit in 1859, had its light shot out by the keeper to prevent Union forces from entering the St. Johns River; and

Whereas: The Lightship St. Johns, manned by the Coast Guard, guided ships past the shifting sand bars beginning in 1929, replacing the 1859 brick tower which is on the National Historic Register; and

Whereas: Today a modern automated lighthouse, first lit in 1954, stands on a dune at the eastern edge of Mayport Naval Station; and

Whereas: A "Bicentennial Lighthouse Celebration," commemorating 200 years of lighthouses in the United States, will be held on November 12, with tours of the St. Johns Lighthouse, but tours of the old lighthouse as well as live entertainment; and

Whereas: This celebration is being sponsored by the American Lighthouse Historical Society, the Jacksonville Historical Society, the Beaches Historical Society, the Mayport Preservation Society and the Maritime Museum.

Now, therefore, I, Thomas L. Hazouri, by virtue of the authority vested in me as Mayor of Jacksonville, Florida, do hereby proclaim Sunday, November 12, 1989, as Lighthouse Celebration Day and urge all citizens to visit these monuments to shipping safety on this special occasion, and to learn about their historic significance.

## REMARKS OF ADMIRAL LIBSCOMB USCG

Welcome to latitude 30°23.1' N. longitude 81°23.9' W., the exact position of the St. Johns Lighthouse. I am Jimmy Libscomb, your master of ceremonies. I am a native born and lifelong resident of Jacksonville and the beaches. I am proud to be a member of the Jacksonville and the Beaches Area Historical Societies, two of the groups sponsoring the opening of the lighthouse. I am a fanatic about lighthouses.

Major Charles B. Meyer, late of Her Britannic Majesty's Army, the instigator of the project to open this lighthouse to the public during the bicentennial year of the United States Lighthouse Service, will lead us in the pledge and pronounce the invocation.

Let me introduce distinguished members of this community as well as individuals who have played an important role in bringing about the opening to the public of the St. Johns Lighthouse:

The mayor of Neptune Beach, John Kowakabany.

The former mayor of Neptune Beach Ish Brant.

The mayor pro-tempore of Jacksonville Beach, Bob Marsden.

Bill and Freida Trotter, co-founders of the American Lighthouse Historical Society and curators of the exhibits on display in the lighthouse. Bill and Freida have done more than any other people in this community,

perhaps even in the Nation, to promote public interest in and love for our lighthouses and the celebration of the Lighthouse Bicentennial. They are remarkably talented individuals, who have successfully led us in a great cause. We are fortunate in this community to have them with us.

Sarah Van Cleve, president of the Jacksonville Historical Society and chairman of the Jacksonville Lighthouse Bicentennial Committee, a most delightful lady to know and with whom to work.

Joe Caldwell, president of the Beaches Area Historical Society.

Sandra Tuttle, secretary of the Mayport Preservation Society.

Cominader Tim Taylor, USN, who heads up the Public Affairs Office of Naval Station Mayport and has worked tirelessly to promote this event and keep the members of the local committee on a true course without deviation or variation.

Julian Barrs of Naval Station Mayport, who has coordinated all the physical preparations for today's event.

Although Congressman Bennett will be our principal speaker, we are also pleased to have several other distinguished individuals on the stage, whom I shall call upon to make a few brief remarks.

*Captain Peter A.C. Long, Commanding Officer, U.S. Naval Station Mayport.*

*LCDR Douglas P. Rudolph, Commander, Coast Guard Group Mayport.*

*Becky Jarboe, aide to Jacksonville Mayor Tommy Hazouri, who will present the mayor's proclamation.*

*Jim Jarboe, member of the Jacksonville City Council, representing the Jacksonville Beaches.*

Last, but certainly not least, I want to introduce Master Chief Paul Leone, USCG (Ret.), the last resident lighthouse keeper of this lighthouse before it was automated. The master chief has the distinction of having made naval and maritime history when he successfully challenged the USS *Forrestal* during his tour of duty here as lighthouse keeper. The aircraft carrier was inbound from the east when a power surge knocked out all her electronic navigation equipment. The forward lookout reported to the bridge that there was an object dead ahead with a flashing light and on a constant bearing. The captain of the *Forrestal* signalled the object to change course 20° to starboard. Seconds later the captain received a signal from the object telling him to change course 20° to starboard. Irritated, the captain signalled "I am a captain in the United States Navy, and I order you to change course 20° to starboard." Seconds later the captain received a signal that said, "I am Paul Leone, a first class petty officer in the Coast Guard. Change course 20° to starboard." With this, the captain was really irritated and signalled back, "I am the attack aircraft carrier, USS *Forrestal*, and I command that you immediately change course 20° to starboard." Seconds later *Forrestal* received this signal: "I am the St. Johns Lighthouse. Change course 20° to starboard or you'll be sorry." *Forrestal* complied.

January 23, 1990

TRIBUTE TO MAJ. GEN.  
RAYMOND A. MATERA

## HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. ASPIN. Mr. Speaker, when the people of Wisconsin speak of the Wisconsin National Guard, they do so with great pride. And they have good reason to. The Wisconsin National Guard has become the recognized leader in readiness and professionalism. More than anyone else, we owe this great distinction to one man—Maj. Gen. Raymond A. Matera.

While serving as the adjutant general of the Wisconsin National Guard, General Matera's dedication and leadership resulted in an unprecedented growth in responsibilities and accomplishments. He increased the strength of the Army National Guard by over 20 percent, he increased combat capabilities by restructuring and upgrading obsolete battalions, and he created a highly successful armory rebuilding program. Most importantly, his guidance was responsible for the tremendous expansion of training programs for both officer and enlisted personnel. This foresight and leadership have resulted in the superb combat readiness and mobility of Wisconsin's National Guard.

Because of General Matera's efforts, the Wisconsin National Guard has made an increasingly important contribution to the national defense. The 32nd Infantry Brigade was selected to participate in the 1986 REFORGER exercise. The 128th Tactical Fighter Wing fulfilled regular USAF combat readiness standards and was assigned responsibilities in Europe and Panama. The 128th Air Refueling Group has become a necessary asset for the Strategic Air Command. These three examples are but a small list of the contributions made by Wisconsin Guard members during General Matera's tenure.

Undoubtedly, General Matera's accomplishments are the result of his unfailing dedication and countless hours of hard work. But I think his most noteworthy quality was seen at the personal level. General Matera exemplified the phrase "leadership by example". Wisconsin Guard members were accustomed to seeing their Commander-In-Chief appear along side them at almost any time. Whether it was a formal setting such as a National Guard Association or an enlisted association function, or in the day-to-day situations—in the field, on the flight line, or in the shops—General Matera was never too busy to get involved, to lend a hand.

In recognition of his superior achievements, General Matera has received numerous decorations, including the Legion of Merit, the Distinguished Flying Cross, the Air Medal with cluster, a Distinguished Unit Citation, and many others. Additionally, for his singularly distinctive contribution to the State of Wisconsin, he was awarded the first Wisconsin Distinguished Service Medal.

General Matera's presence will be sorely missed when he retires this year. He has been the catalyst in rebuilding the Wisconsin National Guard into a strong, enthusiastic, and

capable force. He has made a lasting contribution to the State of Wisconsin, and to the United States of America. For this he will be remembered by the people of Wisconsin, and the people of this Nation, for many years to come.

**A TRIBUTE TO REAR ADM.  
RODNEY K. SQUIBB, SC, USN**

**HON. MARVIN LEATH  
OF TEXAS**  
**IN THE HOUSE OF REPRESENTATIVES**

*Tuesday, January 23, 1990*

Mr. LEATH of Texas. Mr. Speaker, I rise today to honor an outstanding and exemplary member of the U.S. Navy, Rear Adm. Rodney K. Squibb, who is retiring February 1, 1990, after 44 years of naval service.

Our Nation is indeed fortunate to have benefited from the dedication of this great American. His years of unselfish devotion to duty have left their mark on the Nation and on the millions of sailors and families who benefited from his service.

Admiral Squibb is truly a unique individual, rising through the ranks through every enlisted grade. As such, he could well empathize with the needs of all naval personnel. His most recent assignment as commander of the Naval Resale and Service Support Office culminated his admirable career as he charted a course to improve quality-of-life services that touch each sailor every day of the year. He raised the Navy's exchange and commissary system to new heights and instituted quantum improvements to the many services offered by this agency. His leadership inspired all who had the privilege to work with him to go the extra mile in the achievement of excellence.

Admiral Squibb spent his formative years in Morton, MN, graduating from Morton High School in 1945 as senior class president. On October 29, 1945, he enlisted in the U.S. Navy and served on various ships from patrol craft and destroyers to destroyer tenders and shore stations. He advanced through every enlisted grade and then, in 1957, while at the Massachusetts Institute of Technology, he was commissioned an ensign in the supply corps.

His first Navy resale tour was as the Navy exchange officer of the Naval Air Station, Oppama, Japan, with a follow-on tour as the Navy exchange officer, Naval Air Station, Minneapolis, MN. Upon completion of this tour he returned to sea as the senior assistant supply officer, U.S.S. *Yellowstone* (AD 27). His next assignment was with Commander Service Squadron Eight as the senior staff supply officer with logistics responsibilities for 37 ships ranging in type from cable layers to Polaris missile stores ships.

Returning to sea duty in October 1969, he reported as the assistant supply officer, U.S.S. *Kitty Hawk* (CV 63), making a combat deployment to Southeast Asia in 1970-71. He then served at the Naval Sea Systems Command and Naval Supply Systems Command in Washington, DC. In 1975, he was selected as the first commissioning supply officer of the new nuclear aircraft carrier U.S.S. *Dwight D. Eisenhower* (CVN 69) and served in this ca-

**EXTENSIONS OF REMARKS**

pacity for 3 years. During his total career—enlisted and officer—Admiral Squibb has served on 11 ships, commissioning three ships, U.S.S. *PCE 902*, U.S.S. *Fechteler* (DDR 870), and U.S.S. *Dwight D. Eisenhower* (CVN 69). In addition, he decommissioned one ship, U.S.S. *PC 778*.

Subsequently, Admiral Squibb reported to the aviation supply office, where his duties included inventory control officer, planning and data systems officer, and executive officer. In 1981 he reported as the Assistant Chief of Staff (Supply), Commander Naval Air Force, U.S. Atlantic Fleet, with logistics readiness responsibilities for 8 aircraft carriers, 5 Marine air groups, and 17 shore stations, totaling in excess of 1,600 aircraft.

In June 1984, Admiral Squibb returned to the aviation supply office in Philadelphia, PA, this time as the commanding officer and base commander, with responsibilities for the worldwide material readiness for all U.S. Navy and Marine aviation forces. In September 1986, he returned to the Naval Supply Systems Command in Washington, DC, as the deputy commander, Fleet Support, Corporate Plans and Logistics. On July 10, 1987, he assumed the duties of commander, Navy Resale Services Support Office, Staten Island, NY.

Admiral Squibb was educated at the University of Minnesota, Old Dominion College, and he is a graduate of the Naval Postgraduate School, Monterey, CA. His graduate education also includes studies at George Washington University and the University of Pittsburgh.

His success has been greatly enhanced by the support of his family. He is married to the former Lavada Carpenter. They have a son Mark and a daughter Sandra.

Admiral Squibb's decorations for superior performance ashore and afloat include the Navy Distinguished Service Medal, Legion of Merit—two gold stars in lieu of second and third awards—Meritorious Service Medal, Navy Commendation Medal, and Navy Achievement Medal.

Admiral Squibb, your lifetime of service is hereby recognized with appreciation by the American people and for your contributions to the peace and security of this great Nation, I urge my colleagues to join me in honoring a great American, Rear Adm. Rodney K. Squibb, Supply Corps, U.S. Navy.

**PASTOR'S SERVICE MARKED IN  
GERMANTOWN, TN**

**HON. DON SUNDQUIST**

OF TENNESSEE

**IN THE HOUSE OF REPRESENTATIVES**

*Tuesday, January 23, 1990*

Mr. SUNDQUIST. Mr. Speaker, a few weeks ago I had the privilege of joining the congregation of Germantown Baptist Church in Germantown, TN, in saluting their pastor, Ken Story, on 25 years of faithful service.

Because Pastor Story has been so active in community affairs and played so vital a role in shaping the character of one of Tennessee's fastest growing cities, I want to share with my colleagues something about him and his contribution.

Germantown Baptist Church, Germantown, TN, celebrated the 25th anniversary of Dr.

Kenneth P. Story's pastoral ministry on Sunday evening, December 3, 1989, with a dinner at the Omni Hotel. About 725 members and guests attended. Honored guest included Dr. Landrum Leavell, president of New Orleans Baptist Seminary, and Dr. Hyram Barefoot, president of Union University. There were many other distinguished pastors and local political figures in attendance.

Dr. Story came to Germantown Baptist Church as pastor on December 6, 1964. He, his wife Elizabeth, and a small son, Steve, moved into the pastor's residence across the street from the white clapboard chapel which was rebuilt in 1870 following the Civil War. The church was organized in 1838 and the original building was burned during the Civil War.

While Liz was setting up housekeeping in their home, Ken began his ministry. Along with his pastoral duties he assumed the duties of janitor, typist, mimeograph operator, and maintenance man. When Ken arrived at Germantown the church had a Sunday school enrollment of 167 with an average attendance of 87. The average weekly gifts were \$191 and the annual contributions to the Southern Baptist Convention were \$830.

Things happened pretty fast once Ken got to work. In late 1971, the congregation moved from the small chapel to an interim sanctuary, the first phase of a six-phase building program. The small chapel still stands and has been designated as a historical site. During this busy time, Ken managed to earn his doctorate degree from New Orleans Seminary in 1976. The last phase of the six-phase building program was completed in 1986 when a 50,000-square-foot educational building and office complex became operational. The total building program included a Christian Family Center—gym, crafts, et cetera—a new 1,400-seat sanctuary and conversion of the interim sanctuary and building into a children's building. The church has grown mightily under Dr. Story's leadership. Presently, there is a Sunday school enrollment of 4,150 with an average weekly attendance of 1,819. The weekly offerings average \$52,539 and \$241,000 was contributed to the cooperative program last year. Dr. Story conducts three services on Sundays at 8:30 a.m., 9:45 a.m., and 11:00 a.m. There are also Sunday schools at 9:45, and 11:00 a.m. The church just recently purchased 64 acres in Germantown and has laid plans for moving the entire church as soon as the Lord provides.

Dr. Story has reached out far beyond the borders of Germantown. The church has established a mission in the small community of Flossville where each Wednesday about 100 or so local residents come for lunch and preaching services. The church also provides a clothes closet for the visitors to the mission. Dr. Story has led church members on mission trips to Michigan, Alaska, and the Philippines in the past several years. A group of laymen make several yearly mission trips to churches where they are invited.

Dr. Story served as president of the Tennessee Baptist Convention in 1988 and was just recently elected to this body's executive board.

## EXTENSIONS OF REMARKS

The most fitting tribute, however, comes from members of his church, who wrote, "Dr. Story is a shining example of a pastor who reflects God's love for each of us. He is our friend, our counselor, our mentor, our pastor, and we love him."

## EARTH DAY 1990

**HON. BENJAMIN A. GILMAN**

OF NEW YORK

## IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of the congressional countdown to Earth Day.

Almost 20 years ago, on April 22, 1970, the United States saw the beginning of the environmental movement, as well as the largest organized demonstration in history. Now, Earth Day, 1990, is a short 90 days away, and we have the opportunity once again to enact landmark environmental legislation to address new environmental problems which we are only beginning to understand.

Because the problems we face today are problems which did not exist or were not imagined in 1970, we must face these new challenges with flexibility and understanding.

Amending the Clean Air Act to reduce the problems of acid rain, air toxics, and urban air quality, should be a major accomplishment of the second session of the 101st Congress.

Additionally, the recent indication of support from the Bush administration for a Cabinet level Environmental Protection Agency is encouraging and would be a fitting tribute to the first Earth Day which lead to the creation of the EPA.

However, the difficulties facing us today are so vast that they threaten not only our Nation, but the world as well. Legislation to deal with the impending threat of global warming is essential to forestall any potential devastation. Furthermore, global water scarcity and food production are issues that cannot be ignored.

With the complex issues facing our environment, it is time again for an Earth Day; a day for everyone to celebrate our planet and become actively involved in solving the many problems facing our environment.

Mr. Speaker, I urge my colleagues to join today in support of Earth Day 1990.

## YOSEMITE'S 100TH BIRTHDAY

**HON. GEORGE MILLER**

OF CALIFORNIA

## IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. MILLER of California. Mr. Speaker, October 1, 1990, is Yosemite National Park's 100th Birthday. This is a time for all of us throughout this country to celebrate.

We should celebrate that a place of such spectacular beauty—the soaring granite domes, the massive, ancient sequoia trees, the pristine alpine wild areas, the forests and waterfalls—exists.

We should celebrate that our predecessors, 100 years ago, had the wisdom and foresight to preserve this area for our enjoyment and

the enjoyment of our children. Like millions of other Americans over the last century, my family and I have spent many happy days hiking, camping, and exploring Yosemite. These are treasured memories for me.

As we celebrate Yosemite's birthday, we should also pay tribute to John Muir, a resident of Martinez, CA.

John Muir traveled for years throughout the Sierra Mountains of California. In his book, "The Mountains of California," Muir captured the essence and magic of those mountains when he wrote:

Along its [the Central Valley] eastern margin rises the mighty Sierra, miles of height, reposing like a smooth, cumulous cloud in the sunny sky and so gloriously colored, and so lumenous, it seems to be not clothed with light, but wholly composed of it, like the wall of some celestial city. Along the top, and extending a good way down, you see a pale, pearly-gray belt of snow; and below it a belt of blue and dark purple, marking the extension of the forests; and along the base of the range a broad belt of rose-purple and yellow, where lie the miner's gold fields and the foot-hill gardens. All these colored belts blending smoothly make a wall of light effably fine, and as beautiful as a rainbow, yet firm and adamant.

These eloquent words—in my mind—capture Yosemite.

But, Muir did far more than explore, study, and write about California's mountains. He began to fight—as early as 1881—to protect Yosemite, when he drafted a bill. He worked hard to convince Presidents Harrison, Theodore Roosevelt, and Taft to set aside Yosemite, and other lands as national parks. He was finally successful in convincing Congress to create Yosemite and Sequoia National Parks.

On this centennial of Yosemite's creation, let us remember what our great national parks teach us. It is our responsibility to protect these and the other special wild areas in this Nation. We have a duty to ourselves and future generations to preserve this country's natural areas—much as the duty our predecessors had to us. Yosemite's 100th birthday is the opportunity to renew our own commitment to conservation.

EXPOSING THE TRUTH WITH  
THE SOCIAL SECURITY TRUST  
FUND**HON. BYRON L. DORGAN**

OF NORTH DAKOTA

## IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. DORGAN of North Dakota. Mr. Speaker, on January 1, 1990, the FICA payroll tax which finances the Social Security system increased from 6.06 percent—7.51 percent with Medicare—on the first \$48,000 of income of 6.2 percent—7.65 percent with Medicare—on the first \$51,000 of income. This represents an increase of \$320 for an employee paying the maximum FICA tax as well as an increase of \$320 in the contribution of the employer.

This scheduled increase is part of the 1983 Social Security Reform Act, which was designed to create substantial Social Security reserves to meet anticipated needs when the

*January 23, 1990*

baby boomers retire after the turn of the century. Unfortunately, these sizable yearly Social Security reserves are now being used in the Gramm-Rudman calculations as an offset against operating budget deficits. The fact is, yearly Social Security reserves—totaling \$68 billion this year—are being used as a substitute for other reserves that would be needed to meet the same deficit targets.

This is dishonest budgeting. It's a hoax. It is using one of the most regressive forms of taxation as a major source of new revenue to reduce the Federal deficit. It is one of the great hoaxes of modern financial history to see a President and Congress misuse upwards of \$70 billion in new money each year—from the most regressive type of taxes—to make the Federal budget deficit appear to be getting smaller when it's not.

This must be stopped, and it has to be stopped now. Today, I am introducing legislation with my colleague, Mr. DURBIN, and six other original cosponsors that will take the mask off of this charade. My legislation would return the Social Security tax rate to its 1989 level, 6.06 percent. This would roll back the January 1 payroll tax increase. It seems to me that if the Congress and the administration are going to continue to raid the Social Security reserves, it is grossly unfair and dishonest to continue to raise the payroll tax that funds these Social Security reserves. My intention in introducing this bill is to force the administration and the Congress to take the Social Security reserves out of the budget deficit calculation and truly save these funds for the purpose for which they were collected.

I urge my colleagues to support this legislation to roll back this increase until Congress enacts legislation to stop this giant budget hoax.

IN SIGHT OF LOUISVILLE: A  
PERSPECTIVE OF LOUISVILLE  
ARTISTS**HON. ROMANO L. MAZZOLI**

OF KENTUCKY

## IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. MAZZOLI. Mr. Speaker, I was very excited that, beginning the week of November 13, 1989, and running through December 15, 1989, artists from Louisville and Jefferson County—which I am privileged to serve in the U.S. Congress—participated in an exhibit at the Washington, DC Design Center which provided a unique insight into the art and culture of Louisville.

Everyone in Louisville and Jefferson County was excited about this opportunity to showcase the artistic talent in our community. This exhibit, "In Sight of Louisville: A Perspective of Louisville Artists," included the works of veteran artists as well as newer artists in our artistic community. And, it illustrated the very wide variety of talent—and enthusiasm and energy—of our local artists.

The artists whose works were included in the exhibit were: Tom Butsch, Ying Kit Chan, Madison Cawein, Gaela Erwin, Joyce Garner, Susan Gorsen, James Grubola, Kay Polson Grubola, Ed Hamilton, Billy Hertz, Suzanne

Mitchell, Pam Pfister, Chris Radtke, Andrew Speer, Chuck Swanson, and Cathy Tuggle.  
I hope that my colleagues had a chance to view this exhibit while it was in Washington.

**TRIBUTE TO ARNOLD L.  
HUDGENS**

**HON. CARROLL HUBBARD, JR.  
OF KENTUCKY**  
IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. HUBBARD. Mr. Speaker, it is my privilege to pay tribute to a long-time friend, Arnold L. Hudgens, who died January 5 at age 76 at Community Hospital in Mayfield, KY.

Mr. Hudgens, a beloved and highly respected Bardwell, KY, resident, was a former sheriff of Carlisle County, the father-in-law of the Carlisle County superintendent of schools, Robert Edward Watson of Bardwell, a veteran of World War II and a member of Bardwell United Methodist Church.

Mr. Hudgens, who was affectionately referred to as "Shug" by friends, was always very helpful to those of us who called on him for assistance. Shug Hudgens and his family were very helpful to me as early as 1967 when I was a 29-year-old candidate for State senator. He was preceded in death by his lovely and talented wife, Martha Turner Hudgens.

Surviving are three daughters, Brenda Watson and Ann Carter, both of Bardwell, and Phyllis Hughes of Virginia; a son, Joe Hudgens of Bardwell; a sister, Mona Coil of Paducah, and several grandchildren.

My wife Carol and I extend to the family of Arnold L. Hudgens our sympathy.

**TRIBUTE TO CPL. IVAN D. PEREZ**

**HON. CLAUDINE SCHNEIDER  
OF RHODE ISLAND**  
IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Ms. SCHNEIDER. Mr. Speaker, Cpl. Ivan Perez of Pawtucket, RI, died a hero's death in combat. He paid the highest price and made the ultimate sacrifice for the United States. We owe him an eternal debt of gratitude.

In the early morning hours of December 20, 1989, Corporal Perez rode into battle. He was in the first Bravo Company platoon to attack General Noriega's headquarters—the Comandancia. During the ensuing firefight, Perez, who manned the .50 caliber machinegun atop an armored personnel carrier, was killed in combat. His bravery helped our Armed Forces to quickly knock out Noriega's headquarters and neutralize any organized opposition.

Our gratitude to Corporal Perez is strong and unquestioned. However, Ivan Perez won the gratitude of another set of people: The Panamanians. During my recent trip to Panama, I saw firsthand the ravages of General Noriega and felt the palpable relief of the Panamanian people. Ivan Perez was a liberator—he died so that millions could live without tyranny.

Today, I am introducing a bill to make Corporal Perez an American citizen. I understand

**EXTENSIONS OF REMARKS**

that Corporal Perez planned to apply for citizenship upon leaving the Armed Forces. I feel that it is the least we can do to make him a citizen posthumously.

Today, I salute Cpl. Ivan D. Perez as a great American and a fellow Rhode Islander. May his memory live forever.

**CITIZENS FEDERAL SAVINGS:  
THE GOOD NEWS ABOUT S&L'S**

**HON. WILLIAM LEHMAN  
OF FLORIDA**  
IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. LEHMAN of Florida. Mr. Speaker, if all savings and loans were operated like the Miami-based Citizens Federal Savings, there wouldn't be a need for bailout bills and criminal prosecutions.

Founded by my old friend, the late David Stuzin and brilliantly guided through the past turbulent decade by his son Charles, Citizens Federal has enjoyed several years of profitability; successful expansion into markets in states outside Florida; and a capital reserve that exceeds Federal standards by one third at a time when a quarter of all U.S. thrifts are unable to meet the minimum.

The Miami Herald recently profiled this Miami institution and its remarkable CEO, and I would like to commend this article to the attention of my colleagues.

During these days of savings and loan scandals, closings and failures, Citizens Federal should be a model for every savings and loan.

[From the Miami Herald, Jan. 15, 1990]

**THE GOOD CITIZENS**

(By Gregg Fields)

Was there ever a better citizen than Jimmy Stewart in *It's a Wonderful Life*?

He was a tireless community worker. He was a selfless civic booster. He was—gasp!—a savings and loan executive.

As an S&L executive himself, Charles Stuzin hasn't found the public to have such warm regard for thrift executives lately, however.

"So after I tell them I'm a thrift executive, I tell them I'm also a lawyer," chuckles Stuzin, chairman of Miami's Citizens Federal Savings.

In reality, if there are worthy successors to Stewart's mythical legacy, they are Stuzin and Citizens Federal, say competitors, analysts and former co-workers.

Citizens is boasting seven years of improving operating profits in an era when even healthy savings associations are losing money. It surpasses new federal capital standards by a third at a time when 760 thrifts—a fourth of the U.S. total—can't meet the minimum. It is looking expansively toward the future at a time when many S&Ls are trying frantically to lop off the excesses of the past.

The key to success: In the 1980s, Citizens went against the grain and stayed conservative. Instead of entering bidding wars for consumer deposits, it quietly sought investors seeking unexciting but safe returns. When thrifts from around the country spent enormous sums of money to enter Florida, Citizens expanded in the unglamorous Midwest.

Perhaps most significantly, as S&Ls were buying junk bonds and building country clubs, Citizens stuck stubbornly to the basically dull business of home loans.

"In an industry that's collapsing, Charlie Stuzin is a real beacon," says Bill Ailen, chairman of Citizens competitor Atico Savings. "He's gone out and made money the old-fashioned way. And his integrity is beyond reproach."

Along the way, Stuzin became a national figure within his industry. It is an industry whose foundations are being badly shaken, he concedes. "I think half the thrift industry will disappear," he says. "I'm talking about the healthy ones."

When asked whether Citizens will be a survivor, or an acquisition, he shrugs. "Independence isn't important."

**A FATHER'S ADVICE**

Independence was important to Stuzin's late father, David. An accountant by trade, he moved from New York City to South Florida and became a bank auditor.

"He realized there weren't that many S&Ls, and there were none in Hialeah," says his widow, Ruth. Stuzin got his federal charter in 1952, setting up shop in Hialeah. "At that time, building was beginning to boom," recalls Ruth Stuzin. "He always said, 'Don't forget the purpose of the business: home loans.'"

The family still owns 44 percent of the company.

The younger Stuzin was interested in the business. Dad decided he should learn it from the ground floor. "I started when I was 15 as a teller," says Charles Stuzin. "I worked in every department. That's how I learned the basics."

An accounting degree from the University of Florida polished his numbers knowledge. A law degree, with a specialty in real estate, gave him insight into home lending.

**Deregulation Strategies**

But nothing could have prepared him for the thrift industry crisis of the mid-1980s, Stuzin says. In the early 1980s, market conditions forced S&Ls to pay high interest rates on deposits while they earned low yields on fixed-rate mortgages. Losses ensued.

Citizens survived, but a fourth of Florida's S&Ls didn't.

In the mid-1980s, empowered by deregulation, many S&Ls voluntarily bid up rates on deposits because they could now pump the deposit money into high-interest commercial loans rather than mortgages.

The problem: High-interest loans are made to less creditworthy customers.

Citizens saw disaster looming. "The industry was paying too much for deposits," Stuzin said. "That means you've got to get higher rates on your loans to earn a profit. And that means you have to make riskier loans."

The dilemma: Citizens couldn't afford to bid for deposits, but it couldn't afford not to. No thrift can survive without new deposits.

**A Shift to Investors**

With regulators' blessings, Stuzin found a solution. Rather than take money in from consumers, he turned to investors. He sold notes and short-term commercial paper backed by letters of credit from the Federal Home Loan Bank of Atlanta. Safety-seeking investors snapped up \$400 million worth.

"We were the first in the Southeast to do these things," says Stuzin. "It kept our cost of funds normal."

## EXTENSIONS OF REMARKS

If Citizens bent tradition on the deposit side, it stuck to tradition on loans. All across South Florida, S&Ls were entering wild arrays of new businesses—and many posted more glamorous earnings than Citizens, at least initially.

Citizens quietly swam against the tide, pumping 90 percent of its assets into the home mortgage business. Tradition won out. Citizens earned \$63 million in the last five years. Many high-fliers failed or dipped dangerously into red ink.

**"WHAT WE KNEW BEST"**

In retrospect, Stuzin says remaining a mortgage lender wasn't an easy decision. The pinch of the early 1980s proved that no business—even home loans—is immune to economic pressures.

Yet, embarking on risky new ventures made little sense. Citizens could seek solutions in home lending—a business it knew—or face the dangers of unknown ventures.

"We decided to stick to what we knew best—home lending and consumer lending," he said. "The ones that took the risks—look what happened. We consciously stayed more conservative."

Citizens did some retooling, though. Today, more than half its mortgages are adjustable, meaning they go up and down with market rates. Also, rather than strictly hold mortgages, Citizens also invested heavily in mortgage-backed securities.

J. Dan Brock, a prominent Florida businessman who retired from Citizens' board in 1988, says time proved Citizens right. Citizens "consistently made money, and Charlie deserves most of the credit," Brock says. "The name of the game isn't to see how big you can get and how much money you can lose."

**EXPANDING WEST**

Has Stuzin, perhaps, taken too few risks? He pauses. "We have taken risks. We've expanded."

With expansion, Citizens once again went against popular fads. Thrifts in Florida were expanding aggressively on their booming home turf. S&Ls from around the country paid premiums to establish Florida beachheads.

Citizens skipped the competitive fray and took the road less traveled—to central Ohio, southern Illinois and Richmond, VA. It also went to California. But it snubbed the metropolitan areas for tiny Guerneville.

The deals were federally assisted. That means Citizens got cash from the government for taking over a sick institution. The government also sometimes kept the bad assets.

"Based on the strategy we had, Ohio and Illinois were the two greatest things we could have done," Stuzin says. The Midwest economy revived. Today, it is one of the nation's strongest housing markets.

In addition, Midwesterners are loyal customers, less likely to bankroll in search of higher rates on deposits.

**THE POST-BALLOUT WORLD**

Getting into the new states positions Citizens for the post-bailout world, says Erwin Katz, president of Tampa's Williams Securities.

"They are going to be a survivor," Katz predicts. "In effect, they have national market presence."

Regulators know they can deal with Citizens, Katz says, which will be an important plus when hundreds of insolvent S&Ls are sold. Also, banks scouting for acquisitions will look favorably on an institution with a five-state franchise, Katz says.

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Federal electronic information issues." The printing laws defined in title 44 predate electronic information. Therefore, it is currently impossible to ensure that electronic information is finding its way into the hands of the public, where it properly belongs. The legislation I am proposing will ensure that electronic information is made available to the American public through the Federal Depository Library Program.

Hearings held by the Subcommittee on Procurement and Printing last year revealed that a great deal of Government information produced by Federal agencies is printed in a highly decentralized environment at a very inflated cost. This legislation proposes to strengthen the centralization of in-house printing and printing procurement by the Government Printing Office.

Therefore, the Government Printing Office Improvement Act of 1990 will reform the public information functions of the Government Printing Office and will provide for higher efficiency and cost effectiveness to the Federal Government.

**EDUCATION: AMERICA'S NATIONAL CHALLENGE****HON. ILEANA ROS-LEHTINEN**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, the Cuban American National Council [CNC] will hold its 5th National Conference titled "Education: America's National Challenge" at the Hyatt Regency Hotel, downtown Miami, FL, from January 24 through January 26, 1990.

The conference workshops will highlight four major topics frequently addressed in debates on education. The first workshop attempts to frame the educational goals and expectations of key decision makers for the 21st century.

The second workshop focuses on the status of millions of students who systematically fail to keep up with their peers, due to special, economic, and cultural factors.

The conference's third workshop will address corporate America's growing concern with education and basic skills of its future labor force.

The last workshop addresses the educator's ongoing search for curricula that meets our students' basic needs, and whether the best possible courses can be effective, if students are not driven by commonly accepted social values.

Mr. Speaker, I would like to thank the Cuban-American National Council and its president, Mr. Guarione Diaz, for the timeliness of this conference, as a national consensus is growing to place education among our country's top priorities. Together, we can meet this challenge and ensure a good education for our children.

**GOVERNMENT PRINTING OFFICE IMPROVEMENT ACT OF 1990****HON. JIM BATES**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 23, 1990

Mr. BATES. Mr. Speaker, today I am introducing legislation designed to amend and update title 44, the U.S. Printing Code. The Government Printing Office Improvement Act of 1990 would provide for the utilization of electronic information technologies in the fulfillment of the Government's information functions and reduce expenditures by promoting greater efficiency in Government printing.

Last year, a report issued by the Office of Technology Assessment warned that "congressional action is urgently needed to resolve

**TRIBUTE TO URBAN MISSION OF  
STEUBENVILLE**

**HON. DOUGLAS APPLEGATE**  
OF OHIO  
IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. APPLEGATE. Mr. Speaker, I rise today to pay tribute to the Urban Mission of Steubenville, for 30 years of dedicated service to the needy of Jefferson County, OH. The anniversary is being recognized at the Urban Mission's annual dinner on January 27, 1990.

The Urban Mission can trace its beginnings to the Millmen's Hostel and its only Director, Rev. Robert Henthorn (Rev. "Bob"). This organization served as an outreach to workers of the Steubenville plant of the Wheeling-Pittsburgh Steel Co. From 1959 to 1973 the Millmen's Hostel offered a four-fold ministry consisting of religious services, pastoral counseling to workers and their families, recreation, and refreshments. Reverend Henthorn traveled throughout the Ohio area lecturing on subjects concerning industrial relations in the context of the Christian gospel.

The Millmen's Hostel had to be closed when Wheeling-Pitt decided to expand their parking facilities and to raze the Hostel building. In order to continue such a ministry in the area of labor-management relations, Reverend Henthorn was appointed to the staff of Boardman United Methodist Church.

The Urban Mission Ministry, created from the philosophy of the hostel, was the result of a study conducted by an Urban Strategy Committee appointed by Rev. Avery Butler. Rev. Fred Gaston was made Urban Minister in 1973 with the mandate to explore places and situations where a Christian presence and ministry seemed viable. In 1973, the board of directors approved the following areas of ministry: The Street Ministry, Lincoln Ave., Youth Center, Jail Ministry, Emergency Aid to Families, and a Christian Nursery School. The first nursery school class was held on December 3, 1973, and has operated there ever since. The Youth Center was dedicated in June 1974, and shortly thereafter, the day and resident camping program began. A Market Place Ministry was started at the Fort Steuben Mall in December. In 1979, a Tri-County Criminal Seminar became the starting point for a wider volunteer criminal justice ministry.

Rev. Robert Hutton succeeded Rev. Gaston upon his retirement in 1981. Rev. Hutton served until his death in 1987. Under his directorship, The Aid to Families and the Homeless was expanded and a Vietnam Veterans Outreach started.

On December 7, 1986, Bishop James Thomas hosted the dedication ceremony of the newly acquired headquarters of the Urban Mission Ministry. The expanded facility allowed the staff to more completely fulfill its motto. "To listen with compassion and serve with love." The present director, Rev. Roger Skelly-Watts was appointed in April 1988. He and his staff have enlarged the Ministry to the Homeless through a new project called the Hutton House, which provides temporary shelter for families until a permanent residence can be located. The contemporary Urban Mis-

**EXTENSIONS OF REMARKS**

sion Ministry is a fitting memorial to Reverend "Bob."

Mr. Speaker, it is my distinct privilege and honor to ask my colleagues to join with me in acclamation of both the Millmen's Hostel and the Urban Mission Ministry for the services they have provided over the last 30 years to the community of Steubenville.

**HONORING LOUIS C. HOYT**

**HON. MEL LEVINE**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. LEVINE of California. Mr. Speaker, I would like to recognize Mr. Louis C. Hoyt who will be honored by the law firm of Katz, Hoyt, Seigel & Kapor upon his retirement from the practice of law. At age 84, Mr. Hoyt's retirement comes after a long and exemplary legal career which began in New York, 1931.

Louis is a senior member of the firm and has been a partner in its predecessor firms. He received his LL.B degree, cum laude, from St. John's University in 1930 and was admitted to the Bar of the State of New York in 1931. Of the six thousand applicants to the New York Bar in 1930, Louis scored among the top 8 candidates on the bar examination.

In 1939, Louis joined the claims department of the Prudential Insurance Co. at its original home office in Newark, NJ and when it opened its western head office in Los Angeles, CA, he transferred to that location.

Louis was admitted to the California Bar in 1959 and returned to private practice at that time. In his many years of practice, he has received substantial recognition and numerous accolades as a California trial and appellate attorney.

Louis is admitted to the U.S. district courts within the States of California and New York, the Court of Appeals for the Ninth Circuit, and the U.S. Supreme Court. He is a member of the Los Angeles County Bar Association as well the bars of the States of New York and California. Although presently semiretired, Louis continues to devote the majority of his working days to complex civil litigation and appellate matters. His background and experience include expertise in matters related to all areas of insurance and commercial arbitration proceedings. He is an associate of the Life Office Management Associates, having received the third highest mark in the United States and Canada in that association's examination regarding insurance mathematics.

Mr. Speaker, I ask my colleagues to join me in paying tribute to Louis Hoyt for his outstanding contributions to the legal profession.

**TRIBUTE TO JOHN J.  
PARTINGTON**

**HON. RONALD K. MACHTEY**

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. MACHTEY. Mr. Speaker, I rise today to pay tribute to John J. Partington for his 8 years of service as chief of police in the town

of Cumberland. He will be honored for his service on January 26, 1990.

Mr. Partington began his career in law enforcement more than three decades ago in his hometown of Cumberland as a patrolman. In 1962, Mr. Partington became a deputy U.S. marshal and served in the Justice Department for 20 years. During his service in the Justice Department, Mr. Partington was commended over 75 times for his outstanding service. In 1975, Mr. Partington received the "Federal Employee of the Year Award."

In 1982, Mr. Partington returned to Cumberland to serve as chief of police. During his service in Cumberland, Mr. Partington strived to open communications between the community and the police force. Mr. Partington has created many programs for the youth, the elderly, and the entire community of Cumberland which have helped make Cumberland a safer place to live. Mr. Partington has also been recognized for his outstanding public safety record by being named public safety commissioner in Providence.

I would like to thank Mr. Partington for his years of service to the town of Cumberland. His dedication and excellence are a tribute to his concern for others. I hope that others will follow Mr. Partington's example and always ask what they can do to help protect others.

**TEENAGERS, CARS, AND DRUG  
ABUSE**

**HON. RICHARD K. ARMEY**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. ARMEY. Mr. Speaker, every day there are new statistics graphically showing the toll that drugs are taking on this society. In terms of human life, lost productivity, growing violence, and the sheer numbers of people involved, no one can deny that we have a national crisis on our hands. This crisis will only be solved if the demand for drugs can be reduced.

Interdiction, education, and treatment are all effective tools in stemming the flow of drugs, but we also have to focus on prevention and deterrence. America's jails are overflowing and the court system is struggling to keep up with the constant influx of new cases. Jail is not always the answer, particularly in the case of young and first-time offenders. We need new and innovative solutions—we need to make a strong impact on the youth of this Nation.

That is why I am offering this resolution today urging the States to adopt laws which would take away the drivers license of any minor convicted of a drug-related offense. We all know how anxious our teenagers are to get their hands on the car keys—taking away that privilege may provide that extra incentive to stay away from drugs. This is one solution that can be tailored to fit the needs of each State, and it is one idea that may make a difference. It is the individual steps and small victories that will ultimately tip the balance against drugs. This resolution may make a difference in one teenager's life, and I would consider that a victory.

## COUNTDOWN TO EARTH DAY

**HON. MORRIS K. UDALL**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. UDALL. Mr. Speaker, the story is told of the Brooklyn Dodgers baseball team in a particularly bad slump. Each year, at the end of another losing season, the fellow who kept the scoreboard in the outfield would put up a large banner that read, "Wait till next year!" After a few bad years, the Dodgers won the pennant and the fellow in the outfield put up a banner that read, "This is next year." Well, I'm here to tell you that for the environmental movement, this is next year.

Well, it's been 20 years since Earth Day and we are starting the 2d session of the 101st Congress. We have a healthy agenda, and there aren't going to be a whole lot of surprises on the environmental front and we'll probably have to make some compromises.

Mr. Speaker, Earth Day 1990 is being organized to celebrate past environmental victories and to show renewed commitment to finding solutions to the environmental problems we face today.

We have a great need to educate our citizens about growing environmental problems. Depletion of the stratospheric ozone layer; erosion of rain forests, wetlands, and other wildlife habitats; air and water pollution and the storage of radioactive and other hazardous wastes are problems which require solutions.

Mr. Speaker, the most effective environmental policies come from an educated public. Earth Day is an important part of any educational effort. We must become environmentally responsible consumers who conserve energy, increase recycling efforts, and promote environmental responsibility in our communities.

**JOHN M. HOBEN NAMED SUPERINTENDENT OF THE YEAR****HON. CARL D. PURSELL**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. PURSELL. Mr. Speaker, it is indeed a pleasure that I bring to your attention today an honor bestowed upon my friend and constituent, Dr. John Michael Hoben, superintendent of schools in Plymouth, MI. Dr. Hoben has been named the 1990 Superintendent of the Year by the Michigan Association of School Administrators.

For the past 34 years, Dr. Hoben has exhibited how he truly believes in public education, and has actively worked to meet educational challenges and to maximize educational opportunities.

Born in Adrian, MI, Mike began his career as a teacher in Cheboygan, MI, in 1949. In 1955, he moved to our community of Plymouth and has progressively worked his way through the ranks from teacher to counselor to principal to assistant superintendent to superintendent of schools. He has held that post for 19 years.

## EXTENSIONS OF REMARKS

Prior to beginning his career in education, Mike served two tours of duty in the U.S. Marines, first in the South Pacific, and then in Korea. A widower, he is the proud father of a son, John, and a daughter, Michelle.

His professional and community service accomplishments are numerous. Such service has included the United Fund, Rotary Club, YMCA, and many professional associations and boards.

I salute Dr. John M. Hoben on his memorable career, and congratulate him on becoming Michigan's Superintendent of the Year for 1990.

**THE 50TH WEDDING ANNIVERSARY OF MR. AND MRS. JOSEPH MATULA****HON. WILLIAM O. LIPINSKI**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues an exemplary couple from the Fifth Congressional District of Illinois, Joseph and Theresa Matula, on the occasion of their 50th wedding anniversary back in August 1989. They were married at St. Richard's Church by Father Quinn on August 27, 1939, and are a role model of the family strength and solidarity which has made America great.

They are both active members of the A.A.R.P. and have lived on the southwest side of Chicago their whole lives. In addition to their 5 children, they are proud of their 12 wonderful grandchildren.

Their commitment to each other and their family is impressive and deserving of special recognition and honor. I am sure that my colleagues join me in congratulating Mr. Joseph Matula and his bride of 50 years, Theresa, on their many years of love and commitment. May their life together continue to be an adventure and offer them many more pleasant memories.

**TRIBUTE TO EARL SIEGMAN****HON. JIM SAXTON**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. SAXTON. Mr. Speaker, my colleagues and I often take this time to pay tribute to some of the great citizens of this country who have served their communities in extraordinary ways. Today, I rise once again to ask my colleagues to join me in paying tribute to Mr. Earl Siegman, a constituent of mine who is being honored for over 30 years of service to the great State of New Jersey.

Earl Siegman has held many important positions in the State and local fire service. During the past 15 years, Earl has served in almost every line officer capacity, including fire chief. He has been an active force as a member of the Evesham Board of Fire Commissioners in Evesham, NJ. This board is the guiding force for all of the fire and emergency medical services within Evesham Township.

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Among Earl's many positions in the township, his tenure as treasurer of the district stands as one of the best examples of his abilities and dedication. Through his leadership, the district has developed a highly efficient electronic accounting system, a continuing 5-year capital planning program and assisted in setting up the funding program for the recently incorporated emergency medical services division.

Earl Siegman's civic responsibilities extend beyond his time spent with the emergency services. He also serves full time on a local school board and is active with the South Jersey Development Council.

Mr. Speaker, I know my colleagues join with me and the rest of the citizens of the great State of New Jersey in recognizing Earl Siegman and thanking him for his many years of service.

**TRIBUTE TO VELMA M. SLACK****HON. DAN SCHAEFER**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. SCHAEFER. Mr. Speaker, today I rise to pay tribute to a dedicated public servant who is retiring after 35 years with the Federal Government; 33 of them with the Social Security Administration.

Velma, who began her career as a claims development clerk in San Antonio, TX, continued her advancement as a claims representative; then becoming an operations supervisor.

Velma's dedication to the Social Security Administration led to the formation of the first data review unit and training the first data review technicians in the San Francisco region. As a senior staff officer in the Denver Regional Office, she succeeded in getting the offices upgraded. In 1981 Velma was promoted to executive analyst and in 1984 she became the District Manager. In 1986 Velma received the Regional Director's Citation for her excellent work with the Social Security Administration and in 1989, Velma received the Innovative Manager of the Year Award for advancement in automation, productivity, and service to the public.

I would like to commend Velma M. Slack for the years of dedication and hard work in her quest for innovations and improvements in the Social Security Administration. She exemplifies what a dedicated public servant can be and I applaud her and thank her for the 35 years she has given to our Federal Government.

**KIWANIS INTERNATIONAL ANNIVERSARY****HON. C. THOMAS McMILLEN**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 23, 1990*

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to commend Kiwanis International on its 75th anniversary and to congratulate the local clubs of Anne Arundel and Prince

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Georges Counties on years of outstanding community service.

Seventy-five years ago this month Kiwanis was established in Detroit, MI, and a rich tradition of compassion and generosity began. Over the years the organization has grown to 320,000 members in more than 8,500 clubs in 74 nations. Its name has been associated with everything from promoting democracy worldwide to fighting the drug problem here in America's schools. And I'm proud to say I'm a member of the Kiwanis Club of Crofton, MD.

In recent years, the organization has emphasized the serious problem of drug and al-

#### EXTENSIONS OF REMARKS

cohol abuse among our young people. Yesterday, Kiwanis International launched Operation KNOW in a dozen cities nationwide to educate the children of America to the dangers of substance abuse. Operation KNOW includes sing-alongs, informational games, skits, and special events to get children involved.

Locally, Maryland Kiwanis clubs have used their own funds and a grant from the State of Maryland to sponsor a number of innovative programs aimed at the drug problem. Among them have been several "Just Say No" days and "Positive Peer Scene Theatre," a group of high school youngsters who present power-

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ful improvisational theater performances about adolescent problems to school assemblies, civic and community service organizations, and others.

Mr. Speaker, people have said the spirit of voluntarism is dying in America, but I know a place in every community where it is alive and well: it is in the local chapter of the Kiwanis International, and I'm proud to come before you today to salute this fine organization and its members.