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House of Representatives

The House was not in session today. Its next meeting will be held on Wednesday, September 6, 1995, at 12 noon.

Senate

THURSDAY, AUGUST 10, 1995

(Legislative day of Monday, July 10, 1995)

The Senate met at 9:09 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord of all life, we thank You that You are concerned about all aspects of our life as a nation. Therefore, no problem we face is too big for You and no detail too small to escape Your attention. That is a great assurance, Lord. We can ask for Your wisdom for our most momentous deliberations and also receive Your guidance in the most mundane decisions. We are responsible to You for how we appropriate the money entrusted to us for the welfare and good of this Nation. You have made this Senate a steward of Your resources. Bless the Senators as they deal with practical matters of transportation—roads, airlines, and railroads, and concerns about defense. Grant them a sense of partnership with You in seeking Your best for all phases of our life. Throughout this day keep them mindful of Your presence and receptive to Your power. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, for the information of all Senators, the Senate is immediately resuming the consideration of the Transportation appropriations bill this morning.

Following 4 minutes of debate, the Senate will begin several consecutive rollcall votes on or in relation to the pending amendments to the Transportation appropriations bill. Following the disposition of the Transportation bill, it may be the intention of the majority leader to resume consideration of the DOD authorization bill. There can also be a cloture vote on the DOD authorization bill. But I will not set a time for that until I have a chance to consult with the Democratic leader. I understand they have a meeting this morning. I am certain we will work it out to everybody's satisfaction.

Senators should therefore expect further rollcall votes and a late-night session. As a reminder, a cloture motion was filed yesterday on the DOD authorization bill. Therefore, Senators may file first-degree amendments up to the hour of 1 p.m. today.

I yield 1 minute to the Senator from Alaska.

The PRESIDENT pro tempore. The Senator from Alaska is recognized.

(The remarks of Mr. MURKOWSKI pertaining to the introduction of S. 1144 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2002, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2002) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

Pending:

(1) Jeffords-Leahy amendment No. 2337, to provide for the allocation to certain airports with respect to which commercial air service has been disrupted during the past 3 years, an annual subsidy under the essential air service program under subchapter II of chapter 417 of title 49, United States Code.

(2) Roth amendment No. 2340, to strike out sections 350 and 351, relating to waivers of the applicability of certain Federal personnel laws and procurement laws to the Federal Aviation Administration.

(3) Burns amendment No. 2341, to protect shippers in a captive shipper state.

(4) Pressler amendment No. 2345, to provide funding for rail freight infrastructure.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER (Mr. ASHCROFT). The pending question is amendment No. 2340. Two minutes to a side have been allocated for debate prior to the vote.

The yeas and nays have been ordered. Who yields time?

AMENDMENT NO. 2337 WITHDRAWN

Mr. DOLE. Mr. President, before we have the debate, I ask that the Jeffords amendment be withdrawn.

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

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

So the amendment (No. 2337) was withdrawn.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

AMENDMENT NO. 2340

Mr. ROTH. Mr. President, the Roth-Glenn amendment would strike the waiver that would free the FAA from being required to comply with Federal personnel and procurement policies. This waiver is bad policy; it sets a bad precedent; it is legislation of a most unfortunate type on an appropriation bill. With this waiver, the FAA could ignore Federal personnel and procurement policies and create whatever policies it sees fit. It could pay as little or as much as it wants; create new pensions; ignore such laws as competition in contracting.

Make no mistake, this waiver would result in serious controversy and litigation.

Mr. President, Senator GLENN and I are the ranking member and chairman of the Governmental Affairs Committee, which is the committee of jurisdiction on personnel and procurement policies. We stand ready to work with the FAA in reforming these policies, as we believe reform is necessary. But, we have received no request for any such waiver from the FAA.

In fact, last year, we gave the FAA authority to test waivers of procurement laws. But, this bill proposes a blanket exemption before we know the results of that test. Moreover, the GAO found the FAA's problems are not the procurement or personnel laws, but a lack of adequate management. The FAA cannot properly define what it wants to buy, estimate its costs, or administer its contracts.

If the Glenn-Roth amendment fails, mark my words, today is the day that the Senate gives birth to the next major procurement horror story. We are rewarding incompetent managers with more money and no accountability. We are putting both billions of dollars and lives at risk. I encourage my colleagues to defeat the motion to table this amendment.

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

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, very briefly, I would like to indicate the reason the Appropriations Committee brought this language to the floor. This was at the behest of the FAA and the administration saying we have a crisis, a very serious crisis in air safety, because the FAA, as administrators, for years have said they needed to get some kind of change in these rules. Secretary Peña and Administrator Hinson face this today.

One example: The FAA is the world's largest consumer of vacuum tubes and there is, in this bill, a requirement to use $7 million to buy more when the private sector has thrown this technology out 20 years ago. Consequently, we have to recognize that it is a safety factor that involves this language. We did not make up this language.

Last night, there was discussion and debate saying, well, what is the role of the administration? We ought to get a clarification. Government Operations people said they have been ready to talk. Let me give you a recitation. We have a second letter. We had a letter from OMB supporting this. Secretary Peña sends us a second letter reiterating the vital importance to give them this kind of support.

DOT says they have talked to Governmental Affairs. DOT does support the committee provision. The National Performance Review, headed by Vice President GORE, specifically called for a special exemption for the FAA given its crisis situation.

So it is a very clear picture here because of whatever—I am not making any criticism to any committee. Senator LAUTENBERG and I have been following the support and the requests of the administration to help them out of this crisis for the sake of safety of our national airlines. Therefore, we will drop this language in conference if we can work out the solution.

In the meantime, I urge that we vote to table the Roth amendment.

The PRESIDING OFFICER. The question is on the motion to table the amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of illness in the family.

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

The result was announced—yeas 59, nays 40, as follows:

[Rollcall Vote No. 381 Leg.]

YEAS—59

Ashcroft	Gramm	McConnell
Bennett	Grams	Mikulski
Boxer	Gregg	Moynihan
Breaux	Harkin	Murkowski
Bryan	Hatch	Murray
Burns	Hatfield	Nickles
Campbell	Helms	Packwood
Coats	Hollings	Pressler
Cochran	Hutchison	Reid
Conrad	Inhofe	Robb
Coverdell	Jeffords	Rockefeller
Craig	Johnston	Santorum
D'Amato	Kempthorne	Sarbanes
DeWine	Kerrey	Shelby
Dole	Kerry	Simon
Domenici	Lautenberg	Simpson
Feinstein	Leahy	Thomas
Frist	Lott	Thurmond
Gorton	Lugar	Warner
Graham	Mack	

NAYS—40

Abraham	Cohen	Heflin
Akaka	Daschle	Inouye
Baucus	Dodd	Kassebaum
Biden	Dorgan	Kennedy
Bingaman	Exon	Kohl
Bond	Faircloth	Kyl
Brown	Feingold	Levin
Bumpers	Ford	Lieberman
Byrd	Glenn	McCain
Chafee	Grassley	Moseley-Braun
Nunn	Smith	Thompson
Pell	Snowe	Wellstone
Pryor	Specter	
Roth	Stevens	

NOT VOTING—1

Bradley

So the motion to table the amendment (No. 2340) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2341

The PRESIDING OFFICER. On amendment No. 2341, there are now 4 minutes equally divided.

Who yields time?

The Chair informs the Senate that time is running for both sides.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BURNS. Mr. President, the next amendment is my amendment that we talked about last night.

Mr. BYRD. Mr. President, may we have order in the Senate so we can understand what the amendment is about?

May we have order?

The PRESIDING OFFICER. The Senate will suspend.

Mr. BYRD. Mr. President, I hope the Senator will not begin his explanation until we get order and we can hear what he says.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BURNS. The amendment was nothing but language that would protect those States who are captive shippers if we phase out the ICC. I understand that was the intent of the budget resolution, and that is the route that we are taking. This language does nothing but protect those States who are captive shippers because in my State of Montana, I think there is only one, or maybe two, that would fall under that definition, because right now we have a circumstance where the freight rates on wheat shipping and on agricultural commodities shipped from Montana to Portland cost more than it does to ship from Omaha to Portland—to the same point—at a longer distance.

I understand there is some confusion. I visited with the chairman of the Appropriations Committee and have been assured that there will be money enough for a transition from the ICC to the Department of Transportation. If that be the case, then I would consider withdrawing this amendment altogether.

Mr. HATFIELD. I respond to the Senator from Montana by indicating two

points: The first is the transition has yet to be blueprinted by the authorizing committee. Second, the House has $21 billion in theirs and we have $18 billion in ours for that orderly transition. We feel that by the time, hopefully, that we go to conference, we will have a little more clearer signal of how the transition is going to occur. We are willing to certainly have adequate figures, if that means yielding to the House for the figures for the transition.

Mr. BURNS. I think that would be the proper way, and that gives the Commerce Committee time enough. I know there is some concern by the ranking member and the chairman of the Commerce Committee. That would be the proper way to do it. I would rather do it through the authorizing committee than this way. But what I was afraid of is that I did not want to leave my farmers and people who ship agricultural commodities exposed during that transition because we are in that kind of a situation of being a captive shipper.

The PRESIDING OFFICER. Under the previous order, time for debate has expired.

AMENDMENT NO. 2341 WITHDRAWN

Mr. BURNS. Mr. President, I ask unanimous consent to withdraw this amendment.

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

So the amendment (No. 2341) was withdrawn.

Mr. BURNS. I yield the floor.

AMENDMENT NO. 2345

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota, Senator PRESSLER, No. 2345. There are 10 minutes equally divided for debate.

Who yields time?

The Senator from South Dakota.

AMENDMENT NO. 2345, AS MODIFIED

Mr. PRESSLER. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment is so modified.

The amendment (No. 2345), as modified, is as follows:

At the appropriate place in the bill insert the following:

On page 26, line 15, strike ''1996.'' and insert ''1996, except for not more than $50,000,000 in loan guarantee commitments during such fiscal year (and $5,000,000 is hereby made available for the cost of such loan guarantee commitments).''.

On page 54, line 5, strike ''$5,000,000'' and insert ''$12,500,000.''

On page 54, line 8, strike ''$99,364,000'' and insert ''$91,864,000''.

On page 26, between lines 15 and 16, insert the following:

LOCAL RAIL FREIGHT ASSISTANCE

For necessary expenses for rail assistance under section 5(q) of the Department of Transportation Act, $12,000,000.

On page 3, line 6, strike ''$9,710,000'' and insert ''$6,336,667''.

On page 6, line 13, strike ''$139,689,000'' and insert ''$134,689,000''.

On page 18, line 1, strike ''$5,000,000'' and insert ''$9,600,000''.

Mr. PRESSLER. Mr. President, I would first like to extend my appreciation to the managers of the bill, Senators HATFIELD and LAUTENBERG, for agreeing to permit me to offer this amendment. We spent a good deal of time last night working in good faith to reach an agreement on proceeding forward on my proposal. I very much appreciate their assistance and that of their staffs and the staffs of several other Senators.

My perseverance on this matter is because of its great importance to my State and almost every other State. My amendment would provide funding for the Local Rail Freight Assistance Program and the Section 511 Loan Guarantee Program. These programs are critical to addressing our Nation's rail freight infrastructure needs.

Adequate investment in our Nation's transportation infrastructure makes for wise use of our very limited Federal resources. Therefore, as we consider this appropriations bill, we must determine funding priorities for our entire national transportation system. In that effort, we must not forget about one very critical transportation mode—rail freight service.

The appropriators were unable to fund the LRFA Program or the section 511 Loan Guarantee Program. I know they have worked hard to consider many funding requests. However, funding for these programs was not allocated. Yet these are the only Federal programs that provide for infrastructure investments in short-line and regional railroads.

As my colleagues know, H.R. 2002 provides a good deal of money to fund rail passenger service. I am proposing we not overlook the importance of rail freight service. Even limited Federal involvement will help to rebuild and improve the raillines serving our smaller cities and rural areas. These secondary raillines are critical to the survival of rural America's economy, but the capital to maintain them is extremely limited.

We have invested billions of dollars in Amtrak as well as high-speed rail initiatives, yet little has been invested in the rail freight lines serving our smaller communities. Federal involvement in rail service should not be limited to rail passenger transportation. Certainly, Amtrak and high-speed rail are important. However, for States like South Dakota, which has no Amtrak service and will never benefit from high-speed rail, funding for freight rail infrastructure is even more important.

The LRFA Program has proven to play a vital role in our Nation's rail transportation system. This program was created in 1973 and has helped States save raillines that otherwise would be abandoned. LRFA's matching requirements enable limited Federal, State, and local resources to be leveraged. Most of LRFA's success has been due to its ability to promote investment partnerships, thus, maximizing very limited Federal assistance.

Historically, LRFA has received only a very modest level of Federal funding. Only $17 million was provided for LRFA in fiscal year 1995, and then $6.5 million of that amount was rescinded by Public Law 104–6. Yet, LRFA remains very popular.

In fiscal year 1995, 31 States requested LRFA assistance for 59 projects—totaling more than $32 million in funding requests. But less than one-third of funding was available to meet these rail infrastructure needs. With continued railroad restructuring, these legitimate funding needs will only increase.

On July 20, the Senate Commerce Committee approved legislation to permanently authorize LRFA at $25 million annually.

As my colleagues may already know, oftentimes, small railroads face unique problems and difficulties securing needed financing. Unlike other businesses that need short-term loans, smaller railroads need long-term financing for big ticket items, ranging anywhere from equipment to track rehabilitation. Yet, I understand most financial institutions will not make loans that are not repaid within 7 or 8 years. These loan arrangements simply do not work for smaller railroads. Section 511 loans were permanently authorized to address these problems and should be funded.

In this era of significant budgetary pressures, the 511 Program provides a cost effective method of ensuring modest infrastructure investment on a repayable basis. We should support programs like the 511 Program and LRFA that provide excellent leverage of our limited Federal dollars.

The 511 Railroad Loan Guarantee program is permanently authorized at $1 billion, of which approximately $980 million currently is available for commitment. The Credit Reform Act rules require an appropriation for the 511 Loan Program to cover the anticipated loss to the Government over the life of each loan. Based on a fiscal year 1994 appropriation for a 511 project in New York State—the first 511 application processed under the rules of the Credit Reform Act—5 percent of the total loan obligation level must be appropriated.

Several regional and short-line railroads are ready to submit loan applications as soon as the program is appropriated funding. My amendment provides $10 million to enable up to $100 million in loans.

I have worked to find the least painful offset possible. The managers and their staffs, as well as the staffs of several other Senators, helped me in that effort. These programs would be offset by reductions in administrative expenses. I believe we have accomplished a reasoned approach.

Mr. President, LRFA and the 511 Program are worthy programs and should be funded. I urge my colleagues to support my amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. HATFIELD. Mr. President, as much as I would like to respond to the request of the Senator from South Dakota, I have to report to the body of the Senate this account has expired. It is not authorized.

The authorization in the Amtrak bill that was reported ordered out of the Commerce Committee in July has not been filed with any report, so consequently we cannot say it is authorized.

We rescinded the 1995 amount left in their unexpended budget in the rescissions package.

The budget resolution terminated the program in the assumptions of the budget resolution.

So consequently, as much as we might be prone to help, we are doing this within that kind of a framework and therefore, as the Committee on Appropriations tries to follow the authorizers and tries to accommodate to the authorizers, this does not really authorize the program.

So I would move to table the Pressler amendment under those circumstances, unless there is someone else who wants to use some of my time to make further comment.

I might also say it offsets some very vital programs of the next generation of rail and similar such programs in which we have already made commitments in this budget in allocating money for those programs.

I move to table the Pressler amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Pressler amendment 2345, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of illness in the family.

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

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 382 Leg.]

YEAS—56

Bennett	Hatfield	McCain
Biden	Heflin	Mikulski
Boxer	Helms	Moseley-Braun
Breaux	Hollings	Moynihan
Brown	Hutchison	Murkowski
Bryan	Inhofe	Nickles
Chafee	Inouye	Nunn
Coats	Jeffords	Packwood
DeWine	Johnston	Pell
Dodd	Kennedy	Pryor
Domenici	Kerry	Reid
Feinstein	Kohl	Robb
Ford	Kyl	Roth
Frist	Lautenberg	Santorum
Gorton	Levin	Sarbanes
Graham	Lieberman	Shelby
Gramm	Mack	Simon
Simpson	Smith	Thompson
	Thomas	Warner

NAYS—43

Abraham	D'Amato	Kerrey
Akaka	Daschle	Leahy
Ashcroft	Dole	Lott
Baucus	Dorgan	Lugar
Bingaman	Exon	McConnell
Bond	Faircloth	Murray
Bumpers	Feingold	Pressler
Burns	Glenn	Rockefeller
Byrd	Grams	Snowe
Campbell	Grassley	Specter
Cochran	Gregg	Stevens
Cohen	Harkin	Thurmond
Conrad	Hatch	Wellstone
Coverdell	Kassebaum	
Craig	Kempthorne	

NOT VOTING—1

Bradley

The motion to table the amendment (No. 2345) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I ask unanimous consent that two letters from Alice Rivlin relating to the issue we have voted on on the Roth amendment be printed in the RECORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, August 10, 1995.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATFIELD: I understand concerns have been raised about language in the Department of Transportation appropriations bill that would exempt the Federal Aviation Administration from federal personnel and procurement rules, outside the context of the Administration's proposal to make the FAA a government corporation. The Administration is on record as supporting personnel, procurement, and budget reform in the FAA.

The Adminstration's view is that the FAA has a special situation in terms of personnel, procurement, and budget laws, due to its operating demands. The Administration's views should not be considered as a precedent for our views on other possible proposals to exempt government organizations from personnel and procurement rules.

Sincerely,

ALICE M. RIVLIN.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, August 10, 1995.

Hon. MARK HATFIELD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Administration strongly supports reform of the personnel and procurement practices of the Federal Aviation Administration.

The Administration called for such reforms in the comprehensive FAA reform legislation submitted on March 30, 1995, to create an Air Traffic Control Corporation. Air traffic control is unlike any other government function, in that it is the only 24-hour-a-day, 365-days-a-week government operation that activities of an entire industry. Moreover, the budget constraints we face in the coming years requires that we take actions now to give the Department and the FAA the flexibility it needs to staff and operate critical safety functions. There are urgent needs for ensuring the safety and effectiveness or our air traffic control system as we move into the next century. We greatly appreciate your attention and the attention of the Senate Commerce Committee to this central issue.

Sincerely,

ALICE M. RIVLIN.

COMMITTEE RECOMMENDATION FOR TRANSIT

Mr. DOMENICI. Mr. President, I seek recognition to engage in a colloquy with the distinguished chairman and ranking member of the Appropriations Committee regarding the funding provided through the Federal Transit Administration for section 3 projects.

Mr. HATFIELD. I will be pleased to discuss this matter with the Senator from New Mexico.

Mr. LAUTENBERG. I am pleased to join in the colloquy.

Mr. DOMENICI. Mr. President, the State of New Mexico, like many of our Western States, has more highway transportation than rail or transit. Very seldom do I receive a request for assistance from a town or city for assistance with their local transit systems.

However, after the Senate Appropriations Committee considered this bill, I did receive a request from the city of Taos, NM for funding through the section 3 program of the Federal Transit Administration for a small amount to support maintenance facilities and ADA-equipped buses.

As the chairman knows, the retrofitting requirements for buses and other transportation systems under the Americans With Disabilities Act is very costly for small jurisdictions in particular.

I realize that the committee has fully subscribed the section 3 program in the bill. I would hope, however, that should the full amount currently in the bill not be utilized in conference, that the committee might give this important request its consideration for inclusion in the final bill.

Mr. HATFIELD. Although it is difficult to anticipate the disposition of the section 3 funding in conference, I believe the conferees would be willing to consider this request at the appropriate time.

Mr. LAUTENBERG. I, too, think the conferees could consider this request when it considers the section 3 funding.

Mr. DOMENICI. I would appreciate review and consideration of this matter in conference. I thank the distinguished chairman and ranking member for their time.

ESSENTIAL AIR SERVICE

Mr. DASCHLE. Mr. President, Senator PRESSLER and I would like to engage the distinguished chairman of the Appropriations Subcommittee on Transportation, Senator HATFIELD, and the distinguished ranking member of the subcommittee, Senator LAUTENBERG, in a colloquy on H.R. 2002, the

fiscal year 1996 transportation appropriations bill and essential air service [EAS].

Mr. HATFIELD. Mr. President, Senator LAUTENBERG and I would be happy to discuss the EAS provisions in the appropriations bill with the Democratic leader, Senator DASCHLE, and the distinguished chairman of the Commerce Committee, Senator PRESSLER.

Mr. PRESSLER. Mr. President, before discussing the EAS provisions in the bill, I would like to take this opportunity to commend the chairman and the ranking member on the Transportation Appropriations Subcommittee for the fine work they did on this bill. As chairman of the Commerce Committee, I understand the difficult choices they had to make and the limited resources they had at their disposal.

Mr. HATFIELD. Mr. President, I thank the distinguished chairman of the Commerce Committee for his kind remarks.

Mr. DASCHLE. Mr. President, Senator PRESSLER and I understand the fiscal year 1996 transportation appropriations bill, as approved by the Appropriations Committee, limits EAS subsidies for those communities that, first, are located fewer than 75 highway miles from the nearest large, medium, or small hub airport; and, second, require a rate of subsidy per passenger in excess of $200, when that community is less than 200 miles from a large or medium hub.

Mr. LAUTENBERG. Mr. President, the Senator is correct.

Mr. HATFIELD. Mr. President, that is also my understanding.

Mr. DASCHLE. Mr. President, under those restrictions using 1993 data, it is our understanding that Brookings, SD and Mitchell, SD would no longer be eligible for EAS subsidies because they are located more than 75 miles from the Sioux Falls airport. As my colleagues on the Appropriations Subcommittee on Transportation know, under data compiled by the Department of Transportation in 1993, the Sioux Falls airport was determined to be a small hub.

Mr. HATFIELD. Mr. President, the Senator is correct. The Department of Transportation determined that the Sioux Falls airport was a small hub in 1993.

Mr. LAUTENBERG. Mr. President, that is also my understanding.

Mr. PRESSLER. Mr. President, Senator DASCHLE and I also understand that preliminary data compiled by the Department of Transportation for 1994 indicates that enplanements have declined at the Sioux Falls airport to such an extent that it will no longer be considered a small hub.

Mr. LAUTENBERG. Mr. President, it is our understanding that the Sioux Falls airport, in fact, will no longer be considered a small hub according to preliminary data compiled by the Department of Transportation for 1994.

Mr. PRESSLER. Mr. President, it is our understanding that since the Sioux Falls airport will not be considered a small hub, Brookings and Mitchell, SD will be further than 75 miles from a large, medium, or small hub and, consequently, will continue to be eligible for EAS subsidies.

Mr. HATFIELD. Mr. President, the Senator is correct. The administration will be using the most current data that they have available when administering the program in fiscal year 1996.

Mr. LAUTENBERG. Mr. President, that is also my understanding.

Mr. PRESSLER. I want to thank the chairman and the ranking member of the Appropriations Subcommittee on Transportation for their clarification and assurance.

Mr. DASCHLE. Mr. President, I, too, would like to thank my distinguished colleagues for this clarification.

Mr. WARNER. Mr. President, I rise to discuss my concerns with some legislative provisions in this appropriations bill and to pledge to continue working with my colleagues on the Appropriations Committee to correct these deficiencies.

First, I must state that I regret that the committee recommends $1 billion less for highway programs than Congress approved in 1995. These funds are available in the highway trust fund and must be fully utilized so that our States can maintain an efficient transportation system, one able to compete in a global marketplace.

This bill also contains legislative provisions that are under the purview of the Committee on Environment and Public Works. I concur with the committee's recommendation, with some technical adjustments, to provide States with increased flexibility to address the section 1003 provision in ISTEA which could result in a 13-percent reduction in State apportionments in Federal-aid highway funds in 1996. This fix will allow States to trade in unobligated balances from prior years to restore fiscal year 1996 apportionments.

As the chairman of the Environment and Public Works Subcommittee on Transportation and Infrastructure, I can assure my colleagues that we have been working on a resolution to this situation for the past several months. When the Senate was considering S. 440 to designate the National Highway System, there was no consensus among the States and the Department of Transportation on how best to fix the section 1003 problem. This compromise clearly addresses a critical problem the States will be facing at the beginning of the new fiscal year, on October 1. For this reason, I support its addition to the appropriations bill.

However, I do not support the provision which provides for regional infrastructure banks as currently drafted. No emergency situation exists which requires the Congress to prematurely adopt this proposal. I am generally favorable to innovative finance solutions which would allow States to leverage their funds to address the backlog of infrastructure needs. Several provisions were incorporated into the National Highway System legislation to grant States new authority in this area.

The regional infrastructure bank proposal put forth in this legislation is unworkable for our States and unlikely to achieve its intended purpose. Primarily, I strongly oppose the requirement that State infrastructure banks be regional before a State can have access to airport funds. The Federal Highway Administration advises me that their interpretation of this provision requires that there be multistate banks before any of these funds could be utilized.

While I believe there is merit to voluntary State infrastructure banks where States determine if their highway funds should be used for this purpose, I fundamentally reject the comingling of airport and highway funds as permitted in this proposal. Highway trust fund dollars are collected by a tax motorists pay on gasoline for the direct purpose of constructing and maintaining our surface transportation system. We would be breaking faith with our citizens each time they buy a gallon of gasoline if we allow these funds to be used for airport purposes.

As I have previously mentioned, it appears that this provision will be very difficult for our States to implement. There are only a few large States that currently have the ability to take advantage of this provision. Many States would have to change their State constitutions or State laws to create these regional infrastructure banks to allow the mixing of multistate funds.

Mr. President, it is my hope that the chairman of the Appropriations Committee will continue to work with us on this very complex and important matter which could change the direction of financing our Nation's infrastructure needs. When the Senate goes to conference on the National Highway System legislation, it is my intention to address the need for voluntary State infrastructure banks, in cooperation with State departments of transportation and other users of our surface transportation system.

Mr. BINGAMAN. Mr. President, I rise today to commend the two floor managers of the bill, the distinguished Senator from Oregon, Senator HATFIELD, and the distinguished Senator from New Jersey, Senator LAUTENBERG, and their staff, for their excellent and efficient management of the fiscal year 1996 Appropriations Act for the Department of Transportation.

I would like to take a few moments to discuss an amendment I offered last night, which passed by voice vote without objection. My amendment encourages agencies funded under the bill to become more energy efficient and directs them to reduce facility energy costs by 5 percent. The agencies will report to the Congress at the end of the year on their efforts to conserve energy and will make recommendations for

further conservation efforts. I have offered this amendment to every appropriations bill that has come before the Senate this year, and it has been accepted to each one.

I believe this is a common-sense amendment: The Federal Government spends nearly $4 billion annually to heat, cool, and power its 500,000 buildings. The Office of Technology Assistance and the Alliance to Save Energy, a nonprofit group which I chair with Senator JEFFORDS, estimate that Federal agencies could save $1 billion annually if they would make an effort to become more efficient and conserve energy.

Mr. President, I hope this amendment will encourage agencies to use new energy savings technologies when making building improvements in insulation building controls, lighting, heating, and air-conditioning. The Department of Energy has made available for government-wide agency use streamlined energy saving performance contracts procedures, modeled after private sector initiatives. Unfortunately, most agencies have made little progress in this area. This amendment is an attempt to get Federal agencies to devote more attention to energy efficiency, with the goal of lowering overall costs and conserving energy.

As I mentioned, Mr. President, this amendment has been accepted to every appropriations bill the Senate has passed this year. I am pleased my colleagues support it, and again, I thank the floor managers for their assistance. Thank you.

TERMINAL DOPPLER WEATHER RADAR (TDWR)

Mr. JOHNSTON. Mr. President, windshear remains the primary weather-related threat to airline safety. The FAA originally established a requirement for 102 TDWR systems for the U.S. airports that have significant risks from windshear—severe weather exposure. To date, 47 TDWR systems have been purchased; 55 systems remain to be acquired and installed.

The Senate Appropriations Committee was under severe budget restrictions, but did add funding of $2,500,000 above the FAA request for the installation of a previously purchased TDWR at Las Vegas and for the environmental impact statement process in New York. The House added funding for five new TDWR's.

Baton Rouge and Shreveport have been identified as airports in need of TDWR systems to identify windshear. Both the chairman and ranking Member spoke of the need for additional funding for worthy projects. While I fully understand the budget constraints on all of the appropriations bills, I would encourage the conferees to review the potential for saving lives that these systems bring to those of us who travel, or have loved ones who travel by air.

LOW ROLLING RESISTANCE AND TIRE GRADING STANDARDS

Mr. GLENN. Mr. President, I rise today to address a question raised by the committee during its consideration.

A provision included in the House passed bill provides that none of the funds appropriated by the act may be obligated or expended to plan, finalize, or implement any rulemaking to add to section 575.104 of title 49 of the Code of Federal Regulations any requirement pertaining to a grading standard that is different from the three grading standards—treadwear, traction, and temperature, already in effect.

The Senate subsequently struck this provision. While I appreciate the committee's position on this provision and understand the difficulty faced by the committee as it deals with the regulatory process, I wanted to make clear my concerns about the proposed regulations regarding tire grading standards.

As part of a response to the President's Climate Change Action Plan, the National Highway Traffic Safety Administration [NHTSA] has issued a notice of proposed rulemaking to amend the uniform tire quality grading standards [UTQS] to replace the temperature resistance grade with a rolling resistance/fuel economy standard.

This proposal is currently under consideration by NHTSA and if implemented, tire manufacturers are required to add a new rolling resistance grading standard whose value I believe is questionable.

The proposed regulation assumes that lower rolling resistance will reduce fuel consumption. While there is some validity to the premise, in practice it is uncertain and other factors beyond rolling resistance contribute. If low rolling resistance does not effectively reduce fuel consumption then any demonstrated environmental impact is diminished.

Tire design is a matter of tradeoffs. For every positive feature some allowance may be made for a reduction in other characteristics. Lower rolling resistance can compromise traction or treadwear and therefore safety. I believe that these tradeoffs have not been adequately reviewed.

I am concerned that the cost to both industry and the consumer will outweigh any benefit. I understand that the additional cost of each tire is estimated to be $22 and that even after potential fuel savings are included, the consumer will not pay for the investment.

Tire manufacturing is already a globally competitive industry. Additional costs could impact that competitiveness. This rule would also raise a question regarding nontariff trade barriers.

I raise these concerns so that the committee will be fully aware of these issues as it proceeds to conference and that these questions can be considered as it continues its work on this bill.

Mrs. BOXER. Mr. President, this appropriations bill providing funds for the agencies of the Department of Transportation is truly bittersweet for this Senator from California.

Although there is much in this bill that will benefit my State, however, the budget cuts are deeply disturbing. The bill is $1 billion less in total spending for transportation over funding for the current fiscal year. These cuts were foreseen when the Senate voted for the Republican budget resolution. I opposed the budget resolution, in part because of how these drastically lower budget levels would block our progress in repairing and improving our infrastructure and reinvigorating our economy. This is a budget largely in retreat from the challenges ahead.

Our air traffic control system is in crisis. Wednesday's power failure of two of the three power generators—while the third was off line for maintenance—at the Air Route Traffic Control Center at Oakland, CA, was only the latest failure of our aging, 1950's and 1960's era air traffic control system. The Oakland center lost all radar, flight data processing and communications system power. Power was restored in just over an hour but only after causing serious disruptions and threats to air safety for about 60 to 70 aircraft in the area.

Sufficient funding for critical air traffic control improvements must be a priority. The bill provides $8 million for air traffic management technology which was not funded by the House. This funding is key to avoid delays in the development of new traffic flow management capabilities for the air traffic control system. At $12 million, the bill maintains the current year's level of funding for system capacity, planning and improvements, but it is double the House level. Air safety technology is increased overall from $30 million by the House to $40.5 million in the Senate.

However, I am concerned that neither the House nor the Senate funded the administration's request for $1 million in cabin safety technology research. As the former chair of the House Government Activities and Transportation Subcommittee, I can attest to the ongoing need for Federal efforts for improved cabin safety, particularly in reducing flammability and improved exiting.

I also join with the ranking member, Senator LAUTENBERG, in deploring the cuts in incentive pay for our overworked air traffic controllers. I support his efforts to try and restore some of these funds in conference with the House.

Despite tough budget cuts, we have cause to praise other elements of this bill that deserve recognition. In recognizing the scarcity of transportation project funds, the committee crafted an innovative financing plan based on the administration proposals. Although the plan is not as well funded from the Federal side as I had hoped, it will permit California to obtain attractive, private sector financing for major infrastructure improvements.

The bill creates State and regional infrastructure banks, providing $250

million in Federal general revenue funds and permitting States to allocate up to 10 percent of their Federal highway dollars. Funds deposited in these banks will capitalize a revolving loan program and enable the States to obtain a substantial line of credit. The infrastructure banks will assist a variety of projects, including freight rail, aviation and highway projects. This assistance would be in the form of financing for construction loans, pooling bond issues, refinancing outstanding debt and other forms of credit enhancement.

California will receive $21 million for this purpose, the highest of any State.

I am pleased that the Senate unanimously accepted my amendment to ensure that California, and other States which already have authorized State infrastructure banks, could participate and not be required to form multi-State compacts as provided in the bill. This will help the State move quickly on a financing program.

I am also pleased that the committee, at my request, cited in its report the Alameda Transportation Corridor project to improve the rail and highway access to the Port of Los Angeles and Long Beach as a fine example of a project that could benefit from this financing. I hope that the State will decide to use this option to help the Alameda Corridor project. This financing could also benefit the efforts in San Diego to reopen the 108-mile San Diego and Arizona Eastern Railway, providing San Diego companies direct access to El Centro-based rail networks to the Eastern United States and the interior of Mexico.

These are important infrastructure projects of both State and national significance and will help expand trade and create jobs.

California benefitted from several individual projects in this bill.

In particular, I had personally urged members to support the President's request for $22.6 million for the bay area rail program. This funding is vital for the airport expansion project of the Bay Area Rapid Transit District and the light rail program along the Tasman Corridor in Santa Clara. Not only did the Senate more than double the level provided by the House, but the funding is directed for the bay area program and not limited to BART. This is an important distinction. The bay area program is a careful regional compromise to provide needed passenger rail transportation improvements. The House funding directed only to BART is an inappropriate interference with this local program.

Unfortunately, the bill also severely under funds the Metro Red Line [MOS–3] extension in Los Angeles. The $45 million is drastically below the $159 million requested by the President and $125 million set by the House.

However, despite my urging for the committee to approve the President's request, I am not surprised by the cut. The problems in subway construction, particularly the lack of adequate oversight and maintenance of construction standards, combined with the disunity among local officials resulted in this severe cut. I am hopeful that we can persuade the House and Senate conferees to at least meet halfway to provide $85 million for the program.

Despite this cut, the committee nearly doubled the House level for the Gateway Intermodal Center in Los Angeles, providing $12 million to complete the facility which will house the central connections for the subway, commuter rail and interstate passenger rail traffic.

I am also pleased at the $8 million set aside for the Advanced Technology Transit Bus, the so-called stealth bus that uses the expertise that Northrop developed for the stealth fighter into a high-tech urban transit bus for the next century. This funding—above the President's request—will ensure that we will have prototypes ready to roll in the fall of 1996.

The bill includes my request for $4.5 million to the bay area transit systems to help them implement the Americans with Disability Act requirements. These improvements include fixed-route improvements for the Contra Costa Transit District, a replacement van for Western Contra Costa County Transit Authority, 25 vans for San Francisco Muni, and 20 paratransit vehicles, signs and bus stop improvements for the Santa Clara County Transit District.

There is $10 million that I requested for a San Diego-Mexico border bus/highway center. The San Ysidro Intermodal Transportation Center operated by the Metropolitan Transit District Board will provide improved traffic circulation improvements at this major United States-Mexico border crossing.

There is $10.56 million that I requested for the San Joaquin Rapid Transit District in Stockton. The district has an extensive bus replacement program for this rapidly growing area with serious air quality problems. Funding will help provide seven replacement and 10 expansion buses using Compressed Natural Gas technology. Another 17 replacement and 6 expansion buses are needed for demand response services and 25 vans for alternative transportation services.

The bill also provides $3 million to the Long Beach Transit District for its bus replacement and parts program.

Mr. President, although this bill hardly provides everything we need in California to erase our infrastructure deficit, at least California received a fair share of the funds provided and provides tools for leveraging scarce Federal dollars.

Mr. MCCAIN. Mr. President, I want to applaud the Appropriations Subcommittee on Transportation for its good work on the fiscal year 1996 transportation appropriations bill. They produced a relatively pork-free bill and for that they deserve much credit.

I did want to specifically note two provisions in the bill which do cause me concern.

The bill mandates that $15,000,000 for debt retirement of the Port of Portland, OR. I strongly object to this earmark being included in the bill.

There are many communities around the country which have outstanding bonds and debt which they must pay. Those cities and localities are working hard to better their fiscal condition. But they are doing it on their own initiative. They are not receiving a Federal bailout. And, Mr. President, that is exactly what this provision is: a Federal bailout.

It is unfair to those many communities that we are using the Federal largesse to help one specific city on the basis of less than compelling factors.

Additionally, the bailout is not truly necessary.

Proponents of the bailout claim the port is owed this money because a proposed change in law included in the Alaska Power Administration Sale Act which is pending in Congress, will adversely affect the port's financial viability and alter a longstanding Federal-State agreement. While it is true that we are proposing to change the law, such a change, I believe will not adversely affect the Port of Portland in the long run.

Under current law, Alaskan oil is carried by U.S.-flag ships from Alaska to the Port of Portland. Because of the large amount of ship traffic, the port has stayed relatively busy. Port officials are concerned, however, that if these same ships are allowed to carry this oil across the Pacific that they will have their repairs done in Asia, which will result in a loss of business for the Port of Portland.

I believe this fear to be unfounded and thus the bailout not truly necessary. United States law requires that Alaskan oil must be carried in U.S.-flag ships. Additionally, these tankers must pay a 50-percent duty for any repairs made in a foreign port. This is a strong disincentive for such operators to have repair done outside the United States. As a matter of fact, the additional wear and tear on these ships generated by their extensive travel may result in an even greater use of the Port of Portland in the long run.

Additionally, close examination of the port's financial reports show that the shipyard's fiscal strength began to decline in the mid-1980's. Therefore, it is hard to believe passage of any legislation in 1995 would be responsible for a 10-year slow decline of the port's business.

Further, while the shipyard has been in decline, other assets held by the port have been rapidly growing. The Port of Portland controls and operates a seaport, Portland International Airport, and several real estate holdings in the Portland area. Portland International Airport is one of the fastest growing airports in the Nation. In 1994, the number of passengers using the airport

increased by 16 percent and the amount of freight increased 14 percent. The shipping activities of the seaport have also been growing—outpacing the growth of all other seaports on the west coast. There is no reason to believe that this growth will not continue to occur.

These booming holdings of the Port of Portland should be more than able to help the port during any further economic decline, and thus there is no need for Federal assistance to this local—not Federal—entity.

I also want to note my dismay over a provision added to the bill that would mandate that the General Services Administration and the Department of Agriculture transfer Federal land to the city of Hoboken, NJ.

Mr. President, I raise this not to debate whether the land in Hoboken should or should not be transferred to the city. I am told by GSA that they would not oppose such a transfer and that the Federal Government has no further use for the land.

I raise this issue because there is an administrative procedure in place that governs the disposal of excess or unneeded Federal property. That administrative procedure is designed to ensure that all parties are treated fairly, and that the Government's—and the taxpayer's—best interests are paramount. By adding a provision to this bill to mandate the immediate disposal of this Federal land, the proper process is being circumvented. Elected officials, and the public, have no way to know if we are doing the right thing when the proper, open process is circumvented. We can only speculate that this transfer is truly in the public's interest, not to mention that bypassing appropriate procedures invites others to do the same which is neither fair nor in the public interest.

Both of the provisions I have mentioned should not be in this bill and I would hope they would both be dropped in conference.

I yield the floor.

Mr. HATFIELD. I believe the Senator from Arizona, [Mr. MCCAIN], desires to have a brief colloquy before we go to final passage.

Mr. McCAIN. Mr. President, I will say to the Senator from Oregon, the distinguished chairman, in light of the failure of the tabling motion of this language concerning the FAA procurement and personnel reform, I ask unanimous consent that there be language inserted that that would not take effect until the 1st of April, as we have discussed before, in order that the authorizing committees might have an opportunity to act in an overall broad reformation of the FAA and the funding.

I seek that unanimous-consent request from the chairman of the Appropriations Committee.

Mr. HATFIELD. Mr. President, the Senator is correct. This was a discussion yesterday and last evening as well. We are very happy to join in that unanimous-consent request.

Mr. LAUTENBERG. Mr. President, I agree. I think it is a wise decision and I appreciate the fact that the Senator from Arizona recommended it. It will give the committees an opportunity to do what we wanted them to do in the first place, very frankly, and the reason for the language in the bill. So I think it is a good idea.

Mr. MCCAIN. Mr. President, I ask unanimous consent that language be inserted at the appropriate point in a technical fashion, a technical amendment, in order to make the effective date of procurement reform, personnel reform of the FAA effective as of April 1.

The PRESIDING OFFICER. Is there objection? Will the Senator send his amendment to the desk?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT—S. 1087

Mr. DOLE. Mr. President, while we are waiting, I ask unanimous consent that upon disposition of H.R. 2002, the Department of Transportation and related agencies appropriations bill, the Senate turn to consideration of S. 1087, the DOD appropriations bill. This has been cleared on the other side.

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

Mr. DOLE. Mr. President, let me just say for the information of all Senators, the Senate will begin consideration of the DOD appropriations bill after disposition of the pending matter. In the meantime, various Senators are still negotiating ABM language that has blocked the Senate from concluding action on the DOD authorization bill.

As soon as that language has been agreed to on both sides, if agreed to, it will be my intention to call for the regular order with respect to the DOD authorization bill and complete action on that very necessary authorization bill. Once that has been completed, the Senate will resume the DOD appropriations bill and remain on that item until disposed of. If they do not get an agreement, we will finish the DOD appropriations bill.

There are also a number of nominations we have had a number of inquiries about. Depending on what else happens, we may be able to accommodate some of those requests. I know the Secretary of the Treasury, Secretary Rubin, is very, very concerned about Larry Summers, a Treasury Department nominee. As I understand, there are at least 25 holds on that nomination. I am not certain we will be able to accommodate Secretary Rubin. We will be checking on this side of the aisle to see if there is any opportunity.

Mr. STEVENS. Will the leader yield? I wonder if we can get an agreement that there will be no amendment in order on the Defense appropriations bill dealing with the controversy that surrounds the authorization bill, the ABM Treaty. It makes no sense to go on the appropriations bill if we are going to bring to the floor the people who are negotiating to finally resolve the problem on the authorization bill. I hope there will be an agreement our bill will not have any amendment pertaining to the ABM controversy.

Mr. DOLE. I think we will wait until we get to the bill first.

Mr. STEVENS. I just want everyone to know that while they are here. I am reluctant to take up the bill and get involved in the ABM controversy. As I said, it will bring the people out of the office who are hoping to get that resolved. I will wait, however.

Mr. DOLE. We will wait until we get to the bill.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, we did not object to going to Defense appropriations since it is understood that we can come back to the Defense authorization bill, which we really ought to pass before we pass Defense appropriations.

As I understand it, we will come back to it just as soon as resolution is reached on the question of ABM. Senator NUNN of Georgia, the ranking member, I believe is working hard on that, and others are working from our side. We hope to be able to reach an agreement on that.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2348

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 2348.

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

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

The amendment is as follows:

On page 72, after line 15, insert: ''(c) This section shall take effect on April 1, 1996.''

On page 73, after line 24, insert: ''(c) This section shall take effect on April 1, 1996.''

The PRESIDING OFFICER. Is there objection to the amendment? Without objection, the amendment is agreed to.

So the amendment (No. 2348) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, we are prepared to go to third reading.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read the third time.

The bill was read the third time.

Mr. STEVENS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I expect to detain the Senate for a few minutes.

Mr. President, I commend the chairman of the full Appropriations Committee, Mr. HATFIELD, for assuming the chairmanship of the Transportation Subcommittee.

May I say to Senators I expect to speak 10 or 15 minutes. I do that with some apologies, but I think this is a very important bill, and I will not overly detain my friends. This will not be one of my long speeches. Cicero was asked which of the orations of Demosthenes he liked most. Cicero answered, ''the longest.'' This will not be my longest. However, I have a few things I want to say about this bill.

I have been a member of the subcommittee for many years and have long been an advocate for increased and sustained funding for our Nation's transportation infrastructure. This is fundamental to the economic health of this Nation.

I know that Senator HATFIELD agrees that our Nation's economic prosperity depends heavily on the adequacy of our highways, our airports, our railroads, and transit systems. And as such, Mr. President, H.R. 2002, the Transportation appropriations bill, is a critically important bill for the overall economic health of our Nation. I also want to congratulate not only Senator HATFIELD but also the former chairman of the Transportation Subcommittee, Senator LAUTENBERG, for the expeditious manner in which this bill has been reported to the floor. The bill was passed by the House of Representatives just 2 weeks ago. The Senate Transportation Subcommittee met to report its recommendations to the full committee just 1 week later. The full Appropriations Committee reported the bill to the Senate this past Friday, and the Senate is about to approve the bill.

Senator HATFIELD and Senator LAUTENBERG wasted no time in preparing and advancing a bill once the House of Representatives completed its work. In addition to thanking the managers of the bill, I want to recognize the contributions of the staff of the Transportation Subcommittee, Pat McCann, Anne Miano and Joyce Rose of the majority staff, as well as Peter Rogoff of the minority staff, for their hard work on this bill.

Unfortunately, the House bill, as well as the bill before us, is substantially below a freeze in both discretionary budget authority and outlays. Indeed, the bill before us is a full $1 billion in outlays below a fiscal year 1995 freeze. As such, I fear that this bill continues a trend of Federal disinvestment in our Nation's physical infrastructure. That is why I have taken the valuable time of Senators at this point. I want to make us all aware again of the fact that we have an investment deficit in this country and have had. I pleaded that case when I was at the summit in 1990. I urged that we spend more money on America—on America's people, on America's infrastructure. We not only have a trade deficit, we not only have a Federal budget deficit, we also have an investment deficit. Since 1980, the investment in physical infrastructure has declined, both as a percentage of all Federal spending, and as a percentage of our Nation's gross domestic product. The cuts embodied in this bill only exacerbate this trend—a trend that is both shortsighted and unwise.

Any businessman will tell you that a business cannot prosper for very long if the necessary investments are not continually made in the tools and machinery that provide the engine for that prosperity.

The owner of a small manufacturing plant can, perhaps, delay investments in new tools and machinery for a brief period of time. He may be able to piece that machinery together using temporary fixes. He may be able to cannibalize and hold out for a little while. But over the long haul, more often than not, the failure to adequately invest in that machinery and equipment will prove to be a very expensive mistake. And, in the end, that machinery must be replaced, often at a cost that proves to be considerably higher than the cost of continued and steady maintenance and investment. If it is not, then the plant will fall further and further behind its competitors, and eventually the businessman will go bankrupt. The same is true for our Nation's investment and maintenance of its infrastructure. But, increasingly, in recent years, we have embodied this penny-wise and pound-foolish frugality when it comes to our Nation's transportation infrastructure.

Now, there is a place for frugality, and I am all for that. For the last several months, we have heard much debate on the Senate floor regarding the tragic maladies that are brought about by the Federal budget deficit, maladies that should not be passed on to our grandchildren. The danger of continued budget deficits are very evident, but it is equally true that a less than robust economy only exacerbates our national deficit problem. I would like to take a moment to recount some of the maladies that we will also pass on to the next generation if we continue to fail to adequately invest in our transportation infrastructure.

According to the Department of Transportation, there are currently more than 234,000 miles of the nearly 1.2 million miles of paved, nonlocal roads which are in such bad condition that they require capital improvements either immediately or within the next 5 years. The Nation's backlog in the rehabilitation and maintenance of our Nation's bridges currently stands at $78 billion. According to the Federal Highway Administration, 118,000 of the Nation's 575,000 bridges—more than one of five—are structurally deficient. While most are not in danger of collapse, they do require that heavier trucks be prohibited from using them—an action that has an immediate adverse impact on the Nation's productivity. Another 14 percent of the Nation's bridges are functionally obsolete, meaning that they do not have the land and shoulder widths or vertical clearance to handle the traffic that they bear.

Fully 70 percent of the Nation's interstate highways and metropolitan areas are congested during peak travel times. Such traffic congestion costs the economy $39 billion a year in wasted fuel and low productivity for both passengers and commercial traffic. Congestion also undermines our ability to clean up our Nation's air, since more than 70 percent of the carbon monoxide emitted into the atmosphere comes from motor vehicles. To make matters worse, the Department of Transportation continues to estimate increased road and vehicle use that will put us in even worse shape. It has been estimated that the number of vehicles on our Nation's highways will grow about 8 percent by the year 2000. However, over the same period, freight tonnage carried by our Nation's trucks will grow by more than 30 percent. Yet, under this year's Transportation appropriations bill, and it can be anticipated for each of the next 7 years, we will be required to cut rather than increase our investment in maintaining our Nation's transportation system.

As Mr. HATFIELD, the distinguished chairman of this subcommittee and of the full Appropriations Committee, has said more than once in recent days, as we have marked up our appropriations bill, ''You ain't seen nothing yet. If you think it is tough this year, wait until next year.'' He has said that. He is right.

Just as our Federal funding patterns have ignored the anticipated growth in highway use, so, too, are we ignoring the anticipated growth in airport use. According to the Federal Aviation Administration, the number of enplanements expected at our Nation's airports will grow almost 60 percent over the next decade. If no new runways are added, the number of severely congested major airports will grow by

250 percent. The Federal Aviation Administration estimates that in order to bring existing airports up to current design standards, as well as provide sufficient capacity to meet the projected demand, it will cost no less than $30 billion over the next several years.

Now, Mr. President, we talk about our grandchildren, passing on this great deficit to them. I have grandchildren. I want us to do whatever we reasonably can do to reduce the deficit and to ameliorate the burden that we are going to pass on to those children and those grandchildren.

But we do ourselves and our grandchildren no favor by ignoring these trends and by balancing the Federal budget on the back of critical domestic investments, and at the same time we are talking about passing on to the American people $250 billion in tax cuts. What folly, utter folly.

How can we hope to ensure a prosperous future for our children's children, if we leave the next generation with a transportation network so dilapidated, unsafe, and inefficient that it is a national embarrassment rather than a source of national pride? Unfortunately, the funding allocation granted to the transportation subcommittee is not close to sufficiently accommodate the necessary investments to enable us to even begin to meet the backlog of highway, bridge and aviation needs that exist throughout this nation. How can we hope to bring the budget into balance if we destroy the efficiency and productivity of private industry with a transportation network so seriously inadequate as to cost billions in lost hours and lost profits.

With the ill-advised funding levels contained in this bill, we have put the nation's vital needs on hold. I am sorry to have to impose on the Senator at this time, but I cannot help but contrast this bill with the profligate spending contained in the defense appropriations and authorization bills which this body is considering and is about to consider later today. It has been considering the authorization bill and is about to consider the appropriations bill later today. I can only come to the sad conclusion that we have turned our national priorities on their head and enacted appropriations that reflect the paranoia of the past and not the priorities of the future.

I close with the words of Daniel Webster when he spoke at the laying of the cornerstone of the Bunker Hill Monument on June 17, 1825:

> Let us develop the resources of our land, call forth its powers, build up its institutions, promote all its great interests, and see whether we also in our day and generation may not perform something worthy to be remembered.

I thank all Senators. I yield the floor.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of illness in the family.

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

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 383 Leg.]

YEAS—98

Abraham	Feinstein	Mack
Akaka	Ford	McCain
Ashcroft	Frist	McConnell
Baucus	Glenn	Mikulski
Bennett	Gorton	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grams	Murray
Boxer	Grassley	Nickles
Breaux	Gregg	Nunn
Brown	Harkin	Packwood
Bryan	Hatch	Pell
Bumpers	Hatfield	Pressler
Burns	Helms	Pryor
Byrd	Hollings	Reid
Campbell	Hutchison	Robb
Chafee	Inhofe	Rockefeller
Coats	Inouye	Roth
Cochran	Jeffords	Santorum
Cohen	Johnston	Sarbanes
Conrad	Kassebaum	Shelby
Coverdell	Kempthorne	Simon
Craig	Kennedy	Simpson
D'Amato	Kerrey	Smith
Daschle	Kerry	Snowe
DeWine	Kohl	Specter
Dodd	Kyl	Stevens
Dole	Lautenberg	Thomas
Domenici	Leahy	Thompson
Dorgan	Levin	Thurmond
Exon	Lieberman	Warner
Faircloth	Lott	Wellstone
Feingold	Lugar	

NAYS—1

Heflin

NOT VOTING—1

Bradley

So the bill (H.R. 2002), as amended, was passed.

Mr. HATFIELD. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I would like to take just a moment to do two things. First of all, I would like to pay commendation to an extraordinary staff which worked so long and so diligently on this bill: Pat McCann and Anne Miano and Carole Geagley and Peter Rogoff.

I want to also point out a special situation surrounding our staff person, Joyce Rose. This body has listened to the chairman of the Appropriations Committee over many years, and the ranking member, discuss the uniqueness of our staffs on our Appropriations Committee.

I know that we are served well by staff on all committees. But I want to share with my colleagues a very special happening during the markup last Wednesday during the readout of our bill on transportation.

Joyce Rose, who is a mother of a 10-year-old boy, that boy fell out of a tree and broke both arms, broke his nose and was badly bruised. She spent the time at the hospital, and then appeared on the scene to perform her duties at night when we were doing the readout; back to the hospital, back to her committee functions. I think it not only is the demonstration of a very dedicated and devoted person maintaining her duties as a mother as well as her role as a staff person, but even through the crises and problems that she faced with her child, she was able to—using more hours of the day than anyone else—cover both bases and still perform her duties here on our staff.

I just want to pay her this tribute, and through her example, such tribute to our entire staff.

Mr. President, I move that the Senate insist on its amendments and request a conference with the House on the disagreeing votes of the two Houses and that the Chair appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. INHOFE) appointed Mr. HATFIELD, Mr. DOMENICI, Mr. SPECTER, Mr. GRAMM, Mr. BOND, Mr. GORTON, Mr. LAUTENBERG, Mr. BYRD, Mr. HARKIN, Ms. MIKULSKI, and Mr. REID conferees on the part of the Senate.

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

I also thank my colleagues for assisting us in disposing of No. 6 of the 13 appropriations bills, 6 of the 13.

Now Senator STEVENS will hold forth on presenting the seventh that we hope will be completed expeditiously so that when we leave on our recess—when I leave on recess beginning tomorrow afternoon, I would like to feel that maybe we will all be in that similar position, under the leadership of Senator STEVENS and ably assisted by Senator INOUYE, the ranking member.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that I be allowed to speak on morning business for not to exceed 12 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from North Carolina is recognized.

Mr. FAIRCLOTH. I thank the Chair.

(The remarks of Mr. FAIRCLOTH pertaining to the introduction of S. 1145 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. FAIRCLOTH. I thank you, Mr. President, and I yield the remainder of my time.

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

The PRESIDING OFFICER (Mr. THOMAS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996

The PRESIDING OFFICER. The clerk will report S. 1087.

The bill clerk read as follows:

A bill (S. 1087) making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, 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.

The PRESIDING OFFICER. The Senator from Alaska.

PRIVILEGE OF THE FLOOR

Mr. STEVENS. Mr. President, I ask unanimous consent that the following individuals be given privilege of the floor during consideration of this bill: Susan Hogan, Sujata Millick, and Joe Fengler.

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

Mr. INOUYE. Will the Senator yield?

Mr. STEVENS. Yes, I yield.

Mr. INOUYE. I ask my colleague to add Bobby Scherb and Ryan Henry to that list.

Mr. STEVENS. I so ask, Mr. President.

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

Mr. STEVENS. Mr. President we are now going to begin consideration of what I hope will be the last bill before the recess, assuming that we take up and pass the authorization bill first, and we are prepared to yield at any time to the committee when they are here with a time agreement to finish their bill.

This is the 1996 Department of Defense appropriations bill. The Senate should be aware that we are moving quickly this year on this bill. The House has just started their consideration of the bill and will complete their action when they return in September.

In the Senate, as I have just mentioned, the negotiations on the authorization bill are continuing, but this bill before the Senate now is an original bill. We have to take this procedure. It is somewhat unusual. But that is to enable us to move this bill so it will be ready to pass on to the President before the end of the fiscal year.

We have sought to accommodate to the maximum extent possible the initiatives that have been recommended by the Armed Services Committee in their bill as reported. We have faced a more difficult challenge, though, than any of the other three committees that deal with defense matters in the Congress. We are subject to the budget resolution to an extent that does not apply to the other three. The 602(b) allocation for this bill provided $1.4 billion less in new budget authority than was available to the House, and I am sure that the Senate realizes we are subject to a point of order in complying with section 602(b) allocations, that the point of order does not lie against any bill other than ours.

Compared to the amounts authorized, our allocation is nearly $1 billion less than the amount that was reported by the Armed Services Committee. As a result, there are many matters that were brought before us, requested by Members in particular, that we simply could not accommodate. If there is some reallocation of budget authority as we go through conference, we will, of course, work very hard to address those matters that cannot be considered today.

This bill and the committee report have been available to all Members of the Senate since July 31. Every Member has had full opportunity to review the matters in the bill, and I personally have spoken with many Members of the Senate on specific matters and answered many inquiries that were delivered to us in writing. Those were answered in writing. Senator INOUYE and I worked very closely during the consideration of this bill, as we have since we first began our partnership in considering this matter as either chairman or ranking member. We have each served in both capacities.

We have jointly proposed a package of managers' amendments that will modify the bill to reflect many of the actions that have been taken to adjust the authorized accounts, and we will offer that package at a later time.

However, all budget authority and outlays under our allocation have been consumed. Let me repeat that. We do not have room for any additional budget authority amendments or allocations which will lead to outlays. All funding amendments presented to this bill will require offsets.

Mr. President, this bill does not contain the legislative initiatives that are included in the authorization bill. The legislation that is here before us now is an appropriations bill. After discussions with the ranking member and the leaders, it is our intention to move to table legislative amendments that are presented to this bill. The Defense authorization bill should be completed, as I indicated, hopefully, before we vote final passage on this bill. And the State Department authorization bill will come back to the Senate after the recess. We do not want legislative matters pertaining to those two bills to be considered in connection with this bill. In conference, we are going to have the most difficult time we have ever had. We do not need to try to carry to our conference on appropriations the disputes that pertain to the authorizations bills for the Department of Defense and Department of State.

We hope we can preserve, incidentally, as much of the recess as possible. I am very hopeful we will finish this bill tomorrow so that I can be on a plane joining my family in Alaska tomorrow night. However, I wish to tell the Senate I am prepared to stay here into next week if it is necessary. I do not believe in letting an appropriations bill for defense just hang over the recess. We are prepared to finish this bill. The leader has indicated that he wants to have this bill finished, and I urge the Members of the Senate to accommodate us and help us get this bill finished.

There is just no reason to repeat the debates on amendments that were offered to the authorization bill just this last week or amendments that are still in off-the-floor conferences that are being carried on on the authorization bill.

I urge every Member of the Senate to be considerate about others now as we consider this bill and try to get it finished in order that we may all get on our airplanes or in our automobiles, for those who are lucky enough to be able to drive home, and enjoy part of August, as we should have been there last week as a matter of fact.

Now, Mr. President, title 1 of this bill recommends $68.881 billion to fully fund the authorized active duty end-strength and the proposed military pay raise.

The recommendation also fully funds the authorized increases in the basic allowance for quarters. There is an additional $100 million to address increased overseas-station allowance costs faced by military families deployed overseas because of the fluctuation in the value of the dollar.

For operation and maintenance activities, the recommendation provides $79.930 billion, fully funding the proposed OPTEMPO for military training and readiness.

There are no funds in this bill for contingency operations such as Bosnia. The House bill, as reported, does provide funding for operations such as Iraq. That issue will be considered in conference again depending on how we handle the allocation, but there is just not money available for those contingencies at this time in our consideration.

We do fully fund the proposed civilian personnel pay raise that was recommended in the budget by the President.

To authorize the shortfall and inadequate stock of barracks housing for single military personnel, our committee recommends an increase of $322 million for the renovation and refurbishment of existing barracks. This is only a downpayment, Mr. President. It will permit the services to make progress on one of the key quality-of-life issues that we have discussed with the Joint Chiefs of Staff.

The bill also addresses several critical National Guard priorities. Full funding and legislative direction is provided to sustain the Air National Guard Tactical Fighter Force at 15 aircraft per squadron. A floor is set for civilian technicians, to maintain readiness support for the Guard. I point out to the Senate how much the Guard is involved in an active-duty partnership now in many areas throughout the world, including training in our own country.

There is $100 million added for Army Guard operations and maintenance, to address partially the severe backlog in real property maintenance at Guard facilities and installations.

Our bill provides an additional $5.8 billion for procurement, to sustain critical modernization programs.

The committee based these decisions on the guidance provided, once again, by the military service chiefs. We sought to follow closely their recommendations and the recommendations given to us by the Armed Services Committee.

Mr. President, $777 million is the authorized level provided for National Guard equipment. We have no specific earmarks. The bill language is included mandating that the Reserve and Guard component chiefs report their modernization priorities by December 1, 1995. We believe that the chiefs should make that allocation of these funds.

The recommendation fully funds the ballistic missile defense initiative reported by the Armed Services Committee. And an additional $600 million is included.

Mr. President, $300 million is provided to accelerated development and deployment of a national missile defense system. These are two of the items currently being discussed off the floor by the authorization committee.

An additional $200 million is recommended to restore funds cut in the budget to continue the development of the F–22 for the Air Force.

To address medical research priorities, $100 million is recommended for the Department of Defense research on breast cancer. These funds are to be available only for use to address the needs of military medical beneficiaries.

Under the terms of the budget resolution conference, defense appropriations must relate to defense functions. We believe there are a great many women and women dependents in the military, and there is adequate reason to provide this money to the Department of Defense to continue their initiatives with regard to breast cancer. The House has structured their breast cancer initiative differently. Of course, that matter will be discussed in conference.

Again, I have mentioned my good friend from Hawaii, Senator INOUYE. The Senate should know that this bill reflects our joint views, as you will hear shortly. We continue to work closely on a strictly—not even bipartisan—nonpartisan basis. We see matters of defense I believe from the same point of view, from the point of view of those who served in World War II, Mr. President. And having that background, we are trying to maintain our military to meet the needs of the future.

Again, I want to commend my good friend, who is our cochairman. We have both been chairman, and at times we forget who is chairman. I think that is the best way to run this subcommittee that deals so much with the needs of the military services and the men and women who serve us in the Armed Forces.

We can, I think, complete this bill today with the cooperation of the Members of the Senate. We have already heard of several of the amendments that are coming. I personally discussed with those Members the opportunity to have a time agreement in advance so that the Senate will know how long we will take on these amendments, and if possible we will stack some of these amendments so we can have as much opportunity to not require Members to come back and forth to the floor so often.

We will have several votes on this bill today, however, Mr. President. We hope to accommodate Members of the Senate, and urge their cooperation with us.

Now, Mr. President, I yield the floor to my good friend from Hawaii.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, let me first begin by congratulating my subcommittee chairman, Senator STEVENS, for recommending this bill to the Senate. And I would like to also thank my colleague from Alaska for his very generous comments.

The bill that is now being presented to the Senate by the Appropriations Committee will protect critical military readiness programs. We hear much about readiness. This bill addresses that. It will fully fund the needs of our men and women in uniform and also provide a much needed increase in the modernization of our forces.

In the long tradition of the Appropriations Committee, this bill was crafted in a bipartisan, or as the chairman has noted, a nonpartisan manner. I have had the privilege of working closely with Chairman STEVENS in formulating this bill, as we have in the past. In some areas, the committee was constrained by authorization limitations which caused Chairman STEVENS and I to recommend less than some of our colleagues might have wanted for certain programs such as defense conversion, the *Seawolf* submarine, or the B–2 bomber. But the chairman and I agreed that we would live within the limitations recommended by the Armed Services Committee.

Mr. President, I want to point out to my colleagues on this side of the aisle that this bill provides no policy statement on the ABM Treaty. I think that should be repeated. This bill does not contain any language or any policy statement on the ABM Treaty, nor does it have any limitation on the President of the United States in foreign affairs, and no other major policy issues.

Adhering strictly to the rules of the Senate, this bill addresses spending priorities, not legislation. In fact, my colleagues should know that the chairman stripped 90 legislative provisions from the defense bill that was passed by this body last year. This is a very clear bill, a very clean bill, which addresses the spending needs of the Defense Department. And, Mr. President, I am proud to support it.

The bill before the Senate provides nearly $80 billion for operations and maintenance to protect the readiness of our forces. It supports the military personnel levels requested by the President. It funds a 2.4-percent pay raise for our military personnel and increases their basic allowance substantially—all consistent with authorization recommendations. The bill also raises procurement spending by nearly $6 billion, up to $44.5 billion.

To those who suggest that the bill provides too much for modernization, I note that even with these increases, we are still spending less than half of the amount the Senate recommended for procurement 10 years ago. I might add that Chairman STEVENS and I asked each of the military Chiefs of Staff to meet with the Defense Subcommittee to review the needs of their respective services.

The recommendations for procurement spending matched these requirements.

The bill funds a very robust ballistic missile defense program, adding $300 million for national missile defense research and development. While some might disagree with this recommendation, it is the same amount already approved by the Senate; and it is $150 million less than recommended by the House. Research and development spending in total will increase by more than $1 billion compared to the present request.

Mr. President, I believe it is essential that we invest in the readiness, quality-of-life, and modernization programs funded by this bill.

As my colleagues know very well, only a very small percentage of Americans served in the military. Less than 1 percent of us have come forward to say that they are willing to stand in harm's way for the Nation. And so I believe it is our responsibility to make certain that we provide these dedicated men and women fair pay, decent living conditions, and the best equipment available. Those who choose to serve are our best deterrent of war and the means if necessary to defeat any adversary and safeguard our freedoms. And so we must support their needs, and I believe that this measure does just that.

Mr. President, may I repeat that I am in full support of this legislation. It is a good, a fair, and a very important bill, and so I encourage all of my colleagues to support it.

One of the major issues in this measure will be the increases that this committee has recommended in procurement. Yes, these are some programs that were not requested officially by the President of the United States, but these decisions were reached as a result of our consultation with the senior military officers and the senior civilians responsible for our defense.

For example, we have added two DDG–51 destroyers at a cost of $1.4 billion. The question may be asked, Why did we do this? The President's program calls for four destroyers. However, it calls for two at this moment and two at a later time, about 3 years from now. If we followed the administration's recommendation, that amount, $1.4 billion, would be increased by nearly $400 million. We can get a better deal by purchasing four at this time.

There is another large item, the LHD–7 amphibious assault ship. It is $1.3 billion—a whole lot of money—but even this is in the program that the Defense Department has.

We have decided to procure these items at this moment and not at a later date so that we can avoid the peaks and valleys that we usually experience. We have tried to level off our spending programs so that we will not be faced suddenly 2 years from now with a huge peak and then 2 years after that with a valley.

We have added, as the chairman noted, $777 million for National Guard equipment. These are requested by the adjutants general of the 50 States. Yes, there was a time when National Guard troops were riot-control experts, or they filled sandbags for flood control, they did civilian work. But today, as they did in Desert Storm, we have men piloting aircraft in the Bosnia theater. In Desert Storm, there were thousands of National Guard officers, men and women. So they are no longer local troops that take part in our national endeavors.

We also added 12 F/A–18 Navy fighters, $487 million. This is beyond the President's request, but here again, the President's program, the Defense Department program, calls for the acquisition of these aircraft at a later date. And if you want to have a better contract deal, now is the time to purchase this.

There is $300 million for Coast Guard. The Coast Guard has now gone beyond just guarding our coast. They have participated in Bosnia, and they still do; they participated in Desert Storm, and on top of that, we have directed the Coast Guard to conduct certain missions that were not heretofore part of their responsibility. They have a major responsibility in drug interdiction. The Coast Guard account, which is in the Treasury account, is not quite sufficient to meet all the payments, so we decided in the defense bill, because it is true defense work, to pick up part of the tab.

We are appropriating $241 million to purchase a WC–130 Hurricane aircraft. I hope that my colleagues will be able to convince our friends who live in Alabama, Georgia, North Carolina, South Carolina, Florida, Louisiana, and Texas that this aircraft is not necessary. This is the aircraft that gives citizens of these areas advance notice that something horrendous is coming along. Yes, it is expensive, but we need this aircraft.

The Army asked for one thing. It was not in the President's request: Comanche, $174 million. This is a helicopter program.

What I have listed represents about 6 billion dollars' worth. Mr. President, if my colleagues carefully study what we have done, I am certain they will go along with the subcommittee. This is not fat, this is not pork, and if I may be a bit parochial and personal about this, none of these items are purchased in Alaska or Hawaii. We do not have the plants that build the fighter planes. We do not have the plants and the shipyards that build these ships and destroyers. The chairman and I believe that this equipment is absolutely essential at this time if we are to modernize our forces and to present to them the best we can in equipment.

If these men, representing less than 1 percent of our population, are willing to step forward and say to us, ''We are willing to risk our lives and shed our blood for you,'' the least we can do is to provide them with the best protection. This will do it.

So, Mr. President, I hope that my colleagues on both sides of the aisle will go along with the recommendations that Senator STEVENS and I are now presenting.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENTS NOS. 2350 THROUGH 2362, EN BLOC

Mr. STEVENS. Mr. President, I send to the desk a series of amendments that are technical, conforming and incidental. One is on Corps SAM; one LMT; one a study amendment; there is a pentaborane amendment; BIC; Hydra-70; the JTF; JAMIP; troops to cops; troops to teachers; energy savings; and the helicopter conversion amendment.

These have been examined by Senator INOUYE and by myself. I ask unanimous consent that it be in order that they be offered en bloc and adopted en bloc, and with a paragraph before each one explaining the action we have taken. These are to conform, basically, with the authorization bill request of Members or amendments that have been adopted each time we brought the bill to the floor.

May I state for the record that both our staffs, and both of us, have studied these amendments very carefully, and we have no objection.

The PRESIDING OFFICER. The clerk will report the amendments en bloc.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes amendments numbered 2350 through 2362, en bloc.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 2350

On page 29, before the period on line 13, insert: '': *Provided further,* That of the funds appropriated in this paragraph, $35,000,000 shall be available for the Corps Surface-to-Air Missile (Corps SAM) program''.

AMENDMENT NO. 2351

On page 29, before the period on line 13, insert: '': *Provided further,* That of the funds appropriated in this paragraph, $3,000,000 shall be available for the Large Millimeter Telescope project''.

AMENDMENT NO. 2352

On page 29, before the period on line 13, insert: '': *Provided,* That of the funds appropriated in this paragraph, not more than $48,505,000 shall be available for the Strategic Environmental Research Program program element activities and not more than $34,302,000 shall be available for Technical Studies, Support and Analysis program element activities''.

AMENDMENT NO. 2353

(Purpose: To place a condition on the use of funds for destruction of certain pentaborane)

At the appropriate place in the bill add the following:

SEC. .

None of the funds appropriated or otherwise made available under this Act may be used for the destruction of pentaborane currently stored at Edwards Air Force Base, California, until the Secretary of Energy certifies to the congressional defense committees that the Secretary does not intend to use the pentaborane or the by-products of such destruction at the Idaho National Engineering Laboratory for—

(1) environmental remediation of high level, liquid radioactive waste; or

(2) as a source of raw materials for boron drugs for Boron Neutron Capture Therapy.

Mr. KEMPTHORNE. Mr. President, I want to thank the distinguished managers of the bill for including my amendment on pentaborane into the managers' amendment. My amendment will prohibit the Department of Defense from destroying a material, know as pentaborane, until the Secretary of Energy certifies that the material will not be used by the Idaho National Engineering Laboratory for remediation of high level, liquid radioactive waste or as a source for boron drugs for the boron neutron capture therapy.

I am told that it will cost the Air Force a little more than $1 million to maintain the pentaborane material for 1 more year while the scientists and experts at the Idaho National Engineering Laboratory determine if this material can be used effectively in waste management or boron neutron capture therapy.

The energy and water appropriations bill passed by the Senate includes $1 million for the Idaho National Engineering Laboratory to make its assessment of the use of pentaborane. At present, the Air Force considers pentaborane a waste. My amendment directs the Air Force to maintain this material for 1 more year while pentaborane's possible uses by the Department of Energy are assessed.

I want to once again thank the managers of the bill, the senior Senator

from Alaska, Chairman STEVENS and the senior Senator from Hawaii, Senator INOUYE, for their consideration of my amendment.

AMENDMENT NO. 2354

On page 29, before the period on line 13, insert: '': *Provided further,* That of the $475,470,000 appropriated in this paragraph for the Other Theater Missile Defense, up to $25,000,000 may be available for the operation of the Battlefield Integration Center''.

AMENDMENT NO. 2355

On page 28, before the period on line 4, insert: '': *Provided*, That of the funds appropriated in this paragraph for the Other Missile Product Improvement Program program element, $10,000,000 is provided only for the full qualification and operational platform certification of Non-Developmental Item (NDI) composite 2.75 inch rocket motors and composite propellant pursuant to the initiation of a Product Improvement Program (PIP) for the Hydra-70 rocket''.

AMENDMENT NO. 2356

(Purpose: To make funds available for the Life Science Equipment Laboratory, Kelly Air Force Base, Texas, for support of the Joint Task Force—Full Accounting)

On page 8, line 13, strike out ''Act.'' and insert in lieu thereof ''Act: *Provided further*, That of the funds provided under this heading, $500,000 shall be available for the Life Sciences Equipment Laboratory, Kelly Air Force Base, Texas, for work in support of the Joint Task Force—Full Accounting.''.

AMENDMENT NO. 2357

On page 11, before the period on line 9, insert: '': *Provided further*, That of the funds appropriated in this paragraph, $11,200,000 shall be available for the Joint Analytic Model Improvement Program''.

AMENDMENT NO. 2358

On page 11, before the period on line 9, insert: '': *Provided further*, That of the funds appropriated in this paragraph, $10,000,000 shall be available for the Troops-to-Cops program''.

AMENDMENT NO. 2359

On page 11, before the period on line 9, insert: '': *Provided further*, That of the funds provided under this heading, $42,000,000 shall be available for the Troops-to-Teachers program''.

AMENDMENT NO. 2360

On page 82, between lines 11 and 12, insert the following:

SEC. 8087. (a) ENERGY SAVINGS AT FEDERAL FACILITIES.—The head of each agency for which funds are made available under this Act shall take all actions necessary to achieve during fiscal year 1996 a 5 percent reduction, from fiscal year 1995 levels, in the energy costs of the facilities used by the agency.

(b) USE OF COST SAVINGS.—An amount equal to the amount of cost savings realized by an agency under subsection (a) shall remain available for obligation through the end of fiscal year 1997, without further authorization or appropriation, as follows:

(1) CONSERVATION MEASURES.—Fifty percent of the amount shall remain available for the implementation of additional energy conservation measures and for water conservation measures at such facilities used by the agency as are designated by the head of the agency.

(2) OTHER PURPOSES.—Fifty percent of the amount shall remain available for use by the agency for such purposes as are designated by the head of the agency, consistent with applicable law.

(c) REPORT.—

(1) IN GENERAL.—Not later than December 31, 1996, the head of each agency described in subsection (a) shall submit a report to Congress specifying the results of the actions taken under subsection (a) and providing any recommendations concerning how to further reduce energy costs and energy consumption in the future.

(2) CONTENTS.—Each report shall—

(A) specify the total energy costs of the facilities used by the agency;

(B) identify the reductions achieved; and

(C) specify the actions that resulted in the reductions.

Mr. BINGAMAN. Mr. President, I rise today to commend the two floor managers of the bill, the distinguished Senator from Alaska, Senator STEVENS, and the distinguished Senator from Hawaii, Senator INOUYE, and their staff, for their management of the Fiscal Year 1996 Appropriations Act for the Department of Defense.

I would like to take a few moments to discuss an amendment I have proposed, which has been cleared by both sides. My amendment encourages agencies funded under the bill to become more energy efficient and directs them to reduce facility energy costs by 5 percent. The agencies will report to the Congress at the end of the year on their efforts to conserve energy and will make recommendations for further conservation efforts. I have offered this amendment to every appropriations bill that has come before the Senate this year, and it has been accepted to each one.

I believe this is a common-sense amendment: the Federal Government spends nearly $4 billion annually to heat, cool, and power its 500,000 buildings. The Office Technology Assistance and the Alliance to Save Energy, a nonprofit group which I chair with Senator JEFFORDS, estimate that Federal agencies could save $1 billion annually if they would make an effort to become more energy efficient and conserve energy.

Mr. President, I hope this amendment will encourage agencies to use new energy savings technologies when making building improvements in insulation, building controls, lighting, heating, and air conditioning. The Department of Energy has made available for governmentwide agency use streamlined ''energy saving performance contracts'' procedures, modeled after private sector initiatives. Unfortunately, most agencies have made little progress in this area. This amendment is an attempt to get Federal agencies to devote more attention to energy efficiency, with the goal of lowering overall costs and conserving energy.

As I mentioned, Mr. President, this amendment has been accepted to every appropriations bill the Senate has passed this year. I am pleased my colleagues support it, and again, I thank the floor managers for their assistance. Thank you.

AMENDMENT NO. 2361

(Purpose: To revise the availability of funds for loan guarantees for the defense dual-use assistance extension program)

On page 29, strike out the period at the end of line 13 and insert in lieu thereof '': *Provided,* That the funds made available under the second proviso under this heading in Public Law 103–335 (108 Stat. 2613) shall also be available to cover the reasonable costs of the administration of loan guarantees referred to in that proviso and shall be available to cover such costs of administration and the costs of such loan guarantees until September 30, 1998.''.

AMENDMENT NO. 2362

(Purpose: To make $5,000,000 available for conversion of surplus Department of Defense helicopters for procurement by State and local law enforcement agencies for counter-drug activities)

On page 32, line 19, strike out ''*Provided*,'' and insert in lieu thereof ''*Provided*, That of the funds provided under this heading, $5,000,000 shall be available for conversion of surplus helicopters of the Department of Defense for procurement by State and local governments for counter-drug activities: *Provided further*,''.

The PRESIDING OFFICER. If there is no objection, the amendments are considered and agreed to, en bloc.

So the amendments (Nos. 2350 through 2362) were agreed to, en bloc.

Mr. STEVENS. Mr. President, I am informed Senator MCCAIN may have some objection. If he raises an objection, or any other Senator does, we will withdraw it and reconsider it. I believe we ought to just get along with these technical, conforming amendments. Therefore, I ask unanimous consent that they be adopted as I indicated, en bloc.

The PRESIDING OFFICER. That has been done.

Mr. STEVENS. I think the Senator from Iowa has an amendment.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, the Senator from Iowa has an amendment which we have examined. It continues a policy we started last year at his request. I ask unanimous consent that he take 3 minutes and we will take 2 minutes to consider his amendment.

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

The Senator from Iowa.

AMENDMENT NO. 2363

(Purpose: To improve the financial accountability of the Department of Defense)

Mr. GRASSLEY. Mr. President, I will not even bother to take the 3 minutes. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 2363.

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

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

The amendment is as follows:

On page 82, between lines 11 and 12, insert the following:

SEC. 8087. (a)(1) Not later than October 1, 1995, the Secretary of Defense shall require that each disbursement by the Department of Defense in an amount in excess of $1,000,000 be matched to a particular obligation before the disbursement is made.

(2) Not later than September 30, 1996, the Secretary of Defense shall require that each disbursement by the Department of Defense in an amount in excess of $500,000 be matched to a particular obligation before the disbursement is made.

(b) The Secretary shall ensure that a disbursement in excess of the threshold amount applicable under subsection (a) is not divided into multiple disbursements of less than that amount for the purpose of avoiding the applicability of such subsection to that disbursement.

(c) The Secretary of Defense may waive a requirement for advance matching of a disbursement of the Department of Defense with a particular obligation in the case of (1) a disbursement involving deployed forces, (2) a disbursement for an operation in a war declared by Congress or a national emergency declared by the President or Congress, or (3) a disbursement under any other circumstances for which the waiver is necessary in the national security interests of the United States, as determined by the Secretary and certified by the Secretary to the congressional defense committees.

(d) This section shall not be construed to limit the authority of the Secretary of Defense to require that a disbursement not in excess of the amount applicable under subsection (a) be matched to a particular obligation before the disbursement is made.

Mr. GRASSLEY. Mr. President, my amendment is not controversial. I believe it has been cleared on both sides.

My amendment addresses the $30 billion unmatched disbursement problem at the Department of Defense or DOD.

My amendment continues to ratchet down the thresholds at which DOD must match a disbursement with an obligation before making a payment.

Under Section 8137 of last year's bill, Public Law 103–335, any disbursement over $5 million has to be matched with its corresponding obligation before a payment could be made.

The $5 million threshold took effect about a month ago, on July 1, 1995.

We know that the DOD Comptroller, Mr. John Hamre, is wrestling with the problem. We know he is doing his very best to comply with the law.

He tells us he is doing it.

And there is no reason why he cannot do it.

We know, for example, that one of the major DOD contract payment centers, the one at Columbus, OH, processes about 2,200 invoices per year that exceed $5 million.

There is no reason in the world why DOD's vast army of bookkeepers cannot make the necessary matches on 2,200 payments per year.

That is a small number.

It is a modest threshold.

Well, on October 1, 1995, the law ratchets the threshold down even further.

On that date, any payment over $1 million must be matched with its corresponding obligation before a payment is made.

That threshold just keeps us marching in the right direction, toward the zero threshold goal.

That is where all DOD disbursements are matched with their corresponding obligations before payment.

That is where DOD needs to be.

At the $1 million threshold, DOD has to make matches on about 12,300 invoices.

Mr. President, with 25,834 employees, I think DFAS, the Defense Finance and Accounting Service, should be able to make matches on 12,300 invoices.

We need to keep the pressure on.

DOD must develop a capability to match all disbursements with obligations in advance of making payments.

We must keep marching down the road toward that goal.

My amendment today would lower the threshold one more notch, to $500,000, effective October 1, 1996.

That is one year from now.

That is plenty of time to automate the linkages between DOD's check writing machine and the accounting ledgers and contracting books.

There is a breakdown of electronic communications between DOD disbursing and accounting.

That is the problem Mr. Hamre is trying to fix. He is trying to integrate the two operations.

We want to help him do it, but at the same time, we need to keep the pressure on.

At the $500,000 level, DOD will need to make payments on about 25,000 invoices per year.

His interim Electronic Data Interchange System should be up and running by the time the $500,000 threshold kicks in.

Matching 25,000 invoices should then be a piece of cake.

Mr. President, I have raised so much fuss over the unmatched disbursement problem for one reason.

The $30 billion in unmatched disbursements tells me there are no effective internal controls over a big chunk of the DOD budget.

This means that those accounts are vulnerable to theft and abuse.

The recent cases at Reese Air Force Base, TX, and the DFAS Center in Norfolk, VA, brought this problem home hard.

Two crooks were able to tap into the DOD money pipe undetected and steal millions of dollars over a period of several years.

Both individuals were caught only by chance because of outrageous personal behavior.

They were able to steal millions of dollars for one simple reason.

DOD does not do very basic accounting work before making a payment.

The check writing machine is on autopilot.

The money goes out the door. Then DOD begins to worry about matching.

DOD tries to make the matches after the fact, often long after the fact.

By waiting months or even years to make the matches, supporting documentation disappears.

It is missing. Or worse, it does not exist.

Either way, without supporting documentation, DOD does not know whether the payment is legitimate. Without documentation, it could be fraudulent.

Until the matches are made, we do not know whether a payment is legitimate or fraudulent.

So it was easy for the crooks in Texas and Virginia to operate undetected.

Mr. President, that is why we need to take the next step and put the $500,000 threshold in place.

If we go step by step, we will eventually get to the point were there are effective, but very basic, internal control devices in place.

I thank my friend from Alaska, Senator TED STEVENS, and my friend from Hawaii, Senator INOUYE, for backing me up on this issue.

Their support is crucial to getting the job done. They have been behind me 100 percent. I appreciate all the good support.

They held a hearing on the issue on May 23. They understand it and know how important it is.

A year from now we can review the situation and make adjustments if needed.

Mr. President, I hope the committee is prepared to accept my amendment.

I simply want to thank the chairman and the ranking members, not only for their cooperation this year but this is building on cooperation I had from the chairman and ranking member last year on my attempts to bring some discipline to the matching of disbursements with checks being written. This does build on what we did last year, I think in a very responsible way.

I suppose the taxpayers might say it is too timid of a way, that we have a major problem, and we will work at it slowly to get it accomplished. This amendment is one more step. I thank the managers for their cooperation.

Mr. STEVENS. We took up this matter during the hearing on this bill with Dr. Hamre, the comptroller of Defense Department. We have worked with him. We were pursuing the matter at the request of the Senator from Iowa last year. That furthers the concept that we are going to try and make certain that we have the identification of the invoice of disbursement. It is not always as easy as it sounds, since disbursement could take place literally in Italy and the invoice could be located somewhere in a small town in Iowa. But, as a practical matter, we are going to try to make sure that they marry up through the computer process. The Senator is right. I am prepared to accept the amendment.

Mr. INOUYE. Mr. President, I would like to congratulate the Senator in this process. This is a continuation of

the process that was started last year, and we commend the author.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 2363) was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, we have no other amendments pending. I have some 80 amendments on the list on my desk here. We would like to proceed. If Senators do not want to come and offer their amendments, I will be happy to make a motion to go to third reading quickly.

I think we have a good bill. This bill provides the lowest level of spending of any of the authorizations on the DOD bill, as I have indicated, because of the limitations on the committee due to the allocation and the budget process, but we have met the real requirements of the bill. We have discussed this with the administration, and there is some indication of the dissatisfaction, but we believe we can explain to the administration why we have done what we have done. This bill should be accepted for the purpose of funding the activities of the Department in the next year.

I ask unanimous consent that a summary of this bill be printed in the RECORD at this point.

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

SUMMARY OF FISCAL YEAR 1996 DOD APPROPRIATIONS BILL

Total funding.—The subcommittee allocation provides $242.483 billion in new budget authority, and $243.069 billion in outlays. The markup package fully consumes all budget authority and outlays set for the subcommittee. In new budget authority, this level is about $1.4 billion below the House subcommittee, and is about $800 million below the estimated new budget authority levels reflected in the Senate reported DoD authorization bill.

Contingency operations.—Bill does *not* provide any funding or authority for U.S. military operations or deployments to Bosnia.

Personnel.—$68.881 billion.

Recommendation fully funds authorized military end-strength for 1996. Fully funds requested pay raise for military personnel, and the authorized increase in the Basic Allowance for Quarters. Also provides an additional $100 million to cover increased overseas station allowance costs due to the decline in the value of the dollar versus the budget estimates.

Operation and maintenance.—$79.930 billion.

Recommendation fully funds proposed OPTEMPO level for military services. Fully funds civilian personnel pay raise. Provides an additional $322 million for the renovation and refurbishment of barracks for enlisted personnel. Increases ship repair funding by $150 million. Freezes funding for Environmental Restoration activities at the 1995 level. Reduces funding for assistance to Russia by −$46 million. Eliminates Administration request of $65 million for payments to the U.N. for Peacekeeping from DoD.

National Guard and Reserves.—Directs that Primary Assigned Aircraft (PAA) levels for fighter squadrons remain at 15, and provides necessary O&M and Personnel funding to sustain those units. Directs the civilian technician workforce levels not be reduced, and provides necessary funding to maintain current levels. Adds $100 million for Army National Guard O&M to address Real Property Maintenance backlog. Recommendation provides authorized level of $777 million for National Guard and Reserve Equipment, and identifies priority items.

Procurement.—$44.460 billion.

Provides $5.8 billion over the budget request to restore critical modernization programs. Highlights include: +$82 million for Apache helicopter multi-year procurement; Funds to continue UH–60 Blackhawk helicopter procurement; +$120 million for OH–58 ''KIOWA WARRIOR'' upgrades; Funds for multi-year procurement of the M1–A2 tank upgrades; Includes for Army medium and heavy trucks/HMWVV; Funds for 24 F–18C/D Navy aircraft; Funds for 8 AV–8B aircraft upgrades; Fully funds V–22 procurement; Funds LHD–7 Amphibious assault ship; Funds four DDG–51 class AEGIS destroyers; Advance procurement for two new Attack Submarines; Continued funding for the SSN–23 SEAWOLF; Funds 6 additional F–16 aircraft; Funds 6 additional F–15 aircraft; Fully funds C–17 program/advance procurement for 1997; Provides additional $75 million for the NDAA airlift program; Funds 5 WC–130 aircraft; Provides funding for HAVE NAP, AGM–130 precision munitions; and Provides funding for B–1 upgrades and advanced munitions.

Research and development.—$35.474 billion.

Provides $343 million over the budget request for weapons research, development and testing. Highlights include: Full funding for authorized Ballistic Missile Defense program; BMDO level includes +$300 million for National Missile Defense; +$174 million for the RAH–66 ''COMANCHE'' helicopter; +$200 million for the F–22; Full funding for F–18E/F development; Reduced TRP to authorization level; Includes +$100 million for Breast Cancer research; Includes +$20 million for AIDS/HIV research; Increases funding for Marine Corps Amphibious Assault vehicle; Increases funding for Marine Corps UH–1/AH–1 upgrades; and Reduces FFRDC spending by −$90 million to authorized level.

Other accounts.—SEALIFT: Fully funds sealift procurement, adds $50 million for ''national defense features'' as authorized; DBOF: Adds $300 million for supplies for Coast Guard for defense/counternarcotics missions; INTELLIGENCE PROGRAMS: Provides funding consistent with levels reported by the Senate Intelligence Committee; and COUNTERNARCOTICS: Provides authorized level of $680 million for DoD drug interdiction missions.

Mr. STEVENS. I yield to my good friend, the chairman of the authorization committee.

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

Mr. THURMOND. Mr. President, I want to commend the able chairman of the committee for the fine job he has done and the able ranking member for the good job he has done. It is a very difficult situation to work these things out. I think they both have shown great wisdom and shown tremendous dedication in working this bill out. I am anxious to see the Senate pass it.

Mr. STEVENS. We are grateful to the chairman of the authorization committee not only for his comments but for his presence on the floor as we consider these amendments. We look to him for guidance and support as far as this process is concerned.

Mr. President, I will soon suggest the absence of a quorum and hope that amendments will be presented. I am perfectly able to make a motion to proceed to third reading. I do not see anybody here on the floor that would object to that. I hope we get amendments pretty quickly.

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

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

Mr. STEVENS. Mr. President, I ask each of the Cloakrooms to put out the notice that if we do not have an amendment by 11:50 a.m., I am going to move to third reading.

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

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

Mr. BREAUX. Mr. President, I was hoping to obtain clarification from the distinguished Senator from Alaska with regard to language on page 191 of Senate Report 104–124, under the heading ''Mission recorders.'' This language implies that a digital version of the AN/USH–42 recorder is currently in use by the Navy.

Mr. STEVENS. I thank the Senator from Louisiana for pointing this out. A more precise rendering of the language will be as follows:

The Committee urges the Director of DARO to evaluate the requirement and potential utilization of Digital Video Tape Recorders on both manned and unmanned tactical reconnaissance systems. This assessment should consider the potential benefit of a small, lightweight, low-cost, digital variant of the AN/USH–42 video recorder.

Mr. INOUYE. I agree with the language proposed by my friend from Alaska.

Mr. BREAUX. Thank you.

Mr. KENNEDY. I want to take this opportunity to commend the chairman and ranking member of the Subcommittee on Defense for their support for the Defense Department's Financial Management Training and Educational Program.

This program, strongly supported by the Department of Defense, will establish urgently needed programs to give the Department's financial managers and accountants the necessary training that their private sector counterparts take for granted. This program will provide the educational resources to make these workers more effective and efficient and thereby help the Defense Department save millions of taxpayers' dollars.

In its report, the committee provides for full funding of the training program

operations in fiscal year 1996. It also states that the committee expects the Defense Department to accommodate any long-term leasing costs for the planned facility within the amounts appropriated in the account for operations and maintenance, defensewide.

I believe that the Department will accommodate these costs in the manner suggested. I would like, therefore, to clarify the view of the Appropriations Committee. Is it the understanding of the committee that once the Department meets the reporting requirements contained in the Defense authorization bill for fiscal year 1996 on the necessity for establishing a Center for Financial Management Training and Education, the Department will be free to enter into a capital lease for the establishment of the center without seeking further appropriation of funds or reprogramming authority?

Mr. STEVENS. Yes, that is my understanding. The committee acknowledges the justification for the training and education program, to ensure that the Defense Department's financial managers receive the necessary professional training. As stated in its report, the committee intends the Department have the authority to enter into a capital lease for the Center for Financial Management, Education, and Training, using funds appropriated in the operations and maintenance account.

Mr. INOUYE. I concur with my colleague, the chairman of the Defense Subcommittee. The Defense Department has the authority to proceed with this worthwhile project, once the requirements contained in the fiscal year 1996 Defense Authorization Act are met.

Mr. KENNEDY. I thank the Senators for their comments.

Mr. MCCAIN. Mr. President, I would like to make a few remarks about the pending legislation. I say to my friend from Alaska that I have basically three amendments. I think two of them may be acceptable in talking with the staff.

Mr. STEVENS. Mr. President, the Senator is correct; the first two amendments are agreeable. We would be pleased to consider those and get them out of the way.

We are going to accept two of the amendments. Senator INOUYE and I have agreed. The third amendment we will request a rollcall.

Mr. MCCAIN. If it is OK with the Senator from Alaska, I will make my remarks, do the first two, and then the third, if that is agreeable.

First, Mr. President, I congratulate both the Senator from Alaska and the Senator from Hawaii. This bill has been a dramatic reduction in the so-called earmarks, from some $6 billion last year to about $820 million this year. A lot of the previous bill language that was obligating funds has been moved to report language. Obviously, that is a significant improvement.

I also would like to talk about the overall aspects of the bill, which I think are extremely laudatory. The bill increases funding for force modernization by nearly $7 billion above the budget request.

Additional funding is provided for tactical aircraft, DDG–51, missile defense and other important programs recommended by the Armed Services Committee. The bill terminates many nondefense and low-priority military programs such as DOD support for the National Science Foundation antarctic research program, U.N. peacekeeping assessments, Nunn-Lugar funding for activities other than weapons demilitarization, and more than half the requested funding for the technology reinvestment program.

The bill does provide an additional $777 million for unrequested Guard and Reserve equipment, with which I strongly disagree, but unlike the Armed Services Committee bill, it provides the funding in generic categories and leaves the decisions on specific items to the Guard and Reserves' component themselves. I very much favor this approach to prioritize among programs.

Last year, I advised the Appropriations Committee that I object to bill provisions in proposing amendments which violate four basic criteria; namely, funding which is unauthorized, locality-specific earmarks, research facility earmarks, and other earmarks that circumvent the normal competitive award process, unrequested add-ons that would be subject to a point of order, and transfer disposal of Federal property or items in a manner that circumvent existing laws.

In addition to conference reports, items added in conference which were in neither bill I would consider objectionable. Unfortunately, this bill includes provisions which violate some of those criteria.

There are five provisions in the bill language which, in my view, are in variance with at least one of the criteria outlined above. One is the earmark of $15 million for environmental remediation at National Presto Industries. No authorization exists for this program. This matter is the subject of an ongoing dispute between the Army and National Presto Industries as to liability for contamination at the site.

This is a matter which I believe should be resolved between the parties, which may end up involving litigation. A legislative solution at this time, in my view, is not appropriate.

Second, authority to spend $20 million to transfer federally owned educational facilities on military installations to local education agencies. No authorization exists for these expenditures, nor has the Armed Services Committee reviewed and approved such a policy.

Third, $1 million earmarked for the Marine and Environmental Research and Training Station. No authorization exists for this spending and no direction is provided concerning the type of research to be conducted or the need for that research. I understand that the Navy does not want to continue doing business with this organization because of the difficulty of dealing with them in the past.

Fourth, authority for the Coast Guard to draw $300 million from the defense business operations fund, known as DBOF. This is an unauthorized appropriation and a new authority not considered in the Armed Services Committee. Expenditure of DOD funds for Coast Guard activities have been a recurring problem in past years, and this provision would greatly expand the ability of the Coast Guard to draw on DOD funds.

Finally, addition of $25 million for the environmental remediation trust fund at Kaho'olawe Island.

Certainly DOD has responsibility to clean up this site, but adding funds to a trust fund which already totals a great deal of money I believe is a rejiggering of the defense priorities and a waste of scarce defense resources.

These provisions I do not believe have a place on this bill and should be subjected to the full review of the Armed Services Committee. The amendment I will be offering would not strike the provisions in the bill, it would merely subject them to the review of the authorizing committee and require a specific, separate authorization before the funds could be expended to implement the provisions.

Let me emphasize, the amendment would require authorization rather than just strike the funding, because there may be a difference of view as to the necessity for the expenditure of those funds.

SEAWOLF FUNDING

In addition, section 8080 of the bill contains a number of funding transfers, including allocation of additional funds for the *Seawolf* submarine.

Last year, the Congress imposed a legislative cap on procurement costs for the first two *Seawolf* submarines. The cap could automatically increase for inflation adjustments as well as changes in labor and other laws. It did not permit, however, an automatic adjustment for other cost increases, such as change orders or contractor claims.

In the fiscal year 1995 ship cost adjustment request, the Navy identified cost increases in the *Seawolf* program of $65.9 million.

Only $34 million of this increase—the amount attributable to inflation—is allowable under the legislative cost cap.

Therefore, to ensure that the *Seawolf* program cost remains with the legislative cost cap, the Navy identified $31.9 million in offsetting reductions.

Unfortunately, in the bill before the Senate, the Appropriations Committee did not include the recommended rescission of $13.6 million in fiscal year 1991 shipbuilding funds to keep the *Seawolf* program within the legislative cost cap.

I am offering an amendment which would add this rescission into the committee bill, ensuring that the *Seawolf*

cost cap is not breached only 1 year after it was imposed.

REPORT LANGUAGE PROBLEMS

Throughout the committee's report language, there are additional earmarks and set-asides for special interest projects. While report language is not amendable in the Senate, it still carries weight with the Department of Defense in allocating funds among programs. Therefore, I believe it is inappropriate to include earmarks for specific facilities or locations in the report language.

Let me list just a few of the items in the report language which I find objectionable.

MEDICAL EARMARKS

The sum of $5 million is earmarked in report language—I want to emphasize report language—for research on ''elastin-based biomaterial, polymerized by human enzymes and capable of injection molding and other tissue replacement application''; additional funds are earmarked ''to conduct biologic implantation to evaluate immunological responses and healing and to prepare data for FDA submission preparatory to human clinical trials'' I will not bother to ask the managers what that means.

Earmarks of unrequested funds for a number of medical research programs: $425,000 for serum cholesterol, $2.025 million for nutrition research, $1 million for dengue fever, and $3.878 million for ''Medteams'';

The sum of $11.2 million for unrequested program to ''demonstrate a transportable plasma waste treatment system at the Western Environmental Technology Office'';

For spinal/brain research $5 million, and $20 million for the DOD/VA ''core'' medical research programs;

Additional $120 million for AIDS and breast cancer research;

''* * * the committee urges the Department to provide not less than $8,000,000 in financial and technical support toward the study of neurofibromatosis'';

''* * * the committee urges the Department to provide not less than $1,000,000 in financial and technical support toward the study of Paget's and related bone diseases'';

The sum of $5 million earmarked for the Military Nursing Research Program.

Other earmarks are: $5.4 million in unrequested funding ''to continue ongoing efforts with an established small business development center to be administered as in previous years, focused on developing agricultural-based services, such as bioremediation. The committee supports targeted research and development projects and agricultural development activities in zones surrounding military installations'';

The sum of $1 million for the Mississippi Resource Development Corporation for ''continued research and development programs at the National Center for Physical Acoustics, centering on ocean acoustics'';

Earmarks for continuing research: $5 million for the Center for Astronomical Adaptive Optics, $650,000 for National Solar Observatory, and $3 million for Pacific Software Research Center;

The sum of $8 million to be ''competitively awarded to a qualified Washington, DC, region-based institution of higher education with expertise and programs in computational sciences and informatics capable of conducting research and development that will further efforts to establish an effective metacomputing testbed'';

Three million dollars of theater missile defense funds earmarked for operation of Kauai test facility; and

Earmark of unlimited counterdrug funding for Southwest border information system, to ''permit acquisition of automated systems by Federal, State, and local law enforcement offices involved in this program.''

There are a number of other provisions which bear mentioning, because they are so egregious: $3.85 million for family housing and wastewater treatment plans for Hawaii; over $40 million for Pacific missile range improvements and support; $2.6 million to transfer Bryant Army Heliport to the Army National Guard at Fort Richardson, AK; additional $10 million earmarked for C–130 operations, and an unauthorized add of $88 million for unrequested C–130 aircraft; $30 million for the Allegheny Ballistics Lab, which was specifically rejected by the Armed Services Committee; $2 million for a natural gas boiler demonstration; $11.5 million for a training satellite for Air Force Academy cadets; another $15 million of unrequested funding for the High Altitude Auroral Research Program in Alaska; another $15 million for research on electric vehicle technology; $1 million for brown tree snake research; authority to procure computer terminals for local law enforcement officials participating in Southwest border control programs.

Mr. President, there are others. I will stop.

First of all, I emphasize this is report language, not bill language. But, for the life of me, I do not know what a number of these projects have to do with defending our vital national security interests. I can imagine that the brown tree snake is a threat to the very vitals of this Nation, but I do not know, nor have I ever heard, that the brown tree snake posed a threat to our national security.

As I say, there are many others that are very worthwhile programs, such as breast cancer research, AIDS—I do not know very much about the study of neurofibromatosis, but I have not heard yet in testimony before the Armed Services Committee that neurofibromatosis is a threat or a consideration of the Pentagon.

Paget's and related bone diseases, I am sure are also another that deserve our attention, but I do not think in this bill.

I do congratulate my colleagues for their restraint and their understanding that these defense dollars are becoming less and less, and that they have exercised significant restraint. Therefore, I would like to offer the first two amendments to my colleagues, that are acceptable, in order. Then I will go to the third, move to the third amendment.

AMENDMENT NO. 2372

(Purpose: To limit the total amount that may be obligated or expended for procurement of the SSN–21, SSN–22, and SSN–23 *Seawolf* class submarines)

Mr. MCCAIN. Mr. President, I send an amendment to the desk for myself and Senator DODD and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] for himself and Mr. DODD, proposes an amendment numbered 2372.

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

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

The amendment is as follows:

On page 82, between lines 11 and 12, insert the following:

SEC. 8087. (a) Except as provided in subsection (b), the total amount obligated or expended for procurement of the SSN–21, SSN–22, and SSN–23 Seawolf class submarines may not exceed $7,223,695,000.

(b) The amount of the limitation set forth in subsection (a) is increased after fiscal year 1995 by the following amounts:

(1) The amounts of outfitting costs and post-delivery costs incurred for the submarines referred to in such subsection.

(2) The amounts of increases in costs attributable to economic inflation after fiscal year 1995.

(3) The amounts of increases in costs attributable to compliance with changes in Federal, State, or local laws enacted after fiscal year 1995.

Mr. MCCAIN. Mr. President, in behalf of myself and Senator DODD, I will be brief.

Last year, the Congress adopted an amendment to the fiscal year 1995 Defense authorization bill which capped the procurement cost of the first two *Seawolf* submarines at $4.759 billion, the total amount identified by DOD as necessary to complete construction of these two boats.

The amendment was necessary to control escalating costs of the program.

When the total cost of the *Seawolf* program is taken into account, the cost per submarine is over $4.3 billion.

The procurement-only cost of the first two *Seawolf* submarines has risen $1.4 billion since the contracts were signed.

In December 1983, the Secretary of the Navy set a procurement cost ceiling for SSN–21 of $1.655 billion; current costs are almost $2.433 billion. The initial cost estimated for the SSN–22 was $1.718 billion; current costs are almost $2.236 billion.

SSN–23 is currently estimated to cost a total of $2.4 billion, although just

last year the Navy was estimating $2.3 billion.

In September 1993 and again in May 1994, Navy officials confirmed the cost of the first two *Seawolf* submarines at $4.673 billion, which was the amount I included in my original amendment to establish a cost cap. But then, on June 9, 1994, the Navy wrote to me indicating that the cost of the first two *Seawolf* submarines would go up another $126 million. The final cost cap amount allowed only approximately $86 million of these increases, because they were deemed to be truly uncontrollable—inflation and labor law changes.

Early this year, the Navy replaced the *Seawolf* program management team, allegedly because of escalating costs above the legal cap—perhaps as much as $40 to $70 million. The new management arrangement seems to be working well and is structured to allow the Navy to keep a close eye on costs, and hopefully, no further taxpayer dollars will be required to finish the first two submarines. I wonder, though, why the program was allowed to escalate out of control for so many years.

Therefore, I offer an amendment to expand the existing cost cap to include the third *Seawolf* submarine. The provision establishes a procurement cost cap of $7.2 billion on the three *Seawolf* submarines. This includes an additional $2.4 billion for the third submarine, as well as an increase of approximately $34 million for inflation since the enactment of the cost cap last year.

The provision allows for the same automatic increases for inflation and labor law changes as the existing cap. It also exempts the future costs of outfitting and post-delivery for the submarines. These are costs which will undergo congressional review and require authorization and appropriations in the future.

When the Defense budget has declined 35 percent since 1985, with a projected decrease of nearly 10 percent by the end of the decade, Congress should insist on fiscal responsibility for every dime of taxpayer dollars we are asked to approve.

We cannot allow a return to the uncontrollable cost escalation that we have seen on the first two submarines, and I believe that imposing the same strict cost controls on the third *Seawolf* would be to the advantage of the American taxpayer.

Mr. President, I yield the floor on this amendment.

Mr. STEVENS. Mr. President, I will limit myself at this time to the Senator's pending amendment. I will answer the comments he has made at a later time.

I believe Senator INOUYE will concur. We have examined this amendment dealing with the *Seawolf*. We have no objection. It carries out a limitation. I might add, however, that it does precisely what the Senator is objecting to. It is an appropriations bill. Providing the necessary oversight and limitation on expenditures of funds is what we have done throughout the bill and in the report. We have, with regard to the *Seawolf*, this time not totally funded the *Seawolf*. We have incrementally funded the *Seawolf* in order that we may have the funds available from outlays for dealing with other projects which are in the bill, which the Senator from Arizona, I think, has rightfully acknowledged was a pretty good idea.

We have no problem with this. It puts a limitation on the expenditure for the *Seawolf* on the calendar year basis, which is what we intended to do. I think we do in the report.

Senator INOUYE and I are prepared to accept this amendment.

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

The amendment (No. 2372) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2374

(Purpose: To add a rescission recommended by the Department of Defense)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. MCCAIN), for himself and Mr. DODD, proposes an amendment numbered 2374.

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

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

The amendment is as follows:

On page 71, between lines 11 and 12, insert the following:

''Shipbuilding and Conversion, Navy, 1991/1995'', $13,570,000.

Mr. MCCAIN. Mr. President, I want to say to my colleague that the reason I proposed the last amendment—I had not intended to—was because of the situation regarding the authorization bill.

I think there is significant question as to whether there will be a defense authorization bill this year. I included it in the Defense authorization bill.

But the reason I put it on this bill was because of the enormous uncertainty as to whether there will be an authorization bill in light of the continuing failure to reach agreement on the ballistic missile defense issue.

Last year, the Congress imposed a legislative cap on procurement costs for the first two *Seawolf* submarines. The cap could automatically increase for inflation adjustments as well as changes in labor and other laws. It did not permit, however, an automatic adjustment for other cost increases, such as change orders or contractor claims.

In the fiscal year 1995 ship cost adjustment request, the Navy identified cost increases in the *Seawolf* program of $65.9 million.

Only $34 million of this increase—the amount attributable to inflation—is allowable under the legislative cost cap.

Therefore, to ensure that the *Seawolf* program cost remains within the legislative cost cap, the Navy identified $31.9 million in offsetting reductions.

Unfortunately, in the bill before the Senate, the Appropriations Committee did not include the recommended rescission of $13.6 million in fiscal year 1991 shipbuilding funds to keep the *Seawolf* program within the legislative cost cap.

The amendment would incorporate this rescission into the committee bill, ensuring that the *Seawolf* cost cap is not breached only 1 year after it was imposed.

Mr. President, I yield the floor.

Mr. STEVENS. Mr. President, I understand the Navy has expressed no objection to this amendment. It is a matter of moneys that are there that could be rescinded at this time. It totally rescinds $13.57 million in the Navy accounts that are there from 1991 to 1995.

I have no objection if the Senator wishes to offer this amendment.

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

The amendment (No. 2374) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2375

(Purpose: To prohibit use of funds for programs and activities for which appropriations have not been authorized)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. MCCAIN) proposes an amendment numbered 2375.

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

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

The amendment is as follows:

On page 82, between lines 11 and 12, insert the following:

SEC. 8087. (a) Funds available to the Department of Defense for fiscal year 1996 may not be obligated or expended for a program or activity referred to in subsection (b) except to the extent that appropriations are specifically authorized for such program or activity in an Act other than an appropriations Act.

(b) Subsection (a) applies to the following programs and activities:

(1) Environmental remediation at National Presto Industries, Inc., Eau Claire, Wisconsin.

(2) Transfer of federally owned educational facilities on military installations to local education agencies.

(3) Activities at the Marine and Environmental Research and Training Station.

(4) Support for Coast Guard activities from the Defense Business Operations Fund.

(5) Contribution to the Kaho'olawe Island Restoration Trust Fund.

Mr. MCCAIN. Mr. President, I want to emphasize that this amendment would be to require authorization for the expenditure of these funds before the funds are expended as outlined in the appropriations bill.

It would not strike the language. It would simply add language requiring that authorization be obtained for these programs.

The first—I have discussed these before—is the earmark for $15 million for environmental remediation at the National Presto Industries for which, as I pointed out, there is no authorization for the program. In addition to that, there is an ongoing dispute between the Army and this corporation as to liability for the contamination of the site.

The second one is the authority to expend $20 million to transfer federally owned educational facilities on military installations to local education agencies. There is simply no authority for that.

The third is the $5 million earmarked for the Marine and Environmental Research and Training Station. No authorization exists for this.

Finally, the authority for the Coast Guard to draw $300 million from the Defense Business Operations Fund, and the addition of $25 million for the Environmental Remediation Trust Fund for the Kaho'olawe Island.

Mr. President, I have discussed these at some length in my previous remarks.

So, therefore, I yield the floor.

Mr. STEVENS. Mr. President, I believe that the Senator from Arizona has presented his point of view ably. I thank him for the comments he has made concerning the bill as a whole.

We have a difference of opinion with regard to the functions of the Appropriations Committee as compared to the Armed Services Committee. It is my feeling that it is our responsibility to look over the request for money to be spent by the Department of Defense to try to allocate it within functions within the Department and within the various services to the best of our ability, keeping in mind that the Department has a request for many things.

The Armed Services Committee deals with the broader general defense policies and with the confirmation of the particular persons that are nominated to carry out the Commander in Chief's functions through the Department of Defense. They have the oversight of planning. They have the oversight of a great many matters, and they basically authorize general functions.

In recent years, there has been a tendency of some members of the Armed Services Committee to try to get down to the point where I think they would like to limit the number of paper clips that each agency can buy. We are inclined to oppose that. We are at that point now because we believe we have the right to put limitations on the expenditures of moneys or to allocate the moneys to particular functions when they are dealing with categories of line items, and the line items in this instance are important.

Take, for instance, National Presto. That is the environmental remediation site at Eau Claire, WI. It was first addressed in the 1988 defense bill. This year we have language that limits the funds only to implement the Army's agreement on that site.

Now, under the circumstances, that is limiting the expenditure of funds that we have authorized. It is a limitation on expenditures which is entirely our responsibility and not the responsibility of the authorization bill. This was offered by Senator COCHRAN in our subcommittee and voted on by the subcommittee, approved by the full committee, and has been brought to the floor as our recommendation on the limit of expenditure of funds contained in this bill. I think that is a good example of what we are all about.

With regard to the transfer of funds for the support of the Coast Guard activities from the Defense Business Operations Fund, we plead guilty. The Coast Guard is a defense entity in times of war. In order to keep it so that it can be a defense entity, we have since 1981 provided a substantial amount of defense funds either directly or through the use of funds appropriated to the Department of Defense for the purchase of fuel or supplies that can be used. They acquire them in this instance from the Navy facilities.

We have authorized the Coast Guard under this bill to draw services and logistics support for defense missions from the Navy. Now, they have had a whole series of defense missions, whether it is Haiti or the Cuban refugee concept or some of their activities in the blockade of Iraq.

There is a whole series of things the Coast Guard is doing. As a matter of fact, in my opinion, it ought to be 10 times this amount to repay the Coast Guard for what they are doing. But this ensures the Coast Guard can participate in these missions. They are also involved in the counternarcotics mission with the Navy in both the Atlantic and southern commands, and they have really I think had an impact on their overall readiness for their other activities that are very important in areas such as law enforcement, safety inspections, et cetera. They have to reduce their effectiveness in dealing with their civilian role during peacetime in order to participate in peacetime in semi-military activities.

This $300 million is a bare minimum. I wish to serve notice to the Senate that next year it will be more. If anyone believes it is wrong, the bill you have just voted on, transportation, assumes that this $300 million is there.

If the Senator from Arizona wants to help the Coast Guard, if he does not want it here, then he should offer the amendment, in my opinion, to the Coast Guard. Those of us who support the Department of Defense—and I am sure the Senator from Arizona does, as I do—ought to realize that the Coast Guard is one of the echelons of the Department of Defense even in peacetime now.

I think that this, as I said, is a very small payment of what it should be for them. Incidentally, they come under the jurisdiction of the subcommittee that I chair in the Commerce Committee, and my friend from Arizona serves on the Commerce Committee similarly. This is a great problem for us because of the fact we cannot today increase the funding for the Coast Guard through the authorization that has been given to us in the Commerce Committee. This is the one way we can assure that the Coast Guard will not decrease its effectiveness in dealing with civilian operations because of its overwhelming ongoing semi-military and military operations in peacetime.

I also want to say to my friend with regard to the matter of the federally owned educational facilities on military installations, we have over a period of time now fostered a concept of transferring the educational facilities on military installations to the local school districts.

We ran into a problem not only in my State but other States where the school districts said they could not take over those and operate them because they did not meet State standards. So we have over a period of years now funded it. In 1993, 1994, 1995, we funded the upgrade of those federally owned and operated schools so that they would reach the level that would meet State law. The understanding at the time was they would be transferred to the school districts in the various States, and the main reason is, under their laws they cannot operate in schools on property owned by somebody else.

This is a formality now to carry out agreements that have been in effect, in my opinion, for some 3 to 4 years. They are really not earmarked, incidentally, I say to my friend from Arizona. We have recognized the priority list established by the Department of Defense, and we have funded it according to their priority list. As the schools have been upgraded to meet State standards, they have in fact been transferred. I think this is almost the last of them. I am not sure we are totally at the last of them.

I think, again, it is within the prerogative of the Appropriations Committee to do exactly that, to pursue a policy to reduce costs to the Federal Government. We have pursued that by seeking to transfer these schools to

local operations. We had to meet the obligations to upgrade them so they would meet State fire and safety codes, and now we have done that. So this says that they should be transferred upon completion of the repairs that we have already financed and we continue to finance in this bill.

Similarly, I have to say, Mr. President, if the Senate wants to look at the details of the Department of Defense health program, it begins on page 199 of the report. I am proud of this. I think that we have within the Department of Defense a series of dedicated people. Again, it is peacetime. There is no war ongoing. They have some tremendous capabilities to do research. They are the ones who got us the various vaccines over the years starting with malaria, hepatitis. You name it, it was the Defense Department's research group that has really been at the cutting edge of research in this country, and that includes AIDS.

As early as 1982, we started a fund to try to deal with AIDS. Why, Mr. President? We found an increasing number of people in the services were contracting AIDS throughout the world, and we had an increasing problem. We had people enlisting and after they were enlisted, they had AIDS. We had to have some basic funding for research to determine how to deal with that issue.

As I said before about breast cancer, we have literally thousands of young women coming on now into the Department of Defense, and they have to have that kind of medical attention. Based upon that medical attention, we should have the capability of giving the Department of Defense the money to continue research to help to deal with that disease that afflicts so many young women of childbearing age.

Those are the people enlisted in the Army, the Navy and the Air Force. And the Department has willingly taken on the task of being a partner in this type of research. I say I would oppose the Senator's amendment, if for no other reason than that.

I stood here and tried to limit the involvement of our defense funds to meet legitimate problems that the Department of Defense is concerned with. But this money is being dedicated, I think, to research that is needed.

Go through it. We have disaster management training. There is no question about it, we need that. We have funds for the support of the comprehensive health care system. We are looking at neurofibromatosis. That is a study that has, I think, the Department's full backing. We are developing a regional center for advanced cancer detection.

Again, Mr. President, if we are attracting the best of our young people, the people, as Senator INOUYE says, who come forward and are willing to place themselves in harm's way, one of the harm's, unfortunately, that they get in the way of is different forms of diseases. And we have within our Department of Defense the capability to conduct research, not only assisting those individuals who develop these diseases, but using those people to help us better understand the way those diseases affect the younger people of America.

I cannot think of a thing in that health care section of our report that I would want to change or that I would want to see the Senate delete. There is another item here—I do not know whether the Senator from Hawaii wants to talk about it—with regard to the contribution of the Kaho'olawe Island restoration fund. That is a fund that we created—no, that is a contribution. The funds have already been created to remediate an area of Hawaii that was severely impacted by the use of live ammunition, as I recall. I cannot understand why we should not use Federal money for that.

Mr. McCAIN. May I respond?

Mr. STEVENS. I have to tell the Senate, I hope the Senate will join with us. I am going to move to table the Senator's amendment as soon as he has had a chance to explain it.

If my friend wishes to chat about it, I will be glad to yield to the Senator from Hawaii. Mr. President, there are two things I will close with. One is that the Senator from Arizona and I have a disagreement over the role of the Appropriations Committee vis-a-vis the Armed Services Committee. There is no question about that.

But with regard to this amendment, it goes further than that. This says that the Senator from the Armed Services Committee can ask us to delete these items without having sat in the hearings, without having sat in the meetings we have had, the subcommittee and full committee consideration, bipartisan review of every item that he has here.

I point out that there was no objection in either the subcommittee or the full committee to any one of these items from anyone. I believe they are examples of the kinds of limitations we should put on Federal funds or on those functions that receive Federal funds.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, if I may respond to the bill that was just submitted by my dear friend from Arizona.

First, on the Kaho'olawe Island restoration. Kaho'olawe is an island in the Hawaiian chain. Soon after the election of President Eisenhower, the President felt that the military of the United States required considerable training and upgrading. The Korean war had indicated that our troops were not trained properly and that our Navy was insufficiently supplied.

Therefore, he called upon the territory of Hawaii—we were not a State at that time—and requested the use of this island. The Governor of that island and the legislature consented. The President issued an Executive order that said, when we find that we are no longer in need of this island as a target island, we will return it to the people of Hawaii in a habitable condition. That is what it says, ''habitable condition.''

Soon after the island was transferred to the Federal Government for use as set forth in the Executive order, that island was just bombarded with everything from bombs to 18-inch shells, grenades, et cetera. This became the major training area in the Pacific Ocean, and it continued until about 5 years ago. All of our Navy pilots, Air Force pilots, Navy ships, and oftentimes ships from other countries, at our invitation, used this island for target purposes. They were not duds, they were live ammunition. So this island is just inundated with unexploded ordnance.

About 5 years ago, the U.S. Government decided that this island was not necessary for target practices. But then they looked over the island and they felt that if we were to return this island to the people of Hawaii in a habitable condition, it would cost possibly a couple billion dollars.

And so once again the people of Hawaii said to the Federal Government, we will set aside certain areas of this island and let us clean them up. We realize that to clean the whole island would cost billions of dollars. So this Congress authorized the expenditure of $400 million to partially clean the island.

Mr. President, it should be noted that all these years from 1953, our Government used that island and did not pay even $1 a year. No other State would have provided land for that purpose for less than market value. We got no pay. And so now the time comes to return the island, and the Senator says the cleanup should not proceed.

Mr. President, it should be also noted that this island just happens to be the most sacred island for our native Hawaiians. The most important temple, Heiau, is located on this island. This island also was the focal island for the trips to Tahiti. Long before Columbus ever set sail in the Atlantic Ocean, Hawaiians were traveling from Polynesia to the Hawaiian Islands, and this island was a focal island. So this is a very important island.

This Congress authorized this money. Granted, the authorization was not initiated by the Armed Services Committee. But this Congress did authorize it.

The Senator from Arizona also mentioned the brown tree snake. There is $1 million for the eradication of the brown tree snake. I do not see it in the bill, but he mentioned that.

The brown tree snake was first discovered on the Solomon islands. Soon after World War II—and this is in the record—a military cargo ship, because it was not appropriately cleaned up, carried a few brown tree snakes when it landed on the island of Guam. The brown tree snake just flourished to the point where six species of birds have been wiped out there. They are no longer in existence because these snakes love birds. They eat eggs and eat birds.

Furthermore, as a result of this colony of brown tree snakes on Guam, the people of Guam experienced brownouts almost every night. These snakes like these electrical towers. There are brownouts all the time.

Obviously, the people of Hawaii fear the brown tree snake, and we have found that the few brown tree snakes that have been located on Hawaii have come through the military, through the aircraft. We recently found one in Scofield barracks.

Mr. President, we pride ourselves in being the home for many of the exotic birds. The few that remain on this globe are found in Hawaii. If this brown tree snake ever found a home there, then the endangered species program we have would have to be set aside because they will just wipe our birds out.

Mr. President, there is $1 million to the military, and they want this so that they can set up a program to make certain that these snakes do not travel from Guam to Hawaii.

The other measure that my friend from Arizona mentioned, which is not here, is the Pacific missile range facility. This program was requested by the Navy. The title, the name and designation of this facility is misleading. It says ''missile range.'' The major purpose of this facility is a submarine training and target facility. Up until recently, it was a highly classified activity. You do not see much of it because it is under water.

All of our training facilities to date are deep-water facilities. The Pacific missile range is deep water, but it is also shallow water. It is the only shallow-water testing and targeting facility in the United States.

In today's possible warfare, we must excel in the skill of fighting in shallow waters. This is what it is.

It is true, it was not authorized by the Armed Services Committee, but it was requested by the military, and we believe that request was justified.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, on the issue of the Kaho'olawe cleanup, let us make it clear that we want it cleaned up. But the fact is, there is right now $116 million already in the account to clean up this island. And by the way, for some reasons that are not clear to me, 10 percent of everything appropriated goes to the State of Hawaii, but that is not the initial point here.

Right now, there is $50 million remaining available in Navy environmental cleanup accounts, another $66.75 million remaining in the trust fund, more than sufficient to proceed with 1996 planned efforts. The Navy expects to spend $26 million during 1996 for cleanup activities. That would leave approximately $90-some million left in the account.

The reason why I say it is not necessary at this time, not that we do not want the island cleaned up, but there are many other areas in America that need to be cleaned up as well. I do not know how many Superfund sites there are in America or how many bases, including one in my own State, that still needs to have funding to be cleaned up.

As far as the Eau Claire Ordnance Works is concerned, in 1988, the Army entered into an agreement with this company, NPI, concerning the funding and the cleanup of the Eau Claire site. The Army agreed to request authorization for $5 million for site-related environmental restoration costs incurred by NPI or NDC after January 1, 1984, for past production-related activities. Although the agreement provided for Army funding of cleanup costs, it also specifically denied any acknowledgment of liability or fault with respect to any matter arising out of or relating to the site. These two aspects of the agreement cause the document to be contradictory on its face.

According to the Army, the fundamental premise of the 1988 agreement to request environmental restoration funding was that the Eau Claire facility would ''continue to be an integral part of the Army's mobilization base.'' It is the Army's position that further funding requests were contingent upon the continued mobilization status of the Eau Claire site. NDC or NPI could terminate that status at will. The Army maintains that with no reciprocal obligation to continue participating as part of the Army's mobilization base, it would be difficult for NDC to argue that the Army agreed to incur an obligation to continue to request additional funding regardless of NDC/NPI mobilization status.

In 1988, $5 million was appropriated but not authorized. Most of the original appropriation was expended for studies and an alternative water system for a nearby town. Pursuant to the 1988 agreement, funding in excess of the $5 million was expressly conditioned on congressional authorization.

In 1992, the Army determined that the Eau Claire facility was no longer a critical national defense need. Then in 1993, $7 million was appropriated but not authorized. The Army unsuccessfully challenged this earmark. The $7 million was expended for studies, combined water system installation, bottled water and groundwater treatment.

In 1995, $2.3 million was earmarked for environmental restoration of the Eau Claire site in the Department of Defense appropriations conference report. There was no authorization for this purpose. According to the Army general counsel's office, that conference report earmark does not have the force of law. The Army comptroller has not released the money.

The Army believes that it has no liability for contamination of the Eau Claire site under the Comprehensive Environmental Response, Compensation and Liability Act, known as CERCLA. The Eau Claire facility is a formerly used defense site owned by the Government from 1942 to 1948. The Army Corps of Engineers has completed a PRP study concluding that there is no evidence related to disposal of hazardous substances at the site during the period the Government owned the property. According to Army general counsel, the Army did not exercise the degree of site control from 1978 to 1992 such as to warrant concluding that it was a PRP during that period.

To date, the Army has expended about $12 million for Eau Claire site remediation. NPI has requested another $15 million for environmental remediation of Eau Claire, citing the 1988 agreement as the legal basis for such funding.

The Army signed the 1988 agreement that established an obligation to request Eau Claire site remediation funding in the amount of $5 million initially, and to request additional authorizations.

The Army did not clearly identify the underlying premise of its agreement as a condition precedent to additional requests for authorization for remediation funding.

The Army's expressed willingness to request funding authorization for site remediation suggests that the Army has historically acknowledged some level of liability but now wishes to alter that position.

The 1988 agreement also denied liability or default with respect to any matter arising out of or relating to the Eau Claire site.

The sub rosa purpose for the 1988 agreement was to keep NPI financially afloat so that it could maintain its mobilization status on behalf of the Army.

The Army's PRP study indicated that the Army had no CERCLA liability with the Eau Claire site.

To continue to compel the Army to fund the Eau Claire site for remediation simply based on a contractual relationship that it shared with NPI, sets a very bad precedent for the Department of Defense.

The factual basis for this claim is ripe for litigation, not legislation.

What would be most beneficial in this situation is to encourage the parties to work out their differences as they agreed to do in the context of the 1988 agreement. I might add that the Army opposes earmarking funds for this site remediation.

Mr. President, I do not know if the $20 million to transfer federally owned educational facilities on military installations to local education agencies is good or bad. It has never been brought up to the authorizing committee.

As far as the Coast Guard to draw $300 million from DBOF, if they are for contingency funds for Haiti and others, I suggest they come out of funds which are for ongoing contingencies, and their operations would be part and parcel for that.

The Senator from Alaska is right that we do not agree on the respective roles of the appropriations and authorization committees, and I am sure that

we will continue to have that sometimes intense but always respectful difference of opinion. But I say to my friend from Alaska, his authority to limit expenditures is something that I see exercised in the breech and the exercising of his authority to increase spending is something that I see exercised with great frequency. Therein lies much of our difference of opinion.

Mr. President, I want to say that I appreciate enormously the dedicated effort that the Senator from Alaska has made for many, many, many years, long before I was a Member of this body, to ensure that we had an adequate and strong national defense. And my sentiments are the same for the Senator from Hawaii and his dedicated efforts. I know that the Senator from Alaska and the Senator from Hawaii know I will continue my efforts to avoid earmarking and unauthorized expenditures of funds. I will also admit to the Senator from Alaska that there are bound to be certain gray areas in which there is an open and honest difference of opinion as to what needs to be authorized and what needs to be appropriated.

So I thank my colleague from Alaska for his indulgence on this issue. I am prepared to accept a voice vote on this amendment.

Mr. COCHRAN. Mr. President, I simply want to point out, as the managers have already so capably done, that these provisions are included after a review by the committee and a decision by the committee that the allocations of the funds were justified. I suggested that we approve the provision relating to the Eau Claire, WI, site where environmental remediation is obviously needed, and has been agreed to by the Army in a previous written agreement that goes back to 1988.

The fact is that that agreement has not been kept on the part of the U.S. Army. So the funds are available in this bill for that purpose, and the committee report spells out that they are, much like the committee report did in 1993, where it concludes with this language: ''The Department of the Army has not fulfilled its commitments under this agreement.'' The Department is encouraged, and the funds are made available, to complete the obligation and keep its part of this bargain. It is a difference of agreement.

I urge the Senate to go along with the recommendations of the managers of this legislation.

Mr. STEVENS. Mr. President, I ask for a vote on this amendment.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 2375) was rejected.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DORGAN addressed the Chair.

Mr. STEVENS. Will the Senator yield for a question?

Mr. DORGAN. Yes.

Mr. STEVENS. Is there a possibility that we can limit the time on this amendment?

Mr. DORGAN. I would be agreeable to a time limit. I know there are likely to be people who will want to speak on this. On the other hand, we have debated missile defense issues generally on the Defense authorization bill in recent days for some 8 or 9 hours.

Mr. STEVENS. Mr. President, I will serve notice to the Senate that when the Senator completes his remarks I will move to table the amendment.

This has been debated on the Armed Services Committee bill, and it is part of an item that is in conference now. I hope the Senator will understand that we want to move this bill along. It is a matter that was debated at length on the other bill.

It is my intention to move to table at the completion of the Senator's remarks.

Mr. DORGAN. I am more than amenable to having a short time limit, but I would like an up-or-down vote on the amendment.

Mr. STEVENS. I will be happy to have an up-or-down vote if we have a time agreement.

Mr. DORGAN. I would be happy to do that. I understand we want to try to avoid recorded votes between 1 and 2.

Mr. STEVENS. We can postpone the time. Others are standing in line.

Mr. DORGAN. I would be amenable to a 1-hour time agreement equally divided.

Mr. STEVENS. I believe that is agreeable. With the vote to take place at a time to be mutually agreed upon following completion?

Mr. DORGAN. Yes. That would include no second-degree amendments.

Mr. STEVENS. No second-degree amendments.

Mr. BINGAMAN. Mr. President, can I ask the Senator from Alaska if he would add to that one-half hour for the amendment that I will offer after the Senator from North Dakota on my side, and one-half hour in opposition, also without no second-degree and with an up-or-down vote? It would be the amendment I just gave the Senator.

Mr. STEVENS. With regard to the amendment of the Senator from New Mexico, there would be no second-degree amendments prior to the motion to table. If the Senator's amendment is not tabled, it would be subject to a second-degree amendment.

Mr. BINGAMAN. Mr. President, I see very little percentage in me agreeing to a time limit under those circumstances.

Mr. STEVENS. I will make the same offer. I intend to move to table any amendment that was debated on the Armed Services Committee bill.

Mr. President, has the time agreement been entered into on the amendment of the Senator from North Dakota?

The PRESIDING OFFICER. No unanimous-consent request has been made.

UNANIMOUS-CONSENT AGREEMENT

Mr. STEVENS. Mr. President, I ask unanimous consent that there be 1 hour, equally divided, with no amendments in the second degree, and we will have an up-or-down vote at a time to be agreed upon following the expiration of the hour.

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

The Senator from North Dakota is recognized.

AMENDMENT NO. 2377

(Purpose: To reduce the amount authorized to be appropriated for national missile defense.)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. BRADLEY, Mr. LEAHY, Mr. BINGAMAN, and Mr. FEINGOLD, proposes an amendment numbered 2377.

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

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

The amendment is as follows:

On page 29, beginning on line 12, strike out ''$9,196,784,000, to remain available for obligation until September 30, 1997.'', and insert in lieu thereof ''$8,896,784,000, to remain available for obligation until September 30, 1997: *Provided*, That, of the amount appropriated under this heading, not more than $357,900,000 shall be available for national missile defense.''.

Mr. DORGAN. Mr. President, I have agreed to a time agreement even though this is an enormously important issue, because we have spent many, many hours debating the general issue in recent days on the Defense authorization bill. My amendment would eliminate the $300 million additional funding that was added in the appropriations bill for something called national missile defense. It was added to the Defense authorization bill, and now added to the appropriations bill.

We already had a debate on this on the authorization bill, and I lost by three votes in stripping out the $300 million extra that was written into the bill that the Secretary did not ask for. This is not money the Secretary said we need, that he wanted. This is $300 million extra that was put in the Defense authorization bill, and now put in the Defense appropriations bill, for a national missile defense program.

Let me try to describe what all of this means. We can go back to the mid to early 1980's and President Reagan's announcement one evening at a press conference of his idea to build an astrodome over America—star wars, it was called. If you kind of put an astrodome over our country in the form of star wars defense, you create a shield against incoming intercontinental ballistic missiles from the Soviet Union.

It was a very expensive proposition, but at a time when we were in the middle of the cold war with the Soviet Union, the Reagan administration pushed very hard to initiate a star wars program, to create a shield over this country that incoming missiles could not penetrate because they would be shot down.

A lot has happened since 1983. The Soviet Union no longer exists. It is a name consigned to the ash bin of history. The Soviet Union is gone. Since 1983, we have entered into arms agreements with the Soviet Union that result now in having missiles cut up and destroyed in the Soviet Union that previously were sitting in silos with nuclear warheads aimed at American targets. Those missiles are now being taken out of the silos, dismantled, and destroyed under our arms agreement, initially made with the Soviet Union, and now continuing to be carried out with Russia and the Republics.

But one thing has not changed in the intervening period, and that is the appetite for folks who are invested in an arms program to continue to build that program.

The Soviet Union is gone. The cold war is over. We are now allies with Russia in a whole range of areas. We just had our astronauts up in space with the Russians, cavorting around the space lab.

The Russians are now taking their missiles out of their silos and cutting them up and destroying them, and the American taxpayers are helping pay for that destruction because it is part of arms control and it makes a lot of sense.

It makes a lot more sense to pay for the destruction of missiles that were previously aimed at the United States than for us to build a new weapons program with all of the tens of billions of dollars that costs.

One thing has not changed; that is the appetite to build the programs that were started. So we come to 1995 and something called national missile defense, ergo, star wars. New title, new description. But look on page 186 of the report before the Senate on the defense appropriations bill:

> National Missile Defense. The committee has provided $670.6 million, an increase of $300 million over the budget request. The committee has taken this action to accelerate the development of a national missile defense system. The committee endorses the realignment and augmentation of funding for BMDO and endorses the realignment and funding for 1996. The committee shares the commitment articulated in the report on the defense authorization bill that adequate resources should be made available to facilitate the deployment of an operational national missile defense system at the earliest possible time that can fully protect all 50 States.

Now, what does this mean? What this means is the Secretary of Defense, in asking Congress for the money he thinks is necessary for the security of this country, asked for $371 million to continue to do research and development on a national missile defense program in the event that in the ensuing years, a threat develops that would persuade the Department of Defense authorities that they might want to deploy a national missile defense system.

What did the Congress do? Well, those who were beating their chests day after day earlier this year about the Federal budget deficit, the fact that this country is up to its neck in debt and has enormous yearly budget deficits, have changed their tune. Those same folks who were bellowing and crowing and beating their chests about the budget deficit said, ''You know, what we would like to do is to add $300 million more to this account that the Secretary says he does not want and does not need.''

In fact, this is just a small part of it. They actually said, in this entire bill, we will add $7 billion that the Secretary did not ask for. We will buy trucks, ships, and planes that the Secretary of Defense did not ask for, because we think it is in the national interest. Seven billion dollars was added in the authorization bill, and most of it is in the appropriations bill, that the Secretary of Defense said he does not want and does not need.

Included in that $7 billion is $300 million for star wars. Some will object and say this is not star wars. Well, read it.

This bill says the following: First of all, we ought to deploy a new national missile defense system by 1999. That is 4 short years from now. Second, it ought to be a multiple-site system; that, by definition, means we want to break the ABM Treaty.

The ABM Treaty is the foundation for the arms control agreement that now results today in Russia in the destruction of missiles that used to be aimed at us. They are torn up, cut apart, and destroyed.

Those arms treaties result in that. That is progress. That is success. I say when you have thousands of missiles and you are destroying rather than building more, that is success.

But to deploy a new multisite national missile defense system immediately abrogates the ABM Treaty. Then this bill says that as a component part of that system, we will have a space-based component. Well, putting weapons in space violates the ABM Treaty too. So all of that simply abrogates the ABM Treaty.

Some may want to do that, and think the treaty is irrelevant and ought to be changed. I think it is the foundation that has led us to a position where rather than building new missiles, we are helping to destroy old ones that used to be aimed at us.

I suppose of all the folks in this Chamber who ought to be supporting this, it ought to be me. One of the likeliest sites for national missile defense is northeastern North Dakota. Most everybody says that would be one of the first sites because that is where the only ABM system was ever built.

In the early 1970's, this country built an antiballistic missile system, and spent billions of dollars doing it. Within 30 days of it being declared operational, it was mothballed. Within 30 days of this antiballistic missile system being declared ready and operational it was closed and mothballed.

The ABM Treaty provides if we have another ABM site, it shall be in that same State. If anybody in this Chamber probably would be expected to support this because it is likely in part to be built in North Dakota, I suppose it would be me. But I do not support it because I do not think this country ought to spend money it does not have on things it does not need.

That is the case with star wars. It is out of step. It is out of time. It makes no sense in the current circumstances to initiate the development of a new $48 billion program, according to the Congressional Budget Office statistics—$300 million this year, yes, but it would cost an estimated $48 billion in total.

Now, what is the threat and what is the administration's policy? Well, let me read a statement of the administration's policy. These are the folks who run the Defense Department. ''The bill would direct the development for deployment by 2003,'' and the bill also says the initial deployment in 1999, ''of a multiple-site system for national missile defense that, if deployed, would be a clear violation of the ABM Treaty. The bill would severely strain U.S./Russian relations and would threaten continued Russian implementation of the START I treaty and further Russian consideration of the START II treaty.''

Incidentally, they are involved in the issue of consideration of ratifying the START II treaty at this point. This could not come at a worse time and could not be, in my judgment, a worse policy. ''These two treaties will eliminate strategic launchers carrying two-thirds of the nuclear warheads that confronted the Nation during the cold war.''

We are saying that the treaty which was the foundation for all this arms control progress is a treaty we now essentially ought to violate.

Now let me read a statement from Secretary Perry, the Secretary of Defense:

> The bill's provisions would add nothing to DOD's ability to pursue our missile defense programs and would needlessly cause us to incur excess costs and serious security risks.

I do not know how you can say it more clear than that. You have a Secretary of Defense that says you do this and you cause this country additional security risks. You have a Secretary of Defense that says he does not want this $300 million, and a bunch of folks that call themselves conservatives saying not only do we not care if you do not want it, we insist we give it to you and you spend it. This makes no sense to me.

Now, some will stand up in this Chamber and say, ''You do not understand anything about defense. You oppose all these things.'' I support a strong defense. I supported many weapons programs which I think are necessary for the country. I have also been willing to stand up and confront some programs that I think are complete total boondoggles, this among them.

Some will say, well, you do not understand; maybe it is not Russia, maybe it is not the cold war, but it is a new threat, they tell us. In fact, several stood on the floor of the Senate recently in the last week and said: It is a new threat; you do not understand. It is Iraq, it is Saddam Hussein, it is the country of Iran, it is Muammar Qadhafi and Libya; it is North Korea, in fact. That is what they say. They bring charts out and they show big pictures of missiles that North Korea is developing.

Well, all the credible experts in intelligence tell us there is no credible threat to this country in the next decade from a terrorist nation delivering a nuclear warhead with an intercontinental ballistic missile. It is far more likely that a terrorist nation, if it managed to get sufficient materials with which to produce a nuclear bomb, would threaten this country with a suitcase bomb, or with a bomb in the trunk of a rusty old car parked at a dock in New York City; or perhaps with a small glass vial of deadly biological agents smuggled into this country.

But that, unfortunately, does not augur for a defense mechanism that would allow one to build a $48 billion program with jobs all over the country to construct a new missile program and relight the torch of the arms race at exactly the time we have started to make progress, to see the destruction of missiles that used to be aimed at us.

No, it is hard to dim the appetite in these Chambers for weapons programs. It does not matter what year it is. You just change the argument. It does not matter that the Soviet Union does not exist; just debate Korea. Just say Korea has some missiles now.

Listen to some defense experts; in fact, maybe listen to the folks back home. Listen to the taxpayers. Do you want to talk about a threat to this country? Maybe the threat to this country ought to be best described as debt and deficits, a $5 trillion debt and nearly $200 billion in annual deficits.

In a circumstance where when we debate that, the very folks who now tell us that they want to stuff the Pentagon's pockets with $300 million this year that the Pentagon does not want, and up to $48 billion in the future, to build a star wars system, the very same people who say that they are the warriors in confronting the budget deficit become wallflowers when the defense budget comes to the floor of the Senate because they are the ones who are the wild-eyed, reckless spenders. They are the ones who say it does not matter to us that we do not need it, it does not matter to us that nobody asked for it. We insist, in fact we demand that we build it and spend it.

We have already had a vote on this issue: $300 million for early development, 1999, a new star wars national missile defense program. We already had a vote on it. I lost, 51 to 48. That was in the defense authorization bill.

This is the appropriations bill. Someone might argue, ''Well I voted to authorize it but I really did not vote to spend the money.'' Here is where we are going to decide who is willing to vote to spend the money on something we do not need. This is when we find out who is really the steward of the taxpayers' dollar.

As I finish this discussion I cannot help but also point out there is a tendency in this Chamber—and it is probably a tendency that has been around for a long, long while—to say if you do not support this sort of thing you do not support a strong defense. In fact, someone stood up on the other side of the aisle last week and said: You know, what the folks who do not want to build the star wars system are saying is let us protect everyone else but America. Let us not protect America.

What a bunch of babble. What a lot of babble coming from folks who talk that way. We spend $260 to $300 billion on defense in this country. We build bombers and fighters and tanks and trucks and we build weapons, sophisticated and unsophisticated. The fact is, we spend so much more than any other country in the world on defense that you are embarrassed to see the ratio. You can add up all the rest of the expenses by all of our allies and we still spend more than all of them by far.

So for anybody to suggest if you do not swallow this minnow, if you are not willing to build this project, start a new star wars and abrogate the ABM Treaty, somehow you do not care about this country—I say that is the kind of debate that largely renders thoughtfulness irrelevant in this Chamber.

I do not mind if somebody stands up and prints a cardboard cutout of some hyperinflated missile threat from North Korea. If they really want to do that, they have every right to do that. But it does not comport with what the intelligence experts say.

I do not mind if somebody says, you know, it is true we cannot afford to have poor kids at school have an entitlement to a hot lunch because we do not have the money; it is true we cannot afford to fully fund Medicare for the elderly because we do not have the money; and it is true we have to make it more difficult for kids to go to college and for their parents to pay for it because we do not have the money for student financial aid—that is all true, but then they say it is not true we are short of funds when it comes to building star wars.

I respect the debate about priorities. Those folks who believe that, that this is wrong and that is right, that investment in human potential is not what helps our country but investment in the Star Wars program when the Soviet Union is gone, they think that is the right priority—I respect that difference. But I have minimum high regard for those who stand on the floor and say those of us who would oppose a new Star Wars program that will cost up to $48 billion somehow do not want to protect America. The best way to protect America, in my judgment, is to not spend money we do not have on something we do not need; and not abrogate the ABM Treaty. This treaty is a vital part of arms control, and it is arms control agreements that have put us where we are now with now, helping to destroy missiles that were previously aimed at us.

I intend to ask for a record vote. I want people to register how they feel about spending this extra $300 million, and consigning us to spend an extra $48 billion, reignite the arms race and abrogate the ABM Treaty with this kind of foolishness.

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

The PRESIDING OFFICER (Mr. KYL). Who yields time?

The Senator from Hawaii.

Mr. INOUYE. Mr. President, I yield myself 10 minutes.

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

Mr. INOUYE. Mr. President, at the outset, I believe the record should show that a week ago, when this amendment was proposed to the authorization bill, I did support with some reluctance this amendment. Today I stand before my colleagues as one of the managers of the appropriations measure. In the past week, several things have happened which places this amendment in a different light.

First, this measure has been voted upon after an 8-hour debate and the vote was close, 51 to 48. Second, the underlying proposition, which is the possible abrogation of the ABM Treaty, is now very seriously negotiated by our leadership, Mr. DOLE and Mr. DASCHLE, by members of the State and Defense Departments, and by the senior members of the Armed Services Committee. At this moment, Mr. WARNER, Mr. COHEN, Mr. NUNN, and Mr. LEVIN are very seriously discussing this matter.

Many of us have been assured that this negotiation process is moving along in a very fruitful fashion; that we can anticipate some sort of resolution. And therefore it is with that understanding that the appropriating committee came forward and presented our bill. There is an understanding that, if a resolution is reached, we would be set aside and the authorizers will come into the picture.

Third, this $300 million is for research and development. The amount of $48 billion has been mentioned. The $48 billion is a possibility in the future, if—and I say if—this country should decide to establish an antiballistic missile system, setting up bases all over

the United States. That decision has not been made and I believe that at this stage it is very unlikely that a decision of that nature would be adopted by this Government, or by this Congress. Therefore, I hope my colleagues here will be a bit more patient and wait until the negotiators have concluded their meetings, wait until our Defense and State Department officials have expressed their views, and wait until the authorization measure is taken up in the appropriate fashion and votes are taken to make their final decision.

Therefore, I must advise my colleagues that on this vote I will be voting with my chairman which would be against the proposition.

Mr. President, how much time have I consumed?

The PRESIDING OFFICER. The Senator has consumed 4 minutes and 15 seconds.

Mr. INOUYE. I yield the floor.

Mr. DORGAN. Mr. President, let me make a couple of additional comments.

There is no one for whom I have higher regard in the Chamber than the Senator from Hawaii. I regret that he will not be able to vote for the amendment. But I want to make a couple of additional points.

There are negotiations going on right at the moment. I have been at a number of meetings today on this subject. Frankly, I doubt very much whether those negotiations are going to be able to bridge the gap. Some of us essentially want a multiple-site missile program, with a space-based component, both of which will violate the ABM Treaty. Others of us believe this is a gold-plated boondoggle, it wastes the taxpayers' money, and it will commit us to spending $48 billion for a national missile defense system that probably does not work and that we certainly do not need.

But I point out that the $300 million that is in this bill is $300 million specifically in the authorization bill designed to lead to deployment. It is not as innocent as just research. If it were, I maybe would not be on the floor in quite this manner. But it is designed to lead to deployment of this system. That is the dilemma.

I fully understand the appropriators who bring this to the floor generally would support what they have written in the appropriations bill. But I want to make one final point.

The fact that something has been authorized does not necessarily mean that it must be appropriated. Any number of things have been authorized by Congress. But then, any number of times, we decided subsequently that maybe we could do that but when you looked at all the priorities we did not have the money and we were not going to fund it. The decision here is, are we going to fund it? Are we going to pay for it?

I ask my colleagues, all of those who believe that we ought to deploy a new star wars program, where are you going to get the money? Where does the money come from? What are you going to cut to fund it? Which taxes are you going to raise to pay for it? Those are a series of questions that ought to be answered if we commit ourselves to spending this kind of money on a project that I think this country does not need.

Mr. President, I yield the floor and I reserve the remainder of my time.

Mr. STEVENS. How much time remains?

The PRESIDING OFFICER. The Senator has 25 minutes and 40 seconds. The Senator from North Dakota as 8 minutes and 53 seconds.

Mr. STEVENS. Mr. President, I know the Senator from Hawaii has already spoken. I shall not repeat what he said. I say to the Senate, when are we going to decide whether this bill is going to pass? This amendment was debated before, as the Senator from Hawaii has indicated. It was a matter within the jurisdiction of the Armed Services Committee, not our committee. There are times when we debate something in that jurisdiction, but this is not one of the times.

I just say simply to the Senate that, if this amendment is not tabled, as far as I am concerned I am going to ask the majority leader to pull the bill down. I see no reason for us to debate once again hour after hour after hour comments that were considered by the Senate in connection with the Armed Services Committee.

The Senator has every right to offer this amendment. Unfortunately, I feel I have the duty to move to table it. We had an agreement to vote up or down. That is even worse really. But it is worth the price. We must have the support of the Senate to defeat the amendment. I am prepared to yield back my time if the Senator is.

We have an understanding, I might say to the leader, that we will not vote before 2 o'clock. But we will have other amendments that are ready to go. So we will proceed with other amendments right away.

The Senator has some additional time, Mr. President. It is I hope going to be a precedent for the Senate that we determine not only now but for future considerations of this bill that if there are amendments considered in connection with the Armed Services Committee bill it will not be considered on this bill.

The PRESIDING OFFICER. The Chair might advise the Senator that there is a vote scheduled on this but the Chair understands there has not been an agreement yet as to what time that will be.

Mr. DORGAN. Mr. President, I would say to the majority leader and the managers of the bill that I have no intention of delaying. That is why I agreed to a rather short time period. I would have no objection to setting a time for the vote at 2 o'clock. I would have no objection to moving to other amendments. There are some who may wish to use the remaining time, if we could simply provide the remaining 8 or 9 minutes if there is someone between now and 2 o'clock who wants to come to claim that on this side of the issue. I would have no objection to doing it. I have no objection to getting to a vote here at a time specific.

Mr. STEVENS. If the Senator will yield for an inquiry. What is the time situation now?

The PRESIDING OFFICER. The Senator from Alaska has 3½ minutes and the Senator from North Dakota has 8 minutes.

Mr. STEVENS. Mr. President, I ask unanimous consent that we each retain 8 minutes and let us put this amendment aside.

Mr. DORGAN. No objection. I would ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. I asked for that because I do not know if someone on this side might wish to answer the Senator. I do not think so. Whenever the leader wishes to call this back up, there is a possibility of 16 minutes definitely before the vote.

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

Each side will retain 8 minutes.

Mr. STEVENS. Mr. President, the Senator from New Mexico [Mr. BINGAMAN] has an amendment that he indicated he wishes to offer. We are prepared for that, and the Senator from Vermont [Mr. JEFFORDS] is here with an amendment. There are several amendments coming.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. The Senator from North Dakota indicated to me that he would be willing to vote at 2 o'clock unless you want to stack the next amendment and his at the same time. That would save some time, too.

Mr. STEVENS. We are happy to hold this amendment whenever it is, at the leader's convenience.

Mr. DOLE. I would suggest that, if we are going to have another amendment by Senator BINGAMAN which might require a rollcall, we have two at once.

Let me indicate to my colleagues who are not here—the managers are here and they are prepared to discuss amendments—that it looks as though now this will be the last bill to come up before we go home. So when it is over, it is over, if we get a very tight time agreement on the DOD authorization bill. If we cannot get that time agreement, we will be back to DOD. But if we get a very tight time agreement, which would not take more than 4 or 5 hours when we come back, we would do that on Tuesday the 5th and then go to welfare reform.

So for those people who have come to me and left notes under the door saying ''Let's get out of here,'' and all of

these things, here is their opportunity to come to the floor and offer their amendments and enter into a very short time agreement. It will speed up the process and make the managers very happy, and many others will be pleased, I might add.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from West Virginia is recognized.

Mr. BYRD. I thank the Chair.

(The remarks of Mr. BYRD pertaining to the submission of Senate Resolution 162 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

Mr. BYRD. Mr. President, I yield the floor.

Mr. BURNS. Mr. President, parliamentary inquiry. Are we in a period of morning business?

The PRESIDING OFFICER. No.

Mr. BURNS. I ask unanimous consent that I may speak as if in morning business for such time as to introduce several bills.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BURNS. I thank the Chair.

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

Mr. BURNS. I thank the Chair, and yield the floor.

Mr. STEVENS. Mr. President, I thank the Senator from Montana.

MARINE CORPS MPS ENHANCEMENT PROGRAM

Mr. SMITH. Mr. President, I wonder if I might engage the distinguished chairman and ranking member of the Defense Subcommittee in a brief colloquy.

Mr. STEVENS. Certainly, the Senator from New Hampshire may proceed.

Mr. SMITH. First of all I want to commend the Senators from Alaska and Hawaii for their fine work in formulating this appropriations bill. I know that the subcommittee was confronted by some significant fiscal challenges, and I appreciate their outstanding work in balancing resources with our military requirements.

One issue that I am concerned with, however, is the Marine Corps Maritime Preposition Ship [MPS] Enhancement Program. As my colleagues know, the MPS Enhancement Program would add an additional ship to each of three Marine Corps preposition squadrons. These ships would be loaded with an expeditionary airfield, two M1A1 tank companies, a fleet hospital, Navy mobile construction equipment, a command element package, and additional statement. These assets will provide tremendous flexibility for crisis response and contingency operations.

Last year, under the leadership of the Senators from Alaska and Hawaii, the committee appropriated $110 million for the first ship in the MPS Enhancement Program. This was an important statement of support for the preposition concept in general, and the Marine Corps program in particular. The Armed Services Committee has sustained the momentum on the MPS Enhancement Program by authorizing $110 million in fiscal year 1996 for the second ship in the program.

In reviewing the legislation before us, I am unclear as to what the recommendation of the committee was with respect to the second MPS enhancement ship. I wonder if the Senators from Alaska and Hawaii could comment on this issue.

Mr. STEVENS. The Senator from New Hampshire is correct in his review of the legislative record on this issue. The Appropriations Committee did fund the first ship last year, and is supportive of the Marine Corps MPS Enhancement Program. At the time the committee marked up its legislation for fiscal year 1996, it was unclear whether the Navy was moving forward with the program established in the fiscal year 1995 authorization and appropriations bills. The committee was concerned over the lack of noticeable progress in acquiring and converting the first ship under the program. The committee was also confronted by some significant funding shortfalls in the shipbuilding and conversion accounts.

However, the committee did direct that the Secretary of Navy may obligate appropriations up to $110 million for the procurement of a second MPS ship in fiscal year 1996.

Mr. INOUYE. Let me assure the Senator from New Hampshire that the committee did carefully consider this matter. It is the view of Senator STEVENS and myself that the language in our legislation provides authority to move forward with the second ship in the MPS Enhancement Program. I expect this issue will be further explored during conference, as well.

Mr. SMITH. I thank the distinguished chairman and ranking member for their comments. I gather from their statements that the Appropriations Committee continues to support the Marine Corps Maritime Pre-position Ship Enhancement Program, but is concerned over delays by the Navy in moving forward to implement the program established last year in the authorization and appropriations bills. Is it fair to say that if the Navy can convince the committee that their program is sound, and that they can demonstrate that they are fully exploring means to reduce overall program costs, such as multiple ship contracts, that the committee would be inclined to support a second ship in fiscal year 1996?

Mr. STEVENS. I think that is an accurate description.

Mr. INOUYE. Yes. That is correct.

Mr. SMITH. I thank my colleagues for their comments, and fine work on this bill. I look forward to working with them on this important program.

Mr. BOND. Mr. President, I would like to discuss with the distinguished chairman of the Senate Appropriations Defense Subcommittee a matter of importance to our Army National Guard Forces.

Mr. STEVENS. I would be pleased to learn of my colleague's thoughts on this matter.

Mr. BOND. Chairman STEVENS, this year, as in the past, your subcommittee has demonstrated its continued commitment to insuring the Army National Guard remains adequately supplied with modern and effective combat equipment. Currently, the Army Guard is wrestling with how best to modernize its artillery inventory. A key component of this modernization plan is the upgrade of 51 battalions and 7 additional batteries with the M109A6 Paladin system. The initial cost estimates of this modernization effort are prohibitive.

I suggest an affordable altnernative—one that is already endorsed by the Senate Armed Services Committee. I suggest that the Army develop an upgrade of the M109A5 currently in use by the Army National Guard, using components of the Paladin system. This upgrade would include digital and survivability enhancements which would significantly improve the combat performance of this weapon system. I would encourage the Department of the Army to evaluate this upgrade project and urge the committee to establish an M109A5 upgrade RDT&E program element with funds from the Paladin line to enable the Army to procure and evaluate a platoon of four M109A5 upgrade systems for use by the Army National Guard.

Mr. STEVENS. Mr. President, my colleague raises an excellent point. I understand that $3,000,000 would be required by the Army to acquire and evaluate an M109A5 upgrade system. I will work in conference to make funds available for this program.

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. STEVENS. I ask unanimous consent that further proceedings under the quorum call be dispensed with.

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

AMENDMENT NO. 2356, AS MODIFIED

Mr. STEVENS. I would call the attention of the clerk to amendment No. 2356. On page 1 of that amendment, on line 3 there is a ''shall.'' I would like to strike ''shall'' and insert in lieu of that ''may.'' This is a technical correction to amendment 2356.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 2356), as modified, is as follows:

On page 8, line 13, strike out ''Act.'' and insert in lieu thereof ''Act: *Provided further,* That of the funds provided under this heading, $500,000 may be available for the Life Sciences Equipment Laboratory, Kelly Air Force Base, Texas, for work in support of the Joint Task Force—Full Accounting.''.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

REGULATION OF TOBACCO

Mr. FORD. Mr. President, the President of the United States just held a press conference as it relates to the regulation of tobacco. I will make a few remarks in response to that.

The President's announcement today is very disappointing. After weeks of attempting to arrive at a solution with the White House, offering proposal after proposal, my farmers lost out to the zealots. We had agreed to almost everything the White House proposed, with ways to put teeth into that agreement. I know that, because I have been attempting to negotiate since day one. No one, to my knowledge, was attempting to block the President's position of reducing underage smoking. We were offering a fair and enforceable way to get there.

Mr. Kessler wanted a scalp on his belt, and the White House was determined to give it to him. Even Representative RON WYDEN of Oregon, a strong antitobacco advocate, asked the President to basically agree with our offer. The administration has chosen litigation over compromise, delay over action. The President has chosen a press conference instead of a negotiating conference. He has chosen a process that reaches his goals later rather than sooner.

I am not only disappointed, Mr. President, but I am hurt. My first thought was to be vindictive, use every means I have available to me—and there are several—to get back at the White House. But I have decided not to take that course. I will, however, try to seek out people of reason to help work through this problem.

I have never been one who thought it wise to appoint a person to your administration from another, especially if he or she was of a different party. Mr. Kessler is a carryover from the Bush administration, and I am not sure he is doing this administration any favors.

The President said he wants to work to pass legislation that would accomplish these goals. I will introduce such a bill when we return in September and believe it will be acceptable to the White House. The FDA is so far behind now in making important decisions and with the attempt to acquire additional work, I believe the people of this country will be ill-served to a much greater degree by this decision.

Mr. President, I have five grandchildren. Three of those grandchildren are teenagers. None of my grandchildren smoke, thanks to their parents, because they have seen to it that they did not.

I am not advocating teenage smoking. All I am trying to do here is to put into place an agreement with the White House so that we may proceed and do those things that are necessary, because today suits have been filed all over the country as it relates to the proposed regulations. So now we have confrontation where we could have had an agreement. I am very hopeful that when we come back in September, those who are reasonable and fair will join with me in accomplishing the purpose of reducing or eliminating smoking among teenagers and do it in a very fast and appropriate manner.

I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

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

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2390

(Purpose: To meet the highest priority of the Secretary of Defense for additional funding, namely, funding for ongoing operations in Iraq, Cuba, and Bosnia, and to save $111,900,000 for the taxpayers by postponing procurement of the LHD–7)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, Mr. LAUTENBERG, Mr. EXON, and Mr. KERREY, proposes an amendment numbered 2390.

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

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

The amendment is as follows:

On page 81, strike out lines 16 through 23, and insert in lieu thereof the following:

SEC. 8082. (a) In addition to the amounts appropriated in title I for military personnel, funds are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1996, for purposes and in amounts as follows:

(1) For military personnel, Army, an additional amount of $9,800,000.

(2) For military personnel, Navy, an additional amount of $39,400,000.

(3) For military personnel, Marine Corps, an additional amount of $6,000,000.

(4) For military personnel, Air Force, an additional amount of $61,200,000.

(5) For reserve personnel, Navy, an additional amount of $2,700,000.

(b) In addition to the amounts appropriated in title II for operation and maintenance, funds are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1996, for purposes and in amounts as follows:

(1) For operation and maintenance, Army, an additional amount of $171,300,000.

(2) For operation and maintenance, Navy, an additional amount of $210,400,000.

(3) For operation and maintenance, Marine Corps, an additional amount of $8,000,000.

(4) For operation and maintenance, Air Force, an additional amount of $645,100,000.

(5) For operation and maintenance, Defensewide, an additional amount of $25,800,000.

(6) For operation and maintenance, Navy Reserve, an additional amount of $1,000,000.

(c) In addition to the amount appropriated in title VI under the heading ''DEFENSE HEALTH PROGRAM'', funds are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1996, for expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, an additional sum in the amount of $7,400,000 for operation and maintenance.

(d)(1) The total amount appropriated in title III under the heading ''SHIPBUILDING AND CONVERSION, NAVY'' is hereby reduced by $1,300,000,000.

(2) None of the funds appropriated in title III under the heading ''SHIPBUILDING AND CONVERSION, NAVY'' may be obligated or expended for the LHD–1 amphibious assault ship program.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the amendment reflect that Mr. LAUTENBERG, Mr. EXON, and Mr. KERREY from Nebraska are listed as cosponsors of the amendment.

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

Mr. BINGAMAN. Mr. President, this amendment does several things. Let me describe what those are. It provides over a billion dollars—in fact, $1.63 billion—for ongoing military operations which the Secretary of Defense stated was his highest priority for funding if we were able to find any additional funds to use this year in addition to the President's requested budget. It does so by striking the expenditures in the bill by $1.3 billion for the LHD–7 amphibious assault ship. It also, Mr. President, strikes two other provisions of the bill, which I think need to be stricken, and which I will explain as I go forward.

Mr. President, prior to the Armed Services Committee markup of the bill, we had a breakfast in the Armed Services Committee with Secretary Perry and General Shalikashvili to discuss what the needs of the Department of Defense were. The Secretary at that time told the committee that he would need $1.188 billion in fiscal year 1996 to fund ongoing operations in Iraq—on

Iraq's borders, that is, and at Guantanamo Bay and in Bosnia. He stated that if these operations were not funded in the authorization and appropriations bills that we pass this year, then he would be forced to come back to Congress with a supplemental next year asking for this exact amount of money—at least this amount of money. He indicated that he knew for a fact we were going to have to be spending this much in these different areas.

Mr. President, this chart, I think, captures the essence of what the Secretary has asked for. Under Iraq, we have two ongoing activities there at the present time which are well known to those who follow the news in that part of the world. We have what we call the ''provide comfort'' activity in northern Iraq and the ''southern watch'' activity in southern Iraq. The first of those, the Secretary indicated, will cost a minimum of $143 million in 1996. The second of those in southern Iraq will cost a minimum of $504 million in the next fiscal year.

So, in addition to Iraq, we have ongoing refugee support at Guantanamo. We are all aware of the fact that the military is having to expend funds to deal with the refugee problem in Guantanamo. The figure the Secretary gave us—again, this is a minimum figure as he presented it to us—is that the Department of Defense will have to expend $178 million, minimum, in the next fiscal year to carry through as they were directed by the President.

In Bosnia, if we do nothing more than we are presently doing—and there has been criticism on the Senate floor that we are doing too little—if we do nothing more than we are presently doing, that is, offering humanitarian support and the ''deny flight'' activity there, the estimate the Secretary gave us is that we will spend a minimum of $363 million next year.

Quite frankly, Mr. President, I think these are low figures. The Secretary himself indicated he thinks these are low figures. But he says he knows for a fact that we are going to have to spend at least this much on ongoing operations. These are not contingencies; these are not things which might or might not happen; these are ongoing. It is not an emergency that we are responding to here. We know for a fact that these are expenses we are going to have in the next fiscal year.

Despite the Secretary's plea to us, Mr. President, the authorization committee chose to meet only $125 million of the Secretary's request. That is about enough to fund these operations for 37 days and get us through to the 7th of November. The funding which the Secretary proposes for the operations was a minimum, as I indicated. We have added to this bill $7.1 billion above what the Pentagon requested. The Pentagon's request was $245.8 billion. We added $7.1 billion to that. But in adding all of that money, we have not funded what the Secretary says is his top priority request for additional funding.

Last fall, and earlier this year, the issue of near-term readiness of our active duty forces was the central issue in the defense debate. I heard many Senators coming forward and saying we have to do more about readiness, we have to do better by our troops. President Clinton, at Secretary Perry's urging, added funding to the defense budget to address the problem, and both the Armed Services Committee and the Appropriations Committee have now essentially endorsed the Pentagon's operations and maintenance budgets for the next year. However, because of a long history, which I understand began during the Vietnam war—it goes back at least that far—the Pentagon did not include in its original request the necessary operations and maintenance for these ongoing operations.

So that is what we are trying to correct with this amendment. Secretary Perry has promised in all future years to include the minimum cost that he can see for ongoing operations in the budget request that is sent to the Congress at the first of the year. Funding for new contingencies is not discussed in my amendment. Certainly, I agree with those who will say we do not know what additional costs we might have in Bosnia. I would be amazed, Mr. President, if we got through 1996 only spending $363 million in Bosnia. I think most of us would be amazed. If Saddam Hussein again makes a feint toward Kuwait, obviously, we will need additional expenditures there. If the United States has to deploy ground forces in Bosnia, clearly, that will be a very, very major expense for which the Secretary would have to come back to Congress with a request.

But, Mr. President, I think for us to add $7 billion to this bill and still not provide the funds the Secretary and administration have asked for for ongoing operations is really dishonest with the American people, because we know that we are going to have to pay for these items. There is no question about that. We ought to go ahead and pay for them in this bill, and that is what I am trying to get accomplished with this amendment.

Now, the offset that I have identified is the LHD–7. This is an amphibious assault ship which is not in the Navy's budget request until the year 2001. A great deal is being made of the fact that it is in the FYDP. For those people who have been around Washington too long, they know what that means. The FYDP is the 5-year defense plan that the military gives us each year. They say this is what we want next year and, by the way, here are the things we would also like in the 4 years after that. That changes every year. Things that are in the 5th year of the 5-year plan may not be in next year's 5-year plan, or they may. We just do not know.

But the committee has chosen, in the case of this amphibious assault ship, the LHD–7, to move the procurement from 2001, where it appears in the long-term plan of the Defense Department, up to next year. I think that is a mistake. I think the question that we need to be addressing in this amendment, and we are addressing in this amendment, is: Should we fund the top priority of the Secretary of Defense for next year, or should we begin next year to buy a ship which the Secretary says he may in fact want us to buy for the Navy in the year 2001? To my mind, it is very clear that we should go ahead and put this money in these ongoing operations instead.

There was a discussion we had before the Armed Services Committee earlier this year and General Sheehan, who is the commander of USA Com said in that discussion, ''The force that we have in the inventory right now is a quality force.''

This was his response to questions being raised by my colleague from Mississippi, Senator LOTT. ''The real issue is what we can afford. This Nation very frankly has got to manage risk in a better way than we have in the past because we just cannot afford to buy everything we need.''

Mr. President, that is why my argument with regard to the LHD–7—I am not opposed to buying another amphibious assault ship at some stage if the need is still there, and I understand also the argument which will be made by the proponents of maintaining that funding, that we can save money if we buy it now.

Mr. President, when I first came to Washington I was startled to see that they were having enormous sales out at all of the department stores one weekend. On Friday I picked up the paper and it seemed to me that every major department store was having a great big sale that next day. I thought how fortunate I am to have discovered or to have been in town on the day when all these department stores are having a sale.

Now I have been here 13 years, and I notice every Friday they are having enormous sales at all the department stores the next day. That is exactly what we are faced with here.

The contractor on this project has indicated they will give us a better price if we go ahead and buy this now than in the year 2001. I say that there is no defense contractor that has ever been in business that would not make a similar pledge in order to get business committed at an early stage.

Mr. President, I need to make another point which I think is obvious to most who try to follow defense-related issues. We have in this bill, and it is admitted in the committee report accompanying the authorization bill, we have in this bill more defense than we are able to afford under the budget resolutions, the budget plan, that has been adopted in this Congress for the next 7 years.

It is clear to me that we do not have the resources and are not going to have

the resources in these outyears to buy everything that is in these defense bills.

I think it is also clear to those who are proponents of this additional LHD–7 amphibious assault ship, that they know that the getting is better now than it is likely to be 2 years from now or 4 years from now, and they want to get this ship authorized and appropriated now while there is still money to be had in the defense budgets.

Mr. President, as I say, I have no particular dislike for that ship. I think it is a question of priorities. I think it is clear that if this amendment is adopted we will do several things: We will fund the ongoing operations which the Secretary of Defense has said is his top priority for any additional funding that we can find.

We will save taxpayers over $100 million because, in fact, the savings by not going ahead and purchasing this ship next year, will fund all of these ongoing operations and, in addition, save us $111 million. That is the estimate I have been given. It does those two things.

Let me say there is also another very good part of my amendment which I want to call to the attention of my colleagues.

When looking at this bill which we are now dealing with, there are some provisions in there, Mr. President, which I have great difficulty understanding, and I propose to strike those provisions out.

I call my colleagues' attention to section 8082 on page 81 of the bill. It provides ''None of the funds available to the Department of Defense shall be available to make progress payments based on costs to large business concerns at rates lower than 75 percent on contract solicitations issued after enactment of this act.''

That is one provision, Mr. President. Let me just focus as to what this language means. I am proposing in my amendment to strike that language. I want to tell people why.

Essentially, that is saying that the present practice of paying 75 percent progress payments of total amount due as progress payments, that is going to be changed in the case of large businesses, large defense contractors, up to 85 percent.

In other words, the government is going to start paying money faster to large contractors. Not to all of its contractors, but just to those that meet this definition of large business—whatever a large business is.

Mr. President, I certainly am not arguing that we should not pay our bills. We should pay our bills. We should pay them promptly. There is no doubt about that.

I have great difficulty understanding why we need to be paying 85 percent of progress payments instead of 75 percent as we historically have.

I have tried to keep some general knowledge about the financial performance of some of our defense contractors. I am pleased to say that they are doing very well, thank you. I have here a chart that is entitled ''Financial Performance of Top 20 Department of Defense Contractors for the First Quarter of 1995.''

We can go right down the list. McDonnell Douglas reports profits of $189 million; Lockheed Martin, $137 million; General Motors, $2.154 billion; Raytheon, $173 million.

Each of these companies is doing quite well in its profit reports and its financial performance, Mr. President. I wish them well. I think it is important that we have successful, profitable, defense contracts in this country.

I cannot understand why we are putting a provision in law here saying we have to pay them 85 percent progress payments rather than 75 percent progress payments.

Let me also focus my colleagues' attention on the other provision that I am proposing to strike as part of this amendment. That is section 8083. It says in this provision ''Notwithstanding any other provision of law, the Department of Defense shall execute payment in not more than 24 days after receipt of a proper invoice.''

Mr. President, the practice throughout the business community as far as I am aware and the practice throughout government as far as I am aware is to pay your bills within 30 days. I think that is a reasonably good practice. I certainly believe we should pay our bills and do so promptly.

I cannot understand why we are separating out the Department of Defense for a different standard and saying, no, no, when we are dealing with defense contractors, we do not want to use the general provision that applies to all other contractual arrangements the Federal Government makes. When we are dealing with defense contractors, instead of paying them in 30 days we have to pay them in 24 days. That is exactly what this provision calls for.

Mr. President, I have proposed to strike the provision in the bill that says we have to go to 85 percent progress payments rather than 75. I have also proposed to strike the provision which says that we have to go to 24 days for payment of all of our bills, rather than 30 days.

I have proposed to fund all of the ongoing operations, the remainder of the ongoing operations that the Secretary of Defense has indicated are his top priority for funding and which we all know—every Member of this body—knows that we are going to pay the bill that is being identified here.

It is a question of whether we do it in a straightforward above-board way in this bill or whether we put it off until next year and come back to the American people and say, by the way, we had an emergency, unexpected contingency came up and we will have to spend this money.

The truth is, we know we have to spend this money. The Secretary of Defense has said it is his top priority. Mr. President, I urge my colleagues to support the amendment. I think it is a very straightforward amendment which will return over $100 million to the taxpayers of the country.

In addition, we will see to it that our priorities are straight in this legislation.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Alaska.

Mr. STEVENS. Mr. President, I am about ready to make a motion to table. Is the Senator from Mississippi wishing to talk for a while?

Mr. COCHRAN. Can I make a couple points?

Mr. STEVENS. Can we have an agreement on time? Can I yield to the Senator from Mississippi for 5 minutes and then I be recognized again?

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I am easy to yield, but I want to get to this motion to table soon. Upon the completion of that, if someone else wants time for a reasonable period, I will be glad to do it.

Mr. BINGAMAN. I did not hear the request.

The PRESIDING OFFICER. The request was to yield to the Senator from Mississippi for 5 minutes and then move to table.

Mr. STEVENS. No, to come back to me, that I be recognized at that point.

Mr. BINGAMAN. If there is a request, I ask I be given 5 minutes to summarize my arguments before we go to a final vote.

Mr. STEVENS. I will be more than willing to enter into a time agreement on the amount of time between now and the time we would vote. I intend to make a motion to table.

I see the Senator from Nebraska. Could I inquire how much time these Senators wish?

Mr. EXON. Mr. President, 4 minutes is adequate.

Mr. BINGAMAN. I would like 5 minutes to sum up my position before we go to a final vote.

Mr. STEVENS. Mr. President, could we have it, then, 12 minutes on a side? I might want to make a comment myself before I make the motion to table. I ask unanimous consent there be 12 minutes on a side controlled by Senator BINGAMAN on his side and by me on my side. Is that agreeable?

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

Mr. STEVENS. I yield 5 minutes to the Senator from Mississippi.

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

Mr. COCHRAN. Mr. President, my remarks are going to be directed to the issue of taking the funds that are appropriated in this bill for the LHD–7 and transferring them to the account suggested by the Senator from New Mexico.

The Senate should understand that the funds in this bill for this ship have

been authorized by the bill as reported from the Senate Armed Services Committee. They have also been funded fully in this bill. And the reason is simple. It is to try to save about $700 million in the costs of our shipbuilding program.

Right now, the Navy has a contract, an agreement to construct this ship. If it does not fund and complete the construction of this ship, it is going to cost, according to the Secretary of the Navy in a memorandum he sent to the Secretary of Defense the other day, the sum of $415 million in constant-year dollars.

This is a cost-effective provision in this bill. According to Admiral Boorda, the Chief of Naval Operations; General Mundy, then Commandant of the Marine Corps when he testified before our committee; the Secretary of Defense; the Secretary of the Navy—this is a ship the Navy wants, the Navy needs, in order to fill out the 12 amphibious battle groups that rely upon this ship as its centerpiece.

This is the amphibious ready group that is called upon in case of serious problems that may break out anywhere in the world. They are the ones that are called on to provide the quick—quick response.

Senators will remember, last May, for example, it was the U.S.S. *Kearsarge*, LHD–4, that provided the force that launched the mission to rescue Capt. Scott O'Grady after his F–16 had been shot down over Bosnia.

In Haiti, last August there was the U.S.S. *Inchon* that led an amphibious ready group to that area just a matter of a couple of weeks, 2 weeks, after coming back from spending 6 months off Bosnia and then Somalia. It was an amphibious ready group that stood off the coast of Somalia, that guaranteed the safe withdrawal of U.N. forces from Somalia.

There is no doubt about it, according to the testimony from senior military and Navy officials, the LHD–7 is an essential part of our fleet, and it ought to be constructed as soon as possible. The additional funds that are provided in this bill are sufficient to fund the construction of this ship. The budget did not request it for this year because of the fact that the budget simply did not have the funds that were then provided in the budget resolution that passed the Congress, that was approved by the Congress.

So it makes sense to use these funds. It saves the Government substantial sums. The ship is needed, according to everybody's testimony, to sustain the ability of our country to provide the forward presence and the war-fighting capability that we need.

I urge the Senate to reject this amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD a memorandum for the Secretary of Defense from John Dalton, dated August 2, 1995.

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

THE SECRETARY OF THE NAVY,
Washington, DC, August 2, 1995.

Memorandum for the Secretary of Defense.

Subject LHD 7.

1. I am following up on your question to me concerning Congressional action on the LHD 7. Both the Senate Armed Services Committee and the Senate Appropriations Committee have recommended funding the LHD 7 in fiscal year 1996.

2. As you know, the Future Years Defense Program (FYDP) contains funding for buying the LHD 7. Because of funding limitations, we were not able to buy the LHD 7 until the end of the FYDP. By accelerating the procurement of the LHD 7, we will be able to avoid an expensive break in production and save an estimated $415m in Constant Year Dollars. Bringing forward the program will also free up shipbuilding funds at the end of the FYDP which we will need to resource submarine construction and other shipbuilding requirements.

3. There is no question we do need to procure the LHD 7 at some point in order to sustain twelve Amphibious Readiness Groups (ARGs). The LHD 7 is the last of the LHD 1 WASP class amphibious assault ships planned to meet the 12 ''Big Deck'' (LHA/LHD) amphibious ships necessary to meet the Defense Planning Guidance and the CINCs' requirements.

JOHN H. DALTON.

The PRESIDING OFFICER. Who yields time?

Mr. BINGAMAN. Mr. President, I yield 4 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 4 minutes.

Mr. EXON. Mr. President, I rise as a cosponsor of the Bingaman amendment. The amendment takes the funds added into the Defense appropriations bill for an unrequested $1.3 billion LHD–7 assault ship and shifts them to the readiness accounts to cover the cost of ongoing United States operations in Bosnia and Iraq.

As I stated earlier in my opening remarks on the defense authorization bill, the cost of the 1996 defense budget to the taxpayer is not complete at the committee-passed funding level of $264.7 billion. Members of the Senate as well as those at home watching this debate should be aware that there is a built-in cost overrun in the appropriation bill before the Senate. In the rush to fund unrequested and unnecessary weapons programs totaling billions of dollars, the committee did not fund the anticipated expenses for ongoing Department of Defense operations in crisis spots such as Iraq and Bosnia. This unfunded expense, the cost of which will in the mean time come out of Pentagon operations accounts, will come due next calendar year and I warn my colleagues to not be surprised when this $1 billion cost overrun is covered in part by more domestic spending cuts.

Ironically, this built-in cost overrun is nearly identical to the cost of the LHD–7 assault ship added on to the administration's budget request. I find to interesting that the so-called readiness debate we used to hear so much about is dead after only 1 year. This year, the funding increases in the bill are going to new ships, planes, and weapons systems the administration has not asked for. The operation and maintenance accounts we watched so many in Congress wring their hands over last year are now being undercut in this year's multibillion-dollar arms spending spree. The committee decided to shortchange the Pentagon's readiness funding in order to feed the large appetite of home State defense contractors. I believe this is fundamentally wrong. I support the Bingaman amendment because it corrects this upside-down order to defense funding priorities. The Bingaman amendment places the operations funding of our troops in the field above the cost of building an unneeded naval vessel, as is appropriate.

We have heard that the LHD–7 is part of the Pentagon's future years defense program and therefore is a legitimate requirement. We have also been told that by buying the LHD–7 earlier than anticipated it will cost us less. Both of these points are true.

But this is true of everything we ever buy. If we buy it now, it is going to be cheaper than if we buy it next year. That is because of inflation. It is common sense that this money will be saved by buying something today rather than 5 years from now—it is just not sound budgeting. Does that mean we should accelerate the funding for every future ship in the 1996 budget, under the assumption and for the reason that if we buy it now, we will save money in the future? That is like my wife going to a sale and being forced to buy a dress because of the amount of money she has saved. Of course, such a proposal would be foolish. So the question remains, why the $1.3 billion LHD–7?

The present 6-year shipbuilding would have us purchase the LHD–7 in the year 2001, 5 years from now. Under the committee bill, we are leapfrogging it over all other ships to be bought during this time period. Also, why should this accelerated purchase and the resulting $1.3 billion add-on to the budget request take precedence over the readiness needs of our troops overseas, in the field, participating in ongoing operations in Iraq and Bosnia. In my opinion, first things first. We should fund the readiness needs of our military before we start looking into next century and start picking out pet projects for certain home States and buying them well in advance of their military need.

Mr. President, I simply say the amendment offered by the Senator from New Mexico is a very sound one. Ordinarily I would be for these additional ships as needed on down the line but I do see no reason whatsoever to be moving them up in the priorities now, especially when we would definitely be hurting readiness.

I urge Senators to vote for Bingaman amendment and eliminate the billion-dollar cost overrun hidden in this bill.

Mr. President, I yield the floor.

Mr. LOTT. Mr. President, will the Senator yield some time?

Mr. STEVENS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes remaining.

Mr. STEVENS. I yield the Senator 6 minutes.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Alaska for yielding this time.

Mr. President, the Bingaman amendment has three problems:

First, it creates an authorized slush fund for ongoing military operations in Iraq, Cuba, and Bosnia—operations Congress has not approved; removes funding for a ship that we need and is in the Defense Department's procurement plan; and will ultimately require additional $700 million to buy the ship in 2001;

CONTINGENCY FUND

Second, Congress should not preauthorize money for military operations. We did not do this for Somalia or Haiti—and we should not do it now.

Creating a preauthorized slush fund creates a huge outlay imbalance. Ship construction money pays out over 5–7 years. The Bingaman amendment will outlay $1.2 billion almost immediately.

REQUIREMENT FOR THE SHIP

Third, a valid military requirement exists for this ship. Military leadership across the board has endorsed the need for the ship.

Adoption of the Bingaman amendment will increase the cost of the ship by $700 million. Competitively awarded firm fixed-price contract option exists for the LHD now. If you wait until 2001, the price increases $700 million.

The Secretary of Defense does not support using LHD funds for military contingency funding.

LHDS AND RECENT EXPERIENCE

LHD–3 U.S.S. *Kearsarge* rescue of downed pilot, Capt. Scott O'Grady in Bosnia—June 1993; LHD–2 U.S.S. *Essex* March 1995 Somalia withdrawal; and LHD–1 U.S.S. *Wasp* September 1994 Haiti operations.

LHD CAPABILITIES

Carries 2,000 marines; 14 tiltrotor aircraft; 8 Harrier jump jets; 7 Sea Stallion helicopter; 5 Cobra helicopters, and 2 Huey helicopters.

It also has a 600 bed hospital, 6 operating rooms, 22,000 square feet of vehicle space, and 100,000 square feet of cargo space.

CONCLUSION

Someone once said: ''To be always ready for war is the best way to avoid it.''

Buying the LHD–7 now makes sense. We need it and should buy it when it costs the least.

As General Wilhelm commander of marine forces in the Atlantic said, the LHD–7 ''can be regarded as either a ship of war or a ship of peace, with a degree of versatility absolutely unrivaled by any other ship afloat.''

Buying the LHD–7 is one of the best ways to ensure that the United States is always ready to fight and win. Being ready to fight is perhaps the best way to avoid it.

Mr. President, I rise in opposition to the Bingaman amendment. This matter was considered in the Armed Services Committee. We had a considerable debate about what to do with these contingency funds for the ongoing operations, and the committee really felt that we should not authorize these slush funds for ongoing or anticipated military operations whether they be in Iraq, Cuba, or Bosnia.

Congress has this one way of keeping the control and insisting on information about what is happening with these ongoing operations or future operations.

Not since Vietnam—I want to emphasize that to my colleagues on the other side of the aisle. That is when this funding in advance of activities was really stopped. We have not done this sort of thing. We should not move into a program now where we give hundreds of millions of dollars in sort of a honey pot to be used for these ongoing operations. We need to keep a close check on what is happening with this money, and what is happening with these operations.

Conversely, the Bingaman amendment removes funding for a ship that we need, and is in the Department of Defense procurement plan for the future. If we delay this acquisition, it will cost us hundreds of millions of dollars more to buy a ship that we must have. Congress should not get into this position of preauthorizing money for military operations, and we should not take an action to pay for it that will wind up costing us even more money.

I have before me letters from the administration emphasizing how strongly they feel about the LHD, one from the Secretary of the Navy, John Dalton, in which he says:

> The LHD–7 is the last of the LHD–1 WASP class amphibious assault ships planned to meet the 12 ''Big Deck''. . . amphibious ships necessary to meet the Defense Planning Guidance and the CINC's requirements.

Then there is a letter received by the Senator from New Mexico from Secretary of Defense Perry who responded through Comptroller John Hamre to this effect. He said:

> Secretary Dalton correctly relayed to the Secretary that the LHD–7 is in our future year defense plans.

And:

> If offsets are needed in your amendment, we would ask that you first consider those programs the Committee added that are not in our future year defense plans.

So I think that this amendment should not go forward. I thought we would probably have a chance to consider it as a part of the authorization bill. But that has been delayed. Now here we are considering it on an appropriations bill.

The leaders of this committee have done excellent work. The Senators from Alaska and Hawaii have come up with a proper balance for shipbuilding and for the future defense of our country. They are very hesitant to get into funding these operations before we even know exactly what is happening with them.

And, therefore, I urge that we defeat this amendment overwhelmingly.

I yield any time I might not have used back to the distinguished Senator.

Mr. STEVENS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes and 45 seconds.

Mr. STEVENS. I ask unanimous consent that we add about 5 minutes on each side because we have had an additional request for time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. Mr. President, on that basis, does the Senator wish to use his time now?

Mr. BINGAMAN. I defer to the Senator from South Carolina.

Mr. STEVENS. Mr. President, how much time remains altogether?

The PRESIDING OFFICER. Ten minutes and twenty-six seconds.

Mr. STEVENS. I yield 4 minutes each to the Senator from South Carolina and the Senator from Maine, if I may.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 4 minutes.

Mr. THURMOND. Mr. President, in April of this year I sent a letter to the distinguished chairman of the Senate Budget Committee, Senator DOMENICI, in which I expressed my concerns about this year's defense budget and requested additional funding for a number of specific initiatives. Among other observations, I noted a continuing decline in procurement funding over the past 10 years and highlighted its current level, the lowest since 1950. I also commented on the unfortunate consequences. Critical new systems had been pushed into the future, while aging equipment imposed relentlessly increasing demands for maintenance support.

The observations of this letter evolved into markup guidance for the subcommittee chairmen. Evaluating the markup results, I think that the Seapower Subcommittee followed this guidance with great care. Its recommendation to authorize the amphibious assault ship, LHD–7, is a case in point.

There is clearly a commanding requirement for this ship, justified by a series of studies and testimony by a long list of senior defense officials and military commanders. Despite this compelling requirement and an opportunity to buy LHD–7 now at a good price or pay $700 million more under the future years defense plan, funding constraints have kept it in the out years. The superb capability that the

LHD class can bring to bear was amply demonstrated by U.S.S. *Kearsarge* (LHD–4), whose embarked marines rescued Capt. Scott O'Grady after he was shot down in Bosnia.

Conversely, because it has been unable to procure LHD–7, the Navy has been forced to keep an old ship, USS *Guam*, in service will beyond its scheduled retirement date at a great cost in terms of lost capability and maintenance. *Guam* and her sister ships were built in the mid-1960's, are manpower intensive, have an inadequate command and control capability by today's standards, and for years have imposed an inordinate maintenance burden to keep them operational.

While I do not deny that ongoing contingency operations with which Congress concurs should be funded, there are established procedures to obtain it that begin with submission of a supplemental request by the Department of Defense. No such request has been received. I acknowledge the letter that the Secretary of Defense sent immediately prior to our markup. However, it has no formal standing with our Senate Appropriations Committee, which, as you all know, is very sensitive that established procedures should be followed. It is a fact that the $125 million that we added for support of such contingency operations during our markup was not supported by the Appropriations Committee in its markup. Until the Department of Defense has been able to work out an agreement with Congress that revises existing procedures, there is no reason to believe that the diversion of funds proposed by this amendment would not meet a similar fate.

Mr. President, on the one hand I have the committee markup, which matches available resources to an urgent requirement for procurement of LHD–7. On the other hand I have an amendment that would ship them off to an uncertain future, leave the requirement for an amphibious assault ship unsatisfied, and cost the taxpayer at least $700 million more in the long run. I have no difficulty with that choice. I strongly urge my colleagues to join me in opposing this amendment.

Mr. President, I yield the floor and yield back any time.

Mr. STEVENS. Mr. President, I yield time to the Senator from Maine. I am trying to save 2 minutes.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 6½ minutes.

Mr. STEVENS. Mr. President, I yield 4½ minutes to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 4½ minutes.

Mr. COHEN. Thank you, Mr. President.

Mr. President, the argument has been made to support this amendment that this ship is not in the President's budget. The fact is that the President's budget is lower than the budget approved by the U.S. Senate. So, because the President's budget is smaller, the argument is we have to reduce down what we think is required for the national security interests of this country. We fundamentally disagree with the President on this issue. We think we have to do more in the way of procurement, not less. We cannot continue to go on any kind of a procurement holiday, as some in the military have expressed. We have had a shortfall in readiness. We have tried to measure up to that shortfall. But we are now compromising on procurement. In fact, our procurement budget as a percentage of that budget is lower now than it was back 45 years ago. We cannot go down any lower. So we decided that we have to do more.

Some have argued that this is like buying a dress. We are not talking about dresses. We are talking about warships. We are talking about warfighting capability. This is a war-fighting capable ship. It is the kind of ship that we are going to have to deploy to those amphibious operations that we are talking about off the coast of Iraq, or Iran, or the Mediterranean, the Persian Gulf and Haiti, and elsewhere; Bosnia. Those are the kinds of deployments that this ship is going to be used for.

Is there no need for this ship? The President says there is a need in the 6-year plan. They just do not want it in this year's plan.

So that is the argument made by my colleagues from Mississippi. We can buy this now, and the reason to buy it now and not later is to save $700 million. That is the reason we are buying it now. We are not buying an unneeded dress, or an unneeded ship. We need the ship, and we provide the money to pay for the ship.

So the notion somehow that this is unnecessary, this is simply window dressing, so to speak, that we do not really need this kind of capability is absurd. We need the ship. We ought to pay for it this year. We can save money in doing so. There is not a person in this country who said if you have a requirement for it that you ought not to buy it at the best possible price. This is the best way to achieve savings for the American people.

Mr. President, I hope that when it comes time for this motion to table that we will listen to the Senator from Alaska, who has looked at this, and to the Senator from Hawaii who has looked at this, and the Armed Services Committee which has looked at this and said this is a requirement that the Navy has. It has expressed this. Two consecutive CNO's have said we need this capability. What the Senate would like to do, if you follow this amendment, is to defer it to the future. Well, if you defer it to the future, there is a chance you might not have the money in the future.

If you defer it to the future, it is going to cost you another three-quarters of a billion dollars. That is the kind of economics I think has brought this country to a point where it no longer is willing to support what is necessary for strong national defense.

So I hope at the conclusion of the debate the Senator from Alaska makes a motion to table and our colleagues will resoundingly move to table and defeat the amendment.

Mr. STEVENS. How much time remains?

The PRESIDING OFFICER. The Senator from Alaska has 2 minutes and 13 seconds.

Mr. STEVENS. I yield 1½ minutes to my friend from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized for 1½ minutes.

Mr. INOUYE. Mr. President, I support my chairman, and I am opposed to this amendment. No. 1, the Marines want it and need it. It is of the highest priority. No. 2, the master plan of the Defense Department calls for the acquisition of this 12th LHD. And No. 3, there is no question that we have a good deal at this time. If we do not buy according to the contract of this day, we purchase it in the year 2000, we are looking at a $2 billion tab.

The PRESIDING OFFICER. Who yields time?

Mr. BINGAMAN. Mr. President, how much time remains on my side?

The PRESIDING OFFICER. The Senator from New Mexico has 12 minutes and 41 seconds.

Mr. BINGAMAN. Mr. President, how much remains for the opposition?

The PRESIDING OFFICER. The opposition has 2 minutes and 24 seconds.

Mr. BINGAMAN. I yield myself all but 2½ minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. BINGAMAN. Mr. President, we have heard a great many arguments as to why this amendment should not be adopted.

Let me try to go through several of them. First, the argument has been made that this ship is sorely needed by the military.

I earlier erred when I was describing the request of the Department of Defense. I thought they had asked for this in the last year of the 5-year plan. It used to be they referred to the 5-year plan. The FYDP was an abbreviation for the 5-year defense plan. They have now gone, I am informed, to a 6-year defense plan, and now the FYDP stands for future year defense plan, and this ship is not requested in the 5 years; it is requested in the 6th year of the 6-year plan. So clearly there is a request, but it is way in the future, as far in the future as you can get and still be requesting.

As I understand it, we just had the launching of one of these amphibious ships in February of this year. We have two more that are under construction at this very time. This will be the 12th of these amphibious ships if we go ahead and fund it as proposed in the bill.

Mr. President, I do not doubt that in a perfect world it would be nice to buy a 12th amphibious assault ship and to do so in 1997 rather than the year 2001. But we have to exercise some discipline in this body and some sense of priorities. The priorities of this administration are to put the funds in ongoing operations where the Secretary of Defense has said we need them.

Here is a quotation from the letter that the Secretary sent to our chairman of the Armed Services Committee, Senator THURMOND. He says, ''I suggest that you fund these contingencies first if you decide to increase the DOD budget this year.''

Mr. President, we have decided, the Congress has decided to increase the DOD budget this year by over $7 billion, and yet we are not funding these ongoing operations. Not only are we not funding them first, we are not funding them. We are saying to the American people, ''Do not pay attention; we will come back next year and ask for this money next year, and we will tell you then that it is an emergency. And so, then you ought to be willing to accept it.''

Mr. President, that is not responsible. We should not be doing that. We should go ahead and pay for those things we know need to be paid for in this bill.

I also want people to recognize that the debate has shifted very dramatically in this Senate on defense spending. I remember when we started the year I heard a drumbeat from my colleagues on the other side of the aisle about how we had a shortfall in readiness, how we had been neglecting readiness, how the Clinton administration had not asked for enough money for readiness and the operations and maintenance of our troops.

Mr. President, the administration is asking for funding for readiness. Anyone who votes against this amendment needs to desist from further requests for funding for readiness, because, quite frankly, we have a very direct request here, and anyone who is not willing to fund it is being given a very good chance to do so.

Let me just summarize what we are doing in the amendment. I think it should be clear to my colleagues, but let me summarize it again. We are adding $1.188—$1,188,000,000—to pay for known bills for ongoing operations in northern and southern Iraq, in Cuba, and in Bosnia. This is not a honeypot that we are creating here. I heard my colleague from Mississippi say we are creating a honeypot. These are ongoing operations. These bills are coming due every day, and they will be coming due every day as we get into this new fiscal year as well.

So we need to provide these funds. We are providing the $1.3 billion for the LHD–7 amphibious assault ship not because it is a good ship but because it has been requested in year six of the future year defense plan, and it is something we need to put off until someday when we can afford it. We cannot afford it this year.

In addition, this amendment strikes two provisions of the bill which I believe really cannot be justified. I have noticed that none of the comments on the other side in opposition to the amendment have even addressed these issues because there is really no argument to be made.

I am striking two provisions in the bill that increase outlays by $1.238 billion by forcing the Pentagon to pay large contractors 85 percent rather than 75 percent progress payments and to pay bills in 24 days instead of 30-days. We do not require that anywhere else in the Government. We do not require it of any other Department of Government. We are saying to the Department of Defense, you have to pay these defense contractors faster than you have paid them in the past. You have to give them a higher progress payment than you have given them in the past or than we give to anyone else who does business with the Government.

General Sheehan when he testified to our committee did not equivocate on this. He said it would be nice to buy these things, but we cannot afford everything. And that is essentially the point of our amendment here today. We cannot afford everything.

The claim that we are going to save $700 million by going ahead and buying this LHD–7 right now is pure speculation. Nobody knows what the bidding climate is going to be in the year 2001. I tend to think that there may be some defense contractors out there who are very willing to give us a good deal in the year 2001 just like they are willing to give us a good deal this year. So I do not buy the argument that we are saving money and we are necessarily going to have to spend more later if we put this off as the Department of Defense is requesting.

There are higher priorities for this country this year than buying a 12th amphibious assault ship. One of those priorities—in fact, the first of those priorities in the eyes of the Secretary of Defense—is to fund these ongoing operations. That is what we are trying to do in this amendment. I think it is clearly the responsible thing to do. It is what the American people want us to do.

I urge my colleagues to take this opportunity to put our priorities in order in this legislation, to go ahead and adopt the amendment, fund the ongoing operations which all know have to be paid for, and then do so by putting off, as the Department of Defense requested, any funding for this additional ship.

Mr. President, how much time remains on my side?

The PRESIDING OFFICER. The Senator has 4 minutes 50 seconds.

Mr. BINGAMAN. Is there any additional discussion on the other side? I will ask the Senator from Alaska if he wishes to conduct any at this time.

Mr. STEVENS. My answer is no.

Mr. BINGAMAN. Mr. President, let me just summarize very briefly.

I think the first question you ask when you go to put a defense budget together, or any budget, is, what is your top priority? Here we know what the top priority of the Secretary of Defense is if there is any additional money for defense. He has made it very clear. I am just arguing that we should do the responsible thing and fund that top priority.

It will be dishonest, Mr. President, for us to put this off and then come back to the American people next year and say, Surprise. All of a sudden we have discovered that it costs us money in 1996 to operate this operation down in Guantanamo. Surprise. We find it is costing us money to do these activities over in Iraq. Surprise. We find it is costing us some money to do what we are doing in Bosnia, and, therefore, we have got an emergency and we need to pass a supplemental appropriations bill to add to the defense bill that we passed last year.

So it is not just what the President requested for the 1996 defense bill. Is not just that. It is not just the $7 billion extra. It is that plus the $7 billion, plus what we ask for in the supplemental which we know is going to come if we turn down this amendment.

Mr. President, I urge my colleagues to adopt this amendment, pay our bills as we go. You hear a lot of talk about the importance of pay as you go around here. That is what we are asking people to do: Pay as we go; fund the top priority of the Department of Defense, and do so by putting off the purchase of this ship, which we will have 5 more years in which to consider whether or not we want to go ahead with this 12th amphibious assault ship. I think during that time we can make a much better judgment than we are making today.

Mr. President, how much time remains on my side?

The PRESIDING OFFICER. The Senator from New Mexico has 2 minutes 33 seconds.

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

Mr. STEVENS. I now ask unanimous consent that the time remaining on each side be carried forward and it be in order for me to move to table the amendment.

It was the request of Senator BYRD, and others, that we have some time in between these stacked votes so that the proponents and opponents might be able to explain just briefly the subject matter for those who are not on the floor at the time. That is the reason for the request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I ask for the yeas and nays on the tabling motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. I thank the Senator from New Mexico for his courtesy.

Mr. President, I note the Senator from Colorado is on his feet. I know he has an amendment. I would like to inquire if he would consider a time limitation before action is taken in regard to his amendment.

Mr. BROWN. Mr. President, I will be happy to agree to a time limitation. I will be guided by what the distinguished chairman wants. My belief is the problems have been worked out on this and it will not require an extended debate.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I am slightly without words because I do not know what the subcommittee involved. This is an amendment which really should be placed on the foreign assistance bill. It pertains to the Department of State; am I not correct?

Mr. BROWN. Well, the reason the initial NATO Transition Act was on this bill last year was because it was specific with the military aspects of it. And I believe this is the place that we always planned to offer it. I think it does work out. It is specifically with NATO transition in the military that appears therein.

Mr. STEVENS. I will just do this, Mr. President.

If I may put the Senate on notice that this is an amendment that has very broad impact on the NATO forces, as I understand it. I am prepared to listen to the Senator from Colorado and determine what the position of our committee would be with regard to taking it to conference. I have discussed it with my friend from Hawaii.

We are prepared to have a time limitation of 15 to 20 minutes on a side, if that is acceptable to the Senator from Colorado.

Mr. BROWN. That would certainly be acceptable to me.

Mr. INOUYE addressed the Chair.

I just heard from the leadership that it now requires the attention of Senator NUNN and Senator PELL.

Mr. STEVENS. It would be my intention to move to table the amendment at the end of that time. If we lose, we lose. But would the Senator like to wait for the time limitation, too?

Mr. INOUYE. Yes.

Mr. STEVENS. I ask the Senator if he wishes to proceed. We can discuss the time limitation at a later time.

Mr. BROWN. I will proceed. I will be happy to observe the guidance of the Chair and do not want to monopolize the time on the bill.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 2391

(Purpose: To amend the NATO Participation Act of 1994 to expedite the transition to full membership in the North Atlantic Treaty Organization of European countries emerging from Communist domination)

Mr. BROWN. Mr. President, I rise to offer an amendment and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the pending Bingaman amendment?

Without objection, it is so ordered.

Mr. BROWN. I offer this on behalf of myself, Senator SIMON, Senator DOLE, Senator MIKULSKI, Senator SANTORUM, Senator LIEBERMAN, Senator ROTH, Senator MCCAIN, Senator MCCONNELL, Senator WARNER, Senator NICKLES, Senator CRAIG, Senator HUTCHISON, Senator INHOFE, and Senator DOMENICI.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN], for himself, Mr. SIMON, Mr. DOLE, Ms. MIKULSKI, Mr. SANTORUM, Mr. LIEBERMAN, Mr. ROTH, Mr. MCCAIN, Mr. MCCONNELL, Mr. WARNER, Mr. NICKLES, Mr. CRAIG, Mrs. HUTCHISON, Mr. INHOFE, and Mr. DOMENICI, proposes an amendment numbered 2391.

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

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

(The amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. BROWN. Mr. President, this amendment is a followup to the NATO Participation Act which was enacted last year as an amendment to this bill. It follows up with further clarification on the process of including the Central European powers, specifically Poland, Hungary, the Czech Republic, and the Slovak Republic, in NATO, defining their transition and dealing with the kind of transition assistance and cooperation that is essential to completion of that process.

In the process of developing this amendment, we held extensive discussions with Members of the Senate and others, and the administration. In that process, a number of Members had suggestions, and the suggestions boiled down to a variety of ones by the administration to expand the discretion given to the President in this process. Those are principally embodied by Senator LUGAR.

We had a number of members in the Foreign Relations Committee make recommendations in that area. And to respond to that, to answer those concerns, an amendment to the bill, or this concept, was produced. Senator LUGAR was the primary contributor to this, and it contains much of his work.

Mr. President, so that we could incorporate those changes that Senator LUGAR suggested and that other members of the Foreign Relations Committee suggested, I offer a second-degree amendment to my amendment at this time.

This amendment is proposed by myself, Senator SIMON, Senator DOLE, Senator LUGAR, Senator MIKULSKI, Senator MCCAIN, Senator MCCONNELL, Senator DOMENICI, Senator WARNER, Senator NICKLES, Senator CRAIG, Senator HUTCHISON, Senator INHOFE, Senator SANTORUM, and Senator JEFFORDS.

Mr. President, I offer that second-degree amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to offering the second-degree amendment?

Mr. STEVENS. Reserving the right to object, Mr. President.

I am just going through this amendment, and I want to put the Senator from Colorado on notice and the Senate on notice, I think this is getting into a very wide area and, if it leads to extended debate, could really lead us to being here next week.

Mr. BROWN. If I might——

Mr. STEVENS. I want to reserve the right to object later. I do not know how I am going to do it. Right now I cannot object to offering a second-degree amendment, but I do think this is a very broad issue to get involved in.

The PRESIDING OFFICER. The Chair informs the Senator, you cannot reserve the right to object.

Mr. STEVENS. I understand that. But somehow in the RECORD I want the Senate to understand we are getting to a very broad subject now dealing with foreign assistance, coming out of an appropriations that is not subject to our subcommittee. This is subject to a point of order. And I really think—I hope my friend from Colorado will understand that it is inappropriate for us to get into this now.

This is a very broad-range foreign assistance program, some $60 million out of a bill I do not manage. I am very uneasy about that. If the Senator wishes to offer his amendment, again, I hope the Senate will stand by the managers of the bill to keep this bill clean of things that involve controversy that will take us into next week. I cannot object at this time.

The PRESIDING OFFICER. Is there objection?

Mr. BINGAMAN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BROWN. If I might inquire of the Senator before a final determination is made on his part, the perfecting amendment that is offered is one that is designed to suit the concerns of a number of Members on his side of the aisle. It was put together primarily by Senator LUGAR, and it reflects the concerns the administration had. So the perfecting amendment is meant to respond to the concerns that people had. It is not meant to strengthen the amendment. It is meant to make it acceptable to both sides. I have offered it in this fashion, that is the first amendment and the second, so Members might understand that what is offered is a compromise.

Mr. BINGAMAN. Mr. President, in response to my friend from Colorado, I still need to object. The Democratic leader has asked that we protect the rights of people to offer second-degree amendments. This would block that, if I understand what is being requested.

AMENDMENT NO. 2391, AS MODIFIED

Mr. BROWN. Mr. President, I appreciate the point the Senator has made. I believe there is an easy way to accommodate that point. It certainly would not be my intention to block second-degree amendments if anyone should have them. I am not aware of them. I appreciate the Senator's point. I believe there is an easy way to handle that. Therefore, I modify my first-degree amendment with the changes that have been sent to the desk, and I ask unanimous consent that such modification be allowed.

The PRESIDING OFFICER (Mr. THOMPSON). Is there objection to the request?

Mr. STEVENS. I only object to state that, as I understand it, the Senator has a right to modify his amendment at any time. I will state, though, to my friend, we have now contacted the chairman of the Foreign Operations Subcommittee, who is a sponsor with the Senator from Colorado, and he indicates to this Senator that this matter will be dealt with in the markup of the Foreign Operations Subcommittee in the first week of September, and he intends to support it there.

I urge the Senator not to bring it to our bill. The chairman of the Foreign Ops Subcommittee is prepared to hear this the first week we are back in September. It is something foreign here, and I just smell a controversy coming at me. I also smell fish coming into the Alaska rivers, and I want to get home. This is not consistent with finishing this bill before tomorrow evening.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. His amendment is so modified.

The amendment (No. 2391), as modified, is as follows:

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

TITLE ___—NATO PARTICIPATION ACT AMENDMENTS OF 1995

SECTION 1. SHORT TITLE.

This title may be cited as the ''NATO Participation Act Amendments of 1995''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Since 1949, the North Atlantic Treaty Organization (NATO) has played an essential role in guaranteeing the security, freedom, and prosperity of the United States and its partners in the Alliance.

(2) NATO has expanded its membership on three different occasions since 1949.

(3) The sustained commitment of the member countries of NATO to mutual defense of their security ultimately made possible the democratic transformation in Central and Eastern Europe and the demise of the Soviet Union.

(4) NATO was designed to be and remains a defensive military organization whose members have never contemplated the use of, or used, military force to expand the borders of its member states.

(5) While the immediate threat to the security of the United States and its allies has been reduced with the collapse of the Iron Curtain, new security threats, such as the situation in Bosnia and Herzegovina, are emerging to the shared interests of the member countries of NATO.

(6) NATO remains the only multilateral security organization capable of conducting effective military operations to protect Western security interests.

(7) NATO has played a positive role in defusing tensions between NATO members and, as a result, no military action has occurred between two NATO member states since the inception of NATO in 1949.

(8) NATO is also an important diplomatic forum for the discussion of issues of concern to its member states and for the peaceful resolution of disputes.

(9) America's security, freedom, and prosperity remain linked to the security of the countries of Europe.

(10) Any threat to the security of the newly emerging democracies in Central Europe would pose a security threat to the United States and its European allies.

(11) The admission to NATO of European countries that have been freed from Communist domination and that meet specific criteria for NATO membership would contribute to international peace and enhance the security of the region.

(12) A number of countries have expressed varying degrees of interest in NATO membership, and have taken concrete steps to demonstrate this commitment.

(13) Full integration of Central and East European countries into the North Atlantic Alliance after such countries meet essential criteria for admission would enhance the security of the Alliance and, thereby, contribute to the security of the United States.

(14) The expansion of NATO can create the stable environment needed to successfully complete the political and economic transportation envisioned by European states emerging from communist domination.

(15) In recognition that not all countries which have requested membership in NATO will necessarily qualify at the same pace, the accession date for each new member will vary.

(16) Nothing in this title should be construed as precluding the eventual NATO membership of European countries never under communist domination, namely, Austria, Finland, and Sweden.

(17) The provision of NATO transition assistance should include those countries most ready for closer ties with NATO and should be designed to assist other countries meeting specified criteria of eligibility to move forward toward eventual NATO membership.

(18) The evaluation of future membership in NATO for countries emerging from communist domination should be based on the progress of those nations in meeting criteria for NATO transition assistance and evolving NATO criteria, which require enhancement of NATO's security and the approval of all NATO members.

SEC. 3. UNITED STATES POLICY.

It should be the policy of the United States—

(1) to join with the NATO allies of the United States to redefine the role of the NATO Alliance in the post-Cold War world;

(2) to actively assist European countries emerging from communist domination in their transition so that such countries may eventually qualify for NATO membership; and

(3) to work to define the political and security relationship between an enlarged NATO and the Russian Federation.

SEC. 4. REVISIONS TO PROGRAM TO FACILITATE TRANSITION TO NATO MEMBERSHIP.

(a) ESTABLISHMENT OF PROGRAM.—Subsection (a) of section 203 of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note) is amended to read as follows:

''(a) ESTABLISHMENT OF PROGRAM.—The President is authorized to provide expanded security assistance and other related assistance to countries designated under subsection (d) to facilitate their transition to full NATO membership.''.

(b) ELIGIBLE COUNTRIES.—

(1) ELIGIBILITY.—Subsection (d) of section 203 of such Act is amended to read as follows:

''(d) DESIGNATION OF ELIGIBLE COUNTRIES.—

''(1) PRESIDENTIAL REVIEW AND REPORT.—Within 60 days of the enactment of the NATO Participation Act Amendments of 1995, the President shall transmit to the Congress an evaluation of Poland, Hungary, the Czech Republic, Slovakia, as well as Estonia, Latvia, Lithuania, Slovenia, Bulgaria, Romania and Albania, in accordance with the criteria in paragraph (3) and specifically designate one or more of these countries to be eligible to receive assistance under the program established in subsection (a). The President shall provide a report of the country-by-country evaluation as well as an evaluation of each designated country's progress toward conformance with criteria for full NATO membership.

''(2) OTHER EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—In addition to the country or countries designated pursuant to paragraph (1), the President may designate other European countries emerging from communist domination. The President may make such a designation in the case of any such country only if the President determines, and reports to the designated congressional committees, that such country meets the criteria specified in paragraph (3).

''(3) CRITERIA.—The criteria referred to in paragraph (2) are, with respect to each country, that the country—

''(A) has made or is making significant progress toward establishing—

''(i) shared values and interests;

''(ii) democratic governments;

''(iii) free market economies;

''(iv) civilian control of the military, of the police, and of intelligence services;

''(v) adherence to the values, principles, and political commitments embodied in the Helsinki Final Act of the Organization on Security and Cooperation in Europe; and

''(vi) more transparent defense budgets and is participating in the Partnership For Peace defense planning process;

''(B) has made public commitments—

''(i) to further the principles of NATO and to contribute to the security of the North Atlantic area;

''(ii) to accept the obligations, responsibilities, and costs of NATO membership; and

''(iii) to implement infrastructure development activities that will facilitate participation in and support for NATO military activities;

''(C) is not ineligible for assistance under section 563 of Public Law 103–306, with respect to transfers of equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 40(d) of the Arms Export Control Act; and

''(D) could, within five years of the determination of the President under paragraph (1) or (2), be in a position to further the principles of the North Atlantic Treaty and to contribute to its own security and that of the North Atlantic area.

''(4) PROHIBITION ON FUNDING FOR PARTNERSHIP FOR PEACE ACTIVITIES OR ON FUNDING FOR THE WARSAW INITIATIVE.—Effective 60 days after the date of enactment of the NATO Participation Act Amendments of 1995, no funds authorized to be appropriated under any provision of law may be obligated or expended for activities associated with the Partnership for Peace program or the Warsaw Initiative until the President has designated at least one country to participate in the transition program established under subsection (a).''.

(2) CONFORMING AMENDMENTS.—

(A) Subsections (b) and (c) of section 203 of such Act are amended by striking ''countries described in such subsection'' each of the two places it appears and inserting ''countries designated under subsection (d)''.

(B) Subsection (e) of section 203 of such Act is amended—

(i) by striking ''subsection (d)'' and inserting ''subsection (d)(2)''; and

(ii) by inserting ''(22 U.S.C. 2394)'' before the period at the end.

(C) Section 204(c) of such Act is amended by striking ''any other Partnership for Peace country designated under section 203(d)'' and inserting ''any country designated under section 203(d)(2)''.

(c) TYPES OF ASSISTANCE.—Section 203(c) of such Act is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively; and

(2) by inserting after subparagraph (D) (as redesignated) the following new subparagraphs:

''(E) Assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the Economic Support Fund).

''(F) Funds appropriated under the 'Nonproliferation and Disarmament Fund' account''.

''(G) Assistance under chapter 6 of part II of the Foreign Assistance Act of 1961 (relating to peacekeeping operations and other programs).

''(H) Authority for the Department of Defense to pay excess defense articles costs for countries designated for both grant lethal and nonlethal excess defense articles.

''(I) Authority to convert FMF loans to grants, and grants to loans, for eligible countries.''.

(3) by inserting ''(1)'' immediately after ''TYPE OF ASSISTANCE.—''; and

(4) by adding at the end the following new paragraphs:

''(2) For fiscal years 1996 and 1997, in providing assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 for the countries designated under subsection (d), the President shall include as an important component of such assistance the provision of sufficient language training to enable military personnel to participate further in programs for military training and in defense exchange programs.

''(3) Of the amounts made available under chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training), $5,000,000 for fiscal year 1966 and $5,000,000 for fiscal year 1997 should support—

''(A) the attendance of additional military personnel of countries designated under subsection (d)(1) or (d)(2), particularly Poland, Hungary, the Czech Republic, and Slovakia, at professional military education institutions in the United States in accordance with section 544 of such Act; and

''(B) the placement and support of United States instructors and experts at military educational centers within the foreign countries designated under subsection (d) that are receiving assistance under that chapter.''.

SEC. 5. ASSISTANCE FOR NATO PARTICIPATION ACT DESIGNEES.

The President is authorized to obligate and expend $60,000,000 from funds made available under the Foreign Assistance Act of 1961 in support of countries designated to receive transition assistance under section 203(a) of the NATO Participation Act, as follows:

(1) Poland: $20,000,000.

(2) Czech Republic: $10,000,000.

(3) Hungary: $5,000,000.

(4) Slovakia: $5,000,000.

(5) Other European countries designated under subsection (d)(1) or subsection (d)(2): $20,000,000.

SEC. 6. TERMINATION OF ELIGIBILITY.

Section 203(f) of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note) is amended to read as follows:

''(f) TERMINATION OF ELIGIBILITY.—(1) The eligibility of a country designated under subsection (d) for the program established in subsection (a) shall terminate 60 days after the President makes a certification under paragraph (2) unless, within the 60-day period, the Congress enacts a joint resolution disapproving the termination of eligibility.

''(2) Whenever the President determines that the government of a country designated under subsection (d)—

''(A) no longer meets the criteria set forth in subsection (d)(2)(A);

''(B) is hostile to the NATO alliance; or

''(C) poses a national security threat to the Untied States,

then the President shall so certify to the appropriate congressional committees.

''(3) Nothing in this Act shall affect the eligibility of countries to participate under other provisions of law in programs described in this Act.

(b) CONGRESSIONAL PRIORITY PROCEDURES.—Section 203 of such Act is amended by adding at the end the following new subsection:

''(g) CONGRESSIONAL PRIORITY PROCEDURES.—

''(1) APPLICABLE PROCEDURES.—A joint resolution described in paragraph (2) which is introduced in a House of Congress after the date on which a certification made under subsection (f)(2) is received by Congress shall be considered in accordance with the procedures set forth in paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98–473 (98 Stat. 1936)), except that—

''(A) references to the 'resolution described in paragraph (1)' shall be deemed to be references to the joint resolution; and

''(B) references to the Committee on Appropriations of the House of Representatives and to the Committee on Appropriations of the Senate shall be deemed to be references to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

''(2) TEXT OF JOINT RESOLUTION.—A joint resolution under this paragraph is a joint resolution the matter after the resolving clause of which is as follows: 'That the Congress disapproves the certification submitted by the President on _____ pursuant to section 203(f) of the NATO Participation Act of 1994.'.''.

SEC. 7. REPORTS.

(a) ANNUAL REPORT.—Section 206 of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note), as redesignated by section 5(1) of this Act, is amended—

(1) by inserting ''**ANNUAL**'' in the section heading before the first word;

(2) by inserting ''annual'' after ''include in the'' in the matter preceding paragraph (1);

(3) in paragraph (1), by striking ''Partnership for Peace'' and inserting ''European''; and

(4) by striking paragraph (2) and inserting instead the following new paragraph:

''(2) In the event that the President determines that, despite a period of transition assistance, a country designated under section 203(d) has not, as of January 10, 1999, met criteria for NATO membership set forth by the North Atlantic Council, the President shall transmit a report to the designated congressional committees containing an assessment of the progress made by that country in meeting those standards.''.

SEC. 8. DEFINITIONS.

The NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note), as amended by this Act, is further amended by adding at the end the following new section:

''SEC. 207. DEFINITIONS.

''For purposes of this title:

''(1) NATO.—The term 'NATO' means the North Atlantic Treaty Organization.

''(2) DESIGNATED CONGRESSIONAL COMMITTEES.—The term 'designated congressional committees' means—

''(A) The Committee on International Relations, the Committee on National Security, and the Committee on Appropriations of the House of Representatives; and

''(B) the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate.

''(3) EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The term 'European countries emerging from Communist domination' includes, but is not limited to, Albania, Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Moldova, Poland, Romania, Slovakia, Slovenia, and Ukraine.''.

Mr. BROWN. Mr. President, let me say to the distinguished chairman, it is my intent to cooperate with him in every way possible. It is not my intent to add controversy to the bill. I believe the problems and concerns have been met and modified. I believe it is the kind of policy of which the Senator would be very strongly supportive.

Let me simply outline quickly what has changed in the effect of this amendment.

The original version, before the establishment of the program for NATO transition, the compromise that is before the body now simply authorizes that. The difference is, this is simply an authorization so the President can move ahead with it if he wishes.

Second, the original version determined that Poland, Hungary, the Czech Republic, and the Slovak Republic were members of the program; that is, the transition program. The compromise version requires the President to evaluate those countries but does not require that they be named in the transition program. It also gives the President the option then to name those that he would like to have participate in the transition program.

Third, the original amendment did not authorize funds in response to the administration and others. This does authorize funds for countries at the transition level that are included in the transition level, and it is basically comparable to what was included in the President's Warsaw initiative in terms of those powers.

Last, Mr. President, this measure urges participation of the old version, which urged participation of the North Atlantic Council countries in NATO. That is deleted in the compromise version. I believe every concern that has been raised or expressed, that we are aware of, has been dealt with in the compromise version. It is clearly a step forward.

Mr. President, let me last of all indicate this. This does clearly relate to NATO and military matters and the

matters before the body. While this does not divert the funding priority that the distinguished committee has put forward, it does carry a very significant symbolic message, and that message is this: That we believe that countries who believe in democracy and will stand up for freedom in Central Europe that were subject to the horrors of World War II and the horrors of Soviet domination in the cold war, if they want to join free men and women in standing up for freedom, that we ought to welcome them.

This is not simply a technical issue; it is an issue that goes right to the heart of what free men and women want for their lives, for their children and for their future. These are people who want to join arms with us and want to stand up for freedom and want to pledge their security with our security. They want to join hands with us.

Mr. President, at the end of World War II, this country turned to the countries in Europe and Japan, and we did a number of things. First, we not only extended a hand of friendship, but we extended a hand of assistance.

Second, we opened up our trade markets to let them earn their way out of the tragedy that had befallen them.

And third, and most significant of all, we extended an umbrella of protection for their mutual security.

What happened at the end of the cold war to those countries that had been victimized by Soviet occupation was that the European Economic Community did not open their markets to them, although they are in negotiations to do so. That move to open their markets, which would have done more for the Central European countries than perhaps any single thing that can be done, is still being worked out, and, frankly, membership in NATO is viewed as a key way to accomplish that objective. If you look at the transition for Greece and others who joined the common market, it was exactly the door of NATO that helped bring them in.

So opening markets was not done for Central Europe. And frankly, assistance was not done, although there have been some minor programs and they have not pushed hard for it, but the kind of assistance we gave with the Marshall Plan has not been offered and not really asked for.

Last, and maybe most important, we have not done that which they ask for the most, and that is to join hands with them in pledging mutual protection for each other.

Those three things that were so important for turning Japan and Europe around have not been done for Central Europe. This would move forward in terms of allowing those people to join hands with us in transitioning to NATO membership. The idea and the concept and the symbol are terribly important for the security of Central Europe.

Mr. President, I ask unanimous consent to add Senator HELMS as a cosponsor of the amendment.

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

Mr. BROWN. Mr. President, I retain the remainder of my time.

I ask unanimous consent to print in the RECORD letters supporting this amendment from former Secretary of State Henry Kissinger and from President Carter's National Security Adviser, Mr. Brzezinski.

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

HENRY A. KISSINGER,
July 27, 1995.

Hon. HANK BROWN,
Senate Foreign Relations Committee,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR BROWN: Thank you for bringing to my attention the Brown-Simon ''NATO Participation Act Amendments of 1995''.

In my view, continuing security in Europe hinges upon a stable NATO alliance open to early membership by countries like Poland, Hungary, and the Czech Republic. Ambiguous Western security arrangements for the heart of Europe will not serve the cause of peace there. Rather, they will generate uncertainty and instability.

As you know, I was solidly in favor of the 1994 NATO Participation Act. It sent a strong indication of United States support for the countries emerging from communist domination in Central and Eastern Europe. Accordingly, I was disappointed by President Clinton's decision not to act on his authority. A valuable opportunity was missed to enhance the security of Europe.

The ''NATO Participation Act Amendments of 1995'' seek to correct this mistake by requiring the Administration to extend to these fledgling democracies some of the most important security benefits U.S. law extends to existing NATO members. This action will speed their transition into NATO. Furthermore, this measure sends a clear signal in part from its specific designation of Poland, Hungary, the Czech Republic, and Slovakia as eligible countries.

I strongly support the Brown-Simon amendment and urge your colleagues of both parties to join in passing them at the earliest opportunity.

Sincerely,

HENRY A. KISSINGER.

CENTER FOR STRATEGIC & INTERNATIONAL STUDIES,
Washington, DC, July 31, 1995.

Hon. HANK BROWN,
U.S. Senate,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR BROWN: Thank you for notifying me about the Brown-Simon ''NATO Participation Act Amendments of 1995'' and your intention to offer them as amendments.

From my perspective, the United States and her allies have arrived at a unique juncture in history. An excellent opportunity now exists to contribute to the creation of a stable and secure Europe. An important element to that region's long-term peace is our continued commitment to a strong NATO open to early membership to countries like Poland, Hungary, the Czech Republic, and Slovakia.

For this reason, I strongly support the ''NATO Participation Act Amendments of 1995.'' These proposals would strengthen the 1994 NATO Participation Act by requiring the Clinton Administration to implement a transition program to help eligible countries move closer toward the high standards of NATO membership. This action surely will accelerate the inclusion of these nations into this key security alliance.

I urge your colleagues to join in support of the Brown-Simon amendments.

Sincerely,

ZBIGNIEW BRZEZINSKI.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I can only, once again, ask my friend from Colorado to cooperate by withdrawing the amendment and presenting it as it will be presented in the Foreign Operations Subcommittee bill. If this remains in our bill, when we get to conference with the House, we have to conference with two separate subcommittees. They will not conference with us on the foreign operations matters when we have the Defense Subcommittees meeting.

This is going to delay getting us our bill. I happen to be one who is in the forefront in support of what the Senator from Colorado is doing. I believe in expansion of NATO. I believe we may have some trouble with regard to the extent of our capabilities to provide the assurance that we will come to the defense of any of these nations in the current circumstance over there, but I am more than willing to explore how we can do that, because I think it is right to do. But I believe it is going to open up this bill now to a very wide-ranging debate and that every Senator is going to want to talk about it and we are going to be here tomorrow morning.

I urge the Senator to listen to the chairman of the Foreign Relations subcommittee, who has committed that it will be brought up at his subcommittee in the first week of September and be carried through from there. It does not belong on this bill. We are not capable of handling this in conference. I hate to take something to conference which means that when we are in conference, we have to step aside and let other subcommittee members from either side come in and handle an issue not within our competence. I do not believe it ought to be on this bill.

I urge the Senator—he made his point, and I think there will be an overwhelming support for his proposition once everyone has expressed their point of view here today, probably. But it does not belong on this bill.

Mr. BROWN. Mr. President, let me respond to the very thoughtful concerns of the chairman. Let me assure him that if this becomes a burden for his bill or untimely delays it, I am going to be with him in trying to find another avenue for it. I hope the Senator does not feel compelled to oppose this effort if indeed we have addressed those concerns.

Mr. President, I at this point ask that Senator MOSELEY-BRAUN from Illinois be added as a cosponsor of the amendment.

I believe Senator SIMON at this point would like the opportunity to address the measure. I will yield to him.

Mr. STEVENS. Mr. President, that is the problem. Every Senator wants to

talk about this amendment that does not belong on my bill. We ought to find some way to test this. It is my intent to make a motion to table this amendment very soon, because I say we are going to go home, and the way we are going to get home is not standing here talking about something that belongs on another bill.

The Foreign Relations subcommittee will report their bill the second week in September, and that is when it should be considered. The Senate is going to have a chance to make up its mind whether it is going to finish this day or not. I am not going to make the motion now. I want to confer with the Senator from Colorado. I believe we ought to be listened to. This is not something that belongs on this bill. We are not capable of handling the subject matter. We cannot conference with the Defense subcommittee on the other side.

While I support the intent, it is not something we ought to be dealing with. It is legislation on an appropriations bill, and it should not be here. The way to answer that is to either make a point of order against it or move to table it. I will do one or the other before too long.

Mr. SIMON. Mr. President, I will just take 2 minutes. I want to assure the Senator from Alaska that in terms of making a point of order, that precedent has been set and this is in order. There is no question about that.

The question is, Is this significant enough that we ought to put this on this piece of legislation? And I think the answer is yes. It will add to stability in Central Europe. I think the answer is clearly yes. The language is so couched that I hope we can accept it very quickly.

I want to get out of here as much as the Senator from Alaska wants to get out of here. A simple way of getting out of here is to accept this amendment and move forward. I think this is in everyone's best interest.

Let me add one other point. There are those who say somehow this will offend Russia. The reality is that the time may come when Russia can become a part of NATO. Ultimately, the threat to Russia does not come from the West, it comes from China, in the long term.

So I think this does make sense, and I am pleased to support the amendment of Senator BROWN.

Mr. HELMS. Mr. President, the distinguished Senator from Colorado [Mr. BROWN], has demonstrated his customary fine leadership in offering his amendment to bring a possible NATO membership one step closer for friends of the United States in Central Europe.

Now, nations from Latvia to the Czech Republic have bitter memories of the period following World War II when they were left in a security vacuum. Some 50 years of Communist captivity ensued.

I ask unanimous consent to be identified as a cosponsor on the Brown amendment.

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

Mr. HELMS. Mr. President, the amendment provides incentive for continued reform in countries of that region by offering closer integration with the West for countries that meet the fundamental criteria of democracy and economic reform.

While some countries have taken more steps than others in fulfilling the criteria outlined in the Brown amendment, reform efforts are so fluid and governments evolve so often that I do not believe it is fair to prejudge any one country, or set of countries, for that matter, at this time. It would certainly not be honest to make the judgment that Slovakia, for example, has made more progress in fulfilling the criteria in this bill than have Estonia or Slovenia. While I support Slovakia's independence and the people of that country, the Government of that country has backed away, I am sorry to say, from privatization and has interpreted democracy to mean total control by the ruling political party of the country.

The Brown amendment offers a real blueprint for forging closer relations with the free nations of Central Europe. We should not content ourselves with the Clinton administration's tepid approach to our victory in the cold war. To this day, the administration has failed to define the process by which Central European countries can become NATO members. The Brown amendment will right this unfocused approach by concentrating our assistance on those countries taking brave steps to reform their political, economic and military systems and tie their future to NATO.

I firmly believe that NATO enlargement to countries which prove themselves capable of contributing to the NATO Alliance is in the U.S. national interest. Spreading NATO ideals to Central Europe at this time aligns these countries in a defense-oriented posture which must be more comforting to Russia than the current undefined security situation in Central Europe.

I would encourage the President to take the bold step of making all the countries in this bill eligible for much of the NATO transition assistance provided in this amendment.

I urge the adoption of this amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

NATO ENLARGEMENT

Mr. ROTH. Mr. President, I rise today as one who has been a long-standing supporter of NATO. For this reason, I am a cosponsor of the Brown amendment, the NATO Participation Act Amendments of 1995.

Mr. President, no other issue is more crucial to European security than NATO's relationship with Central and Eastern Europe. Today, we are in the midst of an historical era, an era of transition, the so-called post-cold-war era. It is a phase in which the strategic landscape of Europe is particularly malleable. It is a phase that will not last forever and which will end sooner rather than later.

How the alliance manages its relationship with the nations of this region during this period will determine whether or not Europe will ultimately benefit from an enduring and stable peace.

Careful, gradual, but undeterred enlargement of NATO should be the geopolitical priority of America's Europe policy. The alliance is uniquely qualified to provide the institutional foundation for regional security and peace. No other institution, including the European Union and the Organization for Security and Cooperation, combine the two necessary requisites to serve in this role: a transatlantic dimension and proven operational capability.

The Brown amendment explicitly endorses and facilitates a process of NATO expansion. If passed, this amendment would authorize the President to establish programs to facilitate the integration of Poland, the Czech Republic, Slovakia, and Hungary as well as other Central and Eastern European nations into the alliance.

Passage of this amendment would be an important step toward establishing a system of European security consisting of two pillars: an enlarged NATO and a strategic partnership between the alliance and Russia.

With the end of the Cold War, Central and Eastern Europe once again find themselves outside of any viable security structure. The region is, in essence, a security vacuum between NATO's eastern frontier and Russia. Both recent- and long-term history show us that the region's strategic vulnerability has been a source of instability on the continent—with calamitous consequences that drew the United States into two World Wars.

Extending the alliance's membership to the nations of Central and Eastern Europe, beginning with the nations of Poland, Czechia, Slovakia, and Hungary, will help transform this region from a source of instability into a cornerstone of peace.

NATO enlargement would help facilitate the economic and political integration of this region into the West. The absence of a stable security environment only exacerbates fears and insecurities that jeopardize the political and economic reform necessary for integration to occur.

NATO enlargement would project greater stability into Eastern and Central Europe and thereby enable the

region's nations to more confidently focus on their internal challenges. Mr. President, security is not an alternative to reform, but it is essential for reform to occur.

I must add, Mr. President, that the adoption of this amendment would send a much-needed signal of American support to the nations of Central and Eastern Europe and the reform efforts within them. It has been over 5 years since the collapse of the Warsaw Pact and nearly 5 years since the implosion of the Soviet Union. Many in Central and Eastern Europe have been disillusioned with the West and the United States for our failure to more aggressively embrace these nations into the transatlantic community.

Mr. President, passage of this amendment would demonstrate the America's commitment to consolidating an enlarged Europe, and it would give more incentive to all the nations of Central and Eastern Europe to continue their reforms.

Second, two great European powers, Germany and Russia, are now undergoing very complex and sensitive transformations. Their outcomes will be significantly shaped by the future of Central and Eastern Europe. The extension of NATO membership to Central and Eastern Europe, beginning with Poland, Czechia, Slovakia, and Hungary, would positively influence the evolution of these two great powers.

Germany, as a consequence of the collapse of the Warsaw Pact and German reunification, has become more concerned about developments beyond its new eastern frontiers. And today, Germany is more capable of independently addressing her relations with Central and Eastern Europe.

Failure to adequately realize the integration of this region into the West is likely to foster a more nationalist security policy in Germany. In fact, this is a fear that Bonn's politicians and experts openly articulate. NATO enlargement would further lock German interests into a transatlantic security structure and consolidate the positive role Bonn plays in European affairs.

NATO enlargement would also assist Russia's democratic evolution. It would do so by enhancing Russia's own security and by bringing Europe closer to Russia.

Of all of Europe's reborn nations, Russia is experiencing the most revolutionary and difficult transformation. Following the collapse of the Soviet Union, Russia is adjusting to the unraveling of an empire and the return to frontiers dating back to the 16th century.

By enhancing and reinforcing stability in Eastern Europe, NATO enlargement would make unrealistic the calls by Moscow's extremists for Russia's westward expansion. Greater stability along Russia's frontiers will enable Moscow to direct more of its energy toward the internal challenges of political and economic reform.

There are two other geopolitical dangers consequent to the perpetuation of isolation and insecurity in Central and Eastern Europe:

Isolation not only fosters the nationalization of the foreign and security policies of Germany and Russia, but also of the nations within the region.

Additionally, Eastern Europe's institutional separation from Europe and the West certainly sustains Russia's sense of isolation and thereby risks revitalizing its historic sense of alienation from European affairs. These dynamics could well present unfortunate opportunities, if not incentives, for great power revanchism.

Mr. President, allow me to address some of the key arguments being made against NATO enlargement:

Moscow's sensitivities are frequently highlighted as arguments against NATO enlargement. Proponents of this view claim that because Russia perceives NATO enlargement as part of an effort to isolate her from the rest of Europe, we risk prompting a more aggressive and dangerous Russian foreign policy.

It is absolutely essential that Russia not be given the false impression that NATO enlargement is designed to isolate Moscow from Europe. That is why I support the establishment of a strategic partnership between the alliance and Russia. This intent is reiterated clearly and forthrightly in the Brown amendment.

At the same time we must not overreact to outdated Russian sensitivities at the expense of strategic realities and objectives central to the interests of the alliance, as well as the United States.

The fact is that Russia is far from being an isolated nation. Today, Moscow benefits from special bilateral relationships with the nations of the transatlantic community, especially the United States and Germany. It is a member of the U.N. Security Council, an active participant of the OSCE, and has recently become a member of NATO's Partnership for Peace program. Russia is a chief recipient of foreign assistance from the United States and the European Union, not to mention the IMF and World Bank.

In many ways, Russia enjoys far greater engagement with the West than is now enjoyed by any of our Central and East European neighbors.

Let me emphasize that it will not be NATO enlargement that will shape Russia's relationship with the alliance, but Moscow's reaction to enlargement. If Moscow resists the process through intimidation or aggression, NATO enlargement will more likely be directed against Russia.

On the other hand, if Russia respects the rights of other nations to determine their own geopolitical destinies, if Russia recognizes the objective benefits of NATO enlargement, and ultimately works with the alliance in this process, NATO enlargement will contribute to a broad process of engagement and integration that will bring Europe and Russia closer together.

A second argument against NATO enlargement is that it risks creating new and destabilizing lines within Central and Eastern Europe.

The fact is that our legislation works to eliminate lines from a bygone era by replacing them with a process of inclusion reaching out to all the nations of Central and Eastern Europe. Those nations that would not be in the first group of states admitted to NATO would benefit in two ways:

These nations would end up less isolated from the Alliance. They would no longer be left on the distant fringes of a gray zone in European security. Geographically, they would be closer to NATO, if not bordering the alliance. Most importantly, they would be part of a region being actively integrated into the West.

A third argument one hears against our legislation is that it smacks of American unilateralism in Europe and would undermine NATO cohesion.

Mr. President, this legislation endorses a vision of European security. It does not impose it upon our allies. It in no way undermines the Washington Treaty and its chapters governing the accession of new members. It does require the President to undertake programs that will help the nations of Central and Eastern Europe prepare themselves for the responsibilities of NATO membership.

I can think of no European Ally that would oppose any of these programs. By enabling the nations of Central and Eastern Europe to more effectively cooperate with the Allies, we are assisting the interests of all our Allies.

Mr. President, let me close by emphasizing that NATO enlargement is not a unique historical step. It has already occurred on three separate occasions since 1949 with nations whose levels of democratic development at that time are clearly matched by that found today among the nations of Central and Eastern Europe.

Enlargement is a process for which the alliance has always been geared. Indeed, article 10 of the Washington Treaty provides for the enlargement of the alliance to any European state ''in a position to further the principals of this Treaty and to contribute to the security of the North Atlantic area.''

Mr. President, current policy is overly concerned with Russia's psychological well-being and insufficiently focused on central objectives. America's policies toward Europe must be structured to shape a strategic landscape that enhances economic, political, and military stability in all parts of Europe. That should be our national interest—and that is the intent of the NATO Participation Act Amendments.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I ask unanimous consent the Brown amendment be set aside temporarily so we may proceed with another Bingaman amendment.

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

AMENDMENT NO. 2392

(Purpose: To strike out section 8082, relating to progress payments)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 2392.

On page 81, strike out lines 16 through 20.

Mr. BINGAMAN. Mr. President, this is a very simple amendment which I do not think anyone should have any difficulty understanding. It relates to the earlier amendment I offered only in one respect, in that I did propose to amend this same section there as well. But this does not relate, I would point out to my colleagues who are here on the floor, to the LHD–7. It does not relate to ongoing operations. It does not relate to any specific funding program or any specific project in the defense bill.

What it does is it says this provision which was included in the bill to require the Department of Defense to make 85-percent progress payments, rather than 75-percent progress payments as does the rest of the Federal Government, should be stricken from the bill.

This is a particularly bad provision. This is section 8082 on page 81 of the bill. It says:

None of the funds available to the Department of Defense shall be made available to make progress payments based on costs to large business concerns at rates lower than 85 percent on contract solicitation issued after enactment of this act.

This provision, which I am proposing we eliminate from the bill, is particularly objectionable because it is limited to large business concerns. Why do we want to make 85-percent payments to large business concerns and retain the 75-percent progress payment to any other business concern, as is presently the case? Why do we want to have one set of rules which are more advantageous for defense contractors than the set of rules we have for all other contractors?

I have great difficulty understanding the rationale for this. I am not just raising this as a philosophical issue. According to the figures we have been given, these five lines in the defense bill cost the American taxpayer $488 million. This is $488 million that the Department of Defense is going to have to spend in the 1996 fiscal year more than otherwise would be the case because of these five lines.

All I am saying is we have some other needs in this country besides speeding up the rate at which we pay defense contractors. We need to pay these defense contractors. They need to be profitable. We do not want to fall behind on our payments. I agree with all of that. But I do not see why it is in the best interests of the people I represent in New Mexico, or the general public in this country, for us to spend $488 million in this way in the next fiscal year.

So I think clearly the merits are on changing this to just eliminating this provision, allow us to continue the present arrangement where we pay defense contractors just as we pay others, particularly these large business concerns which are talked about in this language.

Mr. President, in discussing the earlier amendment I also went over this issue to some extent and pointed out that these so-called large business concerns—I assume that term, although that is a fairly new term, at least in any bill I have seen—I assume that within that definition of a large business concern you would include the 20 top defense contractors that do business with the Federal Government. Just as in the previous debate I asked then to have printed in the RECORD a copy of the financial performance of the top 20 Department of Defense contractors during the first quarter of 1995, I again ask unanimous consent we print that as part of this debate.

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

FINANCIAL PERFORMANCE OF TOP 20 DEPARTMENT OF DEFENSE CONTRACTORS

[1st quarter 1995]

Company	Profits (millions)	Sales (millions)	Assets (millions)	Return on assets (percent)	Return on sales (percent)
McDonnell Douglas	$159.0	$3,333	$12,026	5.3	4.8
Lockheed-Martin	137.0	5,644	8,961	6.1	2.4
Martin Marietta (See Lockheed-Martin)					
General Motors	2,154.0	43,285	188,201	4.6	5.0
Raytheon	173.90	2,387	7,258	9.6	7.3
United Technologies	135.0	5,344	15,618	3.5	2.5
Northrop	54.0	1,617	2,919	7.4	3.3
General Dynamics	60.0	753	2,635	9.1	8.0
Loral	94.8	1,459	3,228	11.7	6.5
Grumman (See Northrup-Grumman)					
Boeing	181.0	5,037	20,450	3.5	3.6
General Electric	1,372.0	15,126	251,506	2.2	9.1
Westinghouse Electric	15.0	2,024	10,553	0.6	0.7
Litton Industries	28.6	694	3,834	3.0	4.1
National Steel & Shipbuilding	44.7	753	2,304	7.8	5.9
Rockwell International	191.4	3,361	9,885	7.7	5.7
TRW	114.7	2,596	5,336	8.6	4.4
Texas Instruments	230.0	2,862	5,993	15.4	8.0
Textron	109.0	2,387	19,658	2.2	4.6
Tenneco	153.0	2,163	15,373	4.0	7.1

Source: Business Week Corporate Data.

Mr. BINGAMAN. Mr. President, when you go down this list it is a list of some of our best corporations. They do a superb job in supplying products and services for the Department of Defense: McDonnell Douglas, Lockheed-Martin, Martin Marietta, General Motors, Raytheon, United Technologies, Northrop, General Dynamics, Loral, Grumman, Boeing, General Electric, Westinghouse Electric, Litton Industries, National Steel & Shipbuilding, Rockwell International, TRW, Texas Instruments, Textron, Tenneco.

Mr. President, I do not believe that these companies should get any worse treatment than any other company that does business with the Government. I think they should be treated well. The Government should pay its bills on time. The Government should pay its bills promptly.

I think it is appropriate we make the customary progress payments as they complete work on a contract. The customary progress payments are 75 percent—you get paid for 75 percent of the work completed—then there is some portion held back to ensure that the entire job is done well and you can pay the rest at the end of the contract. That is the customary way in which contracting is done.

I do not think it is worth $488 million to the American people to change that, just for this next fiscal year, and begin paying them an extra 10 percent as part of these progress payments. It just makes no sense to me.

I argued long and hard yesterday to try to get support from my colleagues for $26 million in funding for Indian education. This was not new money. This was to try to keep the 1995 level of funding again in 1996. We were turned down. People said there is not enough money, we cannot do it.

In light of that, if those are the circumstances we face, if we do not have enough money, if we are trying to balance the budget, and clearly there is a legitimate desire to get to a balanced budget by many Members of this body, then clearly people should support this effort to cut out this $488 million from the bill. So I urge my colleagues to support the amendment. I think it speaks for itself. I do not believe we will need additional time.

Mr. President, I address a question to the manager of the bill, the Senator from Alaska. If the Senator from Alaska could respond to a question, if he would like to have the same kind of arrangement of 2 minutes for and 2 minutes against prior to a vote on this, I would have no objection to that course of action.

Mr. STEVENS. I join in asking unanimous consent that when I make the motion to table there be an understanding that before that vote there will be 2 minutes on each side—2 minutes for the Senator from New Mexico and 2 minutes for someone to oppose this amendment.

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

Mr. STEVENS. Mr. President, it is my hope we will have another amendment to present soon here. So we can hopefully stack the votes and have a vote sometime around 4:30, hopefully, on all four of these amendments.

We are looking for one other. We know there is one other that will take about half hour on each side.

Let me say on this one that I understand the Senator from New Mexico. It is a very technical issue that he has raised. Actually, the current progress payment level that the Department is using now is 75 percent.

This is a regulation that is trying to force the Department of Defense to keep their progress payments at a specific level that deals with outlays. That is why I say it is very technical.

We have outlays when we authorize funds. We authorize $1 million for one project. They actually might spend half of that the first year. That would be an outlay of 50 percent. If we have another project and they only spend 25 percent the first year, it would be an outlay of 25 percent for the first year.

This is dealing with the outlays, and progress payments are related to those outlays in the current year. We have raised it to 85 percent because we have a surplus of outlays for 1996 as compared to authorization. Therefore, that will force the Department to keep its payments up to make sure that we are not carrying over until the next year payments that should be made this year. If they were not made this year and carried over to the next year, it would mean we might not be able to use the authorizations that we have for the next year in order to bring about outlays in 1997.

Under the circumstances, I oppose the Senator's amendment, because the fair way to keep the contractors coming to the Department of Defense to do work is to see that they are assured that they will not get less than a specific amount on their progress payments per a time period of the year. If they do not get the progress payments, they have to go out and borrow money to continue their operation, and it increases the cost in the next year because, by definition, that becomes a cost to the contract. And we are much better off when we have the outlays available to force the Department to make their payments on time and, therefore, reduce the amount of money that contractors borrow and later charge us the interest on the borrowing.

When interest rates are low, we are not that compelled to do this. But when they get higher, there is an absolute compulsion to do it. That is why I say we are dealing with a current regulation of 75 percent. We put this in. This is a provision of our bill that goes up to 85 percent. It will keep the contractors, particularly the smaller contractors, as the Senator from New Mexico mentioned—I disagree with him on his conclusion—this means smaller contractors will be more attracted to doing business with the Department of Defense.

The PRESIDING OFFICER. The Senator's 2 minutes has expired.

Mr. STEVENS. That is a misunderstanding, Mr. President. The 2 minutes applies to the time after I have made the motion to table. We want the opportunity for the Senator from New Mexico to explain his amendment just before the vote.

There will be a series of votes. Under this, there will be the third vote that we will have stacked. The Senator will have 2 minutes, and I or someone here will have 2 minutes to respond. I apologize to the Chair for the misunderstanding.

But, again I say to the Senator, what we are doing is not only assisting the smaller contractors who want to work on defense business this time. The normal payment, everyone realizes, would be 100 percent. If you have a progress payment concept in your contract, you get 100 percent of your progress payments.

The Department of Defense was not keeping up with those payments. So we said, ''You have to pay at least 75 percent. You can never fall behind more than 25 percent in any progress payment period.'' Now we have told them, ''You have to go to 85 percent,'' because that forces them to assure contractors that they will get 85 percent of the progress payments they are entitled to under the contract in 1996.

Again, I say to my friend, it is very technical. It is related to the Senator's first amendment because his first amendment would be subject to a point of order if it was not possible to have outlays available, and this amendment makes those outlays available. If the first amendment were to carry, the second amendment would have to carry, too. At least that is my understanding of the intertwining of them.

He also has a principle involved. I appreciate the principle. There is a disagreement between the two of us over what is accomplished by a progress payment mandate.

I would be happy to let the Senator proceed. I do not know of anyone else on this side who wants to have time. He understands that I will make a motion to table when he has finished with his remarks.

Mr. BINGAMAN. Mr. President, I appreciate the courtesy of the Senator from Alaska. I will make just a few more remarks to clarify.

First of all, this amendment strikes a provision that sets up a different procedure for progress payments to large business concerns. That is what the statute says. It does not say small business. It says large business concerns. We set up a requirement for 85 percent progress payments for large business concerns. The 75 percent which is customary in the industry remains the procedure for all others.

So this is not a way to help small businesses; this is a way to help large defense contractors.

To my knowledge, Mr. President, I do not believe anybody could come to the floor and critique or disagree with me on this.

Mr. STEVENS. I would like to disagree. This is the second time the Senator made the point. The Senator realizes that under our provision, progress payments for small business will rise to 90 percent and progress payments for small disadvantaged businesses will rise to 95 percent because we have not changed the formula under existing law which forces the Department to pay small businesses higher than the larger concerns. So if we set the larger concerns at 85, under existing procedures the small business automatically is at 90, and the small disadvantaged at 95.

So the Senator has implied that this does not apply to small business. To the contrary, it applies to a greater extent to small business.

Does he understand that?

Mr. BINGAMAN. Mr. President, I appreciate that clarification. The language I am trying to strike out is limited to large business concerns, and there may be some provision elsewhere that applies to smaller businesses and their progress payments.

But let me again make the point that I was making initially. That is, we do not have a problem with the profitability of our large defense contractors. They are all profitable today. They are all reporting record profits today. Their stocks reflect that. In all respects they are doing extremely well. And I wish them well. I have no problem with that.

I think the suggestion that the Senator from Alaska made that the normal practice is to make 100 percent progress payments is just not in my recollection of how business is done. I have been in Government a while. But I can remember before I got in the Government hiring contractors to do some simple things like building an office building for me. I had a contract where I made progress payments as that office building was completed. There was no suggestion by any contractor that I should make 100 percent progress payments as we went forward. The understanding was we would keep back some of the money until the project was completed, and that was an incentive to the contractor to complete the project on time and to my specifications.

So I can remember building an office project or an office building in Santa Fe, NM, and the progress payments there were 75 percent. I cannot believe that these various defense contractors whose names I read off before, which are some of the largest, most successful, most profitable corporations in the country, are not used to doing business on the same basis.

So the argument that we have to raise these progress payments this year in order to look out for the financial well-being of these large defense contractors is somewhat hard for me to believe. I strongly believe that we have here $488 million that we could save in this bill.

I think the simple truth is, this bill as it came out of the committee has in it nearly $1.3 billion of outlays; that the budget resolution, as I understand it, has about $1.3 billion of outlays that are not needed, and, therefore, we have provisions like this in the bill to try to soak up some of those outlays.

Mr. President, I do not believe it is reasonable to tell the American people we are going to charge them $488 million next year in order that we can advance these progress payments or increase them to 85 percent for major defense contractors. We have other needs in this country for some of this money. Clearly, if we have an extra $488 million, we ought to spend it on some of those other needs and not be spending it on this kind of provision.

So I do hope that my colleagues will support the effort to strike the provision when it comes to a vote later.

Mr. STEVENS. Mr. President, that again shows our disagreement. The Senator is correct. We have an allocation to our subcommittee of more outlays than we can use with the budget authority that was given us because a lot of the budget authority was taken away and used in areas where they do not have the outlays that we might have had.

We looked at this and we saw that there was a group of contracts out there and if they increased the rate of compliance with existing contract provisions now, they would use those outlays this year. If they do not comply with the contract provisions, it shifts the money into next year, where we might then have to use money under these contracts and not be able to pay for the costs of whatever it might be—the DDG–51's, the pay raise that is coming, whatever it might be. We are asked now not to use this money because the rate of payment of bills is too slow. We are saying you must get at least an 85 percent level of compliance with your own contracts now in making payments for defense contractors.

And again, when we say that it is based on the cost of large businesses, that automatically means that for small businesses it is 5 percent higher, and for disadvantaged small businesses it is 5 percent higher than that. So what we are saying is use this money now. We do not want you to stretch these contracts out because in doing so you cause the contractors to borrow money which goes on the next year's bill.

In addition to that, what it means is we are denied the ability to meet the schedule for bringing on-line these other items that are being authorized by the authorization committee. We will have to tell the authorization committee, if we do not do this, next year we will have to tell them we are sorry, we did not use the outlays last year; we have shifted them to next year, and although you have been authorized this money we cannot allow you to spend it because we do not have the outlays to allocate to you.

This is an accounting principle, and the Senator is very astute in finding it because most people would not find it. But we have done that for the purpose of assuring that we do not fail to keep up with the rate of payment.

Incidentally, I am just a country lawyer. As far as I am concerned, if I submit a bill, they ought to pay 100 percent of it, right? And we find they are not even paying 75 percent. This says you must pay at least 85 percent of the progress payments that are presented to you that are due and payable within the year 1996.

So based upon the understanding that we have, I do move to table the Senator's amendment with the understanding that we will have 2 minutes on each side prior to the time that it will come to a vote, and we expect that vote to come sometime, I would say, around 4:20, 4:30, because we are going to have another couple of amendments brought up here.

I do make that motion to table with that understanding. Is that agreeable?

Mr. BINGAMAN. Mr. President, I have no objection to that.

The PRESIDING OFFICER. The Senator has allowed 2 minutes to a side.

Mr. STEVENS. I thank the Chair.

STRIKING OF SECTION 8078

Now, Mr. President, I understand the Senator from Vermont has a statement. But I also understand the Senator from Oklahoma has worked out an amendment with the Senator from Hawaii. If he wants to offer that at this time, may we get this out of the way, I ask the Senator?

Mr. JEFFORDS. Yes. I am going to offer an amendment and withdraw it.

Mr. STEVENS. This will just take a minute.

Mr. INHOFE. This will just take a minute.

Let me compliment both the Senator from Hawaii and the Senator from Alaska for being understanding and looking at an amendment with which I have a problem. I believe the section, which is 8078, clearly violates the current statutory 60–40 relationship between contract and private maintenance, inhouse depot maintenance.

I also believe that this section would violate the intent of the whole BRAC process.

I appreciate very much the willingness of the Senator from Hawaii to pull out section 8078, and I inquire of the chairman of the committee, is it necessary to propose it as an amendment?

Mr. STEVENS. Mr. President, I ask unanimous consent that section 8078 be deleted from the bill.

The PRESIDING OFFICER. Is there objection?

Mr. INOUYE. I have no objection.

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

Mr. INHOFE. I thank the Chair.

Mr. NICKLES. Mr. President, this section would have allowed the Air Force to compete core workload. The Pentagon and the Congress have indicated that core workload is so critical to America's readiness to go to war that this work must be done by the Pentagon in its depots.

In addition to this, the GAO has a draft report on this very issue that indicates that competing the workload addressed in this section does not make sense based on the excess capacity in the Air Force Depots.

By striking this section of the bill, core workload is retained in the Pentagon's depot system as outlined in Pentagon policy and title 10 of the U.S. Code. It also follows the recommendations of the GAO report.

The effort to get this section stricken from the bill was truly a team effort on the part of myself and my State colleague, Mr. INHOFE.

I want to thank my friend Mr. INHOFE for his efforts. I also want to thank the Defense Appropriations Subcommittee staff, as well as Senators STEVENS and INOUYE who have managed this bill in their customary fair and open manner.

Mr. STEVENS. Mr. President, I understand there is some misunderstanding. I did move to table the first Bingaman amendment. If there is any misunderstanding, for the RECORD, I again move to table the Bingaman amendment with the understanding that there are 8 minutes on a side for debate on that amendment when it first comes up.

AMENDMENT NO. 2393

(Purpose: To provide funding for certain impact aid)

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the existing pending amendment be set aside temporarily for the purpose of offering an amendment.

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

Mr. JEFFORDS. The amendment is at the desk, I believe.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 2393.

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

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

The amendment is as follows:

On page 82, between lines 11 and 12, insert the following:

SEC. 8087. FUNDING FOR CERTAIN IMPACT AID.

(a) IN GENERAL.—Of the funds appropriated by the provisions of this Act, $400,000,000 shall be available for carrying out programs of financial assistance to local educational agencies authorized by title VIII of the Elementary and Secondary Education Act of 1965, of which—

(1) $340,000,000 shall be for payments under section 8003(b) of that Act;

(2) $20,000,000 shall be for payments under section 8003(d) of that Act; and

(3) $40,000,000 shall be for payments under section 8003(f) of that Act, which amount shall remain available until expended.

(b) LIMITATIONS ON AVAILABILITY OF FUNDS.—(1) Funds available under subsection (a) shall be used only for payments on behalf of children described in subparagraph (A)(ii), (B), and (D) of section 8003(a)(1) of that Act.

(2) Such funds may not be used for payments under section 8003(e) of that Act.

(3) Such funds shall be governed by the provisions of title VIII of that Act.

(c) PAYMENT AMOUNTS.—(1) Payment amounts for local educational agencies shall be calculated by the Secretary of Education under the provisions of title VIII of that Act based on the total amounts provided to the Department of Education and the Department of Defense for Impact Aid.

(2) The Secretary of Defense shall distribute funds to local educational agencies based on calculations under paragraph (1).

(d) OFFSET.—The amount made available by subsection (a) shall be derived from a reduction in the amounts appropriated by this Act. In achieving the reduction, a reduction of an equal percentage shall be made from each account (other than the amount from

which the funds under subsection (a) are made available) for which funds are appropriated by this Act.

Mr. JEFFORDS. Let us step back for a moment and think about the big picture here. Our job is to set the priorities for the Nation, and in doing so, restore the economic health of our Nation by putting the budget on the path towards balance. If we fail to make spending cuts, our children will pay a terrible price. And if we make those cuts inappropriately, or by some strict formula without regard to merit, they will pay an equally harsh price. Our job is to prioritize, to carefully scrutinize the relative value of the various functions of Government and to decide how a shrinking resource base should best be divided.

To do this exercise properly requires the ability to examine each area of the budget on its own merit and to move funds appropriately. Personally, I believe that the construction of firewalls hinders that ability. Firewalls separate off certain areas of the budget and remove them from consideration, forcing us to make tradeoffs within certain limited areas of the budget. However, I am aware that the Senate went on record again last week in support of retaining the firewalls between defense and domestic spending. And while I disagree with this decision, since it has prevailed, we must look carefully at the full implications of that policy.

The premise of firewalls is that the Department of Defense should not have to pick up the tab for nondefense spending. And should not the reverse also then apply—that other departments should not be picking up the tab for costs incurred by the Department of Defense? I believe so, and I think the majority of my colleagues will agree with me.

One area where the Department of Defense has traditionally enjoyed a reprieve from carrying its full weight is that of impact aid. Current law recognizes that local communities surrounding military installations incur costs in the education of military dependents that are not collectable in the traditional manner of local governments because the installations do not pay taxes to the towns. Impact aid was designed to offset these costs and ensure that military children are not relegated to a second-rate education.

But, Mr. President, the funding for impact aid currently comes entirely out of the Department of Education. Yet, this is clearly a cost incurred by the Department of Defense. DOD has accepted the responsibility of bearing the full costs of educating military dependents overseas—why should it be allowed to shirk its responsibility for offsetting the costs that it incurs at home?

The amendment that I am offering on behalf of myself and Senators HARKIN and SIMON does not increase Federal spending by one dime. Nor does it effect in any way the formula devised for distributing aid to impacted communities. All it does is to ensure that DOD pick up the costs it incurs instead of continuing to pass those costs off to the Department of Education. If we are to have firewalls, Mr. President, then it is only fair that they be respected in each direction.

It is important that my colleagues recognize the backdrop against which we are operating. While defense spending has declined in the past decade, it has done so only moderately, particularly in the context of a greatly reduced threat to the security of the United States. The disappearance of our chief adversary entitles the American people to reap some of the fruits of this hard won victory. And this must translate into being able to direct some of our national investment away from armaments and into the real bulwarks of national defense—a sound economy, a vibrant technological base and a top-notch educational system.

But this is not what we see happening here. Federal spending for education has been cut. Since 1983, education's share of total Federal expenditures decreased by more than 25 percent, falling at a time when poverty is on the rise. More than one-quarter of all our future front-line workers are now growing up in poverty, a statistic unparalleled among advanced industrialized nations.

And compared to these competitors, our students are failing. Thirteen-year-olds in the United States are at the bottom in math and science performance, subjects which are key to our future economic viability, scoring lower than 15 competitor nations. We have already begun to see the consequences as our students fall farther behind. Over the past 20 years, real income in the United States has grown at a rate 5 times slower than in Canada, 6 times slower than in Germany, 7 times slower than in Italy, France, and Japan, and 8 times slower than the United Kingdom.

More than half a trillion dollars in GDP is lost each year because we fail to educate our people. We spend $208 billion in welfare expenditures and $200 billion for employment training. In addition, the fact that 50 percent of adults in this country are functionally illiterate costs the marketplace $225 billion in lost wages each year.

Thus, this amendment goes beyond the Washington rhetoric of arcane budgetary terms such as fire walls. This goes to the heart of the defense of our country—our education.

Mr. President, I offer this amendment because I think it is an incredibly important issue of concern to a great number of Members. However, let me inform my colleagues that it is my intention to withdraw the amendment and to propose it on the authorization bill when it comes up later. I am confident that there will be general support for this issue when it is fully understood.

As I have said previously, my first concern is with education. I am not going to speak at length, as I have to my colleagues in the past, about the serious problems this Nation faces with respect to its educational programs. I only point out that our deficiencies seriously threaten our economic capacity and our ability to have the best trained people engaged in the defense of this Nation. Instead, I would like to talk about the children of military personnel and about the history of what this Nation did to make sure the communities in which they reside and are educated are not punished by a loss of property tax revenue.

Some 40 years ago or more, I believe back as far as 1949, impact aid was designed to assist local communities educate the children of our military personnel.

Impact aid makes payments to local education agencies to make up for the shortfall of funds to the communities in which they reside. The purpose, therefore, was to help military kids. After the creation of the Department of Education, funding for impact aid was transferred to the Department. However, the payments still are made to the local educational agencies.

So I believe the history is clear that these costs are incurred by Department of Defense personnel, and the fact that it is now funded out of the Department of Education does not change that. I believe upon further study of this issue my colleagues will agree with my conclusion that this is not a firewalls issue.

The House has made roughly a 10-percent cut in impact aid. Those of us who represent not only military children but all of the children of this country are going to look at areas where we can, under the force of the budget, shift the funding responsibilities for those programs which rightfully belong in other departments. There is no question that history establishes the obligation for impact aid with the Department of Defense.

At this particular time in our history, to quote a very fine editorial from David Broder, it is ''just plain dumb'' to be cutting educational funds, whether those funds are used for establishing the necessary standards to make sure we are competitive worldwide or whether they are used for the general education and the general health of the Nation. It is just plain dumb to be cutting our investments in human capital—which would otherwise increase our revenues and decrease our social costs—while attempting to eradicate the deficit.

So, Mr. President, I would like to say that it is an obligation of the Department of Defense to take care of its own children. They do that now in the DOD schools. They send direct payments to the DOD schools. The DOD also sends direct payments to local educational agencies, but those funds are being cut back. They are not, however, cutting back the funding for DOD schools.

Hence, my goal is to ensure equal provisions for the education for the children of our military personnel. It is a perfectly legitimate issue to raise. Please note, though, that we are not discussing or considering other impact aid provisions which should rightfully be the responsibility of the Department of Education.

Mr. President, I do not intend to speak much longer, but I want to reiterate that I do not believe this is a question of firewalls or anything else. This is a question of making sure that the Department of Defense lives up to its obligation, created in 1949, to pay for the cost and the impact of military children on local districts.

I hope that we will consider this issue at the appropriate time and vote to ensure that DOD takes its money to help the children of its military personnel. That is my intent. At the appropriate time I will offer the amendment again.

Mr. STEVENS. Mr. President, I believe the Senator from Vermont raised a very complex and meaningful issue. It involves not only the subject he raised, but also involves the complexity of payment in lieu of taxes that are paid to communities because of nontaxable Federal property within their jurisdiction.

It does seem to me that we have to particularly now as we enter into, I hope, a long peacetime era where there are going to be fewer of these installations and less impact, really, on schools, that we try to find a more fair way to deal with those situations where the children of military dependents do have an adverse impact on school districts. The impact aid concept was created for that purpose.

Now, we actually have communities competing for these bases. It is difficult, on the one hand, to have people competing for bases, and then when they get them, for us to be in the position where the taxpayers should provide the assistance for programs such as impact aid.

I think the Senator—my feeling is we should have really some dialogue between the committee on which he serves and the authorization committee, chaired by the Senator from South Carolina, and the Senator from Hawaii and myself, to see how we can find a way to transition this money to the Department of Defense.

We do not want to get to the position where once it is not coming out of your budget, that your committee feels that you can raise this standard higher and higher because it is coming out of the Department of Defense funds. On the other hand, we do agree, when we are living under a cap, that the Defense impact should be met from Defense funds.

I am prepared to make a commitment to the Senator that we will work with him and with the Armed Services Committee to try to fashion a program that will give us the advice of those who do have the oversight on education assistance from the Federal Government, while at the same time striking the proper balance between authorization and those of us who must find the money to pay the bill.

I appreciate the willingness of the Senator to withdraw the amendment and congratulate him for bringing the issue forward, because it can be very meaningful to generations of children whose parents are serving in the armed services.

Mr. JEFFORDS. I thank the Senator for his remarks. I know we are both concerned about this issue and want to make sure that all the young people of this country, including the children of military personnel, receive the best education possible. And that can only be done if we all work together and share costs in an equitable fashion. I look forward to working with the Senator on this issue.

As I said, I also intend to offer this amendment before the authorizing committee at the appropriate time to stimulate a similar discussion and perhaps pursue it further.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 2393) was withdrawn.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. JEFFORDS. I will be happy to yield.

Mr. THURMOND. I want to commend the able Senator from Vermont for bringing up this question. In some cases school districts are put at a great disadvantage where they have large numbers of schoolchildren and do not get impact aid. I think it is a matter we have got to consider in some way, somewhere, by somebody. I want to commend the Senator for bringing this question forward and commend him for withdrawing it so it can receive careful consideration by all the people considered.

Mr. JEFFORDS. I thank the Senator and yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 2394

(Purpose: To strike out section 8083 relating to payment of invoices)

Mr. BINGAMAN. Mr. President, if it is appropriate at this time, I will send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 2394.

Mr. BINGAMAN. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 81, strike out lines 21 through 23.

Mr. BINGAMAN. Mr. President, this is in some ways a companion amendment to the one that I just offered a few minutes ago. The lines 21 through 23 on page 81, which I am proposing to strike, read as follows:

Section 8083. Notwithstanding any other provision of law, the Department of Defense shall execute payment in not more than 24 days after receipt of a proper invoice.

Mr. President, to the uninitiated that seems like a very apple pie kind of a proposal. Who could argue with that? The problem with that proposal, Mr. President, is that it will cost the American taxpayers, in fiscal year 1996, $750 million to advance payment by 6 days from what has been the custom in government and in industry throughout the Western World. So, Mr. President, this is a concern.

Let me go to the bottom line here. We are requiring the Department of Defense to spend an extra $750 million next year by paying its bills in 24 days rather than in 30 days. We are saying by the language that I am trying to strike out of the bill here—if the language stays in there, we are saying that paying our bills 6 days earlier is a higher priority than providing funds for education, even funds for education of military personnel, such as the Senator from Vermont was talking about just a few minutes ago. We are saying that paying these bills a few days early is a higher priority than funding health care. We are saying that this is a better use of funds than anything else we have been able to come up with.

Mr. President, the simple fact is, the provision in the bill that I am trying to strike out, it is not a serious provision to try to speed up payment of Government bills. If the Appropriations Committee wanted to speed up payment of Government bills by the Department of Defense and require the Department of Defense to pay its bills more quickly than any other agency of Government, then clearly what they would do is provide additional funds, additional staffing to our various contracting centers so they could gear up to do this.

If this became law, this would put a significant burden on those contracting centers which no other agency of the Federal Government has to deal with and, in fact, which no private firm has to deal with. I do not believe there is a private firm in this country that has a policy of paying its bills in 24 days rather than 30 days.

Let me explain to my colleagues what, with this requirement of paying bills within 24 days rather than 30 days, really is going on here.

Earlier this year, much of the discussion about our defense spending was that the problem we had in our defense spending was inadequate funds for readiness. We had hearings in the Armed Services Committee, and we had speeches given saying that we had neglected readiness; the Clinton administration had neglected readiness. So the Budget Committee added both budget authority and outlays for the defense accounts, assuming that some of that

would go to operations and maintenance, which is what we use to fund our readiness accounts.

Instead, all of the additional funds that we are adding to this bill, this $7 billion, in fact, and in the authorization bill, all goes to procurement and R&D instead of to readiness. So they have $1.238 billion in outlays left over.

These two provisions, the one that my previous amendment addressed and the one that this amendment is addressing, are provisions that are simply put in this bill to soak up those outlays and to preserve those until they get to conference, so that they can go to conference and have those available to be spent by the conferees on other activities.

Obviously, they are not going to keep this provision in law. There is no intention to do so. I believe this is not good policy. It would be much better to strike these out and admit that the budget resolution made a mistake. If we are not going to put the money into readiness, as we originally thought we would at the time the budget resolution was written, if the problem now is weapons modernization, what we see reflected in the defense bill, the defense appropriations bill as well, then let us shift these outlays to the domestic subcommittees.

We can use these funds in the Labor-HHS Subcommittee, we can use them in the VA–HUD Subcommittee, we can use them in the Interior Subcommittee, which we had a very difficult time with yesterday when we were considering it on the floor because of the drastic cuts which were required to be made in the accounts that are under the jurisdiction of those subcommittees.

So, Mr. President, that is what is really going on here. There is no legitimate effort to try to speed up the payment of bills by the Department of Defense. What we are doing is we have some provisions in here—this one that I am trying to deal with in this amendment will cost the Department of Defense $750 million. So if it is dropped in conference, then there will be $750 million of outlays available for use somewhere else by the committee conferees.

I think we are much better off, the American people are much better off, if we recognize we do not need these outlays, given our change in the situation as we see it. We do not need these outlays in the Department of Defense for these purposes and, accordingly, they should be spent elsewhere, or they should be applied to the deficit.

There are a lot of people out there in the country who figure if you do not need to be spending that $750 million, you should not spend it. That is a hard thing for me to argue with, Mr. President. I do think the better part of valor would be for us to adopt this amendment and that way not have to explain to people in our home States why it was worth $750 million to them for the Department of Defense to pay its bills 6 days early.

Mr. President, I yield the floor. I know others wish to debate the amendment.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Alaska.

Mr. STEVENS. Mr. President, again, it is a difference of agreement here, but this is money that is owed to private entities, individuals, by the Department of Defense. President Bush ordered that all such payments must be made within 23 days once they are declared to be due and payable. That was moved back to 30 days because of the need for outlays in a bill in 1994. It was not done by this committee; I think it was done by the authorization committee. Someone did it.

The impact of it is that, to the contrary of what the Senator from Mexico says, the further they push out, the sooner the interest is due and payable. This is not a situation where this will save the Government any money by delaying them. To the contrary. It is a budget calculation that you save the money for a particular period, but it becomes due later and, as a matter of fact, it pyramids. So that in the next year, you owe more money and you have to have greater outlays available to make the payments.

If the DOD pays valid invoices in a timely manner, it reduces the cost to the taxpayers and it is a simple thing. When you get a bill from a credit card—how many have credit cards? What does it say? Pay it in 30 days or you pay interest. Now, that is exactly what our law says: Pay it in 30 days or you pay interest. But beyond that, if you pay it sooner, you do not have to have the problem of carrying over, in some instances, into the next year. This amendment has the effect of $750 million, that if you take it out and put it back in the 30 days, it means theoretically you do not have to spend $750 million in fiscal year 1996. But guess what? You have to pay that same $750 million out in the next year and you have to have a greater amount of outlays allocated to you to accomplish that and pay other bills that are also due in 1997.

We are moving back toward a concept of simply saying, ''The Department of Defense, pay your contractors within the 30-day period.'' As a matter of fact, we are calculating that they should pay them within 24 days, and if we do that, this provision will help small businesses, again, because they will be able to survive with the DOD as a customer since they know their bills will be paid promptly.

If they are paid promptly, then they do not have to go down, again, and borrow money to carry over until the Defense Department pays their bills. When that happens, on the next bid, the small businessman or person has to increase the cost to the Government to pay for the cost of carrying their business because they were not paid on time. It is $150 million a day that theoretically you do not have to have outlays for, but guess what? It is not something that goes into a savings account, because it does have to be paid. We are saying pay these invoices on time, pay them in a timely manner, reduce the cost of doing business with the United States and you will get a better price as we go on, and that has been proven.

I do hope the Senate will support us with the concept that is involved here. Again, I have to confess, and I congratulate the Senator from New Mexico on his work and his staff's work, we would not be able to do this if we did not end up with a year that we had outlays that cannot be used because we do not have the budget authority. But since we do that, if we move them now to 24 days, we do not have to do anything next year. There is no savings or loss by keeping that schedule. You have a savings or loss where you change it for the purpose of increasing the outlays or decreasing outlays. We have the outlays available to get this back on time.

I say it is a good place to allocate those outlays. They are going to spend money by paying bills that are due promptly. That cannot hurt the economy.

As a matter of fact, I was raised to pay them when they come in the door and not wait the 30 days. The assumption is they are going to wait at least 24 days before they make the payment on a bill that is presented for payment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Let me just respond very briefly. I am not arguing we should not pay our bills promptly. I pay my bills promptly. I am sure the Senator from Alaska pays his bills promptly. All of the commercial practice that I am aware of calls for people to pay their bills within 30 days. That is the practice in the Department of Defense; that is the practice in the Department of Commerce; that is the practice in the Senate; that is the practice of VISA, Mastercard, and anyplace else you look. I think there is no problem with that. I am not trying to disturb that.

All I am saying is that we can save $750 million in outlay for use somewhere else in the budget by not having this provision in here that artificially says let us speed up the payments in the Department of Defense. There is not a serious effort to speed up payments in the Department of Defense. If there was a serious effort, if it was really a priority for the Congress to get these bills paid in the Department of Defense in 24 days rather than 30, like everybody else in the Western World—and maybe the Eastern World, too—I would say put some money into these contracting centers; give them additional people. Let us tell them to get these things out the door. I have heard no complaints in my office about them not paying their bills on time. I am just saying, here is $750 million in outlays that can be better used somewhere

else in the Federal budget. We cannot get the smallest amounts of funding added to for these activities.

The Senator from Vermont was here talking about the importance of education. I have heard so many speeches about the importance of education. You ask your colleagues to support adding $20 million to education and you would think you asked for Fort Knox. Here we have $750 million of budget authority—$750 million that is in this bill simply to speed up the payment of our bills out of the Department of Defense. It is not a priority, Mr. President. It is something we ought to strike out of here. I hope my colleagues will support the efforts to do so.

As I understand it from the earlier statements of the Senator from Alaska, he intends to move to table this amendment. We will have 2 minutes of debate on each side prior to the final vote, is that correct?

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I must oppose this amendment. Much has been said, but there are two items. One, it is the policy of this Nation—and we have an act that says we shall promptly pay our debts; that is the law of the land and the policy of the land, to make prompt payments.

Second, among the many reasons we used to justify this change was a very simple one. We have gone through a very painful period in the history of our Defense Department, a period of BRAC. As a result, many fine companies, many manufacturing plants have had to close their doors or to send yellow slips to their employees. And we felt that by speeding up the payment process, we would save them money and provide them the resources to recoup.

Mr. President, it is true that when we went from 30 days to 24 days, we knew it would cost the Government about $700 million. We could have amended the Prompt Payment Act and gone from 30 to 36 days, and we would have saved—if that is the argument—$750 million. But we felt that the time had come that with this pain that we are inflicting upon the people of the United States, we should do whatever we can to provide some relief. Keep in mind that for each large procurement—take the B–2—it is not the big companies that are involved; there are 200 small subcontractors. They are the ones who want prompt payment; they are the ones who will suffer, and they are the ones who send out the pink slips.

So, Mr. President, I must oppose this amendment.

Mr. STEVENS. Mr. President, some of the centers have a policy to pay in 10 days. But the overall rate is somewhere around 29, 30 days. We are moving it back because of the reasons stated by the Senator from Hawaii. For 2 years, by the way, a study showed that they actually paid in an average of 23 days. It was faster than we are requiring now, but it was slipped because of the pressure of trying to obtain outlays.

So, Mr. President, I ask unanimous consent that we have a period of 2 minutes for Senator BINGAMAN to explain his position, and 2 minutes on our side to explain the opposition to Senator BINGAMAN's amendment.

I make a motion to table his amendment based upon that unanimous-consent request.

The PRESIDING OFFICER. Did the Senator from Alaska ask for 2 minutes and 1 minute?

Mr. STEVENS. No, 2 minutes on each side.

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

Does the Senator move to table the Bingaman amendment?

Mr. STEVENS. Yes.

I now ask unanimous consent that the amendment be set aside.

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

Mr. STEVENS. Mr. President, I understand the Senator from North Carolina wishes to comment. And the Senator from Arkansas is here to offer another amendment. When he finishes his amendment, we will try to have a vote on all five of the amendments that will be available for us to vote on at that time. I have not been able to determine from the Senator from Arkansas how long he will take. We will do that soon and announce to the Senate when we expect to vote on the five amendments that will be stacked.

Mr. HELMS. Mr. President, I have been in three successive meetings all afternoon long, each dealing with a different aspect of foreign policy. I have lost track of what is going on the floor. Am I to understand that you have four amendments in line now? I make that parliamentary inquiry.

The PRESIDING OFFICER. Five amendments have been set aside for votes.

Mr. HELMS. Is the amendment of the distinguished Senator from Colorado [Mr. BROWN] one of the five?

The PRESIDING OFFICER. It is.

Mr. STEVENS. It is one of those set aside but not set for a vote as yet.

The PRESIDING OFFICER. No time has been set for any vote, but the Brown amendment, as I understand, has been called up and set aside.

Mr. STEVENS. Mr. President, I will try to clarify the situation as I understand it. We have the Dorgan amendment, three Bingaman amendments, and the Bumpers amendment to come.

Mr. INOUYE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HELMS. Mr. President, on behalf of the distinguished majority leader, Mr. DOLE, Senators LIEBERMAN, and MCCAIN, and myself, I shall momentarily send a bill to the desk to be read for the first time and appropriately referred.

I will pause here just a moment, Mr. President, to ask a parliamentary inquiry. Inasmuch as what I am to discuss—and Senator DOLE will be here momentarily to make his comments. We are introducing a bill to be properly referred. Is it necessary that we ask unanimous consent to lay aside any amendment?

The PRESIDING OFFICER. The introduction of a bill is in order only during morning business, so the Senator should request unanimous consent to proceed as in morning business.

Mr. HELMS. Mr. President, on behalf of the majority leader and myself, I ask unanimous consent in that regard.

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

Mr. HELMS. Mr. President, I will defer to the majority leader because he has another appointment that he needs to make.

Mr. STEVENS. Reserving the right to object, and I will not object, will the Senator allow me to make a unanimous-consent request on what will happen after?

Mr. HELMS. Certainly.

Mr. STEVENS. I ask unanimous consent, on an amendment offered by Senator BUMPERS, there be a 1-hour time limit, 45 minutes for the Senator from Arkansas, and 15 minutes for the opponents.

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

Mr. STEVENS. That will follow the introduction of the bill by the distinguished leader, and the Senator from North Carolina.

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

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

(The remarks of Mr. DOLE and Mr. HELMS pertaining to the introduction of S. 1157 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. HELMS. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WELLSTONE. Mr. President, I ask unanimous consent that after the Bumpers amendment I be able to offer an amendment.

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

The Senator from Arkansas.

AMENDMENT NO. 2395

(Purpose: To reduce the amount of total contingent liability of the United States for defense export loan guarantees)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 2395.

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

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

The amendment is as follows:

On page 69, strike line 3 and insert in lieu thereof the following: ''section may not exceed $5,000,000: *Provided further*, That the exposure fees charged and collected by the Secretary for each guarantee, shall be paid by the country involved and shall not be financed as part of the loan guaranteed by the United States,''.

Mr. BUMPERS. Mr. President, I do not know what the people were thinking last fall when they swept the Democrats out of Congress and turned it over to the Republicans. But I can tell you one thing that I do not think they were thinking. I do not think they intended for us to design yet one more way to sell arms in the international market. We have four methods on the books right now; four—count them. We have four ways that the arms merchants of this country can finance arms sales to other nations. You would think that would be enough. Obviously it is not. We have a fifth one in this bill.

No. 1, most people do not know it but the President can guarantee any loan from any company to any country. That is a powerful thing for the President. He does not often exercise the power. But he has it. Then every year when we pass our foreign operations bill—the bill that the ordinary man on the street in this country thinks is going right down a rat hole—a good big portion of that is for weapons, $1.5 billion for Egypt, $1.5 billion for Israel. If anybody wants some weapons, stand in line. We will give them to you. If you cannot afford them, we will finance them for you. That is called the Foreign Military Financing Program; No. 2.

No. 3, securities assistance: The Securities Assistance Program I think is also in the foreign operations program. I am not sure. But that is where we finance a country-to-country sale. I assume we take weapons out of our stock, out of our inventory, to sell to somebody else, and we finance it; No. 3.

No. 4, 3 years ago I fought like a saber-toothed tiger to keep the Eximbank out of the arms financing business, and succeeded marginally. We kept the Export-Import Bank from selling tanks, howitzers, airplanes, and lethal weapons. But they now are permitted to finance nonlethal military equipment. I guess that means tents and blankets and anything that will not explode.

Now here is the fifth one in the DOD authorization bill.

I get too loud when I am on the floor of the Senate. But I feel so strongly about these things I guess it is irresistable to express my contempt for the United States to be the leading arms merchant of the world, and now we are setting up yet another program to make it easier for countries to buy all the weapons they want. Do you know who most of these countries are? They are people that are starving their own people to buy weapons. That is the moral dimension to arms sales.

But here is the financial dimension. This bill that we have before us right now provides for 15 billion dollars' worth of credits to sell arms to foreign countries. I am going to tell you this is a real enigma to me. I do not understand it nor has anybody been able to explain it to me. They say it will work just like the Export-Import Bank works. You pay a fee. You bear in mind that this is not set up yet. The authorization bill directs the Department of Defense to set this program up and to guarantee loans from arms manufacturers in this country to about 37 different nations. Turkey, for example, who cannot afford a turkey sandwich will be eligible. I do not mean to demean Turkey. They have been a reliable ally of ours. But they are a poor nation. They cannot afford it. But here is $15 billion in this bill.

Just so you will know. I did not drag that figure out of thin air. On page 68 of the bill, section 8067, ''To the extent authorized in law, the Secretary of Defense shall issue loan guarantees in support of U.S. defense exports not otherwise provided for, provided, that the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed $15 billion.''

My colleagues, all you tight-fisted budget balancers who ran last year and promised the American people how you were going to balance the budget, go home and tell them that there is $15 billion in this bill that is not even scored, and does not count for anything.

When I sit down I want the managers of this bill to tell us how we can assume $15 billion in contingent liabilities and it not cost us one penny. In my 21 years in the Senate I have never heard—my staff tells me there are a couple of examples like that—but I have never personally heard of us assuming a $15 billion liability and it does not cost us anything. It sounds like the good old days of the S&L's in the late 1980's to me.

So how does this work? An arms manufacturer comes to the Defense Department and says, ''We have country A and they want to buy 500 million dollars' worth of weapons from us, and we sure would like to sell them because we have 3,000 people working in plants that will produce this 500 million dollars' worth of weapons.''

The DOD which wants to set this program up will say, ''Well, you have to pay a fee.''

''How much?''

''One percent.'' What is 1 percent of $500 million? The authorization bill says this will be paid either by the country that is buying the weapons or by the company that is selling them.

I strike company in my amendment. Do you know why? Everybody here knows that a company will say, ''Look. This is really $500 million.'' But you do not have $5 million to pay the fee. ''We will pay it for you.'' And the sale price will be $505 million. So instead of charging them $500 million, they charge $505 million. And they get their $505 million, and they turn around and put $5 million of it in the DOD treasury as the guarantee.

I say if we are going to do it—you all know we debated this the other night. I tried to strike this in the authorization bill. I think I got 40 votes, and when you have 100 Senators and you only get 40 votes, you lose. I lost.

But I am saying that if you are going to go forward with this program, which I deplore, at least make the purchasing country put up the fee. If they do not have enough to pay a 1- or 2-percent fee, whatever it happens to be, they certainly have no business obligating themselves for such massive amounts—98 percent and 99 percent—more than they can come up with even for the guarantee.

Mr. President, right after Desert Storm we had a field day. In 1993, 1994, and 1995, we sold 54.5 billion dollars' worth of weapons. Incidentally, some of these countries we sell these weapons to American men often get the opportunity to face those weapons because those weapons last longer than our friendships. I was in Iran in 1976 when the Shah was trying to buy every single weapon we would sell him.

I went to an airport in Tehran. It was loaded with F–16's. And he could hardly wait for us to produce the F–18. He wanted that one, too. And the Shah wanted weapons and a strong military not because of an exterior threat but because that was the way he solidified his power. Now, unhappily, he was replaced with a government that was just as bad, but all these dictators want weapons to make sure nobody challenges their authority. And he was no exception.

So now one of the people we classify as one of the most likely adversaries of the United States is Iran. Iran has a big arsenal of weapons that we sold them, and they are considered one of the four most likely adversaries we will ever have to face.

Vietnam, what an arsenal we left when we left there. The Vietnamese were rich with American weapons, and they sold them to the contras. They sold them to Cuba. I never liked the idea of selling the Afghans Stinger missiles. One Stinger missile can hold any international airport in the world hostage. A terrorist can simply say: We

have a Stinger missile. Any airliner coming into this country and into this airport is going to get it at some point. The whole city and the whole country is terrified as a result.

I am not sure how many Stingers we sold to Afghanistan. I voted no, no, no, and yes. It came up constantly because we felt the Afghans could make the Soviets losses so great they would pull out. And let us face it; it pretty much worked. But there is a problem. We do not know what happened to all the Stingers. Iran —I mention Iran again—got 35 of them, so I am told.

So Iran, which is considered a terrorist nation, is in a position to hold 35 international airports hostage thanks to Uncle Sugar.

That is all just a way of coming back from whence I started. This program has not even been set up. My amendment says it is not likely to be set up and very many sales made before we argue these points again next year. My amendment says, therefore, let us cut this $15 billion authority to $5 billion. We are only planning on selling 10 billion dollars' worth of weapons in foreign sales this year which, incidentally, will probably be about 52 percent of all arms sales in the world except France made a couple of big airplane deals so they have quite a few weapons to sell this year. They will be a player. But today we sell 52 to 53 percent of all the weapons sold in international commerce, and by the turn of the century we will be up to 59 percent.

Let me ask my colleagues, for a brand new program, never been tried, we do not know how it is going to work, do you think it makes more sense to start with a $5 billion authority or a $15 billion authority when we are only likely to sell a total of $10 billion from all sources in the coming year? And that will include foreign military, the foreign military sales program that is in the foreign aid bill, the securities assistance programs, the Export-Import Bank program, any arms weapons that the President guarantees the price of. Do you not think $5 billion is going to be enough?

But here is the real clinker in this whole thing. How do we guarantee $5 billion or $15 billion with no liability? As I say, that beats the S&L crisis. We are going to take a fee from these people to sell weapons and if they default, as Egypt did in 1990 to the tune of $7.1 billion, DOD has to pay it. Where do they get it? Congress gives it to them. Where does Congress get it? Right out of the pocket of the old taxpayer.

I have been through this defense bill for 20 years. This is one of the most bizarre things I have ever seen. They put $15 billion in there as though it is chump change and say sell 15 billion dollars' worth of weapons and, Congress, do not worry; do not score it; it does not count on the deficit. If all these people default, you have to cough up $15 billion, but we will worry about that later.

It is the height of irresponsibility to pass something like this. But I have already tried to kill the program without success. So now I am saying for God sakes, do not put $15 billion in a brand new program that nobody has a clue as to how it is going to work. I feel like the most magnanimous person in the world by saying $5 billion is enough.

When the managers of this bill take issue with this amendment, I do not want them to overlook telling my colleagues in the Senate how you put $15 billion in authority here to finance 50 billion dollars' worth of weapons, a good portion of which we will wind up paying for because these countries will default on. Only the least creditworthy countries are going to opt for this. I want you to tell my colleagues where the money is coming from.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I send a modification of my amendment to the desk.

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

The amendment, as modified, is as follows:

On page 69, strike line 3 and insert in lieu thereof the following: ''section may not exceed $5,000,000,000: *Provided further,* That the exposure fees charged and collected by the Secretary for each guarantee, shall be paid by the country or company involved and shall not be financed as part of the loan guaranteed by the United States;''.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. BUMPERS. Mr. President, if the Senator from Hawaii will yield, just for edification we inadvertently put in $5 million instead $5 billion.

Mr. INOUYE. I have been advised the Senator from Connecticut wished to be recognized to speak against the amendment.

Does the Senator from Connecticut wish to be recognized?

Mr. President, may I yield 5 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. Five minutes are yielded to the Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise to speak in opposition to the amendment offered by my friend and colleague from Arkansas.

Mr. President, there is a sense of deja vu about this because we did, as the Senator from Arkansas has indicated, argue this out in an amendment he submitted to the Department of Defense authorization bill on the subject, which was an attempt to actually do away with the program entirely. Here in this amendment he aims to diminish the guarantee authority from $15 billion down to $5 billion.

I was pleased to initiate this proposal with my colleague from Connecticut, Senator DODD, and with my colleague from Idaho, Senator KEMPTHORNE. I believe Senator KEMPTHORNE is on his way to the floor to speak against the amendment that has been offered.

There is a basic point here to which I do want to go back, which is that we are talking here about a way to make sure that the American defense industry can compete on a level playing field with the defense industries of other countries that are competing in the area of arms sales around the world.

Mr. President, part of why we feel this is necessary and why it is a decent investment—in fact, a cost-free investment—is because all the fees are paid by those who are beneficiaries of the program. We obviously are in a time where the resources we are devoting to defense are shrinking. There have been some arguments here about whether we are spending too much in the defense authorization bill or in the appropriations bill for defense purposes before us now as others have said before me. We are spending for defense at a percentage of GDP that is historically low. And the world, with the cold war over, remains a troubled world.

But let us leave that macroeconomic data aside. The fact is that each of us knows—and I can speak to this with painful intimacy coming from the State of Connecticut—our defense industries are cutting back. Thousands of people are being laid off who had good jobs and are having trouble providing for their families. That, of course, is just the worst experience for them.

But what is at risk is the capacity of our country to maintain an industrial base for defense purposes so that we are capable of at least turning out a reasonable, if not minimum, number of weapons systems and equipment that we can use to defend our national security, but also to preserve these defense factories, to keep them alive, even if at a drastically reduced level, so that in case of some future conflict or crisis we will have the ability to surge, to build more; we will not have to recreate these industries.

One way to do it, frankly, is for American defense companies to be involved in arms sales throughout the world. This is not a case of America sort of pushing arms on people who do not want them. This is a case of a demand for arms that will be satisfied either by American companies making weapons, made by American workers, or that demand for arms will be satisfied by foreign defense companies employing foreign defense workers. And what our companies find increasingly is that they are losing contracts to other defense companies from other countries because their governments have defense loan guarantee systems.

This is the basic principle of the Eximbank which has been so important to American exporters generally, which, generally speaking, the American defense industry is prohibited from employing that we are now attempting, through the creation of this program, to extend in a limited way

without risk here, limiting the number of countries that can be supplied with weapons. And when we went through this before, my friend from Arkansas cited many countries. But let us be very clear about it. The only countries that can participate are NATO allies, our major non-NATO allies, or qualified Central European and APEC non-Communist countries in Asia. That is a total of 37 countries. The program mechanics that are set up are structured so that defaults are highly unlikely and a country that has any record of risk will have to pay very high administrative fees.

Mr. President, this is a 2-year program. Reports are required on the cost, benefits and recommendation for modification. The $15 billion limit which is in the defense appropriations bill that is before us now perhaps will not be reached, although the truth is that in this area $1 billion is a sale number that recurs over and over again. So we have to see what develops.

The authorizing language in the Department of Defense bill requires that a fee be paid incrementally in proportion to the amount of the guarantee issued. And I think that is in its way a response to the second part of the amendment offered for my friend from Arkansas.

I saw an article in the paper the other day. I say, finally, Mr. President, unfortunately I did not cut it out, and I do not have it with me. But it said in one category, in a large category of arms sales, that last year the French actually replaced the United States in sales. French sales doubled. American sales were cut in half. And that is a significant development which has implications for the jobs of thousands of workers here in our country and in defense plants and has implications, as I indicated, for our industrial base.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LIEBERMAN. I thank the Chair and look forward to returning as the debate continues.

I urge my colleagues to defeat the amendment as they did defeat a similar amendment on the DOD authorization bill.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, Senator BUMPERS' amendment will limit the ability of the Government to guarantee loans for defense exports to $5 billion.

Now, that seems reasonable at first blush. But this is the situation. I am told that we are in a period of reduced spending for domestic requirements for defense systems and defense equipment. At this time defense exports make a significant contribution not only to the preservation of U.S. jobs and industrial base, but to the extent they are successful, actually lower the unit cost of the defense production that we must acquire if there is a wider market throughout the world for the produce that comes out of our major defense industries.

Now, we have found that in the international defense export market, it is a very competitive market and one that is very difficult for a U.S. defense company to deal with, unless it can offer the same kind of proposal that its competitors can offer.

Particularly this is so because the market financing is one of the main factors, a decisive factor, in what is the cost of the loans. These guarantees give our U.S. industrial base the opportunity to be on a level playing field with industries from governments that do not just guarantee loans, they actually loan their industry money.

Now, the Department of Defense has indicated to me that it strongly supports this program because it gives the U.S. industrial base the opportunity to compete in the world market and will reduce the cost of our acquisition of systems in the future.

This amendment was proposed to the Senate Armed Services Committee last week. That was defeated by a substantial amount. I do believe that the Senate should be reminded we voted against this amendment just last week by a vote of 41 to 58. Now, it is our intention to oppose the amendment and to make a motion to table when all time has expired.

How much time remains?

The PRESIDING OFFICER. The Senator has 7 minutes 7 seconds.

Mr. STEVENS. I see the Senator——

How much time? Five minutes?

Mr. KEMPTHORNE. Five minutes.

Mr. STEVENS. I yield the Senator 5 minutes.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Thank you. And I want to thank the floor manager.

I rise in opposition to the amendment offered by my friend from Arkansas. The Bumpers amendment proposes to limit the amount available for the self-financing—I stress the self-financing—export loan guarantee program at the Department of Defense.

As the Senator from Alaska pointed out, last week we dealt with this very issue. The amendment was defeated 41–58. The program provides financing for defense sales to a very selected list of countries that meet all the existing export controls and nonproliferation policies of this administration. It grants the administration the authority, but it is not a requirement that they must utilize this program.

It is also important to note that the authority is not limited strictly to arms. In many cases American companies lose bids to maintain or upgrade previously sold military equipment because they cannot offer financing.

The program in the defense authorization bill will allow U.S. companies and American workers to compete on a level playing field with our international competitors. Today almost every major arms exporter provides financing to support the export of their domestic products and services.

Indeed, some purchasers now make financing a requirement before a company can bid on a proposed purchase.

The program is financed by fees paid by the buyer or the seller. Based upon the exposure fees charged by the Export-Import Bank, the fee is determined by the creditworthiness of the buyer. Therefore, a high-risk buyer is excluded by the high-exposure fee which makes the loan too expensive for them to even enter into.

The list of eligible countries is limited to our NATO allies, nonmajor allies, Central European countries moving toward democracy, and selected members of the Asian Pacific economic cooperation group.

Of the 185 members of the United Nations, only 37 countries would be eligible for this program.

Mr. President, I ask unanimous consent that the list of those 37 countries be printed in the RECORD.

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

THE LIST OF ELIGIBLE COUNTRIES

1. Albania.
2. Australia.
3. Belgium.
4. Brunei.
5. Bulgaria.
6. Canada.
7. Czech.
8. Denmark.
9. Egypt.
10. France.
11. Germany.
12. Greece.
13. Hong Kong.
14. Hungary.
15. Iceland.
16. Indonesia.
17. Israel.
18. Italy.
19. Japan.
20. Luxembourg.
21. Malaysia.
22. Netherlands.
23. New Zealand.
24. Norway.
25. Philippines.
26. Poland.
27. Portugal.
28. Romania.
29. Singapore.
30. Slovakia.
31. Slovenia.
32. South Korea.
33. Spain.
34. Taiwan.
35. Thailand.
36. Turkey.
37. U.K.

Mr. KEMPTHORNE. Mr. President, as a result of our defense downsizing, American companies continue to lay off thousands of U.S. defense workers every month. This program will help us avoid paying unemployment for the defense workers of America and help us preserve the United States defense industrial base.

It makes sense to sell U.S. defense systems and services to our friends and our allies, assuming those countries

qualify for the equipment under our existing export controls.

The House-passed defense authorization bill includes similar language, and in a strong bipartisan vote, the House voted 276 to 152 to keep this language in the bill.

Mr. President, in conclusion, I stress again this certainly is far more advantageous than us paying unemployment benefits to American workers who are unemployed. It allows us to keep our defense base in production. It allows us to have capacity, should we need it, to again provide for the needs for this country. This program goes through the existing safeguards that are in place for nonproliferation, and it is an authority. It is not requiring the administration to do so. It is a tool that can help our allies, that can help our friends, but it also is significantly going to help the American worker.

With that, I yield my time back to the floor manager and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. How much time do I have remaining?

The PRESIDING OFFICER. Twenty-seven minutes and eighteen seconds.

Mr. BUMPERS. I yield such time as the Senator from Illinois may require.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I thank my colleague from Arkansas, and I thank him for this amendment.

There is only one flaw with this amendment, and that is it still has $5 billion in it. It should not have anything.

Do you know what the total amount owed by all countries through the years, the accumulated amount right now is? The total amount owed by other countries right now is $16 billion. This will, for all practical purposes, double.

We do from time to time forgive loans to other countries, and I have voted for them. I am not critical of this. But when we make these loans for weapons—Egypt, for example, we forgave $7 billion. I voted for it. Poland, I forget what the amount was we forgave. That did not happen to have any weapons in it. Jordan we forgave.

I note the presence on the floor of Senator LIEBERMAN from Connecticut who was mentioned, that this came as a suggestion from Senator LIEBERMAN and Senator DODD. They are two of the finest Members of this body. But even a fine Member can be wrong, and the State of Connecticut which has a lot of defense industry happens to have the highest per capita income of any State in the Nation. We should not shed too many tears for people in Connecticut, and certainly should not burden the taxpayers of the United States of America with $15 billion worth of debt.

We are already far in excess of where we ought to be in this defense appropriation. We are spending more than the next eight countries combined. If you look back to 1973, I say to my colleague from Arkansas, put the inflation factor on and we are spending more today than we were in 1973 on defense. Then we were in Vietnam, we had twice as many troops in Europe, we had a cold war, we had a totally different situation. And here, through the back door—and that is really what is going to happen—through the back door, the Defense Department and the U.S. taxpayers are going to guarantee $15 billion worth of weapons to any country that defaults. Guess who automatically, not through a vote here—at least in the case of Egypt, the case of Poland, the case of Jordan, we had to have a vote on the floor of the United States Senate. Now it will just be automatic for any country that defaults.

I think it is not sound policy. We talk about deficits, and we let something like this get out and we will pick up a huge, huge burden.

Let me ask my colleague from Arkansas a question. If Ford wants to sell some Fords to some other country, do the U.S. taxpayers guarantee those sales?

Mr. BUMPERS. Mr. President, the answer to that is ''yes,'' under certain conditions, the Export-Import Bank would finance it.

Mr. SIMON. The Export-Import Bank would finance it only to the extent that there may be a risk to that government.

Mr. BUMPERS. Absolutely.

Mr. SIMON. It is not this kind of a guarantee.

Mr. BUMPERS. I might also say that is not a 100-percent guarantee either.

Mr. SIMON. Right. In fact, we will say to the defense industry, ''You are going to get preferential treatment over Ford, Chrysler, and General Motors. You are going to get preferential treatment over farmers who want to sell grain.'' Any nonmilitary exporter, you are in the second tier. The preferential treatment goes to the defense industry. That does not make sense.

As I said in my opening remarks, there is only one thing wrong with this amendment. He leaves $5 billion in there. I wish we did not have the $5 billion in, but I know the Senator from Arkansas is trying to be practical.

What we are doing, if we approve this—there is no question for those who say this will be great for the defense industry, they are right. This will not be great for the taxpayers of America. I commend my colleague from Arkansas.

Mr. BUMPERS. Mr. President, I thank my very distinguished colleague and good friend from Illinois for his comments. When he leaves the Senate, there is going to be a great big void. He has been the conscience of this place on so many occasions.

I cannot say that particularly about myself, but I do not know who has fought many more laudable but losing causes than I have, unless it is the Senator from Illinois.

I say to my colleague, it is tough to shape this place up, is it not?

Let me just close with a few remarks. First of all, my good friend from Alaska, the chairman of the committee, said the administration supported this. Here is what, 10 days ago, the White House said in its Statement of Administration Policy:

> The bill would require the Secretary of Defense to establish a program to issue loan guarantees ensuring against losses arising from the financing of Defense exports to certain countries. The administration opposes this program because the administration has not found it necessary given the availability of existing authority for transactions of this type and the substantial American presence in international markets for military equipment.

So we are not alone. The administration also opposes this.

No. 2, let me just remind my colleagues—because our memories grow dim around here in about 2 days—George Santayana said, ''Those who do not understand history are doomed to repeat it.'' Voltaire, a long time before that, said, ''History does not repeat itself; men do.''

We never seem to learn around here. We just keep making the same mistakes and paying heavy prices. But I agree with Bill Perry: We do not need this program. Let me ask you this. Who here wants the United States to guarantee arms loans to Albania? Who here wants to guarantee arms sales to Bulgaria? Who here wants to guarantee loans to the Philippines? Then there are Hungary, Slovakia, Slovenia and Romania. They are fine countries. But are they good credit risks? How many of you want to stand up and say, I think this is a jim-dandy idea to finance weapons to those countries? People are staring in the streets in some of them. It is almost obscene to encourage them to buy weapons.

Do you remember the big agricultural loan program to Iraq? We really did not want Iraq or Iran, either one, to win the war, and it looked for a time as though Iran might have a little of the upper hand, so we started financing agricultural sales to Iraq. It went the same way as when our weapons are turned against us. Look where Iraq is now—a mortal enemy, and we are paying off $2 billion in agricultural loans that we guaranteed to Iraq. But that has been 10 years ago, and the Senate just cannot remember that far back.

The Senator from Illinois, a moment ago, said that we are spending more money than our eight most likely adversaries. I hesitate to correct my good friend, but the truth is that we spend twice as much as our eight most likely adversaries, including Russia, China, Iraq, Iran, North Korea, the whole schmear—twice as much as all of them combined.

What has been the record on the four programs we have in existence right now in arms sales? I am not absolutely sure of this, but I think Norway and Israel are the only two nations that have been totally reliable in paying their

debts to us. Already this year, we have forgiven Jordan $300 million they owe us for arms, and I was for it because they have been instrumental in the Middle Eastern peace process. But $300 million where I come from ''ain't bean bag.'' I also voted to forgive Egypt the $7.1 billion in 1990, because they are an important ally. But you are going to be voting for a lot more of those if you pass this thing.

The worst argument I know of for arms exports is jobs. Let me say to the Senator from Connecticut right now, you vote against this program and I will vote for whatever you want up to a billion dollars to attract industry to Connecticut.

Did you see where Virginia just got a new deal for a chip manufacturing company? It did cost Virginia some money, $165 million. But compared to financing $500 million worth of weapons and guaranteeing them to a poor country that can't afford them, that is the best deal Virginia will ever pull off, and it is the best deal for the United States Government.

So, when it comes to jobs, I promise you, with what we are going to wind up paying out of this program, we could create three times as many jobs as the arms industry is going to get out of this program.

Another argument is: ''If we do not do it, somebody else will.'' The one thing my father told me when I was a kid is, ''I do not want you to be like others. I do not want you to do things just because everybody else is doing it.'' I suspect I am not the only Member of the Senate whose parents ever admonished him on that point. He expected more of me. But, above all, he wanted me to think for myself and do what I thought was right, not just because somebody else was doing it. And we are going to sell these weapons because if we do not, somebody else will. Let them. Why should we be immoral just because somebody else is immoral?

Finally, Mr. President, I know, after my 21 years in the Senate, what this is; this is a foot in the door. You get this program firmly in place, and next year it will not be 37 countries eligible, it will be 50. And the year after that, it will be 60. I have never, in 21 years, seen that prediction fail. It is the nose under the tent.

So, Mr. President, I have done my best to talk sense on this issue—I am sure to no avail. The Senator from Alaska will move to table. Some Members will walk in that door not having a clue as to what was said in this debate, and they will vote however he tells them to vote. Serious indictment, but true. And they will go home to the Chamber of Commerce, and if there is an industry in that town that has an overseas sale, they will take credit for it. And if the taxpayers wind up having to pay that loan off, you will never hear that mentioned in the same Chamber of Commerce banquet.

Let me tell you a little anecdote that has nothing to do with this debate. But I have chided the Senator from Idaho about the amendment he offered the other night on the hard rock mine law reform that said mining companies will be required to pay the fair-market value for the land. I squealed like a pig under a gate, and you could have heard me in Charleston, AR, about what a sham that was. The truth of the matter is that the land has no value; $10 per acre will cover most of it. It was the billions of dollars worth of gold under that ground I was talking about.

Anybody that voted for that, who does not come from a mining State, can go home, and if somebody asks him a question in a town-hall meeting, ''How come you voted to give away $15.5 billion worth of gold the other night to the richest mining companies in America,'' he can say, ''I also voted to make them pay fair-market value.'' They will not tell you it was just for the surface and not the minerals. Who in that room is going to know the difference?

Mr. STEVENS. Mr. President, I point out to my good friend from Arkansas that section 8067 says, ''To the extent authorized in law, the Secretary of Defense shall issue loan guarantees in support of U.S. defense exports not otherwise provided for.''

We go on to say that total contingent liable, ''the total guarantees under this authority may not exceed $15 billion.'' We are putting a limitation on existing law. The law, by the way, is contained in the authorization bill that has not passed yet. We are really putting in this section a limitation on a law that may be enacted in September.

It is a total outstanding guarantee and cannot exceed $15 billion. In view of the amount that we do, in fact, procure ourselves, that is really not an extensive amount in the worldwide scene to try to make sure that our allies and those who are aligned with the United States are able to provide the defense that we rely upon them to provide.

Does the Senator from Connecticut desire to speak?

Mr. LIEBERMAN. I ask for the Senator to yield the remaining time.

Mr. STEVENS. I yield.

Mr. LIEBERMAN. Two points. The Senator from Alaska made the point, I think convincingly, about why the $15 billion was chosen.

Second, the Senator from Arkansas keeps talking about leading some programs to conclude that we are granting money, these billions of dollars to foreign nations.

These are loan guarantees. Every other loan guarantee program, and the fees, are paid by those who use the program, and they have default rates that are extremely low. The State of California has operated a program like this for 10 years. The default rate is just under 1 percent.

Finally, to my friend from Illinois, it is true we have the highest average income in Connecticut, but believe me, it is not based on those who work in the defense industry. They are losing their jobs. This bill will save thousands of those jobs and keep those workers and their families at a decent level.

A final example, in the State of Connecticut the Norden defense industry operation was forced to move some of its production to Canada in order to qualify for the Canadian export defense loan guarantee program to allow Norden, a Connecticut company, to sell to a foreign buyer. Mr. President, 72 jobs leave Connecticut.

This bill will turn that around.

Mr. BUMPERS. How much time is remaining?

The PRESIDING OFFICER. Eleven minutes are remaining.

Mr. BUMPERS. I will take just a minute, Mr. President, to remind my colleagues of one thing: The bill allows the company selling the weapons to pay the guarantee fee.

Think about that. They can either add it to the price of weapons and then finance the entire thing, thereby financing effectively the fee that they have paid, or they can have such a cushy profit in whatever they are selling they will say we will sell them for $16 million apiece and we will pay the fee. If the fee is 1 percent and their cost is $12 million for that product, they still have a bonanza.

I want Members to think about this: Here is a loan program that is going to make every other program pale because the company—if you do not vote for this amendment—the company can pay the fee and finance it as part of the loan that is guaranteed by the taxpayers.

So everybody that wants weapons and do not have the money to pay for the weapons, and do not even have the money to pay a fee of 1 percent or 2 percent, the company will pay it. And Uncle Sugar is going to be held for the principle of the loan.

I still do not understand how we can obligate ourselves for $15 billion in this bill and not have a dime scored against the deficit or against this bill. It is in the bill—$15 billion. The Senator from Alaska says we have not authorized that yet; that is only because we have not passed the Defense Authorization Bill yet. Passing that is as certain as the Sun coming up in the morning.

I am not even trying to kill the program. I have tried that already and got 41 votes. I am trying to reduce our liability from $15 billion to $5 billion just for 1 year. They do not need $15 billion. They have not even got the program in place yet.

Colleagues, for God's sake, do your duty. I yield the floor.

Mr. STEVENS. Mr. President, I ask that we proceed with the amendments that have been set aside, calling up first the Dorgan amendment for final consideration, with time for an explanation.

This amendment would cut national defense spending by $300 million. The arguments have taken place. The spending here in this bill is consistent with the levels in the Senate Armed Services authorization bill.

The same amendment was defeated by a vote of 51 to 48 last week.

The PRESIDING OFFICER. If there is no objection, the amendments will be considered in the order they were offered.

Mr. STEVENS. I yield 5 minutes to the Senator from Oklahoma.

Mr. BUMPERS. Will the Senator from Oklahoma yield for just a second? I failed to yield back the balance of my time and I am prepared to do that.

AMENDMENT NO. 2377

Mr. STEVENS. I yield 3 minutes on the Dorgan amendment to the Senator from Oklahoma.

Mr. INHOFE. I thank the Senator from Alaska for yielding this time.

At the risk of sounding redundant, I do not feel badly about that because the Senator from North Dakota has been redundant in his discussion of this effort to take the money out of our national defense system.

I think what we need to do is be sure we understand that we have voted on this amendment before. This amendment has failed before. This is the same amendment. It is not changed at all. It is taking $300 million out of what we feel is necessary to put ourselves in a position to have a national missile defense system of some sort by the time the threat is here by the year 2000.

The assumption from the Senator from North Dakota is that there is no threat out there, that the cold war is over and the threat is no longer there. Yet at the same time, the former security adviser to the President of the United States, Jim Woolsey, has said we know between 20 and 25 countries that have developed or are developing weapons of mass destruction either nuclear or chemical or biological, and they are developing the missile means of delivering those weapons. Five of those countries are North Korea, Iraq, Iran, Libya, and Syria.

We learned in the Persian Gulf war that the technology of the short-range missiles is there. It is a reality. It works. The Scud missiles were aimed at Israel and Saudi Arabia and our United States troops. In fact, 28 of our troops, the largest single casualty in one incident, was the result of a Scud attack.

The CIA has now said the Taepo-Dong I intercontinental missile should be ready by the year 2000, and it is ironic that the two managers this afternoon are from Hawaii and Alaska. The Taepo-Dong I intercontinental missile would have the capability of reaching both of those States by the year 2000.

It is something that is here. It is upon us now. Even though the CIA came out and said a long-range missile is not likely, not likely by the year 2005, not likely is not enough security for me to ignore the fact that we have a $38 billion investment in a system that could be ready for deployment in the year 2000.

We have talked about this before, but the threat is very real. The intelligence community agrees that the threat is real.

As I asked the Senator from North Dakota when we debated this earlier, what if you are wrong? What if it is the year 2000 instead of the year 2005? We have an opportunity right now. This is not Star Wars. This is not a fantasy. This is a technology that is here today, with a combination of land-based missiles, Aegis missiles, the 22 ships we have that are ready for the upgrades.

This is a system that can be improved upon now. We can come up with at least a modest method of defending ourselves by the year 2000.

For those who may have seen on television from my home State of Oklahoma the devastation that took place with the Murrah Federal Building, standing outside as I was, on April 19, 20, and 21, not knowing how many people were alive and dead in that building, and you multiply that disaster by 1,000, that is what we are potentially faced with.

All we are trying to do is keep the $671 million to keep the development going so we can be ready by the year 2000 in the event the threat is there at that time. It is very reasonable.

I urge my colleagues to vote against it as they did before on the Dorgan amendment.

Mr. STEVENS. Mr. President, I yield the remainder of time on our side on the Dorgan amendment.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, on behalf of Senator DORGAN, I yield the remainder of his time.

The PRESIDING OFFICER. The question now occurs on the Dorgan amendment.

Mr. STEVENS. Mr. President, may I make a statement before we start? It is our intention, following this amendment, to have a dialog concerning further amendments after this amendment.

I ask unanimous consent the votes to follow this amendment, there are four others that will come immediately thereafter, will be limited to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Reserving the right to object, I understood from the Senator from Alaska there would be a 4-minute hiatus between each vote to be equally divided between the proponents and opponents of each amendment, 2 minutes each.

Mr. STEVENS. The Senator is correct. That may be extended in some instances. But the request I have just made limits the time within which to take the rollcall. It limits the time of the rollcall, not the time preceding the rollcall. I renew my request.

Mr. BUMPERS. Will the Senator consider making that a part of the request, for 4 minutes in between each vote?

Mr. STEVENS. I say to the Senator from Arkansas, there are at least 2 minutes on each side before each vote. I have been informed there may be a request for additional time before one or two of the votes, and we are prepared to yield that if it is necessary.

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

VOTE ON AMENDMENT NO. 2377

The PRESIDING OFFICER. The question now occurs on agreeing to the Dorgan amendment No. 2377.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of illness in the family.

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

The result was announced—yeas 45, nays 54, as follows:

[Rollcall Vote No. 384 Leg.]

YEAS—45

Akaka	Feingold	Lautenberg
Baucus	Feinstein	Leahy
Biden	Ford	Levin
Bingaman	Glenn	Mikulski
Boxer	Graham	Moseley-Braun
Breaux	Gregg	Moynihan
Bryan	Harkin	Murray
Bumpers	Hatfield	Pell
Byrd	Jeffords	Pryor
Chafee	Johnston	Reid
Conrad	Kassebaum	Robb
Daschle	Kennedy	Rockefeller
Dodd	Kerrey	Sarbanes
Dorgan	Kerry	Simon
Exon	Kohl	Wellstone

NAYS—54

Abraham	Gorton	McConnell
Ashcroft	Gramm	Murkowski
Bennett	Grams	Nickles
Bond	Grassley	Nunn
Brown	Hatch	Packwood
Burns	Heflin	Pressler
Campbell	Helms	Roth
Coats	Hollings	Santorum
Cochran	Hutchison	Shelby
Cohen	Inhofe	Simpson
Coverdell	Inouye	Smith
Craig	Kempthorne	Snowe
D'Amato	Kyl	Specter
DeWine	Lieberman	Stevens
Dole	Lott	Thomas
Domenici	Lugar	Thompson
Faircloth	Mack	Thurmond
Frist	McCain	Warner

NOT VOTING—1

Bradley

So the amendment (No. 2377) was rejected.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I call attention to the fact that this next vote will be a 10-minute vote, and under the agreement we will have now a series of votes. Just before the votes we have 2 minutes on each side to explain the amendment.

Senator BINGAMAN has 2 minutes.

It can be yielded back.

AMENDMENT NO. 2390

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. I thank the Chair.

Mr. President, this amendment is sponsored by myself, Senator LAUTENBERG, Senator EXON, and Senator KERREY from Nebraska.

The purpose of this amendment is to provide in this bill funds for the highest priority that the Secretary of Defense has identified if we are in a position to provide any additional funds in this defense bill.

As everybody here knows, the administration asked for a certain level of funding, and this body is adding $7 billion to that pursuant to the budget resolution. The Secretary told us in the Armed Services Committee that if we had any additional money—not if we had $7 billion, but if we had anything extra—we should fund what he considered ongoing operations. Those are the two operations going on in Iraq—one in northern Iraq and one in southern Iraq—we should fund the refugee support at Guantanamo, which is ongoing, and we should fund the humanitarian support and the deny-flight activities in Bosnia. He said at a very minimum next year he is going to have to spend a total of $1.188 billion on those activities.

We did not in this bill fund that, and what I am proposing in this amendment is that we go ahead and fund that as he requested. In addition, we reduce the outlays in the total bill by $111 million.

Now, the offset is to cancel, at least for this year, or put off, I should say, the funding of an amphibious assault ship, the LHD–7. This is a ship which the Department of Defense said they would like to come to Congress and request funds for 6 years from now, in the year 2001—not 1996, the year 2001.

The appropriators have taken the request for the 6th year and moved it forward into this next year. We do not need this ship next year. This would be the 12th LHD amphibious assault ship that we are buying. There are two under construction now. We just christened one in February of this year.

Mr. President, it is not a priority for the Pentagon. It was not requested by the Pentagon in this year's budget, and it was added by the appropriators. We should delete the funding for that and spend it on the top priority of the Department of Defense. That is what the amendment does. I hope my colleagues will support the amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STEVENS. Mr. President, this does subtract $1.3 billion for the LHD–7. It is the top priority for the Marine Corps and the Navy. The Secretary of Navy has reaffirmed support of the LHD–7. It is authorized in the authorization bill.

I have moved to table. I yield back the remainder of my time. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a suffered second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on agreeing to the Bingaman amendment No. 2390. The yeas and nays have been ordered.

Mr. STEVENS. This is a 10-minute rollcall.

The PRESIDING OFFICER. The Chair reminds the Senate this is a 10-minute rollcall.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of illness in the family.

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

The result was announced—yeas 73, nays 26, as follows:

[Rollcall Vote No. 385 Leg.]

YEAS—73

Abraham	Frist	Mack
Akaka	Glenn	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Mikulski
Biden	Grams	Murkowski
Bond	Grassley	Nickles
Breaux	Gregg	Nunn
Brown	Hatch	Packwood
Burns	Hatfield	Pressler
Byrd	Heflin	Robb
Campbell	Helms	Roth
Chafee	Hollings	Santorum
Coats	Hutchison	Sarbanes
Cochran	Inhofe	Shelby
Cohen	Inouye	Simpson
Coverdell	Jeffords	Smith
Craig	Johnston	Snowe
D'Amato	Kassebaum	Specter
DeWine	Kempthorne	Stevens
Dodd	Kennedy	Thomas
Dole	Kerry	Thompson
Domenici	Kyl	Thurmond
Faircloth	Lieberman	Warner
Feinstein	Lott	
Ford	Lugar	

NAYS—26

Baucus	Feingold	Moynihan
Bingaman	Graham	Murray
Boxer	Harkin	Pell
Bryan	Kerrey	Pryor
Bumpers	Kohl	Reid
Conrad	Lautenberg	Rockefeller
Daschle	Leahy	Simon
Dorgan	Levin	Wellstone
Exon	Moseley-Braun	

NOT VOTING—1

Bradley

The motion to table the amendment (No. 2390) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT AGREEMENT—NOMINATION OF LAWRENCE H. SUMMERS

Mr. STEVENS. Mr. President, as in executive session, I ask unanimous consent that when the Senate proceeds to the consideration of Executive Calendar No. 254, Lawrence Summers, to be Deputy Secretary of the Treasury, there be a 10-minute limit on debate equally divided between the majority and minority leaders, or their designees; that following the expiration of that time, the Senate proceed to vote immediately on the confirmation of the nomination.

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

Mr. STEVENS. Mr. President, I ask for the yeas and nays on that nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, that vote will be one of those that are stacked for the next time.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT 1996

The Senate continued with the consideration of the bill.

Mr. STEVENS. Mr. President, we are going to proceed to the next Bingaman amendment. Senator BINGAMAN has asked for the right to have 2 minutes before the second and third amendments. He would like to use four amendments now and have the two amendments run without any intervening debate. I so ask unanimous consent.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New Mexico is recognized for 4 minutes.

AMENDMENT NOS. 2392 AND 2394

Mr. BINGAMAN. Mr. President, I yield myself 3 of the 4 minutes. If I can be notified at the end of that time, then I will yield the last minute to the Senator from Ohio.

Mr. President, these two provisions, which are the subject of the next two amendments, are provisions which are hard to understand unless you understand the context.

The first of these amendments strikes a provision that is in the bill that increases progress payments to defense contractors from 75 percent to 85 percent. It is for large defense contractors. There is clearly no need for us to do this. All of these contractors are profitable. There has been no complaint about the current procedure where we pay 75 percent in progress payments. This provision is in the bill not to address a need. It is in the bill simply to soak up $488 million in outlays which the Defense Subcommittee did not want to leave unused.

This provision would also deny all discretion to contracting officers on whether or not to make these payments, even if the contractor is not performing. They would have to make 85 percent progress payments if this provision remained in the bill, which it will not. This provision will be dropped in conference, and the funds that are protected here, as outlays, will be used for other purposes. That is the whole idea of having this provision in the bill.

There are better uses for this $488 million in outlays. We could use it for deficit reduction, we could use it for some domestic accounts. Clearly, I urge my colleagues to vote to strike the provision.

Let me also address the second of these. The second provision is also designed to soak up outlays in the bill—$750 million of outlays, to be specific. It requires the Pentagon to pay its bills in 24 days instead of in 30 days like everybody else in the commercial world and in Government. There is not a serious effort to speed up payment. When added to the previous provision, what it does is it protects in this defense appropriations bill $1.238 billion in outlays.

Mr. President, what happened here, very simply, is that this bill was marked up, it was sent to CBO; CBO came back to the committee and said, ''You have not spent all your money.'' And they said, ''OK, in order to spend the rest, we will put these provisions in and we will drop them in conference and spend it on something else.'' That is exactly what is going on here. I think we ought to strike these provisions and use this money—keep this money for future needs. It will certainly be needed after this famous train wreck we are all expecting to occur around here in October.

I yield the remaining minute to the Senator from Ohio.

Mr. GLENN. Mr. President, the Senator from New Mexico described this very well. I do not know of any other place where we have said in the past that we would make progress payments that would not be below a certain amount. They are putting this up. We usually go at 75 percent. We are putting this up and saying you cannot pay them below that no matter what the status is at that point. That does not make sense. The second part of this is requiring that we pay within 24 days. That is how we got in some trouble a couple years ago under the Prompt Payment Act, where we forced people in rapid payment and they made mistakes, and we wound up having to get back $1.4 billion from contractors that had been erroneously overpaid because of the short payment time.

So I support the Senator from New Mexico, and I hope everybody supports his amendment.

I reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, we are dealing, first, with an amendment that says that the Department of Defense should make payments at the rate of at least 85 percent on progress payments that are due under a contract. Mind you, they are due. The current level, by law, is 75 percent for major businesses, 80 percent for small businesses, and 85 percent for disadvantaged small businesses. What we are saying is that they should make the payments required by these contracts not less than 85 percent. They should be making them 100 percent, but the law says you only have to make 75 percent. We say they should do at least 85 percent. By the way, if the Bingaman amendment is adopted, it will increase outlays for this year.

The second one is the prompt payment amendment. The Department of Defense used to pay their bills with a maximum, by law, of not more than a 30-day delay on bills that are due and payable. Again, that is the prompt payment legislation. They were paying their bills within 23 days. Now they moved it to 30 days. That means that in this period of time, small businesses, in particular, are forced to go out and borrow money. So they will have to increase the cost to the Government in the next contract if they are forced to borrow the money. This requires the Department of Defense to pay these businesses as soon as possible, and we assume they will pay them within 24 days rather than 30 days.

Now, it is true that it affects outlays, and it means it is a good place to put money. By the way, if we do not use the outlays this year, we will have to make the payments next year. That pyramids the outlays and decreases the 5-year budget scheme. I made a motion to table each of these amendments. These will be two 10-minute votes back-to-back, with no intervening debate.

Mr. BINGAMAN. Mr. President, do I have remaining time?

The PRESIDING OFFICER. The Senator has 4 seconds.

Mr. BINGAMAN. I will yield it back.

Mr. STEVENS. Have the yeas and nays been requested?

The PRESIDING OFFICER. The yeas and nays have not been requested on the motion to table the second amendment, No. 2394.

Mr. STEVENS. I ask for the yeas and nays on the motions to table both Bingaman amendments.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO TABLE AMENDMENT NO. 2392

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Bingaman amendment No. 2392.

The yeas and nays have been ordered.

The clerk will call the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of illness in the family.

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

The result was announced—yeas 62, nays 37, as follows:

[Rollcall Vote No. 386 Leg.]

YEAS—62

Abraham	Faircloth	Lieberman
Ashcroft	Ford	Lott
Bennett	Frist	Mack
Bond	Gorton	McCain
Breaux	Gramm	McConnell
Brown	Grams	Mikulski
Burns	Gregg	Murkowski
Campbell	Hatch	Nickles
Chafee	Hatfield	Packwood
Coats	Heflin	Pressler
Cochran	Helms	Reid
Cohen	Hollings	Robb
Coverdell	Hutchison	Roth
Craig	Inhofe	Santorum
D'Amato	Inouye	Shelby
DeWine	Johnston	Simpson
Dodd	Kassebaum	Smith
Dole	Kempthorne	Snowe
Domenici	Kyl	Specter
Stevens	Thomas	Thurmond
	Thompson	Warner

NAYS—37

Akaka	Feinstein	Lugar
Baucus	Glenn	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Grassley	Murray
Boxer	Harkin	Nunn
Bryan	Jeffords	Pell
Bumpers	Kennedy	Pryor
Byrd	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Simon
Dorgan	Lautenberg	Wellstone
Exon	Leahy	
Feingold	Levin	

NOT VOTING—1

Bradley

So the motion to table the amendment (No. 2392) was agreed to.

VOTE ON MOTION TO TABLE AMENDMENT NO. 2394

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion to table the Bingaman amendment numbered 2394. The yeas and nays have been ordered.

The clerk will call the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of illness in the family.

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

The result was announced—yeas 62, nays 37, as follows:

{Rollcall Vote No. 387 Leg.}

YEAS—62

Abraham	Ford	McConnell
Ashcroft	Frist	Mikulski
Bennett	Gorton	Murkowski
Bond	Gramm	Nickles
Breaux	Grams	Packwood
Brown	Gregg	Pressler
Burns	Hatch	Reid
Campbell	Hatfield	Robb
Chafee	Heflin	Roth
Coats	Helms	Santorum
Cochran	Hollings	Shelby
Cohen	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Inouye	Snowe
D'Amato	Johnston	Specter
DeWine	Kempthorne	Stevens
Dodd	Kyl	Thomas
Dole	Lieberman	Thompson
Domenici	Lott	Thurmond
Faircloth	Mack	Warner
Feinstein	McCain	

NAYS—37

Akaka	Glenn	Lugar
Baucus	Graham	Moseley-Braun
Biden	Grassley	Moynihan
Bingaman	Harkin	Murray
Boxer	Jeffords	Nunn
Bryan	Kassebaum	Pell
Bumpers	Kennedy	Pryor
Byrd	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Simon
Dorgan	Lautenberg	Wellstone
Exon	Leahy	
Feingold	Levin	

NOT VOTING—1

Bradley

So the motion to table the amendment (No. 2394) was agreed to.

Mr. STEVENS. Mr. President, this is the last of the stacked votes. We intend now to go to a series of amendments. We encourage Senators to raise them.

We will have another session where we will have votes that have been stacked sometime after 9 o'clock. Senator BUMPERS is entitled to some time before this amendment.

But let me state that I hope there will be no objection. We would like to ask unanimous consent that all remaining first-degree amendments be offered by 8:30 this evening. They will be subject to relevant second-degree amendments.

I ask unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Reserving the right to object, is there any way that we could have this debate tonight and come back in the morning?

Mr. STEVENS. That is precisely what we are trying to set up for you. We hope to have some debate between now and 9. We want to look at those amendments in the interim between the time we will have the next series of votes. Then we will have debate on the remaining amendments and have the votes on them tomorrow morning, and that will be the last of this bill.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Reserving the right to object.

Mr. STEVENS. The Summers matter will be taken up later.

The Senator from Arkansas is entitled to 2 minutes.

The PRESIDING OFFICER. Is there objection to the request?

Mr. BUMPERS. Reserving the right to object, did the Senator from Alaska say we will vote, debate, or both in the morning?

Mr. STEVENS. It is our request that we ask that all amendments be filed by 8:30. We will look those over. We are going to have a series of amendments between now and, say, 9 o'clock. We will vote on amendments that have been debated before 9 o'clock, and then after 9 o'clock, we will take up the remaining amendments. We will stay here as long as people want to explain their amendments.

Tomorrow morning, at about 9 or 9:30, we will start voting on all the remaining amendments, and we will vote until they are done and go home.

Mr. BUMPERS. Further reserving the right to object, does the Senator have any idea how many amendments are expected to be filed?

Mr. STEVENS. I might say we had some, I think, 80 amendments when we started. We are now down to, I think, no more than 20. We have taken care of a lot of them. We expect to be able to take care of a lot of those filed by 8:30. The remaining amendments that are not voted on by 9 o'clock will be voted on tomorrow morning.

I believe that is the understanding that everyone has agreed to.

The PRESIDING OFFICER. Will the Senator from Alaska restate the unanimous consent request?

Mr. STEVENS. I ask unanimous consent that all first-degree amendments be offered by 8:30 this evening and that they be subject to relevant second-degree amendments.

Mr. BINGAMAN. Mr. President, reserving the right to object, is the unanimous-consent request that the amendments be offered or that the amendments be filed? It has been stated both ways.

Mr. STEVENS. Offer them, and we will set them aside. You can offer them, as many as you want, whatever you want. They will be offered, and we will look at them and determine how we allocate them, whether we ought to take them up now. You can offer them now and debate them after 9 o'clock.

Mr. BINGAMAN. My own view would be it is reasonable to request they be filed or sent to the managers by 8:30, and it is probably not reasonable to ask us to actually call them up for debate here in the Senate.

Mr. STEVENS. If the Senator wishes to do so, I will be happy to have a request that all amendments be brought to either the Senator from Hawaii or myself by 8:30. That is fine with me. Unless they are in our hands by 8:30, then I would like to set up a procedure where we get through.

I yield to the leader.

Mr. DASCHLE. Mr. President, let me just respond. I think this is a very appropriate way to handle this process. We have done it before. We want to expedite to the extent we can to accommodate all Senators. It is not too much to ask to have these amendments offered. I will be as supportive as anyone in setting aside whatever business we have to accommodate Senators who want to have these amendments offered.

I would like to know what amendments are out there. If we do not have them offered, we are not going to know what amendments are there.

So it is very important I think that we try to accommodate the schedule. Let us lay down the amendments. We can agree to time limits later on. But this will give us a good indication of what we have left to do as anything I know.

So I hope we can work with the managers and get the job done and determine what the schedule is after that.

Mr. WELLSTONE. Mr. President, if I could ask the manager, is there a particular reason why—the Senator from New Mexico was quite correct; we could have a vote. And I have an amendment which will take some time. I do not know if there would be enough time for them to offer them. But they can file them. Is there a particular reason why, at 9 o'clock, you want to get more votes as opposed to stacking them and having the votes tomorrow? I am trying to figure out why.

Mr. STEVENS. Mr. President, the reason is that we think everyone should be on notice as to what is going to be called up while you are not here. We do have a provision for relevant second-degree amendments. Before you go home, you ought to know what they are. We will be happy to disclose them to you. If you have a reason to offer the second-degree amendment, that means they have been filed. You may then tell us that you have a second-degree amendment, and we will protect you. But we cannot protect you if they are brought up and filed and we do not know what they are. We could have second-degree amendments coming off the wall.

Mr. WELLSTONE. My second question was, having the vote after 9 o'clock as opposed to debate and having the amendments offered and having the votes tomorrow morning, stacked votes, is there a particular reason?

Mr. STEVENS. There has been a request that we have sort of a time here where people want to go to dinner. We have some votes that are ready to go right now. We have one more called for, but we have others that we could call up. For instance, we thought we would wait and let people go to dinner and have one more set of votes any time you want. But we picked 9 o'clock so we can look at the 8:30 filings and inform Senators at that time what kind of agenda we have for tomorrow morning.

Mr. WELLSTONE. My only question is, is there a reason you have to vote after 9 o'clock? Could the amendments be offered, debated, and stack the votes tomorrow? That is the question, why votes after 9?

Mr. STEVENS. The main reason is as a matter of fairness so people will understand what is here in case they want to offer second-degree amendments. You cannot come in tomorrow morning and offer second-degree amendments if we have already closed off debate and said that there is no longer any debate on that amendment.

Mr. BUMPERS. Mr. President, I do not want to be obstreperous and I will not object to this. But I would say to the Senator from Alaska that it seems to me that we are making eminent good sense to ask for a unanimous-consent agreement that all amendments be offered by 8:30, look and see how many you have and how many you think are serious, and then go to another unanimous-consent request by 9 o'clock on how you want to dispose of those. If you have 20 serious amendments—I have an amendment that I had anticipated asking an hour on. I assume others have that. I do not think there is any way to get all of this done tonight and start voting in the morning. If we have to come tomorrow morning for votes, why not do some debating?

Mr. STEVENS. We will do all the debating tonight and vote tomorrow morning because people want to leave. Beyond that, my friend, you said precisely why we want to come back at 9. We will know by 8:30 what is there. You will have a chance to protect yourself for second-degree amendments if you wish to do so. And we will be proceeding through the night. Senator INOUYE and I have agreed to stay here. Anyone

who wants to debate these can. We have not asked for the time yet specifically when we start voting tomorrow. But after that, there will be no more debate.

Mr. BUMPERS. I would anticipate that under this agreement, we could plan to be having breakfast in the Senate dining room in the morning.

Mr. GRAMM. If you want to debate, you will. If you do not want to debate, you will not.

Mr. STEVENS. That is interesting. I did ask, as chairman of the Rules Committee, it be open tomorrow morning.

I renew my request.

The PRESIDING OFFICER. Will the Senator from Alaska revise his request to say filed with the managers of the bill?

Mr. STEVENS. The leader has asked me to stay with the original agreement that has been agreed to between the two leaders, and that is that we have first-degree amendments offered by 8:30; second-degree amendments can be offered to any of those that are offered by 8:30. No amendments may be called up after 8:30.

The PRESIDING OFFICER. Is there any objection?

Mr. HARKIN. Reserving the right to object. I wish to make sure that I am protected in my amendments. Let this Senator understand it correctly. If I have four amendments, they have to be submitted prior to 8:30?

Mr. STEVENS. Offered. We did this several times before. All you have to do is just come in and say, ''I offer this amendment.'' We say, ''Fine,'' and set it aside.

Mr. HARKIN. And there is no time limit.

Mr. STEVENS. We have no time limit on these amendments. There will be a time limit in the sense that we are going to listen to you all night if you want to talk, but tomorrow morning we are going to start voting and there will be no more debate.

Mr. HARKIN. Well, at what time tomorrow morning?

Mr. STEVENS. We have not agreed to that. That is why we are coming back at 9 o'clock.

Mr. HARKIN. Maybe this Senator does not want to stay up all night.

Mr. STEVENS. Then come back at 9 o'clock and object then.

Mr. HARKIN. So there could be debate tomorrow?

Mr. STEVENS. There could be depending what agreement we reach after 9 o'clock. We cannot determine what kind of agreement to make until we see these amendments.

Mr. HARKIN. Is the unanimous consent just to have all the amendments filed by 8:30?

Mr. STEVENS. Offered.

Mr. HARKIN. Offered.

Mr. STEVENS. That is all it is, with the understanding in the agreement that they are subject to second-degree amendments. We have not waived second-degree amendments.

I renew my request.

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

Mr. STEVENS. The Senator from Arkansas is entitled to be recognized for 2 minutes.

Mr. DOLE. Before we do that, if I could just say a word.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. DOLE. There is a good chance we can complete our work here if everybody cooperates and does not take too much time.

We have listened to two or three Senators all afternoon and they have more amendments. That is certainly their right. I wish they would understand there are Members on each side who have other ideas for tomorrow. One idea is not staying here all day. So if they would like to talk, as I said, go home and make the speech. A lot of people at home never hear the speeches. We hear them every day.

AMENDMENT NO. 2395, AS MODIFIED

Mr. STEVENS. May we have order so we may listen to the Senator from Arkansas for 2 minutes?

The PRESIDING OFFICER. The Senate is not in order.

The Senator from Arkansas has the floor and is entitled to be heard.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, last week on the Defense authorization bill we voted to add a fifth method of financing arms sales to foreign countries. We have four programs right now. This bill appropriates for that fifth method—an Arms Export Loan Guarantee Program.

This bill says the Department of Defense can accumulate liability up to $15 billion in this brand new loan guarantee program—shades of S&L's of the 1980's. I handed most of you the talking points and a list of 37 countries that are going to be eligible to buy these weapons with loans guaranteed by the U.S. Government—15 billion dollars worth.

I lost the other night when I tried to kill the program. It is still intact. What this amendment does is to cut the taxpayers liability from $15 billion to $5 billion. This program has not even been set up yet. The committees in the Congress have not approved it. Why in the name of all that is good and holy would we put $15 billion in a program that is just a gleam in somebody's eye?

We will be here next year. We will sell 10 billion dollars worth of weapons this year. Under this program, starting next year we can sell weapons with guaranteed loans to Slovenia, Slovakia, Albania, Bulgaria, the Philippines, just to name a few of the eligible countries. Many of them are very poor countries. So the bill allows the American that wants to sell weapons to pay the risk fee on behalf of the country that will buy them. Now, how do you like that?

Do you think countries that cannot even give you a 2 or 3 percent fee are worthy of millions and billions of dollars' worth of credit guaranteed by the taxpayers of this country? I plead with you. All I am saying is let us not start off exposing the taxpayers of this country to $15 billion in liability. For Pete's sake, let us keep it at $5 billion.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STEVENS. What this simply does is put a limit of $15 billion on loan guarantees that may be authorized by the armed services bill. It is not authorized yet. This sets a limit of $15 billion, period.

I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Bumpers amendment No. 2395, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of illness in the family.

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 388 Leg.]

YEAS—53

Abraham	Frist	Nickles
Ashcroft	Gorton	Nunn
Bennett	Grams	Packwood
Bond	Gregg	Pell
Breaux	Hatch	Pressler
Brown	Heflin	Robb
Burns	Helms	Santorum
Chafee	Hutchison	Shelby
Coats	Inhofe	Simpson
Cochran	Inouye	Smith
Cohen	Jeffords	Snowe
Coverdell	Kempthorne	Specter
Craig	Lieberman	Stevens
D'Amato	Lott	Thomas
DeWine	Mack	Thompson
Dodd	McConnell	Thurmond
Dole	Moynihan	Warner
Ford	Murkowski	

NAYS—46

Akaka	Feinstein	Leahy
Baucus	Glenn	Levin
Biden	Graham	Lugar
Bingaman	Gramm	McCain
Boxer	Grassley	Mikulski
Bryan	Harkin	Moseley-Braun
Bumpers	Hatfield	Murray
Byrd	Hollings	Pryor
Campbell	Johnston	Reid
Conrad	Kassebaum	Rockefeller
Daschle	Kennedy	Roth
Domenici	Kerrey	Sarbanes
Dorgan	Kerry	Simon
Exon	Kohl	Wellstone
Faircloth	Kyl	
Feingold	Lautenberg	

NOT VOTING—1

Bradley

The motion to table the amendment (No. 2395) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

The Senator from Minnesota, under a previous order, was to be recognized.

Mr. WELLSTONE. I thank the Chair. Mr. President, I talked with the Senator from Texas, the Senator from Arkansas, and the Senator from Iowa, and I am pleased to let them offer their amendments. I understand we will set them aside and go to my amendment.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 2396

(Purpose: To provide for the management of defense nuclear stockpile resources)

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 2396.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that my amendment be laid aside.

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

Mr. STEVENS. Mr. President, I ask unanimous consent that all amendments filed under this procedure be set aside until they are called up, so we do not have to have delay as we are going to be yielding time now, if that is agreeable.

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

Mr. STEVENS. Mr. President, I also ask unanimous consent when there is a time agreement, if a Senator yields for the purpose of presenting an amendment in order to comply with the unanimous-consent agreement, that that time not come out of the time of the person who is speaking.

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

Mr. BUMPERS. Reserving the right to object, will the Senator amend his unanimous-consent request to say unless the managers have agreed to the amendment and you can dispose of it instead of laying everything aside?

Mr. STEVENS. I agree with what the Senator said. We are going to be proceeding under a unanimous-consent agreement. If the Senator has the floor and yields to someone to call up an amendment, I do not intend to try to handle that amendment at the time.

The Senator from Minnesota has the floor, and I invite people to come in and comply with the unanimous-consent agreement by presenting their amendments. But I do not want to handle them—I agree with what the Senator says. I do ask unanimous consent, as he indicates, that the amendments will not be set aside if the managers are prepared to accept them at the time they are offered.

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

Mr. BUMPERS. Mr. President, I ask the Senator from Minnesota if he will yield to me for the purpose of offering one amendment which has been agreed to and another one which I would like to file and lay down and set aside.

The PRESIDING OFFICER. Does the Senator still yield?

Mr. WELLSTONE. I am pleased to yield to the Senator from Arkansas.

AMENDMENT NO. 2397

(Purpose: To prohibit the financing of risk fees as part of the Defense Export Loan Guarantee Program)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself and Mr. SIMON, proposes an amendment numbered 2397.

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

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

The amendment is as follows:

On page 69, at the end of line 3 insert the following: ''That the exposure fees charged and collected by the Secretary for each guarantee, shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States;''.

Mr. STEVENS. Mr. President, I agree with the Senator's amendment, but it has not been cleared on this side yet. I am prepared to accept it when it is cleared.

Mr. BUMPERS. I am sorry?

Mr. STEVENS. I agree with the Senator's amendment. It has not been cleared. There is one person who registered objection. We are visiting with him now. I will be able to deal with it later.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the amendment be set aside.

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

AMENDMENT NO. 2398

(Purpose: To reduce the amount of money provided for the Trident II missile program)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 2398.

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

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

The amendment is as follows:

On page 22, strike lines 1–2 and insert in lieu thereof the following: ''tor-owned equipment layaway: $1,651,421,000, to remain available for obligation until September 30, 1998: *Provided*, That of the funds appropriated in this paragraph, none shall be obligated for any D–5 missiles, D–5 missile components, ship modifications and ship components that are associated with backfitting any Trident I submarines to carry D–5 Trident II missiles.''

Mr. BUMPERS. Mr. President, I ask unanimous consent that the amendment be laid aside temporarily.

The PRESIDING OFFICER. Under the previous order, the amendment is set aside.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENTS NOS. 2399, 2400, 2401, AND 2402

Mr. HARKIN. Mr. President, I ask the Senator from Minnesota to yield to me for the purpose of offering four amendments, under the unanimous consent agreement of the manager of the bill.

The PRESIDING OFFICER. The clerk will report.

Mr. HARKIN. Mr. President, I send four amendments to the desk.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes amendments numbered 2399, 2400, 2401, and 2402.

Mr. HARKIN. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 2399

(Purpose: To limit indirect costs regarding compensation)

SEC. . RESTRICTION ON REIMBURSEMENT OF COSTS.

(a) None of the funds authorized to be appropriated in this Act for fiscal year 1996 may be obligated for payment on new contracts on which allowable costs charged to the government include payments for individual compensation (including bonuses and other incentives) at a rate in excess of $250,000 per year.

AMENDMENT NO. 2400

(Purpose: To strike $125,000,000 appropriated for Aircraft Procurement, Army, for upgrade of Kiowa Warrior light scout helicopters.)

On page 18, line 7, strike out ''$1,498,623,000'' and insert in lieu thereof ''$1,373,623,000''.

AMENDMENT NO. 2401

(Purpose: To strike $70,000,000 appropriated for Research, Development, Test and Evaluation, Defense-Wide, for support technologies/follow-on technologies advanced development, specifically provided for the Space-Based Laser Program)

On page 29, line 12, strike out ''$9,196,784,000'' and insert in lieu thereof ''$9,126,784,000''.

AMENDMENT NO. 2402

(Purpose: To strike $30,000,000 appropriated for Research, Development, Test and Evaluation, Defense-Wide, for the ASAT Anti-Satellite Weapon program)

On page 29, line 12, strike out ''$9,196,784,000'' and insert in lieu thereof ''$9,166,784,000''.

Mr. HARKIN. Mr. President, I ask unanimous consent that the amendments be laid aside.

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

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I also ask if the Senator from Minnesota

will allow me to send an amendment to the desk for consideration, and then I will lay it aside so he can proceed with his own amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 2403

(Purpose: To reduce funding for the TOW 2B (by $20,000,000), Hellfire II (by $40,000,000), and CBU–87 (by $30,000,000), which are munitions that have been determined by the Inspector General of the Department of Defense as being excess to the requirements of the Armed Forces)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 2403.

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

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

The amendment is as follows:

On page 82, between lines 11 through 12, insert the following:

SEC. 8087. (a) The total amount appropriated in title III under the heading ''MISSILE PROCUREMENT, ARMY'' is hereby reduced by $60,000,000.

(b) The total amount appropriated in title III under the heading ''OTHER PROCUREMENT, AIR FORCE'' is hereby reduced by $30,000,000.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the amendment be set aside until after completion of the presentation by the Senator from Minnesota.

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

The Senator from Minnesota is recognized.

Mr. STEVENS. Will the Senator yield at this point?

Mr. WELLSTONE. I will be pleased to yield.

Mr. STEVENS. Mr. President, I believe the Senator is prepared to enter into a time agreement. It is my understanding he will agree to 20 minutes on a side on his amendment.

Mr. WELLSTONE. I understand the Senator to say 40 minutes equally divided?

Mr. STEVENS. I ask unanimous consent that there be 40 minutes equally divided before a motion pertaining to his amendment.

Mr. WELLSTONE. Mr. President, I wonder whether I could ask the Senator from Alaska, included in this agreement would be that I could have 2 minutes to summarize before the vote.

Mr. STEVENS. I ask unanimous consent that all amendments treated in this period now have 2 minutes before the vote, or more if it is requested specifically.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2404

(Purpose: To reduce by $3,200,000,000 the total amount to be appropriated)

Mr. WELLSTONE. Mr. President, I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself, Mr. FEINGOLD, Mr. HARKIN, Mr. BUMPERS and Mr. SIMON, proposes an amendment numbered 2404.

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

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

The amendment is as follows:

On page 34, between lines 13 and 14, insert the following:

SEC. 8000. REDUCTION IN TOTAL AMOUNT TO BE APPROPRIATED.

Notwithstanding any other provision of this Act, the total amount appropriated for fiscal year 1996 under the provisions of this Act is hereby reduced by $3,200,000,000, with the total amount of such reduction to be used exclusively for reducing the amount of the Federal budget deficit.

Mr. WELLSTONE. Mr. President, my amendment is designed as a follow-up or a follow-on to a close vote we took in this body last week on an amendment to the DOD authorization bill from the Senator from Wisconsin, Senator KOHL, and the Senator from Iowa, Senator GRASSLEY, which I cosponsored.

That amendment would have reduced by $7 billion the total authorized defense spending provided for in this bill. The same amount of defense spending provided for in the Senate version of the budget resolution passed earlier this year.

Mr. President, during consideration of the budget resolution in May, a bipartisan majority of 60 Senators voted against an amendment which would have increased defense spending above the level requested by the Clinton administration. To my surprise, some of those Senators switched last week and voted to support the bill even with this huge increase, which they had opposed just a few months earlier.

My amendment seeks to find the middle ground by cutting a modest $3.2 billion from the amount appropriated in the bill overall, without identifying specific programs to be reduced.

Unlike the Kohl amendment, which I supported, and which would have reduced total spending in the bill by $7 billion, the amount requested by the administration for this year, this amendment would simply cut the overall total by $3.2 billion, leaving a total of about $240 billion to be spent next year on defense.

Mr. President, that is still about $3.2 billion more than the Pentagon itself requested for next year. As outrageous as this may seem to Americans who were listening, especially those who consider programs like job training and education and student loans and Medicare, programs that are being slashed in both the House and the Senate, this defense bill, in its current form, provides $6.4 billion more than the President, more than the Secretary of Defense and more than the Joint Chiefs of Staff have requested for this year—an amount, I believe, Mr. President, already vastly more than is necessary to defend our Nation.

With the Kohl amendment, not only has the Senate gone on record as wanting to hold the defense budget completely harmless as we work to reduce the deficit, but it has even gone on record as opposing attempts to scale back defense spending to the administration's request. Sadly, the Kohl amendment to cut $7 billion was defeated by a close margin last week.

This amendment will test how far Senators are willing to go back toward the principle that all sectors of our society, including defense contractors, ought to bear some modest share of the deficit reduction burden. From that earlier vote, I conclude that there are 48 Senators who believe that the Pentagon budget provided for in this bill is too high and should be lowered as we move forward in the budget debates this year.

Mr. President, while the amendment does not designate specific programs to be cut, I will be discussing specific examples of programs that were not requested by the administration and that should be removed from it. Some have been focused on by Senator BINGAMAN, Senator MCCAIN and others already. They are mostly weapons systems included in this bill to satisfy various Defense Committee members and military contractors but that were not judged to be needed by the administration. Some were ships or planes that were not scheduled to be bought by the Pentagon until after the turn of the century, but which were accelerated by 6 or 7 years, at a time when we are supposed to be doing deficit reduction. Others were rejected by the Pentagon, altogether as ineffective or too costly, but they are included in this appropriations bill.

If we pass this bill without my amendment, my Minnesota constituents will continue to pay their taxes to bolster the treasuries of bloated defense contractors, who are building ships, planes, and weapons systems that we do not need and cannot use and that will not make our Nation any more secure.

So that there is no mistake, Mr. President, let me repeat that for those who are listening, we are considering today a defense spending bill that spends a full $6.4 billion more than the President requested in his budget. We are doing this despite the fact that there is no sudden extraordinary threat to justify such an increase and many of those in this body who are pressing for such a huge increase are precisely the same people who are out on the floor day after day, week after week, month after month, howling about how we simply have to get this deficit under control. They are doing this while at the same time larding defense bills with billions in spending for the local shipyard or weapons contractor, or plane manufacturer. Have we no

shame, Mr. President? Is there no sense of limits in this body when it comes to wasteful and unnecessary weapons programs? Mind you, this $3.2 billion is all for deficit reduction.

Now, controlling the deficit is important, and I have supported responsible, fair-minded deficit reduction proposals totaling hundreds of billions of dollars. But I cannot allow this debate to move forward without observing a few of the blatant incongruities here. Mr. President, while virtually every other agency of the Federal Government is taking huge cuts in order to help reduce the deficit and programs that actually serve millions of people in our States are being scaled back or shut down altogether, the Pentagon budget is actually growing by leaps and bounds. As I said the other day, Mr. President, this is one of the craziest things I have seen during my time in the Senate. Even during the defense budget of the 1980's, Congress was not pressing more spending on the Pentagon than it had requested, as this bill would do. Make no mistake, Mr. President, the post-cold-war defense budget is becoming less and less focused on our real national security needs and more and more on the needs of particular Members of Congress to sustain jobs in their home States.

American taxpayers are paying for costly, obsolete, fantastically expensive cold war era weapons systems that are no longer justifiable, basically to preserve the political health of certain Members of Congress.

Mr. President, that is the sad, unvarnished truth. Many of the weapons systems we are still paying for were initiated during the 1980's defense buildup and have little or no relation to the changed strategic situation we now face in the post-cold-war era. Yet, we continue to fund them, terrified that scaling the spending back modestly will cost precious jobs in our States. And it is particularly troubling that the Armed Services Committee has proposed these hefty increases at the same time that the Defense Department is being called to task for not being able to account for billions of dollars—over $13 billion, Mr. President, at last count, in its own spending.

In May of this year, the Pentagon's own spending watchdog, its Comptroller General, John Hamre, conceded that the DOD could not account for over $13 billion of spending. Their own report says that they could not account for $13 billion of spending. We now have here $6 billion more than was in budget.

Mr. President, it has just been lost in the ocean of paperwork at the Pentagon, and this $13 billion will never be sorted out. In fact, the Comptroller has all but given up trying to find out what happened to most of the money, arguing that it would be more expensive than it would be to track it down. So here we have a report, $13 billion of wasteful money, expenditure of money that we cannot even account for. Now we have $6 billion more in this appropriations bill than requested, and this amendment says just cut that in half and, for God's sake, can we not use that for deficit reduction?

I see my colleague here on the floor. He will be part of the discussion on this amendment.

Mr. KERRY. I thank my colleague for his courtesy. Actually, I not only wanted to be part of the discussion, I wanted to ask my colleague for the forbearance to put an amendment in so that I could be covered by the 8:30 curfew.

Mr. WELLSTONE. Mr. President, I am pleased to yield to my colleague to make sure that none of his time would be taken.

MOTION TO RECOMMIT

Mr. KERRY. Mr. President, I send a motion to the desk and ask for its appropriate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] moves to recommit S. 1087 to the Committee on Appropriations with instructions to report back to the Senate legislation that does not appropriate funds to the Department of Defense in excess of the President's request for fiscal year 1996.

Mr. KERRY. I will quickly explain this motion because it complements the amendment of the Senator from Minnesota. The Senator is seeking a $3 billion reduction. This amendment seeks to recommit the bill on the basis that we should not be requesting more money than the President of the United States has requested.

I think the Senator from Minnesota has most appropriately focused on a series of problems within the accounting process, in spending procurement process, of the Defense Department.

In addition to that, Mr. President, I know the Senator feels this very strongly. We ought to be making decisions around here based on the real needs of the country, not on wish lists.

It is very, very difficult when we look a the level of teenage pregnancy, when we look at the fact that last year 36 percent of the high school graduates in America graduated with a below basic reading level capacity. Fifty percent of minorities in this country graduated with a below basic reading level capacity.

This means last year we put 750,000 people in the work force in America with a skill level for jobs that disappeared 50 years ago.

That, Mr. President, is something we really ought to be focusing on. I can go through a list of items in this bill, including $564 million increase on fighter planes or $125 million increase on the request for the Kiowa Warrior Scout Helicopter and other things.

I am all for upgrading and keeping up with a defense that is second to nobody in this planet. I believe, Mr. President, $236 billion will do that. There is not a compelling need to spend $242 billion-plus.

Now, I think when we measure all of the things we have done, the Goals 2000 in education, we will cut substance abuse prevention money, we will cut safety schools and drug money, we are making it harder for kids to go to college, yet we are going to come along with a series of expenditures here ranging from the post 1996 D–5 missile production.

If we have good enough START II implementation, and we get the Duma in Russia to ratify it and we continue downwards, there is no reason to build D–5's after 1996. We have money for that in here.

We could increase burden sharing by the Republic of Korea. We can procure the most cost-effective airlifter, C–17's or commercial. There are many things we could do, Mr. President.

I have $37 billion worth of reductions I think we could find. All we are looking for is $6 billion. I do not think at this time in the United States choice-making here in Washington, where we are seeking to find the things we need to do for the country that we ought to be filling some extraordinary wish list, when this golden moment in international affairs is staring us in the face. We could really make, I think, a tougher set of choices.

I yield the floor back to the Senator.

I simply think we ought to have a vote here before we put this bill away as to whether or not the President was not well advised to suggest to the U.S. Senate that $236 billion will do the job, and why it is that we must spend this additional $6 billion this year and a lot more over the next 5 years and beyond.

Mr. WELLSTONE. Mr. President, will the Senator yield?

Mr. KERRY. I am happy to yield to the Senator.

Mr. WELLSTONE. I thank the Senator. I would have outlined some of the same weapon systems the Senator enumerated.

Is the Senator aware of the fact that in May during consideration of the budget resolution, a bipartisan majority of 60 Senators voted against an amendment which would have increased defense spending above the level requested by the Clinton administration?

Mr. KERRY. That is correct.

Mr. WELLSTONE. So, not that many months ago, a short period of time ago, Senators went on record saying certainly in this time of tight budgets, when we are talking about deficit reduction and lots of people are being asked to tighten their belt, and we are making cuts in education, and as the Senator said, in substance abuse programs, treatment programs and in job training and low-income energy assistance, the Senate went on record.

Now all of a sudden we see contrary to the advice of the administration, the Joint Chiefs of Staff, the Pentagon itself—I cannot remember a time where we are now talking about an appropriations bill that is $6 billion above the request.

Mr. KERRY. Let me answer that by saying to my friend I think there are three great issues that most Americans are concerned about.

The first is their decline in income. It is the increasing anxiety of the workplace, the fear that people will lose a job, or that if they get a job, they cannot raise their standard of living, they cannot, even by working harder, make ends meet. That is the first and foremost priority of people in this country.

I cannot point to very much—maybe some of my colleagues can do a better job than I can—but I cannot find anything that the Senate has worked on yet this year that will address that issue in a profound way.

The second great issue that faces Americans is the question of whether or not they can walk out of their house and go out at night to a restaurant without fear of not finding their car when they come out of the restaurant, or maybe being hit over the head, or whether their kids can go out and play in a neighborhood.

There is nothing that we have done, yet, that fundamentally addresses that need, except reduce the expenditures for substance abuse—the greatest problem in America being drugs—and target for attack the idea of putting more cops on our streets, which was the great issue of last year.

The third great issue that I think Americans are concerned about is education. I just spoke about it. Our school systems are falling apart. In city after city, community after community, teachers are demoralized, people are not paid enough, the curriculum stinks.

We have a whole host of problems, and here we are with Russia, at odds about whether or not to ratify the START treaty with a moment where we could be greater leaders in the world with respect to proliferation, with respect to our capacity to have intrusive inspection, and what are we doing?

We are cutting Head Start. We are cutting substance abuse. We are targeting the program that puts police on the streets. We have not addressed one of those three profound needs, but we are going to spend more than the Joint Chiefs of Staff think we ought to, and that the Commander in Chief has asked us to, does not make sense, Mr. President.

I thank my colleague for allowing me to put my amendment in at the appropriate time. I yield the floor.

Mr. WELLSTONE. Mr. President, I thank the Senator from Massachusetts for his amendment and also for his words here on the floor of the Senate.

AMENDMENT NO. 2404

Mr. WELLSTONE. Mr. President, I would like to summarize, and I will get a chance to summarize for my colleagues again.

Here we have a situation—and I want to be clear about what this amendment does—here we have a situation where we have in this appropriations bill $6.4 billion more than requested by the administration, by the Pentagon, by the Joint Chiefs of Staff—over budget.

This amendment says, can we not at least cut half of that, $3.2 billion, and all of that goes for deficit reduction? Mr. President, I do not designate what weapon system to be cut, though I raised questions about many of those weapon systems and the value of them, as has the Senator from Massachusetts.

What I do know, Mr. President, is that it seems to me in a time when we say we are for deficit reduction and we are calling for sacrifice among people in the country and we are putting into effect some really serious cuts—not just in programs but in programs that have a critical impact on the quality or lack of quality of the lives of people—educational opportunities for children, food, nutrition programs, Head Start, early childhood development programs, Women, Infants, and Children, low-income energy assistance program, job training program, making sure that young people can afford higher education—I just say to my colleagues, why in God's name when we are making cuts in all of those programs, and now what we are doing is we have $6 billion more over budget, $6 billion more than requested by the administration—I do not think there is any standard of fairness to this. Surely we can make some cuts here as well, Mr. President. That is what this amendment calls for.

Mr. President, I urge my colleagues to vote aye on this amendment to reduce, by $3.2 billion, the total spending in this bill. That will still leave about $240 billion in this bill to be spent on defense next year and over $260 billion in total, when you add in Energy Department weapons programs and military construction projects provided for in the DOD authorization bill.

Vote to at least bring the defense budget more closely in line with what the President and the Secretary of Defense have requested, I say to my colleagues, a figure that is already too high, in my view. And especially to those Senators, 60 in all, who voted for lower defense spending numbers on the budget resolution, I appeal to you, vote to restore some sanity to defense budgets that have gone dangerously awry. Vote aye on this amendment.

Mr. President, I, for the moment, yield the floor and I retain the remainder of my time.

Might I ask how much time I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator from Minnesota has 6 minutes 10 seconds.

Mr. AKAKA addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). Who yields time? The Senator from Hawaii.

AMENDMENT NO. 2405

(Purpose: To require the Secretary of Defense and the Secretary of the Army to reconsider the decision not to include the infantry military occupational specialty among the specialties for which special pays are provided under the Selected Reserve Incentive Program)

Mr. AKAKA. Mr. President, to meet the requirements of the chairman of the committee, I have an amendment to offer. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Hawaii [Mr. AKAKA] proposes an amendment numbered 2405.

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

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

The amendment is as follows:

On page 83, between lines 11 and 12, insert the following:

SEC. 8087. The Secretary of Defense and the Secretary of the Army shall reconsider the decision not to include the infantry military occupational specialty among the military skills and specialties for which special pays are provided under the Selected Reserve Incentive Program.

Mr. AKAKA. Mr. President, I ask it be laid aside for further consideration.

The PRESIDING OFFICER. Under the previous order, it may be laid aside.

AMENDMENT NO. 2406

(Purpose: To express the sense of the Senate regarding underground nuclear testing)

Mr. AKAKA. Mr. President, I have another amendment to send to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Hawaii [Mr. AKAKA] proposes an amendment numbered 2406.

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

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

The amendment is as follows:

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

SEC. 1062. SENSE OF SENATE REGARDING UNDERGROUND NUCLEAR TESTING.

(a) FINDINGS.—The Senate makes the following findings:

(1) The President of France stated on June 13, 1995, that the Republic of France plans to conduct eight nuclear test explosions over the next several months.

(2) The People's Republic of China continues to conduct underground nuclear weapons tests.

(3) The United States, France, Russia, and Great Britain have observed a moratorium on nuclear testing since 1992.

(4) A resumption of testing by the Republic of France could result in the disintegration of the current testing moratorium and a renewal of underground testing by other nuclear weapon states.

(5) A resumption of nuclear testing by the Republic of France raises serious environmental and health concerns.

(6) The United Nations Conference on Disarmament presently is meeting in Geneva, Switzerland, for the purpose of negotiating a Comprehensive Nuclear Test Ban Treaty (CTBT), which would halt permanently the practice of conducting nuclear test explosions.

(7) Continued underground weapons testing by the Republic of France and the People's Republic of China undermines the efforts of the international community to conclude a CTBT by 1996, a goal endorsed by 175 nations at the recently completed NPT Extension and Review Conference (the conference for the extension and review of the Nuclear Non-Proliferation Treaty).

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Republic of France and the People's Republic of China should abide by the current international moratorium on nuclear test explosions and refrain from conducting underground nuclear tests in advance of a Comprehensive Test Ban Treaty.

Mr. AKAKA. I ask it be set aside for further consideration, and I yield back my time.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, article I, section 8, of the Constitution of the United States states the following:

Congress shall have the Power To * * * raise and support Armies * * * To provide and maintain a Navy; To make rules for the Government and Regulation of the land and naval Forces; To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections, and repel Invasions.

Mr. President, I cite the Constitution because in the debate today we have heard on several occasions that the President did not approve this or the President did not ask for appropriations, that the President did not have this in his budget request.

Mr. President, the Constitution of the United States does not say that the President shall have the power to raise and support armies or that the President has the power to provide and maintain a navy. It is the Congress that has the power. And what we are doing today, and this evening, is to exercise that power and authority that has been granted to the people of the United States and to their representatives in the House and the Senate.

If we abide with some of the suggestions made by my colleagues, I would say the Constitution should read that the Congress of the United States will be the rubberstamp of the President. I do not believe that was ever the intention of our Founding Fathers.

Second, throughout the debate today, the sum of $7 billion has been heard on several occasions. It represents sums of moneys that this committee has recommended for the purchase of certain equipment. It is true that what I am about to list were not specifically requested by the President. But in the exercise of our authority as set forth in article I, section 8, of the Constitution, we felt that the best interests of this Nation would be served if we did exercise this authority. So, if I may, I would like to go down the list so my colleagues will know what is involved.

The so-called master plan of the Department of Defense states that, by the year 2000, we will purchase 15 DDG–51 destroyers. These are the latest destroyers, the most powerful on the seven seas. The President requested two. We decided for the sake of economies, we should have four.

In the scheme of contracting and building, I think it is common knowledge that if one purchases in larger quantities the purchase price would be less—$1.4 billion. Before we made this decision we conferred with the Chief of Naval Operations, we conferred with the Secretary of the Navy. They considered this to be of high priority.

Just a few moments ago this Congress, this Senate, by a vote of 72 to 27, approved the appropriation of $1.3 billion for the purchase of an LHD–7 amphibious assault ship. That ship was not requested by the President of the United States, but it is part of the master plan of the Department of Defense. It is scheduled to be purchased in about 3 years. But, in checking with the shipyards of this Nation, we found that this year would be the year to make that contract. This is one of the highest priorities for the U.S. Marines.

We call upon the Marines almost every year, unfortunately, to send their men in harm's way. They are the first on the beach. They are the first to shed blood. And they want to make certain, if they are going to be first, they do so with the best of equipment, best of survival facilities—and this ship will provide that survivability.

Mr. President, $770 million for the National Guard. The President of the United States did not request $770 million for the National Guard equipment, but every adjutant general of the 50 States begged the Congress for assistance in this area. It is common knowledge among us that, up until now, the National Guard gets all the leftovers. When the regular services get new equipment, they get the old equipment. When the M1A2 tank comes out, they will get the M1A1 tanks. They put up the sand bags for floods. They are involved in Bosnia. They were in Desert Storm. They were in Somalia. And they will be going to the next place wherever it is. And if we are calling upon the National Guard, the citizen soldiers, to stand in harm's way, I think it is only reasonable for the Congress to provide them with the necessary equipment.

That was $777 million.

This bill has 12 FNA–18 aircraft, $484 million. The master plan calls for the purchase of 24. The administration had requested 12. We added 12. Here again, it was a matter of economies, and by economies I am talking about big economies. By doing this, we would have saved over $250 million.

A high priority for the military are the F–15's and F–16's; $370 million for 12 of them.

A few hours ago this Senate, by an overwhelming vote, approved the funding of $300 million for the national missile defense research and development. That was not requested by the President. We added the $300 million.

We also added $300 million for the Coast Guard. The Coast Guard, as you know, Mr. President, is funded through the Department of the Treasury. They are not part of the Defense Department. For all intents and purposes, the Coast Guard is now part of the U.S. Armed Forces. They were deeply involved in Desert Storm. They suffered casualties like all the other services. They are presently involved in the blockade in Bosnia. They are also involved very deeply working with the Navy in drug interdiction.

So the Treasury Subcommittee came to us, and they did so about 3 years ago, to provide a helping hand with the Coast Guard. And we have been doing this. The Senate knows that, the House knows that, and the President knows that.

The sum of $174 million for the Comanche helicopter; if one should look over the whole appropriations measure—and I say so as a former Army person—the Army was the one that was shortchanged. The Navy got their ships, and the Air Force got their aircraft. This is the one thing that the Army wanted, the Comanche helicopter, $174 million.

This bill also has $250 million for five hurricane aircraft. Mr. President, they were not requested by the President of the United States. But I hope my colleagues will be able to confer with the Governors of the coastal States and the gulf States and ask their opinion—all of those. Every moment at this time of the year there is some hurricane popping around in the Caribbean or in the Atlantic. And we have heroic men and women 24 hours a day up in the air checking these things out. The least we can do is to give them adequate equipment and the best of aircraft. This will provide it, Mr. President.

There is no pork in here. Listening to the debate, one gets the impression that this is all waste, this is all pork. And as I said earlier this day, I do not wish to sound personal and parochial. But there is not a single item in here that is made in Alaska or Hawaii. There is no pork in here for our two States. But we feel as chairman and ranking member of the subcommittee that these are absolutely essential.

We know that this is a very painful period, Mr. President. I, too, would like to see more money being spent for the homeless, for the poor, and the hungry, and for those who are not receiving appropriate education. But we have not arrived at the millennium that we pray for. There are still people outside our borders and inside our borders that would relish the thought of destroying us. This is not paranoia, Mr. President. This is the real world.

So, Mr. President, I hope that my colleagues will look over the list that I have just set forth for you, sir. And if they can tell us that they do not need the destroyer, they do not need the hurricane aircraft, they do not wish to have the National Guard fully equipped, they do not wish to have the

Coast Guard better equipped, then we might think otherwise. But no one has come forth telling us to cross out the F–22, cross out the F–15, cross out the F–15 and the F–16. No. Mr. President, it has been $7 billion.

I do not often speak on the floor. But I just want my colleagues to know that making decisions such as this is not an easy chore. I can assure you that this is a lean and mean defense bill. If there is fat, it is almost negligible. And it is not in this list, sir.

Thank you.

Mr. STEVENS. Mr. President, I think the Senator from Arizona wants to file an amendment. I yield to him for that purpose.

AMENDMENT NO. 2407

(Purpose: To place a limitation on the use of funds for Former Soviet Union Threat Reduction)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 2407.

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

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

The amendment is as follows:

On page 82, between lines 11 and 12, insert the following:

SEC. 8087. LIMITATION ON USE OF FUNDS FOR COOPERATIVE THREAT REDUCTION.

(a) LIMITATION.—Of the funds available under title II under the heading ''FORMER SOVIET UNION THREAT REDUCTION'' for dismantlement and destruction of chemical weapons, not more than $52,000,000 may be obligated or expended for that purpose until the President certifies to Congress the following:

(1) That the United States and Russia have completed a joint laboratory study evaluating the proposal of Russia to neutralize its chemical weapons and the United States agrees with the proposal.

(2) That Russia has, with the assistance of the United States (if necessary), prepared a comprehensive plan to manage the dismantlement and destruction of the Russia chemical weapons stockpile.

(3) That the United States and Russia are committed to resolving outstanding issues under the 1989 Wyoming Memorandum of Understanding and the 1990 Bilateral Destruction Agreement.

(b) DEFINITIONS.—In this section:

(1) The term ''1989 Wyoming Memorandum of Understanding'' means the Memorandum of Understanding between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

(2) The term ''1990 Bilateral Destruction Agreement'' means the Agreement between the United States of America and the Union of Soviet Socialist Republics on destruction and non-production of chemical weapons and on measures to facilitate the multilateral convention on banning chemical weapons signed on June 1, 1990.

The PRESIDING OFFICER. Under the previous order, the amendment will be set aside.

AMENDMENT NO. 2404

Mr. STEVENS. Mr. President, how much time remains now?

The PRESIDING OFFICER. The Senator from Alaska has 5 minutes 12 seconds.

Mr. STEVENS. Does the Senator from Minnesota have any time?

The PRESIDING OFFICER. The Senator from Minnesota has 6 minutes 4 seconds.

Mr. STEVENS. Mr. President, I will make one comment for the consideration of my friend from Minnesota, and that is to tell him that of the three other bills pertaining to the Department of Defense for 1996, compared to the three other bills this is the lowest level of spending in any of the DOD authorization or appropriations bills. We are below the authorization in the House, we are below the authorization in the Senate, and we are below the appropriations in the House. How can we be so far off the mat as I have been hearing?

I reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. Mr. President, for my colleagues I would like to read from a letter from the administration.

The administration does not support the committee 202(b) allocation, or the level of funding provided by the committee bill, which is nearly $6.5 billion above the President's request. By providing an increases for defense programs that are neither wanted nor justified, the bill would seriously undermine the President's goal of achieving a balanced budget while increasing investment programs essential to a higher standard of living for all Americans.

As reflected in his budget, the President firmly believes that it is possible to maintain a strong defense without sacrificing critical investments. The committee's allocation raises serious concerns about the overall priorities reflected in the appropriation process.

For this reason and other concerns discussed below, the President's senior advisers would recommend the President veto the bill if it were presented to him in the current form.

I have a tremendous respect for my colleague from Hawaii, and he is not on the floor now, but just in response, I do not think the Chairman of the Joint Chiefs of Staff is a millenniest. I do not think that the Chairman of the Joint Chiefs of Staff does not make very rigorous decisions about national security.

Again, one more time, we are talking about deficit reduction. We are talking about cuts in education, child nutrition, low-income housing, low-income energy assistance programs, health care programs, you name it. And at the same time we are going $6.4 billion above budget, and this amendment just says can we not cut $3.2 billion in budget authority and use that for deficit reduction?

Mr. President, it just seems to me that people in Minnesota and people around the country are saying, sort out your priorities. We are spending billions of dollars renewing cold war relics like star wars, the antimissile defense system, the B–2 bomber, new generations now of attack helicopters and airplanes, more destroyers, more carriers, more expensive weaponry.

It is like the sky is the limit. All of my colleagues who talk so much about deficit reduction over and over and over again, they seem to be great when it comes to reducing an investment in children and in health care and in job training and in reducing violence in our communities, but when it comes to the military contractors, it goes on and on and on and on.

In all due respect, I do not think the Pentagon, I do not think the Chairman of the Joint Chiefs of Staff, I do not think these are the kinds of people who do not make rigorous analysis about what is in our national defense.

But enough is enough. Enough is enough. It seems to me we can communicate a message to people in this country that there is going to be some little deficit reduction here in this Pentagon budget. Forty-nine Senators voted for this proposition. That was $7 billion. I cut this in half. I am hoping to have the support of my colleagues.

Finally, I would say to my colleagues on the other side—not all of my colleagues on the other side—I think there comes a point in time we are going to have to redefine national security. And part of national security is surely the security of our local communities—that is what the Senator from Massachusetts was trying to say, I say to my colleague from New Mexico—the security of local communities, where there is less violence, where there are opportunities for children, where there is affordable child care, where there is decent housing, when people are trained for jobs, when there are jobs available. This is all part of national security, too.

This amendment just says cut $3.2 billion—that is it—of the $6.4 billion over budget and use that for deficit reduction.

I yield the floor.

Mr. President, how much time did I have remaining?

The PRESIDING OFFICER. The Senator from Minnesota has 1 minute 28 seconds.

Mr. WELLSTONE. I reserve the remainder of my time.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. In the interest of time, I again will not comment very long on this.

Again, I point out that we have a real problem in the sense we do not have the allocation that the other bills have, and yet we are being criticized for having the level which is the lowest spending level that has been presented to the Congress during this session by any of the four bills.

I say this to my friend from Minnesota. If you look at the 5-year to 7-

year trend, the President's budget comes down and then goes back up. We have a budget level which is almost a straight line going through the 7-year period. The difference between the President's bill and ours is that we use the money such as on the LHD–7 or on the extra two DDG–51's to spend it wisely so we get a savings.

There is nothing in this bill that is not in the President's program ultimately in the same 7-year period. But we are getting it at a different pace, and we are using our head about when to continue a line and when to shut it down. The LHD–7 for instance funded in this bill now will save us $700 million over this period of the 7 years. We save a similar amount of money by starting the funding on the DDG–51's.

I cannot understand why we are criticized for getting more for less money. Again, I want to state that. We spent less money than any of the other three bills, and we get more for defense, meet more of the objectives, and I believe that you will see the Department of Defense recognizing that.

I yield to my friend from Arkansas. And I see the Senator from South Dakota here, too, to qualify amendments.

Mr. WELLSTONE. Mr. President, if my colleague will yield for a moment——

Mr. PRYOR. The curtain is about to fall.

Mr. WELLSTONE. I am sorry. I was going to say we will be done in 1½ minutes.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I ask unanimous consent that the Wellstone amendment be temporarily laid aside.

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

AMENDMENT NO. 2408

(Purpose: To provide for the testing of theater missile defense interceptors)

Mr. PRYOR. Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR] proposes an amendment numbered 2408.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . TESTING OF THEATER MISSILE DEFENSE INTERCEPTORS.

(a) APPROVAL BEYOND LOW-RATE INITIAL PRODUCTION.—The Secretary of Defense may not approve a theater missile defense interceptor program beyond the low-rate initial production acquisition stage until the Secretary certifies to the congressional defense committees that the program—

(1) has successfully completed initial operational test and evaluation; and

(2) involves a suitable and effective system.

(b) CERTIFICATION REQUIREMENTS.—(1) In order to be certified under subsection (a), the initial operational test and evaluation conducted with respect to a program shall include flight tests—

(A) that were conducted with multiple interceptors and multiple targets in the presence of realistic countermeasures; and

(B) the results of which demonstrate the achievement of baseline performance thresholds by such interceptors.

(2) The Director of Operational Test and Evaluation shall specify the number of flight tests required with respect to a program under paragraph (1) in order to make a certification referred to in subsection (a).

(3) The Secretary may utilize modeling and simulation validated by ground and flight testing in order to augment flight testing to demonstrate weapons system performance for purposes of a certification under subsection (a).

(c) REPORTS.—(1) The Director of Operational Test and Evaluation and the head of the Ballistic Missile Defense Organization shall include in the annual reports to Congress of such officials plans to test adequately theater missile defense interceptor programs throughout the acquisition process.

(2) As each theater missile defense system progresses through the acquisition process, the officials referred to in paragraph (1) shall include in the annual reports to Congress of such officials an assessment of the extent to which such programs satisfy the planned test objectives for such programs.

(d) DEFINITION.—For purposes of this section, the baseline performance thresholds for a program are the weapon system performance thresholds specified in the baseline description for the weapon system established pursuant to section 2435(a)(1) of title 10, United States Code, before the program centered into the engineering and manufacturing development stage.

AMENDMENT NO. 2409

(Purpose: Relating to interim leases of property approved for closure or realignment)

Mr. PRYOR. Mr. President, I have an additional amendment I send to the desk at this time.

The PRESIDING OFFICER. The previous amendment will be set aside. The clerk will report this amendment.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR] proposes an amendment numbered 2409.

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

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

The amendment is as follows:

At the appropriate place add the following:

SEC. . INTERIM LEASES OF PROPERTY APPROVED FOR CLOSURE OR REALIGNMENT.

Section 2667(f) of title 10, United States Code, is amended by adding at the end the following:

''(4)(A) Notwithstanding the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the scope of any environmental impact analysis necessary to support an interim lease of property under this subsection shall be limited to the environmental consequences of activities authorized under the proposed lease and the cumulative impacts of other past, present, and reasonably foreseeable future actions during the period of the proposed lease.

''(B) Interim leases entered into under this subsection shall be deemed not to prejudice the final property disposal decision, even if final property disposal may be delayed until completion of the interim lease term. An interim lease under this subsection shall not be entered into without prior consultation with the redevelopment authority concerned.

''(C) The provisions of subparagraphs (A) and (B) shall not apply to an interim lease under this subsection if authorized activities under the lease would—

''(i) significantly effect the quality of the human environment; or

''(ii) irreversibly alter the environment in a way that would preclude any reasonable disposal alternative of the property concerned.''.

The PRESIDING OFFICER. This amendment will be set aside.

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

AMENDMENTS NOS. 2410 THROUGH 2424

Mr. STEVENS. Mr. President, I make a similar offer on behalf of the managers. I file a series of amendments to be considered later under the agreement.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes amendments numbered 2410 through 2424.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 2410

(Purpose: To limit indirect costs regarding compensation)

SEC. . Restriction on reimbursement of costs.

''(a) None of the funds provided in this Act may be obligated for payment on new contracts on which allowable costs charged to the government include payments for individual compensation at a rate in excess of $250,000 per year.''

AMENDMENT NO. 2411

At the appropriate place, insert:

SEC. . The Secretary of Defense shall develop and provide to the congressional defense committees an Electronic Combat Master Plan to establish an optimum infrastructure for electronic combat assets no later than March 31, 1996.

AMENDMENT NO. 2412

(Purpose: To prohibit the expenditure of funds for the pay and allowances of military personnel convicted of serious crimes)

At the appropriate place in the bill insert the following new section:

SEC. . Prohibition of pay and allowances for military personnel convicted of serious crimes.

''(a) Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be obligated for the pay or allowances of any member of the Armed Forces who has been sentenced by a court-martial to any sentence that includes confinement for one year or more, death, dishonorable discharge, bad-conduct discharge, or dismissal during any period of confinement or parole.

''(b) In a case involving an accused who has dependents, the convening authority or other person acting under title 10, section 860, may waive any or all of the forfeitures of pay and allowances required by subsection (a) for a period not to exceed six months. Any amount of pay or allowances that, except for a waiver under this subsection,

would be forfeited shall be paid, as the convening authority or other person taking action directs, to the dependents of the accused.

''(c) if the sentence of a member who forfeits pay and allowances under subsection (a) is set aside or disapproved or, as finally approved, does not provide for a punishment referred to in subsection (a), the member shall be paid the pay and allowances which the member would have been paid, except for the forfeiture, for the period during which the forfeiture was in effect.''

AMENDMENT NO. 2413

(Purpose: To provide for termination of Project ELF of the Navy)

On page 9, line 4, after ''30, 1997'' insert the following: '': *Provided further*, That, of the funds appropriated under this heading, not more than $12,200,000 shall be available only for paying the costs of terminating Project ELF''.

AMENDMENT NO. 2414

On page 29, before the period on line 13, insert: '': *Provided further*, That of the funds appropriated in this paragraph for the Ballistic Missile Defense Organization, $10,000,000 shall only be available to continue program activities and launch preparation efforts under the Strategic Target System (STARS) program''.

AMENDMENT NO. 2415

On page 17, increase the amount on line 3 by $40,000,000.

On page 10, reduce the amount on line 19 by $40,000,000.

AMENDMENT NO. 2416

(Purpose: To place limitations on the obligation of funds for procurement of certain attack submarines)

On page 82, between lines 11 and 12, insert the following:

SEC. 8087. (a) If, on February 18, 1996, the Secretary of the Navy has not certified in writing to the Committees on Appropriations of the Senate and the House of Representatives that—

(1) the Secretary has restructured the new attack submarine program to provide for—

(A) procurement of the lead vessel under the program from General Dynamics Corporation Electric Boat Division (hereafter in this section referred to as ''Electric Boat Division'') beginning in fiscal year 1998 (subject to the price offered by Electric Boat Division being determined fair and reasonable by the Secretary),

(B) procurement of the second vessel under the program from Newport News Shipbuilding and Drydock Company beginning in fiscal year 1999 (subject to the price offered by Newport News Shipbuilding and Drydock Company being determined fair and reasonable by the Secretary), and

(C) procurement of other vessels under the program under one or more contracts that are entered into after competition between Electric Boat Division and Newport News Shipbuilding and Drydock Company for which the Secretary shall solicit competitive proposals and award the contract or contracts, on the basis of price, and

(2) the Secretary has directed, as set forth in detail in such certification that—

(A) no action is to be taken to terminate or to fail to extend either the existing Planning Yard contract for the Trident class submarines or the existing Planning Yard contract for the SSN–688 Los Angeles class submarines except by reason of a breach of contract by the contractor or an insufficiency of appropriations.

(B) no action is to be taken to terminate any existing Lead Design Yard contract for the SSN–21 Seawolf class submarines or for the SSN–688 Los Angeles class submarines, except by reason of a breach of contract by the contractor or an insufficiency of appropriations.

(C) both Electric Boat Division and Newport News Shipbuilding and Drydock Company are to have access to sufficient information concerning the design of the new attack submarine to ensure that each is capable of constructing the new attack submarine, and

(D) no action is to be taken to impair the design, engineering, construction, and maintenance competencies of either Electric Boat Division or Newport News Shipbuilding and Drydock Company to construct the new attack submarine,

then, funds appropriated in title III under the heading ''SHIPBUILDING AND CONVERSION, NAVY'' may not be obligated for the SSN–21 attack submarine program or for the new attack submarine program (NSSN–1 and NSSN–2).

(b) Funds referred to in subsection (a) for procurement of the lead and second vessels under the new attack submarine program may not be expended during fiscal year 1996 for the lead vessel under that program (other than for class design) unless funds are obligated or expended during such fiscal year for a contract in support of procurement of the second vessel under the program.

AMENDMENT NO. 2417

At the appropriate place in the bill, add the following new section:

SEC. . None of the funds available to the Department of Defense during fiscal year 1996 may be obligated or expended to support or finance the activities of the Defense Policy Advisory Committee on Trade.

AMENDMENT NO. 2418

On page 28 line 19, insert the following before the period:

'': *Provided further*, That of the funds appropriated under this heading, $45,458,000 shall be made available for the Intercooled Recuperative Turbine Engine Project.''

AMENDMENT NO. 2419

At the appropriate place in the bill add the following:

SEC. . Six months after the date of enactment of this Act the General Accounting Office shall report to the Committees on Appropriations of the Senate and the House of Representatives on any changes in Department of Defense commissary access policy, including providing reservists additional or new privileges, and addressing the financial impact on the commissaries as a result of any policy changes.

AMENDMENT NO. 2420

At the appropriate place in the bill add the following:

SEC. . None of the funds made available in this Act under the heading ''Procurement of Ammunition, Army'' may be obligated or expended for the procurement of munitions unless such acquisition fully complies with the Competition in Contracting Act.

AMENDMENT NO. 2421

Strike on page 49 between lines 3–12, Sec. 8024, and insert in lieu therof:

''SEC. 8024. During the current fiscal year, none of the funds available to the Department of Defense may be used to procure or acquire (1) defensive handguns unless such handguns are the M9 or M11 9mm Department of Defense standard handguns, or (2) offensive handguns except for the Special Operations Forces: *Provided*, That the foregoing shall not apply to handguns and ammunition for marksmanship competitions.''

AMENDMENT NO. 2422

(Purpose: Rescission of Berthing Barges)

On page 71, line 12 insert:

''Shipbuilding and Conversion, Navy, 1993/1997'', $32,804,000.

AMENDMENT NO. 2423

(Purpose: Rescission of Berthing Barges)

On page 71, line 12 insert:

''Shipbuilding and Conversion, Navy, 1993/1997'', $32,804,000.

''Shipbuilding and Conversion, Navy, 1994/1998'', $19,911,000.

AMENDMENT NO. 2424

(Purpose: Rescission of Berthing Barges)

On page 71, line 12 insert:

''Shipbuilding and Conversion, Navy, 1994/1998'', $19,911,000.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 2404

Mr. WELLSTONE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Minnesota has 1 minute and 31 seconds.

Mr. WELLSTONE. Mr. President, I yield the remainder of my time to the Senator from North Dakota and ask unanimous consent that he be included as an original cosponsor.

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

The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I rise to support the amendment that is offered by my colleague from Minnesota. It is important that we all understand what he has offered.

What the Senator from Minnesota is saying is that we should not buy things for which the Pentagon has not asked. We should not spend money that the Department of Defense has not requested. We should not decide to be wild-eyed big spenders when it comes to this bill for things that no one has said we need.

This bill spends $7 billion more than the Department of Defense asked for on trucks, planes, ships, helicopters, submarines—all for things for which the Pentagon has not asked.

It is strange to me that after all of these months agonizing about the debt and the deficit, and saying we must tighten our belts when it comes to health care for seniors, education for kids from middle-income families, nutrition for poor kids, all of a sudden, when this bill comes to the floor of the Senate, not a word, not one word about the Federal deficit. In fact, just the opposite. We are told that we should spend money we do not have on things we do not need. We should spend $7 billion more than the Secretary of Defense has asked this Congress for.

Now, why not a word about the Federal budget deficit? What is the biggest threat to this country? In my judgment, debt and deficit. That is why I support the amendment offered by the Senator from Minnesota to cut $3.2 billion back to the President's request.

The PRESIDING OFFICER. All time has expired of the Senator from Minnesota.

The Senator from Alaska now has 2 minutes and 54 seconds.

Mr. STEVENS. Mr. President, I told the Senator from Minnesota if he needed additional time I would be happy to

yield to him. I will be happy to let him use the remainder of my time.

Mr. WELLSTONE. Mr. President, I thank the Senator from Alaska for his graciousness. I think that we have had the debate and I do not need any more time.

Mr. STEVENS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired.

Mr. STEVENS. I move to table the amendment under the same arrangement—we have 2 minutes on each side before the vote.

I ask unanimous consent on that.

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

Mr. STEVENS. I ask for the yeas and nays now, too.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. I now ask the amendment be set aside until we vote on amendments sometime around 9.

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

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 2403

Mr. BINGAMAN. Mr. President, I earlier sent an amendment to the desk. I ask that it be called up at this time.

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

The clerk will report the amendment No. 2403.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 2403.

Mr. BINGAMAN. Mr. President, let me just state for my colleagues the purpose for this amendment, and it is stated here on the amendment that I submitted. The purpose is——

Let me first clarify, Mr. President. Is there any time agreement on this?

The PRESIDING OFFICER. There is no time agreement at this time.

Mr. BINGAMAN. There is no time agreement. I advise the Senator from Alaska it will take 10 to 15 minutes on my part and whatever time the Senator would ask. I do not need a time agreement.

Mr. STEVENS. That is perfectly understandable. I would be pleased to put one down so people would know they should come in a period of time.

Mr. BINGAMAN. We can indicate it will take no more than 30 minutes equally divided.

Is that reasonable? That would get us to 9.

Mr. STEVENS. The Senator will have 15 minutes and we have 5 on this side; and a 20-minute time limit.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, the purpose, as it is stated here in the amendment, is to reduce funding for the TOW 2B by $20 million; the Hellfire II by $40 million; and the CBU–87 by $30 million, which are munitions that have been determined by the inspector general of the Department of Defense as being excess to the requirements of the Armed Forces.

Mr. President, this issue first came to our attention because Ed McGaffigan, who works on defense issues for me, was reading Defense Week, the July 17 edition of Defense Week. There is an article on the front page of that publication. By way of compliment to them, I think they do good work in keeping us apprised of defense issues.

This headline says, ''IG''—or inspector general—says ''Services Miscount Future Munitions Needs by $15 Billion.'' The first sentence of the article says:

The Army, Navy and Air Force have overstated by $15.5 billion their respective requirements for anti-armor munitions planned for purchase between fiscal years 1996 and beyond 2001, the Pentagon's Inspector General has concluded in a new classified report.

Mr. President, obviously that report, since it is classified, I am not in a position to go into the detail of that report, except to recount what the press has reported.

But the simple fact is, we have got three types of munitions, two types of missiles, and then in addition to the two types of missiles, we have got the bombs.

So let me just say very briefly the TOW 2B is a ground-to-ground missile which is intended to target tanks. The Hellfire is an air-to-ground missile that is shot from helicopters, again targeting tanks. And then the CBU–87, of course, is a bomb. It is a combined-effect munitions bomb.

The simple fact is, Mr. President, that none of these items were requested by the Department of Defense in the budget they sent to us. None of these items are in the so-called future-year defense plan. Always before in the earlier amendments that I have heard offered here on this bill, people say, well, maybe it is not requested for next year but it is requested for a future year. None of these are requested for any future year, even 6 years out. None of these are needed, according to the inspector general of the Department of Defense.

So, let me just briefly say that the inspector general has done a study of this in depth. Congress received that study on June 29. And the report summarizes a whole series of ongoing work that the inspector general has done. The report essentially says that each of the Services, especially the Army, but each of them, has or is planning to have more munitions than it needs to carry out its responsibilities under the two-major-regional-contingency scenario which is presently what we are planning for in the Bottom-Up Review.

The reason is that the Army was planning to fight the war by itself and planning to kill every piece of armor in both theaters in these two regional contingencies.

Other Services were also planning to fight the war essentially by themselves. When the capabilities of the other Services are taken into account, we are planning to buy much more in munitions than we need. But even the Department of Defense is not planning to buy these. They did not request them. Once we saw this article, we wrote a letter to the inspector general, on July 27, to ask whether the add-ons in the bill, which, as I said before several times, were not requested, whether those add-ons were consistent with the inspector general's findings.

I received an answer on the 2d of August. Let me read the second paragraph of that letter to you, Mr. President. This is the inspector general of the Department of Defense saying—this is a quotation:

Based on use of the fiscal year 1996 requirements data, the Army and Air Force inventories of TOW 2B missiles and CBU–87 bombs significantly exceed the amounts of those two munitions that the Services project they would use in two major regional contingencies. The Army inventory of Hellfire II missiles will equal the amount of munitions that would be expended in the contingencies after the Army received the missiles currently on contract. Further, the Services have significant quantities of previous configurations of the TOW and Hellfire missile systems, as well as significant quantities of cluster bombs that were replaced by CBU–87 bombs. We are not aware of any compelling need to procure more of those weapons than the Department requested for fiscal year 1996.

Mr. President, the inspector general says they are not aware of any compelling need to procure what is in this bill and what my amendment would propose to delete.

Mr. President, I cannot think of a clearer example for this Senate to deal with than the one that is presented by this amendment. It is a question of whether the Senate is willing to save $90 million of taxpayer money by refusing to spend it on excess munitions that the Pentagon says they do not need, that the inspector general of the Pentagon says they do not need, that nobody has requested, and that have been added into this bill by the subcommittee as they marked up the bill.

I think the only responsible course is to adopt the amendment which I am offering here and to cancel the planned expenditure of this $90 million, Mr. President. The defense bill cannot be seen by the American people as a jobs bill. We cannot just look to which Senator has some defense contractor that they want to do a favor for. We do not need these munitions. There is no justification for buying them. We should not use hard-earned taxpayer dollars to purchase these munitions. And I know of no argument to the contrary.

Mr. President, I ask how much of my time remains?

The PRESIDING OFFICER. The Senator from New Mexico has 7 minutes 35 seconds.

Mr. BINGAMAN. Mr. President, let me reserve the remainder of my time and allow the Senator from Alaska, or anybody else, to respond, if they would like.

The PRESIDING OFFICER. The Senator from Alaska controls 5 minutes.

Mr. STEVENS. Mr. President, in our meetings, and as the Senator from Hawaii indicated, we met with each one of the Service chiefs. They highlighted their priorities. Munitions was the top priority in terms of readiness. This has been proven to be a very effective munition. It was vital in the gulf war. The systems were fully included in the authorization bill from the Armed Services Committee, and we have followed precisely the authorization contained in that bill. The Pentagon has not conveyed to us any objection to these items. To the contrary, we understood that they were sought by the Service chiefs.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Will the Senator yield?

Mr. President, the Senator is absolutely correct. We have been contacted by the acquisition people in the Army, and they are fully supportive—for one reason; they support $5 million of this request because of the need for what they call a cold weather fix.

Some of these weapons had been damaged as a result of storage and cold weather, and there is a retrofit required for that.

The other $15 million they believe is essential for the replenishment of those that eventually have to be retired. It is also important to note that the Army will be providing TOW 2B's to the U.S. Marine Corps. While the focus is on the Army, we have to remember some of these missiles will be going to the U.S. Marine Corps.

As the Senator from Alaska said, this is the premier tank killer in the inventory. There is not anything like it. It is the best in the world. Clearly, since it is the desire to use the $20 million as indicated, I believe the committee's position ought to be supported.

I thank the chairman for yielding.

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

The PRESIDING OFFICER. The Senator from Alaska has 3 minutes and 5 seconds.

Mr. STEVENS. Mr. President, I say to my friend, I am prepared to yield back the remainder of my time, but I leave it to the Senator to finish his time if he wishes.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me just take another few minutes to conclude my argument in favor of this amendment, which I do think is a very straightforward amendment.

The Senator from Arizona says he has been contacted by acquisition people in the Army who favor procurement of more of these weapons. I am not familiar with who might have contacted him. All I know is the Department of Defense did not request them; the Inspector General of the Department of Defense says they are not needed. There is no indication that we received in the Armed Services Committee that they are in any way needed. I grant you they are authorized in the authorization bill, and that is just as egregious a mistake as appropriating the money for them is in this bill.

I think there is really no argument that I know of that any of the Services feel they have an insufficient quantity of the TOW 2B or the Hellfire or this bomb. So I think, clearly, the need is not there.

Let me also say, I do not disagree with anything that the Senator from Alaska or the Senator from Arizona said about the value of these weapons. There is no dispute about that. They are excellent missiles. They are excellent bombs. The only question is, when are we going to quit buying them? How many do we have to have in excess? How big does the inventory have to be before we finally say, ''Fine, we have plenty, we have enough to fight two regional conflicts at the same time,'' which is a fairly major statement in and of itself.

Mr. President, at some point, we have to be honest with the American people and say, ''As stewards of your tax money, we are going to only spend that money on things that are needed.'' These are not needed. That is the simple fact of it. They are not requested. They are not needed. They are not anywhere in this 6-year defense plan that the Department of Defense has sent to us. As I say, I cannot go into much more detail about what is in the classified report that we have on this issue from the Inspector General. Quite frankly, I think it is classified because the facts contained in it would probably be an embarrassment to the Department. For whatever reason, it is classified.

We do have one page which is unclassified from the report. Let me just make reference to that. It says in here:

> The Services' processes for determining quantitative requirements for munitions to defeat armored targets needed improvement.

There is a euphemism if you ever heard a euphemism, Mr. President. Defense Week says that the IG report says that they have overestimated their need by $15 billion. This unclassified page from the report says that their ways of determining quantitative requirements needed improvement.

I agree, they do need improvement.

They say here that the Services' processes needed improvement because

> * * * the Services used incorrect quantities of threat systems that were in the hands of potential enemies.

That is, they have misassessed potential threats. They say that their processes need improvement because of their uncoordinated shares of threat systems that each Service would be responsible for defeating.

To put that in plain English, Mr. President, we had each of the Services preparing to fight the war by themselves. When the Department of Defense finally stepped in and said, ''Let's audit this situation, let's look at what the whole inventory is,'' they said, ''We do not need the Army to have enough to fight the next war, and the Air Force enough to fight the next war, and the Navy enough to fight the next war. We just need enough to fight the next war.'' So that is basically the conclusion.

I will cite one other statement in this unclassified page from the classified report. It says:

> As reported in our separate audit reports to the Army, the Navy, the Air Force and the Marine Corps, the above conditions resulted in the Services overstating their quantitative requirements for antiarmor munitions by more than $15.5 billion.

Mr. President, it is unconscionable for us to sit here and add more money for munitions that are not requested, that are not needed, that we have excess inventories of already. And that is precisely what this bill calls for today.

My amendment will correct that. It will save the taxpayers of the country $90 million. I know $90 million does not sound like a lot of money in Washington, but it is a reasonable amount of money for most Americans. And most Americans would say, ''If you don't need to spend that $90 million for additional missiles and bombs of this type, then why should you spend it?'' And that is basically the point of my amendment. I hope very much my colleagues will support the amendment.

If the Senator from Alaska is ready to yield back his time, then I will yield back mine.

Mr. President, I address a question, if I can, to the Senator from Alaska and ask if we can have the same agreement with regard to the 2 minutes of explanation on both sides, once we do have a few Senators, if he is to stack the votes.

Mr. STEVENS. That will be my request, and I am prepared to yield back the remainder of my time.

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

Mr. BINGAMAN. Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. STEVENS. I make the motion to table the amendment on the same basis as before, 2 minutes on each side. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that that amendment be set aside so we can proceed to Senator HARKIN's amendment.

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

AMENDMENT NO. 2410

Mr. HARKIN. I call up amendment No. 2410 and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself and Mrs. BOXER, proposes an amendment numbered 2410.

Mr. HARKIN. Mr. President, I say to the manager of the bill, this is the one that was agreed upon.

Mr. STEVENS. If the Senator wishes to make a brief explanation, we are pleased to accept this amendment.

Mr. HARKIN Mr. President, this amendment maintains for another year the existing provision placed into law last year as a part of the fiscal year 1995 Defense appropriations bill. It provides that the Federal Government share of the cost of a company's operation should not include its share of anyone's pay in excess of $250,000. It does not stop a company from paying an executive more than $250,000. There are many costs that are not allowable: hunting lodges, alcoholic beverages, etcetera, perhaps 50 disallowable items.

This amendment says that in these difficult budget times, one of the limits should be on employee compensation over $250,000.

In an analysis done by DOD several years ago, it showed that DOD alone very often paid more than a million dollars for just DOD's share of one executive's work.

Now, we see that the Pentagon may be picking up $31 million in bonuses and other benefits to top executives of Lockheed and Martin-Marietta because of the deals made regarding their merger. Why should the Federal Government be paying $31 million of this $90 million cost. If the stockholders are willing to make those payments, that is one thing. For the taxpayers to make them when we are cutting so many needed programs would be outrageous.

Let me say it again. Children are not getting the basics and the Defense Department may pay millions in gold-laden gifts to the executives. That should not be a taxpayer's expenses

Our budget are getting tighter. I have often fought for fairly small sums for what I view as very necessary Government expenditures as we all have. And, our ability to fund programs needed to provide for needy children, the disabled and elderly is being cut to the bone.

I urge that the amendment be agreed to.

Mrs. BOXER. Mr. President, this amendment will cap taxpayer reimbursement for the salaries of defense contractor executives at $250,000 per year for contracts consummated in fiscal year 1996. It will extend a similar provision contained in the fiscal year 1995 Defense Appropriation Act.

I began investigating this issue after hearing reports of multimillion-dollar bonuses awarded as a result of the Lockheed-Martin Marietta merger. As a result of that merger, $92 million in bonuses will be awarded—$31 million of which will be paid by the taxpayers.

I think it is wrong that corporate executives make so much money at a time when their employees are struggling just to make ends meet. What makes it even worse in this case is that these multimillion-dollar bonuses were given as a reward for a business deal resulting in 12,000 layoffs nationwide.

So the taxpayers buy rich executives $31 million worth of champagne and caviar, while laid-off defense workers struggle just to feed their families. I think the defense industry employees—in California and across their Nation—are the ones who deserve a bonus. The CEO's and multimillionaire executives are doing just fine.

As I investigated this issue further, I discovered that the problem was not limited to mergers or bonuses. Top defense industry executives routinely earn more than $1 million per year—sometimes even more than $5 million. And the taxpayers pick up most of the tab.

This amendment sets a $250,000 maximum for compensation that is reimbursable by the taxpayers. It applies to all forms of compensation including bonuses and salary.

It is important to understand that my bill sets no limit on the compensation that an executive can receive. That is an issue best left to the stockholders and directors of each company. If the stockholders believe that the Lockheed-Martin merger was such a fine business decision that they want to award their CEO a $9 million bonus—or for that matter a $90 million bonus—that is fine with me. All my legislation would do is stop them from passing the check to the taxpayers.

Mr. STEVENS. Mr. President, this was the subject of the bill last year. We had several comments at the time. I am not sure the House is willing to accept it. We will take it to conference. I ask for a vote on the amendment.

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

The amendment (No. 2410) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2401

(Purpose: To strike $70,000,000 appropriated for Research, Development, Test and Evaluation, Defense-Wide, for support technologies/follow-on technologies advanced development, specifically provided for the Space-Based Laser Program)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 2401.

On page 29, line 12, strike out ''$9,196,784,000'' and insert in lieu thereof ''$9,126,784,000''.

Mr. STEVENS. Would the Senator consider a 20-minute time agreement, equally divided?

Mr. HARKIN. Make it 30. If I do not use it all, I will yield my time.

Mr. STEVENS. I ask unanimous consent that there be 15 minutes on the Senator's side and 5 minutes on our side on this amendment before we have action on or in relation to the amendment.

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

Mr. STEVENS. If the Senator will yield, that means we should be voting sometime around 5 minutes after 9. It will be my intention at that time to proceed in order to call up the amendments that have been stacked.

Mr. HARKIN. If the Senator will yield, I have one other amendment after this. We can do it quickly. It will be shorter than this one.

Mr. STEVENS. I will withdraw the request at this time, and we will see what happens. We should vote around 9:15.

Mr. HARKIN. Mr. President, well, it is back again, and I am not talking about ''Freddy from Elm Street,'' I am talking about star wars. Let me point out that we had a $7 billion add-on on this, as you know, more than what the Pentagon wanted. The amendment offered by Senator KOHL, as you know, last week failed on a 51 to 48 vote to take out all of that $7 billion add-on. But it is my opinion that we should at least cut some of the most egregious add-ons, and perhaps the most egregious add-on is the one that puts money in for a star wars weapons system called the space-based laser.

I am talking about star wars, Mr. President, a system of at least 12 space stations upon each of which is mounted a huge laser weapon. This laser is powered by combustion of hydrogen and fluorine. It is a chemical laser. It is not an x-ray laser, not a neutral particle-beam laser, and it is not a space-based kinetic kill vehicle. It is a concentrated beam of light.

This laser beam of concentrated light is designed to produce 2.2 million watts of energy. It is this Nation's most powerful and, by far, most expensive military laser on the design mode. Yet, it is obviously not completely developed, experts say. The needed power level for this weapon to work is somewhere between 5 and 10 million watts, or by a factor of 5 over what the design is of this one.

The light produced by this laser is not visible to the human eye but is in the infrared part of the electromagnetic spectrum.

This infrared light is effective only in space. It can be used only in space because the infrared light can penetrate the Earth's atmosphere in space only to a height of 5 or 6 miles above the ground.

You can think of it as a giant, deadly flashlight, able to zap up to 100 missiles with the amount of fuel on board, or zap a maximum of 5 to 10 theater-range

missiles launched simultaneously, or maybe zap 15 to 20 ICBM's launched simultaneously. To collect the light from each laser, there is a reflective mirror of more than 35 feet in diameter. To give an idea of the size of that, it would be just about the size perhaps to fit in this Senate Chamber.

This mirror, which collects the laser beam and focuses, is flexible. So you have to think of this laser as a flashlight held in one position steadily, pointing into a large mirror. The mirror can pivot to reflect the light from the laser toward the target. So the mirror collects the light, focuses the light into a beam, and points the beam to a target hundreds or thousands of miles away and, of course, that target is moving.

Originally, this mirror had very heavy systems of cooling water to prevent the extreme heat of the laser from shattering the reflective material. But one item developed in the last few years was coatings that make the mirrors so reflective that they need no cooling.

In fact, these reflective coatings for the mirror were actually tested almost exactly a year ago.

Daniel R. Wildt, an advanced systems manager at TRW, who works on the space-based laser, was quoted in the New York Times as saying about the new reflective coating, ''What this means is immense weight savings. It is a breakthrough.'' The Times article goes on to say that it would take one or two large rockets to loft each laser battle station into orbit. And a dozen or so of these would be needed. Experts say such a complex of 12 orbiting battle stations might cost about $30 billion to $48 billion.

Mr. President, if this all sounds kind of familiar, yes, we have talked about it before, back during the time when President Reagan was in office. We talked about putting all of these battle stations up and all of these lasers and they are going to zap all these missiles. We finally got off of that. But it is still alive. That snake has not been killed yet, and it is coming back again. That is what this amendment seeks to do, to take out that $70 million.

Think about it as just the first step toward a $30 billion expenditure of money—$30 billion that we do not have, to add to the national debt.

Are we serious about committing this kind of money to a weapons system that may or may not work?

The Armed Services Committee in its report notes that of the Pentagon ballistic missile requests, only 6 percent is allocated to advanced follow-on technology development.

The committee then proceeds to recommend that every bit of this $70 million that goes to support technology should go into the space-based laser program. I find it a little hard to believe that of all of the support technologies, all of it is shuffled into space-based laser. Nothing for any other kind of program is given an increase—just this. Concerning the space-based laser, the committee directs the Secretary of Defense to ''reinvigorate this program and to ensure that sufficient funds are provided in the outyears to continue a robust effort.''

To those who think this may be a little bit, this $70 million, for a little experiment, read the language. This is the first step, and next year even more and more toward the very thing that this Congress said no to over 10 years ago, even during the height of the cold war. But now that the Soviet Union is no threat, well, we are still going to go ahead with it.

Well, my amendment would delete this $70 million. Again, I do not think it is just $70 million we are talking about. If we proceed, we are talking about starting down that road of spending $30 billion for space-based lasers.

Well, I have five reasons why I think this is a bad idea.

First, the $30 billion cost is way too much for us to afford. We simply cannot afford it, given the kinds of threats that our country faces today.

Second, space-based lasers are not cost effective. They are not cost effective, No. 1, because the threat from the Soviet Union has all but disappeared. Long-range Chinese missiles are few in number and not considered threatening. Only rogue nations can constitute the present threat. They may or may not have the capability of launching long-range weapons, but there are other ways to get nuclear warheads into the United States, such as smuggling them in, or by a cruise missile, or on a submarine. That would be much more likely for a rogue nation than launching a long-range ballistic missile.

The intelligence community cannot identify threats of long-range ballistic missiles to the continental United States within the next 10 to 15 years. A lot can be done in those years to provide other safeguards.

The third reason this is a bad spending of money is that space-based laser systems violate article V of the 1972 ABM Treaty. This article V specifically bans any antiballistic weapon from being based in space, period. That is what doomed it before. And yet, I cannot imagine that right now we are going down that road one more time.

The fourth reason this is a bad expenditure of money is the space-based laser just may not work. There are a lot of problems of great technological difficulty.

The tests of the chemical laser to date have consisted of only tests on the ground, with the laser held in position and not free to move as in space. The laser has only been fired in very short bursts. Components act differently in space. An enormous ground-based complex that is used to fire the laser is yet to be packaged into a much smaller space-based system.

The Large Aperture Mirror Program and the Large Obstacle Segment have been claimed to be easily built and assembled in space, but this is not true because the Hubble telescope has shown that large mirrors can have flaws and are not totally testable before operation in space.

After only a few seconds of firing of this chemical laser, the entire space-based laser battle station will be so violently shaken by the chemical reaction used to make the laser beam that it would no longer be aligned for multiple firings.

Again, this has been the dream of some Star Wars' enthusiasts for a long time. I think they saw too many of the Star Wars movies. I like Star Wars movies. I happen to be a science fiction buff myself. I read science fiction. I like those movies.

Somebody down there thinks we can build those things now that send out the beam of light and zaps things. Theoretically, it is possible and maybe sometime 200 or 300 years from now, God forbid, maybe the weapons will be used. Now it is a ridiculous waste of money to try to build this space-based laser system.

Using a much smaller system, the Pentagon has shown that missile targets can be acquired and tracked from space, and that a small laser can be fired accurately. The problem is complicated enormously by the size and the multiplicity of targets in using this big mirror in space. Millions of lines of computer code must be written. One little mistake and that would spell the end.

The Star LITE option test has shown that the key components can fit together, but it does not compare with constructing and assembling, in space, this huge system.

Mr. President, it is not worthy, not worth $70 million, to continue down the road of building and trying to test a space-based laser system. It is too costly, violates the ABM Treaty, and it is not cost effective, considering the threats that face us in the next 10–15 years.

Mr. President, there really is one final argument why this expenditure is so ridiculous. In the beginning of my remarks I mentioned that there had been designed a reflective coating material that they will put on this big mirror so you do not have to use all the cooling system, so when the laser beam hits the mirror and is reflected, this reflective mirror will not heat up as much.

They have designed that and tested it. They say now we have solved the problems of all the weight that goes on in this big mirror in space. Well, Mr. President, it is only a matter of time before anyone who wishes to launch an ICBM will just coat that ICBM with the same reflective material so the laser hits the mirror—assuming they have it fixed up—that mirror, thousands of miles away, sends the beam down to the missile with the same reflective material, and the beam just bounces.

It is the same old story. It has been true since time immemorial. Build an offensive weapon system, costs a lot of money, and someone can usually build a deterrent or something to stop that at much less money. That is true here.

So I think we ought to save the $70 million this year and save us from once again going down that road of spending $30 to $48 billion for this space-based laser system.

Mr. STEVENS. I yield 2 minutes to the Senator from Arizona.

Mr. KYL. There are points to be made in a program that the United States has invested over $1 billion over the last decade. It is one of the most successful programs that has ever been run by the Defense Department in terms of meeting schedule and cost rules.

In fact, the GAO has indicated that it has met every one of the technical milestones. I really do not think anybody has criticized this program on technical grounds. In fact, the Senator from Iowa has discussed some of the really unique and highly technical aspects of the program.

I am sure he would agree that there have been great strides made in the development of this kind of a program, although he has other objections to the expenditure of this money.

In my view, Mr. President, it is important to have a very highly leveraged, highly technical kind of program like this. We will not deploy this kind of a program, perhaps ever, but at least not in the foreseeable future.

It is important to have this kind of a program, the only one of its kind, the only directed energy program, that still exists in our arsenal, as one of those hedges. That is frankly what this program is at this time.

The 70 million in funding here does not provide any kind of deployment decision or anything of that sort. We are just in the research stage. It keeps that research alive. So it would be a tragedy to kill this program after the amount of money that has been spent and the technology that has been developed.

Quickly, to respond to the arguments made by the Senator from Iowa. The notion that it will cost $30 billion to deploy—of course, nobody is talking about deployment. We are not close to a deployment decision. This is simply ongoing technology. I do not think that is an argument against the expenditure of this research money.

Second, it is not cost effective. It is too premature to evaluate that. We all know that a boost phase intercept is the way to go. We would like to have that. This is the only boost phase intercept program we are talking about now, and it is not something that ought to be eliminated. We would be left with nothing, in that event.

To the third argument that it is an ABM Treaty violation, I know the Senator from Iowa knows there is nothing in the ABM Treaty that precludes us from developing or from researching, weapons of this sort. Obviously, we would face that question if and when we got ready to demonstrate or deploy it. We are not at that stage for many, many years.

The fourth argument, it may not work. Again, Mr. President, no one has ever criticized this program on technical grounds. The GAO, as I said, has said it is one of the best run programs, and we are a long way from having exactly what we need to actually deploy this kind of a program.

Finally, to the idea of the Senator from Iowa that the Russians or somebody else could make the same kind of reflective material on their missiles, their ICBM's, and defeat the laser, he indicated he was a reader of science fiction, and that is pretty good science fiction, but nobody figured how to do that.

You have weight considerations, heat considerations. The Russians have not even discovered the same kind of material yet, so that is something, obviously, for the scientists to think about, but not a reason for us not to expend the money.

As a matter of fact, it is probably a reason to do continued research, to ensure that we could defeat any kind of similar research.

This is a very good program. We are only talking about research money. We are a long way from any decision to deploy. It is the kind of program we need as a hedge against the kind of presence that may exist now or in the future. I hope the committee's position is supported.

Mr. INOUYE. I yield myself 1 minute.

Mr. President, I realize I cannot say much in a minute, but just to remind ourselves, about 30 years ago as a result of the debate of this nature the Congress appropriated a few dollars, a few million dollars, and as a result came up with this business called laser.

Up until then, lasers were just theory. Since then, the laser has been helpful in medicine, in mathematics—it has been a boon for mankind.

I just hope that we will not have to use this in warfare. As I have indicated, as others have, we have not arrived at the millennium, so sadly we must prepare ourselves that if such a time should come, we are prepared.

This is for research; it is not to build the systems. I hope that my colleagues will oppose this amendment.

Mr. STEVENS. Is there time remaining?

The PRESIDING OFFICER. The Senator from Alaska has 47 seconds and the Senator from Iowa has 2 minutes and 27 seconds.

Mr. STEVENS. I will use my 47 seconds by saying I hope everyone keeps in mind we are talking about a question of pursuing a promising technology.

This is strictly research. There is no money procurement. This is strictly the use of a facility that costs us $1 billion, and this is $70 million to see if we can demonstrate some of the technology—nothing in space. It is all on the ground as far as this phase is concerned.

Mr. HARKIN. Mr. President, I will not take all my time. I will just ask unanimous consent to have printed at this point an article from the New York Times stating that, ''From fantasy to facts, space-based laser nearly ready to fly.'' It says:

''Like it or hate it, this is reality,'' a weapons expert says. ''This is not theoretical.''

I am telling you, they are going down the road. We are going to build this. I have nothing bad to say about lasers. They are used in medicine and everything else. That is not what this is about. This is about building a space-based laser. It is going to cost billions of dollars, putting battle stations in space. We have been through this debate in the past and I do not think any more needs to be said about it. We should put our money someplace else.

Mr. President, I yield the remainder of my time, and I ask unanimous consent to have the entire article printed in the RECORD.

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

FROM FANTASY TO FACT: SPACE-BASED LASER NEARLY READY TO FLY

(By William J. Broad)

It's back. Adored by military contractors and lambasted by civilian skeptics, fired into the political stratosphere by President Ronald Reagan and dragged back to earth by the Clinton Administration, ''Star Wars'' is prominent again as the newly empowered Republicans began to push for deployment of a national system of antimissile defense and gird for ideological warfare with Democrats on the topic of placing arms in the heavens.

Surprisingly, this turn in the nation's 35-year, love-hate relationship with antimissile research finds the technology less speculative than before. For the first time, it is mature enough that one class of advanced weapons could be put into space relatively quickly, a fact that is likely to electrify this round of the antimissile debate.

The weapon is the chemical laser, which gets its energy from the combustion of fuels similar to those in rocket engines. Though much of its energy is lost as heat, significant amounts can be extracted by mirrors and resonant chambers, emerging as a concentrated beam of light that in theory can flash across space to zap speeding missiles thousands of miles away.

In particular, the new maturity centers on a chemical laser known as Alpha, which the Federal Government has quietly been developing for more than 15 years at a cost of about $1 billion. In a scheduled valley near San Juan Capistrano, Calif., the sprawling test site for Alpha includes a 50-foot high chamber that mimics the vacuum of space.

Angelo M. Codevilla, a senior research fellow at the Hoover Institution at Stanford University in California and a former staffer on the Senate Intelligence Committee who helped get Alpha started in 1978, said the device was all but ready for deployment in orbit to defend the United States.

''Like it or hate it, this is real,'' said Mr. Codevilla, who would like to see a dozen or so laser battle stations circling the earth. ''It's not theoretical. It's not some scientist fantasizing about X-ray lasers.''

But critics deride the whole idea, saying a fleet of Alpha type weapons in orbit would violate the Antiballistic Missile Treaty

which was signed in 1972 by the United States and the Soviet Union and bars the deployment of antimissile arms in space. The treaty allows the orbital testing of research lasers as long as they are too weak to shoot down long-range missiles. But critics say Alpha, even as a research tool, is so powerful it would fail this legal test and violate the treaty, thus probably touching off a political storm if testing were to advance into space.

And full-blown battle stations, critics assert, are dubious since they would fail to protect the United States completely.

''It's either too much or not enough,'' said John E. Pike who is in charge of space policy for the Federation of American Scientists a private group based in Washington. Ground-based interceptors are better for knocking out short-range missiles, he said, and space lasers, at best would be leaky shields against a concerted attack at long-range missiles.

''Imperfect defenses are worthless,'' Mr. Pike added, because the destructiveness of a single nuclear blast is so great.

Right or wrong, good or bad, Alpha is unique in the antimissile world by virtue of its staying power and steady evolution. It get started before the 1983 ''Star Wars'' speech in which President Reagan called for work on a way of rendering enemy missiles ''impotent and obsolete,'' and it survived the program's subsequent ups and downs.

In 1993, the Clinton Administration declared Star Wars dead, in a move that was largely symbolic. Some programs were cut back, but the antimissile research is still being funded at about $3 billion a year, bringing its total cost for the decade to about $35 billion.

Alpha and allied programs, their budgets now tight, got enough money to keep evolving and growing through the rise and fall of a host of futuristic alternatives for space armaments like X-ray lasers, neutral particle beams and space-based kinetic kill vehicles. In short, Alpha is the death ray that refused to die.

''This program has survived lots and lots of turmoil because it has a very high potential payoff,'' said Daniel R. Wildt, an advanced systems manager at TRW Inc., Alpha's main contractor, in an interview.

The principal allure of chemical lasers is that they require no electricity drawing their power instead from simple chemical reactions. Alpha's lasing action is produced by the combustion of hydrogen and fluorine, a toxic, corrosive, yellowish gas that is the most reactive of the elements. To avoid handling problems, the fluorine is made instants before combustion in a precursor reaction of nitrogen triflouride, deuterium and helium.

Alpha got a slow start as Congress fought over its fate and allowed only limited funding for design studies. Mr. Reagan's 1983 speech opened the budgetary floodgates, and contractors broke ground for the Alpha test site in 1984.

The first full-scale ground tests of the lightweight laser began under tight security in December 1987, when gas was released into the combustion chamber but not ignited. An accident delayed the first firing until April 1989. The explosive zap came after a tense two-day countdown that required synchronization among a maze of fuel tanks, pipes, pumps, valves and switches, similar in some respects to a space-shuttle countdown.

The laser's beam of concentrated light is designed to produce 2.2 million watts of energy, making it the nation's most powerful military laser, experts outside the Government say. Officially, the power of the beam is secret, with contractors saying only that it is not enough to melt metal and that the energy intensity at the core of the laser is several times that of the surface of the sun.

To date, Alpha has been fired 11 times, most recently in August.

The main challenge with Alpha was to turn chemical-laser technology that had been proven on the ground into a device light enough to be launched into space. Thus, the laser is largely aluminum.

Among the laser's heavier components were its mirrors, which had ponderous systems of cooling water to prevent extreme heat from shattering them. One item developed over the past few years and tested during the August firing were coatings that make mirrors so reflective they need no cooling.

''What that means is immense weight savings,'' said Mr. Wildt. ''It's a breakthrough.'' Lots of uncooled mirrors are now planned for Alpha and its affiliated systems.

Currently, the laser is being linked to a system of mirrors known as LAMP, for Large Advanced Mirror Program, its biggest circular mirror is 13-feet in diameter and the LAMP apparatus is housed in a separate vacuum chamber at the San Juan Capistrano site. LAMP is to take the raw Alpha beam and simulate how it could be focused and directed across space to hit enemy missiles.

Dr. Grant A. Hosack, who is in charge of laser programs at TRW, said budget cuts would delay the first firing of the integrated system until 1997. And retrenchments forced the cancellation of plans to keep firing and testing Alpha in the interim.

''We've had to cut back on manpower, too,'' Dr. Hosack said, ''We've a lot of blood and guts in this. When we see the cuts so deep, it really hurts.

TRW officials said that if money were no impediment about five years would be needed to prepare a laser weapon for deployment in space. Power levels would have to rise to about 5 million to 10 million watts from the current 2 million watts, private experts say. In theory, given the optic breakthroughs and weight reductions, it would take one or two large rockets to loft a laser battle station into orbit.

Operating at a wavelength of 2.7 microns, which is in the infrared part of the electromagnetic spectrum and invisible to the human eye, an Alpha-type weapon would be effective only in space and would be able to penetrate into the earth's atmosphere no deeper than five or six miles above the ground.

''We can't start fires,'' said Dr. Hosack, ''We kill the missiles as soon as they penetrate the cloud tops.''

Promising to speed this kind of work is the resurgence of the Republicans, who have vigorously backed Star Wars from the start. Moreover, the Republican ''Contract With America,'' a manifesto developed by Representative Newt Gingrich of Georgia and signed by more than 300 Republican House candidates before the election landslide in November, explicitly calls for the rapid deployment of antimissile arms.

The National Security Restoration Act, one of the contract's ten proposals, says the Defense Department should ''develop for deployment at the earliest possible date a cost-effective, operational anti-ballistic missile defense system to protect the U.S. against ballistic missile threats.'' Republicans have pledged to bring the bills up for a vote in the first 100 days of the new Congress, which starts in January.

The contract does not specify whether the defense should be based on the ground or in space, but analysts note that the Republicans have always tended to back space-based systems. And Star Wars advocates argue that only a space-based system would be ''cost effective,'' as called for in the contract.

''There's not enough money in the budget for anything else,'' said Frank J. Gaffney, Jr., a Pentagon official in the Reagan Administration who now directs the Center for Security Policy, a private Washington group.

Experts say a dozen or so space-based laser battle stations might cost $50 billion or more.

Critics contend such huge expenditures are foolish since antimissile systems are all but useless against many of the kinds of attacks that might threaten the United States now that the cold war has ended. For instance, terrorists armed with nuclear weapons would never entrust a warhead to a rocket but would most likely smuggle it into a major city, following in the footsteps of the World Trade Center bombers.

''Missiles and nuclear weapons are proliferating,'' Mr. Codevilla said. ''It's best to defend ourselves as the technology allows. As de Gaulle used to say, 'The future lasts a long time.' ''

Both foes and friends of space lasers agree that such weapons run afoul of the Anti-ballistic Missile Treaty. Boosters of the treaty say it is a bulwark against a renewal of the nuclear arms race and should be preserved at all costs, while its detractors say it has outlived its usefulness.

''If I'm right,'' said Mr. Gaffney, the former Pentagon official, ''we've got a problem that's not going to be resolved by arms-control agreements. We need to defend ourselves.''

The PRESIDING OFFICER. All time has expired.

Mr. STEVENS. Mr. President, on the basis of the previous agreement, I ask unanimous consent for 2 minutes on each side prior to the vote on the motion to table the Harkin amendment.

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

Mr. STEVENS. I move to table the Harkin amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, I ask that be set aside so we might hear from the Senator from Iowa.

Does the Senator have another amendment?

Mr. HARKIN. I have another amendment. This one will not be as long.

Mr. DOLE. How long?

Mr. HARKIN. Can I have 10 minutes on my side?

Mr. STEVENS. Which one is it?

Mr. HARKIN. This is the ASAT.

Mr. STEVENS. May we have an agreement, Mr. President, that the Senator can have 10 minutes on his side, 5 minutes on this side, prior to a motion to table?

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

AMENDMENT NO. 2402

Mr. HARKIN. Mr. President, I call up amendment 2402.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 2402.

Mr. HARKIN. Mr. President, my amendment will eliminate the $30 million added to the Pentagon request to fund the tactical antisatellite weapons program.

This is one of the most unnecessary programs that this committee has ever pulled from its pork barrel.

Mr. President, my amendment eliminates funding for the Army's kinetic energy antisatellite [ASAT] weapon program.

The Army itself tried to cancel this cold war weapon for several years.

The Bush administration continued the program, even though the Pentagon did not want it.

The Clinton administration has zeroed the program. But the Senate Armed Services Committee has included $30 million to keep this cold war weapon alive.

My amendment would eliminate this wasteful spending on an unnecessary weapon, and save the taxpayer's money.

Proponents of ASAT weapons argue that if we build weapons to shoot down airplanes, why not build a weapon to shoot down space satellites?

Mr. President, there is a big difference between battles in the air and battles in outer space.

The debris of the battle will fall to the ground immediately after an air battle, and commercial air liners can still fly after hostilities end.

Not so in outer space.

The collision of one ASAT kinetic kill vehicle with one enemy satellite would create thousands of pieces of space junk.

The space battle debris continues to orbit the earth at speeds of 17,000 miles per hour.

At lower altitudes, from 100 to 200 miles up, air molecules will gradually slow the debris until it falls and burns up on reentry to the atmosphere.

Above 300 miles up, space debris will remain in orbit for many years.

At higher altitudes, debris can continue to orbit the Earth for decades or centuries.

Every piece of space debris is a lethal weapon, traveling at speeds of 17,000 miles an hour.

This debris could damage any rocket or satellite crossing its path.

It would be uncharted, and give no warning.

If space debris were to hit an astronaut, it would probably be fatal.

If an ASAT weapon were to be used successfully, vast orbital bands of space would be rendered unusable for years, decades, or even centuries.

This is not a theoretical conjecture.

We have examples of such debris creation from old Soviet ASAT space tests.

Several Soviet ASAT tests did create thousands of detectable pieces of junk that are still in orbit after 25 years.

The Soviet Union launched Cosmos 249 and detonated it as an ASAT weapons tests on October 29, 1968.

This explosion in space created 109 identifiable objects at the intercept altitude of 525 kilometers.

Because the Cosmos 249 ASAT was in a highly elliptical orbit, this lethal debris spends most of its time at higher altitudes.

As a result, this debris has survived longer than expected.

Today, 55 pieces of detectable junk are still orbiting the earth, 27 years after the ASAT explosion in space.

In total, 371 detectable pieces of orbiting junk still survive today from various Soviet ASAT weapons tests.

Similarly, U.S. Air Force direct ascent ASAT tests in 1985 created 285 pieces of orbiting space junk at an altitude of 350 miles.

Today, nine detectable pieces of this experiment are still in orbit, threatening peaceful TV and telephone satellites of many commercial ventures.

Near Earth space is too commercially valuable to even permit tests of ASAT weapons.

However, I agree that the military has a need to deny a rogue nation the use of a reconnaissance satellite.

Spy satellites in space can be effectively jammed, or, better yet, false information can be fed to the receiving stations.

We presently have the technology to jam and to feed false information to enemy satellite ground stations.

There is no need to shoot down a satellite in space, because it can easily be rendered ineffective or even turned to our advantage.

Jamming and spoofing an enemy satellite is certainly more cost effective than wasting money developing a cold war ASAT weapon.

Electronic counter-measures will not create the space junk that shooting down a satellite will create.

It is true that satellite reconnaissance is a vital capability in war.

But Iraq, Iran, North Korea, and any other potential enemy do not have, and will not have for many years, any satellite, much less a military reconnaissance satellite.

If any potential enemy were to start making a reconnaissance satellite, then perhaps there could be a need for an antisatellite weapon.

But the time needed for a rogue nation to make a satellite would give us the time to develop effective countermeasures.

We do not need to make this weapon now.

There is no threat, and no perceived threat.

There is a real question of just whose satellite we would be willing to destroy.

Only friendly countries have satellites in orbit now.

If time on a military reconnaissance satellite were leased to a rogue nation by a friendly country, would we really want to shoot that satellite down?

We cannot afford to waste $30 million on such a remote possibility as Iraq, Iran, or North Korea getting access to a military reconnaissance satellite at some indefinite point in the future.

Only when the threat is apparent do we need to develop an antisatellite weapon.

So let us not waste our taxpayers' dollars on this unnecessary antisatellite weapons system. Let us save the taxpayers $30 million.

I reserve the remainder of my time.

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

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

Mr. STEVENS. Mr. President, I now ask unanimous consent that all amendments qualified by the 8:30 p.m. timeframe, as a result of the previous agreement be debated tonight, and that any votes ordered or in relation to the amendments or motions to occur beginning at 9:30 a.m. tomorrow, with 4 minutes equally divided for an explanation on each amendment prior to the vote, and after the third consecutive vote, the time for explanation be extended to 10 minutes equally divided on one amendment that Senator HARKIN will have—he will have 15 minutes and we will have 5 minutes—and that all votes in the voting sequence after the first vote be limited to 10 minutes in length.

That will wrap up this bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. I now yield to the Senator from Arizona for the reply to the Harkin amendment.

Mr. KYL. Thank you. I thank the chairman for yielding.

Mr. President, the first primary argument of the Senator from Iowa on this is that we have an effective antisatellite weapon, and if we have to use this, it will create space junk.

Mr. STEVENS. If the Senator will yield, I do not want to take up time. But this agreement will mean, however, that there will be four votes as soon as we finish the debate on this. Following those four votes, all other votes will occur tomorrow morning at 9:30 a.m.

Mr. KYL. Mr. President, again, this is an amendment to eliminate some of the funding for research on an antisatellite program in the event the United States should ever need that. It is a contingency program. We are not talking about deploying anything.

But the primary argument of the Senator from Iowa was that if this was ever utilized, obviously, these satellites might be blown apart and that would create space junk. I suppose that might be true, but I find that not to be a very persuasive argument that we should be denied a weapon that we would need in time of war. It is a little like lamenting the rubble that may exist after the necessary bombing of downtown Baghdad. It may be too bad that there is some rubble there, but the fact of matter is, that is a consequence of war. If we needed an antisatellite weapon, obviously that would be the last of our concerns.

As the Armed Services Committee stated in its report, the United States military has spent billions of dollars on the spectrum of multi-service and joint war-fighting space requirements. We spent billions, too, on a broad mix of space and ground-based capabilities that will serve us both in time of peace and war. In the event of a conflict, the United States would be faced by a wide array of capabilities by our potential adversaries in space and with the access to space-derived data that comes from that.

As a member of the Intelligence Committee, I am very concerned about the ability of the United States to counter these technological gains by potential adversaries as a result of the massive decontrol of the technologies of satellite weaponry and satellite reconnaissance and sensing.

These products are being sold now commercially and are being purchased around the world. The sensing and reconnaissance space-based technologies will have proliferated by the time we may be faced by an adversary, which will require that we have some capability to counter it.

If we do not continue to do the research on this kind of a program, we will be denied that capability when the time comes.

China, France, Italy, Spain, and Israel have satellite reconnaissance capability, in addition, of course, to Russia and China. India, Japan, North Korea, and other countries are moving toward developing such a capability.

As the reconnaissance and space-based technology spreads with the sale or lease to Third World countries of satellites over time, the satellites will obviously spread as well.

The funds recommended by the committee for the tactical antisatellite program would provide the United States with a contingency capability. That is all we are talking about. That would enable the United States, if necessary, to influence the use of these technologies in a conflict and to prevent the misuse or denial of space systems and access to space by the United States.

During the Persian Gulf war, the U.S. and its coalition allies had almost total domination of space and used unprecedented space-dependent military capabilities to achieve victory. Preventing the misuse or denial of space systems and access to space is vital to United States national security.

The history of the space advantage enjoyed by the United States and its coalition allies I hope will not be forgotten. Future adversaries such as a rogue nation with access to a nuclear weapon or, for that matter, a ballistic missile with a conventional payload could use space to generate a theater atmospheric disturbance, electromagnetic pulse, disrupt signal propagation and, frankly, destroy much of our military communications system.

We have to have a hedge against potential adversaries from misusing space and causing great harm to our satellites and our critical intelligence sensors. This $30 million in the defense bill for the tactical antisatellite contingency capability is that hedge.

So it is critical that we support the Armed Services Committee and the committee's position on this by tabling the Harkin amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. How much time remains?

The PRESIDING OFFICER. The Senator has 2 minutes and 32 seconds, and the Senator from Alaska has 32 seconds.

Mr. HARKIN. Mr. President, I will respond to my friend from Arizona again by saying first of all that the Army tried to handle this weapon several years ago. The Pentagon did not even want it during the Bush administration. The Clinton administration zeroed it out. Nobody thinks there is any necessity for this.

My friend from Arizona cannot name one rogue nation that even has a satellite, let alone the means to get it up there and keep it in orbit. No one has even the remotest possibility of doing this right now, No. 1.

Second, it is much cheaper to jam them electronically than it is to build an antisatellite weapons system and go up there and blast it out of space. We have technology right now to jam any satellite and electronically blind any of those satellites that are there. So it is much cheaper. We already have that technology.

Third, yes, I respond to my friend from Arizona by saying we have to do whatever we can to keep antisatellite weapons from outer space. I do not care who uses it. Even if we were to use them in the future, it would deny us accessibility to space.

The Senator from Arizona said to use that argument is like saying we should not bomb Baghdad, an enemy stronghold, because there would be rubble there. But that would not deny us access to a city or to an area because it all falls to the ground. But in outer space, with this junk orbiting for hundreds of years, it denies us that access to space. So while it might blast that satellite out, it also keeps us from using that availability in space either for military purposes or for domestic purposes.

So I just think this is $30 million that we ought to save for the taxpayers.

I yield the remainder of my time.

Mr. STEVENS. I yield back our time.

The PRESIDING OFFICER. All time is yielded back.

Mr. STEVENS. I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, I ask that this amendment be set aside and that we proceed to vote on the first amendment, the Wellstone amendment, to reduce the proliferation level by $3.2 million.

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

Mr. STEVENS. The motion to table has already been made, and the yeas and nays have been ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. WELLSTONE. Mr. President, I might ask the Senator from Alaska, I thought we would have 2 minutes. Is that correct?

Mr. STEVENS. That is correct. The Senator is entitled to his 2 minutes, if he asks for it.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 2 minutes.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I say to my colleagues that back in May we had a vote that was an amendment to raise the DOD appropriations above the administration's request. That amendment was voted down 60 to 40, a bipartisan vote. Then, a week ago we had a Kohl-Grassley amendment on the authorization bill which essentially eliminated the $7 billion, which was over the administration's request. That was the amendment. That amendment was defeated. So there were effectively 48 votes for the Kohl-Grassley amendment.

What I have done is pegged the $6.4 billion in this appropriations bill over the administration's request, over the Chairman of Joint Chiefs of Staff, over the Pentagon's request, and I have just simply cut this in half.

So this amendment just says the Senators who have voted for this before, really a reduction, $3.2 billion from the $6.4 billion over what the administration requested, and this $3.2 billion would be used solely for deficit reduction.

Mr. President, as my colleague from North Dakota said, we do not need to spend money we do not have for things we do not need. And if we are going to be serious about deficit reduction, $3.2 billion of the $6.4 billion over budget request is not too much to ask.

This is on behalf of myself, Senators FEINGOLD, HARKIN, SIMON, BUMPERS, and DORGAN.

Mr. STEVENS. Mr. President, regardless of what has been said, of the four bills pertaining to defense, this has the least spending, I regret to say.

I have moved to table.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to table the Wellstone amendment 2404. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of illness in the family.

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

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 389 Leg.]

YEAS—56

Abraham	Gramm	Murkowski
Ashcroft	Grams	Nickles
Bennett	Gregg	Nunn
Bond	Hatch	Packwood
Burns	Heflin	Pressler
Campbell	Helms	Robb
Chafee	Hutchison	Roth
Coats	Inhofe	Santorum
Cochran	Inouye	Shelby
Cohen	Jeffords	Simpson
Coverdell	Johnston	Smith
Craig	Kassebaum	Snowe
D'Amato	Kempthorne	Specter
DeWine	Kyl	Stevens
Dole	Lieberman	Thomas
Domenici	Lott	Thompson
Faircloth	Lugar	Thurmond
Frist	McCain	Warner
Gorton	McConnell	

NAYS—42

Akaka	Exon	Lautenberg
Baucus	Feingold	Leahy
Biden	Feinstein	Levin
Bingaman	Ford	Mikulski
Boxer	Glenn	Moseley-Braun
Breaux	Graham	Moynihan
Brown	Grassley	Murray
Bryan	Harkin	Pell
Bumpers	Hatfield	Pryor
Byrd	Hollings	Reid
Conrad	Kennedy	Rockefeller
Daschle	Kerrey	Sarbanes
Dodd	Kerry	Simon
Dorgan	Kohl	Wellstone

NOT VOTING—2

Bradley	Mack

The motion to table the amendment (No. 2404) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2403

Mr. STEVENS. Mr. President, the next amendment is a Bingaman amendment. Once again, the Senator from New Mexico has 2 minutes to explain this amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, this is a very straightforward amendment to cut $90 million from the bill. This was added to fund three antiarmor munitions. There is $20 million for the TOW 2B antiarmor missile, $40 million for the Hellfire II, and $30 million for the CBU–87 combined-effect munitions bomb.

These three munitions have one thing in common, Mr. President. That is: There was no money requested for them in this 1996 defense budget; there was no money requested for them in any of the next 6 years or any time, to our knowledge. The inspector general has issued a report and sent us a letter indicating that they are not needed; and they are excess.

Let me read one short paragraph from the report. It says:

Based on . . . the requirements data, the Army and Air Force inventories of TOW 2B's missiles and CBU–87 bombs significantly exceed the amounts of those two munitions that the services project they would use in two major regional contingencies.

The same thing is said down here about the Hellfire II.

Mr. President, this is a very clear choice. People are choosing between the taxpayers of the country and a few defense contractors. There is no need for these weapons.

In some of the earlier amendments we have dealt with, the argument has been made that maybe they are not asked for next year, but sometime, 5, 6 years from now, the Department would like to have them. These are not requested at any time. They are excess. We do not need them. We have enough. If there has ever been an amendment where people have a clear choice between the taxpayer and a few defense contractors, this is the amendment. I hope the Senate will not table this amendment and will vote to save this $90 million.

I yield the floor, Mr. President.

Mr. STEVENS. Mr. President, these are the three most effective munitions. The Chiefs of Staff, when they met with us, put these munitions as their top priority. This is funding a specific authorization in the authorization bill which we will approve in September.

I already moved to table and have asked for the yeas and nays.

I yield back the remainder of my time.

The PRESIDING OFFICER. The yeas and nays have been ordered. The question is on agreeing to the motion to lay on the table the amendment No. 2403. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of illness in the family.

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

The result was announced—yeas 59, nays 39, as follows:

[Rollcall Vote No. 390 Leg.]

YEAS—59

Abraham	Feinstein	Lugar
Ashcroft	Frist	McCain
Bennett	Gorton	McConnell
Bond	Gramm	Murkowski
Breaux	Grams	Nickles
Brown	Grassley	Packwood
Burns	Gregg	Pressler
Byrd	Hatch	Rockefeller
Campbell	Heflin	Roth
Chafee	Helms	Santorum
Coats	Hollings	Shelby
Cochran	Hutchison	Simpson
Cohen	Inhofe	Smith
Coverdell	Inouye	Specter
Craig	Johnston	Stevens
D'Amato	Kassebaum	Thomas
DeWine	Kempthorne	Thompson
Dole	Kyl	Thurmond
Domenici	Lieberman	Warner
Faircloth	Lott	

NAYS—39

Akaka	Ford	Mikulski
Baucus	Glenn	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Hatfield	Nunn
Bryan	Jeffords	Pell
Bumpers	Kennedy	Pryor
Conrad	Kerrey	Reid
Daschle	Kerry	Robb
Dodd	Kohl	Sarbanes
Dorgan	Lautenberg	Simon
Exon	Leahy	Snowe
Feingold	Levin	Wellstone

NOT VOTING—2

Bradley	Mack

So the motion to lay on the table the amendment (No. 2403) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, we are going to the Harkin amendment. The Senator has 2 minutes to explain his amendment. It is an amendment to strike the theater missile defense money.

The Senator has his 2 minutes on this amendment.

AMENDMENT NO. 2401

The PRESIDING OFFICER. The pending question is amendment 2401 offered by the Senator from Iowa.

Mr. HARKIN. Mr. President, I understand I have 2 minutes, is that right?

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. HARKIN. I thank the Chair.

Mr. President, this is a $70 million add-on by the committee for the space-based laser. This is the old star wars program. It goes back 10 years or more.

We thought we had kind of killed this snake some time ago. Now it is back again. Basically, this is to build this big mirror in space with a laser, a chemical laser.

Quite frankly, it violates the ABM Treaty. Article 5 of the ABM Treaty states specifically that we will not build space-based weapons systems, and that is exactly what this is.

Second, it is not cost-effective. There are other ways of thwarting any other kind of missiles or nuclear warheads coming into this country. Most of the rogue nations we know about now would not build a ballistic missile. They would smuggle it in. They bring it in on a submarine or something else like that rather than building a big intercontinental ballistic missile.

Third, this laser can be countered by the very coating they are now putting on the mirror which they can put on the missiles themselves.

It is basically to save $70 million for the taxpayers of this country and to make us still compliant with the ABM Treaty.

Mr. STEVENS. I believe Senator KYL will respond for 1 minute.

Mr. KYL. Mr. President, this is an important program. According to the GAO, the space-based laser program has met every technical milestone. No one has criticized it on technical grounds.

The Senator from Iowa has asserted it is a violation of the ABM Treaty. That is not accurate. The ABM Treaty does not prohibit research. That is what this is. This is a research program, nowhere near deployment. In fact, it may never be deployed.

It is important for our country to have a very highly leveraged, highly technical program such as this. This is the last of the directed energy programs, and it is the kind of program that we need to continue to do the research as a hedge against the kind of future threat that we may have to face. It is not a threat anywhere near deployment—only research money. I hope the motion to table is agreed to.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment numbered 2401.

Yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of illness in the family.

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

The result was announced—yeas 57, nays 41, as follows:

[Rollcall Vote No. 391 Leg.]

YEAS—57

Abraham	Frist	Lugar
Ashcroft	Gorton	McCain
Bennett	Gramm	McConnell
Biden	Grams	Murkowski
Bond	Grassley	Nickles
Brown	Gregg	Packwood
Burns	Hatch	Pressler
Campbell	Heflin	Roth
Coats	Helms	Santorum
Cochran	Hollings	Shelby
Cohen	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Inouye	Snowe
D'Amato	Jeffords	Specter
DeWine	Kassebaum	Stevens
Dole	Kempthorne	Thomas
Domenici	Kyl	Thompson
Faircloth	Lieberman	Thurmond
Ford	Lott	Warner

NAYS—41

Akaka	Feingold	Mikulski
Baucus	Feinstein	Moseley-Braun
Bingaman	Glenn	Moynihan
Boxer	Graham	Murray
Breaux	Harkin	Nunn
Bryan	Hatfield	Pell
Bumpers	Johnston	Pryor
Byrd	Kennedy	Reid
Chafee	Kerrey	Robb
Conrad	Kerry	Rockefeller
Daschle	Kohl	Sarbanes
Dodd	Lautenberg	Simon
Dorgan	Leahy	Wellstone
Exon	Levin	

NOT VOTING—2

Bradley	Mack

So the motion to lay on the table the amendment (No. 2401) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, will the Senate be in order?

The PRESIDING OFFICER. The Senate will please be in order. The Senator from Alaska.

Mr. STEVENS. Mr. President, we are about ready to have the last vote of the evening. The Harkin amendment is next. We will have our first vote tomorrow morning at 9:30. We anticipate four to five votes at the most tomorrow morning. We have a series of amendments we are going to take this evening, and we believe the amendments that will be left for short debate and vote will be four to five amendments at most.

The Senator from Iowa has 2 minutes on his amendment, if he wishes to use it at this time?

The PRESIDING OFFICER. The Senator from Iowa is recognized for 2 minutes.

AMENDMENT NO. 2402

Mr. HARKIN. Mr. President, this is an amendment to, again, strike the $30 million. We could not get the $70 million out. There were 41 votes on this. This is $30 million out of the space-based laser. This is $30 million the Pentagon did not want. No one wanted it. It was added on in committee for an antisatellite weapons testing.

Again, this is something this body has voted against in the past. It was not requested by the Pentagon. Three things:

First, we know what will happen if we use antisatellite weapons to shoot down satellites. It will put a lot of space junk into orbit.

Second, there is a cheaper and more effective way and that is by jamming electronically any satellites that are put up there to spy. We can do that and do it a lot cheaper than building an antisatellite weapons system to shoot them down.

Third, there is not any nation out there today that has a satellite—whose satellite are we going to shoot down? No country, whether it is North Korea, Iraq, Iran, or any other country has a satellite, let alone the delivery systems to get them in orbit. Our intelligence community recognizes no threat of any nation like that having that capability in the foreseeable future.

It is $30 million. It is not needed. We voted this down in the past. Let us save our taxpayers at least $30 million and save this money from research on the antisatellite weapons.

Mr. STEVENS. The Senator will yield to the Senator from New Hampshire for 2 minutes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 2 minutes.

This is the final 2 minutes before the vote. The Senate will please come to order. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I thank the Senator from Alaska for yielding me this time.

Numerous potentially hostile nations now do have indigenous satellite capabilities, contrary to what has been said. Adversaries can use space assets for intelligence, communication, navigation, weather and, yes, targeting.

U.S. military commanders, including General Horner, the man who ran the air campaign in Desert Storm, have stated unequivocally ASAT capability is essential to protect our forces in the field. It is a contingency capability. And to say on the floor of the U.S. Senate we should not use ASAT technology because it is going to create space debris is simply incorrect. It does not create space debris. It disables the satellite. It does not blow it up. That is simply wrong, I say to the Senator from Iowa. It is totally wrong to make that kind of representation on the floor of the Senate.

Beyond a shadow of a doubt, we have demonstrated in Desert Storm that space will forever be an asset that is essential in military warfare. We have to preserve it. This program is essential to preserving the security of our forces and to say we would expose our forces, for the sake of not creating space debris—which it does not create in the first place—is really remarkable, that such a statement would be made.

That is exactly why the kinetic energy ASAT program is so important. It is the capability to enable us to literally blind our adversaries, protect our troops, and ensure we can decisively prevail in future conflicts.

I urge my colleagues to please pay very careful attention to what they are doing and please table this amendment.

The PRESIDING OFFICER. The question occurs on the motion to table amendment No. 2402.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of illness in the family.

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

The result was announced—yeas 57, nays 41, as follows:

[Rollcall Vote No. 392 Leg.]

YEAS—57

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Nunn
Burns	Gregg	Packwood
Campbell	Hatch	Pressler
Chafee	Heflin	Roth
Coats	Helms	Santorum
Cochran	Hollings	Shelby
Cohen	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Inouye	Snowe
D'Amato	Kassebaum	Specter
DeWine	Kempthorne	Stevens
Dole	Kyl	Thomas
Domenici	Lieberman	Thompson
Faircloth	Lott	Thurmond
Ford	Lugar	Warner

NAYS—41

Akaka	Bingaman	Bryan
Baucus	Boxer	Bumpers
Biden	Breaux	Byrd

Conrad	Jeffords	Moynihan
Daschle	Johnston	Murray
Dodd	Kennedy	Pell
Dorgan	Kerrey	Pryor
Exon	Kerry	Reid
Feingold	Kohl	Robb
Feinstein	Lautenberg	Rockefeller
Glenn	Leahy	Sarbanes
Graham	Levin	Simon
Harkin	Mikulski	Wellstone
Hatfield	Moseley-Braun	

NOT VOTING—2

Bradley Mack

So the motion to lay on the table the amendment (No. 2402) was agreed to.

Mr. BROWN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2391, WITHDRAWN

Mr. BROWN. Mr. President, the amendment that I had offered in the Chamber earlier, the NATO Participation Act, sent a strong signal of this Nation of the determination to make sure that the countries of Central Europe that want to be free, that want to stand beside us, and that want to revitalize their economy along a free and democratic line have an extended helping hand in the United States and of comradeship in terms of mutual defense. Those countries bring to NATO an enormous potential in terms of additional protection from the North Atlantic.

We have incorporated a number of amendments which I believe have strengthened the measure. There have been other thoughtful suggestions made by other Members in this Chamber and requests from the very distinguished senior Senator from Georgia. He has some excellent ideas that he wants to add to it, and has some thoughts that are appropriate to enter into the debate.

So to accommodate his request, and I think the potential of improving the measure even further, it is my intention to have that measure considered by other appropriations subcommittees so that it may come before the Chamber at a later time allowing the Senator from Georgia and others who wish to make an issue to put into it to do that, and have time to prepare for that measure.

So, Mr. President, I am heartened by the very strong bipartisan support that the NATO Participation Act has. I believe it will have even stronger support when it comes to the floor on a future bill.

At this point, to accommodate those who wish to add that additional consideration, I will withdraw the amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment.

So the amendment (No. 2391) was withdrawn.

AMENDMENT NO. 2421

Mr. STEVENS. Mr. President, it is our intention now to move to the amendments that were in the managers' package, to explain them and to make a record of why we are prepared to proceed with these amendments.

I call up amendment 2421.

The PRESIDING OFFICER. The question occurs on amendment 2421.

Mr. STEVENS. Mr. President, this amendment proposes to change section 8024 based on consultations with the Department of Defense regarding the procurement of M–11 9 millimeter handguns for naval aviators. In addition, this amendment proposes that the Armed Services be allowed to procure .38 and .45 caliber ammunition until such time as the services have converted to the 9 millimeter handgun.

I believe Senator INOUYE is in agreement with me that this is an amendment that we should accept. I ask for its adoption.

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

The amendment (No. 2421) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2417

Mr. STEVENS. Mr. President, I call up amendment No. 2417 for Senator ABRAHAM.

The PRESIDING OFFICER. The question occurs on amendment No. 2417.

Mr. ABRAHAM. Mr. President, in further demonstration of our resolve to downsize the government and eliminate needless departments, agencies, commissions, boards, and councils, this amendment which I offer along with Senators INHOFE and GRAMS, will prohibit funding for the Defense Policy Committee on Trade. This is the third such amendment offered by myself and the other GOP freshman Senators to the appropriations bills to eliminate unnecessary and wasteful functions of government.

The Defense Policy Advisory Committee on Trade was established under the Trade Act of 1974 to serve both the Department of Defense and the Office of the U.S. Trade Representative by providing the Secretary and Trade Representative with policy advice and information regarding defense trade policy issues and domestic industrial base uses, specifically with regards to prohibitions on the transfer of dual-use technologies to the Soviet Union and its former client states. The thirty-five member committee meets twice each year. The committee received an estimated $4,405 in 1994.

The Office of Management and Budget has proposed repealing Section 3151(c) of the National Defense Authorization Act of 1991, P.L. 101–510, which authorized the technical committee. The committee's report was provided to Congress on October 7, 1991, thereby terminating the responsibilities of the committee. This committee is a Cold War anachronism and is no longer applicable to our national security needs. Furthermore, the issues of arms control, disarmament, and dual-use technology have changed markedly since the establishment of this committee, and the thrust of verification techniques no longer is directed toward mutually verifiable procedures.

This amendment promotes the type of reform which is supported by the GAO, the CBO, and in some cases the President. It terminates funding for a committee, the job of which is complete. While it may not achieve savings in the millions of dollars, it is an important step in complying with the demands of the American people who told us on November 8, 1994, to balance the budget and cut the size of the Government. It is important that we demonstrate that resolve by reviewing even the most insignificant or inexpensive programs as well as the more prominent ones. Let us show the public we are serious and eliminate this useless panel.

Mr. President, I yield the floor.

Mr. STEVENS. This is an amendment that is offered to eliminate needless departments, agencies, reports and commissions. It deals with the Defense Policy Committee on Trade. This amendment would eliminate that advisory committee.

I am prepared to recommend adoption of the amendment.

Mr. INOUYE. No objection.

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

The amendment (No. 2417) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

ANTITANK AMMUNITION

Mr. GRAMS. Will the Chairman yield?

Mr. STEVENS. I yield to my friend, the Senator from Minnesota.

Mr. GRAMS. I congratulate the Chairman on the efforts of the Defense Appropriations Subcommittee which the Senator chairs, and those of the Armed Services Committee, in addressing the problems caused by inadequate funding of ammunition programs. Correcting the current shortages in modern, preferred munitions is key to ensuring military readiness.

Mr. STEVENS. I thank the Senator, and I agree that these shortages must be corrected.

Mr. GRAMS. There is one shortage in a modern, preferred munition used by our M1 tanks—the M830A1 high-explosive anti-tank round—which is not addressed in your bill. Although the budgets of the Army and the Marine Corps contained no requests for this round because of overall funding constraints, the Armed Services Committee has authorized M830A1 for both Services.

Reports indicate that the total number of M830A1 rounds the Army has on hand and on order is approximately one-half of its actual inventory objective, and that absent continued funding our industrial capability to produce this kind of modern tank ammunition will rapidly disappear. If that happens, filling the other half of the inventory at some point in the future will take much longer, be much more difficult, and cost much more than continuing production now at a modest level. Given this, I have strongly urged the Senate to consider funding for the M830A1, and I continue to do so.

I am sure that these issues are know to the Chairman, and I also recognize the difficult task he faced in prioritizing many vital but unbudgeted programs. It would appear that a conference with the House of Representatives on the defense appropriations bill ies well in the future. In the interim, new information or changed circumstances may develop which may warrant assigning a higher priority to funding for the M830A1.

Mr. STEVENS. That is a possibility.

Mr. GRAMS. I ask that the Chairman remain open to that possibility, and that reconsideration in conference of funding for the M830A1 remain an option.

Mr. STEVENS. Should circumstances at the time warrant, such reconsideration will be an option.

Mr. GRAMS. I thank the chairman.

MARITIME PATROL AIRCRAFT FORCE

Mr. COHEN. I would like to engage the distinguished chairman of the Appropriations Subcommittee on Defense regarding our Maritime Patrol Aircraft [MPA] force. As my colleague knows, the P–3 squadrons which comprise our Maritime Patrol force make an invaluable contribution to anti-submarine warfare missions.

Mr. STEVENS. I am fully aware of the role our P–3 aircraft play in our national security and I would be happy to engage the senior Senator from Maine in a colloquy regarding this issue.

Mr. COHEN. I am very concerned about the loss in operational capability of our Maritime Patrol Aircraft force. The services of P–3 squadrons are historically in very high demand by the unified commanders. In recent years, that demand has increased dramatically as the ability of the P–3 aircraft to carry out littoral warfare missions has become more apparent. Simultaneously, however, budget pressures have forced the Navy to cut P–3 force structure in its budget request. The current maritime patrol aircraft force structure consists of 22 squadrons, 13 active and 9 reserve squadrons. The Navy has reduced the number of active and reserve P–3 squadrons from 24 active squadrons in 1990 to 13 active and 9 reserve in 1994. The fiscal year 1996 budget request would support Navy plans to reduce MPA force structure to 20 squadrons, 12 active and 8 reserve squadrons.

There is strong justification for maintaining no less than 13 active and 9 reserve squadrons. The Unified Commanders need to maintain at least 22 squadrons. In a letter dated February 4, 1995, Navy Secretary Dalton informed the Senate Armed Services Committee that, ''at the proposed fiscal year 1996 MPA aircraft force levels, it is not possible to meet the unified commanders' minimum maritime patrol forward presence requirement of 40 aircraft with only active Maritime Patrol Aircraft assets.'' It is expected that the Unified Commanders' minimum MPA requirements will be met in 1999.

Mr. STEVENS. I understand that the Senate Armed Services Committee recognized the contribution the P–3's make in meeting our maritime patrol mission.

Mr. COHEN. That is correct. The Armed Services Committee also recognized that Maritime Patrol Aircraft are ideally suited to meet a variety of mission requirements for littoral operations very effectively and efficiently and authorized an additional $35 million to sustain the MPA force structure at 13 active and 9 reserve squadrons in fiscal year 1996. The Secretary of the Navy, the Chief of Naval Operations, and the Unified Commanders have all expressed their support for the action taken by the Senate Armed Services Committee.

Mr. STEVENS. I assure that I share his concerns and intend to raise this issue in the Joint House/Senate Appropriations Conference.

Mr. COHEN. I thank the chairman of the Appropriation's Subcommittee on Defense.

AMENDMENT NO. 2412

Mr. STEVENS. Mr. President, I now call up amendment 2412. I ask the Senator from Hawaii if he wishes to present this amendment.

The PRESIDING OFFICER. The question occurs on amendment No. 2412.

The Senator from Hawaii.

Mr. INOUYE. Mr. President, this amendment denies pay and allowances for military prisoners and provides authority for the Department of Defense to provide for their dependents.

We have discussed this matter. There are no objections.

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

The amendment (No. 2412) was agreed to.

Mr. STEVENS. 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.

AMENDMENT NO. 2420

Mr. STEVENS. Mr. President, I call up amendment 2420 for Mr. LUGAR.

The PRESIDING OFFICER. The question occurs on amendment No. 2420.

Mr. STEVENS. Mr. President, on behalf of the committee, we recommend that funds in relation to the procurement of ammunition for the Army be withheld unless the acquisition fully complies with the Competition and Contracting Act.

This is the effect of this amendment. I ask for adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If no, the question is on agreeing to the amendment.

The amendment (No. 2420) was agreed to.

Mr. STEVENS. 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.

AMENDMENT NO. 2413

Mr. STEVENS. Mr. President, we now call up amendment 2413. I ask the Senator from Hawaii if he would like to explain this for Mr. FEINGOLD.

Mr. INOUYE. Mr. President, this is an amendment to eliminate the Project ELF.

Mr. STEVENS. This is an amendment which was accepted on the authorization bill, and we accept it on this bill.

PROJECT ELF

Mr. FEINGOLD. Mr. President, This amendment, for myself and Senator KOHL, will terminate a military program in our own state. I understand the amendment will be accepted by the managers and I appreciate their cooperation on this matter. The amendment involves Project ELF, the Navy's Extremely Low Frequency communications project located in Clam Lake, Wisconsin, and Republic, Michigan. This is a program that is ineffective, out of date, and unwanted by most residents in my state, even though it does employ Wisconsinites.

The members of the Wisconsin delegation have fought hard for years to close down Project ELF; I have introduced legislation three times to terminate it; and I have recommended it for closure to the Defense Base Closure and Realignment Commission.

This time, I am offering an amendment which would limit funds appropriated in this bill to termination costs to mothball Project ELF. The Navy has estimated that it will cost $12.2 million to shut down and deactivate the ELF system.

For a Congress supposedly in hot pursuit of spending cuts, one would think Project ELF could be eliminated. Instead, as if it were some kind of pet project of a home state Senator, it lingers like a blot in our budget.

Description of ELF

Project ELF is a one-way, primitive messenger system designed to signal to—not communicate with—deeply submerged Trident submarines. It is a ''bell ringer,'' a pricey ''beeper'' system, used to tell the submarine when to rise to the surface to get a more detailed message through real communications systems. It was designed at a

time when the threat of detection to our submarines was real. But ELF was never developed to an effective capacity, and the demise of the Soviet threat has certainly rendered it unnecessary.

The concept of extremely low frequency was first introduced when submarines started going so far beneath the surface ordinary radios could not reach them. In its first incarnation, in the mid-1960's, Project ELF was Project Sanguine: an elaborate—and vulnerable—network of 6200 miles of cable and over 100 ELF transmitter towers spread over 40 percent of northern Wisconsin. It was abandoned when it proved too expensive, too susceptible, and too controversial in the community. Years later, after much debate, false starts, budget constrictions, and resident antagonism, Project ELF was whittled down to a total of 84 miles of cable and two transmitters over two states. It was hoped that once it was started, it could grow: a typical bureaucratic ''let's-get-our-foot-in-the-door'' program.

Strategic argument

But the project has had a hard time gaining momentum exactly because it is impractical. Even in its optimum construction, it has no nuclear survivability or dependability, and therefore little wartime efficacy.

In 1979, the General Accounting Office had recommended ''that the Secretary of Defense terminate any plans to construct an extremely low frequency transmitter system * * * since it is not needed * * * [the system] enhances communications capability only marginally at best.''

In 1980, the Navy agreed, stating that there was no threat that required the development of ELF. It was only in 1981, when Secretary of Defense Casper Weinberger overruled the Navy and declared that Project ELF should proceed.

It was a bad plan then, and an obsolete one today.

The Navy's recent brief on ELF also acknowledges that there is no current threat precipitating ELF's continuation: it says, ''Even though our submarines are currently, to the best of our knowledge, virtually invulnerable to the present anti-submarine threat, the ELF system is a hedge against future developments by our potential enemies.'' That is, Mr. President, ELF is only operating in case of a future development, but not for current protection.

That is why my amendment provides for the mothballing of project ELF. For example, in the unlikely event that a threat emerges in 5 years, we could restart ELF, but have saved the $60 million plus in the interim in which it was unnecessary.

ELF is inefficient

In actuality, if ELF served a strategic purpose, this would not be a burdensome investment. But Project ELF does not serve such a strategic purpose. Even at its best, ELF has been a weapon in search of a mission at the right time—but that time has yet to come.

Health and environment

Finally, Mr. President, let me add a word about the health and environmental effects of ELF as well, because if you are a resident of northern Wisconsin, this is something which has been of concern. The Navy continues to insist that there are no environmental effect or health hazards associated with the electromagnetic fields ELF emits: it's just that after $25 million of study, there has been no conclusive evidence one way or the other. I certainly understand any fears the Wisconsin residents must have.

In fact, in 1984 a U.S. District Court, ruling on State of Wisconsin vs. Weinberger ordered Project ELF closed because the Navy paid inadequate attention to ELF's possible health effects and violated the National Environmental Policy Act. Interestingly, an appeals court threw out the ruling arguing that the national security threat from the Soviets at the time was more important. The premise of that ruling today is obviously outdated. It should be reconsidered in light of realities in 1995.

Conclusion

ELF is not worth any money because it doesn't have a mission.

If it is a first-strike weapon, then it is de-stabilizing and threatening, which hardly increases our security. If it is merely a communications system, it is inadequate. A weapon or a communications device designed to keep deeply submerged submarines submerged is no longer necessary. It is not protecting us against any capable enemy, but it is using money that could be.

As columnist Jack Anderson noted earlier this year, this is an exemple of a cut that the delegation wants the Congress to make. We are asking the Congress to take our program.

We came very close to it earlier this year with the rescissions bill. The Senate Appropriations Committee had recommended it for a cut, and the full Senate had agreed.

During conference, there seemed to be a concern that the Navy had come up with a newly invented ''highly classified'' justification for ELF. There appears to have been some confusion about this project and I have been told there is no new justification for ELF.

So, I would urge my colleagues to support this amendment, and fund ELF's termination this year, not its continuation.

Mr. KOHL. Mr. President, I am a cosponsor of this amendment to try yet again to cut a cold war relic located in Wisconsin: the Extremely Low Frequency or ELF system.

I thank my colleague from Alaska for his willingness to offer this amendment.

It is astonishing to me that we must continue to come forward to offer up this program for the chopping block. We are well aware that this may have a negative impact in our state, but we are willing to make the tough decision to eliminate a program we no longer need and can no longer afford.

If we truly want to reduce the deficit, we must start somewhere and make the necessary cuts.

As Senator FEINGOLD has detailed, ELF contributes little to our national security. All it can do is signal submarines to come to the surface, thus, it is not a particularly useful or effective communications system.

Even if one could make the case that it might have some strategic value down the road—something I sincerely doubt—it is such a cumbersome obvious system that it would be an easy target. I cannot support putting citizens of the region at risk for no good reason.

Earlier this year, the Senate passed a Defense supplemental bill which eliminated the ELF program. However, during the conference on the Defense supplemental, the Senate position to eliminate ELF was defeated. During the conference, the House brandished new and classified information from an eleventh hour Navy briefing that supposedly revealed that ELF is essential to our national security.

When the defense supplemental came back from conference, Senator FEINGOLD and I decided not to go forward with a planned amendment to cut the program and he sought this highly classified briefing by the Navy. To our surprise, the Navy said that it had no highly classified briefing on ELF. Perhaps there was some confusion, they said, and opponents of cutting ELF were confusing it with EHF?

Mr. President, the Navy has to do better than this. Last minute secret justifications for creaky low technology projects are just not enough to justify millions of dollars in spending. I am certain that my colleagues in the Senate will agree.

Our amendment mothballs the ELF system so that it could be started up again if necessary. We don't think it ever will be necessary, but this amendment should address the concerns of our colleagues who take a more cautious approach to these matters.

Mr. President, I urge the Senate to cut this program in our state of Wisconsin. It is not often that Senators try to kill a $12 million program in their own state, and I want to commend my colleague from Wisconsin, Senator FEINGOLD, for his work on this issue. The Senate has cut ELF before. I urge my colleagues to do so again.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2413.

The amendment (No. 2413) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2419

Mr. STEVENS. Mr. President, I now call up amendment No. 2419 for Mr. MCCONNELL.

The PRESIDING OFFICER. The question occurs on amendment No. 2419.

Mr. STEVENS. The purpose of this amendment is to ensure that the General Accounting Office reports to the Congress on any proposed changes to the Department of Defense commissary access policy and address the financial impact of the commissaries as a result of any proposed policy changes.

We agree to accept the amendment. I ask for its adoption.

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

The amendment (No. 2419) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2411

Mr. STEVENS. I now call up amendment No. 2411.

The PRESIDING OFFICER. The question occurs on amendment 2411.

Mr. STEVENS. Mr. President, has the amendment been adopted?

The PRESIDING OFFICER. It has not.

Mr. STEVENS. We ask for adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 2411) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

ELECTRONIC COMBAT MASTER PLAN AMENDMENT

Mr. GRAHAM. Mr. President, my good friend and fellow Senator from Florida [Mr. MACK] and I would like to engage in a colloquy with the distinguished chairman regarding a matter of fiscal and military importance. In 1994, the House Armed Services Committee directed the Department of Defense to develop a master plan for future consolidations of DOD-wide electronic combat [EC] test and evaluation assets in the interest of reducing infrastructure costs. Unfortunately, to date, such a report has not been developed nor forwarded to Congress. The BRAC Commission, recognizing the delay by DOD to issue this report, recommended acceptance of the Air Force proposal to realign some of its electronic combat assets, and recommended that the master plan be used to establish the infrastructure for optimum asset utilization.

In fact, during the June deliberations of the BRAC Commission, this issue was carefully considered by the Commission. The Commission's analysis demonstrated that the move would ''never net a return on investment,'' nor was it a part of a master plan to consolidate EC assets in a cost-effective manner. The Commission, in desiring to see a master plan developed, felt that by endorsing the Air Force proposal, they would prompt DOD to finally move ahead with the master plan.

Mr. President, during any discussion of downsizing and consolidation there is no disagreement regarding the fact that all such decisions must be made in an intelligent and cost-efficient fashion. It is my, and my fellow Florida colleague's hope that the early completion of the master plan will allow DOD and the Congress to proceed according to these considerations.

In that light, we would like to direct a few questions to the chairman to ensure that the committee's intent is clear with regards to the master plan and EC asset consolidation.

Mr. STEVENS. I would be happy to respond to the questions that my friends from Florida wish to ask.

Mr. GRAHAM. Is it the committee's desire to see that the master plan is completed so that the services can go forward with optimum and cost-efficient asset utilization?

Mr. STEVENS. The senior Senator from Florida is correct. The committee has long supported such planning which saves taxpayers' dollars. This is even more important in our current fiscal climate in which we struggle to meet our military requirements.

Mr. MACK. Mr. President, it is my understanding that no funds have been requested nor provided in fiscal year 1996 for the realignment of EC equipment. I ask, is this the chairman's understanding?

Mr. STEVENS. Yes, this is, in fact, the case. If a formal reprogramming request would be necessary, I would be pleased to work with the Senators from Florida at that time.

Mr. GRAHAM. Given the chairman's response, I ask that he send to the desk an amendment on my behalf, cosponsored by my colleague from Florida, which requires DOD to complete and submit to the congressional defense committees an EC master plan no later than March 31, 1996.

We thank the chairman for his cooperation, and look forward to working with him in the future on this matter.

RADIO COMMUNICATIONS SYSTEMS FOR THE LPD–17 CLASS

Mr. HOLLINGS. Mr. President, I would like to call to the attention of my distinguished colleague, the Chairman of the Defense Appropriations Subcommittee, Senator STEVENS, an issue that I know is of mutual interest.

I note that our colleagues in the other body have included in the House Defense Appropriations Bill, funding for a new class of Amphibious Transport Dock ships, the so called LPD–17 class of Amphibious ships. In our own deliberations, while recognizing the need for replacing the aging *Austin* class of such ships, other priorities, and allocation constraints did not allow us to fund this vessel.

Mr. STEVENS. Mr. President, my colleague is correct. While we recognize the need to modernize our amphibious capabilities by replacing the older LPD's now in service, funding constraints did not allow us to do that this year.

Mr. HOLLINGS. Mr. President, I have a related concern that I want to bring to my colleague's attention, should the conferees or any future deliberations determine that funding for the LPD–17 can be made available. As my colleagues may remember, the FY 93 Base Realignment and Closure Commission recommended, and the Congress approved, the consolidation of all Department of Navy in service engineering support for Command, Control and Ocean Surveillance systems at the Navy facility in Charleston, South Carolina. In reorganizing to carry out this action, the Navy has developed a mission statement for this facility in Charleston, called NISE–EAST, identifying it as the lead facility for all engineering, analysis, design, testing, installing, upgrading, and training support for all shore based, mobile, and afloat Navy communications systems. I want to insure that should the conferees, or any future deliberations result in funding being made available for the LPD–17, that the NISE-East facility in Charleston be designated as the appropriate facility to perform in service engineering support for the radio communications systems associated with that class of vessels. Any attempt to divert that workloading elsewhere would be an unwarranted intrusion into internal workloading processes in the Navy, and would seriously undermine the Base Closure and Realignment process.

Mr. STEVENS. Mr. President, I believe my colleague from South Carolina has expressed an appropriate concern. All of us have a shared interest in insuring that our actions do not either directly or indirectly undermine the Base Closure process. While I cannot determine at this time if funding might be made available for the LPD–17, I will request that the Conferees endorse the Senator from South Carolina's proposal, if the Conference funds the LPD–17.

AMENDMENT NO. 2418

Mr. STEVENS. Mr. President, I now call up amendment No. 2418.

The PRESIDING OFFICER. The question occurs on amendment No. 2418.

Mr. STEVENS. The committee provided $45,458,000 for the intercooled recouperative turbine, the ICR project, of the Advanced Surface Machinery Program. The funds were provided for development and testing of the ICR. This is an amendment for Senator SPECTER and Senator SANTORUM.

The PRESIDING OFFICER. Is there further debate? Without objection, the amendment is agreed to.

So the amendment (No. 2418) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2405

Mr. STEVENS. I call up amendment No. 2405.

The PRESIDING OFFICER. The question occurs on amendment No. 2405.

Mr. AKAKA. Mr. President, I rise today to offer an amendment to the Fiscal Year 1996 Department of Defense Appropriations Bill. My amendment requires the Secretary of Defense and the Secretary of the Army to review the need for the Selected Reserve Incentive Program (SRIP) for infantry reservists.

Due to the Army's agreement which placed all CONUS-based infantry units in the National Guard system, the famed 100th Battalion in Hawaii is the only remaining infantry unit in the Army Reserves. The 100th Battalion has been designated as a round-out unit—one of the units that constitutes the 29th Infantry Enhanced Brigade. As part of the enhanced brigade, the 100th Battalion is required to recruit and retain 125 percent of the required personnel end-strength. Currently, the 100th Battalion is 157 enlisted soldiers short of their required strength. The lack of the SRIP for reservists in the Career Management Field (CMF) 11 has contributed to this shortfall. As a result, the 100th Battalion has been placed at a disadvantage in competing for qualified personnel.

Mr. President, my amendment directs the Secretary of Defense and the Secretary of the Army to review this situation to ensure that the only infantry reserve unit left in the Army Reserves is treated fairly. I appreciate the support of the managers of this bill, Senator STEVENS and Senator INOUYE, and their staffs, particularly Mr. Charlie Houy and Ms. Sid Ashworth, for their assistance.

Mr. INOUYE. I ask unanimous consent that this amendment be adopted.

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

I not, without objection, the amendment is agreed to.

So the amendment (No. 2405) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2414

Mr. STEVENS. I call up amendment 2414.

This is an amendment for Senator INOUYE and Senator DOMENICI dealing with the strategic targeting system.

Doe the Senator wish to explain?

Mr. INOUYE. I have an explanation.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. This has been approved.

Mr. STEVENS. It provides $10 million, the budget request amount, for the strategic target system program, known as Stars. The amendment directs that these funds are available only to continue the Stars program. The Stars program can provide critical test support to theater and national missile defense programs. The committee endorses continuation of this important program.

I ask for the adoption of the amendment.

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

If not, the amendment is agreed to.

So this amendment (No. 2414) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2409

Mr. STEVENS. I call up amendment No. 2409 for Mr. PRYOR.

Mr. INOUYE. I this is an amendment to eliminate an obstacle to the quick redevelopment of closing military bases.

Mr. PRYOR. Mr. President, I rise to offer an amendment to help eliminate a current obstacle to the quick redevelopment of closing military bases.

My amendment will give the military services greater flexibility to negotiate longer interim leases for the reuse of base property where the military is preparing for its departure. It will do so in a responsible way that does not eliminate vital environmental safeguards.

This amendment will hopefully solve many interim leasing problems that are occurring at closing bases nationwide.

At Eaker Air Force Base in Blytheville, Arkansas, Cotton Growers Inc. approached the local redevelopment authority about storing cotton in an old B–52 hanger until cotton prices improved. Upon learning from the Air Force that they could receive only a one year lease with a 30 day cancellation clause, Cotton Growers Inc. decided not to locate at Eaker.

At Alameda Naval base in Alameda, California, AEG Transportation is seeking a ten year lease to obtain use of base property to refurbish rail cars for the San Francisco-based BART public transit company. The BART contract is for ten years, and AEG desires a ten year commitment before spending millions of dollars on capital improvements to Alameda property. Unfortunately, the Department of the Navy is thus far unwilling to enter into a lease agreement longer than five years. This stalemate could result in the loss of an attractive tenant for Alameda.

The military services have informed my office that the inability to offer longer interim leases is due primarily to their fear of a lawsuit over requirements from the National Environmental Protection Act of 1969, the so-called NEPA. This amendment attempts to address this problem without degrading the environment or fully exempting interim leases from NEPA.

I ask unanimous consent that a summary of this amendment be placed in the RECORD immediately following my remarks.

In recent years, Congress and the Clinton Administration have made substantial progress in removing the obstacles that have blocked past efforts to redevelop bases. This amendment will help remove yet another barrier.

It will give the military services greater flexibility to negotiate with interested tenants. It also ensures that our effort to create jobs and economic activity on base does not come at the expense of the environment.

I thank the distinguished chairman and the ranking member for accepting this amendment.

I also thank the Department of Defense, the Departments of Army, Navy and Air Force, the Council on Environmental Quality, the Environmental Protection Agency, Senators CHAFEE, BAUCUS, LAUTENBERG, and BOXER from the Senate Environment and Public Works Committee and Senators NUNN and THURMOND from the Senate Armed Services Committee who contributed greatly to the adoption of this amendment.

Mr. President, I yield the floor.

Mr. STEVENS. I ask for the adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 2409) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2416

Mr. STEVENS. Mr. President, I call up amendment No. 2416.

The PRESIDING OFFICER. The question occurs on amendment No. 2416.

Mr. STEVENS. Mr. President, this was offered by Senator WARNER, for himself, Senator LIEBERMAN, Senator DODD, and Senator ROBB, to ensure essential elements of a nuclear attack submarine agreement, which was included in the defense authorization bill, are included in this appropriations bill.

They have offered this amendment to ensure fair, equitable treatment and maintenance of both nuclear-capable shipyards.

I ask for the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, without objection, the amendment is agreed to.

So the amendment (No. 2416) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2415

Mr. STEVENS. Mr. President, I ask for consideration now of amendment No. 2415.

The PRESIDING OFFICER. The question occurs on amendment No. 2415.

Mr. INOUYE. Mr. President, this amendment appeared in the authorization bill. There is no opposition.

Mr. STEVENS. Mr. President, this is a zero sum transfer of $40 million from O&M, defensewide, to the humanitarian assistance program. This amendment would provide a total of $60 million for humanitarian assistance in the bill and subject to conference.

The PRESIDING OFFICER. Is there further debate? If not, without objection, the amendment is agreed to.

So the amendment (No. 2415) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2397

Mr. STEVENS. Mr. President, I now call up amendment No. 2397.

The PRESIDING OFFICER. The question occurs on amendment No. 2397.

Mr. STEVENS. Mr. President, this is the amendment that was offered by Senator SIMON, for himself and Mr. BUMPERS, to modify the loan guarantee provision which was previously subject to debate.

This amendment requires that the exposure fees charged and collected by the Secretary of Defense for each defense export loan guarantee be paid by the country involved and not be financed as part of the guaranteed loan on the part of the United States.

We are prepared to accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, without objection, the amendment is agreed to.

So the amendment (No. 2397) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2407

Mr. STEVENS. Mr. President, I call up amendment No. 2407 for Senator KYL.

The PRESIDING OFFICER. The question occurs on amendment No. 2407.

Mr. STEVENS. Mr. President, this amendment fences all but $52 million of the funds provided for the former Soviet Union threat reduction, which was $365 million, until three conditions are certified by the President as having been met:

First, United States-Russia completed joint LAB study regarding Russian proposal to neutralize CW and United States agrees with proposal;

Second, Russia has prepared plan to manage dismantlement-destructions of Russia CW stockpile;

Third, United States-Russia committed to resolving outstanding issues regarding 1989 Wyoming MOU and 1990 bilateral destruction agreement.

AMENDMENT NO. 2407, AS MODIFIED

Mr. STEVENS. Mr. President, I send to the desk a modification of the amendment.

The PRESIDING OFFICER. The Senator has a right to modify the amendment.

The amendment, as modified, is as follows:

On page 82, between lines 11 and 12, insert the following:

SEC. 8087. LIMITATION ON USE OF FUNDS FOR COOPERATIVE THREAT REDUCTION.

(a) LIMITATIONS.—Of the funds available under title II under the heading ''FORMER SOVIET UNION THREAT REDUCTION'' for dismantlement and destruction of chemical weapons, not more than $52,000,000 may be obligated or expended for that purpose until the President certifies to Congress the following:

(1) That the United States and Russia have completed a joint laboratory study evaluating the proposal of Russia to neutralize its chemical weapons and the United States agrees with the proposal.

(2) That Russia is in the process of preparing, with the assistance of the United States as necessary, a comprehensive plan to manage the dismantlement and destruction of the Russia chemical weapons stockpile.

(3) That the United States and Russia are committed to resolving outstanding issues under the 1989 Wyoming Memorandum of Understanding and the 1990 Bilateral Destruction Agreement.

(b) DEFINITIONS.—In this section:

(1) The term ''1989 Wyoming Memorandum of Understanding'' means the Memorandum of Understanding between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

(2) The term ''1990 Bilateral Destruction Agreement'' means the Agreement between the United States of America and the Union of Soviet Socialist Republics on destruction and non-production of chemical weapons and on measures to facilitate the multilateral convention on banning chemical weapons signed on June 1, 1990.

Mr. STEVENS. I ask for the adoption of the amendment.

Mr. INOUYE. No objection.

Mr. STEVENS. This was cleared personally by me with Senator NUNN and Senator KYL.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, without objection, the amendment, as modified, is agreed to.

So the amendment (No. 2407), as modified, was agreed to.

The PRESIDING OFFICER. Does the Senator wish to reconsider the vote?

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2406

Mr. INOUYE. Mr. President, I call up amendment No. 2406.

The PRESIDING OFFICER. The question occurs on amendment No. 2406.

Mr. AKAKA. Mr. President, my amendment to the Defense appropriations bill is similar to a sense of the Senate resolution I introduced last month regarding France's decision to conduct a series of eight underground nuclear explosions in the South Pacific. This action by France is in contravention of the current international moratorium on nuclear testing. The amendment I offer today expresses the sense of the Senate that the Republic of France should abide by the current international moratorium on underground nuclear testing.

I am offering this amendment to S. 1087 because I believe it is imperative that the Senate go on record on this issue before the August recess. News reports over the past few days indicate that France has readied four of the eight nuclear devices to be exploded in the Pacific, and it is likely that the first device will be detonated later this month.

My original resolution, Senate Resolution 149, is cosponsored by Senators INOUYE, KERRY, JEFFORDS, FEINSTEIN, LEVIN, SIMON, HARKIN, LEAHY, LAUTENBERG, MOSELEY-BRAUN, KASSEBAUM, BUMPERS, EXON, BINGAMAN, DASCHLE, THOMAS, MURRAY, WELLSTONE, STEVENS, HATFIELD, and GRAHAM. I am grateful for the positive response I have received in a short period of time from so many of my colleagues.

I would like to thank the distinguished chairman and ranking member of the Defense Appropriations Subcommittee for their courtesy in entertaining this amendment. I would note that they are both cosponsors of Senate Resolution 149, and I appreciate their support on this issue. I would also like to acknowledge the Members of the other body who have taken the lead on this issue, including Congressmen ENI FALEOMAVAEGA, BEN GILMAN, chairman of the International Relations Committee, Congressman ED MARKEY, and Congressman JIM LEACH.

To briefly review events, on June 13, 1995, French President Jacques Chirac announced that the Republic of France planned to resume nuclear testing in the South Pacific. A series of eight underground tests are planned, ending in May, 1996, at Mururoa Atoll in French Polynesia.

Following the French announcement, I contacted the White House to urge President Clinton to convey the concerns of the United States and the Pacific island nations to France over its

resumption of nuclear testing. We in the Pacific, more than any other region in the world, know the ramifications of nuclear testing. We only have to look at what happened to Bikini, Enewetak, or Rongelap Atolls in the Marshall Islands to understand the long-term damage to humans and the environment that can occur as a result of nuclear testing.

Earlier last week, the 19-nation ASEAN Regional Forum, which includes the United States as a dialogue partner, called for an immediate end to nuclear testing during its security conference in Brunei. The governments of Australia, New Zealand, Japan, and other Asian and Pacific rim nations have strongly condemned the resumption of nuclear testing. International protests by government, business, civic and community groups continue to accelerate and proliferate as the first testing date approaches. France is reaping the whirlwind of international indignation, extending far beyond the nations and people of the Pacific and Asia, for it decision. Governments and world opinion recognize how the continuation or resumption of nuclear testing jeopardizes international efforts to curb the proliferation of nuclear weapons.

Mr. President, this past May, the world's five declared nuclear powers—the United States, France, Russia, China, and Britain—persuaded all NPT-member nations to extend indefinitely the Treaty of Non-Proliferation of Nuclear Weapons, NPT. To win that consensus, the five countries promised to sign a Comprehensive Test Ban Treaty by the end of next year. Yet, less than 2 months after pledging to exercise utmost restraint, the French Government reneged on its commitment to the NPT.

The French decision to resume testing seriously undermines the credibility of the NPT and complicates international efforts to negotiate a comprehensive test ban treaty. The United States, recognizing that the benefit of nuclear testing is outweighed by the harm it would cause our leadership on nonproliferation issues, has extended or ban on testing through September of 1996.

We cannot ignore the resumption of nuclear testing by France. By adopting this resolution, the Senate will strongly encourage France to abide by the current international moratorium on nuclear testing and refrain from proceeding with its announced intention of conducting a series of nuclear tests in advance of a Comprehensive Test Ban Treaty.

I urge the adoption of the amendment.

Mr. INOUYE. Mr. President, this has been cleared on both sides. There are no objections to this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, without objection, the amendment is agreed to.

So the amendment (No. 2406) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Are there any amendments we have dealt with that we have failed to reconsider?

The PRESIDING OFFICER. No.

Mr. STEVENS. Are there any amendments adopted today that were not reconsidered.

The PRESIDING OFFICER. No.

Mr. STEVENS. Are there any amendments voted on today that were not reconsidered?

The PRESIDING OFFICER. No.

LIFE SCIENCES EQUIPMENT LAB

Mr. DOLE. Mr. President, I thank my friend the chairman, Senator STEVENS for offering an amendment on my behalf. The amendment sets aside $500,000 for the Air Force's Life Sciences Equipment Lab.

The Lab is a unique facility within the Department of Defense, and is probably the only facility of its kind anywhere. Established in 1983, it meets three primary functions: (1) provide scientific support to aircraft mishap investigation boards; (2) train personnel in life sciences equipment investigation; and (3) process the everyday technical problems on such equipment, while also conducting related design work and test programs.

Additionally, the Lab has assisted Joint Task Force—Full Accounting (JTF–FA) as it endeavors to determine the status of air crew personnel in South East Asia, providing JTF–FA with technical support—involving research into the formal identification of suspected life sciences equipment; artifact analysis to indicated the survival outcome of individuals involved with the equipment; and technical training of personnel being assigned to JTF–FA, to familiarize them with South East Asia era equipment and how to conduct scientific investigations.

In short, Mr. President, this funding will help ensure the fullest possible accounting of those lost in South East Asia, while also ensuring the lab's continued attention to investigating military aircraft mishaps and ensuring the effectiveness of the equipment designed to help ensure the safety of our military's air crews.

I believe the amendment has been cleared by both sides, and I thank both Senator STEVENS and Senator INOUYE for their assistance in this matter.

B–52

Mr. CONRAD. Mr. President, I am very concerned about the national security implications of the Administration's decisions with regard to strategic bombers under the Nuclear Posture Review. The Nuclear Posture Review recommends retiring 28 B–52H bombers during the coming fiscal year. I believe it would be a serious mistake to unilaterally send a large number of dual capable bombers to the boneyard. B–52s provide combat-proven conventional capability and a credible nuclear deterrent—something no other weapon system can now match.

I understand that the Defense Appropriations Subcommittee was working under very tight budgetary constraints this year. Nonetheless, I am very concerned that the bill before us does not contain additional funding above the Administration's request to ensure that we maintain four combat squadrons of B–52s. At a time when bombers have become increasingly important to our conventional warfighting strategy, we need every bomber we have. A strong B–52 force helps us retain a ready defense that can quickly project power around an increasingly uncertain world, and has been vigorously supported by senior military officers.

It is my understanding that the House bill contains an additional $180 million to meet B–52 mission requirements. Consequently, I expect that this issue will be addressed in conference. I know my friend from Hawaii, the distinguished ranking member of the subcommittee, shares my view that a strong bomber force is essential to our national security. I was wondering whether he would be willing to discuss his view of how funding for B–52s should be resolved in the conference?

Mr. INOUYE. I thank the Senator from North Dakota for his remarks on this important issue. I want to assure him that I continue to support a strong bomber force. A strong bomber force is vital in today's world, and we should not unnecessarily give up the highly cost-effective combat capability of our B–52 force. As the Senator for North Dakota noted, the subcommittee this year was working under tight budgetary restrictions and was unable to provide funding in the Senate bill for additional B–52s. I am pleased that the House was able to do so, and I can assure the Senator from North Dakota that I will work hard in conference to make sure that the final bill that goes to the President has sufficient funding to maintain a highly capable B–52 bomber force which can accomplish its assigned missions.

Mr. CONRAD. I thank the distinguished ranking member for that assurance.

Mr. DOMENICI. Mr. President, I rise in strong support of S. 1087, the 1996 Department of Defense appropriations bill.

I commend the distinguished chairman and ranking member for bringing the Senate a bill that meets the most critical needs of the U.S. military for the defense of our Nation.

The committee has achieved this significant accomplishment even though the Defense Subcommittee contributed additional defense spending authority to both the Energy and Water Development Appropriations Subcommittee, which I chair, and the Military Construction Subcommittee. These subcommittees also fund vital programs related to our national defense.

Mr. President, the Senate version of the Defense appropriations bill provides a total of $242.7 billion in budget authority and $163.6 billion in new outlays for the programs of the Department of Defense in fiscal year 1996.

When outlays from prior-year budget authority and other completed actions are taken into account, the Senate-reported Defense appropriations bill totals $242.7 billion in budget authority and $243.3 billion in outlays for fiscal year 1996.

The Senate bill is within its section 602(b) allocation for both budget authority and outlays. Any significant funding amendments would necessarily have to be offset with savings from within the bill.

Mr. President, I ask unanimous consent that a table showing the relationship of the pending bill to the subcommittee's 602(b) allocation pursuant to the 1996 budget resolution be printed in the RECORD.

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

DEFENSE SUBCOMMITTEE SPENDING TOTALS—SENATE-REPORTED BILL

[Fiscal year 1996, in millions]

	Budget Authority	Outlays
Defense discretionary:		
Outlays from prior-year BA and other actions completed	−$50	$79,678
S. 1087, as reported to the Senate	242,534	163,350
Scorekeeping adjustment	—	—
Subtotal defense discretionary	242,484	243,029
Nondefense discretionary:		
Outlays from prior-year BA and other actions completed	—	40
S. 1087, as reported to the Senate	—	—
Scorekeeping adjustment	—	—
Subtotal nondefense discretionary	—	40
Mandatory:		
Outlays from prior-year BA and other actions completed	—	—
S. 1087, as reported to the Senate	214	214
Adjustment to conform mandatory programs with budget resolution assumptions	0	0
Subtotal mandatory	214	214
Adjusted bill total	242,698	243,282
Senate Subcommittee 602(b) allocation:		
Defense discretionary	242,486	243,029
Nondefense discretionary	—	40
Violent crime reduction trust fund	—	—
Mandatory	214	214
Total allocation	242,700	243,283
Adjusted bill total compared to Senate Subcommittee 602(b) allocation:		
Defense discretionary	−2	−0
Nondefense discretionary	—	−0
Violent crime reduction trust fund	NA	NA
Mandatory	—	—
Total allocation	−2	−1

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. DOMENICI. Mr. President, I thank the distinguished chairman and ranking member for their consideration of several important items that I brought to the subcommittee's attention.

I urge my colleagues to expedite action on this bill. I urge the Senate to adopt the bill.

FASA

Mr. JOHNSTON. Mr. President, last Congress we passed and the President signed into law the Federal Acquisition Standards Act, or FASA. That Act generally seeks to promote efficiencies and cost savings through competition in contracting services. It provides, among other things, that contracts for Advisory or Assistance Services above certain thresholds must have multiple awards. The theory was that a series of smaller contract awards would generally be more cost effective that one large contract.

At the same time, we recognized that not all contracts would benefit by multiple awards. This could result either because of the specialized subject matter of the contract itself, or because the nature of the contract indicates that a single award would be more efficient. For that reason, we put in place a specific provision for a waiver from the multiple contract award provision.

Mr. President, just last week, the Department of the Army issued its first solicitation for Contractor Advisory and Assistance Services since FASA was passed. This particular solicitation was for a series of support and integration services for the Chemical Weapons Demilitarization program. It would take the current integration and support contract and divide it into five component parts in an effort to comply with FASA.

The Chemical Weapons Demilitarization program has been slow to show progress since we first directed Disposal of those weapons in 1986. Nevertheless, progress is beginning to make itself apparent. Facility testing has begun at Tooele, UT, and the next facility at Anniston, AL is scheduled to begin construction in 1996.

Mr. President, disposing of our chemical weapons stockpile is a high-priority mission, and one which is very highly specialized. I question whether this particular mission lends itself to multiple integration contract awards. I am concerned that because this is the first contract to be let for Contractor Advisory and Assistance Services since FASA was passed, the Army might have felt compelled to call for multiple contract awards rather than seeking the exemption.

I would like to ask the distinguished bill managers whether they share my opinion that Chemical Weapons Demilitarization is precisely the kind of specialized contract which led to our including the exemption provisions in FASA.

Mr. STEVENS. I absolutely share the opinion of the Senator from Louisiana. As the Senator knows, the subcommittee indicated strong support for the Army's decision to transfer oversight responsibilities for this program to the Assistant Secretary for Research Development and Acquisition. Our specific interest in this transfer was the cost accounting and control which would be put in place by treating this program more as an acquisition program than as a construction program. However, Chemical Weapons Demilitarization is not an acquisition program in the traditional sense. Rather, it is a very highly specialized program which places a premium on integration and communication. By indicating our support for additional cost accounting and controls we by no mans meant to indicate that the FASA exemption from multiple contract awards was not available to the Army in this instance.

Mr. INOUYE. Mr. President, I share the opinion of the Senator from Alaska in response to the question from the Senator from Louisiana. The Chemical Weapons Demilitarization Program is a sequential construction program which depends very heavily on transmitting what is learned at one facility to the rest of those facilities in the complex. Program integration, environmental permitting, facility oversight and public outreach are all integral parts of that mission. Given that fact, the Army has every right to avail itself of the waiver provisions of FASA.

Mr. JOHNSTON. I take it that both of the distinguished managers of this bill agree with me that the Army should consider the waiver provisions of FASA as being completely available in the case of this particular contract award. Is it the intention of the managers to make that clear in the Statement of Managers which would accompany the Conference report on this legislation?

Mr. STEVENS. That would certainly be my intention.

Mr. INOUYE. It would be mine as well.

Mr. JOHNSTON. I thank the distinguished managers and yield the floor.

MARINE CORPS RESERVE END STRENGTH

Mr. DOMENICI. Mr. President, Senator HUTCHISON and I had intended to offer an amendment to add $12.8 million to the Marine Corps Reserve personnel end strength account. The Senate Defense Authorization bill includes authorization for this purpose. It is our understanding that a significant number of the 274 additional authorized personnel would be used to stand up two F/A18 squadrons in Texas and Georgia.

Last year, the Chairman assisted me by including report language that directed that the deactivation of the Marine Reserve jet squadrons be delayed until a formal review and report is received by the Committees on Appropriations. That report has not been received. Am I correct?

Mr. STEVENS. I assisted the Senator from New Mexico with this language and he is correct that we have not received a copy of the report.

Mrs. HUTCHISON. I understand that when the report is released it may say that rather than having two F/A18 squadrons, the Marine Corps Reserve is considering a squad with a different mix of Harriers, Cobras and Hueys. The problem is, Mr. President, there remains a question of funding the nearly $280 million necessary to implement this new mix.

Furthermore, I understand that even if they were able to find $280 million to pay for these aircraft, they still have not addressed the increased training costs that would be caused by basing

these aircraft in North Carolina, as some have suggested.

When the F/A18 squadrons are activated they will be based in major metropolitan areas where the demographic pool for potential reservists is larger. Standing up two F/A18 squadrons in the Marine Corps Reserves achieves two objectives. First, it assures that Marine Expeditionary Forces have enough dedicated airborne firepower. Second, it achieves this necessary goal at the least cost possible.

Mr. DOMENICI. And for myself and Mrs. HUTCHISON, let me ask the Chairman—this is a very important issue to the Marine Corps Reserves and to us—would he join us in the conference on this bill in fully addressing this issue?

Mr. STEVENS. I appreciate the Senators' concerns and I will join them in the conference on this bill in addressing this issue.

STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM

Mr. LEVIN. Mr. President, I would like to engage the distinguished manager of the bill in a brief colloquy regarding the Strategic Environmental Research and Development Program [SERDP]. As he knows, these funds have been and continue to be used for investigating and demonstrating innovative environmental clean-up technologies. He may also know that the U.S. Army Corps on Engineers Research Laboratory [USACERL] has been a very active component of DOD's efforts in this area. Through USACERL's work, many of these private/public sector technologies are now available for commercialization, stimulating small company creation, economic development and environmental protection.

I would urge that the committee support continuation of USACERL's excellent work, particularly remediation activities at the army production plants.

Mr. STEVENS. I am aware of the application of innovative remediation technologies at numerous DOD sites throughout the country. I appreciate the Senator from Michigan's thoughtful comments on the Army Corps' work and bringing it to my attention.

Mr. LEVIN. Very briefly, I would like to provide the Senator from Alaska with two specific examples that demonstrate just how effective USACERL has been.

The first example is an innovative air control technology being implemented at the Lake City Army Ammunition Plant in Independence, MO. A full-scale demonstration biofilter is being installed that will reduce air emissions my more than 80 percent. This will allow the plant to double production and continue to emit less than its current air quality control requirements.

The second example is a manufactured wastewater treatment project at the Radford Army Ammunitions Plant in Radford, VA. This is a full-scale demonstration of granular activated carbon-fluidized scale demonstration of granular activated carbon-fluidized bed technology for treating DNT by-products in wastewater. This type of wastewater has proven resistant to any other type of treatment technology available today.

I hope the committee will continue to support the development of cost-effective technologies, such as these, for treating DOD wastes.

Mr. STEVENS. The technologies the Senator has mentioned sound promising. I commend DOD and USACERL for their work in this area and encourage the Department to continue such innovative work.

HISPANIC SERVING INSTITUTIONS

Mr. DOMENICI. Mr. President, I want to commend the Chairman for the leadership he has displayed in bringing the fiscal year 1996 Department of Defense Appropriations bill to the floor. I particularly want to bring attention to the historically black colleges and universities and minority institutions program element.

Mr. STEVENS. I would say to my friend from New Mexico that I am familiar with the HBCU/MI program and the important contribution that these schools make to the research efforts and capabilities of the Department of Defense. The bill before us includes $14,800,000 to continue these activities in fiscal year 1996.

Mr. DOMENICI. I thank the Chairman. I addition to the language already included by the Committee, I would like to ask that your committee, during conference, include report language recognizing hispanic serving institutions ability to make relevant contributions to Department of Defense missions. There are several hispanic academic centers for research and education that have developed exemplary programs related to science and technology.

With the hispanic population being the fastest growing minority population in the country, persons from this community undoubtedly will be called upon to provide the leadership and expertise needed for the next century. More importantly, hispanic serving institutions that are leading our nation's efforts to educate and train persons from this population can provide invaluable assistance and opportunities for advanced collaborations to meet these challenges. With this in mind, we need to send a strong signal to the Department to take advantage of the human and academic resources available at these institutions, and to provide resources needed for enhanced collaborations related to national security interests.

Mr. STEVENS. I know of the efforts underway at many of the hispanic serving institutions and agree with you in acknowledging the critical role they can play in helping the Department of Defense address emerging national security interests. I would ask that you share the recommended report language with me or my committee staff, and I will work to address this matter during the conference on this bill.

Mr. DOMENICI. I thank the Senator.

THE CASTING EMISSION REDUCTION PROGRAM

Mrs. FEINSTEIN. Mr. President, I wish to engage the Senator from Alaska in a colloquy.

Mr. STEVENS. I am happy to engage in a colloquy with the Senator from California.

Mrs. FEINSTEIN. As the Senator knows, the Casting Emission Reduction Program is a vital part of the dual-use-reuse process at McClellan Air Force Base. The CERP Program uses a new casting process developed to meet Clean Air Act requirements; $12 million is needed to fund the 3d year of this 5-year program. Would the Senator agree that the Defense Department should consider the importance of this program when making funding decisions regarding this program?

Mr. STEVENS. I would agree with the Senator and note that she makes a very strong case for funding of the CERP Program. I do understand the importance of funding the program and am happy to recognize the Senator's interest in CERP.

Mrs. FEINSTEIN. I thank the distinguished Senator from Alaska.

FUNDING IMPACT AID IN THE DEFENSE APPROPRIATIONS BILL

Mr. DOMENICI. Mr. President, the Jeffords amendment No. 2393 would fund $400 million of the Impact Aid Program from the Defense appropriations bill. It would breach the firewalls between defense and nondefense.

I do not rise in opposition to the Impact Aid Program. It is an important program and Congress should provide sufficient funding to meet the Federal Government's responsibilities in this area.

Since impact aid is classified as nondefense discretionary spending, this amendment would be scored as affecting nondefense discretionary budget authority and outlays and would be subject to a budget point of order because it would cause this subcommittee to exceed its budget allocation for nondefense spending.

The Impact Aid Program has been classified as a nondefense expenditure since 1990. The conference report on the 1990 Budget Enforcement Act clearly lists this program in the nondefense category in the jurisdiction of the Labor, HHS Subcommittee.

The 1996 budget resolution's caps on defense and nondefense spending were based on the 1990 classification. The budget resolution assumed funding for the Impact Aid Program as a nondefense program.

If scored as defense funding, the effect of this amendment will be to penalize the Defense subcommittee for $400 million and to free up $400 million in spending for the Labor, HHS Subcommittee.

I fear that scoring this amendment as defense spending would make the firewalls between defense and nondefense spending meaningless. The defense budget would be eroded by efforts to fund popular nondefense items.

Maybe impact aid was improperly classified. If this is the case, and I am not suggesting it is, then we should consider reclassifying this program to the defense category.

If we reclassify impact aid, however, we need to make sure the caps are held harmless. Such a reclassification would involve shifting $400 million associated with a portion of the impact aid account to the defense category. Next, we would increase the defense cap by $400 million and reduce the nondefense category by the same amount.

Absent such a reclassification, funding for impact aid will be scored as nondefense expenditure regardless of which bill funds the program.

MARINE CORPS MPS ENHANCEMENT PROGRAM

Mr. SMITH. Mr. President, I wonder if I might engage the distinguished chairman and ranking member of the Defense Subcommittee in a brief colloquy.

Mr. STEVENS. Certainly, the Senator from New Hampshire may proceed.

Mr. SMITH. First of all I want to commend the Senators from Alaska and Hawaii for their fine work in formulating this appropriations bill. I know that the subcommittee was confronted by some significant fiscal challenges, and I appreciate their outstanding work in balancing resources with our military requirements.

One issue that I am concerned with, however, is the Marine Corps maritime preposition ship [MPS] enhancement program. As my colleagues know, the MPS enhancement program would add an additional ship to each of three Marine Corps preposition squadrons. These ships would be loaded with an expeditionary airfield, two M1A1 tank companies, a fleet hospital, Navy mobile construction equipment, a command element package, and additional statement. These assets will provide tremendous flexibility for crisis response and contingency operations.

Last year, under the leadership of the Senators from Alaska and Hawaii, the committee appropriated $110 million for the first ship in the MPS enhancement program. This was an important statement of support for the preposition concept in general, and the Marine Corps program in particular. The Armed Services Committee has sustained the momentum on the MPS Enhancement program by authorizing $110 million in fiscal year 1996 for the second ship in the program.

In reviewing the legislation before us, I am unclear as to what the recommendation of the committee was with respect to the second MPS enhancement ship. I wonder if the Senators from Alaska and Hawaii could comment on this issue.

Mr. Stevens. The Senator from New Hampshire is correct in his review of the legislative record on this issue. The Appropriations Committee did fund the first ship last year, and is supportive of the Marine Corps MPS enhancement program. At the time the committee marked up its legislation for fiscal year 1996, it was unclear whether the Navy was moving forward with the program established in the fiscal year 1995 authorization and appropriations bills. The committee was concerned over the lack of noticeable progress in acquiring and converting the first ship under the program. The committee was also confronted by some significant funding shortfalls in the shipbuilding and conversion accounts.

However, the committee did direct that the Secretary of the Navy may obligate appropriations up to $110 million for the procurement of a second MPS ship in fiscal year 1996.

Mr. Inouye. Let me assure the Senator from New Hampshire that the committee did carefully consider this matter. It is the view of Senator STEVENS and myself that the language in our legislation provides authority to move forward with the second ship in the MPS enhancement program. I expect this issue will be further explored during conference, as well.

Mr. Smith. I thank the distinguished chairman and ranking member for their comments. I gather from their statements that the Appropriations Committee continues to support the Marine Corps maritime preposition ship enhancement program, but is concerned over delays by the Navy in moving forward to implement the program established last year in the authorization and appropriations bills. Is it fair to say that if the Navy can convince the committee that their program is sound, and that they can demonstrate that they are fully exploring means to reduce overall program costs, such as multiple ship contracts, that the committee would be inclined to support a second ship in fiscal year 1996?

Mr. Stevens. I think that is an accurate description.

Mr. Inouye. Yes. That is correct.

Mr. Smith. I thank my colleagues for their comments, and fine work on this bill. I look forward to working with them on this important program.

REVISE THE AVAILABILITY OF FUNDS FOR DEFENSE CONVERSION LOAN GUARANTEES

Mrs. FEINSTEIN. Mr. President, my amendment would make statutory changes to the Defense Conversion Loan Guarantee Program authorized last year. These revisions are necessary to optimize the program's task of providing financial and technical assistance to small, defense-dependent firms adversely impacted by defense downsizing.

The Defense Conversion Loan Guarantee Program is a joint Small Business Administration/Department of Defense program which provides loan guarantees and technical assistance to small firms adversely affected by defense reductions. This program would provide SBA guaranteed businesses and communities adversely affected by defense downsizing and base closures.

In order to fully maximize this important program, there are three areas in the existing law which need to be modified:

First, the portion of DOD funds used for salaries and expenses;

Second, the current restrictive eligibility requirements which limit the number of participants in the program; and

Third, the duration of the program.

My amendment would implement these statutory changes without requiring any new appropriation of funds.

In the wake of extensive U.S. Defense downsizing and military base closures, this program is both necessary and vital to helping small businesses retain the jobs of Defense workers and create new employment opportunities in communities affected by economic dislocation. I am pleased to offer this amendment and thank my colleagues for their support.

THE DEFENSE DEPARTMENT'S FINANCIAL MANAGEMENT TRAINING PROGRAM

Mr. KENNEDY. I want to take this opportunity to commend the chairman and ranking member of the Subcommittee on Defense for their support for the Defense Department's Financial Management Training and Education Program.

This program, strongly supported by the Department of Defense, will establish urgently needed programs to give the Department's financial managers and accountants the necessary training that their private sector counterparts take for granted. This program will provide the educational resources to make these workers more effective and efficient and thereby help the Defense Department save millions of taxpayers' dollars.

In its report, the committee provides for full funding of the training program operations in fiscal year 1996. It also states that the committee expects the Defense Department to accommodate any long-term leasing costs for the planned facility within the amounts appropriated in the account for operations and maintenance, defensewide.

I believe that the Department will accommodate these costs in the manner suggested. I would like, therefore, to clarify the view of the Appropriations Committee. Is it the understanding of the committee that once the Department meets the reporting requirements contained in the Defense authorization bill for fiscal year 1996 on the necessity for establishing a center for financial management training and education, the Department will be free to enter into a capital lease for the establishment of the center without seeking further appropriation of funds or reprogramming authority?

Mr. STEVENS. Yes, that is my understanding. The committee acknowledges the justification for the training and education program, to ensure that the Defense Department's financial managers receive the necessary professional training. As stated in its report, the committee intends the Department have the authority to enter into a capital lease for the center for financial management, education, and training, using funds appropriated in the operations and maintenance account.

Mr. INOUYE. I concur with my colleague, the chairman of the Defense Subcommittee. The Defense Department has the authority to proceed with this worthwhile project, once the requirements contained in the fiscal year 1996 Defense Authorization Act are met.

Mr. KENNEDY. I thank the Senators for their comments.

SURPLUS DOD HELICOPTERS

Mrs. FEINSTEIN. Mr. President, this amendment will set aside $5 million for the conversion of surplus Defense Department helicopters for counter-drug activities. This funding is needed to upgrade these helicopters with new radio and avionics equipment, search lights, upgraded landing gear and other improvements.

There is currently a program at DOD that provides surplus military equipment to local law enforcement agencies for counter-drug purposes. However, no funding is currently available to convert the military equipment for use by local law enforcement. Localities simply do not have the funds necessary to implement this important program.

This funding is critical to allow local law enforcement agencies to respond to increased drug trafficking. For example, in Sacramento, there have been several large arrests made of drug transporting thousands of pounds of marijuana and heroin. The city plans to use the surplus helicopters for interdiction of traffickers through their area.

This $5 million appropriation will make a huge difference in the ability of localities to utilize these surplus helicopters. I thank my colleagues for their support in adopting this very important amendment.

Mr. DOLE. Mr. President, before we conclude consideration of the Fiscal Year 1996 Defense Appropriations Bill, I want to commend Chairman STEVENS and Senator INOUYE for all of their work in preparing this bill. This is perhaps one of the most important appropriations bills we pass each year. With the largest share of defense spending, this bill funds such critical accounts as operation & maintenance, procurement, research & development, and military pay and personnel. Mr. President, I am pleased to support this bill.

This year, again, the President submitted to Congress a defense budget which was woefully inadequate. As I am sure most of my colleagues know, long-term readiness is funded through the Procurement and R&D accounts, but under the President's budget, the procurement accounts were down 67.4 percent from their fiscal year 1985 peak. Additionally, the Research, Development Test & Evaluation accounts had fallen every year since hitting an FY 1988 high. Under the President's budget, these accounts would continue to plummet for the next 5 years. For all the administration's rhetoric, procurement spending and procurement rates are at their lowest levels in 45 years. Despite the administration's promises to enhance force capabilities, modernization has come to a virtual standstill. The bottom line is that under the Clinton administration, our forces have simply become smaller, but not more capable.

However, the Republican controlled Congress has kept faith with our promise to the American people to restore our national security. We refuse to continue down the path which would lead us back to a hollow military. We have added $7 billion in overall defense spending, turning the corner on defense spending. The Defense Appropriations Subcommittee, under the direction of Senator STEVENS has worked to ensure that these additional funds were allocated to ensure not only our near-term readiness, but also to ensure that our forces were prepared to prevail in any future battle. This bill not only increases funding for accounts such as operation and maintenance but also for the Procurement and Research & Development accounts.

Let me be clear. This year's increase does not fix all of the Department's funding problems. In fact, the burden for ensuring the readiness of our military again shifts back to the administration and the Department of Defense. In preparing next year's defense budget, the administration should follow the lead of this Congress.

In closing, I again thank the chairman and ranking member for their hard work in shaping this defense bill and I am pleased to support it.

Mr. STEVENS. Mr. President, I know that the Senator from Nebraska is here to speak, and I am sorry to delay him.

I want the clerk to clear with me, and see if the desk is in agreement with me, that we now have pending before the Senate under the procedure adopted for amendments filed by 8:30. I have the Bumpers amendment No. 2398, Harkin amendment No. 2400, and the Kerry motion to recommit; is that correct?

The PRESIDING OFFICER. The Senator is correct. But there are additional amendments beyond those.

Mr. STEVENS. I ask the clerk provide us with a copy of those amendments.

Mr. STEVENS. I am in error. I forgot to list the Hutchison amendment No. 2396. I know that is pending.

AMENDMENT NO. 2399 WITHDRAWN

Mr. STEVENS. Amendment No. 2399 is a duplicative amendment, Mr. President. That was already considered in another form as an amendment submitted by Mr. HARKIN.

I withdraw this amendment.

The PRESIDING OFFICER. The Senator has that right.

The amendment is withdrawn.

So the amendment (No. 2399) was withdrawn.

AMENDMENTS NOS. 2422 AND 2423 WITHDRAWN

Mr. STEVENS. Mr. President, I withdraw amendments Nos. 2422 and 2423, which were proposed by me.

The PRESIDING OFFICER. The amendments are withdrawn.

So the amendments (Nos. 2422 and 2423) were withdrawn.

AMENDMENT NO. 2408

Mr. STEVENS. Mr. President, I call up amendment No. 2408 for Mr. PRYOR.

This is an amendment offered by Senator PRYOR dealing with certain certification requirements and approval beyond low-rate initial production for the theater missile defense interceptors.

We have discussed this matter with the Senator from Arkansas and are prepared to accept it. It may have to be modified in conference, but we wish to accept it in its present form.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 2408) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, if I might have the attention of the managers of the bill, I must make a statement that I had not intended to make, but because of a very recent development I have a responsibility to advise the Senate that I have just been advised that the junior Senator from the State of Texas has filed an amendment to the Defense appropriations bill before the Senate that would duplicate the provisions in the Defense authorization bill allocating up to $50 million for hydronuclear testing.

It has not been generally known, I guess, but it should be established now that this Senator has been the principle proponent of a move to block passage of the Defense authorization bill until after the recess, primarily because the authorization for such tests that are also in the authorization bill on which we had a debate last week was a very close vote.

I had agreed after many people on this side of the aisle in talking to me, I had agreed not to press this issue and thereby to not delay passage of the Defense appropriations bill that is now before the Senate and is generally thought to be ready for passage sometime tomorrow.

If the Senator from Texas persists with her amendment in that regard, I withdraw my understanding not to interrupt passage of the appropriations bill.

Mr. President, earlier in the day I had written some thoughts that I am going to deliver now that were aimed primarily at the Defense authorization bill, but much of my objection to the Defense authorization bill is also incorporated in the appropriations bill that I had not intended, until the action by the Senator from Texas, to bring up until some other time.

To fully explain this to the Senate, and I have been under a lot of pressure from those on this side to not take the stand that I must take because I think a very important principle is involved,

and I might say that there are many Senators on this side of the aisle and some, including the chairman of the Appropriations Committee, who agreed with me.

Mr. President, I am advising the Senate that I will do everything reasonably within my power to block passage of the Department of Defense authorization bill that is still before the Senate and under the new action by the Senator from Texas that has now expanded to include the Defense appropriations bill, as well.

This is, indeed, a sharp departure from the norm by this Senator. For the first time in my 17 years here, I am diametrically opposed to the package of a Department of Defense authorization bill and the appropriations bill, as well.

There is still time to make some significant changes necessary that may allow for passage of the appropriations bill, but time is wasting. My remarks apply to both the defense authorization and the appropriations bills.

There are many specific provisions in the Defense authorization bill and the appropriations bill that are, in my opinion, absurd and fraught with deficiencies with regard to the legitimate national security interests of the United States of America.

Equally appalling are the parts of this bill that clearly rebuke our Nation's stated policies, our treaty obligations, and our responsibilities as a leader of the free world. In many respects this bill is an abomination from the standpoint of our Nation's thoughtful policies concerning the security of mankind tomorrow and well into the next century.

If ever there was a clear example of the United States sticking its head in the sand to escape reality in the most thoughtless manner, this is it.

Obviously, Defense policy and foreign affairs go hand and hand. The net result of the Defense authorization and to a considerable extent, the appropriations bill, as presently written, is that we are simply throwing up our hands in applause of short-sighted isolationism.

For the purpose of this discussion, allow me to concentrate on only two of the most glaring potential disasters in the legislation as it has come out of committee, each of which has been affirmed by relatively close votes on the floor of the Senate last week.

They both have to do with nuclear weapons initiative. They both dramatically reverse existing national policies. I speak of the provisions in the Defense authorization bill concerning the violation of the antiballistic missile ABM Treaty and the related matter that the United States resume nuclear weapons testing which would likely end any chance of successfully concluding a comprehensive test ban treaty agreement.

Mr. President, this Senator has been pressing the administration for a firm statement on this policy. This is necessary more than ever because of the recent announcements by the French that they are continuing nuclear testing again, and now that is causing great political unrest against the Government in France because of that action as has been quite prominently displayed in the press.

Likewise, the Chinese are doing additional nuclear testing. If the United States of America begins any kind of nuclear testing, and I emphasize any kind, it is going to eliminate any chance that we could have a real comprehensive nuclear test ban treaty.

The unilateral break out of the ABM Treaty was thoroughly debated on the floor last week and the Senate's final disposition of the issue remains unresolved. There can be no question that the President will veto this bill as it is written. There has been some progress towards correcting some of the most onerous provisions with regard to the ballistic missile treaty.

I am studying those at the present time, but I wish to focus tonight on a controversy that is in the long run maybe even more damaging to world peace. That is the resumption of nuclear testing and its affect on the comprehensive test ban negotiations.

While both arms control matters are extremely important, the ABM Treaty issue involves only two countries: The United States and Russia.

On the other hand, the comprehensive test ban treaty involves almost every country in the world, regardless of their size or nuclear capability today and in the future.

I have reason to believe that in the very immediate future the Clinton administration is going to take a very strong stand on this matter that will clearly indicate that the Senate did the right thing 3 years ago, when the Hatfield-Exon-Mitchell amendment was agreed to. And the Senate did the wrong thing when it reported out of the Armed Services Committee the beginning of tests all over again.

In Friday's debate on the nuclear testing issue, there were gross misstatements about the Exon-Hatfield et al amendment to delete the $50 million funding authorization to resume testing reported out by the Armed Services Committee. This proposal would violate the carefully crafted Hatfield-Exon-Mitchell nuclear testing law of 3 years ago.

The gross distortion of facts I refer to, possibly unwittingly but nevertheless untrue, contributed to the narrow vote overturning our Nation's nuclear testing policy. I refer primarily to the series of false statements made by the opposition to our amendment on the recent report of the Jasons group. The Jasons group is a collection of the most renowned and best informed scientists from our three national laboratories, including noted physicist Sidney Drell, regarding the resumption of so-called small nuclear tests at our Nevada test site.

While I inserted the complete text of the JASON report—the executive summary of the JASON report into the CONGRESSIONAL RECORD on Friday, I ask unanimous consent that the Washington Post article be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. EXON. Whether intentional or not, what the opponents of our amendment did was distort, for their own purpose, the latest report from the JASON group. I quote briefly from the article from the Washington Post that I just referenced. The story opens with this statement:

> A group of eminent U.S. physicists and nuclear weapons designers has concluded that the military has neither ''a present nor anticipated'' need for small nuclear weapons tests that a Senate majority voted last week to spend $50 million to prepare for.

Mr. President, it goes on in the next paragraph:

> The scientific group concluded after a six-week study for the Department of Energy that conducting the small explosives would not add measurably to the safety and reliability of the U.S. nuclear arsenal, which the scientists said has been solidly established by more than 1,000 nuclear explosions.

Then, Mr. President, I go to the last paragraph of the story which sums it up.

> This summary [that I have been referencing] stated that the group's detailed findings ''are consistent with [a] U.S. agreement to enter into a Comprehensive Test Ban Treaty of unending duration'' provided that the treaty allows the country to withdraw if warranted by ''supreme national interests.''
>
> I believe that this study represents the views of a very diverse and experienced scientific community,

said Drell, the Panel's chairman.

Now, Mr. President, I hope and I expect that the Members of the United States Senate will study very carefully this whole issue, before we rush ahead. That is why I strenuously object to the inclusion of this matter in the appropriations bill, where it was left out during the considerations of that committee.

So I repeat, whether intentional or not, these false statements that the opponents used against our amendment distorted for their own purposes the latest report of the JASON group, by confusing the justification for nonnuclear ''hydro-dynamic'' testing with that of low-yield nuclear detonations associated with ''hydro-nuclear tests,'' which is what is authorized in the defense authorization bill.

By generally falsifying the report's conclusions and selectively lifting statements, the opponents of the Exon-Hatfield amendment were able to buttress their ill-advised and false arguments.

Mr. President, I hope this statement and the following report from the Washington Post and other events that are likely to occur in the immediate future will make it clear to all Senators who may have been unfortunately misled by the debate on the

Exon-Hatfield amendment by the opponents that what the true findings of the JASON report are might study it, might change their minds.

I hope certain Members will reconsider their positions in light of this clarification and vote to overturn the committee provisions at some time in the future.

To protect that possibility I must reemphasize once again that I will do everything reasonably within my power to make certain that that is not authorized, the $50 million is not authorized as the JASON committee and others say it is not necessary. It is a waste of money.

So I thought I had the obligation tonight, since I just found out about this, to advise the Senate and especially the two leaders of the Appropriations Committee, whom I have great respect for, because I did not want to blindside them.

I yield the floor.

EXHIBIT 1

[From the Washington Post, Aug. 9, 1995]

PHYSICISTS SAY SMALL NUCLEAR TESTS BACKED BY SENATE ARE UNNECESSARY

(By R. Jeffrey Smith)

A group of eminent U.S. physicists and nuclear weapons designers has concluded that the military has neither a ''present nor anticipated'' need for the small nuclear weapons tests that a Senate majority voted last week to spend $50 million to prepare for.

The scientific group concluded after a six-week study for the Department of Energy that conducting the small explosions would not add measurably to the safety and reliability of the U.S. nuclear arsenal, which the scientists said has been solidly established by more than 1,000 test nuclear explosions.

''The United States can, today, have high confidence in the safety, reliability, and performance margins of the nuclear weapons that are designated to remain in the enduring stockpile,'' said a summary of the group's report. It was signed by several of the country's veteran bomb designers under the auspices of JASONS, a group of academic scientists who consult for the government on national problems.

The report, which has been presented to Secretary of Defense William J. Perry, Secretary of Energy Hazel R. O'Leary and other top administration officials, was issued during a growing debate in Congress and within the administration over the merits of additional nuclear testing.

The Clinton administration has been unable for months to decide whether to propose additional nuclear tests, due to disagreement between testing proponents at the Pentagon and opponents at the Energy Department, Arms Control and Disarmament Agency, and the office of the White House science adviser.

On Friday, the Senate voted 56 to 44 to keep $50 million to prepare for so-called hydronuclear tests, even though the administration has said it does not plan to conduct any during 1996.

Proponents of additional nuclear testing, largely from the Republican majority, have argued that more explosions are needed to ensure that weapons remain safe and reliable. The administration, in negotiations being conducted in Geneva on a global accord barring all nuclear testing, has similarly insisted on the right to continue setting off extremely small-scale nuclear explosions for the purpose of maintaining the U.S. arsenal.

The group's report was endorsed by four of the principal designers of the U.S. nuclear arsenal: John Kammerdiener and John Richter of the Los Alamos National Laboratory in New Mexico, Robert Peurifoy of the Sandia National Laboratories in New Mexico, and Seymour Sack of the Livermore National Laboratory in California.

The 14-member group also included noted Princeton physicist Freeman Dyson, IBM scientist Richard Garwin, University of California physicist Marshal Rosenbluth and Stanford physicist Sidney Drell, each of whom has worked on aspects of U.S. nuclear weaponry for more than three decades.

Besides challenging the merits of the hydronuclear tests, which would have an explosive yield equivalent to about 4 pounds of TNT, the report also challenges the prevailing Pentagon view that conducting larger nuclear explosions is also essential to ensuring that U.S. nuclear weapons will continue to operate.

It states that while such tests would doubtless provide interesting data, the country should pursue other, better routes to maintaining the nuclear arsenal, such as supporting an extensive program of weapons surveillance and a ''significant industrial infrastructure'' to maintain aging weapons components.

The summary stated that the group's detailed findings ''are consistent with [a] U.S. agreement to enter into a Comprehensive Test Ban Treaty (CTBT) of unending duration'' provided that the treaty allows the country to withdraw if warranted by ''supreme national interest.''

''I believe that this study represents the views of a very diverse and experienced scientific community,'' said Drell, the panel's chairman.

Mr. STEVENS. We are awaiting temporarily for what we would call the wrap-up.

So I ask, as in morning business, Mr. President, to make this statement.

MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted.)

COMMUNITY INVESTMENT PROGRAM

Mr. BAUCUS. Mr. President, while efforts to address the needs of our less-developed communities have often come up short, innovation from the private sector has been instrumental in locating problems and providing successful solutions. Past experience shows that successful community development can only be achieved through an equal partnership between the public and private sector.

Each year, on behalf of the Federal Housing Finance Board [FHFB] and Federal Home Loan Bank System [FHLBS], 12 financial institutions from around the country are recognized for exemplary efforts in the revitalization of America's communities. I am pleased to announce that three financial institutions in Montana that are part of Glacier Bancorp, Inc. have been chosen by the Federal Home Loan Bank of Seattle to receive the Community Partnership Award for 1995. They include Glacier Bank, F.S.B. of Kalispell, the First National Bank of Whitefish, and the First National Bank of Eureka.

Glacier Bank and its two affiliates were recognized for developing innovative ways of using the Affordable Housing Program [AHP] and the Community Investment Program [CIP] funds to create homeownership opportunities for low- and moderate-income families, and for working with numerous nonprofit partners and local governments to help meet community needs.

These institutions hold $84 million in regular advances and have used Federal Home Loan Bank funding programs to assemble a full range of single and multifamily loan products, many of which would not have been possible without FHLB funding. In addition, they also used advances to match fund their FHA/VA loans and developed a portfolio loan product called BOB that is also funded with advances.

While using the Affordable Housing Program, Glacier Bancorp, Inc., and its institutions have sponsored three successful AHP projects receiving $301,000 in targeted grants. Glacier Bank and the city of Kalispell are responsible for devising an innovative financing package to preserve an apartment complex in downtown Kalispell for very low-income and homeless individuals. Under the same program, Glacier Bank was awarded AHP funds for a homeownership project to help low- and moderate-income households purchase homes in distressed neighborhoods. Without Glacier's commitment to relax their underwriting standards for these homes, the project would not have been possible. These projects will create affordable housing for 64 households.

Under the Community Investment Program, the institutions have used $17 million in CIP funds for homeowner programs benefiting 3000 households.

These examples of civic responsibility and the spirit of community are only a few of Glacier Bancorp, Inc. efforts to create affordable housing for less developed communities. This institutions' achievements should serve as a reminder of what is possible when the private sector acts locally in an innovative alliance with the Government.

INCOME TAX TREATIES

Mr. DORGAN. Mr. President, today I rise to share my thoughts about several income tax treaties now pending before the Senate. I'm very must opposed to the income tax treaties that are now awaiting action in the Senate. But my opposition stems more from the Treasury Department's stated interpretation of the pending treaties than the actual language in the treaties themselves.

Treasury Department officials interpret one article in each of these treaties as preventing the United States from scrapping its outdated arm's length enforcement approach on corporate income tax and replacing it

with the simple and time-proven formula method, which is now the norm between the States. In my judgment, this interpretation by the Treasury Department is wrong-headed and is ill-advised.

I believe that the Federal Government is losing billions of dollars in revenues because the IRS uses the so-called arm's-length method to enforce our corporate tax laws. In my judgment, this IRS enforcement tool is unworkable and results in massive tax avoidance by international firms operating here. It keeps our tax officials in the Dark Ages as they work to ensure that multinational firms doing business here pay their fair share of U.S. taxes.

There is evidence to suggest a massive hemorrhaging of tax revenues because of transfer pricing abuses and because of the flawed arm's-length pricing method employed by the IRS. The General Accounting Office [GAO] has reported that more than 73 percent of the foreign firms doing business in this country pay no U.S. taxes, despite generating hundreds of billions of dollars in revenues every year.

There are also several independent studies of the problem that estimate U.S. revenue losses ranging from $2 billion to $40 billion a year. I happen to think that this country is losing between $10 and $15 billion in revenues from foreign-based firms alone. But I recognize that there hasn't been a comprehensive and official government study that attempts to pinpoint the true size of the U.S. tax gap caused by transfer pricing abuses and to map out the best approach to plug the gap.

I have in recent days been working with Treasury officials on this matter. In response to my request, Treasury Department has now agreed to formally conduct a joint conference and study with the State governments to evaluate the U.S. tax revenues lost due to transfer pricing abuses, especially from foreign firms doing business in the United States. In addition, this initiative will examine the issue of implementing a Federal formulary apportionment system to enforce our international tax laws.

This joint Treasury/State initiative will, I hope, finally answer the questions of how much money we are now losing from transfer pricing abuses, and how we can take steps to prevent it.

COSPONSORSHIP OF S. 1120, AS AMENDED

Mr. DOMENICI. Mr. President, I ask that my name be added as a cosponsor to S. 1120, the Work Opportunity Act of 1995. I want to congratulate the distinguished Republican leader and his chief of staff for all the hard work and effort they have devoted to producing a welfare reform bill this year.

Many years ago a distinguished professor wrote a book entitled: ''Why Welfare is so Hard to Reform.'' That was nearly 25 years ago. Reforming our welfare system has not gotten any easier over that time period as the Republican leader has surely discovered.

Let me be clear, I know that there are issues that still have not been fully resolved in Leader DOLE's bill. I continue to be concerned about some of those issues and during the upcoming recess I will meet with New Mexicans who have, like I, concerns about child care and other provisions in the bill. I reserve the right to recommend further changes to the bill and offer amendments to it when we begin consideration in September.

But I support the major principles embodied in the leader's proposal and therefore am pleased to cosponsor the legislation today. I support first and foremost the principle that we must break the cycle of dependency in our current welfare system, and we should strive to help those who are trapped in this system break the bonds of dependency.

I support the principle that States should be provided flexibility in designing programs that best serve needy individuals and families in their individual States.

I support the principle that those who receive assistance should seek work and that employment of welfare recipients should increase significantly from the low levels that now exist in many States. I support the principle that States should be allowed to terminate benefits when those who are required to work—refuse work.

I support the principle that single parents with young children should not be penalized if they are unable to find work and particularly if affordable child care services are not available to them. I support the principle that individuals seeking to better their lives through vocational education and training should be encouraged in their vocation in order to avoid dependency later in their lives.

I support the principle that the Federal Food Stamp Program and School Lunch Program should continue as Federal entitlement programs so as to provide a basic nutrition safety net to all low-income families and their children.

Finally, I believe that we can reform our welfare system based on these principles, protect those most in need of assistance, and at the same time do this while achieving some savings to hard-pressed State and Federal budgets. The Dole bill does all these things and at the same time begins a down payment on the Federal deficit. A Federal deficit that is the biggest sign of dependency and the biggest threat to the creation of jobs for all Americans—particularly the poor. We will not turn our backs on those down on their luck, but we will not give a handout when what is needed is a hand-up.

Welfare reform is a contentious issue. What we do here needs to be done carefully, and that is why I have made recommendations to the leader and others to modify S. 1120 in ways that I think will improve it. I may have other recommendations once I meet with people in my State. But for today I congratulate the Republican leader and offer my support to reform the welfare system based on the broad principles encompassed in the Work Opportunity Act of 1995.

SECURITIES LITIGATION REFORM SETTING THE RECORD STRAIGHT

Mr. DOMENICI. Mr. President, in June, we passed S. 240, the Private Securities Litigation Reform Act of 1995 by a 69-to-30 margin. It started out as a Domenici-Dodd bill with 51 cosponsors and then Chairman D'AMATO and the Banking Committee worked hard to improve it. It is a bill supported by Senators with vastly differing political philosophies. Senators KENNEDY, MIKULSKI, HARKIN, HELMS, GRAMM, and LOTT were among the 69 Senators voting for the Senate bill.

Mr. President, I am going to spend time discussing some of the misstatements about this bill, but first I want to tell you that 69 Senators voted for this bill because it is good for our economy and job creation, for our capital markets and all investors.

Mr. President, S. 240 creates a better system for investors 12 ways:

First, S. 240 requires that investors be notified when a lawsuit has been filed so that all investors can decide if they really want to bring a lawsuit. Frivolous shareholder suits hurt companies by diverting resources from productive purposes, and thus, harm shareholders. The shareholder-owners of the company, not some entrepreneurial lawyer, should decide if a lawsuit is necessary. Most investors know that stock volatility is not stock fraud, yet a stock price fluctuation is all that lawyers need to file a case.

Second, the bill puts lawyers and clients on the same side. By changing the economic incentives behind bringing and settling these suits, investors will benefit.

Third, it reforms an oppressive liability so that companies can attract capable board members, and hire the best accountants, underwriters, and other professionals. The two-tier liability system contained in the bill is perhaps the most misunderstood provision of the bill. I will go through the details later in my speech.

Fourth, the bill prohibits special $15,000 to $20,000 bonus payments to named plaintiffs. These side-agreements between lawyers and their professional plaintiffs are unfair to shareholders not afforded the opportunity to act as the pet plaintiff. By prohibiting bonus payments, the bill will put more money in the pockets of all aggrieved investors. It stops brokers from selling investors' names to plaintiffs' lawyers. This practice is at least unethical, and should not be part of our judicial system.

Fifth, S. 240 contains several provisions which will put the investors with a real financial stake in the company, and not the lawyers, in control of these cases in an effort to restore the traditional lawyer-client relationship that currently does not exist in securities class actions.

Under the current system lawyers hire individual professional plaintiffs who own a few shares of stock to act as the lead plaintiff in these cases. These individuals own a few shares in every company publicly traded on the various stock exchanges so they can always be a plaintiff. These individuals sell their names of the class action lawyer in exchange for a $15,000 or $20,000 bonus payment. These pet plaintiffs then allow the attorneys to exercise complete control over the litigation. Because there is no real plaintiff-client to exercise control over the lawyer, settlements in these cases are often extremely generous to the lawyers. According to SEC Chairman Levitt, the current system is characterized as one where ''class counsel may have incentives that differ from those of the underlying class members.'' According to Chairman Levitt, this means that class action lawyers ''may have a greater incentive than the members of the class to accept a settlement that provides a significant fee and eliminates any risk of failure to recoup funds already invested in the case.'' Chairman Levitt is absolutely correct, and S. 240 will realign the interests of the lawyers with those of their clients, the class of investors.

In these multimillion dollar class action cases, S. 240 requires the court to appoint a willing investor with a significant financial interest in the outcome of the litigation as the lead plaintiff. The objective is to have real clients with real financial interests making the decisions about these cases. I view this as a little adult supervision over these entrepreneurial lawyers.

As such, S. 240 encourages institutional investors—the people who we trust to mange pension funds and mutual funds on behalf of thousands of retirees and small investors—to take charge of these multimillion dollar cases. This doesn't mean that the small investor will not be able to file a securities suit on their own behalf. Under S. 240, anyone still may file a securities class action. However, if a case is going to be a class action suit, the people we trust to manage the pension funds will be encouraged to take a more active role in these cases, instead of the plaintiffs' lawyers. Why? Because they have a fiduciary duty—a very high level of trust—to look out for the best interest of all the investors and retirees. Because they have the greatest responsibility in these cases, institutional investors will be in a position to maximize the amount of money made available to compensate the group of investors. Because they can negotiate fees up front, attorneys' fees will be reasonable, leaving more money for the people who should benefit from these cases—the investors. Because they have the greatest interest in the outcome, institutional investors will closely scrutinize settlement offers and they will reject the ones that benefit lawyers to the detriment of shareholders. This will lead to larger awards for investors when a case has merits.

Sixth, the bill provides for simpler disclosure of settlement terms to investors, including how much investors will receive on a per share basis, and how much the lawyers have requested in attorneys' fees and costs. Currently settlement disclosures are shrouded in boilerplate legalese, making them difficult for investors to understand.

Seventh, the bill prohibits settlements under seal, where attorneys can keep their fees a secret. Investors should know how much they have paid for legal services, and should be able to challenge them if they are excessive.

Eighth, the bill also limits attorneys' fees to a reasonable percentage of the settlement fund as a result of the attorneys' efforts. Currently, courts and attorneys use a confusing formula called the lodestar.

Ninth, S. 240 creates an environment where CEO's or chairmen of the board can, and will, speak freely about their company's future without fear of lawsuits if their predictions do not materialize. This will put more information in the hands of investors, who seek forward-looking projections in order to make informed investment decisions. This is another provision that has been misunderstood.

Tenth, S. 240 provides a uniform rule about what constitutes a legitimate lawsuit. The pleading reforms will ensure that cases filed in different parts of the country will be subject to the same rules. Predictability and uniformity are two hallmarks of an effective justice system, and the pleading reforms make the system more effective and predictable.

The bill includes litigation cost containment provisions. A typical tactic of plaintiff lawyers is to request an extensive list of documents and to schedule an ambitious agenda of sworn testimony-taking that distracts the company CEO and other key officers and directors. These discovery costs comprise 80 percent of the expense of defending a securities class action lawsuit. To minimize the in terrorem impact of the frivolous cases, the bill would require the court to limit requests for documents during the pendency of any motion to dismiss unless factfinding is needed to preserve evidence or prevent undue prejudice. A stay of discovery puts such requests for documents and deposition taking on hold until the judge rules on whether the case should be kicked out of court.

Eleventh, S. 240 will weed out frivolous cases while giving lawyers and judges more time to protect truly defrauded investors. By ending the race to the courthouse, cases are often filed within hours of when a company's stock price falls, this bill will ensure that the frivolous cases are dismissed quickly, giving companies more time and resources to focus on running the company. Investors will get higher stock prices and bigger dividends.

The bill's attorney sanctions for filing frivolous securities fraud suits builds upon the existing rules of the Federal courts. Frivolous securities suits filed with little or no research into their merits can cost companies millions of dollars in legal fees and company time. According to a sample of cases provided by the National Association of Securities and Commercial Law Attorneys [NASCAT], 21 percent of the class action securities cases were filed within 48 hours of a triggering event, usually the announcement of a missed earnings projection.

Innocent companies pay millions of dollars defending these frivolous cases. Even when firms are exonerated they have large defense attorney's bills to pay. Our current system is a winner pays system.

Attorneys should be required to exercise due diligence before they file these expensive lawsuits. They should be sanctioned if they fail to exercise proper care. Accordingly, the Senate bill requires the judge, at the end of the case, to make specific findings regarding whether attorneys complied with the Court's rules, specifically, rule 11(b) of the Federal Rules of Civil Procedure. Rule 11 provides sanctions for filing frivolous lawsuits. The bill requires the judge to discipline lawyers if the judge finds that the lawyer violated the rule. Under the bill, the judge would require an offending attorney to pay all the reasonable attorney's fees and costs of the innocent party as the consequence for filing a frivolous lawsuit if the case is kicked out of court on a motion to dismiss. This is the first step a defendant could take when he things the lawsuit is frivolous. For the defendant to win, the judge must rule that: first, the complaint failed to state a claim upon which relief can be granted and second, the complaint is frivolous on its face. The judge can sanction a defense lawyer who files frivolous motions.

Twelfth, the bill will make the merits matter so that strong cases recover more than weak cases. It will ensure that people committing fraud compensate victims. It will ensure greater detection of fraud by requiring that professional advisors report corporate crime.

By constructing a system which put investors, not the lawyers, in control of these cases and by making a greater share of the settlement fund available to defrauded investors, S. 240 will put an end to the current class action system that consumer rights advocates have called a joke and the Wall Street Journal called a Class Action Shakedown.

I would like to talk about some of the stories that appeared about this

bill and set the record straight. The press has a very important role in reporting. As Justice Brandeis once said:

The function of the press is very high. It is almost holy. It ought to serve as a forum for the people, through which the people may know freely what is going on. To misstate or suppress the news is a breach of trust.

As this bill moves to conference, I hope that the press will take a more careful look at this bill so that the people can know freely what is going on with securities litigation reform. This bill will benefit investors, and they ought to know it.

If some press accounts about the bill were true no Senator would have cosponsored it. But 51 Senators did cosponsor S. 240, and 69 Senators voted for it. These numbers are evidence that some press accounts must have missed the point on S. 240.

In fact, during the debate on the floor my colleague, the chairman of the Banking Committee Senator D'AMATO noted with some consternation that if we held the press to the same recklessness standard that we hold participants in our capital markets, then the press would not be able to print anything about our bill.

If you read some of the articles printed during the floor debate on S. 240, you would think that the bill completely repealed the Federal securities laws. In actuality, the bill's primary focus is changes to a totally court-created type of lawsuit—the implied private right of action under section 10(b) of the Securities and Exchange Act. The courts created the private lawsuit under section 10(b) and yet recently, every time the Supreme Court has had a section 10(b) issue before it, the Court has scaled back the amount and scope of litigation that could be brought. I read the recent Supreme Court cases to be saying, ''Congress, we, the Supreme Court, created this type of lawsuit, but after several decades of experience we don't like how our court-created law is being abused, so fix it, Congress.'' That is what S. 240 does. It stops some of the abuses.

On June 23, a Denver Post editorial said: ''Senate bill would give free ride to securities fraud.'' This editorial also stated that ''If S. 240 goes into effect, Americans will no longer have the option of suing cheats who run sophisticated investment schemes.'' S. 240 neither alters who can sue nor the standard of liability under the Federal securities laws. None of the 69 Senators who voted for this bill would give a free ride to securities fraud. The Sacramento Bee made a similar mistake in its July 13 editorial, and the Baltimore Sun repeated the mistake on June 26.

Under current law, people who engage in securities fraud are jointly and severally liable. If a person is 1 percent responsible he can be required to pay for 100 percent of the damages. Former SEC Chairman Richard Breeden called joint and several liability inverted disproportionate liability. Former SEC Commissioner Carter Beese said that joint and several liability is unfair. The bill creates a two-tier liability system. It retains joint and several liability for people whose conduct is knowing. The bill goes a step further and requires that small investors be made whole.

Those individuals found incidentally involved, are proportionately liable. For example, if a person is fond to be incidentally involved and 5 percent liable, he/she must pay 5 percent of the damages. This is called proportionate liability. Every former SEC Commissioner who testified at our hearings supported the concept of proportionate liability. Breeden testified, ''Paying your fair share, but no more than your fair share, of liability is hardly a radical proposal.''

We created the two-tier system to stop plaintiffs' lawyers from naming people as defendants merely because they are deep pockets. We learned at our hearings that if a professional, like an accountant or underwriter is named as a defendant it adds one-third to the settlement value of the case regardless of whether or not the professional did anything wrong. Naming a lawyer, or an outside director also adds to the settlement value regardless of their role.

A lot was said about Charles Keating. His name was mentioned over and over and over on the Senate floor and in the media during the debate on S. 240.

On July 28 a St. Louis Post-Dispatch editorialized that under S. 240, Keating and his advisors would have gone free while investors would get no relief. The Post-Dispatch printed that under S. 240, ''joint and several liability would be abolished, which means that if the deceiving company has gone bankrupt, investors can't recover damages from the accounting firms, lawyers or stockbrokers who helped perpetrate the fraud.'' This is one statement with three errors. Error 1, the two-tier liability system does not abolish joint and several liability for people who commit knowing fraud. Error 2, accounting firms, lawyers, and others who are incidentally involved in the fraud will have to pay their share of the losses that their conduct caused—proportionate liability—the second tier of S. 240's liability scheme. Error 3, involves bankrupt codefendants. The bill provides that in the case of a bankrupt codefendant, the other codefendants are required to contribute an extra amount up to an additional 50 percent of their share to make up the uncollectible share. The bill also makes small investors whole.

The St. Louis Dispatch editorial also states that ''accountants who detect fraud and keep quiet about it also would be helped'' by S. 240. The opposite is true. S. 240 requires auditors to speak up and expose corporate fraud. The bill requires accountants to report corporate fraud to the top management of the companies they audit. If management fails to expose and correct the fraud, the bill requires auditors to report the fraud to the Securities and Exchange Commission of face liability.

This bill has nothing to do with Keating. No one in the Senate would support a bill that would allow an individual like Keating to get away with fraud. Keating knowingly lied and told investors that the junk bonds he sold were backed by the Federal Government. He should have been punished, and he was punished. Nothing in S. 240 would prevent that from happening. It is also important to note that Keating was sued under many provisions of both Federal and State law—laws untouched by S. 240.

Instead, this bill has everything to do with a small coterie of securities class action attorneys who have become very rich by filing securities lawsuits against high-technology and other high-growth companies whenever their stock price drops or the company announces that it will be unable to meet analysis' earnings projections. Information provided during the 12 congressional hearings on this issue showed that there are approximately 300 securities lawsuits filed each year and that these suits normally settle for around $8.6 million each. Currently, the lawsuits take at least one-third of the settlement fund in the typical case, making the securities class action business a $2.4 billion industry for these entrepreneurial lawyers.

If you don't believe in that these lawyers are entrepreneurs, just look at how the typical securities class action suit gets started. Unlike the typical lawyer-client relationship, the lawyers hire their clients. These lawyers maintain a list of professional plaintiffs or pet plaintiffs who own a couple of shares of every stock traded on our stock exchanges. The lawyer agrees to pay the pet plaintiff a bonus of $10,000 or $15,000 if the person agrees to let the lawyer file the case on his/her behalf. Often within hours after a stock's price drops as a result of a missed earnings projection, these lawyers file a lawsuit on behalf of a pet plaintiff. Some of these pet plaintiffs have appeared over and over again in these cases. By using these professional plaintiffs, the lawyers, not the investors, maintain control of the case. The lawyers decide who to sue, when to sue and when to settle. No wonder one of the most prominent securities class action attorneys told Forbes magazine ''I have the greatest practice of law in the world, I have no clients.''

Despite the fact that these lawyers admit that they have no clients, whenever Congress attempts to address the abuses the class action lawyers claim that if Congress enacts any legal reform, future Keatings could not be sued for damages. But as one plaintiff told us, she felt ripped off twice—once by the company and again by the class action lawyer.

In the typical case, the real victims receive around 6 cents on the dollar of their claimed loss, while the lawyers

take the lion's share of the settlement fund as their fee award.

In an interview with ''CNN,'' a prominent class action attorney, the same one who said he had no clients, settled a case for $12 million and asked for the entire amount as his share. When asked whether he had a responsibility to his clients to justify his fee request, he responded ''no.'' Instead, he said that he has a responsibility to the court to justify the request.

The Boston Globe stated that ''S. 240 requires that plaintiffs pick up the costs of the defendant companies if a suit fails.'' S. 240 contains no such English rule, no loser pays provision, or no fee shifting provision. Under the Senate bill, no investor could be required to pay the legal fees of an innocent company in the event that the judge determines that the suit lacked merit. Instead, the bill, as passed by the Senate, builds on the existing rules of the court, in particular rule 11 of the Federal Rules of Civil Procedure. The bill requires judges to sanction attorneys who bring frivolous cases. In the most egregious situations the judge could require the attorney to pay the companies fees. This incrementally addresses the current winner pays system, which requires innocent companies to spend millions of dollars to get frivolous cases dismissed. At one point in legal history it was against the law for lawyers to promote unnecessary litigation and this attorney sanction provision takes a step toward ensuring that lawyers will only file cases which possess some merit.

The Las Cruces Bulletin in my home State of New Mexico stated that Domenici's bill contains a provision which restricts the rights of small investors by setting financial standards for who may or may not file class action suits. Nothing in S. 240 as introduced, or as passed by the Senate limits the right of anyone to bring a securities lawsuit. Under S. 240, as under current law, anyone may bring a securities suit.

Most small investors are senior citizens and support the reforms contained in S. 240. A National Investor Relations Institute Study, in March 1995, found that 81 percent of senior citizens would like to see mandatory penalties for lawyers who bring frivolous lawsuits. The bill does this. Seventy-nine percent say defendants should only pay damage awards according to their percentage of fault. The bill does this, but retains joint and several liability for fraud instigators and if necessary to fully compensate small investors; 87 percent are concerned that companies are spending millions of dollars defending themselves in lawsuits—money that could be spent on further research of new products. The current system does this, but the bill should weed out the cases lacking merit. And 88 percent are concerned that even when the lawsuits are settled, it is not the consumers who benefit but the attorneys. S. 240 seems to be on the same waive length as these senior citizen investors.

On June 26, during the floor debate, the Miami Herald charged that S. 240 grants a safe harbor to all statements of a forward-looking nature and essentially tells companies and brokers: Go ahead, lie about the future. As long as you're not misrepresenting the past, you can fleece investors in any way that your imagination allows. This statement is good prose but bad reporting. Nothing in S. 240 gives executives, brokers or anyone else connected to publicly traded companies safe harbor protection if they intentionally lie about the corporation's future prospects.

There is, however, a problem with the flow of information in the marketplace particularly information in the form of predictions about the future. CEO's who make predictions about the future get sued if their predictions don't materialize—regardless of the reason. After news that an earnings projection won't be met, the stock price drops for a couple of weeks and the lawsuit gets filed. Consequently, CEO's are making fewer and fewer predictions. This is a very serious problem—not only for high-technology company CEO's, but also for our securities markets. Our securities laws are based on disclosure of information, yet the chill on information about the future caused by these lawsuits is undermining the efficiency of our markets.

These lawsuits divert resources from companies' research and development budgets to their legal departments. One of these lawsuits costs as much as developing and bringing to market a high-technology product line. Jobs that should have been created aren't created, and we lose out to our international competitors. The race to innovate becomes a race to the courthouse. It is a costly detour increasing the cost of capital, professional services, and officers and directors' liability insurance. Some have called it a litigation tax.

S. 240 restores the ability of CEO's to make available information about their companies' future. It protects from lawsuit abuse predictions about the future made by the company as long as the statements are clearly identified as forward-looking projections—a Miranda warning to investors: ''This is a prediction about the future and because the future is uncertain it may not come true''—and were not made with the purpose and intent to deceive investors. Simply put, the Senate bill's safe harbor protects only the good guys and encourages disclosure. It is neither a license to lie, nor a license to steal. It is an opportunity to disclose for the company and restores the investors right-to-know. The bill does recognize that a projection about the future is a prediction, not a promise, or an adequate basis upon which to bring a multimillion dollar lawsuit. The bill does take away the class action lawyers' license to extort a settlement when a prediction about the future doesn't quite materialize.

My good friend and fellow Democratic sponsor of this bill, Senator DODD, recently had to endure an op-ed in his home State's Hartford Courant in which a well-known consumer advocate condemned him for supporting securities lawsuit reform. The same piece alleged that the bill changed the standard of liability, when, in fact, the Senator had been the champion for retaining the current law standard.

Mr. President, people can disagree on whether we need more lawsuits or more investors but we can all agree that we need more good reporting. I hope I have clarified what this bill does and does not do.

Mr. President, I ask unanimous consent that op-eds written by Carter Beese, Ed McCracken, Jonathan Dickey, Robert Gilbertson, and J. Kenneth Blackwell appear in the RECORD following my remarks.

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

[From the New York Times, June 27, 1995]

STOP CHOKING WALL STREET

(By J. Carter Beese)

WASHINGTON.—A bill to reform the nation's securities litigation system is moving toward a vote in the Senate. Critics argue that it will allow corporate America to take small investors to the cleaners. Nothing could be further from the truth.

As a former commissioner of the Securities and Exchange Commission, I believe that strict enforcement of securities laws is vital for investors and the integrity of the market. But today's litigation machine harms the very investors that opponents of reform profess to help.

A majority of the high-tech firms in the Silicon Valley have been sued at least once by vociferous plaintiffs' lawyers in class-action fraud lawsuits. One of the every eight companies on the New York Stock Exchange is sued for securities fraud every five years. Is fraud really that rampant among our most successful public companies? Or is the system allowing, even encouraging, the initiation of litigation, even when there is no evidence of wrongdoing?

Under current law, there is little downside to frivolous litigation, while the potential rewards are enormous—the deep pockets of corporations and their advisers.

The prevailing legal doctrine of joint and several liability, which makes all defendants fully liable for what may or may not have been their wrongdoing, adds to the potential pot.

Meanwhile, the huge costs of litigation give defendants an equally powerful incentive to settle. Though there may be a high probability of winning in court, settling is often a bottom-line business decision made in the best interest of investors.

As a result, most cases are settled on a formulaic basis, with plaintiffs collecting a small fraction of their alleged loss and with legal fees consuming the remainder of the settlement account.

The ultimate costs are passed on to all investors in lower earnings and lower share prices. These costs also weigh heavily on productivity and competitiveness. Every dollar spent on frivolous litigation is a dollar less for research, innovation, capital investment and jobs.

The critics of this bill claim that its main purpose is to protect corporate officials who peddle overly optimistic predictions of profitability. Under today's rules, however, any positive forecast that does not materialize can and will be held against you in court. Companies have thus become reluctant to disseminate forward-looking projections crucial to investment decision-making.

The changes in securities law before the Senate would not prevent defrauded investors from seeking redress. They would simply require any action involving misleading statements to specify each such statement, thereby eliminating the vague, sweeping claims that characterize so many meritless cases.

They would begin to hold plaintiffs' lawyers accountable for the lawyers' actions by requiring the court to make specific findings about whether the suit was frivolous.

Finally, they would establish legal protections for forward-looking information unless that information was misleading or fraudulent.

These measured reforms are surely a better deal for investors and the economy. By addressing the imbalance in our system, separating the serious from the frivolous, we will have a tort system that provides protection from fraud without subverting fairness and free enterprise.

[From the San Francisco Chronicle, June 28, 1995]

THE NEW THREAT TO HIGH-TECH FIRMS

(By Ed McCracken)

William Weinberger looked like any other retiree in Pompano Beach, Fla. No one would have guessed that he was part of an effort to undermine California's high-tech industry.

But by the time he died in 1992, he had set a remarkable record: He had been the plaintiff in an astounding 90 lawsuits in just under three years. Weinberger was what is known as a ''professional plaintiff,'' merely a consenting name on a lawsuit instigated and filed by a law firm chasing dollar signs rather than principle. The pieces of litigation filed in his name were securities or ''strike'' suits, in which one profits from a company's misfortune—that is, a down-turn in the stock market.

This new breed of corporate raider claims stock fraud when there is little or no evidence of wrongdoing—that is, deliberate false or misleading statements by the company about its potential—then tied a company up in litigation long enough to force a profitable settlement. It is a practice that costs people jobs and divert millions from research and development, and California has felt the impact more than any other state.

The high-tech firms of Silicon Valley and the Bay Area's bio-tech companies are the No. 1 target of these schemes, because cutting-edge research and the risks inherent in development make their stock prices volatile.

The facts speak for themselves: More than one-third of the state's computer companies have been sued at least once. And while the list of victims reads like a who's who of California's high-tech industry—Intel, Hewlett Packard, Sun Microsystems, Apple, Silicon Graphics Computers—some of the smaller, startup firms that are the growth companies of tomorrow are being driven into bankruptcy.

Silicon Graphics has over the years been the subject of no less than four securities class-action lawsuits. None of these suits had merit. Of the four, two were dismissed one resulted in summary judgment in Silicon Graphics favor after years of litigation, and one was settled for a nominal amount after having been initially dismissed. By way of example, the last suit was trigged by a disappointing quarter caused by the short-tem economic upheaval arising from the Gulf War.

These cases have cost Silicon Graphics well above $5 million in expenses, and countless hours of management time has been diverted. The wasted time and money could have been devoted to increasing business and adding jobs at a faster pace.

To end this kind of abuse, the U.S. Senate has stepped forward with a bipartisan bill, The Securities Litigation Reform Act. John Kerry, Democrat-Mass., has declared that ''speculative suits based on no evidence of wrongdoing are an unwarranted threat to young growth companies.''

Congress recently heard testimony stating that only a handful of strike suits ever actually come to trial because most companies cannot spend the time and money to defend their innocence, and are ultimately forced to settle instead. The people behind the suits know this, and are happy to walk off with unfair bounty. It is what one prominent CEO has called ''legalized extortion.''

The new bill, if passed, would make it more difficult to bring such suits without just cause. We applaud the efforts of the senators and others who have worked to bring this bill forward, and we urge California Senators Dianne Feinstein and Barbara Boxer to join in supporting it.

If the bill passes, attorneys filing securities suits without proper evidence would be subject to sanctions, their fees would be limited and profit-seeking plaintiffs would be discouraged. Still, some have voiced concern over the bill and worry that it limits the ability of investors to bring suit in the event of actual stock fraud. It does not. The bill makes any and all who engage in securities fraud fully liable. It also explicitly protects the small investor—anyone with a net worth under $200,000—leaving intact the full range of options for seeking damages from fraudulent companies. What this bill takes away, however, is the incentive for a greedy few to launch frivolous lawsuits.

Meanwhile, the bill's passage will enable California's high-tech companies to freely pursue the ground-breaking technologies and new products that launched them to the forefront of the industry. Our entrepreneurs will have one less worry as they make their way in the marketplace. And the money saved could be put into the jobs and opportunities Californians so desperately need, which is far better than losing millions to the wallets of a wealthy few.

[From the San Francisco Examiner and Chronicle, July 23, 1995]

FINAL INNING FOR ''STRIKE SUITS''?

(By Jonathan Dickey)

Securities fraud ''strike suits'' have overrun Silicon Valley in the past decade—and for the past two years, Silicon Valley has been fighting back. Now, legal reforms curtailing these ''strike suits'' are about to become a reality.

Late last month, 70 members of the United States Senate joined a broad coalition of industry trade groups, Silicon Valley CEO's, securities industry representatives, and institutional investors to finally bring sanity back to our federal securities laws. The reform of those laws is aimed at preventing further proliferation of ''strike suits'' alleging securities fraud against public companies.

In these suits, plaintiffs' lawyers make millions by bringing frivolous securities claims with a high ''ransom'' value to the companies forced to defend them. In just two years, these strike suits have generated settlements totaling over $1.3 billion, a huge percentage of which was paid by California-based high-tech companies.

The action in the Senate followed a lopsided vote earlier this year in the House of Representatives approving a similar reform bill, where Republicans and Democrats joined together in large numbers to reject amendments offered by lobbyists for plaintiffs' lawyers designed to weaken the bill, or kill it altogether. Similar eleventh-hour lobbying efforts occurred during the Senate debate.

Contrary to many stories circulating in the business press, the securities law reform legislation will not open the floodgates to fraud, or deprive investors of their day in court in cases of real fraud. In fact, the legislation passed by the Senate contains several ''proinvestor'' provisions, including:

Restoring SEC authority to pursue ''aiders and abettors.'' It used to be common practice to sue individuals, accountants, and legal and financial advisors whose indirect involvement in a company's securities offerings was alleged to have made the company's ''fraud'' possible. Last year, the U.S. Supreme Court ruled that the SEC did not have the power to bring such claims under the main statute of the Securities Exchange Act. The Senate bill would expressly authorize such suits.

Authorizing auditors to report accounting irregularities to the SEC. Under existing accounting rules, auditors who discover irregularities in a company's financial statements are required to report such items to the company's audit committee, but not to the public. The Senate bill would allow auditors to ''blow the whistle'' to the SEC if the company's board of directors fails to take corrective action when irregularities are reported.

Preventing companies from destroying critical evidence. The Senate bill includes a ''preservation of evidence'' provision which would make it a violation of federal law if a company that is sued subsequently fails to preserve company records relevant to the suit.

Allowing courts to sanction lawyers who engage in bad faith tactics in litigation. Investors sometimes complain about the long wait for a case to be resolved. Defense lawyers who engage in conduct which is found by the court to unnecessarily delay or needlessly increase the cost of the litigation may be forced to pay the plaintiffs' lawyers' legal fees.

Giving investors the right to determine who should represent their interests in any litigation. Currently, plaintiffs' lawyers engage in an unseemly ''race to the courthouse'' to be the first to sue a company which reports an earnings surprise. The first lawyer to sue normally gets the ''lead counsel'' position, and the lion's share of the fees. The Senate bill would abolish this practice, and authorize investors to decide who their legal representative should be.

Protecting small investors by requiring ''joint and several'' liability if the target defendant is bankrupt. The Senate bill adopts a ''proportionate fault'' standard of liability, which says that where multiple defendants are sued, each will pay according to his or its share of the blame. But the Senate bill will protect small investors if the main ''bad guy'' is bankrupt, and will require the solvent defendants to make up the difference.

Likewise, the House bill passed earlier this year—part of the ''Contract with America''—contained several ''pro-investor'' provisions, including:

Establishing plaintiff ''steering committees'' to supervise litigation. The House bill allows shareholders with a significant financial stake in the company to form a committee, and make decisions on the conduct of the case. Right now, plaintiffs' lawyers make all these decisions by themselves.

Eliminating any legal requirement that investors need to prove reliance on fraudulent statements. The House bill would codify the so-called ''fraud on the market'' doctrine, which presumes that everything a company says is absorbed by the market, and reflected in the stock price. Investors can't be thrown out of court because they haven't read a company's press releases, analyst reports, and the like.

Setting a standard of liability which requires only proof of recklessness, not actual intent to defraud. The House bill also codifies a rule that investors don't have to prove actual fraud. They only have to establish that a company departed from ''standards of ordinary care'' in some extreme way.

What is it, then, that makes business groups, and Silicon Valley in particular, so happy about the reform legislation? As a lawyer who defends technology companies in these suits, I see three major benefits to the legislation:

Stronger protection to companies which issue earnings projections or other ''forward looking'' statements.

A higher standard for pleading fraud claims in court, requiring courts to give more careful scrutiny to borderline cases, and to dismiss those that are clearly frivolous.

A more national standard for determining damages in these cases, instead of the wide-open, ''anything goes'' manner in which losses are currently computed.

Will the legislation end securities strike suits? Not entirely. What the legislation hopefully will do is level the playing field, and allow companies to litigate appropriate cases, instead of settling cases out of fear of catastrophic, runaway jury verdicts.

Ironically, some of the stronger criticisms of the reform legislation have come from lawyers who defend companies in these suits. Nationally, technology companies wonder about this. In their view, lawyers who defend public companies should embrace these reforms.

Personally, I support any reform which will change the current litigation climate, which forces many boards of directors to spend millions of dollars to settle these cases rather than gamble with a jury. The current laws foster this climate by allowing too many meritless cases to be brought. Although the legislation now pending in Congress is far from perfect. I am convinced it will substantially reduce the number of strike suits brought against technology companies which experience momentary—and innocent—stock price declines. At the same time, the legislation still will allow legitimate fraud cases to be brought.

Although the plaintiffs' lawyers so far have struck out in Congress, the game isn't over. The Senate and House still have to work out a compromise bill to send to President Clinton for signature. No one should underestimate the possibility that back-room politics will undo some of the more important reforms before they reach the president's desk. The next few months will see plaintiff's lawyers ''swinging for the seats'' as the strike suit game heads into the final innings.

[From the Hartford Currant (CT), July 13, 1995]

YES: BILL WOULD PROTECT GROWING COMPANIES

(By Robert G. Gilbertson)

For investors and businesses, the Senate's overwhelming 69–30 vote for the Domenici-Dodd bill to crack down on frivolous securities lawsuits is a light at the end of the tunnel.

For too long, baseless lawsuits have eroded earnings potential and restricted business expansion by diverting money from productive resources to legal fees and by cutting off options for raising capital.

Too many publicly traded companies have been sued for no greater offense than that their stock price dropped. Virtually all these lawsuits were filed by a small group of law firms. Virtually none of the lawsuits came to trial, but fighting such lawsuits distracted managers and cost millions of dollars in legal fees.

The threat of frivolous securities lawsuits has been one of the biggest obstacles to growth for many ambitious companies.

At a time when Connecticut has lost so many jobs, we need to encourage companies to expand jobs and opportunities. The legal system has the exact opposite effect. Many companies have even decided to forgo the capital that could be raised by selling stock to the public for fear of being caught in a senseless legal system that can bankrupt emerging companies even though they have done nothing wrong.

Now—thanks to U.S. Sen. Christopher J. Dodd, the initial cosponsor of the Senate bill, and his colleagues in both parties—our economy may soon be free from meritless securities lawsuits. That means businesses such as mine can again consider selling stock to the public to finance expansion. It also means shareholders' investments will rise and fall on their own merits—without fear that a frivolous lawsuit will cramp growth.

I know. I am chief executive officer of CMX Systems, a small high-tech company in Wallingford that manufactures precision measuring devices for the disk drive and semiconductor industry. By any objective measure, CMX has been ripe for expansion for some time.

We grew more than 2,000 percent in the four years from 1990 through 1993, and our sales exceeded $8.6 million in 1993. To continue this extraordinary growth, CMX needed to sell stock to the public in early 1994 to finance a $4 million research-and-development plan. However, we were deterred from this option after watching other small companies get whiplashed by frivolous securities lawsuits.

Therefore, we were forced to scale back in 1994. This cost jobs, profits and taxes to Connecticut and the U.S. government.

Most new public companies, especially in the volatile high-tech industry, experience wide swings in profitability. The sharp moves in revenues and earnings often lead to similar volatility in stock prices.

Under the existing securities litigation system, those stock-price movements have been the signal for a small group of specialized lawyers to file class-action lawsuits alleging fraud. Filed without any evidence of wrongdoing other than stock-price movements, these lawsuits expose the companies to millions of dollars impossible damages. In addition, fighting even the weakest lawsuit requires staggering legal fees that can themselves reach or exceed the $1 million mark.

Pursued to trial, such lawsuits can run for years—drawing hundreds of thousands of dollars from the corporate treasury and thousands of hours of management time. Faced with that reality, most companies find it cheaper to pay large settlements to make the lawyers go away.

The Domenici (Sen. Pete Domenici, R-N.M.)-Dodd bill, approved by the Senate on June 28, would greatly reduce the probability of such frivolous lawsuits—and free companies such as mine to enter the equity markets for needed investment capital. That means economic growth and more jobs in Connecticut and throughout the United States.

The bill bans the bounty payments that some lawyers use to entice shareholders to file lawsuits. It requires lawsuits to include specific evidence of fraud. It empowers judges to terminate frivolous lawsuits before enormous legal fees exhaust the resources of small companies. Finally, it restores vital investor protection by giving control of class-action lawsuits to shareholders.

Where real fraud exists, shareholders will retain the ability to pursue legal redress. But where the only winners are likely to be plaintiffs' lawyers (who have taken in as much as $250 million a year in questionable securities lawsuits), the Senate bill gives shareholders the power to pull the plug on that kind of frivolous litigation.

Connecticut business leaders and investors owe a debt to Dodd for having the courage to consider the merits of securities litigation reform—and not discard it for solely partisan reasons. All Americans owe thanks to the senators of both parties who put common sense ahead of partisanship and voted to restore sanity to the securities litigation systems.

[From the Washington Times, June 28, 1995]

THE URGENCY OF SECURITIES LAW REFORM

(By J. Kenneth Blackwell)

Orange County's recent bankruptcy is making the nation's public funds and pension-fund managers mighty concerned about the riskiness of their investments. I know; I'm one of them. In 1988, I was a trustee for the $800 million Cincinnati Employees Retirement System Fund. And today I'm Ohio's State Treasurer with custodial responsibilities covering five state pension funds valued at more than $105 billion.

But the kind of bad investments that devastated Orange County isn't what keeps me up at night. What worries me—and what should worry the millions of retirees who have money in stock funds—is what might happen to the good investments of public-pension-fund managers. Those stocks, and the sound, well-managed companies they represent, are increasingly vulnerable to frivolous and baseless lawsuits. Which is why the Senate is now debating securities litigation reform: to protect such companies—and their ordinary investors. It's good, necessary legislation. I hope it passes.

The securities litigation system was initially designed to protect investors from corporate fraud. In percentage terms, it produces only a small fraction of the nation's multi-million-dollar lawsuit annual federal caseload. But as a financial and administrative matter, securities class-action suits filed against public companies are a monster. One of every eight stocks traded on the New York Stock Exchange has been subject to class-action challenge. Most high-tech firms in California's Silicon Valley—companies that produce a disproportionate share of America's job and profit growth, making them obviously attractive pension fund investments—have been targets of such lawsuits.

Defending such a lawsuit is often a nightmare. Securities litigation is unusually complicated. The discovery process it involves is long and arduous. Individual cases can take

years to resolve in court, and even when a sued company wins, its liability insurance premiums generally go up—a lot. So it's become standard practice for securities class-action defendants to settle these lawsuits pre-emptively, in a struggle to avoid massive legal expenses and business distractions.

Settlement still hurts, of course. A study by the National Venture Capital Association found that companies embroiled in securities litigation—whether they settle or go to court—must spend an average of nearly $700,000 and 1,055 hours of management time. But they really have no choice, because the merits of an individual securities class-action suit are, at least under current law, essentially irrelevant. Innocence is no protection against a lawsuit. And real fraud too often goes unpunished; genuinely guilty companies are encouraged to settle, too.

Rules of legal standing in the securities field are very broad—and very thin. Acceptable evidence of corporate wrongdoing barely extends beyond an unexpected stock price change; roughly 20 percent of securities suits are filed within 48 hours of a major stock decline. Or a stock increase, for that matter—since it's not unknown for lawyers to file suite against a company whose market position has improved, claiming that information about a merger or expansion has been fraudulently withheld.

Given such juicy opportunities for standing, it's no surprise that speculative securities litigation has become a lucrative subspecialty in the American plaintiffs' bar. The small group of lawyers who concentrate on such law made a 1994 average of $1.4 million in fees and expenses on every case. But America's pension funds who are shareholders in these companies and in whose interest our securities laws are intended to protect, get stuck with the short end of the stick.

Lead attorneys—usually the first lawyer to sign up a single ''defrauded'' shareholder and rush his papers to the courthouse—are generally granted wide latitude over pretrial procedure. They're allowed to set settlement terms and establish their own contingency fee rates with minimal consultation and judicial supervision. After all expenses are accounted for, plaintiff shareholders, even ''successful'' ones, generally receive just a tiny fraction of the market loss their lawyers claim for them: pennies on the dollar, in fact. And when the process is concluded, shareholder investments are very often in worse shape then when it began. The companies involved are out big money, and their business plans have been distorted by a tortuous legal entanglement.

The life of a careful fund manager is seriously complicated by the frivolous securities lawsuit phenomenon. If lawyers are so broadly encouraged to seize on predictive corporate earnings statements as ''evidence'' of an intention to mislead, corporate officers will have a huge incentive to dumb those statements down—or stop talking about future profits at all. In Silicon Valley in particular, for example, the trend is minimal disclosure. But intelligent investment strategy requires maximum possible disclosure. And if I'm not offered frank assessments of various companies' future potential how can I rest assured that Ohio's pensioners' hard-earned money is being invested wisely?

My fiduciary responsibility compels me to act. And the U.S. Senate also should act. As the final days of this debate wind down, trial lawyers are digging in their heels and calling in old chits. Securities litigation remains a fat chunk of their practice, one they dearly want to protect. But Congress is charged with protection of the public interest generally. And the public interest, in this case, is best advanced in simple and straightforward fashion.

We must make deliberate acts of corporate fraud clearly illegal, and easier and less costly to pursue. And we must make high-dollar, meritless securities lawsuits—legal devices that are threatening the retirement savings of millions of ordinary Americans, and acting as a brake on the engine of American economic growth—vastly more difficult to pursue.

The American system of law should be our country's greatest treasure. But one part of that treasure is now mortgaged to the narrow financial interest of a small group of specialized attorneys. Enough is enough. The Senate reform legislation has 50 co-sponsors from both parties. Not one of them should waver.

FRENCH NUCLEAR TESTING IN THE SOUTH PACIFIC

Mr. THOMAS. Mr. President, as the chairman of the Senate Subcommittee on East Asian and Pacific Affairs, I come to the floor today to respond briefly to French President Jacques Chirac's decision to conduct a series of underground nuclear test explosions in the South Pacific between September of this year and May 1996.

I strongly believe that President Chirac's decision to conduct these tests will be damaging to international efforts to curb the proliferation of nuclear weapons. The Soviet Union began a test moratorium in October 1990; France initiated its own in April 1992, although it had not exploded a device since 1991, and the United States and Great Britain have similarly observed a moratorium since 1992. Continuing the trend toward minimizing the nuclear threat, in May of this year the world's five declared nuclear powers extended indefinitely the Nuclear Non-Proliferation Treaty [NPT].

On June 13 of this year, however, President Chirac—citing the need to check the reliability and safety of France's existing nuclear arsenal—announced that country would conduct eight nuclear tests at its site at Mururoa Atoll in the South Pacific. That decision is unfortunate for three principal reasons. First, it is likely that a resumption of testing by France will result in the disintegration of the current testing moratorium and a renewal of underground testing by other states. Moratoria are like truces—they are only good as long as all the parties to them observe their provisions. Second, it calls into serious question France's commitment to the NPT extension. In May, the world's five nuclear powers—the United States, France, Russia, China, and Britain—persuaded the rest of the world to extend indefinitely the Nuclear Non-Proliferation Treaty. To win that consensus, the five countries promised to sign a comprehensive test ban treaty by the end of next year. The resumption of French nuclear testing though, only 4 months after France signed this agreement, I believe calls into question France's commitment to the CTBT and consequently undermines these international efforts to curb the proliferation of nuclear weapons. Japan's Prime Minister, Murayama Tomiichi, has accused France of betraying nonnuclear countries, while Minister of Science and Technology Tanaka has stated that ''Nations that possess nuclear weapons must show their wisdom and set an example to countries that do not have nuclear weapons.''

Third, Mr. President, the French decision to test is vehemently opposed by most, if not all, of the countries along the Pacific rim, most of which have publicly condemned the decision. I have been visited by the Ambassadors of Australia, New Zealand, Papua New Guinea, Micronesia, among others, all of whom have conveyed their Governments' opposition to nuclear testing in their ''backyards.'' Australia's Prime Minister recently summed up his country's position in an article in the German daily Die Welt:

Australia and its citizens, and the peoples and governments of many other countries, are outraged about the French Government's announcement that it intends to resume nuclear testing in Mururoa. I believe the French people will understand such feelings very well.

The mood in the South Pacific countries is general: If France has to test these weapons, it should do so on its internal territory. Whatever the French Government intends to achieve with these actions, they are seen by the overwhelming majority of the people in this region as a big nation's attack on the rights of smaller ones. The decision to resume the tests is inevitably regarded as a return to old colonial attitudes. This is all the more tragic since most recently France's relations with the countries in the region have become much more positive and fruitful.

Neither Australia nor the other countries in the region want France to withdraw from the Pacific. On the contrary, we want to cooperate closely and well with it. However, it is one of the lamentable consequences of this decision that many people in the region now doubt the legitimacy of France's role.

* * * * *

Australia's concern is increased further by the additional responsibility that arises this year from our role as chairman of the 15 members in the South Pacific Forum. In this function we speak on behalf of all countries in the region; many of them are small and economically vulnerable and all of them have a deep material and spiritual relationship with the Pacific Ocean.

I am convinced that I speak for the members of the Forum when I continue to urge France to rescind its decision and when I stress that in this case it would gain considerable prestige not only in the South Pacific countries but among all the peoples in the world.

The French Government has mentioned the safety of the environment with regard to the tests in Mururoa. However, we are most deeply concerned about the possibility of accidents. And no one can foresee the long-term dangers that arise from a potential destruction of the sensitive atoll structures during the tests.

Australia's reaction is neither precipitate nor a mere reflex. Australia can point to a long history of responsible diplomatic efforts with regard to nuclear issues. Together with the other South Pacific countries, in the 1970's Australia opposed France's atmospheric tests and, upon our initiative, the South Pacific nuclear-free zone was established in 1985.

Australia has also been active regarding nuclear issues in the United Nations and in

other international forums. Often, we acted in close cooperation with France, in particular since President Mitterrand's highly welcome decision to declare a nuclear test moratorium in 1992. These efforts were combined on 11 May with the decision by the international community to extend the Nuclear Nonproliferation Treaty [NPT] for an unlimited period—an important element for the safety of our two countries.

Neither Australia nor any other country has the right to define France's security; however, given the circumstances, the French will certainly permit me to explain why, in our view, France's action is not good for France or for the world.

We believe that these tests endanger our efforts to preserve the effectiveness of the NPT and to achieve universal membership. For the unlimited extension of this treaty it was decisive that a ''declaration of principles and goals on nonproliferation and disarmament'' was simultaneously negotiated and adopted by all states involved, including the nuclear states.

This declaration announced the speedy conclusion by 1996 at the latest—of a comprehensive nuclear test ban treaty. And until such a treaty comes into effect the nuclear states have committed themselves to ''extreme restraint.''

However, ''extreme restraint'' regarding nuclear tests hardly applies to a program of eight tests. France's decision will certainly make many non-nuclear states wonder about the honesty of all nuclear states.

This will harm the treaty's credibility, which must be preserved if some states, which have not yet signed it, are to be persuaded to do so.

The decision will also increase the problems in the negotiations on a comprehensive nuclear test ban treaty. Despite President Chirac's gratifying statement that France will sign such a treaty, there is the serious danger that the very difficult treaty negotiations that we are facing in Geneva will become even more difficult.

In particular France's position as a responsible and leading power in the world means that any new French test will play into the hands of potential arms dealers and that any test will make many of those countries hesitate whose support we need to conclude a comprehensive treaty.

We know the arguments for France's nuclear capacity and the strategic dimensions of a nuclear power very well. We argue not merely on the basis of emotions when we say that the biggest responsibility for us all is the one to keep alive the hope for a nuclear-free world, which was born when the Cold War ended. The burden of this responsibility rests most heavily on the nuclear states, particularly after the unlimited extension of the NPT.

And in view of the nuclear experiences in Europe, the biggest challenge for leadership certainly is right in front of Europe's own door. The damaged Chernobyl reactor may have been encased in a sarcophagus, but there are still another 20 reactors with similar design flaws on the territory of the former Soviet Union. Dozens of nuclear powered submarines of the former Soviet fleet are now idle. Nuclear material and nuclear expert knowledge are leaking from the former Soviet Union into illegal markets.

These dangers, as well as the stocks of dismantled nuclear weapons and contaminated areas, are not precisely banished by the development of further nuclear weapons capacities. But France's top international skills in nuclear science and technology could help. How much more respect would France gain and how much more useful would it be if the country were not to concentrate its skills and energy on countering a purely hypothetical threat but on meeting a real threat!

I do not doubt that the Australians want to make it known in France that their attitude is in no way determined by hostility toward the French people or the French nation. Our opposition specifically refers to the French Government's decision to resume the nuclear tests in the Pacific.

In the past Australia's attitude was sometimes understood as an expression of some kind of Anglo-Saxon hostility toward France. However, Australia is certainly not an Anglo-Saxon enclave in the Asia-Pacific region. As the many French who live in Australia can confirm, Australia is a rich multicultural society, in which half of the immigrants come from Asian countries. It is clear that many of these French inhabitants of Australia think that the French Government should rescind its decision.

If they live on Australia's east coast, they know that there is an enormous difference between studying a map of the Pacific in Europe and actually living on the shores of the ocean in Sydney or Brisbane or Auckland. The map shows these places to be far away from Mururoa. However, if one lives in these places, one knows that the South Pacific—no matter how gigantic it is constitutes a single environment and links everyone who participates in it.

The community spirit that the Pacific Ocean gives us is similar to the one given to France by the idea of ''Europe.'' It is the fundamental reason for our opposition to France's decision to resume the tests and for the fact that Australia and its partners in the South Pacific Forum will not stop emphatically presenting our views to the French Government and conveying to the French people, if we can, the depth of our feelings.

Mr. President, it is my understanding that Senator AKAKA intends to introduce an amendment to the Department of Defense authorization bill this week expressing the sense of the Senate that France must abide by the current international moratorium on nuclear test explosions, and refrain from proceeding with its announced intention of conducting a series of nuclear tests in advance of a comprehensive test ban treaty. I support that amendment, and hope that the French will reconsider their position on conducting these tests and that the CTBT will be signed by the end of next year.

DEFECTIONS FROM IRAQ

Mr. PELL. Mr. President, as many of my colleagues may have heard, there have been dramatic developments in the Middle East today.

Two major Iraqi government figures—both members of Saddam Hussein's circle of power—have defected from Iraq and are now in Jordan.

One of the defectors, Lt. Gen. Hussein Kamel Hassan, was in charge of military industrialization in Iraq. The other, Lt. Col. Saddam Kamel Hassan, was in charge of Saddam Hussein's guards. Both—this is really the curious thing—coincidentally, are married to daughters of Saddam Hussein and are thus his sons-in-law.

The development is significant for a number of reasons. Just last week, Ambassador Madeleine Albright testified to the Foreign Relations Committee that Saddam's base of support has been shrinking. Today's events illustrate that point in an extraordinary way. On a more fundamental level, the defections demonstrate the soundness of United States containment policy toward Iraq, which is designed in part to encourage internal change. It is still too early to assess how the defections will affect Saddam's grip on power; it is clear, however, that there is considerable turmoil in Baghdad's inner sanctum.

As a final note, Mr. President, I would like to add a word of appreciation for Jordan's King Hussein. It is no small gesture for King Hussein to welcome the defectors and provide them safe haven. As unpredictable as Saddam Hussein can be, the King's actions could well provoke an Iraqi response.

President Clinton has said that the United States stands ready to support the King, who by today's actions has shown true courage in defiance of Saddam. I support the President's statement and join him in expressing gratitude to King Hussein.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, the skyrocketing Federal debt, which long ago soared into the stratosphere, fueled by bureaucratic hot air, is sort of like the weather—everybody talks about it but almost nobody did much about it until immediately after the elections last November.

But when the new 104th Congress convened in January, the U.S. House of Representatives quickly approved a balanced budget amendment to the U.S. Constitution. On the Senate side, all but one of the 54 Republicans supported the balanced budget amendment—that was the good news. The bad news is that only 13 Democrats supported it. Since a two-thirds-vote—67 Senators—is necessary to approve a constitutional amendment, the proposed Senate amendment failed by one vote. There will be another vote either this year or next.

Here is today's bad debt boxscore:

As of the close of business Wednesday, August 9, the Federal debt—down to the penny—stood at exactly $4,942,218,005,858.98 or $18,760.74 for every man, woman, and child on a per capita basis.

THE MYSTERIOUS V-CHIP

Mr. DOLE. Mr. President, there's been a lot of hype recently about the so-called V-chip.

President Clinton has endorsed the chip, touting it as an antidote to the gratuitous violence and sexual innuendo that now permeate prime-time television. A majority of the Senate has voted to require that every new television set contain the V-chip. And the House of Representatives has joined the V-chip bandwagon, by including a V-chip mandate in the recently passed telecommunications bill.

With all this support, one would think that the V-chip has been tested and tested in laboratories throughout the country. But guess what? The V-chip doesn't even exist—and it may never exist. It is purely a drawing-board scheme that may make sense in theory—but it's anybody's guess whether it will ever work in practice. We've never seen one.

According to an article appearing in USA Today, ''There Is No Such Thing as a V-chip. And There Probably Never Will Be.'' The San Francisco Chronicle reports that—

No company makes—the V-chip, nor has any company expressed an interest in doing so. In fact, the chip isn't a chip at all. It's really an idea for special circuitry for television, but ''V-circuitry'' doesn't sound quite as omnipotent as V-chip.

Is development of V-chip technology just around the hi-tech corner? Well, perhaps not. According to experts cited in the USA Today article, it—

Could take 10 years before a V-chip TV is designed, built, marketed, and sold into enough homes to make a difference.

And, in fact, it's likely that the so-called V-chip technology will be overtaken by existing software systems—developed as a direct result of consumer demand—that will give parents more control over what their children watch on television.

So, Mr. President, seeing is believing—and perhaps, just perhaps, the White House may want to reconsider its threat to veto any telecommunications bill that fails to include a V-chip mandate. After all, this bill is the key to our Nation's future economic success.

Mr. President, I ask unanimous consent that the USA Today and San Francisco Chronicle articles be printed in the RECORD.

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

ONE TEENSY LITTLE PROBLEM WITH THIS NEW V-CHIP

(By Kevin Maney)

There is no such thing as a v-chip. And there probably never will be.

''I don't think Intel's doing it,'' says Howard High at computer chipmaker Intel. ''Our plate's full.''

''Not at TI,'' says Neil McGlone at Texas Instruments. ''If our customers tell us it's important, we'll take a look at it.''

Congress is demanding that every new TV set contain a v-chip. The provision is in a telecommunications bill passed Friday by the House and in June by the Senate. Computerized chips installed in TVs would have to be able to detect shows that are violent by reading a signal carried along with each show. The signal would tell the chip the rating of the show—similar to movie ratings. Parents could program the chip to block out shows with certain ratings, keeping those shows from their children's eyes.

Great, except nobody's ever made a v-chip. It's like passing a law requiring cars to have air bags before air bags were even invented.

''The v-chip is a theory and a warning flag'' to makers of violent TV programs, says Rob Agee, editor of Interactive Television Report. ''But it doesn't exist.''

In fact, Agee and others say a v-chip for TVs will be overtaken by parental control software built into cable systems or interactive TV networks. It could take 10 years before a v-chip TV is designed, built, marketed and sold into enough homes to make a difference. Some of the software controls already are on the market or being tested. Among them:

TV Guide On Screen, an interactive on-screen version of the magazine, lets parents lock out channels or individual shows. It also could lock out programs by time—say, no TV until after homework is done. The software will be loaded into upgraded 500-channel cable TV systems starting this fall. ''It's parental control as opposed to governmental control,'' says Larry Miller, vice president of marketing.

The Sega Channel, which lets users play Sega games over cable TV lines, gives parents the option of blocking out games that carry certain ratings. The channel is available on some cable systems.

In Bell Atlantic's tests of TV over phone lines, the viewer has to enter a personal identification number to order movies, games or items from home-shopping channels. The programming can be blocked by rating.

Those companies and others are pushing parental control into their systems because consumers are demanding it, Agee says. ''The v-chip is a moot point.''

[From the San Francisco Chronicle, July 28, 1995]

V-CHIP STILL ONLY A VISION—DESPITE ALL THE TALK, IT DOESN'T EXIST

(By Michelle Quinn)

The V-chip seems like the perfect use of one technology to solve a problem caused by another—children watching television shows that serve up violence and sex.

In coming weeks, the House of Representatives will consider making the V-chip mandatory in all television sets over 13 inches. Last month, the Senate voted to do so in an amendment to the Telecommunications Act.

But those with a tool belt eager to install the chip into a television set will be disappointed. The chip doesn't exist. No company makes it, nor has any company expressed an interest in doing so. In fact, the chip isn't a chip at all. It's really an idea for special circuitry for television, but ''V-Circuitry'' doesn't sound quite as omnipotent as V-chip.

All technology starts with ideas. But unlike the creation of the food processor, the electric shaver or the Macintosh computer, the V-chip has sprung mostly from the brow of political imagination and is gaining momentum in an election year.

It started when Representative Edward Markey, D-Mass., asked the Electronic Industries Association, a trade association based in Arlington, Va., that represents electronics equipment manufacturers, to come up with ideas for putting captioning on television sets for people who are deaf or hard of hearing. In 1990, Markey's legislation passed, making it mandatory for television sets to have captioning.

Two years later, Markey asked the trade association to come up with another technology idea, this time for screening out television violence, said Gary Shapiro, group vice president with the association.

Again, the trade association obliged, coming up with a laundry list of how a violence screener might work. Markey dubbed the idea ''V-chip'' and a political football was born.

The rough plans were that parents should consult a ratings guidebook, and with a remote control, block certain shows. The television industry would come up with the ratings.

The electronics trade association began to work on how the technology might work—and began to take heat from its members, such as television set manufacturers, who said it would be too expensive to rejigger televisions.

Markey attempted to introduce a bill about the V-chip last year but the electronics trade association said the idea wasn't ready. The association occasionally seems ready to drop the V-chip idea, said David Moulton, Markey's chief of staff, perhaps buckling under pressure from members who say it would be too expensive.

''Even now, I can no longer get a firm grasp on when the standards will be done,'' Moulton said.

So while the V-chip languished on the drawing board, politics took over.

Last month, Senate majority leader Bob Dole took on Hollywood as part of his presidential campaign and denounced movies and television shows with ''mindless violence and loveless sex.''

Soon after, Senator Kent Conrad, D–N.D., introduced the V-chip as an amendment to the Telecommunications Act. A political stampede took place, with the majority of the Senate shifting its vote at the last minute to pass the amendment 73 to 26.

Even President Clinton got in on the V-chip, telling a Nashville conference on families and the media this month that he supported the new technology.

Broadcasters and cable operators began denouncing the V-chip, saying it would be impossible to agree on a rating system that the chips could read.

Capital Cities/ABC Inc. said it was censorship. ''A chip takes choice out of parents' hands and puts it in the hands of government,'' said a company press release.

Next week, Markey intends to introduce an amendment to the Telecommunications Act in the House making it mandatory for televisions over 13 inches. The industry association contends Markey is breaking a promise by making the V-chip mandatory.'' There were no promises, no letters,'' Moulton said.

Once TV set manufacturers have to include the V-chip, they will be glad for it, Moulton said. They'll ''advertise new parent-friendly blocking technology,'' said Markey's spokesman. ''This will be a new reason to buy TV sets.''

For Shapiro of the trade association, the V-chip is no longer in his control. Politicians, he said, ''see political advantage in it. The V-chip makes a good sound bite.''

The V-chip standards could have been ready by early 1996. But with TV set manufacturers and broadcasters fighting it, the V-chip is years off.

And even then, the V-chip won't be foolproof, Shapiro added.

''A smart kid will unplug the television set,'' he said, ''and reset all the ratings.''

ANTICOUNTERFEITING CONSUMER PROTECTION ACT OF 1995—S. 1136

Mr. LEAHY. Mr. President, I am pleased to join Chairman HATCH as an original cosponsor of the ''Anticounterfeiting Consumer Protection Act of 1995.'' We are seeking to give law enforcement additional tools to combat counterfeiting crimes that cost our Nation's companies billions of dollars each year.

Increasingly, we suspect that the lost revenue to legitimate U.S. companies is going into the pockets of international crime syndicates and organized criminals, who manufacture, import and distribute counterfeited goods

to fund their criminal enterprises. No enterprise is safe from counterfeiters.

We are a nation of innovators. We lead the world when it comes to intellectual property and high technology. Our companies trademarks indicate quality around the world. Domestic and international counterfeiters are ripping off these companies, picking their pockets, and defrauding the consuming public.

Vermont, with one of the lowest violent crime rates in the Nation, is home to businesses that benefit from a strong work ethic and dedication to quality. That is part of the reason that Vermont products are trusted and respected across the nation and around the world.

Vermont maple syrup producers comply with stringent standards so that syrup lovers around the world are not disappointed. They have to be constantly vigilant against counterfeiters who use the Vermont label to get a free ride on the reputation for excellence syrup from my State enjoys.

Burton Snowboards of Burlington faces the same problem. This company is the world leader in making snowboard equipment, but loses an estimated $1 million annually to copycat boots made in Korea.

The IBM facility in Essex Junction makes 16 and 64 megabyte memory chips, known as DRAM [dynamic random access memory chips]. These memory chips, which can be used in medical equipment and computers, are likewise the subject of counterfeiting.

This bill takes important steps to address the problem of counterfeiting in several ways. It seeks to expand our existing racketeering law to cover crimes involving counterfeiting and copyright infringement and to give our law enforcement officers additional, needed authority to seize counterfeit merchandise and impose fines on counterfeiters. As a former prosecutor, I know that penalties and punishment can deter crime and this bill moves in the right direction.

We must make our laws more effective in combatting counterfeiting crimes here at home and also confront the international nature of the problem. Copycat goods with the labels of legitimate, American companies are manufactured, distributed and sold in foreign cities around the globe. We should insist that our trading partners take action against all kinds of intellectual property violations: Whether counterfeiting or copyright piracy, it amounts to theft and fraud on the consuming public. We cannot tolerate our trading partners and international allies acting as safe havens for pirates.

Trademark counterfeiting is not a joke. It costs in jobs, tax revenue, markets, and credibility. Many products being counterfeited can lead to health and safety hazards and even cost lives.

I look forward to our proceeding with prompt hearing on this important measure and to its early consideration and passage.

THE AMERICAN FAMILY TAX RELIEF ACT OF 1995

Mr. DOLE. Mr. President, I am proud to be an original cosponsor of the American Family Tax Relief Act of 1995.

The American Family Tax Relief Act would provide tax cuts where they are needed most—to families with dependent children. These families have seen their Federal tax burden skyrocket over the years—from 3% of their income in 1948 to well over 20 percent today.

The current tax law is designed to counter a rising tax burden on families with automatic increases in the personal exemption to account for inflation. These inflation adjustments have not been enough, though, to counter the growing tax burden on families.

The American Family Tax Relief Act addresses this concern by providing a $500 tax credit for each dependent child up to age 18. The act will provide substantial and valuable benefits to thousands of families with children in each State. There are an average of 117,000 children in each congressional district whose families would be eligible for a $500 family tax credit under this bill. That is an average tax benefit of $59 million for each congressional district.

Of course, the benefits to each State are substantially larger. In Kansas alone, there are over 650,000 eligible children whose families would receive more than $325 million in family tax credits each year under this bill.

Enacting pro-family tax relief, together with balancing the Federal budget, are critical to the well-being of the family and the country. One of the most important things we can do for our children is to stop mortgaging their future—and balancing the budget will do just that. We will cease deficit spending and shrink the size of the government, so the tax burden on Americans can be reduced.

When we pass budget reconciliation legislation this year, we will substantially reduce the tax burden on families. We will provide tax credits for families with children, tax credits to defray the costs to adopt a child, and other pro-family measures to increase the amount of after-tax dollars in the pockets of American families.

The introduction of the American Family Tax Relief Act of 1995 is an important step forward toward reducing the tax burden on American families. I urge my colleagues to join in cosponsoring this bill to show their support for children and family. And I thank the groups that are promoting this effort, including Concerned Women For America, Christian Coalition, Eagle Forum, Family Research Council, and Traditional Values Coalition.

U.S. GEOLOGICAL SURVEY EXTERNAL RESEARCH GRANTS PROGRAM RELATED TO EARTHQUAKE HAZARDS AND MITIGATION

Mrs. BOXER. As every Member of this body knows, earthquakes represent a severe threat and devastating reality to my State of California. California is by no means alone in facing this danger. The U.S. Geological Survey has identified 41 States and U.S. territories in the moderate, high or very high categories of seismic risk. While earthquakes can not be prevented, there are important steps that we can take to minimize the damage caused by these disasters and to improve our ability to respond to them. Through the multi-agency National Earthquake Hazards Reduction Program [NEHRP], several Federal agencies are involved in precisely such efforts.

The Interior appropriations bill provides the funding for one of the agencies engaged in this work, the U.S. Geological Survey [USGS]. Unfortunately, as passed by the Senate Appropriations Committee, the bill sends a conflicting message with regard to one vitally important aspect of the USGS contribution to earthquake hazard reduction—university earthquake research. In fiscal year 1995, USGS provided $8 million in funding for external grants related to earthquake hazards and mitigation. The university program provides the knowledge base on which the broader NEHRP program rests. It plays a critical role in amplifying USGS resources and manpower by leveraging additional funds from States, universities and foundations. It also provides USGS with access to the leading researchers and state-of-the-art facilities and equipment in which to conduct earthquake research.

Unfortunately, as I have already noted, the report accompanying the Senate version of this legislation takes two conflicting directions with regard to university funded research. While the committee notes the unique role that university research plays in the NEHRP program, it also specifically cuts $4,000,000 from the funding available for this purpose—a 50-percent reduction. I should note that this is an improvement from the House bill, which eliminated such university research altogether.

Mr. President, I would like to ask my distinguished colleague, Senator GORTON, who is chair of the Appropriations Subcommittee on Interior and Related Agencies, whether he would be willing to answer a question regarding the report language on this issue?

Mr. GORTON. I would be pleased to respond to the Senator's question.

Mrs. BOXER. The Committee which you chair has clearly recognized the tremendously valuable contribution that university earthquake research makes to the NEHRP program. I would therefore ask my colleague from Washington whether it would not be more

reasonable to direct the USGS to distribute a cut in funding across its entire program rather than specifically from the university earthquake research component?

Mr. GORTON. I thank my colleague from California for bringing this issue to my attention. I would support spreading the $4 million cut currently called for in earthquake research grants to universities across the entire USGS Earthquake Hazards Reduction Program.

Mrs. BOXER. I thank the Senator for his willingness to address this important issue. I am hopeful that the bill that emerges from conference will contain the smallest possible cut in the USGS Earthquake Hazards Reduction Program and that funding reductions will not target university research.

TRIBUTE TO DR. JOHN M. LONG

Mr. HEFLIN. Mr. President, I am pleased to pay tribute today to an outstanding leader in the musical field—Dr. John M. Long. Dr. Long, director of bands at Troy State University in Troy Alabama for 30 years, is one of the most distinguished and influential figures in the history of this university. The school will be honoring him on Saturday, October 28, at its homecoming football game against the University of Alabama at Birmingham with a celebration entitled ''All That Jazz: a Salute to Dr. John M. Long.'' In reflecting upon just a few of the highlights of his illustrious career, one can easily see why he is so appreciated by those who know him best and why he is so deserving of this special honor.

Dr. John Long is a nationally known guest conductor, clinician, and adjudicator who has served throughout North America and Europe. In 1969, he was named by School Musician magazine as one of the top ten outstanding band directors in the United States and Canada. He is past state chairman of the Alabama School Band Directors Association and in 1977, became the first active bandmaster elected to the Alabama Bandmasters' Hall of Fame. In 1972, he was presented the Citation of Excellence by the National Band Association. He is a past president of the prestigious American Bandmasters Association.

Dr. Long's service to Troy State University has extended far beyond its music program. He is dean of the School of Fine Arts and for 20 years was dean of the College of Arts and Sciences. In addition to currently serving as the director of bands, he is a distinguished professor of music.

John Long was born in Guntersville, Alabama on December 28, 1925. He received his bachelor's degree from Jacksonville State University in Jacksonville, Alabama and his master's from the University of Alabama. Jacksonville State awarded him an honorary doctor of laws degree.

Today, over 200 former students of Dr. Long's are active high school band directors or college music educators throughout the nation. One of his former students, Colonel John R. Bourgeois, is currently the director of the well-known United States Marine Corps Band based here in Washington.

I am pleased to commend and congratulate Dr. John Long on his many years of service to his community, state, and nation. William Shakespeare wrote in ''The Merchant of Venice'':

The man that hath no music in himself,
Nor is not mov'd with concord of sweet sounds,
Is fit for treasons, stratagems, and spoils;
The motions of his spirit are dull as night,
And his affections dark as Erebus:

I join his many friends in saying ''thanks'' to Dr. Long for all the sweet sounds with which he has filled our lives and brightened our spirits.

TRIBUTE TO ROBERT V. SELTZER

Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to Robert V. Seltzer, my legislative director, who is leaving the Senate after many years of distinguished service.

Mr. President, there are few people more knowledgeable about the Senate, or more committed to this great institution, than Bob Seltzer. I have benefitted greatly from his special expertise and commitment, and his contributions to my office will be felt for many years to come.

Bob's roots in the United States Senate are deep and long-lasting. He came to the Senate in 1979 to work with Senator CARL LEVIN after serving as his campaign manager and after leaving his post of ten years as professor of Rhetoric at Detroit University. Bob served as Senator LEVIN's Chief of Staff and helped to lay the groundwork for many legislative accomplishments by my friend from Michigan.

After a brief period off the Hill, Bob returned to the Senate to serve as legislative director to former Senator Brock Adams. When Senator KOHL was elected to his Senate seat in 1989, he wisely chose Bob to head up his legislative department as his legislative director. In 1993, Bob came to work for me and for the people of the State in which he was born, New Jersey.

Mr. President, Bob has provided invaluable service to me, to the people of New Jersey, and to the Senate. He has an impressive work ethic, and his commitment to public service is unmatched.

Along with his hard work and dedication, Bob has a great sense of humor and an ability to lift the spirits and morale of others. His daily summaries of floor action almost invariably provided our staffers with a quick chuckle. Bob's humor helped the staff tolerate numerous late night sessions and the inevitable chaos of life in the Senate. His quick wit and lighthearted nature will be missed by this Senator, his coworkers and his colleagues around the Hill.

Mr. President, Bob's departure from the Senate will allow him more time to pursue his love of literature and music, while permitting him to spend more time with his wife, Helen. I am sure that as he pursues new horizons beyond the Senate, he will continue to excel, just as he has in my office.

In conclusion, Mr. President, I want to express my sincere thanks to Bob for his contribution to my office and to the Senate. I know my colleagues who know him will join me in wishing him the best of luck in all of his future endeavors.

FISCAL YEAR 1996 DEPARTMENT OF TRANSPORTATION APPROPRIATIONS BILL

Mr. PRESSLER. Mr. President, as Chairman of the Senate Committee on Commerce, Science, and Transportation, I wish to discuss several provisions included in the Fiscal Year 1995 Department of Transportation Appropriations bill of significant importance to the Committee. A number of the authorizing provisions in this bill are within the jurisdiction of our Committee which is the proper forum for their consideration.

Mr. President, I raised jurisdictional concerns with the Chairman of the Appropriations Committee last week prior to the Transportation Subcommittee's markup of this legislation. I understand other members of my Committee also raised similar concerns and objections. In fact, the very afternoon this legislation was marked up by the Subcommittee, the Commerce Committee's Aviation Subcommittee held a three and one-half hour hearing on the issue of reform of the Federal Aviation Administration (FAA) and the Air Traffic Control (ATC) System.

Several of the authorizing provisions in H.R. 2002 which I objected to related to FAA and ATC reform. Other objectional provisions related to matters such as airport funding which my Committee is also considering. As shown by the lengthy debate relating to the Roth amendment to strike several provisions in the legislation dealing with FAA procurement and personnel reform, these are very complex issues which require the careful and thoughtful consideration that my Committee has been undertaking.

The importance of the FAA and ATC reform debate is very significant. The safety of the air traveling public is at stake. Also, the efficiency of our air transportation system, which is the envy of the world, should not be put at risk by hasty actions of the Congress. For these reasons, the steady and careful pace which my Committee has taken in developing legislative solutions to adequately address these problems is appropriate.

The Subcommittee Chairman on Aviation, Senator MCCAIN, and other members of the committee plan to introduce comprehensive reform legislation to safeguard the traveling public

and improve the FAA and its activities. In fact, Senator MCCAIN worked nonstop to try to bring a bill for the Committee's consideration during our mark up session of today, August 10. Unfortunately, negotiations with the Administration and the FAA to develop bipartisan legislation which the Administration could endorse was not achievable prior to today's session. However, our Committee continues to work diligently with Administration officials to craft this legislation.

Therefore, I am pleased the managers of the bill agreed to postpone the effective date on the FAA procurement and personnel reforms included in the bill until April 1, 1996. This will give the Senate necessary time to achieve a consensus on how best to proceed in this most important area.

Mr. President, I would also like to clarify for the record another matter regarding action by the Commerce Committee that was brought up during the Senate's consideration on this bill.

During the short debate earlier today regarding my amendment to fund the Local Rail Freight Assistance (LRFA) program and the Section 511 loan guarantee program, the Chairman of the Appropriations Committee argued against my amendment, opposing it because the Commerce Committee has not reported a bill to the Senate to authorize funding for LRFA. I want to explain to my colleagues why this bill, which we approved on July 20th, has not been filed since. I did not have an opportunity to rebut the opposition prior to the vote.

On July 20th, the Commerce Committee approved a measure to reauthorize Amtrak and to permanently authorize LRFA. This approved bill has been available to the public since the Committee's approval. The Committee's authorization levels for Amtrak and LRFA have been readily available. To date, the Congressional Budget Office (CBO) has not provided a budget estimate to our Committee which must be included in the report. It is my understanding CBO has been inundated with scoring requests because of the on-going work on the appropriations bills.

Again, the Committee approved the measure three weeks ago today. The report is ready to go as soon as we receive this information from CBO.

I should reiterate that the LRFA reauthorization included in a bill that also reauthorizes Amtrak. A great deal of funding was provided for Amtrak in this appropriations bill, even though the bill has not been reported. Further, the 511 program is permanently authorized, but no funding was allocated.

AMENDMENT NO. 2390

Mr. LAUTENBERG. Mr. President, I am pleased to join with the Senator from New Mexico in offering this amendment. The amendment itself is simple: it would appropriate the funds that the Pentagon will need to cover the costs of ongoing operations in Iraq, Bosnia, and Guantanamo for fiscal year 1996.

This amendment is offered to deal fiscally responsibly with existing commitments and to address a vital readiness issue.

Now some may be surprised by the omission of such an appropriation in this bill. It is, after all, a bill to appropriate funds for fiscal year 1996 for military activities of the Department of Defense.

The operations in Iraq, Bosnia, and Guantanamo are certainly ''military activities.'' They are activities which we know will be conducted in fiscal year 1996. Yet the bill before us does not provide funding for those operations.

There is, unfortunately, a precedent for such omissions. For several years, the Congress and Presidents from both parties have gotten into the habit of paying for these continuing military operations by going outside the regular budget process. Although the Department of Defense knew that it would have to pay the bills for these existing operations, it did not budget for them as I believe it should. Consequently, the Congress did not step up to the problem either. We did not include funding for them in our authorization and appropriations bills. Instead, typically, a few months after the fiscal year began, administrations would come to Congress and ask for supplemental funding for the operations. And Congress would provide the funds.

In the past, that was an easier decision to make. Supplemental spending was often added to the deficit. But the rules have changed, Mr. President. Supplemental requests, we have decided, ought not just be added to the tab. They have to be offset by reductions elsewhere. Simply put, they have to be paid for.

So, within the context of the Budget Resolution and the 602(b) allocations which flow from it, the Pentagon must pay for these ongoing operations in Iraq, Bosnia, and Guantanamo. They can plan to pay for it now, in an orderly fashion in this bill. Or it will be paid for later, by reprogramming or rescinding DOD funds.

Senator BINGAMAN and I are proposing that it makes better fiscal and military sense to plan to pay for it now.

Delaying a decision will be, as it has been in the past, confusing, painful and costly.

Identifying lower priority programs to eliminate in the middle of the year as an alternative to deficit spending has been contentious, time consuming, and problematic.

The result is that the Congress and the administration have wrung their hands and quibbled over which ''low priority'' programs can be sacrificed at that time to pay these bills. The Department of Defense has been forced, at times, to dip into precious readiness accounts. As a result, the readiness of our troops has been compromised.

We can and should do better.

This year, the Defense Department is asking the Congress to do better. It is asking us to provide funding to cover the costs of these ongoing operations as part of the fiscal year 1996 Department of Defense Authorization bill and the fiscal year 1996 DOD Appropriations bill.

Rather than deferring a decision about how to pay bills we already know will come due later in the year, the Pentagon is asking us to be fiscally responsible and include them in the fiscal year 1996 budget now. We should do that. And this amendment will do it.

It is true, Mr. President, that the Administration did not request this funding in its official budget request for fiscal year 1996. However, before the Senate Armed Services Committee considered the Authorization bill for fiscal year 1996 and before the Senate Appropriations Subcommittee acted, Secretary Perry wrote a letter to the Chairman asking the Committee to provide funding for these operations if the defense budget was increased above the President's request.

Secretary Perry's letter is clear. Regarding ongoing operations in Bosnia, Iraq, and on Guantanamo, it says ''I suggest that you fund these contingencies first if you decide to increase the DOD budget this year.''

In a subsequent letter, Secretary Perry said ''the importance of avoiding any negative effect on readiness of U.S. forces argues for funding them earlier than can be accomplished if we wait for supplemental funding next year.'' I ask unanimous consent that copies of Secretary Perry's letters be included in the RECORD.

To its credit, Mr. President, the Senate Armed Services Committee did authorize $125 million for these ongoing operations as part of the $7 billion it added to the President's budget for defense. But that won't do the trick. The Pentagon estimates that it will need $1.2 billion to cover the cost of ongoing operations in fiscal year 1996. The appropriations bill provides nothing for the ongoing operations, although it increases defense spending by $6.4 billion above the President's budget request.

We will still have more than a billion dollars worth of bills to pay later—bills which will need to be paid then, as we suggest they should be paid now, by finding other defense offsets.

Mr. President, I urge my colleagues to support this amendment in the name of fiscal responsibility. We know now that we have more than a billion dollars worth of bills to pay this year for ongoing operations and we should include those funds in the fiscal year 1996 budget.

In addition to being fiscally irresponsible, deferring a decision about how to pay these bills until later in the year runs the risk of putting the readiness of our troops in danger. Our service men and women, as well as the American people, expect and deserve better.

For their sake, we should fix our priorities now—as this amendment attempts to do—and include funding for contingency operations in the fiscal year 1996 budget now.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 1147. An original bill to extend and reauthorize the Defense Production Act of 1950, and for other purposes (Rept. No. 104–134).

By Mr. ROTH, from the Committee on Governmental Affairs, without amendment:

H.R. 2108. A bill to permit the Washington Convention Center Authority to expend revenues for the operation and maintenance of the existing Washington Convention Center and for preconstruction activities relating to a new convention center in the District of Columbia, to permit a designated authority of the District of Columbia to borrow funds for the preconstruction activities relating to a sports arena in the District of Columbia and to permit certain revenues to be pledged as security for the borrowing of such funds, and for other purposes.

By Mr. HELMS, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 22. A concurrent resolution expressing the sense of the Congress that the United States should participate in Expo '98 in Lisbon, Portugal.

EXECUTIVE REPORTS OF COMMITTTEES

The following executive reports of committees were submitted:

By Mr. ROTH, from the Committee on Governmental Affairs:

Beth Susan Slavet, of Massachusetts, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2002.

William H. LeBlanc III, of Louisiana, to be a Commissioner of the Postal Rate Commission for a term expiring November 22, 2000.

Jerome A. Stricker, of Kentucky, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring September 25, 1998.

Jacob Joseph Lew, of New York, to be Deputy Director of the Office of Management and Budget.

Sheryl R. Marshall, of Massachusetts, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 1998.

Stephen D. Potts, of Maryland, to be Director of the Office of Government Ethics for a term of five years.

(The above nominations were reported with the recommendation that they be confirmed.)

By Mr. HELMS, from the Committee on Foreign Relations:

Bette Bao Lord, of New York, to be a Member of the Broadcasting Board of Governors for a term of two years.

Alberto J. Mora, of Florida, to be a Member of the Broadcasting Board of Governors for a term of two years.

Marc B. Nathanson, of California, to be a Member of the Broadcasting Board of Governors for a term of three years.

Joseph A. Presel, of Rhode Island, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as Special Negotiator for Nagorno-Karabakh.

Carl Spielvogel, of New York, to be a Member of the Broadcasting Board of Governors for a term of one year.

Mark D. Gearan, of Massachusetts, to be Director of the Peace Corps.

David W. Burke, of New York, to be a Member of the Broadcasting Board of Governors for a term of three years.

Tom C. Korologos, of Virginia, to be a Member of the Broadcasting Board of Governors for a term of three years.

Edward E. Kaufman, of Delaware, to be a Member of the Broadcasting Board of Governors for a term of two years.

Cheryl F. Halpern, of New Jersey, to be a Member of the Broadcasting Board of Governors for a term of one year.

Lee F. Jackson, of Massachusetts, to be United States Director of the European Bank of Reconstruction and Development.

Stanley Tuemler Escudero, of Florida, 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 the Republic of Uzbekistan.

Nominee: Stanley T. Escudero.

Post: Uzbekistan.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names, S. Alexander C. Escudero (unmarried), none; W. Benjamin P. Escudero (unmarried), none.

4. Parents names, Estelle T. Damgaard, none; Stanley D. Escudero (father, deceased).

5. Grandparents names, William Tuemler, deceased; Mary Tuemler, deceased; Manuel Escudero, deceased; Mabel Escudero, deceased.

6. Brothers and spouses names, none.

7. Sisters and spouses names, none.

William Harrison Courtney, of West Virginia, 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 the Republic of Georgia.

Nominee: William H. Courtney.

Post: Ambassador to Georgia.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names, none.

4. Parents names, none.

5. Grandparents names, none.

6. Brothers and spouses names, none.

7. Sisters and spouses names, none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation:

John Goglia, of Massachusetts, to be a Member of the National Transportation Safety Board for the term expiring December 31, 1998.

Robert Talcott Francis, II, of Massachusetts, to be a Member of the National Transportation Safety Board for the term expiring December 31, 1999, vice John K. Lauber, term expired, to which position he was appointed during the last recess of the Senate.

Jay C. Ehle, of Ohio, to be a Member of the Advisory Board of the Saint Lawrence Seaway Development Corporation.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

REPORTS OF A COMMITTEE

The following executive reports of a committee were reported on August 10, 1995:

By Mr. HELMS, from the Committee on Foreign Relations:

Treaty Doc. 103–29 Treaty Convention on Income Tax with Sweden (Exec. Rept. 104–4).

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of Sweden for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Stockholm on September 1, 1994, together with a related exchange of notes (Treaty Doc. 103–29).

Treaty Doc. 103–30, Treaty Doc. 104–11, Treaty Convention on Income Tax with Ukraine (Exec. Rept. 104–5).

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of Ukraine for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, with Protocol, signed at Washington on March 4, 1994 (Treaty Doc. 103–30); and the Exchange of Notes Dated at Washington May 26 and June 6, 1995, Relating to the Convention Between the Government of the United States of America and the Government of Ukraine for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, Together With a Related Protocol, signed at Washington on March 4, 1994, (Treaty Doc. 104–11).

Treaty Doc. 103–31, Treaty Convention on Income Tax with Mexico (Additional Protocol Modifying) (Exec. Rept. 104–6).

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Additional Protocol that Modifies the Convention between the Government of the United States of America and the Government of the United Mexican States for the Avoidance

of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income signed at Washington on September 18, 1992. The Additional Protocol was signed at Mexico City on September 8, 1994 (Treaty Doc. 103–31).

Treaty Doc. 103–32, Treaty Convention on Income Tax with the French Republic (Exec. Rept. 104–7).

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of the French Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, signed at Paris on August 31, 1994, together with two related exchanges of notes (Treaty Doc. 103–32). The Senate's advice and consent is subject to the following declaration, which shall not be included in the instrument of ratification to be signed by the President:

That is is the Sense of the Senate that the tax relief available under paragraph 5(b) of Article 30 of the proposed Convention, which exempts certain interest payments to French subsidiaries from United States tax to the extent that United States tax is imposed on such payments under subpart F of Part III of subchapter N of chapter 1 of subtitle A of the Internal Revenue Code (''subpart F''), should be automatically available to any French subsidiary that is a controlled foreign corporation under Section 957 of the Internal Revenue Code to the extent that such payments are taxed under subpart F. The Treasury Department and the Internal Revenue Service shall negotiate with their Dutch counterparts an application of Paragraph 8 of Article 12 of the U.S.-Netherlands Tax Treaty consistent with the French Treaty as described above and grant a long-term exemption from United States tax for interest paid to Dutch subsidiaries to the extent such interest is taxed under subpart F.

Treaty Doc. 103–34, Treaty Convention on Income Tax with the Portugal (Exec. Rept. 104–8).

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein) That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Portuguese Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, together with a related Protocol, signed at Washington on September 6, 1994 (Treaty Doc. 103–04). The Senate's advice and consent is subject to the following two understandings, both of which shall be included in the instrument of ratification to be signed by the President and the following two declarations, neither of which shall be included in the instrument of ratification to be signed by the President:

(a) Understanding: That if the Portuguese Republic changes its internal policy with respect to government ownership of commercial banks in a manner that has the effect of exempting from U.S. tax the U.S.-source interest paid to Portuguese commercial banks under paragraph 3(b) of Article 11, the Government of Portugal shall no notify the Government of the United States and the two Governments shall enter into consultations with a view to restoring the balance of benefits under the proposed Convention;

(b) Understanding: That the second sentence of paragraph 2 of article 2 of the proposed Convention shall be understood to include the specific agreement that the Portuguese Republic regularly shall inform the Government of the United States of America as to the progress of all negotiations with and actions taken by the European Union or any representative organization thereof, which may affect the application of paragraph 3(b) of article 10 of the proposed Convention;

(c) Declaration: That the United States Department of the Treasury shall inform the Senate Committee on Foreign Relations as to the progress of all negotiations with and actions taken by the European Union or any representative organization thereof, which may affect the application of paragraph 3(b) of article 10 of the proposed Convention; and

(d) Declaration: That it is the Sense of the Senate that

(1) the effect of the Portuguese Substitute Gift and Inheritance Tax is to provide for nonreciprocal rates of tax between the two parties;

(2) such nonreciprocal treatment is a significant concession by the United States that should not be viewed as a precedent for future U.S. tax treaties, and, could in fact be a barrier to Senate advice and consent to ratification of future treaties;

(3) the Portuguese Government should take appropriate steps to insure that interest and dividend income beneficially owned by residents of the United States is not subject to higher effective rates of taxation by Portugal than the corresponding effective rates of taxation imposed by the United States on such income beneficially owned by residents of Portugal; and

(4) the United States should communicate this Sense of the Senate to the Portuguese Republic.

Treaty Doc. 104–4, Treaty Convention on Income Tax with Canada (Revised Protocol) (Exec. Rept. 104–9).

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein, That the Senate advise and consent to the ratification of a Revised Protocol Amending the Convention between the United States and Canada with Respect to Taxes on Income and on Capital signed at Washington on September 26, 1980, as Amended by the Protocols signed on June 14, 1983 and March 28, 1984. The Revised Protocol was signed at Washington on march 17, 1995 (Treaty Doc. 104–4). The Senate's advice and consent is subject to the following declaration, which shall not be included in the instrument of ratification to be signed by the President:

That the United States Department of the Treasury shall inform the Senate Committee on Foreign Relations as to the progress of all negotiations with and actions taken by Canada that may affect the application of paragraph 3(d) of article XII of the Convention, as amended by article 7 of the proposed Protocol.

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. MURKOWSKI:

S. 1144. A bill to reform and enhance the management of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FAIRCLOTH (for himself, Mr. DOLE, and Mr. ABRAHAM):

S. 1145. A bill to abolish the Department of Housing and Urban Development and provide for reducing Federal spending for housing and community development activities by consolidating and eliminating programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LEAHY (for himself, Mr. COHEN, Mr. D'AMATO, Mr. JEFFORDS, Mr. KERRY, Mr. LIEBERMAN, and Mr. MOYNIHAN):

S. 1146. A bill to amend the Internal Revenue Code of 1986 to clarify the excise tax treatment of draft cider; to the Committee on Finance.

By Mr. D'AMATO:

S. 1147. An original bill to extend and reauthorize the Defense Production Act of 1950, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. HOLLINGS:

S. 1148. A bill to revitalize the American economy and improve enforcement of the trade laws of the United States, and for other purposes; to the Committee on Finance.

By Mr. SANTORUM:

S. 1149. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel BABS, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1150. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the Marshall Plan and George Catlett Marshall; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BURNS (for himself and Mr. CRAIG):

S. 1151. A bill to establish a National Land and Resources Management Commission to review and make recommendations for reforming management of the public land, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BURNS (for himself, Mr. CRAIG, and Mr. MURKOWSKI):

S. 1152. A bill to amend the Endangered Species Act of 1973 with common sense amendments to strengthen the Act, enhance wildlife conservation and management, augment funding, and protect fishing, hunting, and trapping; to the Committee on Environment and Public Works.

By Mr. BURNS:

S. 1153. A bill to authorize research, development, and demonstration of hydrogen as an energy carrier, and a demonstration-commercialization project which produces hydrogen as an energy source produced from solid and complex waste for on-site use fuel cells, and for other purposes; to the Committee on Energy and Natural Resources.

S. 1154. A bill to authorize the construction of the Fort Peck Rural County Water Supply System, to authorize assistance to the Fort Peck Rural County Water District, Inc., a nonprofit corporation, for the planning, design, and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. COCHRAN (for himself, Mr. PRYOR, Mr. COVERDELL, Mr. HELMS, Mr. WARNER, Mr. CRAIG, Mr. NUNN, Mr. LOTT, Mr. JOHNSTON, Mr. BREAUX, Mr. THURMOND, Mr. MACK, Mr. INOUYE, Mr. AKAKA, Mr. BUMPERS, and Mr. MCCONNELL):

S. 1155. A bill to extend and revise agricultural price support and related programs for certain commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BURNS:

S. 1156. A bill to direct the Secretary of Agriculture to make a land exchange in the State of Montana, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HELMS (for himself, Mr. DOLE, Mr. LIEBERMAN, and Mr. MCCAIN):

S. 1157. A bill to authorize the establishment of a multilateral Bosnia and Herzegovina Self-Defense Fund; to the Committee on Foreign Relations.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 1158. A bill to deauthorize certain portions of the navigation project for Cohasset Harbor, Massachusetts, and for other purposes; to the Committee on Environment and Public Works.

By Mr. INOUYE (for himself, Mr. SIMON, Mr. CAMPBELL, and Mr. CONRAD):

S. 1159. A bill to establish an American Indian Policy Information Center, and for other purposes; to the Committee on Indian Affairs.

By Mr. ROCKEFELLER:

S. 1160. A bill to amend the Internal Revenue Code of 1986 to provide that the depreciation rules which apply for regular tax purposes also shall apply for alternative minimum tax purposes; to the Committee on Finance.

By Mr. BAUCUS:

S. 1161. A bill to amend the Internal Revenue Code of 1986 to exempt small manufacturers, producers and importers from the firearms excise tax; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 1162. A bill to amend the Internal Revenue Code of 1986 to treat academic health centers like other educational institutions for purposes of the exclusion for employer-provided housing; to the Committee on Finance.

By Mr. LEAHY (for himself, Mr. GREGG, Mr. JEFFORDS, Mr. COHEN, and Ms. SNOWE):

S. 1163. A bill to implement the recommendations of the Northern Stewardship Lands Council; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ROCKEFELLER:

S. 1164. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 with respect to inventions made under cooperative research and development agreements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH:

S. 1165. A bill to amend the Internal Revenue Code of 1986 to allow a tax credit for adoption expenses and an exclusion for employer-provided adoption assistance; to the Committee on Finance.

By Mr. LUGAR (for himself, Mr. PRYOR, Mrs. KASSEBAUM, Mr. INOUYE, Mr. COCHRAN, Mr. KERREY, Mr. DOLE, Mr. HEFLIN, Mr. GORTON, and Mr. BREAUX):

S. 1166. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, to improve the registration of pesticides, to provide minor use crop protection, to improve pesticide tolerances to safeguard infants and children, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PRESSLER:

S. 1167. A bill to amend the Wild and Scenic Rivers Act to exclude the South Dakota segment from the segment of the Missouri River designated as a recreational river, and for other purposes; to the Committee on Energy and Natural Resources.

S. 1168. A bill to amend the Wild and Scenic Rivers Act to exclude any private lands from the segment of the Missouri River designated as a recreational river, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KEMPTHORNE:

S. 1169. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize construction of facilities for the reclamation and reuse of wastewater at McCall, Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PRESSLER (for himself and Mr. BAUCUS):

S. 1170. A bill to limit the applicability of the generation-skipping transfer tax; to the Committee on Finance.

By Mr. MCCONNELL (for himself and Mr. FORD):

S. 1171. A bill to amend the Internal Revenue Code of 1986 to modify the application of the passive loss limitations to equine activities; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. HATCH, and Mr. BAUCUS):

S. 1172. A bill to amend the Revenue Act of 1987 to provide a permanent extension of the transition rule for certain publicly traded partnerships; to the Committee on Finance.

By Mr. GREGG (for himself and Mr. SMITH):

S. 1173. A bill to amend the Internal Revenue Code of 1986 to allow a corporation to elect the pooling method of determining foreign tax credits in certain cases, and for other purposes; to the Committee on Finance.

S. 1174. A bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Lamprey River in New Hampshire as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, Mr. BRADLEY, and Mr. LAUTENBERG):

S. 1175. A bill to suspend temporarily the duty for personal effect of participants in certain world athletic events; to the Committee on Finance.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 1176. A bill to direct the Secretary of the Interior to make certain modifications with respect to a water contract with the city of Kingman, Arizona, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATCH:

S. 1177. A bill to amend the Social Security Act and the Internal Revenue Code of 1986 to provide improved access to quality long-term care services, to obtain cost savings through provider incentives and removal of regulatory and legislative barriers, to encourage greater private sector participation and personal responsibility in financing such services, and for other purposes; to the Committee on Finance.

By Mr. CHAFEE (for himself, Mr. MACK, Mr. THURMOND, Mr. PELL, Mr. BUMPERS, and Mr. LIEBERMAN):

S. 1178. A bill to amend title XVIII of the Social Security Act to provide for coverage of colorectal screening under part B of the medicare program; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 1179. A bill to amend the Internal Revenue Code of 1986 to provide reductions in required contributions to the United Mine Workers of America Combined Benefit Fund, and for other purposes; to the Committee on Finance.

By Mrs. KASSEBAUM:

S. 1180. A bill to amend title XIX of the Public Health Service Act to provide for health performance partnerships, and for other purposes; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD:

S. Res. 162. A resolution to require each accredited member of the Senate Press Gallery to file an annual public report with the Secretary of the Senate disclosing the member's primary employer and any additional sources of earned outside income; to the Committee on Rules and Administration.

By Mr. PELL (for himself, Mr. STEVENS, and Mr. FORD):

S. Con. Res. 24. A concurrent resolution authorizing the use of the rotunda of the Capitol for a dedication ceremony incident to the placement of a bust of Raoul Wallenberg in the Capitol; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI:

S. 1144. A bill to reform and enhance the management of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

THE NATIONAL PARK SERVICE ENHANCEMENT ACT

Mr. MURKOWSKI. Mr. President, I rise today to introduce the National Park Service Enhancement Act.

This legislation, when enacted, will revamp the National Park Concession Policy Act by creating a true and equal private/public partnership while offering more competition, less regulation, consistent inter- and intra-agency policies and at the same time increase returns to the Federal Government.

This legislation also addresses fee increases to our national parks, needed improvements to land management employee housing, and the establishment of strict criteria by which areas are considered for national park status.

Finally, the bill sets forth a simplified and cost-saving mechanism by which the Federal Government determines the fee schedules for ski operators who use portions of lands under the jurisdiction of the National Forest System.

The 1916 Organic Act creating the National Park Service gave the agency a dual mission—to care for the Nation's parks in such a way as to preserve the resources for future generations while at the same time providing for public use and enjoyment of the same resources. I must say, Mr. President, that after hearing the General Accounting Office report on the current state of the National Park System, the Service needs major assistance in meeting their legislative mandate and they need to improve their accountability as well. I offer the National Park Service Enhancement Act as a way to help the National Park Service to: First, reap the benefits of viable partnerships with the private

sector; second, become more user-friendly; and third, begin the long road back to being the flagship conservation system that was once the envy of the world.

Mr. President, on March 7 of this year, the General Accounting Office testified at a hearing before the Subcommittee on Parks, Historic Preservation and Recreation that the National Park System is in failing health. The addition of numerous new areas to the System, increased visitation, and unfunded mandates have stretched the financial resources of the Service so far that basic visitor services are being cut, infrastructure maintenance is deferred, and accountability is sorely lacking.

In addition, the National Park Service has other problems it cannot solve under existing law. Many park employees live in Government housing that most of us, even those with Spartan tastes, would find unacceptable as decent living quarters. Yet these employees are afraid that if their housing is brought up to standard, their rent will go beyond the range of their ability to pay. Private companies acting as partners with the National Park Service and other land management agencies to provide needed accommodations, facilities and services to park visitors are subject to ridiculous regulation and redtape under existing laws. With this legislation, I propose to correct this problem. Simply put, if we can't afford to take care of the caretakers, how can we hope to take care of the resources under their charge?

The current park admission and special use fee systems need revamping so that fees are fair for all types of visitors, whether they bring their own car into the parks or arrive by commercial bus.

Mr. President, I would like to give a brief outline of provisions of the National Park Service Enhancement Act, which I believe will solve the problems I just described.

Title I of the bill reforms National Park Service concessions policy. It provides clear definitions of concessioners and commercial use contractors and establishes similar procedures for awarding and managing contracts with both types of businesses. An example of how ridiculous the existing system is comes from my home State of Alaska. At Glacier Bay National Park, commercial cruise ships that come into the bay between June and August operate under 100-page concession contracts; the rest of the year they operate under 2-page commercial use licenses. Two sets of paperwork for one kind of service. The problem is further exacerbated from region to region and from park to park. There is no consistency for the issuance of a simple permit. This legislation, when enacted, provides uniformity and user-friendly systems.

In addition, this title will relieve the National Park Service of having to approve a concessioner's rates and charges for every single sales item and service where nearby competition will allow market forces to set a reasonable price. This alone should free National Park Service concessions specialists from spending weeks deciding what a hot dog should cost at Padre Island National Seashore, only to reach a determination that there is no hot dog to compare it to. My bill, when enacted, will correct this sort of overregulation.

Other key provisions in title I include possessory interest, probably the most controversial aspect of concessions reform. Other legislation introduced would do away with possessory interest. As a former banker, I have to wonder what financial institution is going to loan funds to a business for real estate improvements which are not expected to hold their value? What sense does it make to amortize possessory interest so that all assets constructed or improved by concessioners would eventually be owned by the Government? The National Park Service, by its own admission, has billions of dollars in infrastructure maintenance backlog. Why would we want to add to the backlog when everyone on this floor knows the National Park Service cannot afford to maintain what it already has?

On the issue of competition, discussion has focused on the current preferential right of renewal. I feel very strongly that it is in the best interest of both the National Park Service and the visiting public to maintain continuity where existing concessioners have a track record of good service. My bill creates incentive for high quality service by awarding good concessioners with a credit of extra points to apply toward the total points that the Secretary may award proposals submitted by bidders. There is no reason to have turnover for the sake of turnover—continuation of high quality service only makes sense, and it is good business.

The combination of provisions in title I of this bill should result in higher franchise fees offered by bidders because they know that their investment in improvements will not be depreciated to zero for non-tax purposes, and that they will have incentive to provide superior services to the public. Commercial use contractors will be less subject to inconsistent application of Park Service policy and enjoy the benefits of a binding contract, just as concessioners do.

These provisions add up to good business sense for the private sector, the public, and the National Park Service. Ultimately, they will add up to good sense for the U.S. Forest Service, the Bureau of Land Management, and the U.S. Fish and Wildlife Service as they are directed to adopt consistent regulations for substantially similar commercial and non-recreational uses on lands within their jurisdiction.

Title II amends the Land and Water Conservation Fund Act sections relating to admission, recreation, and special use fees. It is only realistic that actual park users shoulder more responsibility for maintaining the national parks and visitor services provided in the parks than those who are not users. This bill raises fees to a reasonable level for the Golden Eagle Passport, the annual park pass, and establishes a uniform per-visit fee at parks that charge admission fees.

Commercial tour use fees will be set solely according to vehicle capacity, without the addition of a per person charge. This flat fee rate relieves the ranger at the gate to Yosemite National Park from holding up a commercial motor coach for 15 minutes in order to see which riders have Golden Age, Access or Eagle Passports exempting them from additional entrance fees. Multipassenger commerical vehicles will no longer be penalized for what should be recognized as an environmentally sound practice—providing a national park experience to many people at one time while using only a single vehicle. The results are less pollution and less congestion in our busier parks.

Reforming National Park Service fee programs will not make the agency self-supporting. That is not the intent of my legislation. However, current admission fees are below what anyone would reasonably expect. Fees should be more uniformly applied across the System and should contribute to offset diminished appropriations. To that end this bill removes many of the prohibitions on collecting admission fees at certain types of National Park System units. If we are to restore the System, everyone must contribute. Exceptions must be extremely limited or eliminated. What is fair is fair for everyone.

Title III of the National Park Service Enhancement Act relates to ski area permits on national forest lands. It would establish a ski area permit fee that returns fair value to the United States. The fee formula outlined in the bill is simple, equitable and consistent, and will simplify the administrative burdens on both the ski area permittees and the Forest Service personnel who administer the permits.

Title IV will make it much more difficult to add units to the National Park System without careful consideration. The National Park System should be a collection of the finest and most fitting examples of our national heritage, maintained accordingly. Dilution of the System by less than suitable sites threatens to bring the National Park System down to the lowest common denominator.

The National Park Service will develop a comprehensive plan to guide the direction of the National Park System into the next century. The plan will include clarification of the Park Service role and mission in preserving our national heritage in concert with other such efforts by Federal, State, and local entities. New criteria for inclusion of areas in the System will be

developed. Topics and themes not represented in the System will be identified and a priority list for representation developed.

I mentioned the need for housing reform earlier. Title V of the bill will give the Secretaries of Interior and Agriculture greater authority to provide housing for their employees, both within and outside of national park boundaries.

For employees at Dry Tortugas National Park, who live for 8 days at a time on a tiny island, the bill will enable the National Park Service to rent housing on the Florida mainland for them to use when they come off the island for their days off. In the past, rangers and other employees were forced to rent motel rooms at tourist season rates or sleep in their cars just to be able to wash their clothes and buy groceries before going back out to their remote duty stations.

Agencies will be able to work with the private sector to construct, develop, rehabilitate, manage, and lease housing for their employees. This proposal has the potential to remove huge financial and administrative burdens from those agencies. In addition, employees will be assured that their rent, as paid to their Government landlords, will not be more than a reasonable percentage of their pay.

Title VI establishes a system for disposition of receipts collected by the National Park Service as admission, recreation, special use, and franchise fees. As allowed now, parks collecting admission and recreation fees may retain amounts equal to their direct costs of collecting such fees to cover those costs. Receipts equal to those currently going into the general Treasury will continue to be deposited there, as well as half the additional receipts. The other 50 percent of additional receipts will go into a newly established National Park Service account in the Treasury, known as the park improvement fund.

Moneys in the park improvement fund will go back to the national parks to take care of operational and project needs. Seventy-five percent of fund receipts collected at a specific park as part of a particular fee program will go back to that park. The remaining 25 percent will be distributed among other parks that may not collect that type of fee. To ensure accountability, parks must submit requests for spending their returned funds for approval by the Secretary of the Interior, who in turn forwards them to Congress for review.

The final title of the bill renews the recently expired authority for the National Park System Advisory Board and charges it with conducting two important studies. Within a year of enactment of this legislation, the advisory board, working in consultation with the National Park Service, must review most units of the National Park System to determine whether greater or equal resource protection and visitor use could be achieved through alternative management of those areas. Additionally, as part of this study, the advisory board will use the organic legislation of the National Park Service and of its units to develop criteria to guide the Congress and the Secretary of Interior in establishing and supporting new additions to the National Park System. The second task of the advisory board is to review existing visitor services at each unit of the National Park System for adequacy and to identify specific park needs for new or additional services.

Mr. President, I offer this legislation as a way to help the National Park Service, other land management agencies, and even Congress to do the right thing. The National Park System is strained to the breaking point by poorly conceived additions. We must reexamine the definition of a worthy unit and ensure that any additions to the System meet the new definition.

We must assist the National Park Service and other agencies in establishing businesslike, and mutually beneficial relationships with partners in the private sector, including park concessioners and others who provide needed commerical services on public lands. Often these agencies operate with a rather one-sided view of what partnership means. A partnership is a two-way street—this legislation takes us down that road.

Mr. President, the National Park Service Enhancement Act is a course correction which will help the National Park Service get back on track in preserving and protecting our national heritage and allowing and encouraging opportunities for people to enjoy that heritage.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis appear in the RECORD.

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

S. 1144

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Park Service Enhancement Act''.

TITLE I—CONCESSION REFORM

SEC. 101. FINDINGS

In addition to the findings and policy stated in Public Law 89–249 (79 Stat. 969; 16 U.S.C. 20–20G), entitled ''An Act relating to the establishment of concession policies in the areas administered by the National Park Service and for other purposes'' (hereinafter referred to as the ''1965 Act''), the Congress finds that—

(1) provisions of accommodations, facilities, and services to the public in units of the National Park Service by concessioners and commercial use contractors, as defined in section 102(a), will be enhanced by revising the existing policies and procedures for soliciting proposals for concession and commercial use contracts, selecting bidders, and evaluating concession and commercial use operations;

(2) such revisions will result in quality accommodations, services and facilities for public use and enjoyment at reasonable rates if there are proper incentives for capital investment in the construction, rehabilitation and maintenance of those facilities and equipment in the national parks which are for the primary use of concessioners operating therein and that such investment should be provided by private funds to the maximum extent practicable; and

(3) encouragement of such private capital investment requires that a concessioner be accorded a compensable possessory interest in such facilities and equipment.

SEC. 102. AMENDMENTS TO THE 1965 ACT

(a) DEFINITIONS.—Section 2 of the 1965 Act (P.L. 89–249 (79 Stat. 969); 16 U.S.C. 20a) is renumbered as section 2, with the following new section inserted before it:

''SEC. 2. As used in this Act,

''(a) 'bidder' means a person, corporation or other entity who has submitted, or may submit, a proposal, whether or not such bidder is also the concessioner or commercial use contractor, respecting the accommodations, facilities or services which are the subject of such proposal;

''(b) 'commercial use contractor' means a person, corporation, or other entity acting under a contract for recurring commercial activities which are generally initiated and terminated outside the park, and are not conducted from permanent facilities within the park: *Provided*, That permanent facilities do not include cabins, tent platforms or other similar structures possessed by commercial use contractors used in connection with guided or outfitted activities;

''(c) 'contract' means a formal, written agreement between the Secretary and the concessioner or commercial use contractor to provide accommodations, facilities, or services at a park;

''(d) 'concessioner' means a person, corporation, or other entity operating from permanent facilities within a park and acting under a contract with the Secretary;

''(e) 'franchise fee' means the fee required by a contract to be paid to the United States, which may be expressed as, but not required to be, a percentage of gross receipts derived therefrom, and which shall be in addition to fees required to be paid to the United States for the use of federally-owned buildings or facilities;

''(f) 'park' means a unit of the National Park System;

''(g) 'proposal' means the complete proposal for a contract offered by a bidder in response to the solicitation for such contract issued by the Secretary;

''(h) 'prospectus' means a document or documents issued by the Secretary and included with a solicitation setting forth the minimum requirements for the award of a contract;

''(i) 'renewal incentive' means a credit of points toward the score awarded by the Secretary to a concessioner or commercial use contractor performing above the satisfactory performance level on such concessioner's commercial use contractor's proposal submitted in response to a solicitation for the renewal of such contract;

''(j) 'Secretary' means the Secretary of the Interior, unless otherwise noted;

''(k) 'selected bidder' means the bidder selected by the Secretary for the award of a concession or commercial use contract until such bidder becomes the concessioner or commercial use contractor under such contract;

''(l) 'solicitation' means a request by the Secretary for proposals in response to a prospectus; and

''(m) 'sound value' means the value of any structure, fixture or improvement, determined upon the basis of reconstruction cost

less depreciation evidenced by its condition and prospective serviceability in comparison with a new unit of like kind, but not to exceed fair market value.''.

(b) Section 3 of the 1965 Act (P.L. 89–249) (79 Stat. 969); 16 U.S.C. 20a) is further amended by striking ''and corporations (hereinafter referred to as 'concessioners')'' and replacing it with '', corporations and other entities.''

(c) Existing section 3(a) is amended by renumbering it as section 4(a) and by striking ''may'' from the first and second sentences and replacing it with ''shall''.

(d) Section 3(b) is renumbered as section 4(b).

(e) RATES AND CHARGES TO THE PUBLIC.—Section 3(c) of the 1965 Act (P.L. 89–249 (79 Stat. 969); 16 U.S.C. 20b(c)) is renumbered as section 4(c) and amended to read as follows:

''(c) In general, rates and charges to the public shall be set by the concessioner or commercial use contractor. A concessioner's or commercial use contractor's rates and charges to the public shall be subject to the approval of the Secretary only in those instances where the Secretary determines that sufficient competition for such facilities and services does not exist within or in close proximity to the park in which the concessioner or commercial use contractor operates. In those instances, the contract shall state that the reasonableness of the concessioner's or commercial use contractor's rates and charges to the public shall be reviewed and approved by the Secretary primarily by comparison with those rates and charges for facilities and services of comparable character under similar conditions, with due consideration for length of season, seasonal variations, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary.''.

(f) METHOD OF DETERMINING FRANCHISE FEES.—Section 3(d) of the 1965 Act (P.L. 89–249 (79 Stat. 969); 16 U.S.C. 20b(d)) is renumbered as section 4(d) and amended to read as follows:

''(d) Franchise fees, however stated, shall be fixed at the time of commencement of the contract as stated in the selected proposal. The Secretary shall determine the suggested minimum franchise fee in any prospectus in a manner that will provide the concessioner or commercial use contractor with a reasonable opportunity to realize a profit under the contract taken as a whole, commensurate with the capital invested and the obligations assumed. The Secretary may temporarily or permanently reduce franchise fees under a contract if the Secretary determines that such reduction is equitable under the circumstances.''

(g) NEW OR ADDITIONAL SERVICES.—Section 4 of the 1965 Act (P.L. 89–249 (79 Stat. 969); 16 U.S.C. 20c) is renumbered as section 5 and amended by striking '', other than the concessioner holding a preferential rights,'' from the last sentence.

(h) REPEAL OF EXISTING RENEWAL PREFERENCE.—Section 5 of the 1965 Act (P.L. 89–249 (79 Stat. 969); 16 U.S.C. 20d) is repealed: *Provided,* That the renewal of contracts entered into before enactment of this title (including the renewal of expired contracts where the concessioner or commercial use contractor has continued to operate under a temporary extension) shall be subject to such section 5 for the first renewal which becomes effective after the date of enactment of this title.

(i) PROTECTION OF CONCESSIONER'S POSSESSORY INTEREST.—Section 6 of the 1965 Act (P.L. 89–249 (79 Stat. 969); 16 U.S.C. 20e) is amended by:

(1) replacing the fifth sentence with ''Just compensation shall be an amount equal to the sound value of such structure, fixture, or improvement at the time of taking by the United States or expiration of the contract.''; and

(2) striking the last sentence and designating the existing text as subjection (a) and by adding the following subsection (b):

''(b) Not less than twelve months before the expiration of any contract which recognizes a possessory interest, if the amount of compensation shall not have previously been agreed between the Secretary and the concessioner, the concessioner shall submit to the Secretary an independent appraisal of the sound value of the structures, fixtures or improvements in which the concessioner has an investment interest. Such appraisal must be performed by an appraiser with significant experience in the appraisal of assets similar to those valued thereunder, and be conducted and dated as of a date not earlier than eighteen months before the expiration of the concession contract or as of the date of taking, if earlier. In determining the fair market value of any such structure, fixture or improvement which is primarily used for the production of income, such appraiser shall employ the income approach to valuation in a manner consistent with the procedures and assumptions then generally employed for similar income-producing assets by appraisers who are members of the American Institute of Real Estate Appraisers or the Society of Real Estate Appraisers: *Provided,* That such appraisal shall assume a future franchise fee equal to the average annual franchise fee payable by the concessioner during the term of such concessioner's existing contract. With respect to any structure, fixture or improvement which is not primarily used for the production of income, the fair market value shall be equal to the reconstruction cost of such structure, fixture, or improvement, less depreciation evidenced by its condition and prospective serviceability in comparison with a new unit of like kind. Any structures, fixtures, or improvements acquired or constructed after the date of such appraisal in which the concessioner holds an investment interest shall be deemed to have sound values as of the date of such acquisition or construction equal to the concessioner's original cost. The amount to be paid to the concessioner for the concessioner's investment interest on the date of taking by the United States or at the expiration of the contract shall equal the appraised sound value or the concessioner's original cost for newly-constructed or acquired structures, fixtures or improvements, as applicable, increased by the percentage increase in the Consumer Price Index—All Urban Consumers reported by the United States Department of Labor from the month including the date of such appraisal (or the date of construction or acquisition of structures, fixtures or improvements acquired or constructed after the date of such appraisal) to and including the month prior to the date of taking by the United States or expiration of the contract. If the Secretary disagrees with the appraisal submitted by the concessioner, he may present the concessioner with an independent appraisal performed by an appraiser with significant experience in the appraisal of assets similar to those valued thereunder, dated as of the same date as the concessioner's appraisal and prepared in a manner consistent with the manner of preparation of the concessioner's appraisal, as specified above, not less than three months after receipt of the concessioner's appraisal. If the concessioner and the Secretary are unable to agree on the sound value of the concessioner's possessory interest, the Secretary and the concessioner may agree to direct the Secretary's appraiser and the concessioner's appraiser to choose a third appraiser, who shall recommend either the concessioner's appraisal or the Secretary's appraisal as the more accurate appraisal of such sound value to the Secretary. The concessioner shall pay the cost of the concessioner's appraiser and the United States shall pay the cost of the Secretary's appraiser, if any. If a third appraiser is selected as provided above, the cost of such appraiser shall be shared equally by the concessioner and the United States.''.

(j) TECHNICAL AMENDMENTS.—The 1965 Act (P.L. 89–249 (79 Stat. 969); 16 U.S.C. 20) is amended by renumbering existing sections 7 through 9 as sections 11 through 13 accordingly.

(k) COMPETITIVE SELECTION PROCESS, CONTRACTS, AND PERFORMANCE EVALUATION.—The 1965 Act (P.L. 89–249 (79 Stat. 969); 16 U.S.C. 20) is amended by adding a new section 7, 8, 9, and 10 as follows:

''SEC. 7. (a) Except as provided in subsections (b) and (c), and consistent with the provisions of subsection (h), any contract entered in to pursuant to the National Park Service Enhancement Act shall be awarded to the person, corporation or other entity submitting the best proposal as determined by the Secretary, through a competitive selection process. Within 180 days after the date of enactment of the National Park Service Enhancement Act, the Secretary shall promulgate appropriate regulations establishing such process. The regulations shall include provisions for establishing a method or procedure for the resolution of disputes between the Secretary and a concessioner or commercial use contractor in those instances where the Secretary has been unable to meet conditions or requirements or provide such services, if any, as set forth in a prospectus as described below.

''SEC. 7. (b) The provisions in this Act shall be subject to any limitation or special provision contained in the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.). Subject to the provisions of section 1307 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197), a priority shall be given to commercial use contractors operating cruise ships (defined as motor vessels at or over 6,000 gross tonnage [International Convention System], providing overnight accommodations for all passengers, and operating with itineraries of 3 or more days) who provide tours in Glacier Bay national park which originate in Southeast Alaska.

''(c) Notwithstanding the provisions of subsection (a), the Secretary may award on a noncompetitive basis: (1) a temporary contract for a term of not more than two years if the Secretary determines such an award to be necessary in order to avoid interruption of services to the public at a park or (2) a contract which the Secretary estimates will result in annual gross receipts of no more than $2,000,000, if the Secretary determines that continuity and quality of service, administrative savings, or the lack of potential bidders do not require the solicitation of proposals. Prior to making a determination to award a temporary contract, the Secretary shall take all reasonable and appropriate steps to consider alternative actions to avoid interruption of services.

''(d) Prior to making a solicitation for a contract, other than a contract subject to the provisions of subsection (c) of this section, the Secretary shall prepare a prospectus for such solicitation, shall publish a notice of its availability at least once in such local or national newspapers or trade publications as the Secretary determines appropriate, and shall make such prospectus available upon request to all interested parties. The prospectus shall include, but need not be limited to, the following information: the

suggested minimum requirements for such contract, including the minimum suggested fee, which shall provide the selected bidder with a reasonable opportunity to realize a profit on the selected bidder's operation under the contract; the terms and conditions of the existing contract awarded for such park, if any, including all fees and other forms of compensation provided to the United States by the concessioner or commercial use contractor; other authorized facilities or services which may be included in the proposal; facilities and services to be provided by the Secretary to the concessioner or commercial use contractor, if any, including but not limited to, public access, utilities, and buildings; minimum public services to be offered within a park by the Secretary, including but not limited to, interpretive programs, campsites, and visitor centers; and such other information related to the concession operation or commercial use activity available to the Secretary which is not privileged or otherwise exempt from disclosure under Federal law, as the Secretary determines is necessary to allow for the submission of competitive proposals.

''(e) The Secretary may reject any proposal, notwithstanding the amount of fees offered, even if such proposal meets the minimum requirements established by the Secretary, if he determines that the person, corporation, or entity making such proposal is not qualified, or is likely to provide unsatisfactory services, or that the proposal is not sufficiently responsive to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities or services to the public at reasonable rates. The Secretary may consider a proposal made by a bidder which fails to meet the suggested minimum requirements included in the prospectus, but shall not award a contract to such a bidder if one or more other proposals have met such minimum requirements unless all such other proposals are rejected. If all proposals submitted are rejected by the Secretary, he shall establish new suggested minimum contract requirements and re-initiate the competitive selection process.

''(f) In selecting the best proposal, the Secretary shall consider the following primary factors: the responsiveness of the proposal to the objectives of protecting and preserving park resources, of providing high quality service to the public, and of providing necessary and appropriate accommodations, facilities and services to the public at reasonable rates; the experience and related background of the bidder, including, but not limited to, such bidder's performance and expertise in providing the same or similar accommodations, facilities or services, in each case taking into account the experience and related background of any entities which are affiliated with the bidder; and the financial capability of the bidder submitting the proposal. The Secretary may also consider such secondary factors as the Secretary deems appropriate, including the proposed franchise fee: Provided, That consideration of revenue to the United States shall be subordinate to the primary factors as set forth above.

''(g) The Secretary shall submit any proposal contract with anticipated annual gross receipts in excess of $5,000,000 or a duration in excess of 10 years to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives. The Secretary shall not ratify any such proposed contract until at least 60 days subsequent to the submission thereof to both Committees.

''(h) To provide proper incentives for concessioners and commercial use contractors to operate in a manner which exceeds the minimum performance requirements of the contract, each concessioner or commercial use contractor who meets the requirements set forth below shall receive an automatic credit of an additional 10% of the maximum points which are available to be awarded by the Secretary to any proposal which is submitted in response to a solicitation for the renewal of such contract or license. In order to receive this renewal incentive, the concessioner or commercial use contractor must have received a performance rating of ''good'' pursuant to section 9(a) for at least fifty percent of the years of the contract term and must not have received an unsatisfactory rating under such contract during any of the five years prior to the renewal thereof. Concessioners and commercial use contractors operating under temporary contract, license or permit extensions granted by the Secretary after expiration of their original contract, license or permit term at the time of enactment of this section shall retain any renewal incentive described above earned under the original contract.

''(i) Notwithstanding the provisions of subsection (h), the Secretary shall grant a preferential right of renewal to a commercial use contractor for a contract which primarily authorizes a such contractor to provide outfitting, guide, river running, or other similar services within a park, and which the Secretary estimates will have annual gross revenues of no more than $1,000,000: *Provided;* That the commercial use contractor has received a performance rating of ''good'' pursuant to section 9(a) for at least fifty percent of the years of the contract term and must not have received an unsatisfactory rating under such contract during the any of the five years prior to the renewal thereof. Commercial use contractors operating under temporary contract, license or permit extensions granted by the Secretary after expiration of their original contract, license or permit term at the time of enactment of this section shall retain any preferential right of renewal described above earned under the original contract.

''SEC. 8. (a) A contract entered into subsequent to enactment of the National Park Service Enhancement Act shall be awarded for a term not to exceed 10 years except that the Secretary may award a contract for a longer term, not to exceed 30 years, if the Secretary determines that it is in the public interest. Where a concessioner or commercial use contractor is required to make substantial investments in structures, fixtures, or improvements in the park, the Secretary shall provide for a contract term that is commensurate with such investments.

''(b) No contract may be transferred, assigned, sold, or otherwise conveyed by a concessioner or commercial use contractor without prior written notification to, and approval of, the Secretary, who shall not unreasonably withhold or delay such approval but shall not approve the transfer, assignment, sale, or conveyance of a contract to any individual, corporation or other entity if the Secretary determines that: (1) such individual, corporation or entity is, or is likely to be, unable to completely satisfy all of the requirements, terms, and conditions of the contract or (2) such transfer, assignment, sale, or conveyance is not consistent with the objectives of protecting and preserving park resources, providing high quality service to the public, and of providing necessary and appropriate facilities or services to the public at reasonable rates. If the Secretary decides to approve a transfer, assignment, sale, or other conveyance of a contract with gross receipts for the most recently completed calendar year in excess of $5,000,000, or with a remaining term in excess of 10 years, he shall notify the Committee on Energy and Natural Resources of the United States Senate and Committee of Resources of the House of Representatives of the request, including, but not limited to, the names of the parties involved in the request. The approval by the Secretary shall not take effect until 60 days subsequent to the notification of both Committees.

''(c) A successor concessioner or commercial use contractor to whom a contract has been transferred, assignee, sold or conveyed shall be entitled to the benefit of any ''good'' ratings received by the prior concessioner or commercial use contractor during the term of the contract.

''SEC. 9. (a) Within 180 days after the date of enactment of the National Park Service Enhancement Act, the Secretary shall publish regulations establishing reasonable general standards and criteria for evaluating the performance of a concessioner or commercial use contractor on its overall operation under a contract which shall provide for rating of ''unsatisfactory'', '''satisfactory'', and ''good''. The evaluation regulations shall address both operational performance and contract compliance and shall identify both positive and negative aspects of the operation. The standards and criteria for a good rating shall require a level of performance which clearly exceeds the minimum requirements under the contract but which is reasonably attainable by a competent concessioner of commercial use contractor based upon the nature of such concessioner's or commercial use contractor's operation. Prior to entering into a contract, the Secretary and selected bidder will jointly develop rating criteria and standards for each rating under the contract, consistent with such regulations, against which the concessioner or commercial use contractor will be evaluated annually.

''(b) The Secretary shall annually conduct an evaluation of each concessioner and commercial use contractor or commercial use contractor and shall assign an overall rating for each concessioner or commercial use contractor for each year. The procedure for any performance evaluation shall be provided in advance to each concessioner and commercial use contractor, and each shall be entitled to a complete explanation of any rating given. If the Secretary's performance evaluation for any year results in an unsatisfactory rating of the concessioner or commercial use contractor, the Secretary shall so notify the concessioner or commercial use contractor in writing, and shall provide the concessioner or commercial use contractor with a list of the minimum requirements necessary to receive a rating of satisfactory. The Secretary may terminate a contract if the concessioner or commercial use contractor fails to correct and meet the minimum requirements identified by the Secretary within the limitations established by the Secretary at the time notice of the unsatisfactory rating is provided to the concessioner or commercial use contractor. If the Secretary terminates a contract pursuant to this section, the outgoing concessioner may be required to pay for costs incurred by the Secretary associated with prospectus development and bidder proposal evaluation, as well as the difference between the new contract's franchise fee and that paid by the outgoing concessioner, if the new franchise fee is lower.

''(c) The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives of each unsatisfactory rating and of each contract terminated pursuant to this section.

''SEC. 10. Notwithstanding any other provision of law, each contract awarded by the Department of the Interior for concessioner or

commercial use contractor-provided visitor services performed in whole or in part of a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the concessioner or commercial use contractor to employ, for the purpose of performing that portion of the contract in such State this is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills.''

SEC. 103. ISSUANCE OF CONTRACTS AND NONRECURRING COMMERCIAL/NONRECREATIONAL USE PERMITS BY OTHER LAND MANAGEMENT AGENCIES.

Within two years of the date of enactment of this title, and to the extent practicable, the Secretary of the Interior and Secretary of Agriculture shall adopt procedures consistent with those established by this title for the National Park Service for issuing contracts and nonrecurring commercial/nonrecreational use permits as described herein for substantially similar services and activities taking place on federal lands managed by the United States Forest Service, Bureau of Land Management, and United States Fish and Wildlife Service.

TITLE II—NATIONAL PARK FEES

SEC. 201. FEES.

(a) ADMISSION FEES.—Section 4(a) of the Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 16 U.S.C. 4601–6a(a)), is further amended as follows:

(1) By deleting ''fee-free travel areas'' and ''lifetime admission permit'' from the title of this section.

(2) In the first sentence of paragraph (1)(a)(I), by striking ''$25'' and inserting ''$50''.

(3) By inserting at the end of clause (ii) of paragraph (1)(A) the following: ''Such receipts shall be made available, subject to appropriation, for authorized resource protection, rehabilitation and conservation projects as provided for by subsection (I), including projects to be carried out by the Public Land Corps or any other conservation corps pursuant to the Youth Conservation Corps Act of 1970 (16 U.S.C. 1701 and following), or other related programs or authorities, on lands administered by the Secretary of the interior and the Secretary of Agriculture.''.

(4) In paragraph (a)(1)(B), by striking ''$15'' and inserting ''$25''.

(5) In paragraph (a)(2), by striking the fifth and sixth sentences, and by amending the fourth sentence to read as follows: ''The fee for a single-visit permit at any designated area shall be not more than $6 per person.''.

(6) In paragraph (a)(3), by inserting the word ''Great'' in the third sentence before ''Smoky'', and by striking the last sentence.

(7) In paragraph (a)(4), by striking the second sentence in its entirety and inserting in lieu thereof, ''Such permit shall be nontransferable, shall be issued for a one-time charge of $10, and shall entitle the permittee to free admission into any area designated pursuant to this subsection.''.

(8) In paragraph (a)(4), by amending the third sentence to read as follows: ''No fees of any kind shall be collected from any persons who have a right of access for hunting or fishing privileges under a specific provision of law or treaty or who are engaged in the conduct of official Federal, State, or local government business.''.

(9) In paragraph (a)(5), by striking it in its entirety and insert in lieu thereof: ''The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of a lifetime admission permit to any citizen of, or person legally domiciled in, the United States, if such citizen or person applies for such permit and is permanently disabled. Such procedures shall assure that such permit shall be issued only to persons who have been medically determined to be permanently disabled. Such permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and one accompanying individual to general admission into any area designated pursuant to this subsection, notwithstanding the method of travel.''.

(10) In paragraph (a)(6)(A), by striking the paragraph in its entirety and inserting in lieu thereof: ''No later than 18 months after the enactment date of this sentence, the Secretary of the Interior shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a report on the admission fees proposed to be charged at units of the National Park System. The report shall include a list of units of the National Park System and the admission fee proposed to be charged at each unit. The Secretary of the Interior shall also identify areas where such fees are authorized but not collected, including an explanation of the reasons that such fees are not collected.''.

(11) By striking paragraph (a)(9) in its entirety and by renumbering current paragraph (10) as ''(9)''.

(12) In paragraph (a)(11), by striking all but the last sentence and renumbering it as ''(a)(10)''.

(13) By renumbering paragraph (a)(12) as ''(a)(11)''.

(b) RECREATION FEES.—Section 4(b) of the Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 16 U.S.C. 460*l*–6a(b)), as amended, is further amended as follows:

(1) By striking ''fees for Golden Age Passport permittees'' from the title;

(2) By striking ''personal collection of the fee by an employee or agent of the Federal agency operating the facility,'';

(3) By striking ''Any Golden Age Passport permittee, or'' and insert in lieu thereof ''Any''.

(c) CRITERIA, POSTING AND UNIFORMITY OF FEES.—Section 4(d) of the Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 16 U.S.C. 4601–6a(d)) is amended by deleting from the first sentence, ''recreation fees charged by non-Federal public agencies,'' and inserting in lieu thereof ''fees charged by other public and private entities,''.

(d) PENALTY.—Section 4(e) of the Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 16 U.S.C. 4601–6a(e)) is amended by deleting ''of not more than $100.'' and inserting in lieu thereof, ''as provided by law.''.

(e) TECHNICAL AMENDMENTS.—Section 4(h) of the Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 16 U.S.C. 4601–6a(h)), as amended, is further amended—

(1) by striking ''Bureau of Outdoor Recreation'' and inserting in lieu thereof, ''National Park Service''

(2) by striking ''Natural'' in ''Committee on Natural Resources of the House of Representatives''; and

(3) by striking ''Bureau'' and inserting in lieu thereof, ''National Park Service''.

(f) TIME OF REIMBURSEMENT.—Section 4(k) of the Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 16 U.S.C. 4601–6a(k)) is amended by striking the last sentence in its entirety.

(g) CHARGES FOR TRANSPORTATION PROVIDED BY THE NATIONAL PARK SERVICE.—Section 4(*l*)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–6a(1)) is amended by striking the word ''viewing'' from the section title and inserting in lieu thereof ''visiting'', and by striking the word ''view'' from the first sentence of subparagraph (1) and inserting ''visit'' in lieu thereof.

(h) COMMERCIAL TOUR USE FEES.—Section 4(n) of the Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 16 U.S.C. 4601–6a(n)), as amended, is further amended—

(1) by striking the first sentence of subsection (n)(1) and inserting ''In the case of each unit of the National Park System for which an admission fee is charged under this section, the Secretary of the Interior shall establish, by October 1, 1995, a commercial tour use fee in lieu of a per person admission fee to be imposed on each vehicle entering the unit for the purpose of providing commercial tour services within the unit.''.

(2) by striking the period at the end of subsection (n)(3) and inserting ''with written notification of such adjustments provided to commercial tour operators twelve months in advance of implementation.''.

(i) FEES FOR SPECIAL USES.—Section 4 of the Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 16 U.S.C. 4601–6a)), as amended, is further amended by adding the following at the end thereof:

''(o) FEES FOR COMMERCIAL/NON-RECREATIONAL USES.—Using the criteria established in section 4(d) (16 U.S.C. 4601–6a(d)), the Secretary of the Interior shall establish reasonable fees for non-recurring commercial or non-recreational uses of National Park System units that require special arrangements, including permits. At a minimum, such fees will cover all costs of providing necessary services associated with such use, except that at the Secretary's discretion, the Secretary may waive or reduce such fees in the case of any organization using an area within the National Park System for activities which further the goals of the National Park Service. Receipts equal to the cost of providing the necessary services associated with such use may be retained at the park unit in which the use takes place, and remain available to cover such costs.''.

(j) CONFORMING AMENDMENTS.—The following Public Laws shall be amended as described below—

(1) Section 3 of Public Law 70–805 (45 Stat. 1300), as amended, is further amended by striking the last sentence;

(2) Section 5(e) of Public Law 87–657 (76 Stat. 540; 16 U.S.C. 459c–5), as amended, is hereby repealed;

(3) Section 3(b) of Public Law 87–750 (76 Stat. 747; 16 U.S.C. 398e(b)) is hereby repealed;

(4) Section 4(e) of Public Law 92–589 (86 Stat. 1299; 16 U.S.C. 460bb–3), as amended, is further amended by striking the first sentence;

(5) Section 6(j) of Public Law 95–348 (92 Stat. 487) is hereby repealed;

(6) Section 207 of Public Law 96–199 (94 Stat. 77) is hereby repealed;

(7) Section 106 of Public Law 96–287 (94 Stat. 600) is amended by striking the last sentence;

(8) Section 5 of Public Law 96–428 (94 Stat. 1843) is hereby repealed;

(9) Section 204 of Public Law 96–287 (94 Stat. 601) is amended by striking the last sentence; and

(10) Public Law 100–55 (101 Stat. 371) is hereby repealed.

SEC. 202. CHALLENGE COST-SHARE AGREEMENTS.

The Secretary of the Interior is authorized to negotiate and enter into challenge cost-share agreements with any Stat or local government, public or private agency, organization, institution, corporation, individual, or other entity for the purpose of sharing costs or services in carrying out any authorized

functions and responsibilities of the Secretary with respect to any unit of the National Park System (as defined in section 2(a) of the Act of August 8, 1953 (16 U.S.C. 1c(a)), any affiliated area, or designated National Scenic or Historic Trail.

SEC. 203. COST RECOVERY FOR DAMAGE TO NATIONAL PARK RESOURCES.

Public Law 101–337 is amended as follows:

(1) In section 1 (16 U.S.C. 19jj), by amending subsection (d) to read as follows:

''(d) 'Park system resource' means any living or nonliving resource that is located within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.''.

(2) In section 1 (16 U.S.C. 19jj), by adding at the end thereof the following:

''(g) 'Marine or aquatic park system resource' means any living or non-living resource that is located within or is a living part of a marine or aquatic regimen within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.'.

(3) In section 2(b) (16 U.S.C. 19jj–1(b)), by striking ''any park'' and inserting in lieu thereof ''any marine or aquatic park''.

TITLE III—SKI AREA PERMITS ON NATIONAL FOREST SYSTEM LANDS

SEC. 301. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) Although ski areas occupy less than one-twentieth of one percent of National Forest System lands nationwide, in many rural areas of the United States, ski areas and investments by ski area permittees on National Forest System lands form the backbone of the local economy and a preponderance of the employment base.

(2) Ski area operations and their attendant communities provide revenues to the United States in the form of permit fees, income taxes, and other revenues which are extremely significant in proportion to the limited Federal acreage and Forest Service administration and contractual obligations required to support such operations.

(3) In addition to alpine skiing, many ski area permittees provide multiseason facilities and enhanced access to National Forest System lands, that result in greater public use and enjoyment of such lands than would otherwise occur;

(4) Unlike many other private sector users of Federal Lands, ski areas in almost all cases assume the risk to finance, construct, maintain, and market all recreational facilities and improvements on such lands.

(5) Many ski areas on National Forest System lands operate in an extremely competitive environment with similar facilities located on private or State lands, which requires ski area permittees to maintain a high level of capital investment to upgrade existing facilities and install new facilities (such as lifts, trails, snowmaking and trail grooming equipment, restaurants, and day care centers) to serve the public.

(6) Despite an outward appearance of economic well-being resulting from an intensive capital infrastructure, many ski area operations are marginally profitable due to the competition and capital investments referred to in paragraph (5), weather conditions, insurance premiums, the national economy, and other factors beyond the control of the ski area permittee.

(7) Because of the contributions of ski areas to the economies of the United States and the rural communities in which they are located, and the enhanced use and enjoyment of National Forest System lands resulting from ski areas, it is in the national interest for the United States, where consistent with national forest management objectives, to take actions to promote the long-term economic health and stability of ski areas and associated communities.

(8) The National Forest Ski Area Permit Act of 1986 (U.S.C. 497b) has been of assistance to ski area operations on National Forest System lands by providing longer term lease tenure and contractual stability to ski area permittees, but further adjustments and policy direction and warranted to address problems related to permit fees and fee calculations and conflicts with certain mineral activities.

(b) PURPOSE.—In light of the findings of subsection (a), it is the purpose of this title—

(1) To legislate a ski area permit fee that returns fair market value to the United States and at the same time—

(A) provides ski area permittees and the United States with a simplified, consistent, predictable, and equitable fee formula that is commensurate with long-term planning, financing, and operational needs of ski areas; and

(B) simplifies bookkeeping and other administrative burdens on ski area permittees and Forest Service personnel; and

(2) to prevent future conflicts between ski area operations and mining and mineral leasing programs by withdrawing lands within ski area permit boundaries from the operation of mining and mineral leasing laws.

SEC. 302. SKI AREA PERMIT FEES AND WITHDRAWAL OF SKI AREAS FROM OPERATION OF MINING LAWS.

The National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) is amended by adding at the end the following new sections:

''SEC. 4. SKI AREA PERMIT FEES.

''(a) SKI AREA PERMIT FEE.—After the date of enactment of this section, the fee for all ski area permits on National Forest System lands shall be calculated, charged, and paid only as set forth in subsection (b) in order to—

''(1) return fair market value to the United States and provide ski area permittees and the United States with a simplified, consistent, predictable, and equitable permit fee;

''(2) simplify administrative, bookkeeping, and other requirements currently imposed on the Secretary of Agriculture and ski area permittees on national forest lands; and

''(3) save costs associated with the calculation of ski area permit fees.

''(b) METHOD OF CALCULATION.—

''(1) DETERMINATION OF ADJUSTED GROSS REVENUE SUBJECT TO FEE.—The Secretary of Agriculture shall calculate the ski area permit fee (SAPF) to be charged a ski area permittee by first determining the permittee's adjusted gross revenue (AGR) to be subject to the permit fee. The permittee's adjusted gross revenue (AGR) is equal to the sum of the following:

''(A) The permittee's adjusted gross revenues from alpine lift ticket and alpine season pass sales plus revenue from alpine ski school operations (LTA+SSA), with such total multiplied by the permittee's slope transport feet percentage (STFP) on National Forest System lands.

''(B) The permittee's adjusted gross revenues from Nordic ski use pass sales and Nordic ski school operations (LTN+SSN), with such total multiplied by the permittee's percentage (NR) of Nordic trails on National Forest System lands.

''(C) The permittee's gross revenues from ancillary facilities (GRAF) physically located on National Forest System lands, including all permittee or subpermittee lodging, food service, rental shops, parking, and other ancillary operations.

''(2) DEPICTION OF FORMULA.—Utilizing the abbreviations indicated in paragraph (1), the calculation of the adjusted gross revenue (AGR) of a ski area permittee is illustrated by the following formula:

''AGR=((LTA+SSA)STFP)+((LTN+SSN)NR) +GRAF

''(3) DETERMINATION OF SKI AREA PERMIT FEE.—The Secretary shall determine the ski area permit fee (SAPF) to be charged a ski area permittee by multiplying adjusted gross revenue determined under paragraph (1) for the permittee by the following percentages for each revenue bracket and adding the total for each revenue bracket:

''(A) 1.5 percent of all adjusted gross revenue below $3,000,000.

''(B) 2.5 percent of all adjusted gross revenue between $3,000,000 and $15,000,000.

''(C) 2.75 percent for adjusted gross revenue between $15,000,000 and $50,000,000.

''(D) 4.0 percent for the amount of adjusted gross revenue that exceeds $50,000,000.

''(4) SLOPE TRANSPORT FEET PERCENTAGE.—In cases where ski areas are only partially located on National Forest System lands, the slope transport feet percentage on national forest land referred to in paragraph (1) is hereby determined to most accurately reflect the percent of an alpine ski area permittee's total skier service capacity which is located on National Forest System land. It shall be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992.

''(5) ANNUAL ADJUSTMENT OF ADJUSTED GROSS REVENUE.—In order to insure that the ski area permit fee set forth in this subsection remains fair and equitable to both the United States and ski area permittees, the Secretary shall adjust, on an annual basis, the adjusted gross revenue figures for each revenue bracket in subparagraphs (A) through (D) of paragraph (3) by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year.

''(c) MINIMUM RENTAL FEE.—In cases where an area of National Forest System land is under a ski area permit but the permittee does not have revenue or sales qualifying for fee payment pursuant to subsection (a), the permittee shall pay an annual minimum rental fee of $2 for each acre of National Forest System land under permit. Rental fees imposed under this subsection shall be paid at the time specified in subsection (d).

''(d) TIME FOR PAYMENT.—Unless otherwise mutually agreed to by the ski area permittee and the Secretary, the ski area permit set forth in subsection (b) shall be paid by the permittee by August 31 of each year and cover all applicable revenues received during the 12-month period ending on June 30 of that year. To simplify bookkeeping and fee calculation burdens on the permittee and the Forest Service, the Secretary shall no later than March 15 of each year provide each ski area permittee with a standardized form and worksheets (including annual fee calculation brackets and rates) to be used for fee calculation and submitted with the fee payment.

''(e) EXCLUSION OF REVENUE OBTAINED OUTSIDE OF NATIONAL FOREST LANDS.—Under no circumstances shall ski area permittee revenue or subpermittee revenue (other than lift ticket, area use pass, or ski school sales) obtained from operations physically located on non-national forest land be included in the ski area permit fee calculation.

''(f) DEFINITIONS.—To simplify bookkeeping and administrative burdens on ski area permittees and the Forest Service, as used in this section, the terms ''revenue'' and ''sales'' shall mean actual income from sales. Such terms shall not include sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events or any amounts attributable to employee gratuities, discounts, complimentary lift tickets, or other goods or services (except for bartered goods) for which the permittee does not receive money.

''(g) EFFECTIVE DATE FOR FEES.—The ski area permit fees required by this section shall become effective on July 1, 1995 and cover receipts retroactive to July 1, 1994. If a ski area permittee has paid fees for the 12-month period ending on June 30, 1995, under the graduated rate fee system formula in effect prior to the date of the enactment of this section, such fees shall be credited toward the new ski area permit fee due for that period under this section.

''(h) TRANSITIONAL SKI AREA PERMIT FEES.—

''(1) DETERMINATION OF AVERAGE FEES.—In order to minimize in any one year the effect of converting individual ski areas from the fee system in existence on the date of enactment of this section to the ski area permit fee required by subsection (a), each ski area permittee subject to the new fee shall determine the permittee's average existing fees (AEF) for each year of the three-year period ending on June 30, 1994, and the permittee's proforma average ski area permit fee (ASF) under subsection (a) for each year of that period. Both (AEF) and (ASF) shall be determined by adding together the fee payment made by the ski area or the estimated payment that would have been paid under subsection (a) for each year of that period and dividing by three.

''(2) DETERMINATION OF TRANSITIONAL FEES.—To calculate the ski area permit fee required by subsection (a) for each year in the five-year period ending on June 30, 1999, the Secretary of Agriculture shall divide the ski area permit fee required by subsection (a) by the ASF and then multiply by the AEF. The resulting fee shall be called the Adjusted Base Fee (ABF). After June 30, 1999, all ski areas will pay the ski area permit fee required by subsection (a) without regard to previous fees or rates paid.

''(3) EFFECT OF LOW ABF.—Should the ABF be less than the ski area permit fee required by subsection (a), the ski area permittee shall pay the lesser of the fee required by subsection (a) or the ABF, which shall be adjusted by multiplying the ABF by—

''(A) 1.1 for the fee required to be paid by August 31, 1995;

''(B) 1.2 for the fee required to be paid by August 31, 1996;

''(C) 1.3 for the fee required to be paid by August 31, 1997;

''(D) 1.4 for the fee required to be paid by August 31, 1998; and

''(E) 1.5 for the fee required to be paid by August 31, 1999.

''(4) EFFECT OF HIGH ABF.—Should the ABF be greater than the ski area permit fee required by subsection (a), the ski area permittee shall pay the greater of the fee required by subsection (a) or the ABF, which shall be adjusted by multiplying the ABF by—

''(A) 0.9 for the fee required to be paid by August 31, 1995;

''(B) 0.8 for the fee required to be paid by August 31, 1996;

''(C) 0.7 for the fee required to be paid by August 31, 1997;

''(D) 0.6 for the fee required to be paid by August 31, 1998; and

''(E) 0.5 for the fee required to be paid by August 31, 1999.

''SEC. 5. WITHDRAWAL OF SKI AREAS FROM OPERATION OF MINING LAWS.

''Subject to valid existing rights, all lands located within the boundaries of ski area permits issued prior to, on, or after the date of enactment of this section pursuant to the authority of the Act of March 4, 1915 (16 U.S.C. 497), the Act of June 4, 1897 (16 U.S.C. 473 et seq.), or section 3 of this Act are hereby and henceforth automatically withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments to such laws. Such withdrawal shall continue for the full term of the permit and any modification, reissuance, or renewal of the permit. Such withdrawal shall be canceled automatically upon expiration or other termination of the permit. Upon cancellation of the withdrawal, the land shall be automatically restored to all appropriation not otherwise restricted under the public land laws.''

SEC. 303. STUDY OF SKI AREAS FOR POTENTIAL SALE.

The Secretary of Agriculture shall conduct a study of ski areas on National Forest System lands to determine the feasibility and suitability of selling all or a portion of such lands to the current permittees or other interested parties. The study shall determine and identify whether any continuing need for Federal retention of such lands exists. It shall identify the cost savings and revenues to the Federal government which might accrue as a result of such sales as well as other benefits which might result from the disposal of such lands. In addition, the study shall identify criteria which should be used in considering the sale of such assets. The Secretary shall complete the study within one year from the date of enactment of this title and shall transmit a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives.

TITLE IV—NATIONAL PARK SYSTEM REFORM

SEC. 401. PREPARATION OF NATIONAL PARK SYSTEM PLAN.

(a) PREPARATION OF PLAN.—The Secretary of the Interior (hereinafter in this title referred to as the ''Secretary''), acting through the Director of the National Park Service, and in consultation with the National Park System Advisory Board, shall prepare a National Park System Plan (hereinafter in this title referred to as the ''plan'') to guide the direction of the National Park System into the next century. The plan shall include each of the following:

(1) Detailed criteria to be used in determining which natural and cultural resources are appropriate for inclusion as units of the National Park System.

(2) Identification of what constitutes adequate representation of a particular resource type and which aspects of the national heritage are adequately represented in the existing National Park System or in other protected areas.

(3) Identification of appropriate aspects of the national heritage not currently represented in the National Park System.

(4) Priorities of the themes and types of resources which should be added to the National Park System in order to provide more complete representation of our Nation's heritage.

(5) A statement of the role of the National Park Service with respect to such topics as preservation of natural areas and ecosystems, preservation of industrial America, preservation of non-physical cultural resources, and provision of outdoor recreation opportunities.

(6) A statement of what areas constitute units of the National Park System and the distinction between units of the system, affiliated areas, and other areas within the system.

(b) CONSULTATION.—During the preparation of the plan under subsection (a), the Secretary shall consult with other Federal land management agencies, State and local officials, the National Park System Advisory Board, resource management, recreation and scholarly organizations and other interested parties as the Secretary deems advisable. These consultations shall also include appropriate opportunities for public review and comment. The plan shall take into consideration the results and recommendations in the management systems report conducted by the National Park System Advisory Board as provided in section 702(a) of this Act.

(c) TRANSMITTAL TO CONGRESS.—Prior to the end of the second complete fiscal year commencing after the date of enactment of this title, the Secretary shall transmit the plan developed under this section to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives.

SEC. 402. STUDY OF THE NEW PARK SYSTEM AREAS.

Section 8 of the Act of August 18, 1970, entitled ''An Act to improve the Administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes'' (P.L. 91–383, 84 Stat. 825; 16 U.S.C. 1a–1 and following) as amended, is further amended as follows:

(1) By inserting ''GENERAL AUTHORITY.—'' after ''(a)''.

(2) By striking the second through the sixth sentences of subsection (a).

(3) By striking ''Natural'' from ''Committee on Natural Resources of the United States House of Representatives'' in the eighth sentence.

(4) By redesignating the last two sentences of subsection (a) as subsection (e) and inserting in such sentence before the words ''For the purpose of carrying'' the following:

''(e) AUTHORIZATION OF APPROPRIATIONS.—''.

(5) By inserting the following after subsection (a):

''(b) STUDIES OF AREAS FOR POTENTIAL ADDITION.—(1) At the beginning of each calendar year, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a list of areas recommended for study for potential inclusion in the National Park System.

''(2) In developing the list to be submitted under this subsection, the Secretary shall give consideration to those areas that have the greatest potential to meet the established criteria of national significance, suitability, and feasibility. The Secretary shall give special consideration to themes, sites, and resources not already adequately represented in the National Park System as identified in the National Park System Plan to be developed under title IV, section 401 of the National Park Service Enhancement Act. No study of the potential of an area for inclusion in the National Park System may be initiated after the date of enactment of this section, except as provided by specific authorization of an Act of Congress. Nothing in this Act shall limit the authority of the National Park Service to conduct preliminary resource assessments, gather data on potential study areas, provide technical and planning assistance, prepare or process nominations for administrative designations, update previous studies, or complete reconnaissance surveys of individual areas requiring a total expenditure of less than $25,000. Nothing in this section shall be construed to apply to or affect or alter the study of any river segment for potential addition to the national wild and scenic rivers system or to apply to or to affect or alter the study of any trail for potential addition to the national trails system.

''(c) REPORT.—The Secretary shall complete the study for each area for potential inclusion into the National Park System within three complete fiscal years following the date of enactment of specific legislation providing for the study of such area. Each study under this section shall be prepared with appropriate opportunity for public involvement, including at least one public meeting in the vicinity of the area under study, and reasonable efforts to notify potentially affected landowners and State and local governments. In conducting the study, the Secretary shall consider whether the area under study—

''(1) possesses nationally significant natural or cultural resources, or outstanding recreational opportunities, and that it represents one of the most important examples of a particular resource type in the country; and

''(2) is a suitable and feasible addition to the system; and

''(3) what the additional fiscal and personnel costs will be if the area were added to the system.

''Each study shall consider the following factors with regard to the area being studied: the rarity and integrity; whether similar resources are already protected in the National Park System or in other Federal, state or private ownership; the public use potential; the interpretive and educational potential; costs associated with acquisition, development and operation; the socioeconomic impacts of any designation; the level of local and general public support; and whether the unit is of appropriate configuration to ensure long term resource protection and visitor use. Each study shall also consider whether direct National Park Service management or alternative protection by other agencies or the private sector is appropriate for the area. Each such study shall identify what alternative or combination of alternatives would, in the professional judgment of the Director of the National Park Service, be most effective and efficient in protecting significant resources and providing for public enjoyment. The letter transmitting each completed study to Congress shall contain a recommendation regarding the Administration's preferred management option for the area and detail the fiscal and personnel costs if the preferred option is federal management.

''(d) LIST OF AREAS.—At the beginning of each calendar year, along with the annual budget submission, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the House of Representatives a list of areas which have been previously studied which contain primarily cultural or historical resources and a list of areas which have been previously studied which contain primarily natural resources in numerical order of priority for addition to the National Park System. In developing the list, the Secretary should consider threats to resource values, cost escalation factors, and other factors listed in subsection (c) of this section.''.

TITLE V—LAND MANAGEMENT AGENCY HOUSING

SECTION 501. DEFINITIONS.

As used in this title, the term—

(1) ''public lands'' means Federal lands administrated by the Secretary of the Interior or the Secretary of Agriculture;

(2) ''Secretaries'' means the Secretary of the Interior and the Secretary of Agriculture;

(3) ''housing'' means residential housing available for rent or lease to Federal employees in or near a park or public lands and its associated infrastructure; and

(4) ''employee'' means an employee of the Federal government and their families who by necessity reside in or near a park or public lands for the purposes of the management of those lands, including temporary and seasonal employees and volunteers.

SEC. 502. EMPLOYEE HOUSING.

(a) AUTHORITY.—(1) To promote the recruitment and retention of qualified personnel necessary for the effective management of public lands, the Secretaries are authorized to—

(A) make employee housing available, subject to the limitation set forth in paragraph (2), on or off public lands, and

(B) rent or lease such housing to employees of the respective Department at a reasonable value.

(2)(A) Housing made available to employees on public lands shall be limited to those areas designated fir administrative use.

(B) No private lands or interests therein outside of the boundaries of Federally administered areas may be acquired by any means for the purposes of this title except with the consent of the owner thereof.

(b) DEFINITIONS.—The Secretaries shall provide such housing in accordance with this title and section 5911 of Title 5, United States Code, except that for the purposes of this title, the term—

(1) ''availability of quarters'' (as used in this title and subsection (b) of section 5911) means the existence, within thirty miles of the employee's duty station, of well-constructed and maintained housing suitable to the individual and family needs of the employee, for which the rental rate as a percentage of the employee's annual gross income does not exceed the most recent Census Bureau American Housing Survey median monthly housing cost for renters inclusive of utilities, as a percentage of current income, whether paid as part of rent or paid directly to a third party;

(2) ''contract'' (as used in this title and subsection (b) of section 5911) includes, but is not limited to, ''Build-to-Lease'', ''Rental Guarantee'', ''Joint Development'', or other lease agreements entered into by the Secretary, on or off public lands, for the purposes of sub-leasing to Departmental employees; and

(3) ''reasonable value'' (as used in this title and subsection (c) of section 5911) means the lease rental rate comparable to private rental rates for comparable housing facilities and associated amenities: *Provided*, That the base rental rate as a percentage of the employee's annual gross income shall not exceed the most recent American Housing Survey median monthly housing cost for renters inclusive of utilities, as a percentage of current income, whether paid as part of rent or paid directly to a third party.

(c) Subject to appropriation, the Secretaries may enter into contracts and agreements with public and private entities to provide housing on or off public lands.

(d) The Secretaries may enter into cooperative agreements or joint ventures with local governmental and private entities, either on or off public lands, to provide appropriate and necessary utility and other infrastructure facilities in support of employee housing facilities provided under this Act.

SEC. 503. SURVEY OF RENTAL QUARTERS.

The Secretaries shall conduct a survey of the availability of quarters at field units under each Secretary's jurisdiction at least every five years. If such survey indicates that government owned or suitable privately-owned quarters are not available as defined in section 502(b)(1) of this title for the personnel assigned to a specific duty station, the Secretaries are authorized to provide suitable quarters in accordance with the provisions of this title. For the purposes of this section, the term ''suitable quarters'' means well-constructed, maintained housing suitable to the individual and family needs of the employee.

SEC. 504. SECONDARY QUARTERS.

(a) If the Secretary of the Interior or the Secretary of Agriculture determines that secondary quarters for employees who are permanently duty stationed at remote locations and are regularly required to relocate for temporary periods are necessary for the effective administration of an area under the jurisdiction of the respective agency, such secondary quarters are authorized to be made available to employees, either on or off public lands, in accordance with the provisions of this title.

(b) Rental rates for such secondary facilities shall be established so that the aggregate rental rate paid by an employee for both primary and secondary quarters as a percentage of the employee's annual gross income shall not exceed the Census Bureau American Housing Survey median monthly housing cost for renters inclusive of utilities as a percentage of current income, whether paid as part of rent or paid directly to a third party.

SEC. 505. SURVEY OF EXISTING FACILITIES.

(a) HOUSING SURVEY.—Within two years after the date of enactment of this title, the Secretaries shall survey all existing government-owned employee housing facilities under the jurisdiction of the Department of the Interior and the Department of Agriculture, to assess the physical condition of such housing and the suitability of such housing for the effective prosecution of the agency mission. The Secretaries shall develop an agency-wide priority listing, by structure, identifying those units in greatest need of repair, rehabilitation, replacement or initial construction, as appropriate. The survey and priority listing study shall be transmitted to the Committees on Appropriations and Energy and Natural Resources of the United States Senate and the Committees on Appropriations and Resources of the United States House of Representatives.

(b) PRIORITY LISTING.—Unless otherwise provided by law, expenditure of any funds appropriated for construction, repair or rehabilitation shall follow, in sequential order, the priority listing established by each agency. Funding available from other sources for employee housing repair may be distributed as determined by the Secretaries.

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $3,000,000 each year for fiscal years 1996 through 2001 for the purposes of this title.

TITLE VI—DISPOSITION OF FEES

SEC. 601. SPECIAL ACCOUNT.

A special account is hereby established in the Treasury of the United States that shall be called the Park Improvement Fund (hereinafter referred to in this title as ''the fund'').

SEC. 702. COVERING OF FEES INTO PARK IMPROVEMENT FUND.

Notwithstanding section 4(i) of the Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 16 U.S.C. 460*l*–6a(i)), beginning in fiscal year 1996 and in each fiscal year thereafter, fifty percent of all revenues received by the Federal government in excess of the amount that would have been received in 1995 without enactment of this Act from franchise fees, admission, special recreation, commercial tour use, and commercial/non-recreational use fees shall be covered into the fund; however, the Secretary of the Interior may withhold from the fund such portion of all receipts collected from fees imposed by titles I and II of this Act in such fiscal year as the Secretary determines to be

equal to the fee collection costs for the immediately preceding fiscal year: *Provided,* That such costs shall not exceed 15 percent of all receipts collected from fees imposed under titles I and II of this Act in such immediately preceding fiscal year.

SEC. 603. ALLOCATION AND USE FEES.

(a) ALLOCATION.—Notwithstanding section 4(j) of the Land and Water Conservation Fund Act of 1965 (P.O. 88–578; 16 U.S.C. 460*l*–6a(j)), receipts in the fund from the previous fiscal year shall be available to the Secretary without further appropriation and shall be allocated as follows: each fiscal year, beginning in 1997, seventy-five percent of the total receipts deposited in the fund for the previous fiscal year from each unit of the National Park System collecting franchise, admission, special recreation, commercial tour use or commercial/non-recreational use fees shall be available for expenditure only by that unit. The remaining receipts in the fund may be allocated among units of the National Park System, including those not collecting such fees, as determined by the Secretary.

(b) USE.—Expenditures from the fund shall be used solely for infrastructure and operational needs by units of the National Park System. By January 1 of each year, the Secretary shall provide to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a list of proposed expenditures from the fund for each unit for that fiscal year and a report detailing expenditures, by unit, for the previous fiscal year.

TITLE VII—NATIONAL PARK SYSTEM ADVISORY BOARD

SEC. 701. NATIONAL PARK SYSTEM ADVISORY BOARD.

Section 3 of the Act of August 21, 1935 (49 Stat. 667; 16 U.S.C. 463) is amended as follows:

(1) In section 3(a) by striking the first three sentences and inserting in lieu thereof, ''There is hereby established a National Park System Advisory Board, whose purpose shall be to advise the Secretary on all matters pertaining to the National Park System. The Board shall advise the Secretary on matters submitted to the Board by the Secretary as well as any other issues identified by the Board. The National Park System Advisory Board, appointed by the Secretary for a term not to exceed four years, shall be comprised of no more than nine persons from among citizens of the United States having a demonstrated commitment to the National Park System. Board members shall be selected to represent various geographic regions, including each of the seven administrative regions of the National Park Service, and to ensure that the Board contains expertise in natural or cultural resource management, recreation use management, land use planning, financial management, and business management. The Board shall include one individual who is a locally elected official representing an area adjacent to a national park system unit, and one individual who owns land inside the boundary of a national park system unit. The Board shall hold its first meeting by no later than the date that is 30 days after the date on which all members of the Advisory Board who are to be appointed have been appointed. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner in which the original appointment was made. The Board may adopt such rules as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel. All members of the Board shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Board while away from home or their regular place of business, in accordance with chapter 1 of chapter 57 of title 5, United States Code. With the exception of travel and per diem as noted above, a member of the Board who is otherwise an officer or employee of the United States Government shall serve on the Board without additional compensation.''.

(2) By renumbering section 3(b) as 3(f) and by striking from the first sentence thereof, ''1995'' and inserting in lieu thereof, ''2006''.

(3) By renumbering section 3(c) as 3(g).

(4) By adding the following new sections 3(b) through (e):

''SEC. 3. (b)(1) Subject to such rules and regulations as may be adopted by the Board, the Board shall have the power to—

''(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director of the Advisory Board and of such other personnel as the Board deems advisable to assist in the performance of the duties of the Board, at rates not to exceed a rate equal to the maximum rate of GS–18 of the General Schedule under section 5332 of such title; and

''(B) procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the same extent as is authorized by law for agencies in the executive branch, but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS–18 of such General Schedule.

''(2) Service of an individual as a member of the Board shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Board, or as an employee of the Board, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

''(c)(1) The Board is authorized to—

''(A) hold such hearings and sit and act at such times,

''(B) take such testimony,

''(C) have such printing and binding done,

''(D) enter into such contracts and other arrangements,

''(E) make such expenditures, and

''(F) take such other actions,

as the Board may deem advisable. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

''(2) The Board is authorized to establish task forces which include individuals appointed by the Board who are not members of the Board only for the purpose of gathering information on specific subjects identified by the Board as requiring the knowledge and expertise of such individuals. Any task force established by the Board shall be chaired by a voting member of the Board who shall preside at any task force hearing authorized by the Board. No compensation may be paid to members of a task force solely for their service on the task force, but the Board may authorize the reimbursement of members of a task force for travel and per diem in lieu of subsistence expenses during the performance of duties while away from the home, or regular place of business, of the member, in accordance with subchapter 1 of chapter 57 of title 5, United States Code. The Board shall not authorize the appointment of personnel to act as staff for the task force, but may permit the use of Board staff and resources by a task force for the purpose of compiling data and information.

''(d) The provisions of the Federal Advisory Committee Act shall not apply to the Board established under this section.

''(e)(1) The Board is authorized to secure directly from any office, department, agency, establishment, or instrumentality of the Federal Government such information as the Board may require for the purpose of this section, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Board, upon request made by a member of the Board.

''(2) Upon the request of the Board, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality available to the Board and detail any of the personnel of such department, agency, or instrumentality to the Board, on a nonreimbursable basis, to assist the Board in carrying out its duties under this section.

''(3) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.''

SEC. 702. ADVISORY BOARD STUDIES.

(a) MANAGEMENT SYSTEM STUDY.—(1) The Advisory Board, in consultation with the National Park Service, shall conduct a review of each unit of the National Park System, except for those units designated as national parks, to determine whether there are management alternatives that would result in equal or better levels of resource protection, interpretation, and visitor access, use, and enjoyment. The Advisory Board shall review the organic legislation, and history of the National Park Service and its units and shall develop criteria to guide the Congress and the Secretary in the addition of new units to the National Park System. The Advisory Board shall complete its review within one year from the date of enactment of this title and shall transmit its report and recommendations to the Secretary, the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives.

(b) VISITOR SERVICES STUDY.—The Advisory Board, in consultation with the National Park Service, shall conduct an analysis and evaluation of the current conditions and future needs of each unit of the National Park System for adequate visitor service programs. Such analysis and evaluation shall include, but not be limited to, the adequacy of information, education, and concession-provided services, and shall identify those units of the National Park System where new or additional services should be provided. The Advisory Board shall complete its evaluation within one year from the date of enactment of this title and shall transmit its report to the Secretary, the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Resources of the United States House of Representatives.

(c) CONCESSION OVERSIGHT.—The National Park System Advisory Board shall periodically monitor the performance evaluation process as conducted annually by the Secretary for concessioners and commercial use

contractors for effectiveness and objectivity and summarize their findings in an annual report to the Secretary, the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives.

SEC. 703. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the National Park System Advisory Board $700,000 per year to carry out the provisions of this title, in addition to $275,000 for the preparation of the management systems study referred to in section 702(a) of this title and $275,000 for preparation of the visitor services study referred to in section 702(b) of this title.

NATIONAL PARK SERVICE ENHANCEMENT ACT—SECTION-BY-SECTION ANALYSIS

TITLE I—NATIONAL PARK CONCESSIONS REFORM

Section 101 sets forth Congressional findings.

Section 102 amends sections of Public Law 89–249 (79 Stat. 969; 16 U.S.C. 20–20g), entitled ''An Act relating to the establishment of concession policies administered in the areas administered by the National Park Service and for other purposes''.

Subsection (a) renumbers section 2 of the 1965 Act as section 3 and inserts a new section 2 into the 1965 Act which defines terms used in the Act.

Subsection (b) amends section 3 to conform with the definitions in the previous subsection.

Subsection (c) renumbers existing subsection 3(a) as 4(a) and directs the Secretary of the Interior to include certain terms and conditions in contracts.

Subsection (d) renumbers existing subsection 3(b) as 4(b).

Subsection (e) renumbers existing subsection 3(c) as 4(c) and amends it to allow concessioners and commercial use contractors to set their own rates and charges to the public in national parks where sufficient competition for provided facilities and services exists either within or near the park in which the concessioner or commercial use contractor operates. If the Secretary determines that such competition does not exist, the contract will include the mechanism included in the existing law that rates and charges will be compared to those for the nearest comparable facilities and services.

Subsection (f) renumbers existing subsection 3(d) as 4(d) and amends it to fix the franchise fees at the amount stated in the selected proposal at the commencement of the contract and authorizes the Secretary to reduce the franchise fee during the contract term if deemed necessary. The suggested minimum franchise fee will be included by the Secretary in the bid solicitation prospectus, as indicated in subsection 102(k).

Subsection (g) renumbers existing section 4 as section 5 and removes the reference to the renewal preference under prior law which is deleted from this title.

Subsection (h) repeals existing section 5 of the 1965 Act, thereby eliminating preferential right of renewal with the exception of contracts entered into prior to enactment of this title.

Subsection (i) amends section 6 by removing the definition of ''sound value'' as redundant with new text, requires that compensation be paid based on sound value, deletes the last sentence, designates the existing text of the section as subsection (a) and adds a subsection (b). The new subsection outlines the process for determining the value of the concessioner's possessor interest if the value of such interest was not previously agreed upon by the concessioner and the Secretary. The concessioner is directed to submit an independent appraisal of the sound value of the structures, fixtures, or improvements in which the concessioner has an investment interest. If the Secretary disagrees with the appraisal submitted by the concessioner, he may present the concessioner with an independent appraisal. For the concessioner's income-producing structures, fixture, or improvement, the method to be used by the concessioner's appraiser and the Secretary's appraiser, when necessary, shall be the income approach to valuation as is generally used by real estate appraisers; for any structure, fixture or improvement not primarily used for the production of income, the fair market value is calculated as reconstruction cost less depreciation to tie it to the sound value definition, since an income approach is not applicable. If in disagreement over the sound value, the Secretary and the concessioner may direct their appraisers to choose a third appraiser, who will recommend to the Secretary one of the two appraisals as the more accurate. A CPI adjustment is made to cover the period between the date of the appraisal and the date of payment.

Subsection (j) renumbers sections 7 through 9 as sections 11 through 13, respectively.

Subsection (k) adds four new sections, numbered 7 through 10. The new section 7 establishes the selection process for concessioners and commercial use contractors.

Section 7(a) states that a contract shall be awarded to the bidder submitting the best proposal as determined by the Secretary, through a competitive selection process. The Secretary is required to develop regulations establishing the selection process as well as a dispute resolution process where the Secretary has been unable to meet certain conditions or requirements.

Subsection (b) preserves the provisions of the Alaska National Interest Lands Conservation Act (ANILCA), such as those granting preference to Native Corporations and locals for the provision of commercial visitor services in National Park System units in Alaska, and states that subject to rights of operation guaranteed by Section 1307 of ANILCA, a priority shall be given to commercial use contractors operating cruise ships who provide tours in Glacier Bay National Park which originate in Southeast Alaska.

Subsection (c) authorizes the Secretary to award small and temporary contracts noncompetitively.

Subsection (d) outlines the steps used by the Secretary to distribute a prospectus and lists the minimum information to be included in such prospectus, including the minimum suggested franchise fee.

Subsection (e) authorizes the Secretary to consider a proposal which does not meet the suggested minimum requirements but requires that certain conditions be met for the Secretary to award a contract to a bidder submitting such a proposal. The Secretary is authorized to reject proposals which meet the requirements if it is determined that the bidder is not qualified, or is likely to provide unsatisfactory services. If all proposals are rejected, the Secretary must establish new minimum suggested requirements and reinitiate the competitive selection process.

Subsection (f) outlines primary factors for the Secretary's consideration in selecting the best proposal. The proposed franchise fee shall be considered a secondary factor in selecting a bidder.

Subsection (g) requires Congressional notification for any proposed contract over 10 years in length or with projected annual gross receipts greater than $5 million.

Subsection (h) establishes a renewal incentive for concessioners and commercial use contractors who receive performance evaluations, as conducted annually by the Secretary, exceeding the satisfactory level for at least 50% of the years of the contract's terms. Under these provisions, such renewal incentive consists of an automatic credit of an additional 10% of the maximum points that the Secretary may award to a proposal submitted for renewal for a contract.

Subsection (i) provides a preferential right of renewal for commercial use contractors for contracts which primarily provide outfitting, guide, river running, or other similar services and which are expected to produce gross revenues of no more than $1,000,000. In order to receive this preferential right of renewal, such commercial use contractors must receive performance evaluations, as conducted annually by the Secretary, exceeding the satisfactory level for at least 50% of the years of the contract's term, with no unsatisfactory ratings received for any of the five years prior to contract renewal.

The new section 8 relates to length and transferability of contracts. Subsection 8(a) establishes the basic contract term as ten years but authorizes longer terms if the Secretary finds it to be in the public interest. For concessioners required to make substantial investments in structure, fixtures and improvements in a park, the Secretary is required to award a contract term commensurate with the investments made.

Subsection (b) describes the Secretary's reasonable right to approve transfers of contracts, based on the competence and financial capability of the transferee. Congressional notification is required for certain transfers.

Subsection (c) states that in cases of transfer or other contract conveyance, successor concessioners and commercial use contractors are entitled to any ''good'' performance ratings received by the prior holder of the contract.

The new section 9 establishes an annual performance appraisal system for concessioners and commercial use contractors. Subsection 9(a) directs the Secretary to publish regulations for developing reasonable general standards and criteria for evaluating concessioners and commercial use contractors. Performance categories will consist of ''unsatisfactory'', ''satisfactory'', and ''good''. The Secretary and selected bidder will jointly develop specific rating criteria and standards for the contract prior to finalizing the contract.

Subsection (b) directs the Secretary to conduct annual performance evaluations. The Secretary must provide concessioners or commercial use contractors receiving unsatisfactory ratings with written notification, including requirements for improving performance. Contracts may be terminated by the Secretary if a concessioner or commercial use contractor fails to improve performance to the satisfactory level. Should a contract be terminated for continued poor performance, the outgoing concessioner may be required to pay for the cost to the Secretary for a new bid solicitation and evaluation, plus the difference between the old and new franchise fees, if the new fee is lower.

Subsection (c) requires Congressional notification by the Secretary for each unsatisfactory rating and each terminated contract.

The new section 10 directs the Secretary to include local hiring preference provisions in contracts to provide visitor services in noncontiguous states which have unemployment rates exceeding the national average.

Section 103 states that within two years of enacting this title, the Secretaries of Agriculture and the Interior will establish uniform procedures for issuing contracts and nonrecurring commercial/non-recreational use permits for substantially similar activities on Federal lands managed by the U.S.

Forest Service, U.S. Fish and Wildlife Service and Bureau of Land Management which are consistent with this title.

TITLE II—NATIONAL PARK FEES

Section 201 amends the Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 16 U.S.C. 460*l*) to make several modifications to the fee program.

Subsection (a) amends Section 4(a) of the LWCF Act relating to admission fees.

Subparagraph (1) deletes ''fee-free travel areas'' and ''lifetime admission permit'' from the section title as they were previously stricken from the text.

Subparagraph (2) increases the maximum cost the Golden Eagle Passport from $25 to $50;.

Subparagraph (3) authorizes the use of Golden Eagle Passport receipts for authorized protection, rehabilitation, and conservation projects and notes authorization for their use by the Youth Conservation Corps and others.

Subparagraph (4) increases the maximum cost of an annual pass for entry into a single park from $15 to $25;

Subparagraph (5) sets a maximum entrance fee into a park at $6 per person, instead of the present system of charging on a per car basis;

Subparagraph (6) corrects the name of Great Smoky Mountains National Park and removes the prohibition on collection entrance fees at urban units of the National Park System that provide significant outdoor recreational opportunities and have multiple access points.

Subparagraph (7) limits use of the Golden Age Passport, which allows a person 62 years of age or older lifetime free admission into all parks, to the passport holder only, instead of allowing free admission for all persons accompanying the passport holder in a non-commercial vehicle.

Subparagraph (8) prohibits collection of fees from persons with right of access for fishing and hunting privileges under a specific law or treaty or who are engaged in official Federal, State, or local government business.

Subparagraph (9) limits coverage under the Golden Access Passport for the disabled to the individual and one companion, regardless of method of travel.

Subparagraph (10) directs the Secretary to provide to Congress within 18 months after enactment a report outlining the changes to be implemented.

Subparagraph (11) deletes (a)(9), which states specific areas where fees will not be charged. This provides an opportunity to review those areas for possible collection of fees, but does not guarantee that fees will be established.

Subparagraph (12) deletes that portion of (a)(11) which established special rates for Grand Teton, Yellowstone, and Grand Canyon National Parks.

Subparagraph (13) renumbers remaining sections accordingly.

Subsection (b) amends section 4(b) of the LWCF Act to remove personal collection of fees by an employee or agent of the Federal agency from the list of criteria used in determining whether a fee can be charged at a campground, and removes the 50% discount in use fees for those 62 and over, but retains that discount for the disabled.

Subsection (c) amends section 4(d) of the LWCF Act to include comparable recreation fees charged by other public and private entities in the list of criteria for setting recreation fees at Federally managed areas.

Subsection (d) amends section 4(e) of the LWCF Act to change the $100 cap on fines to comply with the Criminal Fine Improvement Act of 1987 (P.L. 100–185), which established maximum fine levels for all Federal petty offenses.

Subsection (e) amends section 4(h) of the LWCF Act to change committee and bureau names to reflect current titles and conditions.

Subsection (f) amends section 4(k) of the LWCF Act to clarify that the non-Federal sale of Golden Eagle Passports may be conducted on a consignment basis.

Subsection (g) amends section 4(*l*) of the LWCF Act by changing the term ''viewing'' to ''visiting''.

Subsection (h) amends section 4(n) of the LWCF Act by directing the Secretary to establish a per vehicle admission fee, based on vehicle occupancy, in lieu of a per person charge for commercial tours and by requiring the Secretary to notify commercial tour operators of changes in the per vehicle fee one year in advance.

Subsection (i) amends section 4 of the LWCF Act to add a new subsection (o). The subsection directs the Secretary to establish reasonable fees for uses of park areas that require special arrangements, such as the filming of movies of television shows. The fee shall at least cover the costs of providing necessary services associated with such use, and the amount covering such costs will remain in the park where such use occurs. The Secretary may reduce or waive the fee for organizations whose activities further the goals of the National Park Service.

Subsection (j) amends a number of Public Laws to lift prohibitions on admission fees at the following units of the National Park System: War in the Pacific National Historical Park; Virgin Islands National Park; Golden Gate National Recreation Area; Statute of Liberty National Monument; Martin Luther King National Historic Site; Point Reyes National Seashore; Biscayne National Park; Dry Tortugas National Park; Channel Islands National Park; and Mount Rushmore National Memorial.

Section 202 authorizes the Secretary to negotiate and enter into challenge cost-share agreements.

Section 203 amends Public Law 101–337, the National Park System Resource Protection Act, to provide for cost recovery for damages at additional units of the National Park System. Public Law 101–337 limited recovery for such damages to marine resources. As amended by section 203, that Act would allow for cost recovery for damages to any living or non-living resource within any park unit.

TITLE III—SKI AREA PERMITS ON NATIONAL FOREST LANDS

Section 301 sets forth Congressional findings and purpose. The purpose of the title is to legislate a ski area permit fee that returns fair market value to the United States and to prevent future conflicts between ski area operations and mining and mineral leasing programs.

Section 302 amends the National Forest Ski Area Permit Act of 1986 (P.L. 99–522, 100 Stat. 3000; 16 U.S.C. 497b) by adding the following new sections as described below.

Section 4(a), as added to Public Law 99–522, states that ski area permit fees shall be calculated, charged, and paid as described in subsection (b) in order to return fair market value to the United States, provide ski area permittees with a simplified, consistent, predictable and equitable permit fee, simplify administrative, bookkeeping and other requirements currently imposed on the Secretary of Agriculture (''Secretary'' in this title) and ski area permittees, and to save costs associated with the calculation of ski area permit fees.

Subsection (b), as added to Public Law 99–522, outlines the method of calculating the ski area permit fee.

Subparagraph (b)(1) directs the Secretary to calculate the ski area permit fee by first determining the permittee's adjusted gross revenue (AGR) to be subject to the fee. The adjusted gross revenue is equal to the sum of the following: The permittee's gross revenues from alpine lift tickets and alpine season pass sales plus alpine ski school operations (LTA+SSA), which are multiplied by the permittee's slope transport fee percentage (STFP) on National Forest System lands where a ski area is partially on federal land and partially on private land. To that, add the sum of gross revenues from Nordic ski use pass sales and Nordic ski school operations (LTN+SSN), which have been multiplied by the percentage of the Nordic trails on National Forest System lands where operations are partially on federal land and partially on private land. To that total, add the permittee's gross revenues from ancillary facilities (GRAF) physically located on National Forest System lands.

Subparagraph (b)(2) uses the previous abbreviations to depict the formula as follows: AGR=((LTA+SSA) x STFP)+((LTN+SSN) x NR)+GRAF.

Subparagraph (b)(3) directs the Secretary to determine the ski area permit fee (SAPF) to be charged a ski area permittee by multiplying the adjusted gross revenue (AGR) as determined above, by percentages based on the ranges in which the AGR falls and by adding the total for each revenue range.

Subparagraph (b)(4) outlines the procedure for calculating the fee for ski areas that are only partially located on National Forest System lands.

Subparagraph (b)(5) directs the Secretary to annually adjust the adjusted gross revenue figures for each revenue bracket by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year.

Subsection (c), as added to Public Law 99–522, states that in cases where an area of National Forest System land is under a ski area permit, but the permittee does not have revenue or sales qualifying for fee payment as outlined above, the permittee shall pay an annual rental fee of $2 for each acre of National Forest System land under permit. Payment shall be made in accordance with the following subsection.

Subsection (d), as added to Public Law 99–522, states that unless otherwise arranged with the Secretary, the ski area permittee shall pay the permit fee by August 31 of each year and cover all applicable revenues received during the 12-month period ending on June 30 of that year. The Secretary is directed to provide each ski area permittee with a standardized form, worksheets, and annual fee calculation brackets and rates.

Subsection (e), as added to Public Law 99–522, excludes ski area permittee or subpermittee revenue generated by operations not located on National Forest System lands from the permit fee calculation.

Subsection (f), as added to Public Law 99–522, defines ''revenue'' and ''sales'' as actual income from sales, excluding sales of operating equipment, refunds, rent paid by sublessees, sponsor contributions, or any amounts attributable to employee gratuities, discounts, complimentary lift tickets, or other goods or services (except for bartered goods) for which the permittee does not receive money.

Subsection (g), as added to Public Law 99–522, establishes July 1, 1995 as the effective date for ski area permit fees as described by this section, to cover receipts retroactive to July 1, 1994. If a ski area permittee has paid fees for the period ending June 30, 1995 under the prior graduated rate fee system formula, such fees will be credited toward the new permit fee due for that period under this section.

Subsection (h), as added to Public Law 99–522, describes transitional ski area permit fees.

Subparagraph (h)(1) states that to minimize the effect of converting individual ski areas from the existing fee system to the one described in this title, each permittee subject to the new fee shall determine their average existing fees (AEF) for each year of the three-year period ending on June 30, 1994, and the permittee's proforma average ski area permit fee (ASF) under subparagraph (a) for each of the three years. Both shall be determined by adding the fee payment made by the ski area or the estimated payment that would have been made under subparagraph (a) for each year of that period and dividing by three.

Subparagraph (h)(2) states that to calculate the ski area permit fee required by subparagraph (a) for each year in the five-year period ending on June 30, 1999, the Secretary shall divide the ski area permit fee required by subparagraph (a) by the ASF and then multiply by the AEF. The resulting fee is called the Adjusted Base Fee (ABF). After June 30, 1999, permittees shall pay the permit fee required by subparagraph (a) without regard to previous fees or rates paid.

Subparagraph (h)(3) states that if the ABF is less than the ski area permit fee required by subparagraph (a), the permittee shall pay the lesser of the fee required by subparagraph (a) or the ABF as adjusted using provided multipliers ranging from 1.1 to 1.5.

Subparagraph (h)(4) states that if the ABF is greater than the fee required by subparagraph (a) or the ABF as adjusted using provided multipliers ranging from 0.5 to 0.9.

Section 5, as added to Public Law 99–522, withdraws all lands located within the boundaries of ski area permits from all forms of appropriation under the mining laws and from disposition under laws pertaining to mineral and geothermal leasing. Withdrawal continues for the full term of the permit, as well as reissuance and renewal. Termination or expiration of the permit shall cancel such withdrawal and restore the land to all appropriation not otherwise restricted under other public land laws.

Section 303 directs the Secretary of Agriculture to conduct a study of ski areas on National Forest System lands to determine the feasibility and suitability of selling all or a portion of such lands to permittees or other interested parties. The study is to include a determination and identification of continuing need for Federal retention of such lands, cost savings, revenues, and other benefits from their sale or disposal, and criteria to be used if the sale of such lands is considered. The Secretary is directed to provide a report to the Senate Committee on Energy and Natural Resources and House Committee on Resources within one year of enactment of this title.

TITLE IV—NATIONAL PARK SYSTEM REFORM

Section 401 describes the preparation of a National Park System Plan (the ''plan'' as referred to in this title).

Subsection (a) directs the Secretary of the Interior (''Secretary'' in this title) to prepare a National Park System Plan to guide the future direction of the National Park System (''System'' as referred to in this title). The plan shall include the following: (1) detailed criteria to determine which natural and cultural resources are appropriate for inclusion as units in the System; (2) identification of what constitutes adequate representation of a particular resource type and which aspects of the national heritage are adequately represented as System units or other protected areas; (3) identification of aspects of the national heritage not represented in the system; (4) priorities of themes and resources which would provide more complete representation of the national heritage if added to the System; (5) a statement of the role of the National Park Service in preserving natural and cultural resources and providing outdoor recreation opportunities; and (6) a statement of what areas constitute units of the National Park System and a distinction between such units, affiliated areas, and other areas within the System.

Subsection (b) directs the Secretary to consult with other Federal agencies, State and local officials, the National Park System Advisory Board, resource management, recreation and scholarly organization and other interested parties as deemed appropriate by the Secretary in preparing the plan, and to include appropriate opportunities for public review and comment.

Subsection (c) directs the Secretary to transmit the plan to the Senate Committee on Energy and Natural Resources and the House Committee on Resources prior to the end of the second complete fiscal year after enactment of this title.

Section 402 amends Public Law 91–383 (16 U.S.C. 1a–1 and following), ''An Act to improve the Administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes'' (the ''1970 Act'' as referred to in this title) by modifying existing subsections (a) and (b) and adding new sections (c) through (e).

Subparagraph (1) inserts the heading ''GENERAL AUTHORITY'' after (a).

Subparagraph (2) strikes the second through sixth sentences of subsection (8)(a) of the 1970 Act regarding reports made to Congress by the Secretary on new area studies.

Subparagraph (3) corrects the name of the Committee on Resources of the United States House of Representatives.

Subparagraph (4) redesignates the last two sentences of subsection (a) and (e) and provides a heading, ''AUTHORIZATION OF APPROPRIATIONS'' for (e).

Subparagraph (4) strikes subsection (8)(b) of the 1970 Act and replaces it. New subsection (8)(b) directs the Secretary to submit annually to the Senate Committee on Energy and Natural Resources and the Committee on Resources of the House a list of areas recommended for study for potential inclusion in the System. The subsection further directs the Secretary to give consideration to areas meeting established criteria of national significance, suitability, and feasibility and to themes, sites, and resources not already represented in the National Park System, as noted in section 401 of this Act. Following enactment of this title, studies of potential areas to be included in the System must be authorized by Congress. The National Park Service will retain authority to conduct preliminary assessments, gather data on potential study areas, provide technical and planning assistance, prepare or process nominations for administrative designations, update previous studies, or complete reconnaissance surveys of individuals requiring a total expenditure of less than $25,000. This subsection does not apply to or affect studies on potential additions to the wild and scenic rivers system or the national trails system.

New subsection (8)(c) requires the Secretary to complete each new area study authorized by Congress within three fiscal years of authorization. Public involvement is required during preparation of each study. The Secretary is directed to consider an area's national significance of resources or outstanding recreational opportunities, suitability, feasibility, and costs to administer such an area if added to the System. Additional considerations include: rarity and integrity; existing representation in the System or protection by other agencies or entities; public use, educational, and interpretive potential; acquisition, development and operational costs; socioeconomic impact of any designation; level of public support; and appropriate configuration to ensure long term protection and enjoyment. Each study will also consider whether such area should be managed by the National Park Service or another agency or entity, with a recommendation for protecting resources and providing public use of the area. Each study transmitted to Congress shall include the Administration's preferred management option and projected fiscal and personnel costs if managed by the Federal government.

New subsection (8)(d) directs the Secretary to submit annually to the Senate Committee on Energy and Natural Resources and the House Resources Committee two prioritized lists of areas previously studied, one for areas with primarily natural resources, and one with primarily cultural resources, for possible addition to the National Park System. The Secretary is directed to consider threats to resource values, cost escalation factors and those listed in subsection (c) in developing the lists.

TITLE V—LAND MANAGEMENT AGENCY HOUSING

Section 501 defines certain terms used in the bill.

Section 502(a)(1) authorizes the Secretary of the Interior and the Secretary of Agriculture (the ''Secretaries'') to make employee housing available, subject to the limitations in set forth in paragraph (2) on or off public lands (defined as lands administered by either Secretary), and to rent or lease such housing to employees of the respective Department at a reasonable value.

Paragraph (a)(2) provides that housing made available on public lands shall be limited to those areas designated for administrative use and that no private lands or interests therein outside the boundaries of Federally administered areas may be acquired for the purposes of this title without the consent of the owner.

Subsection (b) directs the Secretaries to provide such housing in accordance with this title and section 5911 of Title 5, United States Code, except that the terms ''availability of quarters,'' ''contract,'' and ''reasonable value'' shall have the meanings set forth in this subsection. Significantly, ''reasonable value'' is defined to mean the base rental rate comparable to private rental rates for comparable housing facilities and associated amenities, so long as the rate (as a percentage of the employee's annual gross income) shall not exceed the median monthly housing cost for renters as a percentage of current income, listed in the Census Bureau's American Housing Survey.

Subsection (c) authorizes the Secretaries, subject to appropriation, to enter into contracts and agreements with public and private entities to provide employee housing on or off public lands.

Subsection (d) permits the Secretaries to enter into cooperative agreements or joint ventures with local governmental and private entities, on or off public lands, to provide appropriate and necessary utility and other infrastructure facilities in support of employee housing.

Section 503 directs the Secretaries to conduct a survey of the availability of quarters at field units under each Secretary's jurisdiction at least every five years. If such survey indicates that government-owned or suitable privately-owned quarters are not available (as that term is defined in section

502(b)(1) for the personnel assigned to a specific duty station, the Secretaries are authorized to provide suitable quarters in accordance with the provisions of this title.

As used in this section, the term ''fields units'' includes administrative units that are located in national parks, national wildlife refuges, national forest districts, BLM resource areas, and other similar field areas. Specifically excluded from the definition are central offices, such as Washington, D.C. headquarters offices and regional and state offices.

Section 504(a) authorizes the Secretaries to make secondary quarters available to employees who are permanently stationed at remote locations and are regularly required to relocate for temporary periods (such as at Channel Islands National Park or Dry Tortugas National Park).

Subsection (b) states that rental rates for such secondary facilities shall be established so that the aggregate rental rate paid by the employee for both primary and secondary quarters as a percentage of the employee's annual gross income shall not exceed the median monthly housing cost for renters as a percentage of current income, listed in the Census Bureau's American Housing Survey.

Section 505(a) requires the Secretaries, within two years after the date of enactment of this title, to survey all existing government-owned employee housing facilities under the jurisdiction of the Department of the Interior and the Department of Agriculture to assess the physical condition of such housing and the suitability of such housing for the effective prosecution of the agency mission. The Secretaries are required to develop an agency-wide priority listing, by structure, identifying those units in greatest need for repair, rehabilitation, replacement or initial construction. The survey is to be transmitted to the appropriate Congressional Committees.

Subsection (b) provides that expenditures of any funds appropriated for construction, repair or rehabilitation shall follow in sequential order the priority listing established in subsection (a), unless otherwise provided by law.

Section 506 authorizes $3,000,000 each year for fiscal years 1996–2001.

TITLE VI—DISPOSITION OF FEES

Section 601 establishes a special account in the Treasury called the Park Improvement Fund (''the fund'' as used in this title).

Section 602 states that beginning in fiscal year 1996 and in each following fiscal year, 50% of all revenues received by the Federal government over the amount that would have been received in 1995 without enactment of this Act from franchise fees, admission, special recreation, commercial tour use, and commercial/non-recreation use fees shall be covered into the fund. The Secretary of the Interior (''Secretary'' as used in this title) is authorized to withhold from the fund the portion of fees equal to fee collection costs for the previous fiscal year, not to exceed 15% of the total fees collected in accordance with title I and II of this Act.

Section 603(a) states that receipts in the fund from the previous fiscal year shall be available to the Secretary without further appropriation. The allocation is a 75/25% split, with 75% of the total receipts deposited from each unit of the National Park System collecting the types of fees noted above made available to that unit for expenditure. The remaining 25% may be allocated among all units of the National Park System, including those not collecting such fees.

Subsection (b) states that fund expenditures shall only be for infrastructure and operational needs of units of the National Park System, and directs the Secretary to compile a list of proposed expenditures from the fund for each unit that fiscal year by January 1 of each year. Such list and a report of expenditures for the previous fiscal year, by unit, shall be provided to the Senate Committee on Energy and Natural Resources and the House Committee on Resources.

TITLE VII—NATIONAL PARK SYSTEM ADVISORY BOARD

Section 701 amends section 3 of Public Law 74–292 (44 Stat. 666; 16 U.S.C. 463) as amended, to establish National Park System Advisory Board, as described below.

Amended section 3(a) establishes a National Park System Advisory Board, with 9 members selected by the Secretary for terms not to exceed 4 years. The section outlines the general composition of the Board, and authorizes the Board to establish rules and procedures. Board members shall not receive compensation except for travel and per diem reimbursement when traveling to perform Board-related duties.

Existing section 3(b) is renumbered as 3(f) and changed to reflect January 1, 2006 as the termination date for the Board.

Existing section 3(c) is renumbered as 3(g).

The new section 3(b) outlines the powers of the Board which include authorization to appoint an executive director and other staff as needed to carry out the duties of the Board.

The new section 3(c) authorizes the Board to hold hearings, enter into contracts, make such expenditures, and establish task forces.

The new section 3(d) exempts the Board from the provisions of the Federal Advisory Committee Act.

The new section 3(e) authorizes the Board to secure information from any office, department, agency, establishment or instrumentality of the Federal government and directs such Federal entities to provide such requested information to the extent permitted by law. This subsection also authorizes the head of any Federal department, agency or instrumentality to make facilities, services, and personnel of such department, agency or instrumentality available to the Board on a nonreimbursable basis, and authorizes the Board to use the United States mails in conducting its duties.

Section 702 outlines studies and annual reports that the Board is charged with conducting and providing to Congress and the Secretary of the Interior.

Subsection (a) directs the Board in consultation with the National Park Service, to conduct a management system study, to be completed one year from enactment of this title and transmitted to the Secretary, the Senate Committee on Energy and Natural Resources, and the House Resources Committee. The study shall consist of a review of each unit of the National Park System, excepting units designated as national parks to determine if alternative management would result in equal or better visitor services and resource protection. The Board is also directed to review the organic legislation and history of the National Park Service and its units and to develop criteria to guide the Congress and the Secretary in adding new units to the National Park System.

Subsection (b) directs the Board, in consultation with the National Park Service, to analyze and evaluate the current conditions and future needs of each unit of the National Park System for adequate visitor services. The Board is also directed to identify units where new or additional services should be provided. This evaluation is to be completed and referred to the Secretary, the Senate Committee on Energy and Natural Resources, and the House Committee on Resources within one year after the enactment of this section.

Subsection (c) directs the Board to monitor the effectiveness and objectivity of the Secretary's program of annual performance evaluations for concessioners and commercial use contractors operating under contracts in units of the National Park System and to provide their summarized findings to the Secretary, the Senate Committee on Energy and Natural Resources, and the House Committee on Resources on an annual basis.

Section 703 authorizes an annual appropriation of $700,000, in addition to $275,000 to conduct the management system study and $275,000 to conduct the visitor services study.

By Mr. FAIRCLOTH (for himself, Mr. DOLE, and Mr. ABRAHAM):

S. 1145. A bill to abolish the Department of Housing and Urban Development and provide for reducing Federal spending for housing and community development activities by consolidating and eliminating programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE HOUSING OPPORTUNITIES AND EMPOWERMENT ACT

Mr. FAIRCLOTH. Mr. President, on this day 30 years ago, the Department of Housing and Urban Development was created. Today, however, I have introduced legislation, along with Senators DOLE and ABRAHAM that will dramatically reform our Nation's housing policy and in the process, eliminate the Department of Housing and Urban Development.

Mr. President, HUD was created in 1965. When it was created, the purpose of this Department was to revitalize our urban areas and provide safe, decent housing for all Americans.

Mr. President, in short, HUD has been an enormous failure. Since 1965, HUD has spent hundreds of billions of dollars. Yet today, despite this massive spending, we are no better off.

Mr. President, when considering whether we should reinvent HUD or end it, each of us has to ask ourselves these questions: Are our inner cities better off than they were 30 years ago?

Is the state of public housing better today than it was 30 years ago?

Is housing more affordable today?

Has homelessness been reduced? In my view it was not even a problem 30 years ago.

The answers to these questions is no—absolutely no to all of them.

In fact our cities are more decayed and more dangerous today than ever.

Solving these problems was supposed to be HUD's mission. In each, it has failed miserably.

Imagine if we applied a performance standard like this in the private sector. Would any business that had not met its goals in 30 years still be in business. No, of course not, it would have gone out of business long ago, and HUD should have gone.

HUD is a massive bureaucracy with over 11,000 employees. It has over 240 housing programs—so many that the Secretary of HUD did not even know he had that many. HUD has over $192 billion in unused budget authority.

HUD has even entangled the American taxpayer in 23,000 long-term contracts that run until the year 2020.

These are contingent liabilities that will have to be met by the taxpayers of this country.

HUD's spending is increasing so rapidly that by the year 2000, housing assistance will be the largest discretionary spending function in our budget.

Frankly, knowing all of this, I do not think we can afford not to abolish HUD. We have to stop it and soon. We have to end it and we need to do it soon.

The bill I am introducing today will save $17 billion in budget authority over the next 5 years. We need these kind of real savings if we have any hope of reducing this deficit. When compared to the Cisneros budget figures, I am told by the Congressional Budget Office that this bill will save $88 billion as compared to its reinvention.

Mr. President, beyond eliminating HUD, this bill reforms housing policy that, in my opinion, will dramatically improve the state of housing in the United States.

This bill ends subsidies to public housing, but provides housing vouchers to individuals. This way, people will no longer be trapped in substandard public housing, instead they can choose to live where they want—in the kind of housing they want.

They will, for the first time, have the freedom to choose, and this is what the vouchers will do.

The legislation will also create block grants for housing, community development, and special populations. The critical element here is that there will not be a HUD in Washington that will micromanage everything the States and localities do with the funds. Because of this, the money will be better spent.

Finally, Mr. President, the bill will reform FHA so that it must risk share with the private sector. This will avoid FHA problems of the past, like fraud, and putting people in homes they cannot afford, knowing they cannot afford them when they put them in those houses, but that are 100-percent insured by the taxpayers.

Now, the private sector's money will be at stake, and because of this, FHA will function better.

Mr. President, on this day, 30 years ago, August 10, 1965, President Johnson signed the bill creating HUD.

When he signed the bill, he said the new HUD ''would defeat the enemy of decay that exists in our inner cities.''

Thirty years later, this much we know—the enemy of decay is not a $26 billion bureaucracy in Washington, which is what HUD is.

To end decay in our cities we need hard work, traditional values, and two-parent families and not government handouts. These things will fight decay in our Nation's cities—not HUD.

I want to thank my colleagues, especially Senator DOLE who has been a leader on this issue, and Senator ABRAHAM. I would urge my colleagues to join us on this bill so that we can really reform housing policy—not just tinker with it on the margins. This bill will do it, and I ask for the support of my colleagues.

By Mr. LEAHY (for himself, Mr. COHEN, Mr. D'AMATO, Mr. JEFFORDS, Mr. KERRY, Mr. LIEBERMAN, and Mr. MOYNIHAN):

S. 1146. A bill to amend the Internal Revenue Code of 1986 to clarify the excise tax treatment of draft cider; to the Committee on Finance.

EXCISE TAX LEGISLATION

Mr. LEAHY. Mr. President, today I am introducing tax legislation designed to stimulate the apple industry in the United States. I am pleased that Senators COHEN, D'AMATO, JEFFORDS, KERRY, LIEBERMAN, and MOYNIHAN are joining me as original cosponsors of this bill. This legislation contains a couple of technical changes to a bill I introduced earlier this year, S. 401.

This bill will revise the Federal excise tax on hard apple cider, more commonly known as draft cider, to beer tax rates. As the ranking member of the Senate Agriculture Committee, I believe this small tax change will be of great benefit to cider makers and apple growers across the country.

Draft cider is one of the oldest categories of alcoholic beverages in North America. Back in colonial times, nearly every innkeeper served draft cider to his or her patrons during the long winter. In fact, through the 19th century, beer and draft cider sold equally in the United States.

Recently, draft cider has made a comeback in the United States and around the world. Our tax law, however, unfairly taxes draft cider at a much higher rate than beer despite the two beverages sharing the same alcohol level and consumer market. This tax treatment, I believes, creates an artificial barrier to the growth of draft cider. My legislation will correct this inequity.

Present law taxes draft cider, regardless of its alcohol level, as a wine at a rate of $1.07 per gallon. My bill would clarify that draft cider containing not more than 7 percent alcohol would be taxed at the beer rate of 22.6 cents per gallon.

I believe this tax change would allow draft cider producers to compete fairly with comparable beverage makers. As draft cider grows in popularity, apple growers around the Nation should prosper because draft cider is made from culled apples, the least marketable apples.

The growth of draft cider should convert these least marketable apples, which account for about 20 percent of the entire U.S. apple production, into a high value product, helping our struggling apple growers. Indeed, I have received letters from officials at 10 State agriculture departments—Arizona, Connecticut, Georgia, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Vermont and Virginia—supporting the taxing of draft cider at the beer rate because this change would allow apple farmers in their States to reap the benefits of an expanded culled apple market.

I have also heard from the Northeast McIntosh Apple Growers Association, the New York Apple Association, the New England Apple Council and many apple farmers, processors and cider producers that support revising the excise tax on draft cider.

I believe this small tax change will have a large positive impact on the Nation's apple industry. I urge my colleagues to support it.

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. 1146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF TAX TREATMENT OF DRAFT CIDER.

(a) DRAFT CIDER CONTAINING NOT MORE THAN 7 PERCENT ALCOHOL TAXED AS WINE.—Subsection (b) of section 5041 of the Internal Revenue Code of 1986 (relating to imposition and rate of tax) is amended by adding at the end the following new paragraph:

''(6) On draft cider derived primarily from apples or apple concentrate and water, containing no other fruit product, and containing at least one-half of 1 percent and not more than 7 percent of alcohol by volume, 22.6 cents per wine gallon.''

(b) EXCLUDED FROM SMALL PRODUCER CREDIT.—Paragraph (1) of section 5041(c) of the Internal Revenue Code of 1986 (relating to credit for small domestic producers) is amended by striking ''subsection (b)(4)'' and inserting ''paragraphs (4) and (6) of subsection (b)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply on and after the date of the enactment of this Act.

By Mr. HOLLINGS:

S. 1148. A bill to revitalize the American economy and improve enforcement of the trade laws of the United States, and for other purposes; to the Committee on Finance.

THE ECONOMIC REVITALIZATION ACT OF 1995

Mr. HOLLINGS. Mr. President, I rise today to introduce a bill to revive the economy and restore our preeminence in manufacturing. During the cold war, this Nation willingly subordinated its economic interests in order to maintain the Western alliance against communism. Forty-five years of commitment and sacrifice paid off when the Berlin Wall collapsed and democracy triumphed over totalitarianism.

Now we have entered a new era of global competition in which power and influence will be derived from economic strength, not through the barrel of a gun or the tip of a missile. This Nation now faces fierce competition for market share in the international economy. To compete in the global marketplace, we must devote the same degree of commitment and sacrifice to restoring our economic strength as we devoted to the cold war.

At the beginning of the cold war, President Truman had the vision and foresight to create the institutions that would unify the West and stand as a bulwark for freedom. To coordinate policy, the National Security Council would serve as the broker between the Departments of State and Defense.

Now in the post-cold war era where economic competition is preeminent, we need to have the same coordination as our economic policy. That is why this legislation creates an Economic Security Council to set the course for U.S. economic policy.

Mr. President, restoring our economic strength will also require that we rethink the failed policies of the past. Last week, the last American manufacturer of television sets was sold to South Korea's LG Industries. The sale was the culmination of two decades of failed trade policy. To no avail, Zenith tried to use our antidumping laws to half the predatory pricing by their competition. They tried to use the antitrust laws and faced the unseemly specter of the Justice Department appearing on behalf of the foreign manufacturer. Despite promising developments in high definition television, Zenith succumbed after 6 straight years of losses. Now HDTV will be produced by the Koreans. In this new era of economic competition, we can no longer afford to sit idly by while American industry withers under the relentless assault of foreign predatory trade practices.

Mr. President, a cost structure revolution has taken place in the international marketplace. In industry after industry, markets have been cartelized. By controlling distribution networks and reaping monopoly rewards in home markets, foreign companies have engaged in relentless dumping into our market. By holding down their fixed costs, these companies have been driving American companies out of business.

To attack these predatory trade practices, this bill class on us to improve our antidumping laws to prevent the circumvention of dumping orders and to make it easer for industries to prevail in threat cases. it also updates the enforcement of the antitrust laws. The antitrust laws were written to prevent the Carnegies, Morgans and Mellons from dominating the economy. In a global economy, the concentration of economic power stretches across borders. My bill amended the antitrust laws to enable U.S. companies to attack the anti-competitive practices that keep them out of foreign markets.

Mr. President, not all the problems that afflict our economy are the product of foreign competition. Many of our wounds are self-inflicted. Our securities laws need to be updated to emphasize the creation of patient capital—long-term shareholders who will stick with a company over the long haul. With that in mind, my bill calls for the elimination of quarterly reporting requirements which force U.S. companies to focus on short-term investments to enhance shareholder value rather than long-term investment to improve competitiveness.

Furthermore, this bill attacks the enemy within—those former U.S. Government officials who turn around and represent foreign interests at the expense of U.S. workers. As a remedy, this bill places a 5-year ban on lobbying by former officials who work for foreign interests. And to jumpstart research and development spending which now lags behind our competitors, the bill reestablishes the permanent research and development tax credit. It is paid for by imposing an import surcharge to eliminate our enormous trade deficits.

Finally, I need to say a word about reorganization of Government. Some have come to Washington with one goal in mind—to tear down the Government. Our mission should not be to tear it down but to make it work. For example, there are those who advocate eliminating the Commerce Department. But in this new era of global competition, that would be the same as eliminating the Department of Defense during the cold war.

Instead of destroying the Commerce Department, we should be strengthening the Department and turn it into a real Department of Trade and Industry. We should move the Export-Import Bank and the Overseas Private Investment Corporation into the Department to provide exporters with one-stop shopping. This would create a powerful export promotion agency to compete with the economic powerhouses on the Pacific rim.

Mr. President, for 20 years real wages have stagnated in America. We have lost 2 million manufacturing jobs and lost an edge in critical technologies. Once the land of opportunity, America is now a country with the worst income distribution in the industrial world.

Unless we wake up from our economic daydream, we will find ourselves a two-tiered society divided between rich and poor. Let's go to work to rebuild our economy and renew the American dream.

Mr. President, I ask unanimous consent that the full text of this bill be printed in the RECORD.

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

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Economic Revitalization Act''.

SEC. 2. TABLE OF CONTENTS.

SEC. 3. ECONOMIC SECURITY COUNCIL.

(a) ESTABLISHMENT.—There is established in the Executive Office of the President a council to be known as the Economic Security Council (hereinafter in this section referred to as the ''Council'').

(b) MEMBERSHIP OF THE COUNCIL.—(1) The Council shall be composed of—

(A) the President;
(B) the Vice President;
(C) the Secretary of State;
(D) the Secretary of the Treasury;
(E) the Secretary of Defense;
(F) the Secretary of Agriculture;
(G) the Secretary of Commerce;
(H) the Secretary of Labor;
(I) the United States Trade Representative; and
(J) any other appropriate Federal official appointed by the President to serve on the Council.

(2) The President shall preside over meetings of the Council. In the President's absence, the President may designate a member of the Council to preside in the President's place.

(c) FOUNCTIONS OF THE COUNCIL.—The Council shall advise the President with respect to the integration of national and international policies relating to economics and trade so as to enable the President and the departments and agencies of the Federal Government to cooperate more effectively.

(d) EMPLOYEES OF THE COUNCIL.—The Council shall have a staff to be headed by an Executive Secretary who shall be appointed by the President. The Executive Secretary, subject to the direction of the Council and in accordance with the provisions of title 5, United States Code, may appoint and fix the compensation of such personnel as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions.

(e) RECOMMENDATIONS AND REPORTS.—

(1) IN GENERAL.—The Council shall, from time to time, make such recommendations and such other reports to the President as the Council considers to be appropriate or as the President may require.

(2) ANNUAL TESTIMONY BEFORE SENATE COMMITTEES.—The Executive Secretary shall present testimony not less often than once each year before the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on Finance of the Senate, on a date and topic to be established by the committees.

TITLE I—ANTIDUMPING AND COUNTERVAILING DUTY LAWS

SEC. 101. PROPRIETARY INFORMATION.

Section 777 of the Tariff Act of 1930 (19 U.S.C. 1677f) is amended—

(1) by striking subsection (b)(1)(B)(ii) and inserting the following:

''(ii) a statement that the information should not be released under administrative protective order.'';

(2) by striking subparagraph (A) of subsection (c)(1) and inserting the following:

''(A) IN GENERAL.—Upon receipt of an application (before or after receipt of the information requested), which describes with particularity the information requested and sets forth the reasons for the request, the administering authority and the Commission may make proprietary information submitted by any other party to the investigation available under a protective order described in subparagraph (B).'';

(3) by striking subparagraphs (C), (D), and (E) of subsection (c)(1);

(3) by inserting after ''paragraph (1),'' in subsection (c)(2) the following: ''or the Commission denies a request for proprietary information submitted by the petitioner or an interested party in support of the petitioner concerning the domestic price or cost of production of the like product,''; and

(5) by striking subsections (d) and (e) and redesignating subsections (f) through (i) as (d) through (g), respectively.

SEC. 102. DOWNSTREAM DUMPING.

(a) IN GENERAL.—Subtitle D of title VII of the Tariff Act of 1930 (19 U.S.C. 1677 et seq.) is amended by inserting immediately after section 771B the following:

SEC. 771C. DOWNSTREAM DUMPING.

''(a) DEFINITIONS.—As used in this section—

''(1) DOWNSTREAM DUMPING.—The term 'downstream dumping' means a course of conduct in which a product is routinely used as a significant part, component, assembly, subassembly, or material in the manufacture or production of merchandise subject to investigation under subtitle B, and such product is purchased at a price that—

''(A) is lower than the generally available price of the product in the country of manufacture or production, or

''(B) is lower than the price at which the product would be generally available in the country of manufacture or production but for the artificial depression of of such general available price by reason of any subsidy or other sales at below foreign market value.

''(2) SIGNIFICANT PART.—The term 'significant part' means a part the cost of which constitutes not less than 20 percent of the total cost of the product.

''(b) INCLUSION OF AMOUNT ATTRIBUTABLE TO DOWNSTREAM DUMPING.—If the administering authority determines, during the course of such an investigation, that downstream dumping is occurring or has occurred with respect to any such product, the administering authority, in calculating the amount of any antidumping duty on such merchandise, shall include an amount equal to the difference between—

''(1) the price at which the product was purchased, and

''(2) either—

''(A) the generally available price (referred to in subsection (a)(1)) of the product, or

''(B) the price (referred to in subsection (a)(2)) of the product that would pertain, but for the artificial depression,

whichever is appropriate.

''(c) SCOPE OF INQUIRY OF ADMINISTERING AUTHORITY.—The administering authority is not required, in undertaking such an investigation, to consider the presence of downstream dumping, beyond that state in the manufacture or production of the class or kind of merchandise that immediately precedes the final manufacturing or production stage before export to the United States, unless reasonably available information indicates that such dumping has occurred or is occurring before such immediately preceding stage and is having or has had a substantial effect on the price of the merchandise.''.

(b) IMPOSITION OF ANTIDUMPING DUTIES.—Section 731(2) of the Tariff Act of 1930 (19 U.S.C. 1673(2)) is amended—

(1) by striking ''or'' at the end of subparagraph (A)(ii);

(2) by inserting ''or'' at the end of subparagraph (B); and

(3) by inserting after subparagraph (B) the following:

''(C) an industry producing a product used in the manufacture or production of the foreign merchandise has been materially injured or threatened with material injury, or the establishment of such an industry in the United States has been materially retarded,''.

(c) DEFINITION OF INTERESTED PARTY.—Subparagraphs (C), (D), (E), and (F) of section 771(9) of the Tariff Act of 1930 (19 U.S.C. 1677(9) (C), (D), (E), and (F)) are each amended by inserting immediately after ''product'' the following: ''or a product that is used in the manufacture or production of a like product''.

(d) CONFORMING AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting immediately after the item relating to section 771B the following:

''Sec. 771C. Downstream dumping.''.

SEC. 103. APPLICATION OF THE COUNTERVAILING DUTY LAW TO NONMARKET ECONOMIES.

Section 771(5) of the Tariff Act of 1930 (19 U.S.C. 1677(5)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C);

(2) by striking ''subparagraph (A)'' in subparagraph (C), as so redesignated, and inserting ''subparagraphs (A) and (B)''; and

(3) by inserting immediately after subparagraph (A) the following:

''(B) SUBSIDIES IN NONMARKET ECONOMY COUNTRIES.—Benefits that would constitute a countervailable subsidy under subparagraph (A) shall be treated as a subsidy if provided to an enterprise or industry, or group of enterprises or industries, in a nonmarket economy country. In such cases, the amount of the subsidy is equal to the difference between the price at which the merchandise under investigation is sold in the United States, and the weighted average of the prices at which such or similar merchandise, for market economy countries selected by the administering authority as being at a stage of economic development comparable to that of the country under investigation, is sold either—

''(i) for consumption in the home market of those countries, or

''(ii) to other countries, including the United States,

as such prices are established by public and private statistical information, by information supplied by cooperating industries in such selected countries, and by price information submitted by the petitioner and not rebutted by the foreign producer.''.

SEC. 104. DETERMINATIONS OF INJURY IN ANTIDUMPING AND COUNTERVAILING DUTY INVESTIGATIONS.

(a) IMPACT ON AFFECTED DOMESTIC INDUSTRY.—Section 771(7)(C)(iii) of Tariff Act of 1930 (19 U.S.C. 1677(7)(C)(iii)) is amended—

(1) by striking ''(B)(iii)'' and inserting in lieu thereof ''(B)(i)(III)''; and

(2) by striking the last sentence and inserting in lieu thereof the following: ''In evaluating such factors, the Commission shall consider what effect other factors, including the existence of a national economic recovery, have had upon such factors, and whether an increase in the sale of imports compared to sales of domestic products indicates that there is a likelihood that such declines will occur.''.

(b) STANDARD FOR MATERIAL INJURY DETERMINATION.—Section 771(7)(E)(ii) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(E)(ii)) is amended by striking the period at the end and inserting the following: ''; except that factors other than those enumerated in subparagraph (B)(i) shall not alone be the basis for a determination of the Commission that there is no material injury or threat of material injury to United States producers.''.

(c) THREAT OF MATERIAL INJURY.—Section 771(7)(F)(i) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(F)(i)) is amended—

(1) by striking ''and'' at the end of subclause (VIII);

(2) by striking the period at the end of subclause (IX); and

(3) by adding at the end thereof the following:

''(X) capital formation and capital market constraints that result from dumping.''.

SEC. 105. CIRCUMVENTION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

(a) MERCHANDISE COMPLETED OR ASSEMBLED IN UNITED STATES.—Section 781(a) of the Tariff Act of 1930 (19 U.S.C. 1677j(a) is amended—

(1) by adding ''and'' at the end of paragraph (1)(A)(iii);

(2) by striking ''and'' at the end of paragraph (1)(B);

(3) by striking paragraphs (1)(C) and (1)(D);

(4) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2);

(5) by redesignating subparagraphs (B) and (C) of paragraph (2) as subparagraphs (C) and (D), respectively; and

(5) by inserting immediately after paragraph (2)(A), as redesignated, the following new subparagraph:

''(B) the value of the imported parts and components referred to in paragraph (1)(B) or the value of imported parts and components from another country that were utilized in the production or manufacture of the merchandise which was the subject of such order or finding,''.

(b) MERCHANDISE COMPLETED OR ASSEMBLED IN OTHER FOREIGN COUNTRIES.—Section 781(b) of the Tariff Act of 1930 (19 U.S.C. 1677j(b)) is amended—

(1) by adding ''and'' at the end of paragraph (1)(B);

(2) by striking paragraphs (1)(C) and (1)(D);

(3) by redesignating subparagraph (E) as subparagraph (C);

(4) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2);

(5) by redesignating subparagraphs (B) and (C) of paragraph (2), as redesignated, as subparagraphs (C) and (D), respectively; and

(5) by inserting immediately after paragraph (2)(A), as redesignated, the following new subparagraph:

''(B) the value of the imported parts and components referred to in paragraph (1)(B) or the value of imported parts and components from another country that were utilized in the production or manufacture of the merchandise which was the subject of such order or finding,''.

SEC. 106. PRIVATE RIGHT OF ACTION.

(a) UNFAIR COMPETITION.—(1) Section 801 of the Act of September 8, 1916 (15 U.S.C. 72), is amended to read as follows:

''SEC. 801. (a) No person shall import or sell within the United States any article manufactured or produced in a foreign country if—

''(1) such article is imported or sold within the United States at a United States price which is less than the foreign market value or constructed value of such article; and

''(2) such importation or sale—

''(A) causes or threatens material injury to industry or labor in the United States; or

''(B) prevents, in whole or in part, the establishment or modernization of any industry in the United States.

''(b) Any interested party who shall be injured in his business or property by reason of an importation or sale in violation of this section may bring a civil action in the district court of the District of Columbia or in the Court of International Trade against any manufacturer or exporter of such article or any importer of such article into the United States who is related to such manufacturer or exporter.

''(c) In any action brought under subsection (b), upon a finding of liability on the part of the defendant, the plaintiff shall—

''(1)(A) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into, or sale or distribution within, the United States by such defendant of the articles in question, or (B) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained; and

''(2) recover the costs of the action, including reasonable attorney's fees.

''(d) The standard of proof in any action filed under this section is a preponderance of the evidence. Upon a prima facie showing of the elements set forth in subsection (a), or upon a final determination adverse to the defendant by the Department of Commerce or the United States International Trade Commission under section 735 of the Tariff Act of 1930 (19 U.S.C. 1673d) relating to imports of the article in question for the country in which the manufacturer of the article is located, which final determination shall be considered a prima facie case for purposes of this Act, the burden of rebutting such prima facie case shall be upon the defendant.

''(e) Whenever it shall appear to the court that justice requires that other parties be brought before the court, the court may cause them to be summoned, without regard to where they reside, and the subpoenas for such purpose may be served and enforced in any district of the United States.

''(f) The acceptance by any foreign manufacturer, producer, or exporter of any right or privilege conferred upon him to sell his products or have his products sold by another party in the United States shall be deemed equivalent to an appointment by the foreign manufacturer, producer, or exporter of the District Director of the United States Customs Service of the Department of the Treasury for the port through which the article is commonly imported to be the true and lawful agent upon whom may be served all lawful process in any action brought under this section.

''(g)(1) An action may be brought under this section only if such action is commenced within four years after the date on which the cause of action accrued.

''(2) The running of the statute of limitations provided in paragraph (1) shall be suspended while any administrative proceedings under section 731, 732, 733, 734, or 735 of the Tariff Act of 1930 (19 U.S.C. 1673–1673d) relating to the importations in question, or any appeal of a final determination in such proceeding, is pending and for one year thereafter.

''(h) If a defendant in any action brought under subsection (b) fails to comply with any discovery order or other order or decree of the court, the court may—

''(1) enjoin the further importation into, or the sale or distribution within, the United States by such defendant of articles which are the same as, or similar to, those articles which are alleged in such action to have been sold or imported under the conditions described in subsection (b) until such time as the defendant complies with such order or decree; or

''(2) take any other action authorized by law or by the Federal Rules of Civil Procedure, including entering judgment for the plaintiff.

''(i)(1) Except as provided in paragraph (2), the confidential or privileged status accorded by law to any documents, evidence, comments, or information shall be preserved in any action under this section.

''(2) The court in any action brought under this section may—

''(A) examine, in camera, any confidential or privileged material;

''(B) accept depositions, documents, affidavits, or other evidence under sale; and

''(C) disclose such material under such terms and conditions as the court may order.

''(j) Any action brought under this section shall be advanced on the docket and expedited in every way possible.

''(k) For purposes of this section—

''(1) The terms ''United States price', 'foreign market value', 'constructed value', 'subsidy', and 'material injury', shall have the meaning given such terms by title VII of the Tariff Act of 1930.

''(2) If—

''(A) a subsidy is provided to the manufacturer, producer, or exporter of any article, and

''(B) such subsidy is not included in the foreign market value or constructed value of such article (but for this paragraph), the foreign market value of such article or the constructed value of such article shall be increased by the amount of such subsidy.

''(l) The court shall permit the United States to intervene in any action, suit, or proceeding under this section, as a matter of right. The United States shall have all the rights of a party.

''(m) Any order by a court under this section is subject to nullification by the President pursuant to the President's authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).''.

(2) Section 1 of the Clayton Act (15 U.S.C. 12) is amended by inserting immediately after ''nineteen hundred and thirteen;'' the following: ''section 801 of the Act of September 8, 1916, entitled 'An Act to raise revenue, and for other purposes' (15 U.S.C. 72);''.

(b) PRIVATE ENFORCEMENT ACTION.—(1) Chapter 95 of title 28, United States Code, is amended by adding at the end the following:

''§1586. Private enforcement action.

''(a) Any interested party who shall be injured in his business or property by a fraudulent or grossly negligent violation of section 592(a) of the Tariff Act of 1930 (19 U.S.C. 1592(a)) may bring a civil action in the district court of the District of Columbia or in the Court of International Trade, without respect to the amount in controversy.

''(b) Upon proof by an interested party that he has been damaged by a fraudulent or grossly negligent violation of section 592(a) of the Tariff Act of 1930 (19 U.S.C. 1592(a)), such interested party shall—

''(1) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into the United States of the articles or products in question; or

''(2) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained; and

''(3) recover the costs of suit, including reasonable attorney's fees.

''(c) For purposes of this section—

''(1) The term 'interested party' means—

''(A) a manufacturer, producer, or wholesaler in the United States of a like product or competing product; or

''(B) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product or competing product in the United States.

''(2) The term 'like product' means a product which is like, or in the absence of like, most similar in characteristics and uses to products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930 (19 U.S.C. 1592(a)).

''(3) The term 'competing product' means a product which competes with or is a substitute for products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930 (19 U.S.C. 1592(a)).

''(d) The court shall permit the United States to intervene in any action, suit, or proceeding under this section, as a matter of right. The United States shall have all the rights of a party.''.

(2) The chapter analysis of chapter 95 of title 28, United States Code, is amended by adding immediately after the item relating to section 1585 the following:

''1856. Private enforcement action.''.

SEC. 107. ANNUAL REPORT ON ANTIDUMPING AND COUNTERVAILING DUTY PROGRAM.

(a) REPORT TO CONGRESS.—The Secretary of Commerce, with the assistance of the Commissioner of Customs, shall submit to Congress an annual report on the antidumping and countervailing duty program.

(b) CONTENTS.—(1) The annual report submitted under subsection (a) shall include—

(A) information based on Department of Commerce and United States Customs Service data, concerning (i) the status of the antidumping and countervailing duty program, (ii) the status of individual antidumping and countervailing duty orders, (iii) key problems with the program, and (iv) agency plans for improvement; and

(B) reports on progress toward achieving the objectives listed in paragraph (2).

(2) The objectives referred to in paragraph (1)(B) are as follows:

(A) The revamping of Department of Commerce and United States Customs Service program goals and management controls to provide effective means for measuring the

performance of the antidumping and countervailing duty program.

(B) The establishment by the Customs Service of management controls to provide oversight of the performance of Customs Service field offices with respect to the antidumping and countervailing duty program.

(C) The completion by the Customs Service of planned software enhancements to provide automated antidumping and countervailing duty data on final duty assessments, liquidations, billings, payments, and warehouse withdrawals.

(D) The standardization and improvement of the creation, maintenance, and use of the paper files at the Customs Service that pertain to the antidumping and countervailing duty program.

(E) The elimination by the Customs Service and Department of Commerce of their liquidation, billing protest, and scope determination backlogs.

(F) With respect to the determination of the scope of an antidumping and countervailing duty order—

(i) the establishment of a 30-day deadline for the Department of Commerce to issue preliminary or final scope determinations;

(ii) the issuance of a national directive by the Customs Service on handling imports subject to a pending scope determination at the Department of Commerce; and

(iii) the establishment by the Customs Service of a national policy of suspending liquidation and assessing duties on imports apparently within the scope of an antidumping or countervailing duty order, unless otherwise instructed by the Department of Commerce.

(G) Improvement of procedures for Harmonized Tariff Schedule classifications involving imports subject to an antidumping or countervailing duty order or to a pending dispute regarding the scope of such an order.

(H) Completion by the Customs Service of its work to replace its accounting software, strengthen its financial controls, and implement the debt collection reforms recommended in the 1990 Customs Revenue Accounting Study.

(I) Correction of the Customs Service importer identification database to eliminate multiple identification numbers for single importers.

(J) Institution of Customs Service procedures to prevent importers from obtaining new or additional identification numbers where the importers, or their affiliates or predecessors, have delinquent debts to the Customs Service.

(K) Establishment of Customs Service management controls to ensure that its field offices issue timely bills for the collection of antidumping or countervailing duties.

(L) Streamlining of Department of Commerce procedures for handling billing protests in a timely manner, together with establishment of effective Customs Service procedures for monitoring such protests.

(M) Establishment of policies and procedures within the Department of Commerce and Customs Service for prompt response by their personnel to United States industry requests for information on antidumping or countervailing duty activities.

(N) Implementation of policies and procedures at the Department of Commerce and Customs Service for the prompt investigation of complaints by United States industry concerning antidumping or countervailing duty enforcement.

TITLE II—ADJUSTMENT TO IMPORT COMPETITION

SEC. 201. IMPORT RELIEF.

(a) SECRETARY OF COMMERCE TO ASSUME ITC FUNCTIONS.—Section 202 of the Trade Act of 1974 (19 U.S.C. 2252) is amended by striking ''the Commission'' each place it appears and inserting ''the Secretary of Commerce''.

(b) PETITIONS AND ADJUSTMENT PLANS.—Section 202(a) of the Trade Act of 1974 (19 U.S.C. 2252(a)) is amended—

(1) by striking ''the Office of the United States Trade Representative and'' in paragraph (3);

(2) by striking ''and the United States Trade Representative (hereafter in this chapter referred to as the 'Trade Representative')'' in paragraph (4); and

(3) by striking ''Trade Representative'' the first four times it appears in paragraph (5) and inserting ''the Secretary of Commerce''; and

(4) by striking ''Trade Representative'' the last time it appears in that paragraph and inserting ''Secretary of Commerce''.

(c) SUBSTANTIAL CAUSE DETERMINATIONS.—Section 202(c)(1)(C) of the Trade Act of 1974 (19 U.S.C. 2252(c)(1)(C)) is amended by inserting before the period at the end the following: '', or a significant reduction in market share, profits, employment, investment, or research and development which would not have occurred in the absence of increased quantities of imports, even though similar reductions due to other causes might have occurred''.

(d) DETERMINATION OF AFFECTED DOMESTIC INDUSTRY.—Section 202(c)(4) of the Trade Act of 1974 (19 U.S.C. 2252(c)(40) is amended—

(1) by striking ''and'' at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

(3) by adding at the end the following:

''(D) shall, in a case involving a broad range of related products, many or all of which are produced by the same domestic producers, treat as such domestic industry the producers of such products, even though the products may not be like or directly competitive with one another.''.

(e) SECRETARY OF COMMERCE RECOMMENDATIONS.—Section 202(e) of the Trade Act of 1974 (19 U.S.C. 2252(e)) is amended—

(1) by striking ''203(e)'' in paragraph (3) and inserting ''203(d)'';

(2) by striking clauses (ii) and (iii) of paragraph (5) and inserting the following:

''(ii) the extent to which workers and firms in the domestic industry are—

''(I) benefiting from adjustment assistance and other manpower programs, and

''(II) engaged in worker retraining efforts,

''(iii) the efforts being made, or to be implemented, by the domestic industry (including the efforts included in any adjustment plan or commitment submitted to the Secretary of Commerce under section 201(b)) to make a positive adjustment to import competition,'';

(3) by striking ''and'' at the end of paragraph (5)(B)(iv);

(4) by striking the period at the end of paragraph (5)(B)(v) and inserting in lieu thereof a comma; and

(5) by adding at the end of paragraph (5)(B) the following:

''(vi) the extent to which there is diversion of foreign exports to the United States market by reason of foreign restraints,

''(vii) the potential for circumvention of any action taken under this section, and

''(viii) the national security interests of the United States.''.

(f) LIMITATIONS ON INVESTIGATIONS.—Section 202(h) of the Trade Act of 1974 (19 U.S.C. 2252(h)) is amended by striking ''section 203(a)(3)(A), (B), (C), or (E)'' and inserting the following: ''section 202(e)(2)(A), (B), or (C), or section 202(e)(4)(A) with respect to orderly marketing agreements,''.

TITLE III—UNFAIR INTERNATIONAL TRADE PRACTICES

SEC. 301. IDENTIFICATION OF TRADE LIBERALIZATION PRIORITIES.

(a) EXTENSION OF PERIOD FOR IDENTIFICATION.—Section 310 of the Trade Act of 1974 (19 U.S.C. 2420) is amended—

(1) by striking ''By no later than the date that is 30 days after the date in calendar year 1989, and also the date in calendar year 1990, on which the report required under section 181(b) is submitted to the appropriate Congressional committees,'' in subsection (a)(1) and inserting ''By no later than September 30 of each calendar year,'';

(2) by striking ''such report'' in subsection (B) and inserting ''the most recent report submitted under section 181(b)'';

(3) by inserting '', Committee on Commerce, Science, and Transportation, Committee on Banking, Housing, and Urban Affairs, and Committee on Foreign Relations'' in subsection (a)(1)(D) after ''Finance''; and

(4) by inserting '', Committee on Commerce, Committee on Banking, Urban Affairs, and Committee on International Relations'' in subsection (a)(1)(D) after ''Ways and Means''; and

(5) by adding at the end the following new subsection:

''(e) PETITIONS BY CONGRESSIONAL COMMITTEES.—If the Committee on Finance, Committee on Commerce, Science, and Transportation, Committee on Banking, Housing, and Urban Affairs, or Committee on Foreign Relations of the Senate, or the Committee on Ways and Means, Committee on Commerce, Committee on Banking, Urban Affairs, or Committee on International Relations of the House of Representatives, determines (by a resolution adopted by such Committee) that an investigation under this chapter should be initiated with respect to any barriers and market distorting practices of any foreign country that such Committee determines to be a country that maintains a consistent pattern of import barriers or market distorting practices, such Committee shall be eligible to file a petition under section 302(a) and shall file a petition under section 302(a) with respect to such barriers and practices.''.

(b) MANDATORY ACTION.—(1) Section 301(a)(1) of the Trade Act of 1974 (19 U.S.C. 2411(a)(1)) is amended—

(A) by striking ''or'' at the end of subparagraph (A);

(B) by inserting ''or'' at the end of subparagraph (B)(ii); and

(C) by inserting after subparagraph (B)(ii), the following new subparagraph:

''(C) a priority practice—

''(i) identified under section 310, or

''(ii) with respect to a priority foreign country identified under section 310,

constitutes an act, policy, or practice of a foreign country which is unreasonable or discriminatory and burdens or restricts United States Commerce;''.

(2) Section 304(a)(1)(A)(ii) of the Trade Act of 1974 (19 U.S.C. 2414(a)(1)(A)(ii)) is amended by striking ''(a)(1)(B)'' and inserting ''(a)(1)(B), (a)(1)(C),''.

(c) ESTIMATION OF BARRIERS TO MARKET ACCESS.—Section 181(a)(1)(C) of the Trade Act of 1974 (19 U.S.C. 2241(a)(1)(C)) is amended—

(1) by striking '', if feasible,''; and

(2) by striking the period at the end and inserting the following: ''; and if it is not feasible to make an estimate under this subparagraph, the Trade Representative shall provide an explanation of why such estimate is not feasible.''.

SEC. 302. ANNUAL REVIEW OF TRADE AGREEMENTS.

(a) IN GENERAL.—Chapter I of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.) is amended by inserting immediately after section 306 the following new section:

"SEC. 306A. ANNUAL REVIEW OF TRADE AGREEMENTS.

''(a) REQUEST FOR REVIEW.—

''(1)(A) An interested person may file with the Trade Representative a written request for a review to determine whether a foreign country is in compliance with any trade agreement such country has with the United States. Such request may be filed at any time after the date which is within 30 days after the anniversary of the effective date of such agreement, but not later than 90 days before the date of expiration of such agreement.

''(B) A written request filed under subparagraph (A) shall—

''(i) identify the person filing the request and the interest of that person which is affected by the noncompliance of a foreign country with a trade agreement with the United States;

''(ii) describe the rights of the United States being denied under such trade agreement; and

''(iii) include information reasonably available to the person regarding the failure of the foreign country to comply with such trade agreement.

''(C) For purposes of this subsection—

''(i) the term 'interested person' means a person with a significant economic interest that is affected by the failure of a foreign country to comply with a trade agreement.

''(ii) The term 'trade agreement' means an agreement with the United States and does not include multilateral trade agreements such as the General Agreement on Tariffs and Trade.

''(b) REVIEW AND DETERMINATION.—

''(1) Upon the filing of a request under subsection (a), the Trade Representative shall commence the requested review. In conducting the review, the Trade Representative may, as the Trade Representative determines appropriate, consult with the Secretary of Commerce, the Secretary of Agriculture, or the head of any other relevant Federal agency.

''(2)(A) On the basis of the review conducted under paragraph (a), the Trade Representative shall determine whether any act, policy, or practice of the foreign country that is the subject of the review is in material noncompliance with the terms of the applicable trade agreement. Such determination shall be made no later than 90 days after the request for review was filed under subsection (a).

''(B) In making a determination under paragraph (1) with respect to a foreign country's compliance with a trade agreement, the Trade Representative shall take into account, among other relevant factors—

''(i) achievement of the objectives of the agreement,

''(ii) adherence to commitments given, and

''(iii) any evidence of actual patterns of trade that do not reflect patterns of trade which would reasonably be anticipated to flow from the concessions or commitments of such country based on the international competitive position and export potential of a United States industry.

''(C) The Trade Representative may seek the advice of the Commission when considering the factors described in subparagraph (B).

''(c) FURTHER ACTION.—

''(1) If the Trade Representative determines under subsection (b) that an act, policy, or practice of a foreign country is in material noncompliance with the applicable trade agreement, the Trade Representative shall determine what further action to take under section 301(a).

''(2) For purposes of section 301, any determination made under subsection (b) shall be treated as a determination made under section 304(a)(1).

''(3) In determining what further action (including possible sanctions) to take under paragraph (1), the Trade Representative shall seek to minimize any adverse impact on existing business relations or economic interests of United States persons, including consideration of taking action with respect to future products for which a significant volume of current trade does not exist.''.

(b) CONFORMING AMENDMENT.—The table of contents of chapter 1 of title III of the Trade Act of 1974 is amended by inserting immediately after the item relating to section 306 the following new item:

''Sec. 306A. Annual review of trade agreements.''.

(c) INTERNATIONAL OBLIGATIONS.—The amendments made by this section shall not be construed to require actions inconsistent with the international obligations of the United States, including the General Agreement on Tariffs and Trade.

SEC. 303. NATIONAL TRADE ESTIMATE.

(a) REPORT TO APPROPRIATE COMMITTEES OF SENATE.—Section 181(b)(1) of the Trade Act of 1974 (19 U.S.C.2241 (b)(1)) is amended by striking the comma after ''President'' and ''the Committee on Finance of the Senate, and appropriate committees of'' and inserting ''and to the appropriate committees of the Senate and the''.

(b) REPORT TO INCLUDE TOP 10 TRADE DEFICITS.—Section 181(b) of such Act (19 U.S.C. 2241(b)) is amended—

(1) by redesignating paragraph (3) as (4); and

(2) by inserting after paragraph (2) the following:

''(3) The National Trade Estimate shall include an enumeration of the 10 most significant trade deficits between the United States and other countries on an industry-by-industry basis.''.

TITLE IV—PROVISIONS RELATING TO IMPORTS

SEC. 401. CHILD LABOR.

(a) FINDINGS; PURPOSE; POLICY.—

(1) FINDINGS.—The Congress finds the following:

(A) Principle 9 of the Declaration of the Rights of the Child proclaimed by the General Assembly of the United Nations on November 20, 1959, states that ''* * * the child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental, or moral development * * *''.

(B) According to the International Labor Organization, worldwide an estimated 200,000,000 children under age 15 are working, many of them in dangerous industries like mining and fireworks.

(C) Children under age 15 constitute approximately 11 percent of the workforce in some Asian countries, 17 percent in parts of Africa, and a reported 12-to-26 percent in many countries in Latin America.

(D) The number of children under age 15 who are working, and the scale of their suffering, increase every year, despite the existence of more than 20 International Labor Organization conventions on child labor and laws in many countries which purportedly prohibit the employment of underage children.

(E) In many countries, children under age 15 lack either the legal standing or means to protect themselves from exploitation in the workplace.

(F) The employment of children under age 15 commonly deprives the children of the opportunity for basic education and also denies gainful employment to millions of adults.

(G) The prevalence of child labor in many developing countries is rooted in widespread poverty that is attributable to unemployment and underemployment, precarious incomes, low living standards, and insufficient education and training opportunities.

(H) The employment of children under age 15, often at pitifully low wages, undermines the stability of families and ignores the importance of increasing jobs, aggregate demand, and purchasing power among adults as a catalyst to the development of internal markets and the achievement of broad-based, self-reliant economic development in many developing countries.

(I) Adult workers in the United States and other developed countries should not have their jobs imperiled by imports produced by child labor in developing countries.

(2) PURPOSE.—The purpose of this section is to curtail worldwide employment of children under age 15 by—

(A) eliminating the role of the United States in providing a market for foreign products made by underage children; and

(B) encouraging other nations to join in a ban on trade in such products.

(3) POLICY.—It is the policy of the United States—

(A) to discourage actively the employment of children under age 15 in the production of goods for export or domestic consumption;

(B) to strengthen and supplement international trading rules with a view to renouncing the use of underage children in production as a means of competing in international trade;

(C) to amend United States law to prohibit the entry into commerce of products resulting from the labor of underage children; and

(D) to offer assistance to foreign countries to improve the enforcement of national laws prohibiting the employment of children under age 15 and to alleviate the underlying poverty that is often the cause of the commercial exploitation of children under age 15.

(b) PROPOSAL FOR WORLDWIDE TRADE BAN.—In pursuit of the policy set forth in this section, the President is urged to propose, as soon as possible, to the United Nations Economic and Social Rights Committee that the Convention for the Rights of the Child, which is to be submitted to the General Assembly of the United Nations, include a worldwide ban on trade in products of child labor.

(c) IDENTIFICATION OF FOREIGN COUNTRIES PERMITTING USE OF CHILD LABOR.—

(1) PERIODIC REVIEWS.—The Secretary of Labor shall undertake periodic reviews (and the first such review shall be undertaken within 180 days after the date of enactment of this Act) to identify any foreign country that—

(A) has not adopted, or is not enforcing effectively, prohibitions against the use of child labor in the production of products within the country (including designated zones therein); and

(B) has on a continuing basis exported products of child labor of the country to the United States.

(2) PETITION.—

(A) Any person may file a petition with the Secretary of Labor requesting that a particular foreign country be identified under paragraph (1). The petition must set forth the allegations in support of the request.

(B) Within 90 days after receiving a petition under subparagraph (A), the Secretary of Labor shall—

(i) decide whether or not the allegations in the petition warrant further action by the Secretary of Labor under paragraph (1) with regard to the foreign country; and

(ii) notify the petitioner of the decision under clause (i) and the facts and reasons supporting the decision.

(3) PRE-IDENTIFICATION PROCEDURE.—Before identifying a foreign country under paragraph (1), the Secretary of Labor shall—

(A) consult with the United States Trade Representative, the Secretary of State, and the Secretary of the Treasury regarding such an action;

(B) publish notice in the Federal Register stating that such an identification is being considered and inviting the submission within a reasonable time of written comment from the public; and

(C) take into account the information obtained under subparagraphs (A) and (B).

(4) WITHDRAWL OF IDENTIFICATION.—

(A) Subject to subparagraph (B), the Secretary of Labor may withdraw the identification of any foreign country under paragraph (1) if information available to the Secretary indicates that such action is appropriate.

(B) No withdrawal under subparagraph (A) may take effect earlier than the 60th day after the date on which the Secretary submits to the Congress a written report—

(i) stating that in the opinion of the Secretary of Labor the foreign country concerned has adopted, and is effectively enforcing, laws prohibiting the production of products with child labor within the country (including designated zones therein); and

(ii) stating the facts on which such opinion is based and any other reason why the Secretary of Labor considers the withdrawal appropriate.

(C) No withdrawal under subparagraph (A) may take effect unless the Secretary of Labor—

(i) publishes notice in the Federal Register that such a withdrawal is under consideration and inviting the submission within a reasonable time of written comment from the public on such a withdrawal; and

(ii) takes into account the information received under clause (i) before preparing the report required under subparagraph (B).

(5) PUBLICATION OF DECISIONS; MAINTENANCE OF LIST.—The Secretary of Labor shall—

(A) promptly following an identification decision under paragraph (1) publish in the Federal Register—

(i) the name of each foreign country so identified, and

(ii) the text of each decision made under paragraph (2)(B)(i) and a statement of the facts and reasons supporting the decision;

(B) promptly following a withdrawal decision under paragraph (4) publish the name of each foreign country regarding which an identification is so withdrawn; and

(C) maintain in the Federal Register a current list of all foreign countries identified under paragraph (1).

(6) REPORT.—In furtherance of paragraph (1), the Secretary of Labor shall transmit to the Congress, within 180 days after the date of enactment of this Act, and not later than March 1 of each subsequent year, a full and complete report with respect to the national laws and practices of foreign countries pertaining to the commercial exploitation of children. In preparing such a report, the Secretary shall consult with those officials listed in paragraph (3)(A). The Secretary shall use all available information regarding the commercial exploitation of children, including information made available by the International Labor Organization, international trade union secretariats, trade unions, children's advocacy organizations, religious groups, and human rights organizations. Each report shall include entries on all foreign countries, shall describe which countries condone the commercial exploitation of children by law or in practice, and shall describe which countries by law and in practice effectively discourage the commercial exploitation of children, including the domestic mechanisms for the enforcement of laws and penalties intended to deter the commercial exploitation of children. Wherever possible, each report shall also identify those industries within particular foreign countries in which there is demonstrable evidence of commercial exploitation of children.

(d) RESTRICTIONS ON ENTRY OF CERTAIN ARTICLES.—

(1) ENTRY PROHIBITED.—

(A) Except a provided in subparagraph (B), during the effective identification period for a foreign country the Secretary of the Treasury may not permit the entry of any manufactured article that is a product of that country.

(B) Subparagraph (A) does not apply to the entry of a manufactured article—

(i) for which a certification that meets the requirements of paragraph (2) is provided;

(ii) that is entered under any subheading in subchapter IV or VI of chapter 98 (relating to personal exemptions) of the Harmonized Tariff Schedule of the United States; or

(iii) that was exported from the foreign country and was en route to the United States before the first day of the effective identification period for such country.

(2) DOCUMENTATION.—

(A) The Secretary of the Treasury shall prescribe the form and content of documentation, for submission in connection with the entry of a manufactured article, that satisfies the Secretary of the Treasury that the importer of the article has undertaken reasonable steps to ensure, to the extent practicable, that the article is not a product of child labor.

(B) The documentation required by the Secretary of the Treasury under subparagraph (A) shall include written evidence that the agreement setting forth the terms and conditions of the acquisition or provision of the imported article includes the condition that the article not be a product of child labor.

(e) PROHIBITIONS; PENALTIES.—

(1) PROHIBITION.—It is unlawful—

(A) during the effective identification period applicable to a foreign country, to attempt to enter any manufactured article that is a product of that country if the entry is prohibited under subsection (d)(1)(A); or

(B) to violate any regulation prescribed under subsection (f).

(2) CIVIL PENALTY.—Any person who commits any unlawful act set forth in paragraph (1) is liable for a civil penalty of not to exceed $25,000.

(3) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under paragraph (2), any person who intentionally commits any unlawful act set forth in paragraph (1) is, upon conviction, liable for a fine of not less than $10,000 and not more than $35,000, or imprisonment for 1 year, or both.

(4) APPLICATION OF CUSTOMS LAW ENFORCEMENT PROVISIONS.—The violations set forth in paragraph (1) shall be treated as violations of the customs laws for purposes of applying the enforcement provisions of the Tariff Act of 1930, including—

(A) the search, seizure, and forfeiture provisions;

(B) section 592 (relating to penalties for entry by fraud, gross negligence, or negligence); and

(C) section 619 (relating to compensation to informers).

(f) REGULATIONS.—The Secretary shall prescribe regulations that are necessary or appropriate to carry out this section.

(g) SPECIAL RULES; DEFINITIONS.—For purposes of this section—

(1) A manufactured article shall be treated as being a product of child labor if the article—

(A) was fabricated, assembled, or processed, in whole or part,

(B) contains any part that was fabricated, assembled, or processed, in whole or part, or

(C) was mined, quarried, pumped, or otherwise extracted,

by one or more children who engaged in the fabrication, assembly, processing, or extraction—

(i) in exchange for remuneration (regardless to whom paid), subsistence, goods or services, or any combination of the foregoing;

(ii) under circumstances tantamount to involuntary servitude; or

(iii) under exposure to toxic substances or working conditions otherwise posing serious health hazards.

(2) The term ''child'' means an individual who has not attained age 15.

(3) The term ''effective identification period'' means, with respect to a foreign country, the period that—

(A) begins on the date of that issue of the Federal Register in which the identification of the country is published under subsection (c)(5)(A); and

(B) terminates on the date of that issue of the Federal Register in which the withdrawal of the identification referred to in clause (i) is published under subsection (c)(5)(B).

(4) The term ''entered'' means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(5) The term ''foreign country'' includes any foreign instrumentality. Any possession or territory of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

(6) The term ''manufactured article'' means any good that is fabricated, assembled, or processed. The term also includes any mineral resource (including any mineral fuel) that is entered in a crude state. Any mineral resource that at entry has been subjected to only washing, crushing, grinding, powdering, levigation, sifting, screening, or concentration by flotation, magnetic separation, or other mechanical or physical processes shall be treated as having been processed for the purposes of this section.

SEC. 402. SLAVE LABOR.

(a) IN GENERAL.—Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended to read as follows:

''SEC. 307. PROHIBITION ON IMPORTATION OR TRANSPORTATION OF PROHIBITED PRODUCTS.

''(a) FINDINGS AND POLICY.—

''(1) FINDINGS.—The Congress finds that—

''(A) some states in the international community employ various forms of convict labor, forced labor, indentured labor, and involuntary labor;

''(B) these forms of labor are used for several purposes, including political coercion, education or punishment, economic development, labor discipline, or racial, social, national, or religious discrimination;

''(C) goods, wares, articles, and resources produced or extracted by these forms of labor are exported, directly or indirectly, to other states in the international community, including the United States;

''(D) the use of forced or compulsory labor constitutes disrespect for basic human rights and fundamental freedoms, as set forth in the Universal Declaration of Human Rights, the Charter of the United Nations, and other international covenants;

''(E) the Universal Declaration of Human Rights recognizes the 'right to work, to free choice of employment, to just and favorable conditions of work' and prohibits slavery and the slave trade 'in all their forms';

''(F) the United States, as a sovereign state in the international community, has pledged itself to protect and defend human rights within its territory and to protect and promote human rights, including the rights

of individuals, to be free from forced labor and involuntary servitude, throughout the world; and

''(G) this commitment to human rights, generally, and to the termination of forced labor and involuntary servitude, specifically, is consistent with the basic principles on which the United States was founded, as embodied in such documents as the Declaration of Independence and the Bill of Rights, with the population against slavery in the Thirteenth Amendment, and with the historical traditions of the United States as a humanitarian nation; and

''(H) the Senate demonstrated the commitment of the United States to the termination of forced labor and involuntary servitude on May 14, 1991, when the Senate gave its advice and consent to the ratification of the Convention Concerning the Abolition of Forced Labor (Convention No. 105), adopted by the International Labor Conference (40th session) at Geneva, Switzerland, on June 25, 1957.

''(2) POLICY.—It is the policy of the United States to—

''(A) take measures, to the maximum extent practicable, to protect the rights of individuals to be free from force labor and involuntary servitude;

''(B) enable the citizens of the United States to be free from unknowingly supporting or subsidizing the policies of states in the international community which employ forced labor and involuntary servitude; and

''(C) deny United States economic support, by consumer purchase, investment, lending, or otherwise, to states in the international community which use forced labor.

''(b) PROHIBITION ON IMPORTATION OR TRANSPORTATION.—

(1)(A) Except as provided in subparagraph (B), no prohibited product may be imported into the United States nor transported in interstate commerce.

''(B) The provisions of subparagraph (A) shall not apply to items vital to national security.

''(2) No United States national or any other person subject to the jurisdiction of the United States may invest in, or make loans to, a foreign joint venture involving the use of forced labor.

''(3) The Secretary of the Treasury shall prescribe such regulations as may be necessary for the enforcement of this subsection.

''(4) For purposes of this subsection—

''(A) the term 'forced labor' means all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily;

''(B) the term 'prohibited product' means any goods, wares, articles, merchandise, natural resources, and services produced, mined, extracted, manufactured, or provided wholly or in part in any foreign country by forced labor; and

''(C) the term 'United States national' means—

''(i) a natural person who is a citizen of the United States; and

''(ii) a corporation or other legal entity which is organized under the laws of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands, if natural persons who are citizens of the United States own, directly or indirectly, 50 percent or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

''(c) PENALTIES.—(1) With respect to any violation of subsection (b)(1) or (2), an order under this section shall require the person or entity to pay a civil penalty of—

''(A) $10,000 for one violation;

''(B) $100,000 in the case of a person or entity previously subject to one order under this section; or

''(C) $1,000,000 in the case of a person or entity previously subject to more than one order under this section.

''(2)(A) Before imposing an order described in paragraph (1) against a person or entity for a violation of subsection (b)(2), the Secretary of the Treasury shall provide the person or entity with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Secretary of the Treasury) of the date of the notice, a hearing respecting the violation.

''(B) Any hearing so requested shall be conducted before an administration law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. The hearing shall be held at the nearest practicable place to the place where the person or entity resides or of the place where the alleged violation occurred. If no hearing is so requested, the Secretary of the Treasury's imposition of the order shall constitute a final and unappealable order.

''(C) If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity named in the complaint has violated subsection (b)(1) or (2), the administrative law judge shall state his findings of fact and issue and cause to be served on such person or entity an order described in paragraph (1).

''(3) The decision and order of an administrative law judge shall become the final agency decision and order of the Secretary of the Treasury unless, within 30 days, the Secretary of the Treasury modifies or vacates the decision and order, in which case the decision and order of the Secretary of the Treasury shall become a final order under this subsection. The Secretary of the Treasury may not delegate his authority under this paragraph.

''(4) A person or entity adversely affected by a final order respecting an assessment may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

''(5) If a person or entity fails to comply with a final order issued under this subsection against the person or entity, the Attorney General shall file a suit to seek compliance with the order in any appropriate circuit court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

''(d) ENFORCEMENT BY PRIVATE PERSONS.—(1) The prohibitions contained in subsection (b)(1) and (2) may be enforced by civil actions in appropriate United States district courts without regard to the amount in controversy and in appropriate State or local courts of general jurisdiction. A civil action shall be commenced within 1 year after plaintiff obtains knowledge of the alleged violation of subsection (b)(1) has occurred, or reasonably should have obtained knowledge, except that the court shall continue such civil case brought pursuant to this section from time to time before bringing it to trial if an administrative hearing pursuant to subsection (c)(2) has commenced and is being diligently conducted so as to reach an expeditious conclusion.

''(2)(A) Except as provided in paragraph (3)—

''(i) any person to whom any prohibited product has been offered for purchase or in reasonable likelihood will be offered for purchase, or

''(ii) any public interest group or human rights organization, may commence a civil suit on behalf of that person, group, or organization—

''(I) to enjoin any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the Eleventh Amendment to the Constitution), who is alleged to be in violation of any provision of this section or regulation issued under the authority of this section;

''(II) to compel the Secretary of the Treasury to enforce any prohibitions specified in subsection (b)(1) or (2) through an order for penalties under subsection (c); or

''(III) to compel the Secretary of the Treasury to perform any act or duty under subsection (b)(1) or (2) which is not discretionary with the Secretary and which the Secretary has failed to carry out.

''(B) The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any such provision or regulation, or to order the Secretary to perform such act or duty, as the case may be.

''(3) No action may be commenced under paragraph (2)(A)—

''(A) if 60 days have not elapsed after written notice of the violation has been given to the Secretary of the Treasury, and to any alleged violator of this section or any regulation issued under this section;

''(B) if the Secretary of the Treasury has commenced an action to impose a penalty pursuant to subsection (c); or

''(C) if the United States has commenced and is diligently prosecuting a criminal action in a court of the United States or State to address a violation of any such provision or regulations.

''(e) TREBLE DAMAGES.—Any person in competition with a person importing or transporting items, or investing or loaning funds, in violation of subsection (b)(1) or (2), who is injured as a result of such violation, may bring an action in a United States district court and shall recover three-fold the amount of the damages sustained by such violation.''.

(b) REPEALS.—Sections 1761 and 1762 of title 18, United States Code, are repealed.

TITLE V—NEGOTIATING AUTHORITY

SEC. 501. NEGOTIATION OF AGREEMENTS REGARDING TARIFF BARRIERS.

(a) IN GENERAL.—Section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902(a)) is amended to read as follows:

''(a) AGREEMENTS REGARDING TARIFF BARRIERS.—Whenever the President determines that one or more existing duties or other import restrictions or any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and the purposes, policies, and objectives of this title will be promoted thereby, the President before June 1, 1993, may enter into trade agreements with foreign countries.''.

(b) CONFORMING AMENDMENT.—Section 1105(a)(2) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2904(a)(2)) is amended by striking ''proclamation or'' each place it appears.

SEC. 502. REPEAL OF FAST TRACK PROCEDURES.

(a) REPEAL OF PROCEDURES IN TRADE ACT OF 1974.—Sections 151 through 154 of the Trade Act of 1974 (19 U.S.C. 2191–2194) are repealed.

(b) REPEAL OF PROVISIONS IN OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988.—

(1) Subsections (b), (c), (d), and (e) of section 1103 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2903) are repealed.

(2) Paragraph (4) of section 1102(c) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902(c)) is repealed.

(3) Paragraph (4) of section 1107(a) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2906(a)) is repealed.

SEC. 503. APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT.

Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is amended by inserting ''including bilateral and multilateral negotiations with other countries on trade with other matters)'' immediately after ''human environment''.

SEC. 504. REPRESENTATION ON ADVISORY COMMITTEES.

(a) ADVISORY COMMITTEE FOR TRADE POLICY AND NEGOTIATIONS.—Section 135(b)(1) of the Trade Act of 1974 (19 U.S.C. 2155)(B)(1)) is amended by inserting ''environmental interests, health and safety interests,'' immediately after ''retailers,''.

(b) GENERAL POLICY ADVISORY COMMITTEES.—Section 135(c)(1) of the Trade Act of 1974 (19 U.S.C. 2155(c)(1)) is amended by inserting ''environmental, consumer, health and safety,'' immediately after ''defense,'' each place it appears.

(c) SECTORAL AND FUNCTIONAL ADVISORY COMMITTEES.—Section 135(c)(2) of the Trade Act of 1974 (19 U.S.C. 2155(c)(2)) is amended by inserting ''environmental, consumer, health and safety,'' immediately after ''agricultural,''.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. SCOFFLAW PENALTIES FOR MULTIPLE CUSTOMS LAW OFFENDERS.

(a) ORDER BY SECRETARY OF TREASURY.—

(1) The Secretary of the Treasury shall by order prohibit any person who is a multiple customs law offender from—

(A) introducing, or attempting to introduce, foreign goods into the customs territory of the United States; and

(B) engaging, or attempting to engage, any other person for the purpose of introducing, on behalf of the multiple customs law offender, foreign goods into such customs territory. If the multiple customs law offender is a firm, corporation, or other legal entity, the order shall apply to all officers and principals of the entity. The order shall also apply to any employee or agent of the entity if that employee or agent was directly involved in the violations of the customs laws concerned.

(2) The prohibition contained in the order issued under paragraph (1) shall apply during the period which begins on the 60th day after the date on which the order is issued and ends on the 3rd anniversary of such 60th day.

(b) NOTIFICATIONS BY AGENCIES.—Each Federal agency shall notify the Secretary of the Treasury of all final convictions and assessments made incident to the enforcement of the customs laws under the jurisdiction of such agency.

(c) PENALTIES.—Whoever violates, or knowingly aids or abets the violation of, an order issued by the Secretary of the Treasury under this section shall be fined not more than $250,000 or imprisoned not more than 10 years, or both.

(d) RULEMAKING.—The Secretary of the Treasury shall prescribe rules to carry out this section, including rules governing the procedures to be used in issuance of orders under subsection (a). Such rules shall also include a list of the customs laws.

(e) DEFINITIONS.—For purposes of this section, the term—

(1) ''customs laws'' means any Federal law providing a criminal or civil penalty for an act, or failure to act, regarding the introduction of, or the attempt to introduce, foreign goods into the customs territory of the United States, including sections 496 and 1001 (but only with respect to customs matters), and any section of chapter 17 of title 18, United States Code, and section 592 of the Tariff Act of 1930 (19 U.S.C. 1592); and

(2) ''multiple customs law offender'' means a person that, during any period of seven consecutive years after the date of enactment of this act, was either convicted of, or assessed a civil penalty for, three separate violations of one or more customs laws finally determined to involve fraud or criminal culpability.

SEC. 602. AUTHORITY TO ESTABLISH MANUFACTURING SUBZONES.

The Foreign Trade Zones Act (19 U.S.C. 81a st seq.) is amended by adding at the end the following new section:

''Sec. 22. (a) After the date of enactment of this section, the Board shall not authorize the establishment of a subzone for manufacturing unless the Board finds, based on clear and convincing evidence, that the establishment of such a subzone will result in—

''(1) significant net public benefits, taking into account significant adverse effects;

''(2) additional substantial exports from the United States;

''(3) the encouragement of activity related to import displacement or substitution;

''(4) the generation or sustaining of employment and investment in the United States;

''(5) no negative effect on a remedial action or program instituted by the United States to counter an international unfair trade practice; and

''(6) no material harm to an existing industry in the United States.

''(b) Decisions by the Board with respect to the establishment of a subzone described in subsection (a) shall be made by the Board members in their personal capacities, and authority to make such decisions shall not be delegated except in extraordinary circumstances.''.

SEC. 603. CONGRESSIONAL DISAPPROVAL RESOLUTION.

Subsection (f) of section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) is repealed.

SEC. 604. REPRESENTATION OR ADVISING OF FOREIGN PERSONS.

(a) FARA DEFINITIONS.—

(1) Section 1(c) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(c)) is amended—

(A) by striking ''agent of a foreign'' and inserting in lieu thereof ''representative of a foreign'';

(B) by striking ''an agent of a foreign'' and inserting in lieu thereof '' a representative of a foreign''; and

(C) by adding at the end the following new sentence: ''For purposes of clause (1), a foreign principal shall be considered to control a person in major part if the foreign principal holds 50 percent or more equitable ownership in such person.''.

(2) Section 1(j) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(j)) is amended by striking ''propaganda'' and inserting in lieu thereof ''promotional material''.

(3)(A) Section 1(d) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(d)) is amended by striking ''agent'' each plane it appears and inserting in lieu thereof ''representative''.

(B) Section 1(o) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(o)) is amended by striking ''propaganda'' and inserting in lieu thereof ''promotional material''.

(C) Section (2)(a) and (f)) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 612(a) and (f) is amended by striking ''an agent'' each place it appears and inserting in lieu thereof ''a representative''.

(D) Section 2 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 612), as amended by subparagraph (C) of this paragraph, is further amended by striking ''agent'' each place it appears and inserting in lieu thereof ''representative''.

(E) Section 3 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 613) is amended—

(i) by striking ''agent'' and inserting in lieu thereof ''representative''; and

(ii) in subsection (f)—

(I) by striking ''an agent'' and inserting in lieu thereof ''a representative''; and

(II) by striking ''any agent'' and inserting in lieu thereof ''representative''.

(F) Section 4 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 614) is amended—

(i) by striking ''an agent'' each place it appears and inserting in lieu thereof ''representative'';

(ii) by striking ''propaganda'' each place it appears and inserting in lieu thereof ''promotional material'';

(iii) by striking ''such agent'' each place it appears and inserting in lieu thereof ''such representative'';

(iv) by striking ''agent'' and inserting in lieu thereof ''representative''; and

(v) by striking ''any agent'' and inserting in lieu thereof ''any representative''.

(G) Section 5 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 615) is amended—

(i) by striking ''Every agent'' and inserting in lieu thereof ''Every representative'';

(ii) by striking ''an agent'' and inserting in lieu thereof ''a representative''; and

(iii) by striking ''every agent'' and inserting in lieu thereof ''every representative''.

(H) Section 6 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 616) is amended—

(i) by striking ''propaganda'' each place it appears and inserting in lieu thereof ''promotional material''; and

(ii) by striking ''agent'' and inserting in lieu thereof ''representative''.

(I) Section 7 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 617) is amended—

(i) by striking ''an agent'' each place it appears and inserting in lieu thereof ''a representative''; and

(ii) by striking ''such agent'' each place it appears and inserting in lieu thereof ''such representative''.

(J) Section 8 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 618) is amended—

(i) by striking ''propaganda'' and inserting in lieu thereof ''promotional material'';

(ii) by striking ''an agent'' each place it appears and inserting in lieu thereof ''any representative''.

(iii) by striking ''any agent'' each place it appears and inserting in lieu thereof ''any representative''; and

(iv) by striking ''such agent'' and inserting in lieu thereof ''such representative''.

(K) Section 11 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 621) is amended by striking ''propaganda'' and inserting in lieu thereof ''Promotional material''.

(b) EXEMPTIONS.—

(1) Section 3(d) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 613(d)) is amended by inserting immediately before the semicolon at the end the following proviso: '': *Provided*, That any person relying on this subsection shall notify the Attorney General of such reliance in such manner and form as the Attorney General may prescribe by regulation''.

(2) Section 3(g) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 613(g)) is amended by striking ''or any agency'' and all that follows except the period at the end.

(3) Section 1(q) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(q)) is amended—

(A) by striking ''and'' at the end of clause (ii) of the proviso; and

(B) by inserting immediately before the period at the end the following: '', and (iv) such activities do not involve the representation of the interests of the foreign principal before any agency or official of the Government of the United States other than providing information in response to requests by such agency or official or as a necessary part of a formal judicial or administrative proceeding, including the initiation of such a proceeding''.

(c) CIVIL PENALTIES; SUBPOENA POWER.—Section 8 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 618) is amended by adding at the end the following new subsection:

''(i)(1) Any person who is determined, after notice and opportunity for an administrative hearing—

''(A) to have failed to file when such filing is required, a registration statement under section 2(a) or a supplement thereto under section 2(b),

''(B) to have omitted a material fact required to be stated therein, or

''(C) to have made a false statement with respect to such a material fact,

shall be required to pay a civil penalty in an amount not less than $2,000 or more than $5,000 for each violation committed. In determining the amount of the penalty, the Attorney General shall give due consideration to the nature and duration of the violation.

''(2)(A) Whenever the Attorney General has reason to believe that any person may be in possession, custody, or control of any documentary material relevant to an investigation regarding any violation of paragraph (1) or of section 5, the Attorney General may, before bringing any civil or criminal proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such material for examination.

''(B) Civil investigative demands issued under this paragraph shall be subject to the applicable provisions of section 1968 of title 18, United States Code.''.

(d) ANNUAL REPORT.—Section 11 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 621) is amended by striking ''shall, from time to time, make a report'' and inserting in lieu thereof ''shall report annually''.

(e) SEPARATE SECTION OF CRIMINAL DIVISION, DEPARTMENT OF JUSTICE.—There is established within the Criminal Division of the Department of Justice a separate section which shall enforce the provisions of the Foreign Agents Registration Act of 1938 and chapter 11 of title 18, United States Code, as amended by this section, and the provisions of all other laws relating to lobbying activities in the United States.

(f) AMENDMENTS TO CHAPTER 11 OF TITLE 18, UNITED STATES CODE.—

(1)(A) Chapter 11 of title 18, United States Code, is amended by inserting immediately after section 207 the following new section:

''§ 207a. Limitation on the representation or advising of foreign persons by certain former Federal officers and employees and members of the uniformed services

''(a)(1) Except as provided in subsection (d), any person who serves as an officer or employee, or a member of a uniformed service, described in subsection (c), may not, during the period specified in paragraph (2), knowingly act as an agent or attorney for or otherwise represent or advise, for compensation—

''(A) a government of a foreign country or a foreign political party;

''(B) a person outside of the United States, unless such person is an individual who is a citizen of the United States; or

''(C) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country, if the representation or advice relates directly to a matter in which the United States is a party or has a direct and substantial interest. For purposes of this paragraph, the term 'compensation' means any payment, gift, benefit, reward, favor, or gratuity which is provided, directly or indirectly, for services rendered.

''(2) The period referred to in paragraph (1)—

''(A) in the case of a person who is an officer or employee described under subsection (c)(1), (2), or (3), is the five-year period after that persons's service as such officer or employee has ceased; and

''(B) in the case of a person who is an officer or employee described under subsection (c)(4) or 5, is the two-year period after that person's service as such officer or employee has ceased.

''(b) Any person described in subsection (c) who violates subsection (a) shall be punished as provided in section 216 of the title.

''(c) The prohibitions set forth in subsection (a) apply to—

''(1) the President of the United States;

''(2) the Vice President of the United States;

''(3) an individual who serves in a position in levels I and II of the Executive Schedule as listed in sections 5312 and 5313 of title 5, United States Code;

''(4) an individual who—

''(A) is appointed by the President under section 105(a)(2)(A) of title 3, United States Code;

''(B) is appointed by the Vice President under section 106(a)(1)(A) of such title 3;

''(C) is not described in paragraph (3) or subparagraph (A) or (B) and serves in a position in level I, level II, level III, level IV, or level V of the Executive Schedule; or

''(D) is a member of a uniformed service in a pay grade of 0–7 or higher and is serving on active duty; and

''(5) each Member of Congress.

''(d) The prohibitions set forth in subsection (a) shall not apply to a person described under subsection (c) to the extent the person is engaging only in—

''(A) the soliciting or collecting of funds and contributions within the United States to be used only for medical aid and assistance, or for food and clothing to relieve human suffering, if such solicitation or collection of funds and contributions is in accordance with applicable law;

''(B) activities in furtherance of bona fide religious, charitable, scholastic, academic, or scientific pursuits or of the fine arts; or

''(C) activities in furtherance of the purposes of an international organization of which the United States is a member.

''(e)(1) For purposes of subsection (c)(4)(D), the term 'uniformed service' means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and the Public Health Service.

''(2) For purposes of this section, the service of a member or former member of a uniformed service shall be considered to have ceased upon such member's discharge or release from active duty.''.

(B) The table of sections at the beginning of chapter 11 of title 18, United States Code, is amended by inserting immediately after the item relating to section 207 the following new item:

''207a. Limitation on the representation or advising of foreign persons by certain former Federal officers and employees and members of the uniformed services.''.

(2) Section 216 of title 18, United States Code, is amended by inserting ''207a,'' immediately after ''207,'' each place it appears.

(3)(A) Subject to subparagraph (B), this subsection and the amendments made by this subsection take effect January 1, 1996.

(B) The amendments made by this subsection do not apply to a person whose service as an officer or employee to which such amendments apply terminated before the effective date of such amendments.

(C) Subparagraph (B) does not preclude the application of the amendments made by this subsection to a person with respect to service as an officer or employee by that person on or after the effective date of such amendments.

SEC. 605. PAYMENT OF CERTAIN CUSTOMS DUTIES.

(a) TRANSACTION VALUE OF IMPORTED MERCHANDISE.—

(1) Section 402(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)(1)) is amended—

(A) in subparagraph (D), by striking ''and'';

(B) in subparagraph (E), by striking the period and inserting in lieu thereof a semicolon;

(C) by adding at the end the following:

''(F) the cost of transporting the merchandise to the port of entry in the United States; and

''(G) the cost of insuring the merchandise prior to entry into the United States.''; and

(D) by striking ''(A) through (E)'' and inserting in lieu thereof ''(A) through (G)''.

(2) Section 402(b)(4)(A) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)(4)(A)) is amended by striking ''exclusive of'' and inserting in lieu thereof ''including''.

(b) DEDUCTIVE VALUE.—Section 402(d)(3)(A) of the Tariff Act of 1930 (19 U.S.C. 1401a(d)(3)(A)) is amended—

(1) by striking clause (ii); and

(2) by redesignating clauses (iii) through (v) as clauses (ii) through (iv), respectively.

(c) COMPUTED VALUE.—Section 402(e)(1) of the Tariff Act of 1930 (19 U.S.C. 1401a(e)(1)) is amended—

(1) by striking ''and'' in subparagraph (C);

(2) by striking the period in subparagraph (D) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

''(E) the costs of transporting the merchandise to the port of entry in the United States; and

''(F) the cost of insuring the merchandise prior to entry into the United States.''.

SEC. 606. APPLICATION OF ANTITRUST LAWS.

(a) EXPORT FORECLOSURE.—

(1) IN GENERAL.—The Attorney General shall take appropriate action to initiate export foreclosure antitrust cases under section 7 of the Sherman Act (15 U.S.C. 6a), and under any other appropriate antitrust law. The Attorney General shall develop and maintain a list of practices that are to be the subject of such actions and the countries in which those practices occur, organized in order of priority based upon the economic impact of the practices.

(2) REPORT.—The Attorney General shall, from time to time, publish the list developed and maintained under paragraph (1).

(b) BEST EVIDENCE RULE WAIVED FOR UNREASONABLE FAILURE OF FOREIGN DEFENDANTS TO COMPLY WITH DISCOVERY ORDERS IN EXPORT FORECLOSURE ANTITRUST CASES.—If the defendant in an export foreclosure antitrust case unreasonably fails to respond to a discovery request, then the application of Rule 1002 of the Federal Rules of Evidence shall be waived with respect to proof of the contents of a writing, recording, or photograph that is the subject of the request.

(c) UNRELATED HOME MARKET ARRANGEMENTS MAY BE TAKEN IN ACCOUNT IN DETERMINING PREDATORY PRICING.—In an export foreclosure antitrust case brought under section 1 of the Sherman Act (15 U.S.C. 1)

against a foreign defendant for predatory pricing, the court may take into account the amount, reasonableness, and relationship to fair-market-value of rents received by the defendant in its home market for the purpose of determining whether the plaintiff has established the recoupment element.

(d) DEFINITIONS.—For purposes of this section—

(1) EXPORT FORECLOSURE ANTITRUST CASE.—The term ''export foreclosure antitrust case'' means an action brought under the antitrust laws of the United States against a person engaged in antitrust competitive acts or practices outside the United States that cause harm to the United States export trade without regard to whether the United States consumers are directly injured by such acts or practices.

(2) ANTITRUST LAWS.—The term ''antitrust laws'' has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

(3) FOREIGN DEFENDANT.—The term ''foreign defendant'' means a defendant not—

(A) a citizen or lawful resident of the United States;

(B) a corporation organized under the laws of the United States or of any State; or

(C) a proprietorship, partnership, joint venture, or other form of business organization not organized in the United States or of any State.

SEC. 607. ELIMINATION OF QUARTERLY REPORTS.

(a) IN GENERAL.—

(1) Section 13(a)(2) of the Securities Exchange Act of 1934 (15 U.S.C 78m(a)(2)) is amended by striking ''and such quarterly reports (and such copies thereof),''.

((2) Notwithstanding any other provision of law or regulation to the contrary, including section 240.13a–13 of title 17, Code of Federal Regulations, neither the Securities Exchange Commission nor any other agency or department of the United States may require an issuer of securities required to file an annual report under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) to file quarterly reports.

(b) EFFECTIVE DATE.—Subsection (a) takes effect with respect to the first calendar quarter beginning more than 45 days after the date of enactment of this Act.

SEC. 608. SECRETARY OF LABOR TO PUBLISH QUARTERLY REPORTS OF RUNAWAY PLANTS.

Section 283 of the Trade Act of 1974 (19 U.S.C. 2394) is amended by adding at the end the following:

''(c) The Secretary of Labor shall publish a quarterly report of notices received under subsection (a).''.

SEC. 609. MANDATORY EXON-FLORIO REVIEW OF SALE OF CRITICAL TECHNOLOGY COMPANY.

Section 721(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(b)) is amended—

(1) by inserting after ''United States.'' the following: ''The President or the President's designee shall also make such an investigation in any instance in which any person seeks to engage in a merger, acquisition, or takeover which could result in control of a person doing business in interstate commerce in the United States engaged in critical technologies.''; and

(2) by striking ''Such investigation'' and inserting ''An investigation under this subsection''.

SEC. 610. ADDITIONAL IRS AGENTS FOR TRANSFER PRICING CASES.

The Secretary of the Treasury shall increase the number of officers and employees of the Internal Revenue Service whose primary responsibility is the determination of taxable income substantially affected by transfer pricing between related entities.

SEC. 611. TRANSFER OF ITC FUNCTIONS TO COMMERCE DEPARTMENT; TERMINATION OF ITC.

(a) TRANSFER OF FUNCTIONS.—There are transferred from the International Trade Commission to the Secretary of Commerce—

(1) the personnel employed in connection with those functions transferred to the Secretary by this Act; and

(2) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, or used in connection with the functions transferred to the Secretary under this Act, arising from such functions or available, or to be made available, in connection with such functions.

Unexpended funds transferred pursuant to this subsection shall be used only for the purpose for which the funds were originally appropriated.

(b) TERMINATION.—

(1) IN GENERAL.—Upon the transfer of functions, as specified herein, to the Secretary of Commerce, the International Trade Commission shall terminate.

(2) SAVINGS PROVISIONS.—

(A) All orders, determinations, rules, regulations, licenses, and privileges which are in effect at the time this section takes effect, shall continue in effect according to their terms, insofar as they involve regulatory functions to be retained by this section, until modified, terminated, superseded, set aside, or revoked in accordance with law by the Secretary or by a court of competent jursidction, or by operation of law.

(B) The provisions of this section shall not affect any proceedings or any application for any license pending before the International Trade Commission at the time this section takes effect, insofar as those functions are retained and transferred by this section; but such proceedings and applications, to the extent that they relate to functions so transferred, 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 section 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 section had not been enacted.

(3) TRANSITION REGULATIONS.—The Secretary may promulgate regulations providing for the orderly transfer of pending proceedings from the International Trade Commission.

(4) PENDING LITIGATION.—Except as provided in paragraph (6)—

(A) the provisions of this section shall not affect suits commenced prior to the date this section takes effect, and,

(B) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this section had not been enacted.

(5) NO ABATEMENT.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the International Trade Commission, insofar as those functions are transferred by this section, shall abate by reason of the enactment of this section. No cause of action by or against the International Trade Commission, insofar as functions are transferred by this section, or by or against any officer thereof in his official capacity, shall abate by reason of enactment of this section.

(6) CONTINUATION.—Any suit by or against the International Trade Commission begun before the effective date of this section shall be continued, with the Secretary substituted for the Commission.

(c) REFERENCE.—With respect to any functions transferred by this section and exercised after the effective date of this section, reference in any other Federal law to the International Trade Commission shall be deemed to refer to the Secretary of Commerce.

(d) EFFECTIVE DATE.—This section shall take effect 90 days after the date of enactment of this Act.

SEC. 612. TRANSFER OF OVERSEAS PRIVATE INVESTOR CORPORATION AND EXPORT-IMPORT BANK TO COMMERCE DEPARTMENT.

(a) OVERSEAS PRIVATE INVESTOR CORPORATION.—

(1) TRANSFER TO COMMERCE DEPARTMENT.—The Overseas Private Investor Corporation is transferred to, and shall be deemed to be a part of, the Department of Commerce, but shall retain its organization, management, and status as a corporation.

(2) SECRETARY OF COMMERCE TO BE CHAIRMAN OF BOARD OF DIRECTORS.—Section 233 of the Foreign Assistance Act of 1961 (22 U.S.C. 2193(b)) is amended by striking ''Administrator of the Agency for International Development'' and inserting ''Secretary of Commerce''.

(3) CONFORMING AMENDMENTS.—Section 239 of that Act (22 U.S.C. 2199) is amended by striking ''Agency for International Development'' in subsections (e) and (h) and inserting ''Department of Commerce''.

(b) EXPORT-IMPORT BANK.—

(1) TRANSFER.—Notwithstanding section 3(a) of the Act of July 31, 1945 (59 Stat. 517; 12 U.S.C. 635a(a)), the Export-Import Bank of the United States shall constitute an independent agency of the United States within the Department of Commerce.

(2) SECRETARY OF COMMERCE TO BE CHAIRMAN OF BOARD OF DIRECTORS.—Section 3(c) of that Act (12 U.S.C. 635a(c)(1)) is amended—

(A) by striking ''President of the Export-Import Bank of the United States who shall serve as Chairman, the First Vice-President who shall service as Vice Chairman,'' in paragraph (1) and inserting ''the Secretary of Commerce who shall serve as Chairman, ex officio, the President of the Export-Import Bank of the United States who shall service as Vice Chairman, and the First Vice-President,'';

(B) by inserting ''other than the Secretary of Commerce,'' after ''Board,'' in paragraph (2); and

(C) by inserting ''other than the Secretary of Commerce,'' after ''President,'' in paragraph (8)(B).

(c) TECHNICAL AND CONFORMING CHANGES.—The Secretary of Commerce shall, within 30 days after the date of enactment of this Act, submit to the appropriate committees of the Congress a draft of any technical, conforming, or other changes in existing law necessary to effectuate fully and effectively the transfers made by subsections (a) and (b).

(d) EFFECTIVE DATE.—This section shall take effect 90 days after the date of enactment of this Act.

SEC. 613. ESTABLISHMENT OF NOAA AS INDEPENDENT AGENCY.

(a) IN GENERAL.—The National Oceanic and Atmospheric Agency is hereby established as an independent agency of the United States. Neither the Agency nor any of its functions, powers, or duties shall be transferred to or consolidated with any other department, agency, or corporation of the Government unless the Congress shall otherwise by law provide.

(b) TRANSFER OF FUNCTIONS.—There are transferred from the Department of Commerce to the Agency—

(1) the personnel employed in connection with those functions of the Agency on the date of enactment of this Act; and

(2) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, or used in connection with the functions transferred to the Agency under this Act, arising from such functions or available, or to be made available, in connection with such functions.

Unexpended funds transferred pursuant to this subsection shall be used only for the purpose for which the funds were originally appropriated.

(3) SAVINGS PROVISIONS.—

(A) All orders, determinations, rules, regulations, licenses, and privileges which are in effect at the time this section takes effect, shall continue in effect according to their terms, insofar as they involve regulatory functions to be retained by this section, until modified, terminated, superseded, set aside, or revoked in accordance with law by the Agency or by a court of competent jurisdiction, or by operation of law.

(B) The provisions of this section shall not affect any proceedings or any application pending before the Agency at the time this section takes effect, insofar as those functions are retained and transferred by this section; but such proceedings and applications, to the extent that they relate to functions so transferred, 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 section 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 section had not been enacted.

(3) TRANSITION REGULATIONS.—The Agency may promulgate regulations providing for the orderly transfer of pending proceedings from the Department of Commerce.

(4) PENDING LITIGATION.—Except as provided in paragraph (6)—

(A) the provisions of this section shall not affect suits commenced prior to the date this section takes effect, and,

(B) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this section had not been enacted.

(5) NO ABATEMENT.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Department of Commerce, insofar as those functions are transferred by this section, shall abate by reason of the enactment of this section. No cause of action by or against the Department of Commerce, insofar as functions are transferred by this section, or by or against any officer thereof in his official capacity, shall abate by reason of enactment of this section.

(6) CONTINUATION.—Any suit by or against the Department of Commerce begun before the effective date of this section shall be continued, with the Agency substituted for the Secretary of Commerce.

(c) REFERENCE.—With respect to any functions transferred by this section and exercised after the effective date of this section, reference in any other Federal law to the Agency as a part of the Department of Commerce shall be deemed to refer to the Agency as an independent agency.

(d) EFFECTIVE DATE.—This section shall take effect 90 days after the date of enactment of this Act.

SEC. 614. SURCHARGE ON IMPORTS; RESEARCH AND DEVELOPMENT TAX CREDIT.

(a) SURCHARGE ON IMPORTS.—

(1) SURCHARGE IMPOSED.—There is hereby imposed on the importation of any good that is the product of another country an import surcharge of 10 percent of the duty otherwise chargeable under the Harmonized Tariff Schedule.

(2) EFFECTIVE DATE.—The increase in duty imposed by paragraph (1) applies to goods entered or withdrawn from warehouse more than 30 days after the date of enactment of this Act.

(b) RESEARCH AND DEVELOPMENT TAX CREDIT.—

(1) INCREASE IN PERCENTAGE.—Section 41(a)(1) of the Internal Revenue Code of 1986 (relating to general rule for credit for increasing research activities) is amended by striking ''20 percent'' each place it appears and inserting ''25 percent''.

(2) CREDIT MADE PERMANENT.—Section 41 of such Code (relating to credit for increasing research activities) is amended by striking subsection (h).

(3) EFFECTIVE DATE.—The amendments made by this subsection apply to any amount paid or incurred after June 30, 1995.

By Mr. SANTORUM:

S. 1149. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Babs*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CERTIFICATE OF DOCUMENTATION LEGISLATION

• Mr. SANTORUM. 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. 1149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTIFICATE OF DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel BABS, United States official number 1030028.•

By Mr. SANTORUM:

S. 1150. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the Marshall Plan and George Catlett Marshall; to the Committee on Banking, Housing, and Urban Affairs.

THE GEORGE C. MARSHALL COMMEMORATIVE COIN ACT

• Mr. SANTORUM. 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:

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 ''George C. Marshall Commemorative Coin Act''.

SEC. 2. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—The Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall mint and issue the following coins in commemoration of the 50th anniversary of the Marshall Plan and George Catlett Marshall:

(1) ONE DOLLAR SILVER COINS.—Not more than 700,000 one dollar coins, each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(2) HALF DOLLAR CLAD COINS.—Not more than 500,000 half dollar coins each of which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the 50th anniversary of the Marshall Plan, which gave Europe's war-ravaged countries the economic strength by which they might choose freedom, and George C. Marshall, the author of the plan.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''1997''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(3) OBVERSE SIDE.—The obverse side of each coin minted under this Act shall bear the likeness of George C. Marshall.

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the George C. Marshall Foundation, the Friends of George C. Marshall, and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality of the coins minted under this Act.

(c) COMMENCEMENT OF ISSUANCE.—The Secretary may issue coins minted under this Act beginning January 1, 1997.

(d) TERMINATION OF MINTING AUTHORITY.—No coins may be minted under this Act after December 31, 1997.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales shall include a surcharge of—

(1) $12 per coin for the one dollar coin; and

(2) $4 per coin for the half dollar coin.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—All surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary in equal portions to—

(1) the George C. Marshall Foundation for the purpose of supporting the Foundation's educational and outreach programs to promote the ideals and values of George C. Marshall; and

(2) the Friends of George C. Marshall for the sole purpose of constructing and operating the George C. Marshall Memorial and Visitor Center in Uniontown, Pennsylvania.

(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the George C. Marshall Foundation and the Friends of George C. Marshall as may be related to the expenditures of amounts paid under subsection (a).

SEC. 9. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

By Mr. BURNS (for himself and Mr. CRAIG):

S. 1151. A bill to establish a National Land and Resources Management Commission to review and make recommendation for reforming management of the public land, and for other purposes; to the Committee on Energy and Natural Resources.

THE FEDERAL LANDS MANAGEMENT ACT OF 1995

Mr. BURNS. Mr. President, on behalf of myself and Senator CRAIG of Idaho, I rise to introduce legislation to help solve a problem that has increasingly plagued public lands States such as my own State of Montana and Senator CRAIG'S State of Idaho.

For over the past 100 years the Congress has passed many laws regarding the use and management of our public lands. These lands were critical to the development of our country, and especially to the development of the West. Therefore, early legislation focused on the production of commodities from these lands. And they did produce; they produced much of the minerals, timber, food products, and energy that enabled our ancestors to build this great Nation. They provided the lands and materials to develop our transportation and communications systems. And they provided lands for homesteading and for building our communities. Very special areas were also set aside in perpetuity as national parks, national monuments, and wildlife refuges.

For the last 30 years the emphasis has been on environmental protection, conservation, and nonconsumptive uses. We have greatly expanded our national park and refuge systems from these lands. We have preserved millions of acres under special designations such as wilderness, wild and scenic rivers, and conservation areas. We have protected additional millions of acres for conservation purposes under special designations such as withdrawals, exclosures, and areas of critical environmental concern. We have enacted numerous pieces of legislation that require these lands be managed to protect environmental values in general, such as the National Environmental Protection Act, the Federal Land Policy and Management Act, the National Forest Management Act, and the Forest Management Practices Act. We have enacted legislation which protects individual environmental values such as air and water quality, soil stability, fish and wildlife, and endangered species. We have passed legislation which requires public land managers to control hazardous and toxic materials and protect the public health and safety. And we have passed legislation which subjects these lands to State law and oversight. In many instances these laws are not well-crafted, and conflict with one another.

We have been one busy group of legislators. These laws were developed and passed with very good intentions—to serve the public interest. After we completed our efforts, the Federal agencies went to work. And they have been busy too. The regulatory agencies have created a morasse of regulations, some of which attempt to establish their authorities as the ultimate priority for management of the public lands. Some of which abuse their authority by extending the interpretation of the laws beyond anything that Congress intended.

During our debates on Federal agency abuse of regulation under regulatory reform, and other proposals, we have heard seemingly unending examples of such regulatory abuse. I need mention only a few of these laws to bring images of such abuse to mind—the Endangered Species Act, Superfund, and the Clean Water Act. These laws, and the regulations developed to implement them, have been used by the regulatory agencies and others to styme or prevent the legitimate use of our public lands for purposes that are supported by the public and approved by the Congress. Even where the intention of the laws were fulfilled in regulation, agencies often found conflicting requirements when attempting to implement them. Let me give you just one example. The Federal land management agencies find themselves gridlocked by the Clean Water Act and hazardous materials requirements in trying to mitigate environmental problems on old, abandoned mine sites. They would like to correct the water quality problems on these sites, which is their responsibility under the Clean Water Act. Up until now they have resisted, and rightly so. To do this would expose them, and thus the taxpayer, to liability for hazardous waste cleanup. Under the hazardous materials laws, that is the responsibility of the mine operator.

Land management agencies complain of confused priorities and colliding mandates under their own authorities. This situation is the same as with the regulatory agencies—there is some justification for this claim, but in part it is a monster of their own creation. For example, land management agencies have had considerable trouble managing tracts of land for uses such as grazing and timber production while at the same time providing recreational opportunities. The reasons for this are many. To some extent it results from external factors such as conflicts, or perceived conflicts, between competing uses. To some extent it is the result of agency procedures, such as a complex, expensive, time-consuming planning process. These agencies go through the planning effort, which frequently results in an atmosphere of confrontation and deviseness among the user and interest communities, and usually find their efforts subject to further successful challenge. In many cases the plans are never implemented as written.

Even though the agencies have similar mandates, unless otherwise directed these agencies have usually created their regulations independently. Their interpretations of the same piece of legislation may be different, and their requirements under a given act well may be entirely different if not in conflict. Such problems have become so widely recognized that multiple use of public lands is under legitimate challenge as a viable management concept.

Because of all of this we see a public that is understandably disenchanted over complex and conflicting laws and regulations. And they are increasingly vocal in their frustration over their inability to make reasonable use of their

own lands and natural resources. Instead of fulfilling a widely supported and legally established goal of providing products and services from our public lands under the reasonable requirements of sustained yield and multiple use, we have natural resource management gridlock. And in this era of restructuring of government to improve our performance, there is a wide recognition of duplication of effort, inefficiency, and ineffectiveness of the multiple-use agencies in managing our natural resources.

With this in mind, I am offering today, legislation which proposes to revamp the way the public's multiple-use lands are managed. This bill, if approved, will create a commission to evaluate and report to the Congress and the President changes to be made to improve the management of these lands to better meet the public's needs, desires, and expectations. The commission is directed to evaluate and make recommendations in three general areas of land management. They will look into improving the efficiency and effectiveness of current management practices. They are to evaluate the land ownership patterns and make recommendations to consolidate Federal holdings into a more rational pattern. And they are to propose how multiple-use agencies might be combined into one agency for the management of Federal multiple-use lands.

In looking at ways to improve the efficiency and effectiveness of management practices the commission will evaluate several areas in particular. They will address ways to reduce costs of administrative overhead by 50 percent, and to reduce the cost of managing the lands overall by at least 30 percent. They are to evaluate ways to dedicate more agency resources to providing service to the public, and to improve the services which they offer to the public. They will propose ways to simplify the planning and appeals processes. They will review and recommend changes to improve the withdrawal process. And they will recommend ways to consolidate the laws under which the agencies operate. These are all areas that we have attempted to deal with in the past. We address the budget and service items in almost every appropriations bill. This bill provides us an opportunity to take a consolidated approach to dealing with these issues. And the time to do it has arrived.

The commission will review and recommend rational changes to land ownership and jurisdiction patterns. They will make recommendations as to lands which more properly belong in private ownership or under State jurisdiction. Land ownership patterns alone have been the source of many of the problems and controversies, and much of the unnecessary expense, associated with the management of public lands. With the exception of administrative sites, these agencies have little reason to hold lands within city limits, but it is the situation in many western communities. Federal requirements for such lands are frequently in conflict with community development plans and desires. This causes needless problems for the management agencies and the communities involved.

Similarly, there are many areas in the West where Federal holdings are intermingled with other ownerships. One good example of this is the checkerboard ownership patterns along the old railroad grant corridors. The ownership changes hands every other square mile. For a Federal agency or private landowner trying to manage their holdings this is an impossible situation, and we can and must do something to correct it.

The commission will evaluate and recommend the actions needed to combine multiple-use management of public lands under one agency. The Congress has recognized the need, and has made unsuccessful attempts, to do this in the past. The reasons for previous failure are many. But the timing for this has never been more appropriate. We are seeing the public adamantly demand the elimination of waste, and improved efficiency, from their Federal Government. We in the Congress are making a wide-reaching attempt to find rational, reasonable ways to balance the budget and reduce regulatory burden. And the administration is restructuring the bureaucracy to reduce it's size and improve it's services to the public. This proposal will serve all of these goals.

Finally, the commission is charged to prepare the report and legislation to implement their recommendations, for the consideration of the President and the Congress.

The bill contains a fast-track provision. If the Congress can agree to the need to create this commission, and to the substance of the report and legislation that the commission is to prepare, then there should be little reason to delay consideration of the legislation needed to get this job done. To delay would only result in continuing the present inefficiencies, costs, conflicts, and duplication that we now see in the management of these public lands and resources.

A plan is needed to bring these agencies within budget constraints. We have the opportunity to provide the public with efficiently managed lands while doing so. The recent election was a clear message that the public is ready for these changes. I hope that you will join me in approving this legislation to fulfill that public demand.

By Mr. BURNS (for himself and Mr. MURKOWSKI):

S. 1152. A bill to amend the Endangered Species Act of 1973 with commonsense amendments to strengthen the act, enhance wildlife conservation and management, augment funding, and protect fishing, hunting, and trapping; to the Committee on Environment and Public Works.

THE COMMON SENSE AMENDMENTS FOR ALL ENDANGERED SPECIES ACT

Mr. BURNS. Mr. President, I rise today to introduce the Common Sense Amendments for All Endangered Species Act.

The purpose of the bill is to change specific features of the statute so that the ESA cannot be used to attack and diminish wildlife conservation programs, sport hunting opportunities, and traditional wildlife management. A better ESA and enhanced support for endangered species protection from America's traditional conservationists—hunters and anglers—will be the result of these amendments.

Current law does not require that the consequences of listing and other actions on hunting and wildlife management be specifically examined. The National Environmental Policy Act mandates review of general environmental effects via environmental impact statements, but no specific review of effects on hunting is directed.

This bill directs the U.S. Fish and Wildlife or Marine Fisheries Service to review the impacts on hunting, fishing, and fish and wildlife management. Simply put, ESA actions must consider effects on hunters.

In addition, the current law prohibits the taking of protected species. Taking means harass, harm, et cetera. Harm is defined by FWS to prohibit any unintentional acts, including habitat modification, which annoys protected species. FWS determined that under this definition, alterations of habitat can be prohibited even if no listed animal suffers harm. This definition can result in the criminalization of innocent activities.

My commonsense bill amends the Endangered Species Act to ensure wildlife management programs and operators are protected from unwarranted prosecution.

Another aspect to the ESA which needs to be addressed is CITES [Convention on International Trade of Endangered Species]. The role that sport hunting plays in conservation is not recognized in CITES. FWS has failed to accept the determinations of countries of origin of which the animals are properly available for hunting and exporting or importing.

The bill I am introducing today provides direction to FWS for the administration of the ESA and CITES. The bill reflects the positive role of hunting. The bill also requires that the United States will accept the determination of other countries.

Section 5 of the bill addresses how other countries' laws interact with U.S. law. It is unclear whether an individual must comply with a country's Federal and provincial requirements to be in compliance with U.S. law. Under present law, all foreign violations can be treated as criminal acts in the United States—even if the American doesn't have knowledge of the violation.

The commonsense bill provides only those laws which are related to wildlife

conservation, and can be clearly understood, should carry criminal consequences within the United States.

One issue which must be addressed in the authorization is subspecies and population criteria. The ESA directs that species which are threatened or endangered be listed as protected under the terms of this act. The term ''species '' includes any subspecies and, in the case of vertebrate species, any distinct population segment which interbreeds when mature. This license to list subspecies and population segments is problematic, because it can result in protection of subspecies and populations that are still abundant generally. This splitting of the term ''species'' into a virtually infinite number of subclassifications often results in the application of the ESA to situations in which it originally was not intended to apply. This coupled with the look alike rules could severely diminish domestic hunting opportunities.

This bill amends the ESA to direct the Department of the Interior to establish specific criteria to determine when a group of animals is sufficiently distinct to qualify as a subspecies or population.

If we really want decisions related to the ESA to be made on sound science, peer review must be included. Under the current listing process, the Secretary of the Interior may decide to list a species as threatened or endangered, or any interested person can petition the Secretary to do so. In either case, the Secretary makes the decision on whether or not to list a species based upon determinations generated internally by the FWS. There are often no public hearings in this decisionmaking process wherein the FWS data is open to scrutiny and challenge.

There is also no provision for peer review of the FWS data by qualified outside experts. Because the guts of the listing process is effectively closed to the public and to scientific peer review, its credibility can be suspect. The lack of genuine public scrutiny and scientific evaluation can undermine public support for listing decisions. The Department is also limited by this process. In very difficult issues, the lack of any adjudicative procedures or peer review process makes it hard to get the best scientific data available.

The bill I am introducing today authorizes the Secretary to employ, at his discretion, an adjudicative process wherein the public has an opportunity to scrutinize, evaluate, and challenge the decision to list a species. Public participation can ensure that all relevant factors are considered, proper weight is given to each factor, and the impact of listing or not listing is given due consideration and effect.

Finally, this bill begins to address the funding problem we face. With more environmental awareness, there has been an increasing cry for more funding of the Federal endangered species program. The hunting and fishing sector has traditionally developed its own mechanisms, such as excise taxes to fund such programs. The lion's share of the funding is derived from license sales, hunting and fishing stamps, and other sportsmen financed measures. Efforts should be made to develop similar programs which ensure that other wildlife supporters, including nonhunters, can financially support an enhanced ESA.

The commonsense bill directs a study toward developing a funding program patterned after those supported by sportsmen. The policy would provide that augmented ESA funding would not draw on moneys generated by hunting and fishing activities.

This bill is designed for sportsmen. These are the true conservationists. I believe we need to consider hunting and fishing activities when we discuss the reauthorization of the ESA.

Also, I am a cosponsor of S. 768 which was introduced by Senator GORTON and others earlier this month. I believe S. 768 is a good bill. I think the commonsense bill I am introducing today, in conjunction with S. 768, should be considered as the reauthorization of the Endangered Species Act moves forward.

By Mr. BURNS:

S. 1154. A bill to authorize the construction of the Fort Peck Rural County Water Supply System, to authorize assistance to the Fort Peck Rural County Water District, Inc., a nonprofit corporation, for the planning, design, and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

THE FORT PECK RURAL WATER SUPPLY ACT OF 1995

Mr. BURNS. Mr. President, I rise today to introduce legislation designed to meet a critical need in a very rural area of my State of Montana. The bill I am introducing would authorize a rural water system for the area around Fort Peck, MT.

Despite the fact that Fort Peck lies near one of the largest water reservoirs on the Missouri River, residents in this part of my State either rely on deep wells or they carry the water they need. In addition, the Fort Peck Indian Reservation lacks potable water.

This bill would allow for the construction of a water system that will meet many of the water needs of that part of my State.

By Mr. COCHRAN (for himself, Mr. PRYOR, Mr. COVERDELL, Mr. HELMS, Mr. WARNER, Mr. CRAIG, Mr. NUNN, Mr. LOTT, Mr. JOHNSTON, Mr. BREAUX, Mr. THURMOND, Mr. MACK, Mr. INOUYE, Mr. AKAKA, Mr. BUMPERS, and Mr. MCCONNELL):

S. 1155. A bill to extend and revise agricultural price support and related programs for certain commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE AGRICULTURAL COMPETITIVENESS ACT OF 1995

● Mr. COCHRAN. Mr. President, today I am introducing the Agricultural Competitiveness Act of 1995.

The future of U.S. agriculture depends upon its ability to compete in the world market. This year, U.S. agricultural exports are expected to have a value of nearly $50 billion. Agricultural exports will account for more than 1 million American jobs. By carefully balancing our policy concerns with fiscal restraint, this bill should enhance our overall economic health, ensure that U.S. agriculture remains competitive, and contribute to the elimination of the deficit of the Federal Government.

The Agricultural Competitiveness Act makes substantial changes in current farm programs while dramatically increasing flexibility for farmers.

This bill extends and seeks to improve farm policy including the marketing loan, which has allowed U.S. agriculture to remain competitive in the face of heavily subsidized foreign competition. Those foreign subsidies can be expected to continue under terms of the GATT Uruguay Round.

This legislation also make significant changes in commodity programs that will ensure the American public of a continued source of affordable, safe and high quality food and fiber. Farmers will have greatly expanded cropping flexibility—through the modification and expansion of provisions first incorporated in the 1990 Farm Bill.

Farmers and agriculture related businesses face new and complex uncertainties in the international marketplace, due in part to foreign government subsidies. To ensure fair play and to counteract the effect of unfair trade practices and governmental actions that put our farmers and national interests at a disadvantage, the U.S. Government must continue to play a partnership role with U.S. farmers.

Senators should appreciate that previous reforms have caused Commodity Credit Corporation outlays for farm programs to decline from a high of $26 billion in fiscal year 1986 to less than $9 billion in fiscal year 1995, a reduction of 65 percent. According to the Congressional Budget Office, farm program outlays are projected to remain below this level for the next 7 years, even if no changes are made in current law. In considering changes in farm policies, Congress must consider: the high level of productivity that currently exists in U.S. agriculture, the narrowing profit margins faced by farmers and processors, the precarious nature of land values, the interdependence of rural economies and agriculture and the absolute necessity that a farm must secure financing to stay in business.

The bill expands cropping flexibility from 25 percent to 100 percent. It allows farmers to respond to market conditions and grow virtually any crop they choose on their farms—without providing unnecessary financial incentives for production shifts. This bill

goes beyond traditional flexibility. Farmers will have the opportunity to expand their production of program crops beyond their historical planting area through the use of traditional soybean acres. This innovative proposal not only will enhance market responsiveness, but will help farmers implement crop rotations, yielding conservation and other environmental benefits. Modified acreage reduction requirements included in this Act will also enhance crop rotation by removing disincentives currently limiting double-cropping.

This legislation requires that agriculture will again contribute its share of the savings necessary to achieve a balanced budget through modifications of existing programs, and it increases non-paid base program crop acres from 15 percent to 25 percent, significantly reducing outlays over the next 7 years, according to the Congressional Budget Office.

The peanut program is substantially revised. It further opens the program to new producers and more closely ties production limits to market demand. The sugar program is also reformed to allow U.S. sugar policy to continue to operate at ''no cost'' to the U.S. sugar policy to continue to operate at ''no cost'' to the U.S. Treasury. In order to meet the new minimum import obligations require by the GATT and remain no cost, a system requiring private industry to equitably carry surplus stocks is proposed which is more market oriented and more reliable than current policy.

The Agricultural Competitiveness Act of 1995 represents cost effective and comprehensive reform. I urge my colleagues to support it.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being on objection, the summary was ordered to be printed in the RECORD, as follows:

THE AGRICULTURAL COMPETITIVENESS ACT OF 1995—SECTION-BY-SECTION SUMMARY

SEC. 1. SHORT TITLE; TABLE OF CONTENTS

Section 1 provides that this act may be cited as the Agricultural Competitiveness Act of 1995 and sets out a table of contents for the bill.

SEC. 2. FINDINGS, POLICY AND PURPOSE

Section 2 sets out certain findings of Congress and states the purpose of the bill, namely to establish agricultural price support and production adjustment programs for the 1996 through 2002 crop years that provide a structure for a sound agricultural economy.

SEC. 3. SENSE OF CONGRESS ON ENDING THE FEDERAL DEFICIT

Section 3 provides that it is the Sense of Congress that significant Federal budget deficits harm the economic well-being of the United States and are detrimental to effective agricultural policy. The section states that agricultural programs should be implemented in a manner that is consistent with the goals of ending Federal budget deficits and should be modified as necessary to ensure that the programs comply with applicable budget reconciliation instructions. Such modifications should adhere to the policy set out in section 306 of the concurrent resolution on the budget for fiscal year 1996.

TITLE I—WHEAT

SEC. 101. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1996-2002 CROPS OF WHEAT

Section 101 amends section 107B of the Agricultural Act of 1949 (the ''1949 Act'') to provide for a production adjustment and price support program for the 1996–2002 crops of wheat as follows:

LOANS AND PURCHASES

Section 107B of the 1949 Act provides that the Secretary of Agriculture shall make loans and purchases available to producers of each of the 1996 through 2002 crops of wheat, using harvested wheat as collateral. The statutory minimum loan rate shall not be less than 85 percent of the simple average price received by producers of wheat for the previous 5 crops of wheat, dropping the high and low years. The loan rate cannot be reduced by more than 5 percent from the previous year's rate.

MARKETING LOANS

The Secretary shall permit producers to repay a wheat price support loan at the world market price (adjusted to U.S. quality and location) if it is below the loan level or the Secretary may permit the wheat loan to be repaid at such level as will minimize loan forfeitures and make U.S. wheat competitive. Loan deficiency payments are available to producers who agree to forgo obtaining such a loan.

DEFICIENCY PAYMENTS

Section 101B(c) of the 1949 Act requires the Secretary to make deficiency payments available to producers of each of the 1996–2002 crops of wheat. Deficiency payments received by producers are the product of a national payment rate, the producer's program payment yield, and the producer's payment acres. The established (target) price for wheat shall not be less than $4.00 per bushel. Deficiency payments are to be made on the higher of the difference between the average market price for the crop year, or the average price for the first 5 months plus 10 cents per bushel, or the loan level.

PAYMENT ACRES

Deficiency payments are made available with respect to payment acres. Payment acres are the lesser of the acreage planted to wheat or 75% of the wheat acreage base less any reduced acreage (the ARP). This has been reduced from 85% in current law.

0/85 PROGRAM

Producers who underplant (or plant to selected other crops) their maximum wheat payment acres may receive deficiency payments on a portion of their under planted acres through the 0–85/92 program. The 0/92 program is in place for prevented plantings, failed acres and certain other crops.

PROGRAM YIELDS

Payment yields remain frozen as in the 1990 Act.

ACREAGE REDUCTION PROGRAMS

The Secretary may require an acreage reduction program (ARP) on wheat if supplies are judged to be excessive in the absence of such a program. If the Secretary estimates the wheat stocks-to-use ratio to be more than 40%, the ARP shall be between 10–20%; if the stocks-to-use ratio is equal or less than 40%, the ARP can be no more than 15%. The ARP shall be announced no later than June 1 of the preceding calendar year, and adjustments can be made no later than July 31.

SEC. 102. NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS

Section 102 provides that sections 379d through 379j of the Agricultural Adjustment Act of 1938 (the ''1938 Act'') shall not be applicable to wheat processors or exporters during the 1996–2002 crop years. The provisions pertain to the ''domestic use'' and export certificates.

SEC. 103. SUSPENSION OF LAND USE, WHEAT MARKETING ALLOCATION, AND PRODUCER CERTIFICATE PROVISIONS

Section 103 suspends several sections of the 1938 Act requiring land use penalties, marketing allocations and wheat certificates for the 1996–2002 crops.

SEC. 104. SUSPENSION OF CERTAIN QUOTA PROVISIONS

Section 104 suspends wheat marketing quotas established by a joint resolution and the 1938 Act for the 1996–2002 crops.

SEC. 105. NONAPPLICABILITY OF SECTION 107 OF THE AGRICULTURAL ACT OF 1949

Section 105 provides that the Wheat Program under section 107 of the Agricultural Act of 1949 is not applicable to the 1996–2002 crops of wheat.

TITLE II—FEED GRAINS

SEC. 201. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1996–2002 CROPS OF FEED GRAINS

Section 201 amends section 105B of the Agricultural Act of 1949 (the ''1949 Act'') to provide for a production adjustment and price support program for the 1996–2002 crops of feed grains as follows:

LOANS

The Secretary shall make price support loans and purchases available to producers of the 1996 through 2002 crops of feed grains. Authority is retained to establish the corn loan level at the higher of 85% of average price received in last 5 years (dropping the high and the low), but may not be reduced by more than 5% from the previous year's level. Other feed grain loan rates are established relative to corn. The Secretary is authorized to reduce the loan rate by up to 10% based on stocks/use ratio and by an additional 10% to maintain a competitive market position. If the world market price for feed grains is less than the loan level, the Secretary shall allow producers to repay the loan at the adjusted world price or at such level as will minimize loan forfeitures and maintain competitiveness.

ESTABLISHED (TARGET) PRICE

The established (target) price shall be $2.75/bushel for corn; $2.61/bushel for grain sorghum; and not less than $1.45/bushel for oats. The established price for barley shall not be less than 85.8% of the established price for corn.

DEFICIENCY PAYMENTS

Participating producers are eligible to receive a deficiency payment based on the difference between the established (target) price and the higher of the loan rate or the average price received.

0/85 PROGRAM

Producers who underplant (or plant to selected other crops) their maximum feed grain payment acres may receive deficiency payments on a portion of their under planted acres through the 0–85/92 program. The 0/92 program is in place for prevented plantings, failed acres and certain other crops.

PROGRAM YIELDS

Payment yields remain frozen as in the 1990 Act.

ACREAGE REDUCTION PROGRAM

Section 105B(e) of the 1949 Act provides that the Secretary is authorized to establish an acreage reduction program for corn of 0 to 12.5% if previous year's stocks-to-use ratio is less than or equal to 25% and 10 to 20% if stocks-to-use ratio is greater than 25%.

FARMER-OWNER RESERVE

The Secretary has authority to open the farmer-owner reserve under specific conditions which may be mandatory or discretionary, depending on trigger.

PAID LAND DIVERSION

The Secretary is authorized to offer a paid-land diversion.

TITLE III—COTTON

SEC. 301. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1996–2002 CROPS OF UPLAND COTTON

Section 301 amends section 103B of the Agricultural Act of 1949 (the ''1949 Act'') to provide for a production adjustment and price support program for the 1996–2002 crops of upland cotton as follows:

LOANS

Section 103B(a) of the 1949 Act provides that the Secretary shall make available market based, non-recourse loans to producers of upland cotton for the 1996–2002 crops. The loan shall be for an initial term of 10 months. The base loan rate shall be the lower of (1) 85% of the 5-year moving average U.S. spot market price for upland cotton (dropping the high and the low) or 90% of the 15-week average of the 5 lowest priced growths of upland cotton quoted for Northern Europe. The loan rate may not be reduced by more than 5% from the previous year's rate and may not be less than 50 cents per pound. The loan level must be announced by November 1 of the year preceding the marketing year for the crop and the loan term may be extended for an additional 8 months if monthly average U.S. cotton prices are not more than 130% of the average price for upland cotton during the previous 36 months.

MARKETING LOANS

In order to ensure that U.S. upland cotton maintains a competitive market position, the Secretary shall allow producers to repay an upland cotton price support loan at the adjusted world price for upland cotton, as determined by the Secretary. Loans may be repaid at the adjusted world price or at any level between the loan rate and 70% of the loan rate if the adjusted price is below the market-based U.S. loan level.

If the Secretary further determines U.S. cotton to be uncompetitive in international markets, section 103B(a)(5)(c), (D) and (E) of the 1949 Act provide for a three-step competitiveness plan whereby U.S. cotton will maintain its competitiveness in world and domestic markets. Under these steps (1) the Secretary may adjust the adjusted world price in order to enhance U.S. competitiveness, (2) if U.S. cotton is uncompetitive by more than 1.25 cents per pound for a consecutive 4 week period, the Secretary may issue marketing certificates to domestic users and exporters of cotton in order to restore competitiveness, and (3) if U.S. prices are not competitive for a consecutive 10 week period, the Secretary may open a special import quota.

SEED COTTON LOAN

The Secretary shall make a recourse loan program available to producers of seed cotton.

LOAN DEFICIENCY PAYMENTS

Section 103B(b) of the 1949 Act authorizes the Secretary to make loan deficiency payments available to producers who agree to forgo obtaining a price support loan. Loan deficiency payments are equal to the difference between the upland cotton price support loan rate and the applicable loan repayment rate.

DEFICIENCY PAYMENTS

Section 103B(c) of the 1949 Act requires the Secretary to make deficiency payments available to producers of each of the 1996–2002 crops of upland cotton. Deficiency payments are determined on the basis of the difference between the established price for upland cotton and the calendar year weighted price received (or the loan rate if higher than the calendar year weighted price received). Deficiency payments are determined by multiplying the payment rate by the payment acres for the crop for the farm by the farm program payment yield. The established price for upland cotton shall not be less than 72.9 cents per pound for the 1996–2002 crops (the current level).

PAYMENT ACRES

Deficiency payments are made available only with respect to payment acres. Payment acres equal the acreage planted to upland cotton within the crop acreage base, less the reduced acreage (ARP), less 25% of the crop acreage base.

50/85 PROGRAM FOR UPLAND COTTON

Section 103B(c)(1)(D) of the 1949 Act provides that if an uplands cotton acreage reduction program is in effect, a producer of upland cotton may devote a portion of the producers' permitted upland cotton acreage to conserving or other specified crops but still eligible to receive deficiency payments on up to 85% of the producer's permitted cotton acreage. There is a 50% planting requirements. The deficiency payment rate under this section cannot be less than that estimated at the time of sign-up for the upland cotton program. A special 0/92 option is available to producers who, due to disastrous weather, were prevented from meeting the 50% planting requirement.

FARM PROGRAM PAYMENT YIELDS

Farm program payment yields are frozen at the levels established in 1985.

ACREAGE REDUCTION PROGRAMS

Section 103B(e) of the 1949 Act provides that if the Secretary determines that the total supply of upland cotton will be excessive, the Secretary may implement an acreage reduction program (ARP) for any of the 1996–2002 crops of upland cotton. Under the ARP, the Secretary may require producers to idle up to 25% of the crop acreage base for upland cotton in any one crop year. The Secretary shall implement an ARP program in such a way as to achieve a stocks to use ratio of 29.5% for the 1996 crop and 29% for each of the 1997–2000 crops. The Secretary shall announce the preliminary ARP by November 1 of the year preceding the marketing year for the crop and must announce that final ARP by the following January 1.

CROP ACREAGE BASES

Crop acreage bases are established under title V of the 1949 but are established as the avarage of the acreage planted and considered planted to upland cotton during the most recent 3 crop years. Further, no upland cotton acreage base may be increased for any year the farm is enrolled in the upland cotton program.

ACREAGE DEVOTED TO CONSERVATION USES

Under the ARP, producers must agree to devote a number of acres on the farm to conservation uses (''reduced acres''), in accordance with regulations issued by the Secretary. Such regulations shall ensure protection of the acreage from weeds and wind and water erosion. The Secretary may also authorize the planting of approved crops on up to ½ of such acres. If such approved crops are planted, the Secretary shall adjust the producer's level of deficiency payments. Haying grazing may be allowed on reduced acreage except during any 5 month between April and September designated by the local State Consolidated Farm Service Agency committee.

TARGETED OPTION PAYMENTS

Section 103B(e)(3) of the 1949 Act authorizes the Secretary to allow producers to adjust any ARP announced upward by 10–25% or downward by 50%. If a producer is allowed to adjust the applicable ARP under this program, the producer's applicable established price shall be adjusted by the Secretary in order to ensure this program is operated in a budget neutral manner.

LAND DIVERSION PAYMENTS

The Secretary may make land diversion payments available to upland cotton producers if it is determined that such payments are necessary to adjust the total national acreage planted to upland cotton to desirable goals. The land diversion program is a voluntary program. In return for a payment offered by the Secretary, producers would agree to idle a specified amount of their upland cotton base. The land diversion payment rates may not be less than 35 cents per pound if ending stocks are projected to be above 8 million bales. Land diversion offers may not exceed 15% of the upland cotton crop acreage base for the farm.

PARTICIPATION AGREEMENTS

Producers on a farm desiring to participate in the upland cotton program will enter into a contract with the Secretary setting out the terms and conditions of participation no later than a date specified by the Secretary.

INVENTORY REDUCTION PAYMENTS

Section 103B(f) of the 1949 Act provides that the Secretary may make payments available to producers who voluntarily forgo deficiency payments and loans for upland cotton. The producers who take advantage of this provision may reduce their ARP requirement by 50% and retain eligibility for loan deficiency payments.

CROSS AND OFFSETTING COMPLIANCE

Cross and offsetting compliance may not be required as a condition of eligibility for loans, purchases or payments for a crop of upland cotton.

LIMITED GLOBAL IMPORT QUOTA

Section 103b(n) of the 1949 Act provides for the establishment of a special limited global import quota for cotton whenever the average monthly price for U.S. cotton exceeds 130 percent of the average price for cotton during the preceding 36 months. The special limited quota shall be established for 90 days and shall be equal to 21 days of domestic mill consumption for upland cotton. The quota established by subsection (n) and the quota established under subsection (a) may not be opened at the same time.

SEC. 302. EXTRA LONG STAPLE COTTON

Section 302 amends section 103(h) of the 1949 act to extend the program for extra long staple cotton through the 2002 crop.

SECS. 303 AND 304. SUSPENSION OF CERTAIN MISCELLANEOUS COTTON PROVISIONS

Section 303 and 304 suspend certain provisions of the Agricultural Adjustment Act of 1938 and the 1949 Act from application to any of the 1996–2002 crops of upland cotton.

SEC. 305. SKIPROW COTTON

Section 305 amends section 374(a) of the Agricultural Adjustment Act of 1938 to provide that, for the 1996–2002 crops of upland cotton, to continue the Secretary to allow 30-inch rows to be taken into account for classifying the acreage planted to cotton and the area skipped.

SEC. 306. PRELIMINARY ALLOTMENTS UNDER THE AGRICULTURAL ADJUSTMENT ACT OF 1938

Section 306 establishes preliminary allotments for the 2003 crop at the levels previously established for the 1977 crop of upland cotton as provided in section 379 of the Agricultural Adjustment Act of 1938.

SEC. 307. COTTONSEED OIL ASSISTANCE PROGRAM

Section 307 authorizes the continuation of the Cottonseed Oil Assistance program at levels consistent with the GATT 1994 agreement.

SEC. 308. EXTENSION OF COTTON STATISTICS AND ESTIMATES ACT

Section 308 extends authorities contained in the section 3a of the Act of March 3, 1927 (commonly known as the ''Cotton Statistics and Estimates Act'').

TITLE IV—RICE

SEC. 401. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1996–2002 CROPS OF RICE.

Section 401 amends section 101B of the 1949 Act to provide a rice program for the seven year period 1996–2002 (with essentially the same terms and conditions as current law) as follows:

LOANS AND PURCHASES

The amended section 101B(a) provides for 9 months nonrecourse loans during each year of the period 1996–2002 at the greater of $6.50 per cwt. or 85% of the average prices received by producers during the preceding 5 years, excluding the years with the highest and lowest price. Announcement of the loan level and target price must be made no later than January 31 of the year in which the crop is to be harvested. For the 1996 crop, the announcement must be made as soon as practicable after enactment of this Act.

MARKETING LOANS

The amended section 101B(a) also provides that the loans shall be marketing loans which permit the producer to repay the loan at the lesser of the loan level or the prevailing world market price but not less than 70% of the loan level. The Secretary is required to prescribe a formula to determine the world market price that does not take into account prices for sales of U.S. produced rice and arrange for periodic announcements of the world price.

The amended subsection also authorizes the Secretary to require producers to buy transferable marketing certificates redeemable in cash or CCC owned commodities equal in value to ½ the difference between the loan value and the loan repayment rate.

If the prevailing world market price is below the loan repayment level, CCC is required to make payments to producers participating in the program through the issuance of transferable marketing certificates redeemable in CCC owned commodities or cash as necessary to make U.S. rice available at competitive world prices. The value of the certificates is equal to the difference between the loan level and the world price.

LOAN DEFICIENCY PAYMENTS

The amended section 101B(b) provides for loan deficiency payments for those producers who are eligible to obtain a loan but wish to forego the loan. The payment is equal to the quantity of rice for which the producer wishes to forego a loan multiplied by the difference between the loan rate and the loan repayment rate. The Secretary is authorized to make up to ½ the payment in the form of marketing certificates.

DEFICIENCY PAYMENTS

The amended section 101B(c) provides for deficiency payments to be made available to producers for each of the years 1996–2002. The amount of the payment is equal to the payment rate multiplied by the payment acres and the program yield. The payment rate is the difference between the established (target) price (not less than $10.71 per cwt.) and the greater of a computed market price or the loan level. The computed market price used in this formula is the lesser of national average market price received by producers during the calendar year that includes the first months of the marketing year, or the national average market price received by producers during the first five months of the marketing year plus a factor considered fair and equitable in relation to wheat and feed grains.

PAYMENT ACRES

Deficiency payments are made available only with respect to payment acres. Payment acres are the lesser of the acreage planted to rice or 75% of the rice acreage base less any reduced acreage (the ARP). This has been reduced from 85% in current law.

50/85 PROGRAM

The section also provides for a continuation of the 50/85 program if there is an acreage limitation program in effect. If producers devote more than 15% of their maximum payment acres to conservation uses, the amount so devoted in excess of 15% is considered planted to rice and eligible for payment. To be eligible, the producer must plant at least 50% of the maximum payment acres to rice unless there is a quarantine on the planting of rice or unless the producer is prevented from planting or has a reduced yield because of a natural disaster.

In the event the producer is prevented from planting or has a reduced yield, he may devote to conservation uses or to certain alternative crops more than 8 percent of the maximum payment acres and receive a payment as if the acreage were planted to rice. This program is familiarly known as the 0/92 program. The alternative crops are limited to crops for industrial use for which there is no substantial domestic production or market.

CROP INSURANCE

It is also provided that producers on the farm must obtain catastrophic risk protection insurance coverage as a condition of eligibility for loans and payments.

PAYMENT YIELDS

Section 101B(d) of the 1949 Act provides that farm program yields shall be determined under title V, in the same manner as in current law.

ACREAGE REDUCTION PROGRAMS

Amended section 101B(e) provides authority for a rice acreage reduction program if the supply of rice will likely be excessive, and requires the Secretary to conduct an acreage reduction program so as to result in carry-over stocks being equal to 16.5–20 percent of the average of the total disappearance of rice for the 3 preceding marketing years. If there is an acreage reduction program, a preliminary announcement of the program, including the uniform percentage reduction of the rice acreage base (between 0 and 35%) must be made by December 1 of the year preceding the year in which the crop is harvested, and a final announcement must be made by the following January 31. If there is an acreage reduction program in effect, producers who exceed their permitted acreage of rice are not eligible for loans or payments.

The reduction in the base required by the acreage reduction program must be devoted to conservation uses or up to ½ of the reduced acres may be devoted to certain designated crops as specified in section 504(b)(1) in which event the deficiency payment received by the producer must be reduced accordingly.

TARGETED OPTION PAYMENTS

The subsection also proves authority for targeted option payments if there is in effect an acreage reduction program of 20% or less. Under this option, producers may receive an increase in the target price if they increase the acreage limitation percentage (up to 5%) or a decrease in the target price if they decrease the acreage limitation percentage (up to ½ the acreage limitation percentage. If offered, the option may not result in any additional program outlays.

CONSERVING USE ACRES

The acreage required to be devoted to conservation uses must be protected from weeds and water erosion. Haying and grazing is permitted on the conservation use acreage except during a five consecutive month period between April and October unless there is a natural disaster. Conservation use acreage may also be converted to water storage uses, subject to specified terms and conditions. The reduced acreage and any additional diverted acreage may be devoted to wildlife habitat.

LAND DIVERSION PROGRAM

The Secretary is also authorized to provide for a land diversion program to assist in adjusting the acreage of rice to desirable goals. Payments may be determined through the submission of bids or other means the Secretary deems appropriate.

INVENTORY REDUCTION PAYMENTS

Amended section 101B(f) provides authority for the Secretary to make inventory reduction payments available to producers in the form of marketing certificates if they forgo obtaining a loan and deficiency payment and reduce their rice acreage by ½ the acreage required to be diverted.

MISCELLANEOUS

Amended sections 101B (g) to (n) contain the same miscellaneous provisions as in current law. They provide authority for equitable relief to producers who fail fully to comply with the program, as well as for assignment of payments, protection of tenants and sharecroppers, the sharing of payments, and prohibits cross-compliance non-recourse, among others.

TITLE V—OILSEEDS

SEC. 501. PRICE SUPPORT PROGRAM FOR THE 1996–2002 CROPS OF OILSEEDS.

Section 501 amends section 205 of the Agricultural Act of 1949 (the ''1949 Act'') to provide for a price support program for the 1996–2002 crops of oilseeds as follows:

LOANS

Section 205 of the 1949 Act is amended to require the Secretary to make available loans and purchases to producers of soybeans, sunflower seed, canola, rapeseed, safflower, flaxseed, mustard seed, and other oilseeds for the 1996 through 2002 crops.

Loan and purchase levels shall be not less than the greater of either 85% of average prices received by producers in three of the previous five years (disregarding the high and low years) or $5.50 per bushel for soybeans and $9.75 hundredweight for sunflower seed, canola, rapeseed, and flaxseed. Loan and purchase levels for other oilseeds are required to be established in relation to the level for soybeans, except that the level for cottonseed may not be lower than the level for soybeans on a per-pound basis.

ADJUSTMENT IN LOAN LEVEL

If the Secretary determines that the loan and purchase level for an oilseed crop will result in outlays in the form of loan deficiency payments, the Secretary is required to reduce the loan and purchase level for the crop in that year to a level that will result in payments not being made. However, the loan and purchase levels may not be established at less than $5.00 per bushel for soybeans and $8.90 per hundredweight for sunflower seed, canola, rapeseed, and flaxseed.

If the Secretary adjusts the level of loan and purchases from an oilseed, the Secretary

is required to submit a report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry certifying that the adjustment is necessary to reduce outlays in the form of loan deficiency payments and describing the production, stocks, and price circumstances under which the adjustment is needed. Any reduction in the loan and purchase level for an oilseed crop will not be considered in determining the loan and purchase level for a future crop of that oilseed.

MARKETING LOANS

Section 205(d) of the 1949 Act provides that the Secretary shall permit producers to repay loans at the lesser of the loan and purchase level for the crop and either the prevailing world price for the oilseed, adjusted to United States quality and location, as determined by the Secretary, or such other level not in excess of the loan and purchase level that the Secretary determines will minimize potential loan forfeitures, accumulation of oilseed stocks by the Federal Government, and the cost of storing oilseeds by the Federal Government, and allow oilseeds produced in the United States to be marketed freely and competitively, both domestically and internationally. The Secretary is required to prescribe by regulation a formula for determining, and a mechanism for periodically announcing, the world market price for oilseeds.

LOAN DEFICIENCY PAYMENTS

The Secretary is required to offer eligible producers who agree to forgo obtaining loans and purchases the option to receive loan deficiency payments. Payments shall be determined by multiplying the loan and purchase payment rate by the quantity of oilseeds for which an eligible producer forgoes the option to place under loan. The loan and purchase rate shall be the difference between the loan and purchase level for the crop and the level at which the loan may be repaid. Payments may be made in the form of certificates redeemable for agricultural commodities owned by the Commodity Credit Corporation. Certificates shall be made available to the extent necessary to minimize the accumulation of oilseed stocks by the CCC.

MARKETING YEAR

The marketing year for soybeans shall be the one-year period beginning on September 1 and ending on August 31. The marketing years for other oilseeds shall be prescribed by the Secretary by regulation. The Secretary shall announce the loan and purchase level for a crop of oilseeds not later than [15 days prior to the first day of the marketing year] in the calendar year in which the crop is harvested.

LOAN MATURITY

A loan made for a crop of oilseeds shall mature on the last day of the 9th month following the month in which application for the loan is made, except that the loan may not mature later than the last day of the fiscal year in which the application is made.

MISCELLANEOUS PROVISIONS

The Secretary shall not require participation in any production adjustment program for oilseeds or any other commodity as a condition of eligibility for loans and purchases for oilseeds. The Secretary may not authorize payments to producers to cover the cost of storing oilseeds. Oilseeds may not be considered an eligible commodity for any reserve program.

The Secretary is authorized to issue such regulations as determined necessary to carry out this section, and shall carry out the program authorized by this section through the Commodity Credit Corporation.

Section 205, as amended, shall be effective only for the 1996 through 2002 crop of oilseeds.

TITLE VI—PEANUTS

SEC. 601. SUSPENSION OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS

Section 601 of the bill makes section 358(a) through (j)[1], section 358a(a) through (j)[2] section 359(a), (b), (d), and (e), section 371[3], and Part I of subtitle C of title III[4], of the Agricultural Adjustment Act of 1938 inapplicable to the 1996 through 2002 crops of peanuts.

SEC. 602. NATIONAL POUNDAGE QUOTAS AND ACREAGE ALLOTMENTS

Section 602 of the bill makes various changes to the current provisions of section 358–1 of the Agricultural Adjustment Act of 1938 as follows:

The bill directs the Secretary to estimate the quantity of peanuts and peanut products to be imported into the United States for the marketing year as part of the required annual estimate of domestic consumption.

The bill repeals the current floor (minimum level) at which the national poundage quota may be established for any marketing year.

The bill repeals the authority to increase farm poundage quotas based on undermarketings (the quantity by which a farm poundage quota for a marketing year exceeds the actual peanuts produced and marketed on the farm) from previous years.

The bill repeals the provisions authorizing a special poundage quota allocation process for Texas.

The bill authorizes the Secretary to annually allocate temporary quota to each peanut producer for purposes of acquiring seed for planting the producer's crop of peanuts for that year.

The bill tightens the eligibility criteria for the purposes of determining if a farm's poundage quota should be ''considered produced'' by allowing quota to either be voluntarily released or leased (but not both)[6] during 1 of the 3 previous years.

The bill repeals the current limitation[7] on the allocation of farm poundage quota that has been reduced or voluntarily released to farms with no quota. The amended provision requires the reallocation to farms without quota to be limited only by the average production history of the farms.

SEC. 603. SALE, LEASE, OR TRANSFER OF FARM POUNDAGE QUOTA

Section 603 of the bill makes various changes to the current quota transfer provisions of section 358b of the Agricultural Adjustment Act of 1938 as follows:

The bill allows farm poundage quota to be transferred to another farm across county lines but within the same State if both farms have been in common ownership or control for the 3 previous years or if both farms are located in a State with 10,000 tons or more quota (subject to an annual and an overall limitation on the amount of quota that is eligible for an out of county transfer).

The bill allows farm poundage quota to be transferred after the normal planting season (fall lease transfer) to another farm across county lines but within the same State.

SEC. 604. MARKETING PENALTIES; DISPOSITION OF ADDITIONAL PEANUTS

Section 604 of the bill extends the effective period of the current provisions of section 358e of the Agricultural Adjustment Act of 1938[8] to include the 1996 through 2002 crops and expands the application of the current penalty for reentry of exported additional peanuts to include peanut products.

SEC. 605. EXPERIMENTAL AND RESEARCH PROGRAMS

Section 605 of the bill extends the effective period of section 358c of the Agricultural Adjustment Act of 1938[9] to include the 1996 through 2002 crops.

SEC. 606. PRICE SUPPORT PROGRAM

Section 606 amends section 108B of the 1949 Act to extend for 7 years the current law requirements for the Secretary to provide price support to producers of peanuts through loans, purchases, and other operations through the 2002 crop of peanuts.

The bill limits the allowable amount of decrease (as well as increase) that may be made in the national average quota support rate for a crop of peanuts to not more than 5 percent of the rate for the preceding crop.

The bill limits the eligibility for entry into or participation in the New Mexico area marketing association established pools to peanuts produced within the State of New Mexico.

The bill repeals the provision of current law that require losses in one production area quota pool to be offset by gains or profits from pools in other production areas (area cross compliance). The bill adds a requirement that losses in an area quota pool must be offset by any gains from the sale of additional peanuts by any producer that is in the quota pool.

The bill adds a provision to clarify that all peanuts in the domestic market, including imported peanuts, must comply with all quality standards, and that importers must comply with inspection, handling, storage, and processing requirements, under Marketing Agreement No. 146. The bill also adds a provision to require peanuts produced for export to comply with inspection, handling, storage, and processing requirements under Marketing Agreement No. 146.

The bill extends the requirement for the Secretary to provide for the collection of a marketing assessment, applicable to each of the 1996 through 2002 crops of peanuts, equal to 1.2 percent of the national average support rate.

TITLE VII—SUGAR

Title VII of the bill amends section 206 of the Agriculture Act of 1949 to authorize and direct the Secretary to provide price support for the 1996 through 2002 crops of sugar beets and sugar cane. Section 902 of the Food Security Act of 1985 provides that such sugar programs are to be operated in a manner so as to be no cost to the U.S. Government; this provision continues unamended. Title VII also provides for the amendment of part VII of the Agricultural Adjustment Act of 1938 to establish marketing assessment bases for sugarcane and sugar beet processors and cane sugar refiners.

SEC. 701. SUGAR PRICE SUPPORT

Section 701 of the bill amends section 206 of the Agriculture Act of 1949 as follows:

LOAN AND PRICE SUPPORT

Section 206, as amended, provides that the price of each of the 1996 through 2002 crops of sugar beets and sugarcane must be supported by the Secretary of Agriculture and fixes the support level for the price of domestically grown sugarcane for this period at 18 cents per pound for raw cane sugar, and for domestically grown sugar beets at the basic loan rate level for the 1994 crop of sugar beets. The price support is implemented through nonrecourse loans provided by the Commodity Credit Corporation. Section 206, as amended, provides the Secretary with authority to adjust these fixed price support levels for each of the 1997 through 2002 crops of sugarcane and sugar beets when the Secretary deems it appropriate, taking into account such factors as changes in the cost of sugar products, the cost of domestic sugar production, and other circumstances that may adversely affect domestic sugar production.

MARKET ASSESSMENTS

Section 206, as amended, also establishes market assessments for raw cane sugar, beet sugar, and imported sugar. Two tiers of assessment are established in subsection 206(i). The tier 1 assessment is applicable to the first processor of sugarcane and sugar beets for raw cane sugar and beet sugar which fall within the processor's base as established by the Secretary under the Agricultural Adjustment Act of 1938, as amended by this bill, and to imported raw cane sugar. The assessment rate in tier 1 for marketings of raw cane sugar processed from domestically produced sugarcane or sugarcane molasses marketed during the 1997 through 2003 fiscal years is equal to 1.1% of the loan level established by the Secretary to support the price of domestically grown sugar cane (but not more than 0.198 cents per pound of raw cane sugar); the tier 1 assessment for beet sugar processed from domestically produced sugar beets or sugar beet molasses marketed during the 1997 through 2003 fiscal years is equal to 1.1794% of the loan level established by the Secretary to support the price of domestically grown sugar beets (but not more than 0.2123 cents per pound of beet sugar). These tier 1 assessments apply only to marketed beet sugar and raw cane sugar within the processor's base. For imported raw cane sugar, the tier 1 assessment which must be paid by each holder of a certificate of quota eligibility for such sugar imported into the United States is the same amount that would be applicable to the first processor of U.S. produced sugarcane during the fiscal year. For refined sugar, whether from sugar beets or sugarcane, imported into the United States, each holder of a certificate of quota eligibility must pay a tier 1 assessment in the amount applicable to the first processor of U.S. produced sugar beets during the fiscal year. In all cases, the assessment is paid to the Commodity Credit Corporation, and the assessment is nonrefundable.

The tier 2 non-refundable marketing assessment established under subsection 206(i) is applicable to marketings of raw cane sugar or beet sugar during the 1997 through 2003 fiscal years which are in excess of the processor's or the cane sugar refiner's assessment base as established by the Secretary under the Agricultural Adjustment Act of 1938, as amended by this bill. The tier 2 assessment for fiscal 1997 is an amount equal to 100% of the loan level established for marketings of raw cane sugar or beet sugar in fiscal 1997. For each fiscal year thereafter through fiscal year 2001, the assessment rate is reduced by three percentage points per year, so that the assessment rate is 97% of the applicable loan level for marketings for the 1998 fiscal year, 94% for the 1999 fiscal year, 91% for the 2000 fiscal year, and 88% for the fiscal years 2001 through 2003. The first processor of sugarcane or sugar beets, or the refiner of cane sugar, as the cane may be, must remit the assessment to the Commodity Credit Corporation.

SUPPLY OF RAW CANE SUGAR

Subsection 206(j) of the 1949 Act, as amended, authorizes the Secretary to assure the U.S. supply of raw cane sugar. It provides that whenever for 7 consecutive market days the price for raw cane sugar for the nearest future contract month averages more than 128 percent of the loan rate specified for raw cane sugar, the Secretary must, within 3 market days, use all available authorities to increase the supply of raw cane sugar, in increments of not less than 50,000 tons, to a level sufficient to reduce the average price for raw cane sugar to equal to or less than 128 percent of the loan rate.

There is an exception to the authority of the Secretary to take this action. The Secretary must not take any action if, for the same 7 consecutive market days in which the price for raw cane sugar for the nearest future contract month averages more than 128 percent of the loan rate for raw cane sugar, the average bulk, FOB factory net price for refined beet sugar reported by all sellers is more than 128 percent of such average price for raw cane sugar for such nearest future contract month.

SEC. 702. MARKETING ASSESSMENT BASES FOR PROCESSORS AND REFINERS

Section 702 of the bill amends part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa *et seq.*) (the ''1938 Act''), effective October 1, 1996, to provide for marketing assessment bases for sugar processors and refiners as follows:

ESTABLISHMENT OF MARKETING ASSESSMENT BASES

Section 359b of the 1938 Act, as amended, requires that the Secretary impose, for each of the fiscal years 1997 through 2003, marketing assessment bases for processors of sugar processed from domestically produced sugarcane and sugar beets and for cane sugar refiners. The marketing assessment bases are to be based on the Secretary's estimate of sugar consumption in the United States for such fiscal year.

CALCULATION OF MARKETING ASSESSMENT BASES

Section 359c of the 1938 Act, as amended, provides for the calculation of marketing assessment bases and requires the Secretary to establish marketing assessment bases for sugar in each of the fiscal years 1997 through 2003. The Secretary must first establish the overall quantity of sugar to be distributed for the fiscal year, referred to as the overall base. This overall base is to be set on the basis of the Secretary's estimate of sugar consumption for the fiscal year, and must be adjusted to the maximum extent practicable to prevent the acquisition of sugar by the Commodity Credit Corporation.

Section 359c requires that once the overall base quantity is established for a fiscal year, it must be distributed among sugar derived from sugar beets and sugar derived from sugarcane in the proportion of 47% for sugar derived from sugar beets; and 53% sugar derived from sugarcane, including raw cane sugar imported from foreign countries for consumption in the United States.

Subsection (d) of Section 359c provides that this initial distribution of the base between sugar derived from sugar beets and sugar derived from sugarcane is subject to a required further distribution to establish three bases. The first of these bases is the base for sugar derived from sugar beets, which for a fiscal year is a quantity equal to the product of multiplying the overall base quantity for the fiscal year by 47%. The second base is a base for sugar derived from sugarcane, which for a fiscal year is the quantity obtained by subtracting 1,257,000 short tons, raw value, from the quantity equal to the product of multiplying the overall base quantity for the fiscal year by 53%. The third base is the base for refined cane sugar, which is the quantity equal to the product of multiplying the overall base quantity for the fiscal year by 53%.

Section 359c further provides that the base for sugar derived from sugarcane must be distributed among the five States in the United States (considering Puerto Rico as a ''State'' for this purpose) in which sugarcane is produced in a fair and equitable manner on the basis of past marketings of sugar processed from sugarcane in the 2 highest years of production from each States from the 1990 through 1994 crops), processing capacity, and the ability of processors to market the sugar covered under the base.

Section 359c also provides for the adjustment of the marketing assessment bases. Whenever the weighted average bulk, FOB factory/refinery net price (including the price of representative consumer and industrial products, adjusted to a bulk basis) reported by all sellers of refined sugar for any week is more than 111 per cent of the average bulk, FOB factory price for refined beet sugar for the fiscal years 1990 through 1994, the Secretary may increase the marketing assessment bases of cane sugar refiners and sugar beet processors. Whenever the weighted average bulk FOB factory/refinery net price (including the price of representative consumer and industrial products, adjusted to a bulk basis) reported by all sellers of refined sugar for any week is less than 104 percent of the average FOB factory price for refined beet sugar for the fiscal years 1990 through 1994, the Secretary must decrease the marketing assessment bases of cane sugar refiners, sugar beet processors, and cane sugar processors, but must maintain the minimum access level for imports of sugar set forth in the Harmonized Tariff Schedules of the United States.

DISTRIBUTION OF MARKETING ASSESSMENT BASES

Section 359d of the 1938 Act, as amended, provides for the distribution of marketing assessment bases to individual processors and refiners. The Secretary must distribute each of the three bases provided for under subsection (d) of section 359c for each of the fiscal years 1997 through 2003 among the processors or cane sugar refiners covered by the base in a fair, efficient and equitable manner. In the case of distributing the cane sugar assessment base among processors, the Secretary is required to take into consideration processing capacity, past marketings of sugar, and the ability of each processor to market sugar covered by that proportion of the base distributed. Further, with respect to distribution the beet sugar assessment base among processors of sugar beets, the Secretary is required to assign processor bases in accordance with each processor's highest amount of sugar produced in any year from sugar beets produced from the 1990 through the 1994 crops. In making these distributions to processors and refiners from the assessments bases, the Secretary is also required to make reasonable provisions for new processors and refiners.

REASSIGNMENT OF DEFICITS

Section 359e of the 1938 Act, as amended, provides for the reassignment of any deficits in the marketing of an assessment base. If the Secretary determines that any sugarcane processor who has received a share of a State cane sugar assessment base will be unable to market the processor's share of the State's cane sugar base for the fiscal year, the Secretary must first reassign the estimated quantity of the deficit to the bases for other processors within that State; if after such reassignments the deficit cannot be completely eliminated, the Secretary must then reassign the remaining part of the estimated quantity of the deficit proportionately to the bases for other cane sugar States; and finally, if after these second reassignments, the deficit still cannot be completely eliminated, the Secretary is to reassign the remainder to imports. With respect to beet sugar, if the Secretary determines that a sugar beet processor who has received a share of the beet sugar assessment base will be unable to market its share, the Secretary must first reassign the estimated quantity of the deficit to the bases for other sugar beet processors; if after such reassignments the deficit cannot be completely eliminated, the Secretary must reassign the remainder to imports. If the Secretary determines that a

cane sugar refiner who has received a share of the cane sugar assessment base will be unable to market that share, the Secretary must reassign the estimated quantity of the deficit to the bases of other refiners, as the Secretary deems appropriate.

PROVISIONS APPLICABLE TO PRODUCERS

Section 359f of the 1938 Act directs the Secretary, for each of the fiscal years 1997 through 2003, to obtain from processors such assurances as the Secretary deems adequate that the assessment base will be shared among producers served by the processors in a fair and equitable manner that adequately reflects producers' production histories, and to resolve through arbitration by the Secretary on the request of either party any dispute between a processor and a producer, or group of producers, with respect to the sharing of the processor's allocation.

Section 359f also directs the Secretary, in any case in which a State share of an assessment base is established under subsection (e) of section 359c and there are in excess of 250 producers in the State to which it applies, to make a determination, for each such State share of an assessment base, whether the production of sugar, in the absence of proportionate shares, will be greater than the quantity needed to enable processors to fill the State share of the assessment base and provide a normal carryover inventory. If the Secretary determines this to be the case for a fiscal year, considering the amount of sugar processed from all crops by all processors covered by such State base, then the Secretary must establish a proportionate share for each sugarcane producing farm that limits the acreage of sugarcane that may be harvested on the farm for sugar or seed during the fiscal year, with each such proportionate share subject to adjustment for natural disaster or other condition beyond the control of producers.

SEC. 703. PREVENTION OF SUGAR LOAN FORFEITURES

Section 703 of title VI amends section 902(c)(2)(A) of the Food Security Act of 1985—which provides that the Secretary is to report to the President any sugar imports from Cuba by certain countries exporting sugar to the United States—by extending its applicability to August 1, 2002.

TITLE VIII—GENERAL COMMODITY PROVISIONS

Significant adjustments have been made in the General Provisions to increase planting flexibility and comply with deficit reduction targets. Increased flexibility is provided in two ways: (1) by expanding so-called optimal flex acres from 10% of permitted acres to 100% of permitted acres and (2) by providing new authority to allow producers to plant up to 25% of their historical oilseed acreage to a program crop. In both cases, the crop ''flexed'' would be eligible for loan but not deficiency payments.

SEC. 801. DEFICIENCY AND LAND DIVERSION PAYMENTS

Section 801 amends section 114 of the 1949 Act to continue the authority of the Secretary of Agriculture to make advance deficiency payments.

SEC. 802. ADJUSTMENT OF ESTABLISHED PRICES

Section 802 extends the authority contained in section 402(b) of the 1949 Act through the 2002 crops.

SEC. 803. ADJUSTMENT OF SUPPORT PRICES

Section 803 extends the authority contained in section 403(c) of the 1949 Act through the 2002 crops.

SEC. 804. PROGRAM OPTION FOR THE 1003 AND SUBSEQUENT CROPS

Section 804 amends section 406 of the 1949 Act to provide the Secretary with the authority to offer optional programs for the 2003 and subsequent crop years that are similar to those provided in the 1949 Act for the 2002 crops.

SEC. 805. APPLICATION OF TERMS IN THE AGRICULTURAL ACT OF 1949

Section 805 amends section 408(k)(3) of the 1949 Act to make its terms applicable to the 1996–2002 crops.

SEC. 806. ACREAGE BASE AND YIELD SYSTEM

Title V of the 1949 Act is basically extended and made applicable to the 1996 through 2002 crops of wheat, feed grains, upland cotton and rice. Section 806 changes current law governing planting flexibility as follows:

Increases current planting flexibility from 25% to 100%. Producers can effectively respond to market signals by planting alternative crops on up to 100% of their crop acreage base without penalty and without market-distorting financial incentives; and

Provides producers with ability to plant program crops on up to 25% of their historical soybean acreage, without losing program eligibility and without market-distorting financial incentives. Any program crop planted under this provision will retain loan eligibility.

SECS. 811. PAYMENT LIMITATIONS

Section 811 extends the application of payment limitations as provided in title X of the Food Security Act of 1985 to the 1996 through 2002 crops.

SEC. 812–831. MISCELLANEOUS AND CONFORMING AMENDMENTS

Sections 812 through 831 of the bill contain various miscellaneous and conforming amendments either extending certain provisions of law or making necessary modifications to current law to conform with the provisions of the agricultural Competitiveness act of 1995.

[1] Section 358 of the Agricultural Adjustment Act of 1938 requires the Secretary to establish and apportion a national marketing quota and a national acreage allotment for the production of peanuts.

[2] Section 358a of the Act provides for the sale, lease, and transfer of peanut acreage allotments.

[3] Section 371 of the Act provides for the adjustment of marketing quotas and acreage allotments for cotton, rice, peanuts, or tobacco based on the supply of the commodity involved.

[4] Part I provides for the publication and review of marketing quotas and acreage allotments for tobacco, corn, wheat, cotton, peanuts, and rice.

[5] Section 358–1(a)(1) of current law prohibits the secretary from establishing the national poundage quota for a marketing year at less than 1,350,000 tons.

[6] Section 358–1(b)(4) of the Act provides that quota will be considered produced if it is either voluntarily released during 1 of the 3 previous years or leased during 1 of the 3 previous years (or both).

[7] Section 358–1(b)(6)(B) of the Act provides that not more than 25 percent of such quota may be reallocated to farms for which no quota was established for the preceding year.

[8] Section 358e of the Act provides for the handling and disposal of peanuts and establishes penalties for the marketing of peanuts in excess of the established poundage quota.

[9] Section 358c of the Act authorizes the Secretary to permit not more than 1 tenth of 1 percent of the basic quota for a State to be utilized for experimental and research purposes.

KEY PROVISIONS OF THE AGRICULTURAL COMPETITIVENESS ACT OF 1955

Maintains the current basic structure of our highly successful farm programs (contains the freeze on target prices and maintains from marketing loan program for wheat, feedgrains, cotton, and rice).

Requires farm policies to be modified in order to meet the Balanced Budget Reconciliation Instruction—Increases non-paid base acres from 15% to 25%.

Allows for 100% flexibility; increases the Optional Flex Acres (OFA) from 10% to 100% of program crop acreage base. This will allow producers to more effectively respond to market signals by being able to plant eligible alternative crops on up to 100% of their program base acres without being penalized by having their base acreage reduced in the following crop year.

Provides farmers the option for up to 25% two-way flexibility. This will enable farmers to produce program crops on up to 25% of historical soybean acres. In essence, this provision further allows farmers to respond to market signals by enabling them to plant up to 25% of their historical soybean acres to program crops which will be eligible for loan participation.

Allows the Secretary to increase soybean and minor oilseed marketing loan rates up to 85% of their 5 year average market price or $5.50 per bushel and $9.75 per hundred weight, respectively, if the Secretary determines that these rates will be budget neutral. The minimum market loan rate for soybeans and minor oilseeds are increased to $5.00 per bushel and $8.90 per hundred weight respectively.

Eliminates any ARP requirements for oilseeds which are double cropped with program crops.

The Peanut program is reformed to move it toward no government cost, further opening the program to new producers and more closely tying production limits to market demand. Removes the limitations on the Secretary to control the cost of the program by giving the Secretary full discretion to adjust the amount of peanuts eligible for domestic price support so production will better equal market demand. Undermarketings are eliminated (the current practice of allowing unproduced quota to be produced the following year). Program benefits to producers will be reduced, but government costs will be dramatically reduced and the program made more responsible to imports and market demand.

The Sugar program is reformed to allow U.S. Sugar policy to continue its 1985 mandate to operate at a ''no cost'' to the U.S. Treasury. Marketing assessments imposed beginning in 1991 on sugar sales would continue at current levels and extended to imports, providing over $30 million per year toward federal deficit reduction. There are no payments to sugar producers. The 18 cent per pound loan rate for raw sugar remains at the 1985 level. In order to meet the new minimum import obligations required by the GATT and remain no cost, a system requiring private industry to equitably carry surplus stocks is proposed which is more market oriented and more reliable than current policy. The reform proposal also includes new consumer price projections.●

● Mr. PRYOR. Mr. President, I join my distinguished colleague from Mississippi, Senator COCHRAN, in cosponsoring the Agricultural Competitiveness Act of 1995. This legislation represents stability in the most important business sector of this Nation. Farmers and ranchers of this country continue to produce the most affordable and abundant food and fiber supply in the world and this bill helps to ensure they persist in this role for the next 7 years and beyond.

Senator COCHRAN and I have cosponsored legislation many times in past farm bill debates. As agriculture is so important to the States of Arkansas and Mississippi, we have always strived to put forth policy ideas that provide agriculture the necessary fundamental tools to survive. The legislation we are

introducing today accomplishes this consistent goal.

Mr. President, the farmers and ranchers in Arkansas have made one very important point to me as we enter this year's farm bill debate—U.S. agriculture policy has served America very well. The consumers of this country spend less of their disposable income on food than any other country in the world. Farm programs, that represent only 0.6 percent of the Federal budget, guarantee a reliable supply of food and fiber products at the best prices.

However, with an ever increasing global marketplace, the success of farms in the delta of Arkansas is becoming more dependent on policies in Canada, the European Union, or even Japan. Because of these increasing uncertainties and the willingness of competitor countries to heavily subsidize, we must have policies in place to assist our farmers who are directly competing against foreign treasuries. This legislation addresses this important point and helps to protect the food and fiber security of our country.

Mr. President, the legislation we are introducing today also provides significant but responsible change. Flexibility, being the buzz word in this year's farm bill debate, is expanded. Farmers can respond to a changing market by planting alternative crops on up to 100 percent of their crop acreage base without being penalized by losing base acres in the following crop year. Additionally, our flexibility is provided as a choice to the farmer without market-distorting financial incentives.

This farmer-oriented legislation also addresses the continuing budget pressures faced by the government. Although I did not support the balanced budget amendment or the budget resolution this year because I believe they went too far too fast, I obviously recognize that there will have to be some reductions. However, I believe this should be done in a responsible fashion. when faced with painful budget cutting choices, farmers have generally preferred an increase in nonpaid acres rather than other more drastic approaches.

Our legislation prudently increases nonpaid acres from 15 to 25 percent over the next 7 years, significantly reducing Federal outlays. Further, the bill recognizes the budget reconciliation instructions the Agriculture Committee will have to consider. I still believe the cuts being forced on agriculture are far too drastic and don't recognize the fact that we have paid more than our fair share and will continue to support efforts to reduce this financial burden during the budget reconciliation process. However, in working to find responsible ways for farmers and ranchers to contribute their fair share, this bill does address a responsible way of meeting certain budget obligations.

In summary, Mr. President, this legislation improves upon policies that have served this country well. With these improvements, agriculture will better be able to meet the new challenges of a world economy.●

● Mr. COVERDELL. Mr. President, it has become increasingly apparent that the 1995 farm bill will be a comprehensive debate on the future of American agriculture not only in the face of tight Federal budget constraints, but also under new competitive realities brought on by the passage of the NAFTA and GATT trade agreements. In this debate, my colleagues and I are challenged to design a plan that will protect production agriculture and the fragile rural economies it supports while meeting necessary spending reductions that will eventually bring us to our imperative goal of a balanced federal budget.

In order to meet the competitive challenges we face in regard to our nation's commodity programs, my distinguished colleague from Mississippi, Senator COCHRAN, has carefully crafted a bill titled the Agricultural Competitiveness Act of 1995. For his leadership in this regard, I would like to commend the Senator and join his effort by cosponsoring this legislation. This bill, of which I am a coauthor, will provide a steady direction for production agriculture over the next 7 years. It also offers a commitment to programmatic changes necessary to meet all spending reductions required by the Senate Agriculture Committee.

Production leaders of each commodity program contained in this bill have actively participated in its formulation and have been extremely cooperative in working toward our goals. Particular credit should go to our leaders in the peanut industry who have accepted the challenge to reform and have delivered a significant product. It could be argued that the peanut industry has made more substantive changes in its program than any other commodity program we currently administer. Our reformed peanut title was taken directly from the positions established by the National Peanut Growers Group, the Nation's largest grower organization, who labored over several months to make the tough decisions required of them.

A review of our title will indicate substantive change. We have moved the program toward no Government cost, opened the opportunities for greater participation and have become more market oriented. It should be mentioned that these peanut title reforms do not come without pain for our growers. This legislation will represent a nearly 30 percent decrease in peanut farmer income. In addition, USDA has estimated that we will save at least $500 million over the life of this bill from the difficult changes we have made. And, it is these very changes that represent our true commitment to budgetary responsibility.

We have eliminated almost all government cost and responded to competitive demands with the following five program changes:

First, elimination of the statutory minimum quota floor.

The Secretary of Agriculture is granted the authority to set the amount of quota peanuts eligible for domestic price support equal to market demand. This provision it will eliminate the recent Government surpluses of peanuts that must be crushed for oil at tremendous losses to the American taxpayer.

Second, elimination of undermarketings.

This provision will help insure government cost reductions by ending carry-over of quota to future crop years. It has been estimated that if undermarketings had been eliminated in the 1994 crop year, we would have saved $60 million.

Third, price support to decrease with farm production cost decreases.

The price support for peanut growers would be allowed to decrease up to 5 percent with reductions in farm production costs. Currently, the cost of production model allows only for increases in prices support. This is a market-oriented measure designed to keep the support price competitive and reduce Government cost.

Fourth, provide all peanut growers with quota for seed.

Fairness is the issue here. Our quota growers have agreed to provide any peanut grower with quota equal to the approximate amount of seed they plant each year. This addresses the concerns about seed costs of some farmers who grow peanuts primarily for the export market.

Fifth, allowance of cross-county line sale and transfer of quota.

This provision would allow 40 percent of our total quota to be transferred or sold across county lines over the life of the bill. Allowing nearly half of our Nation's quota to go to the most efficient growing areas is good policy from a production standpoint. This change is also a strong argument against those critics saying the peanut program operates behind closed doors.

These positive changes offered in this bill by our peanut producers, coupled with our cotton growers commitment to meeting necessary spending requirements, are strong signs of their commitment to the future of not only Georgia agriculture, but our nation's as a whole. Again, I commend my colleague from Mississippi for his leadership in this process and look forward to working with him in crafting a final product that will sustain the future of rural America.●

Mr. HELMS. Mr. President, no other legislation likely to come before Congress this year will have more direct impact on my State of North Carolina, and the people who live there, than the 1995 farm bill. For an agriculture State that ranks third as the most diversified agribusiness State in the country, the farm bill is critically important legislation.

I commend the Senator from Mississippi [Mr. COCHRAN] for leading the

way in maintaining the support of the agricultural commodities that give American consumers peace of mind by providing the safest, most affordable, and most abundant food supply in the world.

Mr. President, when Congress begins the debate on this legislation, it is essential that we focus on fundamental reform. The time for farm program facelifts is rapidly approaching—and overdue in some instances. It is time for real change, change that will return farm programs to their fundamental and original mission: helping family farmers survive and prosper. Today, along with the other cosponsors of this commodity title of the 1995 farm bill, I can report that there is real reform for the peanut program.

Permit me to highlight a few of the significant changes that have been made to the peanut program:

First, it eliminates Government cost through reducing the amount of peanuts subject to government support.

Second, allows the sale and transfer of quota across country lines.

Third, provides all growers quota to cover seed requirements.

Fourth, allows the support level to fluctuate with cost of production.

These sacrifices will cost at least $110 million annually in income to our growers.

Mr. President, much of a negative nature has been said about peanuts this year. The peanut portion of the commodity title addresses major changes that the growers have supported wholeheartedly. The peanut program is one of the most important programs not only to my State, but to all Southern States.

Critics have asserted, mistakenly, that the peanut program costs consumers hundreds of millions of dollars each year in higher prices. This is simply not true. In fact, according to the USDA, 74 percent of the consumer cost is added to a jar of peanut butter after farmers have sold their peanuts.

So contrary to the myth that farmers are reaping huge profits from the peanut program, it is, in fact, the manufacturers of peanut products who reap the sizable profits.

The 1990 farm bill extended the peanut program through the 1995 crop. But this year, peanut growers had to reevaluate their program; we have included their reform in this legislation. This reform package is the first step in providing a safety net for our farmers while addressing the new demands of the North American Free Trade Agreement [NAFTA] and the General Agreement on Tariffs and Trades [GATT]. This legislation will carry our farmers into a more market-oriented 21st century.

In the current budget-driven atmosphere in Washington, urban Members of Congress often mistakenly view phasing out farm programs as a simple solution to our budget problems. Its easy for politicians who have no peanut producers in their States to take cheap shots at the livelihoods of those who earn their livings in the peanut industry.

The peanut program is an investment in the business of farming. It means 150,000 U.S. jobs, $200 million in U.S. exports, $1 billion in U.S. farm revenue, and $6 billion in U.S. economic activity each year.

This commodity title includes peanut reform provisions that make solid changes to the current program. This reform package will be an alternative that will turn this program towards a market-oriented plan that will ensure U.S. competitiveness in global markets, will operate at no net cost to the taxpayer, and will provide a safety net for farmers.

Farmers and their families have contributed so much to the growth of our country. Today, according to USDA, the United States is the third largest producer of peanuts in the world. Elimination of the peanut program would mean an immediate loss of 37,000 U.S. jobs, as well as $350 million in lost farm revenue, $50 million in lost exports, and $25 million in lost tax revenues.

Everyone in the peanut industry, from the growers to the shellers and manufacturers, realizes the program must be reformed as part of the 1995 farm bill.

The peanut farmers of my State of North Carolina and throughout the Nation have taken a responsible voluntary approach of cutting their budgets. They are willing to make major sacrifices and reforms in order to eliminate government cost and make the peanut program more market-oriented. Again, I commend the able Senior Senator from Mississippi [Mr. COCHRAN] for his diligent efforts to address the issues of real reform.

By Mr. HELMS (for himself, Mr. DOLE, Mr. LIEBERMAN, and Mr. MCCAIN):

S. 1157. A bill to authorize the establishment of a multilateral Bosnia and Herzegovina Self-Defense Fund; to the Committee on Foreign Relations.

THE MULTILATERAL BOSNIA AND HERZEGOVINA SELF-DEFENSE FUND

Mr. DOLE. Mr. President, I am pleased to cosponsor the Multilateral Bosnia and Herzegovina Self-Defense Fund. In the aftermath of the overwhelming votes to lift the arms embargo in the Senate and the House, this legislation is the logical next step in a policy designed to put the future of Bosnia back in Bosnian hands. This legislation will create an international fund for the defense of Bosnia, and will provide for a leadership role for the United States, not only in establishing the fund, but in chairing it.

I would like to commend the distinguished chairman of the Foreign Relations Committee in taking the lead and forging legislation to address the critical issue of supporting the Bosnian Government militarily once the arms embargo is lifted—and it will be lifted. I would also add that the chairman has brought together a bipartisan group of distinguished Senators, including Senator LIEBERMAN, in this important effort.

During our debates on lifting the arms embargo on Bosnia administration officials have snidely criticized our legislation as lift and pray—alleging to the press and even to the Bosnians that there is no support in the Congress for providing military assistance to them. This bill makes it absolutely clear that we are serious—that we are ready to follow-through.

The reality is that the administration's approach is don't lift and pray—pray that the American people will be fooled into thinking that there is a U.S. policy and pray that the Croatian government will get the international community off the hook.

Well, the American people are not fooled. They know that the administration does not have a policy.

As for the recent Croatian military action—Croatia's ability to retake its territory has demonstrated that with arms, the victims of aggression can successfully take matters into their own hands. In 4 days, Croatian forces accomplished what the United Nations could not do in 4 years. And, they had no help—the NATO no-fly zone was not enforced as Serb jets bombed Croatian towns.

The undeniable lesson of the past week is that the arms embargo and the U.N. presence has prolonged the war in the former Yugoslavia by keeping areas of Croatia and Bosnia and Herzegovina under occupation.

Another allegation made by administration officials is that lifting the embargo would Americanize the war. We know from the large votes in support of Bosnia's right to self-defense in the U.N. General Assembly and from discussions with international leaders that this assertion is simply not true.

This rhetoric is part of the scare tactics employed by the Pentagon and State Department in order to try to persuade members of Congress that somehow, if the arms embargo is lifted, we alone would be providing aid to the Bosnians.

This fund will provide a mechanism for countries, other than just the United States, to provide the Bosnians with military assistance—and to do so before the arms embargo is lifted. I would add, however, that the actual delivery of weapons will not occur until the U.S. arms embargo is lifted which would occur after U.N. forces withdraw.

I want to talk for a moment about cost. This bill provides for a $50 million payment to the fund and authorization for $50 million in Department of Defense draw down authority for defense articles and services—for a total package of $100 million, far less than we are currently spending on a failed approach. This year, we are being billed around a half a billion dollars for our share of the U.N. peacekeeping operation. Our share for UNPROFOR next

year will probably be closer to $600 million. We are also providing indirect support to this operation—for example, through NATO—which amounts to about $250 million annually. And, we do not get any discount when UNPROFOR is unable to do its job.

The bottom line is that keeping the U.N. in Bosnia is not cost-free. Indeed it is far more expensive than helping the Bosnians help themselves. Furthermore, we have to look at the costs of this failure to our credibility and our principles.

As we introduce this legislation today, President Clinton is poised to veto S. 21, the Dole-Lieberman legislation to lift the arms embargo on Bosnia.

Administration officials are reportedly in Europe devising new ways to divide Bosnia and Herzegovina and to bribe Serbian President Milosevic, while Ambassador Albright is briefing the Security Council on evidence that more than 2,000 people were buried in mass graves in the wake of the Bosnian Serb take over of Srebrenica.

No doubt about it, the international community is partially responsible for these war crimes. It has refused to protect the Bosnians and denied the Bosnians the means to protect themselves.

How can America, the leader of the free world, continue to be a part of this immoral embargo? Administration officials even publicly acknowledge that it is immoral. As for the embargo's practical effect, it has been a total failure at achieving its goal of limiting violence and ending the war.

America should be leading the way toward a moral and rational policy that has some chance of resulting in a just and stable settlement. Instead, America is following an ineffective, failed approached based on appeasement.

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

S. 1157

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 ''Multilateral Bosnia and Herzegovina Self-Defense Fund Act''.

SEC. 2. BOSNIA AND HERZEGOVINA SELF-DEFENSE FUND.

(a) AUTHORITY FOR ESTABLISHMENT.—(1) Subject to the other provisions of this section, the President is authorized to enter into an international agreement with eligible countries for the establishment of a fund to assist the self-defense of Bosnia and Herzegovina, which may be known as the ''Multilateral Bosnia and Herzegovina Self-Defense Fund''.

(2) The Secretary of State is authorized—

(A) to pay the United States contribution to the Fund out of amounts made available pursuant to section 3; and

(B) to transfer to the custody of the international board having responsibility for the Fund military equipment that has been drawn down in accordance with section 4.

(b) PURPOSE.—The purpose of the Fund shall be to provide an international mechanism for the procurement of military equipment and training for transfer to the Government of Bosnia and Herzegovina for the exercise of its right to self defense under Article 51 of the United Nations Charter, and to facilitate the achievement of a just and equitable peace settlement by enabling the government of Bosnia and Herzegovina to protect its population and territory.

(c) REQUIREMENTS.—An agreement referred to in subsection (a) shall meet the following requirements:

(1) UNITED STATES REPRESENTATION.—The United States will chair any international board having responsibility for the Fund.

(2) MEMBERSHIP OF THE INTERNATIONAL BOARD.—Membership of any international board having responsibility for the Fund will include, at a minimum, one representative of the Government of Bosnia and Herzegovina and one representative from the Government of Croatia.

(3) CONTROL OF MILITARY EQUIPMENT.—The agreement will provide procedures for the control of military equipment received by the international board having responsibility for the Fund.

(4) COMMITMENT BY THE GOVERNMENT OF BOSNIA AND HERZEGOVINA.—Before any military equipment or training purchased or otherwise acquired through the Fund, or held by the international board responsible for the Fund, may be transferred to the Government of Bosnia and Herzegovina that Government will provide written assurances that the equipment or training will not be used to take reprisals against any civilians in Bosnia and Herzegovina.

(5) IMPLEMENTATION.—No military equipment or training purchased or otherwise acquired through the Fund, or held by the international board responsible for the Fund, will be transferred to the Government of Bosnia and Herzegovina before the date of termination of the United States arms embargo against the Government of Bosnia and Herzegovina if such a transfer would violate the embargo.

(d) DEFINITIONS.—As used in this section:

(1) ELIGIBLE COUNTRIES.—The term ''eligible countries'' includes any foreign country other than a country the government of which the Secretary of State has determined, in accordance with section 6(j)(1)(A) of the Export Administration Act of 1979, repeatedly provides support for acts of international terrorism.

(2) FUND.—The term ''Fund'' means the fund established as provided in section 2(a).

(3) GOVERNMENT OF BOSNIA AND HERZEGOVINA.—The term ''Government of Bosnia and Herzegovina'' includes any agency, instrumentality, or forces of the Government of Bosnia and Herzegovina.

(4) UNITED STATES ARMS EMBARGO OF THE GOVERNMENT OF BOSNIA AND HERZEGOVINA.—The term ''United States arms embargo of the Government of Bosnia and Herzegovina means the application to the Government of Bosnia and Herzegovina of—

(A) the policy adopted July 10, 1991, and published in the Federal Register of July 19, 1991 (58 FR 33322) under the heading ''Suspension of Munitions Export Licenses to Yugoslavia''; and

(B) any similar policy being applied by the United States Government as of the date of completion of withdrawal of UNPROFOR personnel from Bosnia and Herzegovina, pursuant to which approval is denied for transfers of defense articles and defense services to the former Yugoslavia.

SEC. 3. UNITED STATES CONTRIBUTION TO THE FUND.

Of the amounts made available for fiscal year 1996 to carry out the Foreign Military Financing Program under section 23 of the Arms Export Control Act, $50,000,000 shall be available only for payment to the Fund of the United States contribution authorized by section 2(a)(2)(A).

SEC. 4. DRAW DOWN AUTHORITY.

(a) AUTHORITY.—The President is authorized to transfer, subject to the regular notification procedures of the Committees on Appropriations of the House and the Senate, to the custody of the international board having responsibility for the Fund, without reimbursement, defense articles from the stocks of the Department of Defense and defense services of the Department of Defense of an aggregate value not to exceed $50,000,000 in fiscal year 1996.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles provided under this section.

SEC. 5. REPORT.

Sixty days after the date of enactment of this Act, the President shall submit a report to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives on what steps the President and the Secretary of State have taken to carry out section 2(a).

SEC. 6. STATUTORY CONSTRUCTION.

Nothing in this Act shall be interpreted as authorization for deployment of United States forces in the territory of Bosnia and Herzegovina for any purpose, including training, support, or delivery of military equipment.

Mr. HELMS. Mr. President, I thank the majority leader for his statement and for his support, as I thank the other cosponsors.

Now, the purpose of this legislation is to correct an injustice that is burdening the conscience of millions of Americans, as well as citizens of all civilized countries around the world.

I refer, of course, to what so many Senators properly consider an imperative responsibility both personally and as a nation to move to untie the hands of the Bosnian people, thereby enabling them to acquire the means to defend themselves against Serbia's cruel genocide designed to achieve an illegal conquest of the sovereign nation of Bosnia.

Mr. President, on behalf of the distinguished majority leader [Mr. DOLE] Senators LIEBERMAN, MCCAIN, and myself, I shall momentarily send a bill to the desk to be read the first time.

The purpose of this legislation is to correct an injustice that is burdening the conscience of millions of Americans as well as citizens of all civilized countries around the world.

I refer of course to what so many Senators properly consider an imperative responsibility to move to untie the hands of the Bosnian people, thereby enabling them to acquire the means to defend themselves against Serbia's cruel genocide designed to achieve an illegal conquest of the sovereign nation of Bosnia.

Mr. President, in a joint hearing conducted yesterday by the Senate's Foreign Relations and Intelligence Committees to investigate war crimes in the former Yugoslavia, a distinguished witness asserted that the difference between the conduct of a great nation and the conduct of a mighty nation is

that, while both are capable of shaping events far beyond their borders, a great nation is guided by deep sense of moral principle.

The greatest expression of that moral principle, as practiced by our Nation in the past, has been the enduring commitment that never again will we stand silent while a people fall victim to crimes against humanity—as did the Jews in World War II.

Could it be that that enduring commitment must today seem an empty one to the people of Bosnia?

Instead of protecting the Bosnian people, the United Nations—the very body created years ago to make certain that such genocide would never happen again—has served instead to render the Bosnian people defenseless in the face of Serbia's annihilation of their country.

And the United States, the leader of the Atlantic alliance, has done scarcely more than sit on the sidelines and watch as an entire nation of people is slowly exterminated.

Mr. President, we can no longer sit on the sidelines. The shameful policy of neutrality in the face of genocide must be brought to an end. There must be a policy, once and for all, that distinguishes clearly between victim and aggressor, and which puts the diplomatic, military, and financial resources of the United States squarely behind the victim.

No one doubts the magnitude of the abuse against the Bosnian people. Today's Washington Post discloses the Clinton administration has openly acknowledged that crimes against humanity are being committed this very moment in the center of Europe.

Yet the administration continues to deny the Bosnian victims any hope of defending themselves. The President of the United States—fully aware of these crimes—intends to veto the legislation Congress has passed to restore Bosnia's right of self-defense. This veto is wrong, it is unfair, it is unjust, and it must be overridden.

There are many in both the House and the Senate who have pledged to the people of Bosnia that we will do everything in our power to make sure Congress overrides that veto. And we will fight to pass legislation not only to lift this brutal embargo, but to help provide the Bosnian people with the means to defend themselves, their families and their sovereign nation.

Mr. President, it is time the United States began treating the Bosnian people the same way we treated the contras in Nicaragua and the mujahadeen in Afghanistan—as freedom fighters engaged in a war for the liberation of their country. We must help arm them and train them and to help them defend themselves against Serbian genocide.

The legislation we are introducing today will do just that. It will establish a multilateral fund to collect and hold donations by countries seeking to assist in the self-defense of Bosnia until the arms embargo is lifted.

The bill authorizes an initial U.S. contribution of $50 million in foreign military financing, and the transfer of up to $50 million in U.S. defense stocks. Moreover, it proposes to create the means to coordinate the efforts of nations such as Turkey, Malaysia, Jordan, and Saudi Arabia, who are eager to assist the Bosnians in a similar fashion.

Our bill will ensure that, upon the withdrawal of the failed United Nations mission, the Serb military will be unable to take advantage of any lag in the arming of the Bosnian people. The multilateral fund will allow the Bosnian Government to coordinate contributions—and to begin procurement by proxy—of the weapons they need for their national self-defense. The Bosnians will be able to ensure the necessary support and transport are available for immediate delivery of weapons after the lifting of the embargo. And finally, Bosnian soldiers will be travel to third countries to acquire training for the use of donated weapons.

Our legislation is consistent with the legislation to repeal the arms embargo in that it postpones the actual delivery of weaponry until the conclusion of the peacekeeping effort. But it will provide the Bosnian Government a running start as the arms embargo is lifted.

The President claims that the recent success of the Croatian military has created a new balance of power in the region, thereby giving us an opportunity for a political settlement. The President ignores the lessons of the last half-century. There can be no lasting peace built on weakness; there can only be peace through strength. Let us have no illusions that Serbia's recent defeats have taken away their craving for territorial expansion—Serbia's appetite for war, destruction and conquest is far from satisfied.

What the success of the recent Croatian offensive does show, however, is that the Serb aggression can be successfully confronted and defeated, and that Serbs can be driven from land they have unlawfully conquered. If a real and lasting peace is to come to Bosnia, we must help the Bosnians achieve it by forcing the Serbs to evacuate the land they have occupied in Bosnia. We must recognize that there can be no peace in that troubled region until the Bosnian people can defend themselves against aggression. We must help them restore their nation so that they can negotiate from a position to strength.

The lifting of the unlawful and unjust arms embargo on the Bosnian people is long overdue. And it will be lifted. The time has come to end America's silence in the face of the unspeakable injustices in Bosnia. The time is overdue to lift the embargo and help arm the Bosnian Moslems. I hope the Senate will vote to allow the Bosnian people to defend themselves at long last.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 1158. A bill to deauthorize certain portions of the navigation project for Cohasset Harbor, Massachusetts, and for other purposes; to the Committee on Environment and Public Works.

THE COHASSET HARBOR NAVIGATION PROJECT ACT

Mr. KERRY. Mr. President, I am pleased to introduce today with Senator KENNEDY the Cohasset Harbor Navigation Project Act.

This is a simple and straightforward bill that will enable an important navigation project in the harbor at Cohasset, MA to move ahead. Its purpose is to make a series of technical changes in the coordinates for the Army Corps of Engineers' Cohasset Harbor project that will enable the dredging project to proceed. The changes are necessary because of shoaling that has taken place since the harbor was last fully dredged in 1960. The shoaling led the Coast Guard in the Spring of 1994 to remove Cohasset Harbor from its previously recognized status as a ''safe harbor'' for storm refuge for certain vessels at sea. The Coast Guard now routinely sets and resets channel buoys which practically lay on their sides at low tide. Marine engineers and the Coast Guard agree that an offshore storm of any substantial magnitude will most probably cause the channel to be blocked completely by the transport of bottom sediment carried in storm surge waters.

The situation is having a damaging effect on our commercial fishing fleet, and the safe boating environment of Cohasset's portion of Massachusetts Bay. Most of Cohasset's racing and recreational vessels of any significant size cannot move into or out of the Harbor within 2 hours of low tide. The Town of Cohasset has worked closely with all parties to expedite the dredging of the inner and outer portions of the Harbor. The necessary permits are in place and the funding of $1.415 million, of which the Federal share is 85 percent, is in place. All that is needed for the project to proceed are the technical corrections in the coordinates which this legislation will provide. No further funding is needed.

I look forward to working with my colleagues on the relevant Committees to move this legislation forward. I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEAUTHORIZATION OF NAVIGATION PROJECT, COHASSET HARBOR, MASSACHUSETTS.

The following portions of the project for navigation, Cohasset Harbor, Massachusetts, authorized by section 2 of the Act entitled ''An Act authorizing the construction, repair, and preservation of certain public

works on rivers and harbors, and for other purposes'', approved March 2, 1945 (59 Stat. 12), or carried out pursuant to section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), are deauthorized: A 7-foot deep anchorage and a 6-foot deep anchorage; beginning at site 1, starting at a point N453510.15, E792664.63, thence running south 53 degrees 07 minutes 05.4 seconds west 307.00 feet to a point N453325.90, E792419.07, thence running north 57 degrees 56 minutes 36.8 seconds west 201.00 feet to a point N453432.58, E792248.72, thence running south 88 degrees 57 minutes 25.6 seconds west 50.00 feet to a point N453431.67, E792198.73, thence running north 01 degree 02 minutes 52.3 seconds west 66.71 feet to a point N453498.37, E792197.51, thence running north 69 degrees 12 minutes 52.3 seconds east 332.32 feet to a point N453616,30, E792508.20, thence running south 55 degrees 50 minutes 24.1 seconds east 189.05 feet to point of origin; then site 2, starting at a point, N452886.64, E791287.83, thence running south 00 degrees 00 minutes 00.0 seconds west 56.04 feet to a point, N452830.60, E791287.83, thence running north 90 degrees 00 minutes 00.0 seconds west 101.92 feet to a point, N452830.60, E791185.91, thence running north 52 degrees 12 minutes 49.7 seconds east 89.42 feet to a point, N452885.39, E791256.58, thence running north 87 degrees 42 minutes 33.8 seconds east 31.28 feet to point of origin; and site 3, starting at a point, N452261.08, E792040.24, thence running north 89 degrees 07 minutes 19.5 seconds east 118.78 feet to a point, N452262.90, E792159.01, thence running south 43 degrees 39 minutes 06.8 seconds west 40.27 feet to a point, N452233.76, E792131.21, thence running north 74 degrees 33 minutes 29.1 seconds west 94.42 feet to a point, N452258.90, E792040.20, thence running north 01 degree 03 minutes 04.3 seconds east 2.18 feet to point of origin.

Mr. KENNEDY. Mr. President, I am pleased to join my colleague from Massachusetts, Senator KERRY, in sponsoring this bill for an important navigation project for Cohasset Harbor. This bill is intended to make minor adjustments to the limits of Federal navigation and anchorage, in order to expedite the dredging planned by the U.S. Army Corps of Engineers.

The dredging is urgently needed. The harbor was last fully dredged in 1960, and shifting shoals have made the current channel unsafe for many vessels during several hours of each day at low tide. Cohasset depends on access to its harbor for commercial fishing and recreational vessels.

The proposed adjustment to the current limits for Federal navigation and anchorage in Cohasset Harbor was prepared by the Army Corps, working in close conjunction with town. The Coast Guard has strongly requested that this dredging project proceed promptly in order to restore the port's status as a ''recommended harbor of refuge'' during bad weather. I urge my colleagues to approve this legislation, which is of great importance to the people of Cohasset, their safety and the local economy.

By Mr. INOUYE (for himself, Mr. SIMON, Mr. CAMPBELL, and Mr. CONRAD):

S. 1159. A bill to establish an American Indian Policy Information Center, and for other purposes; to the Committee on Indian Affairs.

THE AMERICAN INDIAN POLICY INFORMATION CENTER ACT OF 1995

● Mr. INOUYE. Mr. President, I introduce a measure that reflects the culmination of a 4-year effort which has examined the feasibility of and has clearly documented the need for the establishment of the entity that this bill addresses.

Mr. President, over the course of the last few months, as the Senate has given consideration to broad reform proposals, we have once again found ourselves confronted with the challenge of securing accurate information with regard to the manner in which such proposals would affect Indian country.

For instance, in the context of welfare reform, we quickly learned that there was no central source from which we could secure the relevant information with regard to the Indian proportion of the population served by programs that are the subject of block grant proposals or with respect to unemployment rates in the respective reservation communities.

Nor is there a central source of data with regard to program administration or service delivery systems in Indian country, so that we might ascertain how best to assure that Federal programs which are block granted to the States address the social and economic conditions in Indian country. In light of a 200-year history of a Federal Indian government-to-government relationship that for the most part does not involve the State governments, how should the Congress provide for the administration of programs in Indian country under a State block grant system?

To effectively answer this question, we should have a range of policy and programmatic options to consider, but there is no existing body with the expertise and knowledge of Indian country that we can call upon to identify and analyze such options.

Mr. President, in most of Indian country policy-related information is very scarce. If tribal governments are to effectively participate in the decisonmaking process associated with reform proposals and other Federal actions, they too must have access to information and analyses that will assist them in doing so. It is these imperatives that this bill seeks to address.

The central purpose of the American Indian Policy Information Center that would be established under the bill would be one of making information and analyses available to agencies of the Federal Government, to the Congress, and to tribal and other governments that are not otherwise readily available to them. In addition to providing information collected from a variety of sources, the policy information center would be authorized to conduct or commission research to meet policy information needs and to conduct or sponsor forums to identify and explore policy issues.

The bill would establish a successor to the demonstration project now authorized as the National Indian Policy Center, and the activities proposed are among those that have been carried out as elements of the demonstration. The bill is a revision of a bill approved by the Senate Committee on Indian Affairs during the 103d Congress, but it has been modified on the basis of the experience of the current demonstration. In revising this measure, I have also drawn upon a bill drafted during the 103d Congress by Senator CRAIG THOMAS.

Mr. President, I am hopeful that my colleagues will give this measure their careful consideration and will join me in seeking its approval by the full Senate.●

By Mr. ROCKEFELLER:

S. 1160. A bill to amend the Internal Revenue Code of 1986 to provide that the depreciation rules which apply for regular tax purposes also shall apply for alternative minimum tax purposes; to the Committee on Finance.

THE ALTERNATIVE MINIMUM TAX DEPRECIATION RELIEF ACT OF 1995

● Mr. ROCKEFELLER. Mr. President, today I am introducing a relatively modest tax measure that could provide significant relief to capital intensive industries that show little to no profits and pay income taxes under the Alternative Minimum Tax [AMT]. This will eliminate a disincentive in tax policy towards key investment in industries that are vital to the country's economic competitiveness, job base, and industrial strength. This is one of the ways to help the employers, workers, and families in my state of West Virginia.

As a tax measure designed to enhance the competitiveness of industries that range from steel, to paper and wood products, autos, chemicals, and mining, this bill will result in a cost in the form of less revenue collected. But I am introducing the AMT Depreciation Relief Act of 1995 to serve as a practical, affordable option to consider along with the versions of AMT reform that have already passed the House and have been introduced earlier this year in the Senate. And I believe this bill addresses a real problem that Congress must work together to overcome.

Many manufacturers want to see a complete repeal of the AMT. Some especially want reform to address the problems which result from being effectively stuck in AMT status, such as the accumulation of credits and past investments in plants and equipment modernization, which I think merit serious attention.

This bill focuses specifically on the problem of the way the AMT treats the depreciation of assets, which is a root cause of why many companies remain stuck in AMT status. If and when a resolution is worked out to deal with the problem in the way depreciation is calculated, we will go a long way to getting companies out of AMT status, with the result that then they would be able to use their accumulated credits.

As my colleagues know, the corporate AMT was created in the 1986 Tax Act in response to the problem raised when companies would report profits to stockholders, but then claim losses to the IRS. However, the subsequent action taken in this area as part of that historic effort to ''simplify'' the code had the unintended consequence of penalizing low-profit, capital-intensive companies, because the AMT treats depreciation as an adjustment (or increase in income). As Tom Usher, the chairman and CEO of USX explained to the House Ways and Means Committee in January 1995: ''under the AMT, most steel making assets are subject to a 15-year capital cost recovery period and a 150-percent declining balance method, compared to 7 years and 200 percent under the regular tax.'' What that means is that compared to other countries, after 5 years, a U.S. steelmaker under AMT recovers only 37 percent on its investment in new plant and equipment, versus the recovery for companies in other countries, that include 58 percent in Japan, 81 percent in Germany, 90 percent in Korea, and 100 percent in Brazil.

What it comes down to is that under the regular tax system, depreciation adjustments are designed to encourage investment. However, the AMT has had the unintended consequence of, if anything, discouraging investment in new plants and equipment. This is precisely the wrong signal to send to our Nation's capital intensive industries.

At its heart, this is an issue for how well our companies can compete on the world stage. For years, I have focused on how trade laws are used to ensure that our domestic industries can compete with unfairly sold imports. However, the present AMT policies have created a situation which hinders that competitive position.

The fix I am suggesting would eliminate depreciation as a adjustment under the alternative minimum tax. Quite simply, that means that depreciation for companies in an AMT status would be treated in precisely the same way as for companies in a regular tax status.

This is a simple, two-page, bill. It proposes a modest change in the tax code that will have a very beneficial impact on the bottom line of some of America's most important industries and employers. I am looking forward to bipartisan support for this change, and hope it can be made quickly. I urge my colleagues to join me as cosponsors.●

By Mr. BAUCUS:

S. 1161. A bill to amend the Internal Revenue Code of 1986 to exempt small manufacturers, producers and importers from the firearms excise tax; to the Committee on Finance.

EXCISE TAX LEGISLATION

● Mr. BAUCUS. Mr. President, today I am introducing legislation which will exempt custom gunsmiths who manufacture, produce or import fewer than 50 guns a year from the Federal excise tax on firearms.

In 1982, this body passed legislation which was subsequently signed into law which was intended to relieve custom gunsmiths from the excise tax.

Apparently we were not clear enough. Notwithstanding that legislation, the Internal Revenue Service and the Bureau of Alcohol, Tobacco and Firearms continue to attempt to collect the excise tax from custom gunsmiths.

Mr. President, the custom gunsmith is a small operator. While ignorance of the law is no excuse, many of these small operators do not know that an excise tax is owed until they receive a visit from the IRS or the BATF. Because the number of custom gunsmiths is small and because they produce few guns, the revenue raised from the imposition of the excise tax is insubstantial. In fact, the BATF has indicated that the cost to the BATF of collecting the tax may well exceed the revenue raised from the tax.

For all of these reasons, Congress attempted to relieve custom gunsmiths from the firearms excise tax in 1982.

The bill I introduce today completes that job.●

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 1162. A bill to amend the Internal Revenue Code of 1986 to treat academic health centers like other educational institutions for purposes of the exclusion for employer-provided housing; to the Committee on Finance.

EMPLOYER-PROVIDED HOUSING LEGISLATION

Mr. MOYNIHAN. Mr. President, I rise today on behalf of myself and Senator D'AMATO to introduce a bill that would correct an anomaly, by extending to faculty at independent academic health centers an exclusion from income tax for employer-provided housing that is enjoyed by faculty at university-affiliated health centers. In 1986, Congress enacted a provision allowing employees of educational institutions to exclude from income the excess of the fair market value of the university-provided housing over the rent actually paid. This exclusion permits universities to attract faculty and staff with the necessary expertise to meet the university's needs. The availability of this exclusion is especially vital to those institutions located in high-cost housing areas like New York City.

Currently, faculty at academic health centers that are not affiliated with a university are not allowed to exclude the excess value of their employer-provided housing. This is the case despite the fact that independent academic health centers perform the same function as university-affiliated institutions, and that the situation of their employees is likewise identical to that of their counterparts. Many of the tenants of center-owned housing are employees pursuing advanced training at the academic health center, often at substantial financial hardship. Because of the difference in tax treatment, independent institutions are placed at a competitive disadvantage in terms of their ability to attract these highly qualified employees. Academic health centers are an important national resource, performing essential research and providing other significant contributions to our Nation's health care. By enacting this bill, Congress would ensure the continued ability of independent academic health centers to pursue their missions of patient care, education, and research.

Our bill is narrowly drawn to focus only on this competitive disadvantage. Under the proposed amendment, the academic health center must, first, qualify as a tax-exempt hospital or medical research organization eligible to receive charitable contributions; second, it must receive Federal funding for graduate medical education; and third, it must engage in and teach basic and clinical medical science and research with the organization's own faculty. The bill would have negligible impact on revenue.

We believe that this legislation would rectify the inequitable treatment currently accorded the faculty of independent academic health centers, ensuring fair tax treatment for these employees and the continued excellence of the institutions for which they work.

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. 1162

Be it enacted by the Senate and House of Representatives in the United States of America in Congress assembled,

SECTION 1. TREATMENT OF HOUSING PROVIDED TO EMPLOYEES BY ACADEMIC HEALTH CENTERS.

(a) IN GENERAL.—Paragraph (4) of section 119(d) of the Internal Revenue Code of 1986 (relating to lodging furnished by certain educational institutions to employees) is amended to read as follows:

''(4) EDUCATIONAL INSTITUTION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'educational institution' means—

''(i) an institution described in section 170(b)(1)(A)(ii), or

''(ii) an academic health center.

''(B) ACADEMIC HEALTH CENTER.—For purposes of subparagraph (A), the term 'academic health center' means an entity—

''(i) which is described in section 170(b)(1)(A)(iii),

''(ii) which receives (during the calendar year in which the taxable year of the taxpayer begins) payments under subsection (d)(5)(B) or (h) of section 1886 of the Social Security Act (relating to graduate medical education), and

''(iii) which has as one of it principal purposes or functions the providing and teaching of basic and clinical medical science and research with the entity's own faculty.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

By Mr. LEAHY (for himself, Mr. GREGG, Mr. JEFFORDS, Mr. COHEN, and Ms. SNOWE):

S. 1163. A bill to implement the recommendations of the Northern Stewardship Lands Council; to the Committee on Agriculture, Nutrition, and Forestry.

THE NORTHERN FOREST STEWARDSHIP ACT

Mr. LEAHY. Mr. President, today I am proud to introduce the Northern Forest Stewardship Act of 1995, a bill that represents the highest standards of the legislative process. The legislation we are introducing is founded on extensive research, open discussion, consensus decisions, and visionary problem solving. The goal of this bill is to capture perfectly the vision of Northern Forest Lands Council and northern communities.

The Northern Forest Lands Council process was initiated to avoid the divisive conflicts that have torn communities apart in some regions of our country. Too often we have seen parties fuel conflicts for political gain, exacerbate conflicts with misinformation, or prolong conflicts in hopes of a one-sided windfall. Over the past 4 years, the Northern Forest communities made dedicated effort to steer clear of divisive conflict to chart a future for themselves. They have worked hard to develop a consensus vision. We owe it to them to deliver the requests they have made.

This legislation delivers these requests. It goes no further than the Council's recommendations and nor does it fall short. This bill includes a package of technical and financial assistance programs that I believe this Congress can and should support. Sometimes studies are commissioned primarily to delay solution or pacify a problem. The Council's study was driven by a desire to achieve something. The northern forest delegation will not let this study sit on a shelf. Between the Family Forestland Preservation Act (S. 692) and the Northern Forest Stewardship Act, Congress can achieve for the people of the Northern Forest the requests they have made of us.

The legislation embodies the conservation ethic of the 1990's—non-regulatory incentives and assistance to realize community-based goals for sustainable economic and environmental prosperity. The rights and responsibilities of landowners are emphasized, the primacy of the state is reinforced, and the traditions of the region are protected. And yet, the bill also promotes new ways of achieving our goals and a common vision that did not exist several years ago. Moving ahead with the Council's work, we will pursue enhanced forest management, land protection that supports the recreational and wildlife needs of the region, integrated research and decision making, and increased productivity in the traditional industries and new compatible industries. Through this bill, I hope to boost sustainable development and protect the ecological integrity of biological resources across the landscape. The nation has taken notice of this highly successful effort as a model for meeting the conservation challenges of the country, and I am confident of its inevitable success.

I welcome the constructive input of people who will compare this legislation with the recommendations, research, and public participation in the Northern Forest Lands Council.

It is my goal to create a perfect representation of the future described in the report to Congress Finding Common Ground: Conserving the Northern Forest. Most of all, I want the Council's solutions to work, and work well. I hope all affected citizens will take advantage of the opportunity to shape the final product of their hard work.

I want to congratulate the members of the Council for their success, and most importantly the people of the Northern Forest for their enthusiasm for this process. Thousands of people took time from their busy lives to drive down to a school auditorium, local restaurant, or hotel auditorium to share their views on the Northern Forest. Hundreds more put pen to paper or picked up the phone to register their thoughts. Without their effort, this would be an empty process. It is a vibrant process and the will of the majority produced a brilliant piece of work.

I will include a short section by section summary of the bill for the RECORD that emphasizes the Council recommendation that inspired each provision. I also want to thank Senators GREGG, JEFFORDS, COHEN and SNOWE for their contributions to this draft, and I look forward to working with entire delegation to refine this legislation if necessary, and move it through the Senate in the upcoming months.

Mr. President, the Council's process has the highest integrity, the recommendations reflect the true consensus vision of the Northern Forest communities, and I believe we owe it to Northern New England to follow through on their expectations.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

SECTION-BY-SECTION SUMMARY

OVERVIEW

The Northern Forest Stewardship Act takes the specific consensus proposals of the Northern Forest Lands Council that require Congressional action and translates them into legislation. The Council's proposals reflect four years of research and public input refined and condensed by the diverse membership of the Council. This bill, together with the Family Forestland Preservation Act (S. 692), goes no further than, nor falls short of, the Council's proposals for the Northern Forest lands. Affected parties are encouraged submit constructive comments to their Congressional delegation to make this a perfect representation of the Council's consensus vision. The authorities in this bill are voluntary opportunities for technical and financial assistance to states, landowners, businesses and scientists to work in partnership with the federal government and each other to achieve stewardship goals.

SECTION 1: TITLE—NORTHERN FOREST STEWARDSHIP ACT

SECTION 2: DECLARATIONS

The first ten principles are lifted from the Council's fundamental principles on page 15 of the report to Congress. The eleventh one is added to make them relevant to this bill.

SECTION 3: MARKETING COOPERATIVES

Section 3 implements recommendation #23 to facilitate the formation of forestry cooperatives. Timber growers are eligible to form cooperatives under the Capper-Volstead Act of 1922, but few cooperative efforts in New England have been successful. This provision directs the Secretary to provide assistance and evaluate the opportunities to increase profitability and improve forest management through cooperatives.

SECTION 4: PRINCIPLES OF SUSTAINABILITY

Section 4 implements recommendations #10 and #11 to define measurable benchmarks for sustainability and facilitate the formation of best management practice to achieve sustainability. The principles of sustainability for Sec (4)(b) are lifted from page 42 of the Council's report.

SECTION 5: NORTHERN FOREST RESEARCH COOPERATIVE

Section 5 implements recommendations #33 to form a research cooperative much like Senator Gorton's ''Blue Mountain Institute'' in the 1990 Farm Bill with objectives defined on page 86 of the Council's report.

SECTION 6: INTERSTATE COORDINATION STRATEGY

Section 6 implements the recommendation on page 95 to facilitate continued dialogue between the four states. Section 6 names representatives to an interstate working group with wide flexibility to include state roundtables.

SECTION 7: LABOR SAFETY AND TRAINING

Section 7 implements recommendation #27 to improve worker safety and thereby reduce operating costs for forest products companies.

SECTION 8: LAND CONSERVATION

Section 8 implements recommendations #16 and 17 to improve funding opportunities for public land acquisition by both the states and the federal government. This creates a new authority to protect important recreation and conservation land but does not guarantee increased funding. Section 8 also establishes a public process for prioritizing public acquisition.

SECTION 9: LANDOWNER LIABILITY EXEMPTION

Section 9 expresses the Sense of the Senate that states should enact laws to reduce the liability of landowners who make their lands available for free public use as requested in recommendation #26.

SECTION 10: NONGAME CONSERVATION

Section 10 expresses the sense of the Senate that a mechanism is needed to protect non-game wildlife using a user fee similar to the Wallop-Breaux and Pittman-Robertson programs as requested in recommendation #14. A full legislative proposal may be ready within the year and it should be considered after it has been introduced.

SECTION 11: AUTHORIZATION FOR APPROPRIATIONS/RURAL DEVELOPMENT

Section 11 provides such sums as necessary for implementation and authorizes targeted rural development funding for the Northern Forest states through the Rural Development Through Forestry program.

By Mr. ROCKEFELLER:

S. 1164. A bill to amend the Stevenson-Wydler Technology Innovation Act

of 1980 with respect to inventions made under cooperative research and development agreements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE TECHNOLOGY TRANSFER IMPROVEMENTS ACT OF 1995

• Mr. ROCKEFELLER. Mr. President, I am pleased today to introduce the 1995 version of the Technology Transfer Improvements Act, a bill I first introduced in 1993. This legislation will help facilitate and speed technology cooperation between companies and Federal laboratories, and thus will benefit our economy and citizens.

It does so by giving both companies and Federal laboratories clear guidelines regarding intellectual property rights to technology developed under cooperative research projects—guidelines that will reduce negotiating time and reduce the uncertainty that can deter companies from working with the Government.

Specifically, the bill amends the Stevenson-Wydler Technology Innovation Act, which since 1986 has allowed Federal laboratories to enter into cooperative research and development agreements [CRADAs] with industry and other collaborating parties. The laboratories can contribute people, facilities, equipment, and ideas, but not funding, and the companies contribute people and funding.

Even under the current law, the CRADA provision has been a success. Hundreds of these agreements have been signed and carried out in recent years, making expertise and technology that the Federal Government has already paid for through its mission-related work available to the wider economy. But we also have seen a problem. Currently, the law provides little guidance on what intellectual property rights a collaborating partner should receive from a CRADA. The current law gives agencies very broad discretion on this matter, which provides flexibility but also means that both companies and laboratory executives must laboriously negotiate patent rights each time they discuss a new CRADA. Neither side has much guidance as to what constitutes an appropriate agreement regarding intellectual property developed under the CRADA. Options range from assigning full patent title to the company all the way to providing the firm with only a nonexclusive license for a narrow field of use.

In conversations with company executives, we learned that this uncertainty—and the time and effort involved in negotiating intellectual property from scratch in each CRADA—was often a barrier to working with government laboratories. Companies are reluctant to enter into a CRADA, or, equally important, to commit additional resources to commercialize a CRADA invention, unless they have some assurance they will control important patient rights.

In 1993, I began working with Congresswoman CONNIE MORELLA on possible ways to reduce the uncertainty and negotiating burden facing companies, while still ensuring that the government interest remains protected. To begin legislative discussion on this matter, I introduced S. 1537 on October 7, 1993, for myself and Senator DeConcini, then chairman of the Senate Patent Subcommittee. That bill would have directed Federal laboratories to assign to the collaborating party—the company—title to any intellectual property arising from a CRADA, in exchange for reasonable compensation to the laboratory and certain patent safeguards.

S. 1537 also contained a second provision—an additional incentive for Federal scientists to report and develop inventions that might have commercial as well as government value. The General Accounting Office [GAO] had recommended that Federal inventors receive more of the royalties received by laboratories as government compensation under CRADAs. My bill incorporated that recommendation.

Soon after Senator DeConcini and I introduced our bill, Congresswoman MORELLA introduced the companion House bill, H.R. 3590. In subsequent House and Senate hearings, the bill received strong support from industry, professional societies, trade associations, and the administration. At that point, we also began working closely with Commerce Department Under Secretary for Technology Mary Good and her staff, who helped us obtain detailed technical suggestions from executive branch agencies and other patent experts. We made major progress during the 103rd Congress, but in 1994 ran out of time to complete action on the legislation.

Now we are back with a similar bill that incorporates suggestions made by the experts. Through her position as Chair of the House Science Committee's Subcommittee on Technology, Congresswoman MORELLA has worked closely with us and the administration to produce a revised version of the bill which I believe is strongly supported by all interested parties. The revised bill continues to focus on the twin issues of company rights under a CRADA and royalty sharing for Federal investors.

The revised bill would give a collaborating party a statutory option to choose an exclusive license for a field of use for any such invention created under the agreement. Agencies may still assign full patent title to the company; the agencies we consulted felt they needed to retain that flexibility, and our new bill allows them to do so. But the important point is that a company will now know that it is assured of having no less than an exclusive license in a field of use of its choosing. This statutory guideline will give companies real assurance that they will get important intellectual property out any CRADA they fund. In turn, that assurance will give those companies both an extra incentive to enter into a CRADA and the knowledge that they can safely invest further in the commercialization of that invention, knowing they have an exclusive claim on it.

In return, the Government may negotiate for reasonable compensation, such as royalties. And the Government retains minimal rights to use the invention under unusual but important circumstances, such as when the invention is needed to meet health and safety needs that are not reasonably satisfied by the collaborating party.

In sum, the bill continues to carry out the original purpose we envisioned in 1993—providing guidelines that simplify the negotiation of CRADA's and, in the process, give companies greater assurance they will share in the benefits of the research they fund. We expect that this change will increase the number of CRADA's, reduce the time and effort required to negotiate them, and thus speed the transfer of laboratory technology and know-how to the broader economy.

The revised version also contains a slightly revised version of the provision regarding royaltysharing for Federal inventors. Under the new bill, agencies each year must pay a Federal inventor the first $2,000 in royalties received because of that person's inventions, plus at least 15 percent of any additional annual royalties. By rewarding Federal inventors, we will give them an incentive to report inventions and work in CRADA's. The bill involves no Federal spending; all rewards would be from royalties paid to the Government by companies and others.

Mr. President, Mrs. MORELLA introduced the House version of the revised bill last Friday, August 4. It is H.R. 2196. Cosponsors include House Science Committee Chairman BOB WALKER, House Science Committee Ranking Member GEORGE BROWN, and Technology Subcommittee Ranking Member JOHN TANNER. Today I am proud to introduce the same bill in the Senate.

This bill is a concrete step towards making our government's huge investment in science and technology—an investment made primarily to carry out important government missions—more useful to commercial companies and our economy. If we do it right, the end result will be new technologies, new products, and new jobs for Americans. I look forward to continuing to work with my House and Senate colleagues and with the Administration to enact this valuable, focused piece of legislation.

Mr. President, I ask unanimous consent that a summary sheet prepared by Mrs. MORELLA's office and the text of the bill itself be printed in the RECORD.

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

S. 1164

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 ''Technology Transfer Improvements Act of 1995''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Bringing technology and industrial innovation to the marketplace is central to the economic, environmental, and social well-being of the people of the United States.

(2) The Federal Government can help United States business to speed the development of new products and processes by entering into cooperative research and development agreements which make available the assistance of Federal laboratories to the private sector, but the commercialization of technology and industrial innovation in the United States depends upon actions by business.

(3) The commercialization of technology and industrial innovation in the United States will be enhanced if companies, in return for reasonable compensation to the Federal Government, can more easily obtain exclusive licenses to inventions which develop as a result of cooperative research with scientists employed by Federal laboratories.

SEC. 3. USE OF FEDERAL TECHNOLOGY

Subparagraph (B) of section 11(e)(7) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(7)(B)) is amended to read as follows:

''(B) A transfer shall be made by any Federal agency under subparagraph (A), for any fiscal year, only if the amount so transferred by that agency (as determined under such subparagraph) would exceed $10,000.''.

SEC. 4. TITLE TO INTELLECTUAL PROPERTY ARISING FROM COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

Subsection (b) of section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(b)) is amended to read as follows:

''(b) ENUMERATED AUTHORITY.—(1) Under an agreement entered into pursuant to subsection (a)(1), the laboratory may grant, or agree to grant in advance, to a collaborating party patent licenses or assignments, or options thereto, in any invention made in whole or in part by a laboratory employee under the agreement, for reasonable compensation when appropriate. The laboratory shall ensure that the collaborating party has the option to choose an exclusive license for a field of use for any such invention under the agreement or, if there is more than one collaborating party, that the collaborating parties are offered the option to hold licensing rights that collectively encompass the rights that would be held under such an exclusive license by one party. In consideration for the Government's contribution under the agreement, grants under this paragraph shall be subject to the following explicit conditions:

''(A) A nonexclusive, nontransferable, irrevocable, paid—up license from the collaborating party to the laboratory to practice the invention or have the invention practiced throughout the world by or on behalf of the Government. In the exercise of such license, the Government shall not publicly disclose trade secrets or commercial or financial information that is privileged or confidential within the meaning of section 552(b)(4) of title 5, United States Code, or which would be considered as such if it had been obtained from a non-Federal party.

''(B) If a laboratory assigns title or grants an exclusive license to such an invention, the Government shall retain the right—

''(i) to require the collaborating party to grant to a responsible applicant a nonexclusive, partially exclusive, or exclusive license to use the invention in the applicant's licensed field of use, on terms that are reasonable under the circumstances; or

''(ii) if the collaborating party fails to grant such a license, to grant the license itself.

''(C) The Government may exercise its right retained under subparagraphs (B)(ii) and (iii) only if the Government finds that—

''(i) the action is necessary to meet health or safety needs that are not reasonably satisfied by the collaborating party;

''(ii) the action is necessary to meet requirements for public use specified by Federal regulations, and such requirements are not reasonably satisfied by the collaborating party; or

''(iii) the collaborating party has failed to comply with an agreement containing provisions described in subsection (c)(4)(B).

''(2) Under agreements entered into pursuant to subsection (a)(1), the laboratory shall ensure that a collaborating party may retain title to any invention made solely by its employee in exchange for normally granting the Government a nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government for research or other Government purposes.

''(3) Under an agreement entered into pursuant to subsection (a)(1), a laboratory may—

''(A) accept, retain, and use funds, personnel, services, and property from a collaborating party and provide personnel, services, and property to a collaborating party;

''(B) use funds received from a collaborating party in accordance with subparagraph (A) to hire personnel to carry out the agreement who will not be subject to full-time-equivalent restrictions of the agency; and

''(C) to the extent consistent with any applicable agency requirements or standards of conduct, permit an employee or former employee of the laboratory to participate in an effort to commercialize an invention made by the employee or former employee while in the employment or service of the Government.

''(4) A collaborating party in an exclusive license in any invention made under an agreement entered into pursuant to subsection (a)(1) shall have the right of enforcement under chapter 29 of title 35, United States Code.

''(5) A Government-owned, contractor-operated laboratory that enters into a cooperative research and development agreement pursuant to subsection (a)(1) may use or obligate royalties or other income accruing to the laboratory under such agreement with respect to any invention only—

''(A) for payments to inventors;

''(B) for purposes described in clauses (i), (iii), and (iv) of section 14(a)(1)(B); and

''(C) for scientific research and development consistent with the research and development missions and objectives of the laboratory.''.

SEC. 5. DISTRIBUTION OF INCOME FROM INTELLECTUAL PROPERTY RECEIVED BY FEDERAL LABORATORIES.

Section 14 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c) is amended—

(1) by amending subsection (a)(1) to read as follows:

''(1) Except as provided in paragraphs (2) and (4), any royalties or other payments received by a Federal agency from the licensing and assignment of inventions under agreements entered into by Federal laboratories under section 12, and from the licensing of inventions of Federal laboratories under section 207 of title 35, United States Code, or under any other provision of law, shall be retained by the agency whose laboratory produced the invention and shall be disposed of as follows:

''(A)(i) The head of the agency or laboratory, or such individual's designee, shall pay each year the first $2,000, and thereafter at least 15 percent, of the royalties or other payments to the inventor or coinventors.

''(ii) An agency or laboratory may provide appropriate incentives, from royalties or other payments, to employees of a laboratory who contribute substantially to the technical development of licensed or assigned inventions between the time that the intellectual property rights to such inventions are legally asserted and the time of the licensing or assigning of the inventions.

''(iii) The agency or laboratory shall retain the royalties and other payments received from an invention until the agency or laboratory makes payments to employees of a laboratory under clause (i) or (ii).

''(B) The balance of the royalties or other payments shall be transferred by the agency to its laboratories, with the majority share of the royalties or other payments from any invention going to the laboratory where the invention occurred. The royalties or other payments so transferred to any laboratory may be used or obligated by that laboratory during the fiscal year in which they are received or during the succeeding fiscal year—

''(i) to reward scientific, engineering, and technical employees of the laboratory, including developers of sensitive or classified technology, regardless of whether the technology has commercial applications;

''(ii) to further scientific exchange among the laboratories of the agency;

''(iii) for education and training of employees consistent with the research and development missions and objectives of the agency or laboratory, and for other activities that increase the potential for transfer of the technology of the laboratories of the agency;

''(iv) for payment of expenses incidental to the administration and licensing of intellectual property by the agency or laboratory with respect to inventions made at that laboratory, including the fees or other costs for the services of other agencies, persons, or organizations for intellectual property management and licensing services; or

''(v) for scientific research and development consistent with the research and development missions and objectives of the laboratory.

''(C) All royalties or other payments retained by the agency or laboratory after payments have been made pursuant to subparagraphs (A) and (B) that is unobligated and unexpended at the end of the second fiscal year succeeding the fiscal year in which the royalties and other payments were received shall be paid into the Treasury.'';

(2) in subsection (a)(2)—

(A) by inserting ''or other payments'' after ''royalties''; and

(B) by striking ''for the purposes described in clauses (i) through (iv) of paragraph (1)(B) during that fiscal year or the succeeding fiscal year'' and inserting in lieu thereof ''under paragraph (1)(B)'';

(3) in subsection (a)(3), by striking ''$100,000'' both places it appears and inserting ''$150,000'';

(4) in subsection (a)(4)—

(A) by striking ''income'' each place it appears and inserting in lieu thereof ''payments'';

(B) by striking ''the payment of royalties to inventor'' in the first sentence thereof and inserting in lieu thereof ''payments to inventors'';

(C) by striking ''clause (i) of paragraph (1)(B)'' and inserting in lieu thereof ''clause (iv) of paragraph (1)(B)'';

(D) by striking ''payment of the royalties,'' in the second sentence thereof and inserting

in lieu thereof ''offsetting the payments to inventors,''; and

(E) by striking ''clauses (i) through (iv) of''; and

(5) by amending paragraph (1) of subsection (b) to read as follows:

''(1) by a contractor, grantee, or participant, or an employee of a contractor, grantee, or participant, in an agreement or other arrangement with the agency, or''.

SEC. 6. EMPLOYEE ACTIVITIES.

Section 15(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710d(a)) is amended—

(1) by striking ''the right of ownership to an invention under this Act'' and inserting in lieu thereof ''ownership of or the right of ownership to an invention made by a Federal employee''; and

(2) by inserting ''obtain or'' after ''the Government, to''.

SEC. 7. AMENDMENT TO BAYH-DOLE ACT.

Section 210(e) of title 35, United States Code, is amended by striking '', as amended by the Federal Technology Transfer Act of 1986,''.

THE TECHNOLOGY TRANSFER IMPROVEMENTS ACT OF 1995—OUTLINE SUMMARY

STATUTORY AUTHORITY

The Act amends the Stevenson-Wydler Technology Innovation Act of 1980 and the Federal Technology Transfer Act of 1986 by crating incentives to promote technology commercialization and for other purposes. The Act would impact upon technology transfer policies in both Government-owned, Government-operate, laboratories (GOGOs) and Government-owned, Contractor-operated laboratories (GOCOs).

SPECIFIC BILL OBJECTIVES

(1) Provides assurances to United States industry that they will be granted sufficient rights to justify prompt commercialization of resulting inventions arising from CRADAs with Federal laboratories; (2) Provides important new incentives to Federal laboratory personnel who create new inventions, and (3) Provides several clarifying amendments to strengthen the current law.

THE TWO MAJOR SECTIONS OF THE BILL

Title to intellectual property arising from CRADAs (Section 4). Guarantees of collaborating partner from industry, in a CRADA, the option to choose an exclusive license for a field of use for any such invention created under the agreement. This is an important change because it permits industry to select which option of rights to the invention makes the most sense under the CRADA, in order for industry to commercialize promptly.

Distribution of income from intellectual property received by Federal labs—Royalties (Section 5). Responds to criticism made by the GAO and witnesses at previous Committee hearings that agencies are not sufficiently providing incentives and rewarding laboratory personnel. The change is significant because it comes at a time that both Federal laboratories and industry need to work closer together for their mutual benefit and our national competitiveness. Requires that agencies must pay Federal inventors each year the first $2,000, and thereafter at least 15% of the royalties, received by the agency for the inventions made by the employee. It also allows for rewarding other lab personnel involved in the project, permits agencies to pay for related administrative and legal costs, and provides a significant new incentive by allowing the laboratory to use royalties for related research in the laboratory.

EFFECT UPON CRADA PARTNER UNDER THE ACT

Right to choose exclusive or non-exclusive license in a field of use for resulting CRADA invention.

Assurance that privileged and confidential information will be protected when CRADA invention is used by the Government.

EFFECT UPON GOVERNMENT UNDER THE ACT

Right to use invention for legitimate governmental needs with minimum statutory rights to the invention.

March-in rights to require license to others for public health, safety, or regulatory reasons.

March-in rights to require license to others for failure to manufacture resulting technologies in the United States.

Clarifies contributions laboratories can make in a CRADA; continues current prohibition of direct Federal funds to CRADA.

Clarifies that agencies may use royalty revenue to hire temporary personnel to assist in the CRADA or in related projects.

Permits agencies to use royalty revenue for related research in the laboratory, and related administrative & legal costs.

Would return all unused royalty revenue to the Treasury after the completion of the second fiscal year.

EFFECT UPON FEDERAL SCIENTIST/INVENTOR UNDER THE ACT

Inventors would receive the first $2,000 each year and thereafter at least 15% of the royalties.

Restates current law permitting the Federal employee to work on the commercialization of their invention.

Clarifies that the inventor has rights to his or her invention when the Government chooses not to pursue it.●

By Mr. HATCH:

S. 1165. A bill to amend the Internal Revenue Code of 1986 to allow a tax credit for adoption expenses and an exclusion for employer-provided adoption assistance; to the Committee on Finance.

THE FAIRNESS FOR ADOPTING FAMILIES ACT

Mr. HATCH. Mr. President, I rise to introduce the Fairness for Adopting Families Act. This act reimburses legitimate adoption expenses through a nonrefundable tax credit and permits companies to offer adoption benefits to their employees as a tax-free fringe benefit.

We should be grateful, Mr. President, that many parents in America today form their families through adoption. Our laws should help alleviate the cost barriers associated with an adoption. Many Americans are unaware of the enormous costs associated with an adoption. It's not uncommon for the adopting family to pay thousands in legal expenses, prenatal care for the birth mother, and the cost of the adopted child's hospital delivery. And none of these expenses is tax deductible.

If an employer helps to pay an employee's pregnancy expenses by funding an insurance policy or paying the fees for an employee to join an HMO, these expenses are treated as tax-free fringe benefits. But if an employer decides to help his or her employees form families through adoption, it will have to pay these expenses in after-tax dollars. Mr. President, this is just not fair.

Our tax system should encourage families to adopt children. Adoption is an option that can relieve some of the suffering and loneliness that too many young children face. Adoption is vitally important to millions of couples and to children wanting to belong to a family of their own. In America today, Mr. President, an estimated 36,000 adoptable children remain in foster care or institutions, often bereft of the nurturing, guidance, and security that all children need, because of public and private barriers to adoption. Mr. President, a majority of these children have special physical, emotional, or mental needs; or they may have reached school age, have brothers and sisters with whom they must be adopted, or be of various ethnic backgrounds.A stable home and strong role models are especially important for these at-risk youngsters.

The Fairness for Adopting Families Act provides adopting families with a desperately needed tax credit, needed by children who are waiting to be adopted and needed by families who are sacrificing to finance the ever-increasing costs of adopting a child. In today's changing society, we must continue to express our support for the family unit. Mr. President, with the increase in teenage pregnancy, broken homes, and children born out of wedlock, adoption can provide many of these children with a chance to succeed in life. We all agree that strong families are the key to a strong America. A true pro-family policy would assist families being formed through adoption.

Mr. President, to many families wishing to adopt a child, the costs associated with such a procedure are simply prohibitive. Prospective parents are often required to pay not only court and attorney fees but also expenses for maternity home services, hospital and physician costs, and, at times, prenatal care for the birth mother. Data provided by the National Council for Adoption show that the actual costs connected with legal adoptions can easily exceed $15,000.

Mr. President, one family in my home State of Utah illustrates the financial burden an adoption can place on a family. This family was in the process of adopting an infant. All of the paperwork had been filed with the appropriate agencies when they discovered that they were required to pay a lump sum of $13,000 within a short period of time. This was a significant amount of money for this middle-class family, Mr. President. Their insurance company would reimburse them for $3,000, but only after the adoption was finalized. Tragically, this heartbroken family simply could not afford to continue with the adoption and had to discontinue the proceeding. Situations like this should not have to happen. Family wealth should not be the determining factor in adopting a child.

This bill recognizes the importance of the family unit by alleviating some of the cost barriers associated with

adoption. This legislation has two major features.

First, it provides a nonrefundable tax credit of up to $5,000 for legitimate adoption expenses. One of the problems with most nonrefundable tax credits, Mr. President, is that they can only help families with sizeable tax liabilities. If a family spends $5,000 on an adoption but only owes $2,000 in Federal income taxes, $3,000 of credit would ordinarily be lost under a nonrefundable system.

To help lower-income families who may not owe much in Federal income taxes, this bill would allow any unused adoption credit to be carried forward for up to 5 years. This will avoid some of the problems that have unfortunately arisen with the only refundable credit currently in the personal income tax, the earned income tax credit.

Second, the bill would exclude from an employee's gross income up to $5,000 for adoption expenses paid by an employer; those who participate in the military's adoption expense reimbursement program would also receive this exclusion. This feature of my bill provides fair treatment for adopting families. Many of America's employers have recognized the importance of adoption, and this bill's provisions build upon that recognition. Corporations such as Dow Chemical, Wendy's Inc., IBM, Digital Equipment, and Honeywell currently offer adoption benefits. This legislation will encourage more employers to establish these profamily plans.

These tax provisions are specifically aimed to help families who otherwise might not be able to afford to adopt; for that reason, they phase out for families with taxable incomes above $60,000. Using taxable income rather than adjusted gross income further focuses the credit's purpose. It ensures that large families with moderate incomes will remain as eligible as smaller families with lower incomes. A family earning $65,000 but raising four children would hardly qualify as well-off; they should be just as able to adopt a child as a smaller, less affluent family. Using taxable (post-deduction) income to calculate eligibility will level the playing field for larger families.

I want to point out, Mr. President, that this legislation does not provide an exclusion or credit for expenses for adoptions administered through illegal practices, such as through a baby broker. Many adopting parents in my own State of Utah and in other States have sadly been defrauded by such schemes.

This legislation will actually result in less Government spending, Mr. President. The National Council for Adoption has shown savings in two ways. First, the bill would move thousands of children, who might otherwise have lingered in foster care, into permanent, loving homes. Second, the tax credit encourages the shifting of medical costs to the adopting family and away from the more expensive AFDC and Medicaid programs.

I strongly encourage my colleagues to support this legislation. We are representatives of a society that professes a commitment to the success of the family. The Tax Code should demonstrate that commitment by allowing for the fair tax treatment of adoption expenses.

At a time when our Nation is experiencing a tragic increase in crime, teenage pregnancies, disease, and violence, we cannot afford to let even one child fall through the cracks. We must work together to bring children into permanent, secure, and loving families. We must work together to eliminate the barriers that discourage adoption.

The most important resource America has is its families. We must do everything in our power to ensure their continued growth and success. A relatively small dollar investment in this bill will move us a long way toward strengthening the American family.

Mr. President, I ask unanimous consent that the text of the bill be included in the RECORD.

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

S. 1165

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 ''Fairness for Adopting Families Act''.

SEC. 2. CREDIT FOR ADOPTION EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

''SEC. 23. ADOPTION EXPENSES.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.

''(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

''(A) the amount (if any) by which the taxpayer's taxable income exceeds $60,000, bears to

''(B) $40,000.

''(3) DENIAL OF DOUBLE BENEFIT.—

''(A) IN GENERAL.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

''(B) GRANTS.—No credit shall be allowed under subsection (a) for any expense to the extent that funds for such expense are received under any Federal, State, or local program.

''(C) REIMBURSEMENT.—No credit shall be allowed under subsection (a) for any expense to the extent that such expense is reimbursed and the reimbursement is excluded from gross income under section 137.

''(c) CARRYFORWARDS OF UNUSED CREDIT.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year. No credit may be carried forward under this subsection to any taxable year following the fifth taxable year after the taxable year in which the credit arose.

''(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal and finalized adoption of a child by the taxpayer and which are not incurred in violation of State or Federal law or in carrying out any surrogate parenting arrangement. The term 'qualified adoption expenses' shall not include any expenses in connection with the adoption by an individual of a child who is the child of such individual's spouse.

''(e) MARRIED COUPLES MUST FILE JOINT RETURNS.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this section.''

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 22 the following new item:

''Sec. 23. Adoption expenses.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 3. EXCLUSION OF AMOUNTS RECEIVED UNDER EMPLOYER'S ADOPTION ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of such Code (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

''SEC. 137. ADOPTION ASSISTANCE PROGRAMS.

''(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—The aggregate amount excludable from gross income under subsection (a) for all taxable years with respect to the legal adoption of any single child by the taxpayer shall not exceed $5,000.

''(2) INCOME LIMITATION.—The amount excludable from gross income under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so excludable (determined without regard to this paragraph but with regard to paragraph (1)) as—

''(A) the amount (if any) by which the taxpayer's taxable income (determined without regard to this section) exceeds $60,000, bears to

''(B) $40,000.

''(c) ADOPTION ASSISTANCE PROGRAM.—For purposes of this section, an adoption assistance program is a plan of an employer—

''(1) under which the employer provides employees with adoption assistance, and

''(2) which meets requirements similar to the requirements of paragraphs (2), (3), and (5) of section 127(b).

An adoption reimbursement program operated under section 1052 of title 10, United States Code (relating to armed forces) or section 514 of title 14, United States Code (relating to members of the Coast Guard) shall be treated as an adoption assistance program for purposes of this section.

''(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 23(d).''.

(b) CLERICAL AMENDMENT.—The table of sections for such part III is amended by striking the item relating to section 137 and inserting the following:

''Sec. 137. Adoption assistance programs.

''Sec. 138. Cross reference to other Acts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

By Mr. LUGAR (for himself, Mr. PRYOR, Mrs. KASSEBAUM, Mr. INOUYE, Mr. COCHRAN, Mr. KERREY, Mr. DOLE, Mr. HEFLIN, Mr. GORTON, and Mr. BREAUX):

S. 1166. A bill to amend the Federal Insecticide, Fungicide,and Rodenticide Act, to improve the registration of pesticides, to provide minor use crop protection, to improve pesticide tolerances and safeguard infants and children, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE FOOD QUALITY PROTECTION ACT OF 1995

● Mr. LUGAR. Mr. President, I introduce bipartisan legislation that will help ensure that continued availability of a safe, affordable, and abundant food supply in our Nation.

This bill reforms the scientifically outdated Delaney clause. The continuation of and strict enforcement of the Delaney clause enacted in 1958 could have a significant negative impact on our Nation's farmers and ranchers.

The Federal Food, Drug and Cosmetic Act [FFDCA] establishes rules for setting tolerances for pesticide residues on food which differ for raw and processed commodities. Residues in raw commodities are subject to section 408 of the FFDCA which requires that residue tolerances be set for raw food commodities at levels necessary to protect public health considering the need for an adequate, wholesome, and economic food supply. Thus risk and benefits are balanced in determining an acceptable tolerance level. This approach allows EPA to determine what level of risks are acceptable and to set tolerance levels accordingly. Such an approach is scientifically defensible. Balancing risk and benefits is a fundamental component in any decisionmaking process, whether it concerns pesticides or any other product in the marketplace.

When pesticide residues concentrate in processed foods above levels of sanctioned on raw commodities, they are treated as food additives under section 409. The Delaney clause in section 409 prohibits granting a residue tolerance for any food additive that has been found to cause cancer in humans or animals, no matter how low the estimated risk might be. Thus, for processed foods, no pesticide residue is permitted, if the pesticide is a possible carcinogen and is concentrated above the level permitted on or in the raw food.

Advances in science and technology improving our ability to detect small quantities of substances, to parts per trillion in some cases, have shown that the Delaney clause enacted in 1958 is scientifically outdated. As has been stated by EPA Administrator Browner, the pesticides impacted by the Delaney clause do not pose an unacceptable risk to public health.

This is not a partisan issue, as evidenced by the strong show of support from the cosponsors of this bill today. This group of Senators agrees: The Delaney clause needs modernization.

The scientific evidence is clear. Almost a decade ago, the National Research Council's Board on Agriculture of the National Academy of Sciences recommended the use of a single negligible risk standard for approving acceptable levels of pesticide residues in both raw and processed foods. This recommendation appeared in the NRC's 1987 report, ''Regulating Pesticides in Food: The Delaney Paradox.''

This bill implements the recommendations of the National Academy of Sciences report by establishing a negligible risk standard for both raw and processed foods. Under current procedures, Federal regulators must deal with two distinct and conflicting standards for pesticide residues on raw and processed foods.

Despite many years of acknowledging the need for Delaney reform, Congress has failed to pass legislation. After the Environmental Protection Agency [EPA] in 1988 articulated its de minimis policy for interpreting Delaney, the agency was sued. In 1992, the U.S. Court of Appeals for the Ninth Circuit ruled in favor of strict enforcement of Delaney. A consent decree in another case, agreed to by EPA this year, establishes an expedited schedule of review of all pesticides impacted by Delaney. Reform can no longer be delayed.

Continuation of the Delaney clause and its strict enforcement could impact the international competitiveness of U.S. agriculture. The judicious use of pesticides has enabled our Nation's farmers to improve yields and efficiency and become high quality and competitive producers for the global marketplace. Researchers at the National Center for Food and Agricultural Policy have estimated that strict enforcement of Delaney could result in an increase in production costs of $175 million in the first year and yield losses totaling $212 million per year.

This bill also addresses concerns that have been raised following another report of the National Research Council of the National Academy of Sciences, ''Pesticides in the Diets of Infants and Children.'' This legislation directs EPA, the Department of Agriculture, and the Department of Health and Human Services to coordinate the development and implementation of procedures to ensure that pesticide tolerances adequately safeguard the health of infants and children based on this report released in 1993.

Providing regulatory relief for minor use pesticides is also important in helping to ensure the availability of minor use pesticides for farmers and an abundant and varied food supply for our Nation. Minor use pesticides are generally used on relatively small acreage or for regional pest or disease problems. Because there is a significant cost to develop scientific data to register or reregister these products and there is a limited market potential once approved, many minor use pesticides are not being supported or are being voluntarily canceled for economic, not safety reasons. This bill offers several incentives for manufacturers to maintain and develop new safe and effective pesticides for minor uses without compromising food safety or adversely affecting the environment.

This bill is similar to legislation that I cosponsored in the last Congress and to legislation now being considered within the House of Representatives. Legislation in the 103d Congress gained the support of 21 of my Senate colleagues while legislation pending in the House this year has already garnered 192 cosponsors.

I have a long history of involvement in these often complex and challenging food safety and pesticide issues. As chairman of the Senate Agriculture Committee, I am hopeful that this year we will be able to finally see much needed reform of these food safety and pesticide statutes. I urge my colleagues to cosponsor this bill and to recognize that the Delaney clause is far too rigid. We need to move toward the future in a scientifically sound way by removing the unduly restrictive Delaney clause.

I ask unanimous consent that a summary and copy of the bill be printed in the RECORD.

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

S. 1166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Food Quality Protection Act of 1995''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—AMENDMENTS TO THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

SEC. 101. REFERENCE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

Subtitle A—Registration of Pesticides

SEC. 111. TOLERANCE REEVALUATION AS PART OF REREGISTRATION.

Section 4(g)(2) (7 U.S.C. 136a–1(g)(2)) is amended by adding at the end the following:

''(E) As soon as the Administrator has sufficient information with respect to the dietary risk of a particular active ingredient, but in any event not later than the date on which the Administrator makes a determination under subparagraph (C) or (D) with respect to a pesticide containing a particular active ingredient, the Administrator shall—

''(i) reassess each associated tolerance and exemption from the requirement for a tolerance issued under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), taking into account available information and reasonable assumptions concerning the dietary exposure levels of food consumers (and major identifiable subgroups of food consumers, including infants and children) to residue of the pesticide in food and available information and reasonable assumptions concerning the variability of the sensitivities of major identifiable groups, including infants and children;

''(ii) determine whether the tolerance or exemption meets the requirements of the Act;

''(iii) determine whether additional tolerances or exemptions should be issued;

''(iv) publish in the Federal Register a notice setting forth the determinations made under this subparagraph; and

''(v) commence promptly such proceedings under this Act and section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) as are warranted by the determinations.''.

SEC. 112. SCIENTIFIC ADVISORY PANEL.

Section 25(d) (7 U.S.C. 136w(d)) is amended—

(1) in the first sentence, by striking ''(d) SCIENTIFIC ADVISORY PANEL.—The Administrator shall'' and inserting the following:

''(d) SCIENTIFIC ADVISORY PANEL.—

''(1) IN GENERAL.—The Administrator shall''; and

(2) by adding at the end the following:

''(2) SCIENCE REVIEW BOARD.—

''(A) There is established a science review board consisting of 60 scientists who shall be available to the scientific advisory panel to assist in reviews conducted by the panel.

''(B) The scientific advisory panel shall select the scientists from 60 nominations submitted by each of the National Science Foundation and the National Institutes of Health.

''(C) A member of the board shall be compensated in the same manner as a member of the panel.''.

SEC. 113. COORDINATION OF CANCELLATION.

Section 2(bb) (7 U.S.C. 136(bb)) is amended—

(1) by striking ''means any unreasonable risk'' and inserting ''means—

''(1) any unreasonable risk''; and

(2) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(2) a human dietary risk from residue that results from a use of a pesticide in or on any food inconsistent with the standard the Administrator determines is adequate to protect the public health under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a).''.

Subtitle B—Minor Use Crop Protection

SEC. 121. DEFINITION OF MINOR USE.

Section 2 (7 U.S.C. 136) is amended by adding at the end the following:

''(hh) MINOR USE.—The term 'minor use' means the use of a pesticide on an animal, on a commercial agricultural crop or site, or for the protection of public health if—

''(1)(A) in the case of the use of the pesticide on a commercial agricultural crop or site, the total quantity of acreage devoted to the crop in the United States is less than 300,000 acres, as determined by the Secretary; or

''(B) the Administrator, in consultation with the Secretary of Agriculture, determines that, based on information provided by an applicant for registration or a registrant—

''(i) the use does not provide a sufficient economic incentive to support the initial registration or continuing registration of a pesticide for the use; and

''(ii)(I) there are not a sufficient number of efficacious alternative registered pesticides available for the use; or

''(II) any 1 of the alternatives to the pesticide pose a greater risk to the environment or human health than the pesticide; or

''(III) the pesticide plays, or will play, a significant part in managing pest resistance; or

''(IV) the pesticide plays, or will play, a significant part in an integrated pest management program; and

''(2) the Administrator does not determine that, based on data existing on the date of the determination, the use may cause unreasonable adverse effects on the environment.''.

SEC. 122. EXCLUSIVE USE OF MINOR USE PESTICIDES.

Section 3(c)(1)(F) (7 U.S.C. 136a(c)(1)(F)) is amended—

(1) in clause (i)—

(A) by striking ''(i) With respect'' and inserting ''(i)(I) With respect'';

(B) by striking ''a period of ten years following the date the Administrator first registers the pesticide'' and inserting ''the exclusive data use period determined under subclause (II)''; and

(C) by adding at the end the following:

''(II) Except as provided in subclauses (III) and (IV), the exclusive data use period under subclause (I) shall be 10 years beginning on the date the Administrator first registers the pesticide.

''(III) Subject to subclauses (IV), (V), and (VI), the exclusive data use period under subclause (II) shall be extended 1 year for each 3 minor uses registered after the date of enactment of this subclause and before the date that is 7 years after the date the Administrator first registers the pesticide, if the Administrator in consultation with the Secretary of Agriculture, determines that, based on information provided by an applicant for registration or a registrant—

''(aa) there are not a sufficient number of efficacious alternative registered pesticides available for the use; or

''(bb) any 1 of the alternatives to the pesticide pose a greater risk to the environment or human health than the pesticide; or

''(cc) the pesticide plays, or will play, a significant part in managing pest resistance; or

''(dd) the pesticide plays, or will play, a significant part in an integrated pest management program.

''(IV) Notwithstanding subclause (III), the exclusive data use period established under this clause may not exceed 13 years.

''(V) For purposes of subclause (III), the registration of a pesticide for a minor use on a crop grouping established by the Administrator shall be considered 1 minor use for each representative crop for which data are provided in the crop grouping.

''(VI) An extension under subclause (III) shall be reduced or terminated if the applicant for registration or the registrant voluntarily cancels the pesticide or deletes from the registration a minor use that formed the basis for the extension, or if the Administrator determines that the applicant or registrant is not actually marketing the pesticide for a minor use that formed the basis for the extension.''; and

(2) by adding at the end the following:

''(iv) The period of exclusive use provided under clause (i)(III) shall not take effect until 1 year after enactment of this clause, except where an applicant or registrant is applying for the registration of a pesticide containing an active ingredient not previously registered.

''(v) With respect to data submitted after the date of enactment of this clause by an applicant or registrant to support an amendment adding a new use to an existing registration that does not retain any period of exclusive use, if the data relate solely to a minor use of a pesticide, the data shall not, without the written permission of the original data submitter, be considered by the Administrator to support an application for a minor use by another person during the period of 10 years following the date of submission of the data. The applicant or registrant at the time at which the new minor use is requested shall notify the Administrator that, to the best of the applicant's or registrant's knowledge, the exclusive use period for the pesticide has expired and that the data pertaining solely to the minor use of a pesticide are eligible for exclusive use protection under this paragraph. If the minor use registration that is supported by data submitted pursuant to this subsection is voluntarily canceled or if the data are subsequently used to support a nonminor use, the data shall not be subject to the exclusive use protection provided under this paragraph but shall instead be considered by the Administrator in accordance with clause (i), as appropriate.''.

SEC. 123. TIME EXTENSIONS FOR DEVELOPMENT OF MINOR USE DATA.

(a) IN GENERAL.—Section 3 (7 U.S.C. 136a) is amended by adding at the end the following:

''(g) TIME EXTENSION FOR DEVELOPMENT OF MINOR USE DATA.—

''(1) SUPPORTED USE.—In the case of a minor use, the Administrator shall, on the request of a registrant and subject to paragraph (3), extend the time for the production of residue chemistry data under subsection (c)(2)(B) and subsections (d)(4), (e)(2), and (f)(2) of section 4 for data required solely to support the minor use until the final date under section 4 for submitting data on any other use established not later than the date of enactment of this subsection.

''(2) NONSUPPORTED USE.—

''(A) If a registrant does not commit to support a minor use of a pesticide, the Administrator shall, on the request of the registrant and subject to paragraph (3), extend the time for taking any action under subsection (c)(2)(B) or subsection (d)(6), (e)(3)(A), or (f)(3) of section 4 regarding the minor use until the final date under section 4 for submitting data on any other use established not later than the date of enactment of this subsection.

''(B) On receipt of the request from the registrant, the Administrator shall publish in the Federal Register a notice of the receipt of the request and the effective date on which the uses not being supported will be deleted from the registration under section 6(f)(1).

''(3) CONDITIONS.—Paragraphs (1) and (2) shall apply only if—

''(A) the registrant commits to support and provide data for—

''(i) any use of the pesticide on a food; or

''(ii) any other use, if all uses of the pesticide are for uses other than food;

''(B)(i) the registrant provides a schedule for producing the data referred to in subparagraph (A) with the request for an extension;

''(ii) the schedule includes interim dates for measuring progress; and

''(iii) the Administrator determines that the registrant is able to produce the data referred to in subparagraph (A) before a final date established by the Administrator;

''(C) the Administrator determines that the extension would not significantly delay issuance of a determination of eligibility for reregistration under section 4; and

''(D) the Administrator determines that, based on data existing on the date of the determination, the extension would not significantly increase the risk of unreasonable adverse effects on the environment.

''(4) MONITORING.—If the Administrator grants an extension under paragraph (1) or (2), the Administrator shall—

''(A) monitor the development of any data the registrant committed to under paragraph (3)(A); and

''(B) ensure that the registrant is meeting the schedule provided under paragraph (3)(B) for producing the data.

''(5) NONCOMPLIANCE.—If the Administrator determines that a registrant is not meeting a schedule provided by the registrant under paragraph (3)(B), the Administrator may—

''(A) revoke any extension to which the schedule applies; and

''(B) proceed in accordance with subsection (c)(2)(B)(iv).

''(6) MODIFICATION OR REVOCATION.—The Administrator may modify or revoke an extension under this subsection if the Administrator determines that the extension could cause unreasonable adverse effects on the environment. If the Administrator modifies or revokes an extension under this paragraph, the Administrator shall provide written notice to the registrant of the modification or revocation.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3(c)(2)(B) (7 U.S.C. 136a(c)(2)(B)) is amended by adding at the end the following:

''(vi) Subsection (g) shall apply to this subparagraph.''.

(2) Subsections (d)(4), (e)(2), and (f)(2) of section 4 (7 U.S.C. 136a–1) are each amended by adding at the end the following:

''(C) Section 3(g) shall apply to this paragraph.''.

(3) Subsections (d)(6) and (f)(3) of section 4 (7 U.S.C. 136a–1) are each amended by striking ''The Administrator shall'' and inserting ''Subject to section 3(g), the Administrator shall''.

(4) Section 4(e)(3)(A) (7 U.S.C. 136a–1(e)(3)(A)) is amended by striking ''If the registrant'' and inserting ''Subject to section 3(g), if the registrant''.

SEC. 124. MINOR USE WAIVER.

Section 3(c)(2) (7 U.S.C. 136a(c)(2)) is amended by adding at the end the following:

''(E) In the case of the registration of a pesticide for a minor use, the Administrator may waive otherwise applicable data requirements if the Administrator determines that the absence of the data will not prevent the Administrator from determining—

''(i) the incremental risk presented by the minor use of the pesticide; and

''(ii) whether the minor use of the pesticide would have unreasonable adverse effects on the environment.''.

SEC. 125. EXPEDITION OF MINOR USE REGISTRATIONS.

Section 3(c)(3) (7 U.S.C. 136a(c)(3)) is amended by adding at the end the following:

''(C)(i) As expeditiously as practicable after receipt, the Administrator shall review and act on a complete application that—

''(I) proposes the initial registration of a new pesticide active ingredient, if the active ingredient is proposed to be registered solely for a minor use, or proposes a registration amendment to an existing registration solely for a minor use; or

''(II) for a registration or a registration amendment, proposes a significant minor use.

''(ii) As used in clause (i):

''(I) The term 'as expeditiously as practicable' means the Administrator shall, to the greatest extent practicable, complete a review and evaluation of all data submitted with the application not later than 1 year after submission of the application.

''(II) The term 'significant minor use' means—

''(aa) 3 or more proposed minor uses for each proposed use that is not minor;

''(bb) a minor use that the Administrator determines could replace a use that was canceled not earlier than 5 years preceding the receipt of the application; or

''(cc) a minor use that the Administrator determines would avoid the reissuance of an emergency exemption under section 18 for the minor use.

''(iii) Review and action on an application under clause (i) shall not be subject to judicial review.

''(D) On receipt by the registrant of a denial of a request to waive a data requirement under paragraph (2)(E), the registrant shall have the full time period originally established by the Administrator for submission of the data, beginning on the date of receipt by the registrant of the denial.''.

SEC. 126. UTILIZATION OF DATA FOR VOLUNTARILY CANCELED CHEMICALS.

Section 6(f) (7 U.S.C. 136d) is amended—

(1) in paragraph (1)(C)(ii) by striking ''90-day'' and inserting ''180-day'' each place it appears;

(2) in paragraph (3)(A) by striking ''90-day'' and inserting ''180-day''; and

(3) by adding at the end the following:

''(4) UTILIZATION OF DATA FOR VOLUNTARILY CANCELED CHEMICALS.—The Administrator shall process, review, and evaluate the application for a voluntarily canceled pesticide as if the registrant had not canceled the registration, if—

''(A) another application is pending on the effective date of the voluntary cancellation for the registration of a pesticide that is—

''(i) for a minor use;

''(ii) identical or substantially similar to the canceled pesticide; and

''(iii) for an identical or substantially similar use as the canceled pesticide;

''(B) the Administrator determines that the minor use will not cause unreasonable adverse effects on the environment; and

''(C) the applicant under subparagraph (A) certifies that the applicant will satisfy any outstanding data requirement necessary to support the reregistration of the pesticide, in accordance with any data submission schedule established by the Administrator.''.

SEC. 127. MINOR USE PROGRAMS.

The Act is amended—

(1) by redesignating sections 30 and 31 (7 U.S.C. 136x and 136y) as sections 33 and 34, respectively; and

(2) by inserting after section 29 (7 U.S.C. 136w–4) the following:

''SEC. 30. ENVIRONMENTAL PROTECTION AGENCY MINOR USE PROGRAM.

''(a) ESTABLISHMENT.—The Administrator shall establish a minor use program in the Office of Pesticide Programs.

''(b) RESPONSIBILITIES.—In carrying out the program established under subsection (a), the Administrator shall—

''(1) coordinate the development of minor use programs and policies; and

''(2) consult with growers regarding a minor use issue, registration, or amendment that is submitted to the Environmental Protection Agency.

''SEC. 31. DEPARTMENT OF AGRICULTURE MINOR USE PROGRAM.

''(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a minor use program.

''(b) RESPONSIBILITIES.—In carrying out the program established under subsection (a), the Secretary shall coordinate the responsibilities of the Department of Agriculture related to the minor use of a pesticide, including—

''(1) carrying out the Inter-Regional Research Project Number 4 established under section 2(e) of Public Law 89–106 (7 U.S.C. 450i(e));

''(2) carrying out the national pesticide resistance monitoring program established under section 1651(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5882(d));

''(3) supporting integrated pest management research;

''(4) consulting with growers to develop data for minor uses; and

''(5) providing assistance for minor use registrations, tolerances, and reregistrations with the Environmental Protection Agency.

''SEC. 32. MINOR USE MATCHING FUND PROGRAM.

''(a) ESTABLISHMENT.—The Secretary of Agriculture, in consultation with the Administrator, shall establish and administer a minor use matching fund program.

''(b) RESPONSIBILITIES.—In carrying out the program, the Secretary shall—

''(1) ensure the continued availability of minor use pesticides; and

''(2) develop data to support minor use pesticide registrations and reregistrations.

''(c) ELIGIBILITY.—Any person that desires to develop data to support a minor use registration shall be eligible to participate in the program.

''(d) PRIORITY.—In carrying out the program, the Secretary shall provide a priority for funding to a person that does not directly receive funds from the sale of a product registered for a minor use.

''(e) MATCHING FUNDS.—To be eligible for funds under the program, a person shall match the amount of funds provided under the program with an equal amount of non-Federal funds.

''(f) OWNERSHIP OF DATA.—Any data developed through the program shall be jointly owned by the Department of Agriculture and the person that receives funds under this section.

''(g) STATEMENT.—Any data developed under this subsection shall be submitted in a statement that complies with section 3(c)(1)(F).

''(h) COMPENSATION.—Any compensation received by the Department of Agriculture for the use of data developed under this section shall be placed in a revolving fund. The fund shall be available, without fiscal year limitation, to carry out the program.

''(i) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each fiscal year.''.

Subtitle C—Conforming Amendments

SEC. 131. FIFRA TABLE OF CONTENTS.

The table of contents in section 1(b) (7 U.S.C. prec. 121) is amended—

(1) by adding at the end of the items relating to section 2 the following:

''(hh) Minor use.'';

(2) by adding at the end of the items relating to section 3 the following:

''(g) Time extension for development of minor use data.
''(1) Supported use.
''(2) Nonsupported use.
''(3) Conditions.
''(4) Monitoring.
''(5) Noncompliance.
''(6) Modification or revocation.'';

(3) by adding at the end of the items relating to section 6(f) the following:

''(4) Utilization of data for voluntarily canceled chemicals.'';

(4) by striking the item relating to section 25(d) and inserting the following:

''(d) Scientific advisory panel.
''(1) In general.
''(2) Science review board.'';

and

(5) by striking the items relating to sections 30 and 31 and inserting the following:

''Sec. 30. Environmental Protection Agency minor use program.
''(a) Establishment.
''(b) Responsibilities.
''Sec. 31. Department of Agriculture minor use program.
''(a) Establishment.
''(b) Responsibilities.
''Sec. 32. Minor use matching fund program.
''(a) Establishment.
''(b) Responsibilities.
''(c) Eligibility.
''(d) Priority.
''(e) Matching funds.
''(f) Ownership of data.
''(g) Statement.
''(h) Compensation.
''(i) Authorization for appropriations.
''Sec. 33. Severability.
''Sec. 34. Authorization for appropriations.''.

TITLE II—DATA COLLECTION AND IMPROVED PROCEDURES TO ENSURE THAT TOLERANCES SAFEGUARD THE HEALTH OF INFANTS AND CHILDREN

SEC. 201. IMPLEMENTATION OF NAS REPORT.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the Secretary of Health and Human Services shall coordinate the development and implementation of procedures to ensure that pesticide tolerances adequately safeguard the health of infants and children, based on the conclusions and recommendations contained in the report entitled ''Pesticides in the Diets of Infants and Children'' of the National Research Council of the National Academy of Sciences.

(b) PROCEDURES.—To the maximum extent practicable, the procedures referred to in subsection (a) shall include—

(1) collection of data on food consumption patterns of infants and children;

(2) improved surveillance of pesticide residues, including guidelines for the use of comparable analytical and standardized reporting methods, the increased sampling of foods most likely consumed by infants and children, and the development of more complete information on the effects of food processing on levels of pesticide residues;

(3) toxicity testing procedures that take into account the vulnerability of infants and children;

(4) methods of risk assessment that take into account unique characteristics of infants and children; and

(5) other appropriate measures considered necessary by the Administrator to ensure that pesticide tolerances adequately safeguard the health of infants and children.

SEC. 202. COLLECTION OF PESTICIDE USE INFORMATION.

(a) IN GENERAL.—The Secretary of Agriculture shall collect data of Statewide or regional significance on the use of pesticides to control pests and diseases of major crops and crops of dietary significance, including fruits and vegetables.

(b) COLLECTION.—The data shall be collected by surveys of farmers or from other sources offering statistically reliable data.

(c) COORDINATION.—The Secretary shall, as appropriate, coordinate with the Administrator of the Environmental Protection Agency in the design of the surveys and make available to the Administrator the aggregate results of the surveys to assist the Administrator in developing exposure calculations and benefits determinations with respect to pesticide regulatory decisions.

SEC. 203. INTEGRATED PEST MANAGEMENT.

(a) DEFINITION.—In this section, the term ''integrated pest management'' means a sustainable approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks.

(b) IMPLEMENTATION.—The Secretary of Agriculture, in cooperation with the Administrator of the Environmental Protection Agency, shall implement research, demonstration, and education programs to support adoption of integrated pest management.

(c) FEDERAL AGENCIES.—Federal agencies shall use integrated pest management techniques to carry out pest management activities and shall promote integrated pest management through procurement and regulatory policy and through other activities.

(d) INFORMATION.—The Secretary of Agriculture and the Administrator of the Environmental Protection Agency shall make information on integrated pest management widely available to pesticide users, including Federal agencies that use pesticides.

TITLE III—AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

SEC. 301. REFERENCE.

Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, or refers to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

SEC. 302. DEFINITIONS.

(a) PESTICIDE, CHEMICAL; PESTICIDE CHEMICAL RESIDUE.—Section 201(q) (21 U.S.C. 321(q)) is amended to read as follows:

''(q)(1) The term 'pesticide chemical' means—

''(A) any substance that is a pesticide within the meaning of section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 (u)),

''(B) any active ingredient of a pesticide within the meaning of section 2(a) of the Federal Insecticide, Fungicide, and Rodenticide Act. (7 U.S.C. 136(a)), or

''(C) any inert ingredient of a pesticide within the meaning of section 2(m) of the Federal Insecticide, Fungicide, and Rodenticide Act. (7 U.S.C. 136 (m)).

''(2) The term 'pesticide chemical residue' means a residue in or on raw agricultural commodity or processed food of—

''(A) a pesticide chemical, or

''(B) any other added substance that is present in the commodity or food primarily as a result of the metabolism or other degradation of a pesticide chemical.

''(3) Notwithstanding subparagraphs (1) and (2), the Administrator may by regulation except a substance from the definition of 'pesticide chemical' or 'pesticide chemical residue' if—

''(A) the substance's occurrence as a residue on a raw agricultural commodity or processed food is attributable primarily to natural causes or to human activities not involving the use of any substances for a pesticidal purpose in the production, storage, processing, or transportation of any raw agricultural commodity or processed food, and

''(B) the Administrator, after consultation with the Secretary, determines that the substance more appropriately should be regulated under one or more provisions of this Act other than sections 402(a)(2)(B) and 408.''.

(b) FOOD ADDITIVE.—Subparagraphs (1) and (2) of section 201(s) (21 U.S.C. 321(s)) are amended to read as follows:

''(1) a pesticide chemical residue in or on a raw agricultural commodity or processed food; or

''(2) a pesticide chemical; or''.

(c) PROCESSED FOOD; ADMINISTRATOR.—Section 201 (21 U.S.C. 321) is amended by adding at the end the following new subsections:

''(gg) The term 'processed food' means any food other than a raw agricultural commodity and includes any raw agricultural commodity that has been subject to processing, such as canning, cooking, freezing, dehydration, or milling.

''(hh) The term 'Administrator' means the Administrator of the United States Environmental Protection Agency.''.

SEC. 303. PROHIBITED ACTS.

Section 301(j) (21 U.S.C. 331(j)) is amended by inserting before the period at the end of the first sentence the following: '', or the violation of section 408(g) or any regulation issued under that subsection''.

SEC. 304. ADULTERATED FOOD.

Section 402(a)(2) (21 U.S.C. 342(a)(2)) is amended to read as follows: ''(2)(A) if it bears or contains any added poisonous or added deleterious substance (other than a substance that is a pesticide chemical residue in or on a raw agricultural commodity or processed food, a food additive, a color additive, or a new animal drug) that is unsafe within the meaning of section 406; (B) if it bears or contains a pesticide chemical residue that is unsafe within the meaning of section 408(a); or (C) if it is or if it bears or contains (i) any food additive that is unsafe within the meaning of section 409 or (ii) a new animal drug (or conversion product thereof) that is unsafe within the meaning of section 512; or''.

SEC. 305. TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES.

Section 408 (21 U.S.C. 346a) is amended to read as follows:

"SEC. 408. TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES.

''(a) REQUIREMENT FOR TOLERANCE OR EXEMPTION.—

''(1) DEFINITION.—For the purposes of this section, the term 'food', when used as a noun without modification, means a raw agricultural commodity or processed food.

''(2) GENERAL RULE.—Except as provided in paragraph (3) or (4), any pesticide chemical residue in or on a food shall be deemed unsafe for the purpose of section 402(a)(2)(B) unless—

''(A) a tolerance for such pesticide chemical residue in or on such food is in effect under this section and the concentration of the residue is within the limits of the tolerance; or

''(B) an exemption from the requirement of a tolerance is in effect under this section for the pesticide chemical residue.

''(3) PROCESSED FOOD.—Notwithstanding paragraph (2), the following provisions shall apply with respect to processed food:

''(A) TOLERANCE REQUIREMENT.—If a tolerance is in effect under this section for a pesticide chemical residue in or on a raw agricultural commodity, a pesticide chemical residue that is present in or on a processed food because the food is made from that raw agricultural commodity shall not be considered unsafe within the meaning of section 402(a)(2)(B) despite the lack of a tolerance for the pesticide chemical residue in or on the processed food if the concentration of the pesticide chemical residue in the processed food when ready for consumption or use is not greater than the tolerance prescribed for the pesticide chemical residue in the raw agricultural commodity.

''(B) EXEMPTION FROM TOLERANCE REQUIREMENT.—If an exemption from the requirement for a tolerance is in effect under this section for a pesticide chemical residue in or on a raw agricultural commodity, a pesticide chemical residue that is present in or on a processed food because the food is made from that raw agricultural commodity shall not be considered unsafe within the meaning of section 402(a)(2)(B).

''(4) RESIDUES OF DEGRADATION PRODUCTS.—If a pesticide chemical residue is present in or on a food because the residue is a metabolite or other degradation product of a precursor substance that itself is a pesticide chemical or pesticide chemical residue, the residue shall not be considered to be unsafe within the meaning of section 402(a)(2)(B) despite the lack of a tolerance or exemption from the need for a tolerance for the residue in or on the food if—

''(A) the Administrator has not determined that the degradation product is likely to pose any potential health risk from dietary exposure that is of a different type than, or of a greater significance than, any risk posed by dietary exposure to the precursor substance; and

''(B) either—

''(i) a tolerance is in effect under this section for residues of the precursor substance in or on the food, and the combined level of residues of the degradation product and the precursor substance in or on the food is at or below the stoichiometrically equivalent level that would be permitted by the tolerance if the residue consisted only of the precursor substance rather than the degradation product; or

''(ii) an exemption from the need for a tolerance is in effect under this section for residues of the precursor substance in or on the food; and

''(C) the tolerance or exemption for residues of the precursor substance does not state that the tolerance or exemption applies only to particular named substances or states that the tolerance or exemption does not apply to residues of the degradation product.

''(5) EFFECT OF TOLERANCE OR EXEMPTION.—While a tolerance or exemption from the requirement for a tolerance is in effect under this section for a pesticide chemical residue with respect to any food, the food shall not by reason of bearing or containing any amount of such a residue be considered to be adulterated within the meaning of section 402(a)(1).

''(b) AUTHORITY AND STANDARD FOR TOLERANCES.—

''(1) AUTHORITY.—The Administrator may issue regulations establishing, modifying, or revoking a tolerance for a pesticide chemical residue in or on a food—

''(A) in response to a petition filed under subsection (d); or

''(B) on the Administrator's initiative under subsection (e).

''(2) STANDARD.—

''(A) IN GENERAL.—A tolerance may not be established for a pesticide chemical residue in or on a food at a level that is higher than a level that the Administrator determines is adequate to protect the public health.

''(B) MODIFICATION OR REVOCATION OF A TOLERANCE.—The Administrator shall modify or revoke a tolerance if the tolerance is at a level higher than the level that the Administrator determines is adequate to protect the public health.

''(C) DETERMINATION FACTORS.—In making a determination under this paragraph, the Administrator shall take into account, among other relevant factors, the validity, completeness, and reliability of the available data from studies of the pesticide chemical residue, the nature of any toxic effects shown to be caused by the pesticide chemical in the studies, available information and reasonable assumptions concerning the relationship of the results of the studies to human risk, available information and reasonable assumptions concerning the dietary exposure levels of food consumers (and major identifiable subgroups of food consumers, including infants and children) to the pesticide chemical residue, and available information and reasonable assumptions concerning the variability of the sensitivities of major identifiable subgroups, including infants and children, and shall consider other factors to the extent required by subparagraph (F).

''(D) NEGLIGIBLE DIETARY RISK STANDARD.—For purposes of subparagraph (A), a tolerance level for a pesticide chemical residue in or on a food shall be deemed to be adequate to protect the public health if the dietary risk posed to food consumers by the level of the pesticide chemical residue is negligible. The Administrator shall by regulation set forth the factors and methods, including tests that are appropriate for the determination of dietary risk and most likely dietary exposure, for the determination of negligible dietary risk.

''(E) INFANTS AND CHILDREN.—Procedures shall be developed and implemented that ensure that pesticide tolerances adequately safeguard the health of infants and children.

''(F) CALCULATION OF DIETARY RISK.—Where reliable data are available, the Administrator shall calculate the dietary risk posed to food consumers by a pesticide chemical on the basis of the percent of food actually treated with the pesticide chemical and the actual residue levels of the pesticide chemical that occur in food. In particular, the Administrator shall take into account aggregate pesticide use and residue data collected by the Department of Agriculture.

''(G) EXCEPTIONS TO THE NEGLIGIBLE DIETARY RISK STANDARD.—For purposes of subparagraph (A), a level of a pesticide chemical residue in or on a food that poses a greater than negligible dietary risk to consumers of the food shall be considered to be adequate to protect the public health if the Administrator determines that the risk is not unreasonable because—

''(i) use of the pesticide that produces the residue protects humans or the environment from adverse effects on public health or welfare that would, directly or indirectly, result in a greater risk to the public or the environment than the dietary risk from the pesticide chemical residue;

''(ii) use of the pesticide avoids risks—

''(I) to workers, the public, or the environment that would be expected to result from the use of another pesticide or pest control method on the same food; and

''(II) that are greater than the risks that result from dietary exposure to the pesticide chemical residue; or

''(iii) the availability of the pesticide would maintain the availability to consumers of an adequate, wholesome, and economical food supply taking into account national and regional effects.

In making the determination under this subparagraph, the Administrator shall not consider the effects on any pesticide registrant, manufacturer, or marketer of a pesticide.

''(3) LIMITATIONS.—

''(A) ISSUANCE OF TOLERANCE.—A tolerance may be issued under the authority of paragraph (2)(G) only if the Administrator has assessed the extent to which efforts are being made to develop either an alternative method of pest control or an alternative pesticide chemical for use on such commodity or food that would meet the requirements of paragraph (2)(D).

''(B) ESTABLISHMENT OF A TOLERANCE.—A tolerance for a pesticide chemical residue in or on a food shall not be established by the Administrator unless the Administrator determines, after consultation with the Secretary, that there is a practical method for detecting and measuring the levels of the pesticide chemical residue in or on the food.

''(C) ESTABLISHMENT OF A TOLERANCE LEVEL.—A tolerance for a pesticide chemical residue in or on a food shall not be established at a level lower than the limit of detection of the method for detecting and measuring the pesticide chemical residue as determined by the Administrator under subparagraph (B).

''(4) INTERNATIONAL STANDARDS.—In establishing a tolerance for a pesticide chemical residue in or on a food, the Administrator shall take into account any maximum residue level for the chemical in or on the food that has been established by the Codex Alimentarius Commission. The Administrator shall determine whether the Codex maximum residue level is adequate to protect the health of consumers in the United States and whether the data supporting the maximum residue level are valid, complete, and reliable. If the Administrator determines not to adopt a Codex level, the Administrator shall publish a notice in the Federal Register setting forth the reasons for the determination.

''(c) AUTHORITY AND STANDARD FOR EXEMPTIONS.—

''(1) AUTHORITY.—The Administrator may issue a regulation establishing, modifying, or revoking an exemption from the requirement for a tolerance for a pesticide chemical residue in or on a food—

''(A) in response to a petition filed under subsection (d), or

''(B) on the Administrator's initiative under subsection (e).

''(2) STANDARD.—

''(A) IN GENERAL.—An exemption from the requirement for a tolerance for a pesticide chemical residue in or on a food may be established only if the Administrator determines that a tolerance is not needed to protect the public health, in view of the levels of dietary exposure to the pesticide chemical residue that could reasonably be expected to occur.

''(B) REVOCATION OF EXEMPTION.—An exemption from the requirement for a tolerance for a pesticide chemical residue in or on a food shall be revoked if the Administrator, in response to a petition for the revocation of the exemption, or at the Administrator's own initiative, determines that the exemption does not satisfy the criterion of subparagraph (A).

''(C) DETERMINATION FACTORS.—In making a determination under this paragraph, the Administrator shall take into account, among other relevant factors, the factors set forth in subsection (b)(2)(C).

''(3) LIMITATION.—An exemption from the requirement for a tolerance for a pesticide chemical residue in or on a food shall not be established by the Administrator unless the Administrator determines, after consultation with the Secretary—

''(A) that there is a practical method for detecting and measuring the levels of the pesticide chemical residue in or on the food; or

''(B) that there is no need for such a method, and states the reasons for the determination in the order issuing the regulation establishing or modifying the regulation.

''(d) PETITION FOR TOLERANCE OF EXEMPTION.—

''(1) FILING.—Any person may file with the Administrator a petition proposing the issuance of a regulation—

''(A) establishing, modifying, or revoking a tolerance for a pesticide chemical residue in or on a food; or

''(B) establishing or revoking an exemption from the requirement of a tolerance for such a residue.

''(2) PETITION CONTENTS.—

''(A) IN GENERAL.—A petition under paragraph (1) to establish a tolerance or exemption for a pesticide chemical residue shall be supported by such data and information as are specified in regulations issued by the Administrator, including—

''(i)(I) an informative summary of the petition and of the data, information, and arguments submitted or cited in support of the petition; and

''(II) a statement that the petitioner agrees that the summary or any information the summary contains may be published as a part of the notice of filing of the petition to be published under this subsection and as part of a proposed or final regulation issued under this section;

''(ii) the name, chemical identity, and composition of the pesticide chemical residue and of the pesticide chemical that produces the residue;

''(iii) data showing the recommended amount, frequency, method, and time of application of that pesticide chemical;

''(iv) full reports of tests and investigations made with respect to the safety of the pesticide chemical, including full information as to the methods and controls used in conducting the tests and investigations;

''(v) full reports of tests and investigations made with respect to the nature and amount of the pesticide chemical residue that is likely to remain in or on the food, including a description of the analytical methods used;

''(vi) a practical method for detecting and measuring the levels of the pesticide chemical residue in or on the food, or a statement why such a method is not needed;

''(vii) practical methods for removing any amount of the residue that would exceed any proposed tolerance;

''(viii) a proposed tolerance for the pesticide chemical residue, if a tolerance is proposed;

''(ix) all relevant data bearing on the physical or other technical effect that the pesticide chemical is intended to have and the quantity of the pesticide chemical that is required to produce the effect;

''(x) if the petition relates to a tolerance for a processed food, reports of investigations conducted using the processing method or methods used to produce that food;

''(xi) such information as the Administrator may require to make the determination under subsection (b)(2)(E); and

''(xii) such other data and information as the Administrator requires by regulation to support the petition.

If information or data required by this subparagraph is available to the Administrator, the person submitting the petition may cite the availability of the information or data in lieu of submitting the information or data. The Administrator may require a petition to be accompanied by samples of the pesticide chemical with respect to which the petition is filed.

''(B) MODIFICATION OR REVOCATION.—The Administrator may by regulation establish the requirements for information and data to support a petition to modify or revoke a tolerance or to revoke an exemption from the requirement for a tolerance.

''(3) NOTICE.—A notice of the filing of a petition that the Administrator determines has met the requirements of paragraph (2) shall be published by the Administrator within 30 days after such determination. The notice shall announce the availability of a description of the analytical methods available to the Administrator for the detection and measurement of the pesticide chemical residue with respect to which the petition is filed or shall set forth the statement of the petitioner of why such a method is not needed. The notice shall include the summary required by paragraph (2)(A)(i).

''(4) ACTIONS BY THE ADMINISTRATOR.—The Administrator shall, after giving due consideration to a petition filed under paragraph (1) and any other information available to the Administrator—

''(A) issue a final regulation (which may vary from that sought by the petition) establishing, modifying, or revoking a tolerance for the pesticide chemical residue or an exemption of the pesticide chemical residue from the requirement of a tolerance;

''(B) issue a proposed regulation under subsection (e), and thereafter either issue a final regulation under subsection (e) or an order denying the petition; or

''(C) issue an order denying the petition.

''(5) EFFECTIVE DATE.—A regulation issued under paragraph (4) shall take effect upon publication.

''(6) FURTHER PROCEEDINGS.—

''(A) OBJECTIONS.—Not later than 60 days after a regulation or order is issued under paragraph (4), subsection (e)(1), or subsection (f)(1), any person may file objections thereto with the Administrator, specifying with particularity the provisions of the regulation or order considered objectionable and stating reasonable grounds therefore. If the regulation or order was issued in response to a petition filed under paragraph (1), a copy of each objection filed by a person other than the petitioner shall be served by the Administrator on the petitioner.

''(B) PUBLIC EVIDENTIARY HEARING.—An objection may include a request for a public evidentiary hearing upon the objection. The Administrator shall, upon the initiative of the Administrator or upon the request of an interested person and after due notice, hold a public evidentiary hearing if and to the extent the Administrator determines that the public hearing is necessary to receive factual evidence relevant to material issues of fact raised by the objections. The presiding officer in the hearing may authorize a party to obtain discovery from other persons and may upon a showing of good cause made by a party issue a subpoena to compel testimony or production of documents from any person. The presiding officer shall be governed by the Federal Rules of Civil Procedure in making any order for the protection of the witness or the content of documents produced and shall order the payment of reasonable fees and expenses as a condition to requiring testimony of the witness. On contest, the subpoena may be enforced by a Federal district court.

''(C) ISSUANCE OF AN ORDER.—After receiving the arguments of the parties, the Administrator shall, as soon as practicable, issue an order stating the action taken upon each such objection and setting forth any revision to the regulation or prior order that the Administrator has found to be warranted. If a hearing was held under subparagraph (B), the order and any revision to the regulation or prior order shall, with respect to questions of fact at issue in the hearing, be based only on substantial evidence of record at the hearing, and shall set forth in detail the findings of facts and the conclusions of law or policy upon which the order or regulation is based.

''(D) EFFECTIVE DATE OF AN ORDER.—An order issued under this paragraph ruling on an objection shall not take effect before the 90th day after the publication of the order unless the Administrator finds that emergency conditions exist necessitating an earlier effective date, in which event the Administrator shall specify in the order the findings of the Administrator as to such conditions.

''(7) JUDICIAL REVIEW.—

''(A) FILING.—In a case of actual controversy as to the validity of any order issued under paragraph (6) or any regulation that is the subject of such an order, any person who will be adversely affected by the order or regulation may obtain judicial review by filing in the United States Court of Appeals for the circuit wherein that person resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, not later than 60 days after publication of such order, a petition praying that the order or regulation be set aside in whole or in part.

''(B) FILING OF RECORD OF PROCEEDINGS.—A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator, or any officer designated by the Administrator for that purpose, and thereupon the Administrator shall file in the court the record of the proceedings on which the Administrator based the order or regulation, as provided in section 2112 of title 28, United States Code. Upon the filing of the petition, the court shall have exclusive jurisdiction to affirm or set aside the order or regulation complained of in whole or in part. The findings of the Administrator with respect to questions of fact shall be sustained only if supported by substantial evidence when considered on the record as a whole.

''(C) ADDITIONAL EVIDENCE.—If a party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the proceeding before the Administrator, the court may order that the additional evidence (and evidence in rebuttal

thereof) shall be taken before the Administrator in the manner and upon the terms and conditions the court deems proper. The Administrator may modify prior findings as to the facts by reason of the additional evidence so taken and may modify the order or regulation accordingly. The Administrator shall file with the court any such modified finding, order, or regulation.

''(D) FINAL JUDGMENT.—The judgment of the court affirming or setting aside, in whole or in part, any order under paragraph (6) and any regulation that is the subject of the order shall be final, subject to review by the Supreme Court of the United States as provided in section 1254 of title 28 of the United States Code. The commencement of proceedings under this paragraph shall not, unless specifically ordered by the court to the contrary, operate as a stay of a regulation or order.

''(E) LIMITATIONS ON JUDICIAL REVIEW.—Any issue as to which review is or was obtainable under paragraph (6) and this paragraph shall not be the subject of judicial review under any other provision of law.

''(e) ACTION ON ADMINISTRATOR'S OWN INITIATIVE.—

''(1) GENERAL RULE.—The Administrator may issue a regulation—

''(A) establishing, modifying, or revoking a tolerance for a pesticide chemical or a pesticide chemical residue;

''(B) establishing or revoking an exemption of a pesticide chemical residue from the requirement of a tolerance; or

''(C) establishing general procedures and requirements to implement this section.

A regulation issued under this paragraph shall become effective upon the publication of the regulation.

''(2) NOTICE.—Before issuing a final regulation under paragraph (1), the Administrator shall issue a notice of proposed rulemaking and provide a period of not less than 60 days for public comment on the proposed regulation, except that a shorter period for comment may be provided if the Administrator for good cause finds that it would be in the public interest to do so and states the reasons for the finding in the notice of proposed rulemaking. The Administrator shall provide an opportunity for a public hearing during the rulemaking under procedures provided in subsection (d)(6)(B).

''(f) SPECIAL DATA REQUIREMENTS.—

''(1) REQUIRING SUBMISSION OF ADDITIONAL DATA.—If the Administrator determines that additional data or information is reasonably required to support the continuation of a tolerance or exemption that is in effect under this section for a pesticide chemical residue on a food, the Administrator shall—

''(A) issue a notice requiring the persons holding the pesticide registrations associated with the tolerance or exemption to submit the data or information under section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(c)(2)(B));

''(B) issue a rule requiring that testing be conducted on a substance or mixture under section 4 of the Toxic Substances Control Act (15 U.S.C. 2603); or

''(C) publish in the Federal Register, after first providing notice and an opportunity for comment of not less than 90 days' duration, an order—

''(i) requiring the submission to the Administrator by one or more interested persons of a notice identifying the person or persons who will submit the required data and information;

''(ii) describing the type of data and information required to be submitted to the Administrator and stating why the data and information could not be obtained under the authority of section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(c)(2)(B)) or section 4 of the Toxic Substances Control Act (15 U.S.C. 2603);

''(iii) describing the reports to the Administrator required to be prepared during and after the collection of the data and information;

''(iv) requiring the submission to the Administrator of the data, information, and reports referred to in clauses (ii) and (iii); and

''(v) establishing dates by which the submissions described in clauses (i) and (iv) must be made.

The Administrator may revise any such order to correct an error.

''(2) NONCOMPLIANCE.—If a submission required by a notice issued in accordance with paragraph (1)(A) or a rule issued under paragraph (1)(B) is not made by the time specified in the notice or the rule, the Administrator may by order published in the Federal Register modify or revoke the tolerance or exemption in question.

''(3) REVIEW.—An order issued under this subsection shall be effective upon publication and shall be subject to review in accordance with paragraphs (6) and (7) of subsection (d).

''(g) CONFIDENTIALITY AND USE OF DATA.—

''(1) GENERAL RULE.—Data and information that are submitted to the Administrator under this section in support of a tolerance shall be entitled to confidential treatment for reasons of business confidentiality and to exclusive use and data compensation, to the same extent provided by sections 3 and 10 of the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136a and 136h).

''(2) EXCEPTIONS.—Data that are entitled to confidential treatment under paragraph (1) may nonetheless be disclosed to the Congress, and may be disclosed, under such security requirements as the Administrator may provide by regulation, to—

''(A) employees of the United States who are authorized by the Administrator to examine the data in the carrying out of their official duties under this Act or other Federal statutes intended to protect the public health; or

''(B) contractors with the United States authorized by the Administrator to examine the data in the carrying out of contracts under such statutes.

''(3) SUMMARIES.—Notwithstanding any provision of this subsection or other law, the Administrator may publish the informative summary required by subsection (d)(2)(A)(i) and may, in issuing a proposed or final regulation or order under this section, publish an informative summary of the data relating to the regulation or order.

''(h) STATUS OF PREVIOUSLY ISSUED REGULATIONS.—

''(1) REGULATIONS UNDER SECTION 406.—Regulations affecting pesticide chemical residues in or on raw agricultural commodities promulgated, in accordance with section 701(e), under the authority of section 406(a) upon the basis of public hearings instituted before January 1, 1953, shall be deemed to be regulations issued under this section and shall be subject to modification or revocation under subsections (d) and (e).

''(2) REGULATIONS UNDER SECTION 409.—Regulations that established tolerances for substances that are pesticide chemical residues on or in processed food, or that otherwise stated the conditions under which such pesticide chemicals could be safely used, and that were issued under section 409 on or before the date of the enactment of this paragraph, shall be deemed to be regulations issued under this section and shall be subject to modification or revocation under subsection (d) or (e).

''(3) REGULATIONS UNDER SECTION 408.—Regulations that established tolerances or exemptions under this section that were issued on or before the date of the enactment of this paragraph shall remain in effect unless modified or revoked under subsection (d) or (e).

''(i) TRANSITIONAL PROVISION.—If, on the day before the date of the enactment of this subsection, a substance that is a pesticide chemical was, with respect to a particular pesticidal use of the substance and any resulting pesticide chemical residue in or on a particular food—

''(1) regarded by the Administrator or the Secretary as generally recognized as safe for use within the meaning of the provisions of section 408(a) or 201(s) as then in effect; or

''(2) regarded by the Secretary as a substance described by section 201(s)(4),

such a pesticide chemical residue shall be regarded as exempt from the requirement for a tolerance, as of the date of enactment of this subsection. The Administrator shall by regulation indicate which substances are described by this subsection. An exemption under this subsection may be revoked or modified as if the exemption had been issued under subsection (c).

''(j) HARMONIZATION WITH ACTION UNDER OTHER LAWS.—

''(1) LIMITATION.—Notwithstanding any other provision of this Act, a final rule under this section that revokes, modifies, or suspends a tolerance or exemption for a pesticide chemical residue in or on a food may be issued only if the Administrator has first taken any necessary action under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) with respect to the registration of the pesticide or pesticides whose use results in the residue to ensure that any authorized use of the pesticide in producing, storing, processing, or transporting food that occurs after the issuance of the final rule under this section will not result in pesticide chemical residues on the food that are unsafe within the meaning of subsection (a).

''(2) REVOCATION OF TOLERANCE OR EXEMPTION FOLLOWING CANCELLATION OF ASSOCIATED REGISTRATIONS.—

''(A) IN GENERAL.—If the Administrator, acting under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), cancels the registration of each pesticide that contains a particular pesticide chemical and that is labeled for use on a particular food, or requires that the registration of each such pesticide be modified to prohibit the use of the pesticide in connection with the production, storage, or transportation of the food, due in whole or in part to dietary risks to humans posed by residues of the pesticide chemical on that food, the Administrator shall revoke any tolerance or exemption that allows the presence of the pesticide chemical, or any pesticide chemical residue that results from the use of the pesticide chemical, in or on the food. The Administrator shall use the procedures set forth in subsection (e) in taking action under this paragraph.

''(B) EFFECTIVE DATE.—A revocation under this paragraph shall become effective not later than 180 days after—

''(i) the date by which each such cancellation of a registration has become effective; or

''(ii) the date on which the use of the canceled pesticide becomes unlawful under the terms of the cancellation,

whichever is later.

''(3) SUSPENSION OF TOLERANCE OR EXEMPTION FOLLOWING SUSPENSION OF ASSOCIATED REGISTRATIONS.—

''(A) SUSPENSION.—If the Administrator, acting under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), suspends the use of each registered pesticide that contains a particular pesticide chemical and that is labeled for use on a particular food, due in whole or in part to dietary risks to humans posed by residues of the pesticide chemical on the food, the Administrator shall suspend any tolerance or exemption that allows the presence of the pesticide chemical, or any pesticide chemical residue that results from the use of the pesticide chemical, in or on that food. The Administrator shall use the procedures set forth in subsection (e) in taking action under this paragraph. A suspension under this paragraph shall become effective not later than 60 days after the date by which each such suspension of use has become effective.

''(B) EFFECT OF SUSPENSION.—The suspension of a tolerance or exemption under subparagraph (A) shall be effective as long as the use of each associated registration of a pesticide is suspended under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.). While a suspension of a tolerance or exemption is effective the tolerance or exemption shall not be considered to be in effect. If the suspension of use of the pesticide under such Act is terminated, leaving the registration of the pesticide for the use in effect under such Act, the Administrator shall rescind any associated suspension of a tolerance or exemption.

''(4) TOLERANCES FOR UNAVOIDABLE RESIDUES.—In connection with action taken under paragraph (2) or (3), or with respect to pesticides whose registrations were canceled prior to the effective date of this paragraph, if the Administrator determines that a residue of the canceled or suspended pesticide chemical will unavoidably persist in the environment and thereby be present in or on a food, the Administrator may establish a tolerance for the pesticide chemical residue at a level that permits such unavoidable residue to remain in or on the food. In establishing such a tolerance, the Administrator shall take into account the factors set forth in subsection (b)(2)(C) and shall use the procedures set forth in subsection (e). The Administrator shall review a tolerance established under this paragraph periodically and modify the tolerance as necessary so that the tolerance allows only that level of the pesticide chemical residue that is unavoidable.

''(5) PESTICIDE RESIDUES RESULTING FROM LAWFUL APPLICATION OF PESTICIDE.—Notwithstanding any other provision of this Act, if a tolerance or exemption for a pesticide chemical residue in or on a food has been revoked, suspended, or modified under this section, an article of the food shall not be considered unsafe solely because of the presence of the pesticide chemical residue in or on the food if it is shown to the satisfaction of the Secretary that—

''(A) the residue is present as the result of an application or use of a pesticide at a time and in a manner that was lawful under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.); and

''(B) the residue does not exceed a level that was authorized at the time of the application or use to be present on the food under a tolerance, exemption, food additive regulation, or other sanction then in effect under this Act,

unless, in the case of any tolerance or exemption revoked, suspended, or modified under this subsection or subsection (d) or (e), the Administrator has issued a determination that consumption of the legally treated food during the period of the likely availability of the food in commerce will pose an unreasonable dietary risk.

''(k) FEES.—The Administrator shall by regulation require the payment of such fees as will in the aggregate, in the judgment of the Administrator, be sufficient over a reasonable term to provide, equip, and maintain an adequate service for the performance of the functions of the Administrator under this section. Under the regulations, the performance of the services or other functions of the Administrator under this section, including—

''(1) the acceptance for filing of a petition submitted under subsection (d);

''(2) the promulgation of a regulation establishing, modifying, or revoking a tolerance or establishing or revoking an exemption from the requirement of a tolerance under this section;

''(3) the acceptance for filing of objections under subsection (d)(6); or

''(4) the certification and filing in court of a transcript of the proceedings and the record under subsection (d)(7),

may be conditioned upon the payment of the fees. The regulations may further provide for waiver or refund of fees in whole or in part when in the judgment of the Administrator the waiver or refund is equitable and not contrary to the purposes of this subsection.

''(l) NATIONAL UNIFORMITY OF TOLERANCES.—

''(1) QUALIFYING PESTICIDE CHEMICAL RESIDUE.—For purposes of this subsection, the term 'qualifying pesticide chemical residue' means a pesticide chemical residue resulting from the use, in production, processing, or storage of a food, of a pesticide chemical that is an active ingredient and that—

''(A) was first approved for such use in a registration of a pesticide issued under section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(c)(5)) on or after April 25, 1985, on the basis of data determined by the Administrator to meet all applicable requirements for data prescribed by regulations in effect under such Act on April 25, 1985; or

''(B) was approved for such use in a reregistration eligibility determination issued under section 4(g) of such Act on or after the date of enactment of the Food Quality Protection Act of 1995.

''(2) QUALIFYING FEDERAL DETERMINATION.—For purposes of this subsection, the term 'qualifying Federal determination' means—

''(A) a tolerance or exemption from the requirement for a tolerance for a qualifying pesticide chemical residue that was—

''(i) issued under this section after the date of enactment of the Food Quality Protection Act of 1995; or

''(ii) issued (or, pursuant to subsection (h) or (i), deemed to have been issued) under this section prior to the date of enactment of the Food Quality Protection Act of 1995, and determined by the Administrator to meet the standard under subsection (b)(2) (in the case of a tolerance) or (c)(2) (in the case of an exemption); and

''(B) any statement, issued by the Secretary, of the residue level below which enforcement action will not be taken under this Act with respect to any qualifying pesticide chemical residue, if the Secretary finds that the pesticide chemical residue level permitted by the statement during the period to which the statement applies protects human health.

''(3) LIMITATION.—The Administrator may make the determination described in paragraph (2)(A)(ii) only by issuing a rule in accordance with the procedure set forth in subsection (d) or (e) and only if the Administrator issues a proposed rule and allows a period of not less than 30 days for comment on the proposed rule. Any such rule shall be reviewable in accordance with paragraphs (6) and (7) of subsection (d).

''(4) STATE AUTHORITY.—Except as provided in paragraph (5), no State or political subdivision may establish or enforce any regulatory limit on a qualifying pesticide chemical residue in or on any food if a qualifying Federal determination applies to the presence of the pesticide chemical residue in or on the food, unless the State regulatory limit is identical to the qualifying Federal determination. A State or political subdivision shall be deemed to establish or enforce a regulatory limit on a pesticide chemical residue in or on food if the State or political subdivision purports to prohibit or penalize the production, processing, shipping, or other handling of a food because the food contains a pesticide residue (in excess of a prescribed limit), or if the State or political subdivision purports to require that a food containing a pesticide residue be the subject of a warning or other statement relating to the presence of the pesticide residue in the food.

''(5) PETITION PROCEDURE.—

''(A) IN GENERAL.—Any State may petition the Administrator for authorization to establish in such State a regulatory limit on a qualifying pesticide chemical residue in or on any food that is not identical to the qualifying Federal determination applicable to the qualifying pesticide chemical residue.

''(B) PETITION REQUIREMENTS.—Any petition made by a State under subparagraph (A) shall—

''(i) satisfy any requirements prescribed, by rule, by the Administrator; and

''(ii) be supported by scientific data about the pesticide chemical residue that is the subject of the petition or about chemically related pesticide chemical residues, data on the consumption within the State of food bearing the pesticide chemical residue, and data on exposure of humans within the State to the pesticide chemical residue.

''(C) ORDER.—Subject to paragraph (6), the Administrator may, by order, grant the authorization described in subparagraph (A) if the Administrator determines that the proposed State regulatory limit—

''(i) is justified by compelling local conditions;

''(ii) would not unduly burden interstate commerce; and

''(iii) would not cause any food to be in violation of Federal law.

''(D) CONSIDERATION OF PETITION AS PETITION FOR TOLERANCE OR EXEMPTIONS.—In lieu of any action authorized under subparagraph (C), the Administrator may treat a petition under this paragraph as a petition under subsection (d) to revoke or modify a tolerance or to revoke an exemption. If the Administrator determines to treat a petition under this paragraph as a petition under subsection (d), the Administrator shall thereafter act on the petition pursuant to subsection (d).

''(E) REVIEW OF ORDER.—Any order of the Administrator granting or denying the authorization described in subparagraph (A) shall be subject to review in the manner described in paragraphs (6) and (7) of subsection (d).

''(6) RESIDUES FROM LAWFUL APPLICATION.—No State or political subdivision may enforce any regulatory limit on the level of a pesticide chemical residue that may appear in or on any food if, at the time of the application of the pesticide that resulted in the residue, the sale of the food with the residue level was lawful under this Act and under the law of the State, unless the State demonstrates that consumption of the food containing the pesticide residue level during the period of the likely availability of the food in the State will pose an unreasonable dietary risk to the health of persons within the State.''.

SEC. 306. AUTHORIZATION FOR INCREASED MONITORING.

There are authorized to be appropriated an additional $12,000,000 for increased monitoring by the Secretary of Health and Human Services of pesticide residues in imported and domestic food.

SUMMARY—THE FOOD QUALITY PROTECTION ACT OF 1995

DATA COLLECTION AND IMPROVED PROCEDURES TO ENSURE THAT TOLERANCES SAFEGUARD THE HEALTH OF INFANTS AND CHILDREN

Implementation of the NAS report.—EPA, USDA, and HHS are directed to coordinate the development and implementation of procedures to ensure that pesticide tolerances adequately safeguard the health of infants and children based on the report ''Pesticides in the Diets of Infants and Children'' of the National Research Council of the National Academy of Sciences. Guidelines are provided to aid in the development of these procedures.

Collection of pesticide use information.—USDA is directed to collect data on the use of pesticides on food. In collecting the information, USDA is required to coordinate with EPA to ensure that such information is useful in pesticide regulatory decisions.

Integrated pest management.—USDA, in cooperation with EPA, is directed to implement research, demonstration, and education programs to support the adoption of IPM.

AMENDMENTS TO THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Minor uses of pesticides.—Incentives are offered for manufacturers to maintain and develop minor uses without compromising food safety or adversely affecting the environment. Provisions include:

Establishes a minor use definition.

The current 10 year exclusive use protection for registrants of new chemicals could be extended one year for each three minor uses which a manufacturer registers by year 7, up to a maximum of three additional years for nine or more minor uses registered by EPA.

The time necessary for the development of residue chemistry data for a minor use could be extended.

EPA may waive minor use data requirements in certain circumstances.

EPA is to review and act on minor use registration applications within 1 year if the active ingredient is to be registered solely for a minor use, or if there are three or more minor uses proposed for every non-minor use, or if the minor use would serve as a replacement for any use that has been canceled within 5 years of the application or if the approval of the minor use would avoid the reissuance of an emergency exemption.

If a minor use waiver of data requirements is submitted to EPA and subsequently denied, the registrant would be given the full time period for supplying the data to EPA.

As a transition measure, the effective date of the voluntary cancellation of minor uses by a registrant could coincide with the due date of the final study required in the reregistration process for those uses being supported by the registrant.

EPA can consider data from a pesticide which has been voluntarily canceled in support of another minor use registration that is identical or similar and for a similar use.

A minor use program within EPA's Office of Pesticide Programs would be established.

A minor use program within USDA would be established. This would include a minor use matching fund for the development of scientific data to support minor uses.

Tolerance reevaluation as part of reregistration.—EPA is required to conduct a reevaluation of tolerances and exemptions from tolerances once a pesticide has completed reregistration or as soon as sufficient information on dietary risks of the pesticide have been collected.

Coordination of cancellation.—The term unreasonable risk would also include a human dietary risk from residues that result from use of a pesticide on food inconsistent with the standard adequate to protect human health under Section 408 of the FFDCA.

Scientific advisory panel.—A Science Review Board is established to assist the FIFRA Scientific Advisory Panel in its scientific review function.

AMENDMENTS TO THE FEDERAL FOOD DRUG AND COSMETIC ACT

A consistent framework for pesticide tolerance regulation is created by:

Establishing a single narrative negligible risk standard for pesticide residues in both raw and processed food, putting an end to the pesticide ''double standard.''

Requiring EPA, where reliable data are available, to calculate dietary risk on the basis of the percent of food actually treated with the pesticide and the actual residue levels of the pesticide that occurs on food.

Retaining EPA's power to consider benefits in regulatory actions involving tolerances for pesticide residues on raw agricultural commodities and would extend that power to the tolerances for pesticide residues on processed food.

Promoting international harmonization of pesticide tolerances by requiring EPA to take into consideration whether a maximum residue level has been established for the chemical by the Codex Alimentarious Commission [CODEX].

Providing for national uniformity of tolerances for pesticides when such pesticides have been registered under current data requirements. States are permitted to petition EPA to establish a different regulatory limit based on compelling local conditions.

Authorization for Increased Monitoring.—Authorizes an increase of $12 million in appropriations for monitoring pesticide residues on domestic and imported food.●

By Mr. PRESSLER:

S. 1167. A bill to amend the Wild and Scenic Rivers Act to exclude the South Dakota segment from the segment of the Missouri River designated as a recreational river, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PRESSLER:

S. 1168. A bill to amend the Wild and Scenic Rivers Act to exclude any private lands from the segment of the Missouri River designated as a recreational river, and for other purposes; to the Committee on Energy and Natural Resources.

NIOBRARA RECREATIONAL RIVER LEGISLATION

Mr. PRESSLER. Mr. President, earlier this year I spoke on the Senate floor regarding the visit to Washington, DC, of an outstanding South Dakota family—the Talsmas. Georgia and Larry Talsma, from Springfield, SD, made their first trip ever to Washington, DC, by car.

The Talsmas came to Washington to tell their story of how the Federal Government is intruding on their land and threatening to take over their private property. In its drive to protect a small portion of the Missouri River as a recreational river, the National Park Service appears intent on trampling private property rights.

During their visit, I arranged for the Director of the National Park Service to come to my office and listen to the Talsmas. At that meeting I told the Director that I intended to introduce legislation to undo the designation in South Dakota. This is an effort the Talsmas and other South Dakotans strongly support.

As a result of the Talsmas' visit, the Director agreed to push back the deadline for a preferred alternative to no earlier than August 1, 1995, assured the Talsmas there would be at least a 60-day comment period on any preferred alternative, and if more time is needed, Director Kennedy said he would be willing to provide such time.

All in all, quite a success story for a family's first trip to Washington, DC, to convince the Federal Government that they were going to far.

Well, it was just a few weeks since the Talsmas returned to South Dakota, that I received a letter from Georgia. It appeared that the new plans of the Director fell on deaf ears out in the regional office. At the next public meeting the Talsmas were told there had been no communication from the Director of the Park Service to the regional office. In addition, the Park Service representative told the Talsmas that the Director of the National Park Service was not well informed. I find this lack of communication between the regional and D.C. offices very disturbing. It certainly does little for the Talsma's hope that government can work to solve problems.

As I told the Director at the meeting, I was prepared to introduce legislation designed to protect property owners in South Dakota. The legislation I am introducing today will do just that.

The first bill would ''undesignate'' the 39-mile stretch of the Missouri River as a recreational river. The second bill would exempt private property from any boundary of a recreational river. The second bill is necessary should the bill undesignating the river not pass.

All too often we hear of reports of the federal bureaucracy out of control. Frankly, Congress helped create this problem by designating the recreational river. However, I am sure that Congress never intended to trample private property rights.

The right thing to do is to undesignate the river, or, at the very least, exempt private property from the designation.

The Talsmas and other South Dakota land owners want to see that their property and their rights fully protected. They want to see government work to respond to the needs of property owners when government is overreaching. That is why the Talsmas traveled to Washington. They are right.

The bills I am introducing today will achieve that goal.

By Mr. KEMPTHORNE:

S. 1169. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize construction of facilities for the reclamation and reuse of wastewater at McCall, Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

THE MCCALL AREA WASTEWATER RECLAMATION AND REUSE PROJECT AUTHORIZATION ACT OF 1995

• Mr. KEMPTHORNE. Mr. President, I am introducing a bill today that will enable the Federal Government to carry through on its commitments and its responsibilities to improve water quality associated with Federal facilities. Specifically, the bill authorizes the Bureau of Reclamation to participate financially in a Federal, State, local, and private sector project to correct severe water quality problems in Cascade Reservoir, which is owned and operated by the Bureau of Reclamation.

The water quality problems in Cascade Reservoir are so severe that at various times we have had both major fish kills and the death of some cattle. The primary culprit appears to be large amounts of phosphorus in the water, which result in algae blooms that are both aesthetically displeasing and occasionally toxic. Last year, when the National Marine Fisheries Service commanded Cascade Reservoir water to help flush migrating endangered salmon toward the ocean, the water quality problems got even worse and disrupted what has been an ongoing effort to improve water quality.

Cascade Reservoir is now formally listed as water quality limited under section 303 of the Clean Water Act. Surrounding communities are under court orders to fix the problems, and the clock is running out.

The community is identifying every means it can to reduce phosphorus loadings going into the north fork of the Payette River and Cascade Reservoir. Studies show that somewhere between 6 and 11 percent of the phosphorus comes from the city of McCall's wastewater treatment plant, which discharges effluent into the north fork of the Payette River.

Using its authority under the Reclamation Wastewater and Groundwater Study and Facilities Act, the Bureau of Reclamation has identified the McCall, ID, situation has an opportunity for the Bureau to facilitate the reclamation and reuse of wastewater. Under a proposal that has been developed by the State of Idaho, the city of McCall, and the Payette Lakes Water and Sewer District with the Bureau of Reclamation, a project would be constructed to use the wastewater presently discharged into the north fork to irrigate agricultural land.

Direct irrigation would take place during the summer months, with the effluent being stored during the winter months for application during the growing season. The arrangement will allow wastewater to be reclaimed and reused in a way that both improves water quality and meet farmers needs for both water and crop nutrients.

The total cost of the project is roughly $11.3 million, of which the Bureau of Reclamation will provide roughly $5.6 million. While most of that commitment is intended for phase II of the project in fiscal year 1997, expenditures of a portion of that amount in fiscal year 1996 would go a long way toward strengthening the State, local, Federal, and private sector partnership that has been established here. The bill limits the Federal cost share on the project to 50 percent of the total capital costs, and prohibits the use of the funds for operations and maintenance.

Mr. President, Cascade Reservoir is a Federal facility under the jurisdiction of the Bureau of Reclamation. It is therefore appropriate that it participate in solving the water quality problems of the reservoir.

I commend the regional director, John Keys, and his personnel, who have recognized the Federal responsibility in this area. And, I appreciate all of those individuals who have worked so hard to develop this part of the solution to the reservoir's water quality problems. They have committed financially to this effort, and I hope Congress will act expeditiously to enact this bill to authorize the McCall Wastewater Reclamation and Reuse project so the Federal Government can follow through with its financial commitment.

By Mr. PRESSLER (for himself and Mr. BAUCUS):

S. 1170. A bill to limit the applicability of the generation-skipping transfer tax; to the Committee on Finance.

THE GENERATION-SKIPPING TRANSFER TAX CORRECTION ACT OF 1995

Mr. PRESSLER. Mr. President, I am proud to introduce a bill today that would correct an unintended consequence of changes in the generation-skipping transfer [GST] tax that were made as part of the 1986 Tax Reform Act. As the law currently stands, individuals are discouraged from establishing charitable trusts in certain circumstances due to the tax treatment of such trusts. My bill would correct this discrepancy, thereby opening the option of contributing to charity through this instrument to those who otherwise would not do so.

The corrections in my bill relate to the predeceased parent exclusion of the GST tax. As my colleagues know, the GST tax prevents individuals from avoiding estate and gift taxes by circumventing the first generation heir and passing the assets along to a second generation heir, thereby skipping a generation. The exclusion provides that the GST tax is not applied to direct gifts or bequests made by a grandparent to a grandchild where the grandchild's parent—the transferor's child—is deceased at the time of the transfer. In this situation, clearly there is no intent to circumvent the tax by skipping a generation, as that generation no longer exists.

My bill would correct two problems in the current law. First, as the law is currently written, childless individuals are treated differently than those who have lineal descendants. An individual who outlives his or her own generation—siblings and cousins—and the subsequent generation—nieces and nephews—cannot transfer property to his or her grandnieces and grandnephews without being hit by the punitive GST tax.

This seems to be an inequitable, and unintended, situation which needs to be resolved so that these individuals can transfer property to their closest living relatives. My bill would amend the exclusion to make it applicable to collateral heirs in this situation.

Second, current law limits the predeceased parent exclusion to direct gifts and bequests only; it does not apply to any type of transfer from a trust. Unfortunately, the effect of this limitation is to strongly discourage individuals, whose direct gifts or bequests would otherwise be covered by the exclusion, from establishing a charitable trust for some period of years before distributing the property to qualifying family members.

Trusts of this nature are very important to charities in South Dakota and across the country. Because of this discriminatory treatment of trusts, many South Dakotan charitable groups stand to lose potential funding sources. As volunteer and charitable service groups are vital for our communities, I find it unproductive to have excessive rules in the tax code such as this that chill charitable giving, and do not serve the ends that the GST was established to achieve.

In this era of tight budgetary constraints on the federal budget, we need to do all that we can to encourage private charitable giving that helps those who are less fortunate within our communities. This bill lifts an unnecessary restriction on giving and I urge my colleagues to join me in support of this bill to change these rules so that charitable giving may continue to flourish.

By Mr. MCCONNELL (for himself and Mr. FORD):

S. 1171. A bill to amend the Internal Revenue Code of 1986 to modify the application of the passive loss limitations to equine activities; to the Committee on Finance.

PASSIVE LOSS LEGISLATION

Mr. MCCONNELL. Mr. President, on behalf of myself and Senator FORD, I rise today to introduce a bill to amend the Internal Revenue Code to modify application of passive loss limitations to horse activities.

The horse industry is extremely important for my State, and for the thousands of Kentuckians who actively participate in horse-related activities—whether it is owning, breeding, or racing horses, or simply enjoying an afternoon trail ride or horse show. However,

the horse industry has been adversely impacted by the changes made in the Tax Reform Act of 1986 with job losses occurring at racetracks and horse farms. Hundreds of breeding farms have gone out of business.

The horse industry is a $15.2 billion industry that employs and supports hundreds of thousands of workers. In Kentucky alone, a study done by the University of Kentucky found that $5 billion annually can be attributed to the direct and indirect effects of the horse industry. The study also emphasized that the majority of people involved in breeding horses operate small, family run farms, a detail that garners little attention. The equine industry is an extremely labor-intensive industry employing hundreds of thousands of people to do everything from exercising horses to track, employees to trainers. In Kentucky, over 80,000 jobs are related to the horse industry.

What supports the horse industry, including the job base, the breeding farms and the revenue stream in the form of taxes to all levels of Government, is the investment in the horses themselves. The horse industry relies on outside investment to operate, just as other businesses do. Without owners willing to buy, breed, and race horses, the hundreds of thousands who are employed fulltime by the industry cannot work. Without such investment, jobs and revenue are lost.

Since the Tax Reform Act of 1986, the horse industry has experienced a near devastating decline. Most horse owners and breeders believe that the limits on passive losses was a major reason for the decline, and chilled the interest of investors in horses. Since the mid-1980's, the number of horses bred and registered has decreased—leading to losses in jobs and revenues for states.

The 1986 act indicates that in order to satisfy the material participation requirement, a person's involvement must be regular, continuous, and substantial. The passive loss rules are difficult for many to satisfy because this is such a unique industry. It is difficult for many owners to ride, train, breed, or show their horses because of the expertise and physical ability that is required. This would alter these requirements to make them fair, workable, and enforceable.

By Mr. ROTH (for himself, Mr. HATCH, and Mr. BAUCUS):

S. 1172. A bill to amend the Revenue Act of 1987 to provide a permanent extension of the transition rule for certain publicly traded partnerships; to the Committee on Finance.

PUBLICLY TRADED PARTNERSHIPS LEGISLATION

Mr. ROTH. Mr. President, I am pleased to introduce, along with my Finance Committee colleagues, Mr. BAUCUS and Mr. HATCH, a bill to correct what I believe was a mistake made in the Omnibus Budget Reconciliation Act of 1987 relating to publicly traded partnerships, or PTP's, as they are commonly known. PTP's are limited partnerships traded as units on public stock exchanges or over the counter. They are regulated by the SEC comparably to other public companies. Many investors, large and small, find PTP units to be safe, liquid investments.

The 1987 act included a change to the Tax Code which arbitrarily limited the future life of certain PTP's to no more than 10 years. The purpose of our amendment is to eliminate that change and permit this small group of PTP's that were in existence back in 1987 to continue operating as partnerships as long as they wish. We believe that a mistake was made in 1987. If the mistake is not corrected in the very near future, these companies will be forced to undertake an expensive and disruptive conversion to corporate form, or some other operating form. No public purpose will be served by such forced conversions.

PTP's first came into being in the early 1980's as a new means to raise capital for industries that had traditionally done business in partnership form. At the time, a number of corporations decided that the PTP structure better suited their operations. A few years later, Congress became concerned that the opportunity to become a PTP might erode the corporate tax base and decided, in 1987, to limit the extent to which new PTP's could be created. The law restricted future PTP operating status to companies in the energy, real estate, and natural resources sectors.

For reasons that were not clear at the time, and still are not clear from the committee reports explaining the 1987 act, all companies then operating as PTP's outside the protected sectors were to be ''sunsetted,'' or terminated, within 10 years. Unless the law is changed, this provision, sometimes referred to as the ''PTP grandfather provision,'' will punish 27 American companies who played by the rules. Unless changed, this provision of law will compel them to convert by January 1, 1998.

Our amendment would stop this punitive process in its tracks. Our amendment recognizes the positive contribution that these companies make to their communities, to their employees, and to the unit holders. Our amendment is consistent with many precedents which have changed tax law prospectively, and left alone those who relied on prior law for major business decisions.

Our amendment also strikes a blow for fairness. After all, companies that converted to PTP form went through a complex, expensive, and time-consuming process. In so doing, they relied on the expectation that they would be able to operate as partnerships as long as they wanted. If they ever wished to convert to corporate form, or to become a nontraded partnership, they could do so when it was in their best interests. Some firms have converted voluntarily during the intervening years for business reasons unrelated to the sunset. However, to force such a conversion arbitrarily is totally unfair, and will require the investment of significant resources and managerial time far better devoted to strengthening these companies.

There were only about 120 PTP's in existence in 1987; nearly three-fourths of which were in lines of business untouched by the new restrictions. Today, their are still 27 ''grandfathered'' PTP's in operation. They are in such businesses as nursing homes, restaurants, hotels and motels, investment management and financial advisory services, cable television, home, and office services such as carpet cleaning, lawn maintenance and pest control, and even Macadamaia nuts.

They operate in all 50 states and employ more than 225,000 people nationwide—from fewer than 200 people in Alaska, South Dakota, and Vermont, to more than 10,000 people in California, Illinois, Ohio, Pennsylvania, and Texas. There are more than 300,000 unit holders nationwide from as few as 500 in North Dakota to as many as 30,000 in California.

These are the people with the greatest stake in this amendment—the employees and unit holders of the affected PTP's. Unless our amendment is enacted into law, the value of units will decline. The investors will suffer—most of whom are average, middle-class Americans who purchased their PTP's, oftentimes through an individual retirement account, because of the attractive yield, safety, and liquidity. As PTP units decline in value, a company's ability to expand will be negatively affected and the employees will suffer. Employees who are also unit holders—tens of thousands of individuals nationwide—face a ''double whammy.''

I hope my colleagues will agree that this punitive provision of the tax code is unfair, counterproductive, and contrary to the objectives of capital formation and jobs growth. Our amendment would fix the problem, so I urge its inclusion in this year's tax bill.

Mr. HATCH. Mr. President, I am pleased to join with my distinguished colleague from Delaware, Senator ROTH, in introducing legislation that would prevent publicly traded partnerships [PTP's] from becoming subject to the double taxation of corporate tax status. This bill extends permanently the tax law that recognizes these entities as ordinary partnerships for tax purposes. As a result, they will escape the unfair consequences that would occur if this bill is not passed.

The Omnibus Budget Reconciliation Act [OBRA] of 1987 changed the tax law so that all PTP's would be treated, for tax purposes, as corporations. However, those partnerships established prior to this legislation were grandfathered. For the past 8 years, these grandfathered PTP's have been taxed as

partnerships, but the grandfather protection provided by OBRA '87 will expire at the end of 1997. In order to continue this needed protection from double taxation, it is necessary to extend this provision permanently.

At the time OBRA '87 was enacted, the Congress commissioned the Treasury Department to study the effect that this change in the taxation of PTP's would have on Federal revenue. However, the 1991 Treasury study on large partnerships did not address this issue directly. This suggests to me the possibility of invalid reasoning behind OBRA '87 provision that taxes newly formed PTP's as corporations. This apparent lack of justification in taxing newly formed publicly traded partnerships as corporations clearly makes switching the grandfathered PTP's to this tax status unfair.

Mr. President, the world recognizes America as a land of business opportunity. In order to preserve these partnerships from penalties and taxes that were unforeseen at the time of their establishment—and to prevent negative repercussions for workers, investors, customers, and suppliers—I urge my colleagues to join us in supporting this legislation.

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, Mr. BRADLEY, and Mr. LAUTENBERG):

S. 1175. A bill to suspend temporarily the duty for personal effect of participants in certain world athletic events; to the Committee on Finance.

FOREIGN ATHLETES LEGISLATION

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation to facilitate the entry of foreign athletes into the United States to participate in the 1998 Goodwill Games. The New York metropolitan area has assumed the honor of hosting the 1998 games, with events to be held in both New York and New Jersey. I am pleased to be joined by Senator D'AMATO, BRADLEY, and LAUTENBERG in this effort. The House Ways and Means Subcommittee on Trade approved an identical measure last week.

The United States has routinely granted duty-free entry for such events in the past. Last year, Congress granted temporary customs duty waivers to the 1994 World Cup, the 1996 Summer Olympics, and three other international sporting events. Before that, to the World University Games held in 1993 in Buffalo, NY. Without this bill, teams, athletes and officials would suffer an extensive Customs paperwork process and pay duties for their equipment and personal effects. They would receive refunds of these duties only upon their departure from the United States. Furthermore, handling the sheer volume of participants who will enter the United States would pose a serious burden on U.S. Customs officials, who have many other important responsibilities. Foreign nations, without exception, assure hassle-free entry for U.S. athletes participating in similar events, and we should continue to reciprocate the courtesy.

New York is much looking forward to hosting the 1998 Goodwill Games, which, since they follow the 1998 Winter Olympic Games in Nagano, Japan, should be the final major gathering of nations in the 20th century. This is fitting because the games were founded with the vision of promoting international cooperation through world-class competition. Moscow hosted the inaugural games in 1986—the cold war still persisting and only 2 years after the Soviets boycotted the 1984 Summer Olympics in Los Angeles—and the world witnessed 91 national 8 European, and 6 world records broken. The 1990 games in Seattle were the largest cultural and business-to-business exchange in United States-Soviet history, and the 1994 games in St. Petersburg, Russia were the first international event in Democratic Russia. Organizers anticipate the 1998 games in New York to attract 3,000 athletes from over 70 countries, and I expect them to be a worthy addition to this impressive history.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 1176. A bill to direct the Secretary of the Interior to make certain modifications with respect to a water contact with the city of Kingman, Arizona, and for other purposes; to the Committee on Energy and Natural Resources.

WATER CONTRACT LEGISLATION

• Mr. MCCAIN. Mr. President, I join today with my colleague from Arizona, Senator KYL, in introducing legislation to help resolve a problem that affects the water supplies of more than 120,000 of our constituents in Mohave County, AZ.

Representative BOB STUMP (R–AZ), whose Third Congressional District includes Mohave County, recently introduced a similar bill cosponsored by all Arizona House Members.

The purpose of the bill is to require the Secretary of the Interior to take three actions with respect to a contract that provides for the Secretary to deliver 18,500 acre-feet of Colorado River water to the city of Kingman, AZ.

First, the measure directs the Secretary to amend the contract by extending its term from December 31, 1995, to December 31, 2001.

Second, the bill directs the Secretary, within 60 days of receiving a request from Kingman, to approve the assignment of the amended contract to the Mohave County Water Authority, a corporation organized pursuant to State law.

Third, the bill directs the Secretary to further amend the contract so as to make water available for permanent service, consistent with a plan developed by the city in consultation with the U.S. Bureau of Reclamation.

Mr. President, enactment of this legislation is necessary to implement a regional plan for meeting existing and future water needs of the city of Kingman and other fast-growing communities in Mohave County. The most significant element of this plan is the assignment of Kingman's contract for Colorado River water to the Mohave County Water Authority.

In 1968, Kingman entered into a contract with the Secretary of the Interior providing for the annual delivery of 18,500 acre-feet of Colorado River water for use by the city's municipal and industrial customers. Under this contract, the United States reserved the right to terminate the contract if Kingman did not ''order, divert, transport and apply to water for use by the city'' by November 13, 1993.

In the early 1970's, the city began studying various alternatives to facilitate direct use of its entitlement to Colorado River water.These studies consistently indicated that the capital expenditures required for water transportation and treatment make direct use of the water prohibitively expensive.

In May 1993, the city adopted a water adequacy study that set forth a long-term water resource management plan. The plan is based largely on a hydrological analysis of the Hualapai Basin, which is Kingman's primary groundwater source. This analysis concluded that there is more than enough groundwater in the basin to meet the city's needs for the next century. Accordingly, the study recommended that the city's Colorado River entitlement be exchanged for funds to develop its groundwater resources, and to pursue effluent reuse and conservation projects.

Subsequently, Kingman solicited statements of interest from entities that would be interested in an exchange of the city's contractual entitlement to Colorado River water. In a response that reflects the great need in the region for water, seven entities expressed an interest in obtaining more than 45,000 acre-feet of water annually.

In September 1993, the Bureau of Reclamation extended Kingman's contract to provide additional time for the city and other Mohave County communities to develop a regional approach to putting Kingman's entitlement to beneficial use. Public meetings and discussions by the Colorado River Ad Hoc Water Users Group/Mojave Ad Hoc Committee, Kingman, Bullhead City, Lake Havasu City, Golden Shores Water Conservation District, the Mojave Valley Irrigation and Drainage District, the Mohave Water Conservation District, and others, led to a consensus that a county water authority should be created. This new authority would also satisfy Reclamation's expressed interest in having a single entity to work with in coordinating efforts to meet the needs of water contractors in Mohave County.

In January 1994, Mohave County's representatives in the State legislature introduced legislation to establish a

Mohave County Water Authority. Governor Fife Symington signed the bill into law on April 8, 1994, and the Arizona Department of Water Resources recommended that the Bureau of Reclamation initiate the process to effect the transfer of Kingman's water to the authority. To provide the time needed to complete this process, the Bureau again extended the contract to December 31, 1995.

In March 1995, just days before Kingman, the authority and Reclamation were to sign the documents necessary to assign the city's water to the authority, the Interior Department abruptly directed Reclamation to ''temporarily suspend'' the proceedings. It was later learned that the reason for this suspension was a last-minute decision by the Department to look at possibly using the Kingman water to settle Indian water rights claims in Arizona.

The Arizona delegation has always recognized that water from many sources will be needed to complete settlements of the remaining tribal claims in our State. However, at no time has the delegation or the State of Arizona regard the Kingman water allocation as a necessary part of any overall Indian water settlement plan. To the contrary, as noted in the preceding paragraphs, the delegation has worked to assist Kingman and other Mohave County communities in the their efforts to develop the kind of regional solution that the new county water authority represents.

Mr. President, over the past 12 years, Arizona congressional delegations have worked with previous administrations and the current administration in seeking to settle Indian water rights claims by negotiation, not litigation. A high level of cooperation and communication has characterized these efforts, which thus far have resulted in Congress enacting six water settlements involving Arizona tribes. Settling the remaining water rights claims of Arizona tribes will require similar efforts, and involve completion of the allocation of Arizona's finite water sources.

Regrettably, the Department's action in aborting the lengthy process by which the Kingman water was to be allocated was contrary to all previous representations and commitments by the Department regarding the Kingman water. It effectively disregarded the extensive efforts by Mohave County, the Arizona Department of Water Resources, the Arizona legislature, and the local communities and citizens who, with the active cooperation and support by the Bureau of Reclamation, developed the Mohave County Water Authority.

Mr. President, I strongly believe that the agreements that were to have been concluded in March that would have assigned the Kingman water contract to the Mohave County Water Authority should be signed and implemented. The legislation that Senator KYL and I introduce today will simply ensure that the assignment will occur as planned.

I am hopeful that the Congress can consider and approve this legislation in an expeditious manner. I am also hopeful that the Department will support this legislation in an effort to reestablish the kind of cooperation and communication that is so essential to concluding and implementing the complex agreements that comprise any water rights settlement.●

By Mr. HATCH:

S. 1177. A bill to amend the Social Security Act and the Internal Revenue Code of 1986 to provide improved access to quality long-term care services, to obtain cost savings through provider incentives and removal of regulatory and legislative barriers, to encourage greater private sector participation and personal responsibility in financing such services, and for other purposes; to the Committee on Finance.

THE QUALITY CARE FOR LIFE ACT

Mr. HATCH. Mr. President, I rise today to introduce S. 1177, the Quality Care for Life Act, which offers ideas on how we can deal with an important and necessary aspect of our health care delivery system—long term care.

One of the most frequent concerns I hear from citizens of Utah is the fear of having to impoverish themselves and their loved ones in order to obtain much needed long term care services.

Clearly, long term care is an issue of vital concern to our constituents and to Members of this body as well.

But, the issue of long term care always presents this body with a dilemma.

On the one hand, Senators wish very much that we can offer some kind of help to many, many American families that face the human and financial struggle of needing long term care.

On the other hand, a public program to provide and/or pay for long term care, if not designed properly, could prove enormously expensive and become just another promise that we cannot keep.

At a time when this country faces budget deficits so massive that they affect the future viability of our country, I do not think that we can afford any enormously expensive new program. That is not my intent in putting this bill forward today.

Indeed, I hope that this measure will offer a useful starting point in the Senate for discussions on long term care and related issues, including the appropriate Federal role. Obviously, any final measure we adopt must be crafted very carefully in close consultation with the Congressional Budget Office, so that it does not add unduly to the deficit.

In the interim, I think it is important that the Senate indicate its commitment to resolving the long term care dilemma which faces so many Americans.

The extent of the proposals we consider, and their costs, are factors, but they should not become obstacles. Because we cannot do it all for everyone, we must not settle for doing nothing for anyone.

It is only by taking action now to lay the foundations for a public/private partnership that our society will be prepared 10, 20, and 30 years hence to meet the long term care needs of a growing elderly population.

I am putting forth this legislative proposal, the Quality Care for Life Act, in order to provoke a national dialogue on our Nation's long term care needs and how they can best be addressed.

In drafting S. 1177, I attempted to widen and strengthen the long term care safety net with appropriate reliance on private sector resources.

Last year, this body considered health care reform legislation that would have created a new Federal long term care program offering Federal and State payment for long term care services to the functionally disabled.

Many of us agreed with the intent of that program, but had serious concerns about whether it embodied the best approach for addressing our Nation's long term care needs.

First, such a program would have been far too expensive. It is clear that we are going to have to invest greater resources in long term care. However, in making that investment, we must make sure that we invest wisely, and that we offer solutions that address the need in a constructive manner.

Second, such a program would not have embodied true reform; it would only have created yet more government programs modeled after previous and ineffective government programs.

The legislation I am introducing today meets the same goals as the more ambitious and expensive legislation that we considered last year, yet it accomplishes them through a more targeted and cost-effective approach.

For the edification of my colleagues, I would like to describe the problems that my legislation seeks to remedy, and outline how the bill addresses those areas.

THE NEED FOR CHANGE IN LONG TERM CARE FINANCING

Our society, individually and collectively, has not made adequate provisions for financing the costs of long term care. Individuals and families are not saving for, or insuring themselves against, the costs of long term care. The Federal/State Medicaid Program is stretched to the breaking point. Families and governments are going broke.

Without action to address these problems, our growing elderly population will come to rely much more heavily on Medicaid to pay for long term care. In 1993, Medicaid accounted for approximately 52 percent of all long term care payment—and about 69 percent of all nursing facility residents—in the United States. If current trends continue unchecked, Medicaid will be burdened with an ever increasing share of the nation's long term care costs as the baby boomers reach retirement.

But these current trends cannot continue. Federal and State budgets—already strained badly by current Medicaid long term care obligations—cannot bear such costs. Nor would the elderly be well served by an overwhelmed Medicaid Program.

February 1993 Gallup Organization survey results indicated that 76 percent of Americans agree that ''government should pay the cost of nursing home care only for those who cannot afford it.'' In order to meet the Nation's growing long term care needs without both emptying the public purse and sacrificing quality of care, our society cannot afford to rely solely on government.

Instead, we must encourage and enforce an expectation of personal responsibility on the part of those with the means to plan for and pay for potential long term care costs. Government can—and must—help in the effort by working to see that individuals have the information and resources needed to accept responsibility for meeting their own long term care needs.

LONG TERM CARE COSTS ARE IMPOVERISHING SENIOR CITIZENS

Most elderly Americans are unaware of the magnitude of long term care costs and of the limits of government assistance. Most Americans do not foresee needing long term care. Most probably do not realize how costly months or years of long term care can be.

Many Americans wrongly assume that government programs of their general health insurance will cover the cost of any long term care services they might need. For all these reasons, individuals and families face long term care costs for which they have not planned and which they cannot afford.

The costs of long term care can quickly wipe out the assets even of those who have worked and saved for a lifetime. The cost of 1 year of nursing home care is more than triple the average annual income for an elderly American.

But the nation's current long term care policy does not promote personal planning, saving, or the purchase of insurance against the financial risk of long term care costs. Nor does our Nation provide comprehensive social insurance against the financial catastrophe of long term care costs. Only after a long term care recipient has been impoverished does government assistance become available through Medicaid—a welfare program.

MEDICAID IS IMPOVERISHING THE FEDERAL AND STATE GOVERNMENTS

According to the Health Care Financing Administration (HCFA), total Medicaid payments (state and federal) have nearly doubled over recent years—from $54.5 billion in FY 1989 to $101.7 billion in fiscal year 1993. The countless court battles over Medicaid reimbursement, and the protracted battle over ''provider specific taxes'' well illustrate the strain that Medicaid is putting on State and Federal resources. This strain jeopardizes the availability and quality of both acute and long term care for those who must depend on Medicaid.

Clearly, if current long term care needs have stretched Federal and State budgets to their limits, the future needs of a burgeoning population of elderly will overwhelm our current arrangements for long term care financing. Therefore, the nation must look to sources other than government for additional resources to meet the future long term care needs.

I believe that long term care reform should have the following goals: providing appropriate access to the full continuum of long term care services; ensuring that all Americans have the means to meet the cost of long term care; moving individuals and families away from dependence on government welfare; programs for long term care financing; and addressing the Nation's long term care needs in a fiscally responsible way.

THE ROLE OF PRIVATE LONG TERM CARE INSURANCE

Results from the March 1993 Gallup Organization survey indicate that 79 percent of Americans agree that ''to keep government costs as low as possible, private insurance should play a more active role in paying for nursing home bills for most Americans.''

Private insurance, so useful in protecting individuals and families form such costly misfortunes as accidents and illness, has great potential for marshaling private sector resources to meet long term care costs.

Insurance offers a very good means to preserve an individuals's choice from among various long term care arrangements and competing providers. Its expanded use would make an appropriate private/public long term care cost burden that the graying of America will otherwise put on the American taxpayer.

To date, private insurance accounts for less that two percent of all payments for long term care services. I am confident, however, that with appropriate changes in federal policies private long term care insurance can and will take on a larger role of private insurance, a number of things must change. Chiefly, long term care insurance policies must have value to consumers.

Many States are interested in encouraging residents to purchase private long term care insurance because they see an opportunity to slow the growth of their Medicaid spending by shifting a significant share of long term care costs to private insurance. We are now beginning to see evidence of how much long term care insurance can save the Medicaid Program. Publishing in Health Affairs in the fall of 1994, Marc Cohen, Nanda Kumar, and Stanley Wallack estimated that having a long term care insurance policy reduces the probability of spending down to Medicaid eligibility levels by some 39 percent. The authors estimate that, in the aggregate, Medicaid expenditures would be reduced by $7,945 to $15,519 for every nursing home entrant who had a long term care insurance policy. According to the analysis of Cohen, Kumar, and Wallack, this translates into cutting what Medicaid pays per nursing home entrant in half for long term care purchasers.

The Quality Care for Life Act would make the laws tighter on asset transfers so that people cannot avoid their personal responsibilities by protecting unreasonable amounts of their personal funds from legitimate nursing home expenses, thus shifting the burden to taxpayers.

FEDERAL LONG TERM CARE INSURANCE STANDARDS AND CONSUMER PROTECTIONS

Appropriate Federal standards and consumer protections for long term care insurance would inspire consumer confidence, foster growth of the private long term care insurance market, and ensure that elderly consumers are spared the problems that once plagued the Medigap insurance business. Accordingly, S. 1177 would establish Federal standards to ensure appropriate policy design and sales practices.

CLARIFICATION OF THE FEDERAL TAX STATUS OF PRIVATE LONG TERM CARE INSURANCE

The Quality Care for Life Act would make the following clarifications to the tax treatment of long term care insurance: treatment of long term care insurance premiums paid by individuals in the same manner as accident and health insurance premiums; treatment of benefits received under long term care insurance contracts for long term care services in the same manner as benefits received under accident and health insurance; treatment of employer plans providing long term care services in the same manner as accident or health plans; treatment of life insurance benefits paid to a terminally ill individual in the same manner as death benefits; inclusion of long term care options as preferred employee benefits in employer programs, including cafeteria plans; and clarification of the allowance of tax deduction for additions to an insurer's long term care insurance reserves.

The private long term care insurance market is growing and improving. Products have evolved and improved. Insurance companies, have gained experience and expertise in designing and pricing policies. Sales have been rising by 30–35 percent a year over recent years. There have been some two million long term care policies purchased. I believe that the private long term care insurance market is on the way to realizing its potential. With the right kind of Federal standards, consumers will come to understand the value of long term care insurance. Private insurance can then become a full partner in a private/public long term care partnership.

EXPANSION OF HOME AND COMMUNITY BASED LONG TERM CARE

Today, about 6 million older Americans living at home need assistance as

a result of their disabilities. As we in Congress debate a health care system that addresses our current inequities in access and costs, we must lay the foundation for addressing our long term care demands of today and tomorrow.

The Quality Care for Life Act would establish a home and community based service program for disabled persons who either need assistance with three activities of daily living or who suffer from Alzheimer's disease or a related cognitive disorder.

S. 1177 also revises the reimbursement system to create a payment level for subacute care in nursing home, thus increasing access for those patients who need that level of care but are unable to get that care in community nursing facilities because the costs for providing the service are much higher than the current skilled nursing home daily rate. Currently, these services are provided by hospitals at a much higher cost. Finally, the bill provides for a prospective payment system for nursing facilities.

By the year 2030, there will be more elderly than young people, and the population age 85 and over is expected to more than triple in size between 1980 and 2030. My home State of Utah has the fastest growing population over 80 in the country.

We simply do not have the necessary federal resources to provide all Americans every benefit they need. An aging population will significantly increase demand for long term care services. Planning today will save us from bankruptcy and lack of services tomorrow.

I believe the greatest barrier to enacting long term care legislation has been its substantial cost. Although any proposal will entail new costs, I have constructed the Quality Care for Life Act to place maximum reliance upon the private sector wherever possible, in order to leverage our resources since we will be providing new services. It is true that my bill will entail new spending in the short-run, but these funds are an investment which will achieve greater savings over the long-run.

Some of the costs will be incurred because we are establishing a floor for home health services, so that the most frail and sick of our elderly population are guaranteed home care now. Currently, many fall through the cracks of our care system. They lack adequate home care and are denied access to adequate nursing home services.

We all know that the amount and duration of home care services varies from State to State and also varies with State areas between urban and rural areas. But this is not fair to our frail elderly, and we have a responsibility to see that all Americans, regardless of where they live, can receive the home care services they need and deserve.

If we help our elderly now, and provide the kinds of home care services they need, they may never need to be in a nursing home and may never be a long-term drain on scarce Federal financial resources. We can do the right thing, and do it now. If we do not act soon, we will be mortgaging our children's future to pay for our own long term care needs.

I intend to work with the other members of this body so that we can provide our Nation's elderly the care they so badly need and deserve. I think that the Quality Care for Life proposal will go a long way in meeting that goal, and I hope my colleagues will give it serious consideration. I certainly welcome their suggestions.

By Mr. CHAFEE (for himself, Mr. MACK, Mr. THURMOND, Mr. PELL, Mr. BUMPERS, and Mr. LIEBERMAN):

S. 1178. A bill to amend title XVIII of the Social Security Act to provide for coverage of colorectal screening under part B of the Medicare program; to the Committee on Finance.

THE CANCER SCREENING AND PREVENTION ACT OF 1995

• Mr. CHAFEE. Mr. President, today, I am introducing the Cancer Screening and Prevention Act of 1995. This bill targets colorectal cancer, one of this Nation's leading causes of death by cancer, by providing coverage under Medicare for prevention and early detection of colorectal cancer services. Medicare already provides for the treatment of colorectal cancer, but the treatment of this disease in its later stages is much more expensive than finding it early and treating it early.

Last year, a Senate amendment—offered by my colleague from Utah, Mr. HATCH—was adopted during the health reform debate with strong bipartisan support. It directed that colorectal cancer screening benefits consistent with the guide to clinical preventive services, recommended by the U.S. Preventive Services Task Force, be included in any health care reform comprehensive benefits package. An amendment virtually identical to the bill I am introducing today, was passed with strong bipartisan support last year by the relevant House committees. A companion bill was introduced again this year in the House and has well over 40 cosponsors. I am hopeful our bill will receive similar strong support. I believe it is important for the Congress to act on this bill in order to stop the deaths this disease causes without prevention screening.

In 1995 alone, 55,300 people are expected to die from colorectal cancer, and 138,200 new cases will be found. Colorectal cancer is the second leading cause of cancer death in this Nation—far more men and women die each year of colorectal cancer than with breast cancer or prostate cancer. In fact, colorectal cancer strikes men and women equally but is easily treated when found early.

If colorectal cancer is not found early, the 5-year survival rate is 60 percent or lower. Early detection, however, can boost patients' 5-year survival rate to 91 percent. That differential is astonishing when measured in terms of lives and dollars saved. In recent years, colon cancers have become almost completely preventable by using techniques which became readily available only during the past decade. The vast majority of those afflicted with colorectal cancer are over the age of 50. Unfortunately, Medicare does not specifically cover colorectal cancer screening and prevention services and it should.

In recent years, scientific developments have made clear that colorectal cancer can be eradicated. Just as Medicare now covers other preventive services such as mammography screening and flu shots, its time to add colorectal screening and prevention services.

Several years ago, we moved aggressively to ensure that women took appropriate steps to prevent cervical cancer. It is time now to move aggressively to provide the preventive services necessary to eradicate this lethal cancer in the population most at risk.

A study recently published in the Journal of the National Cancer Institute evaluated the effect of various factors on the costs of colon and other cancers. Not surprisingly, the study found that the costs associated with initial care of colon cancer was higher than when the cancer was first detected in its later stages. Based on these findings, the study concluded that interventions that prevent colon cancer will afford the greatest immediate cost savings.

Under this act, all Medicare recipients will be eligible for limited cancer screening or preventive services. For certain high risk individuals a more comprehensive examination is available.

The legislation enables early detection of colon cancer by providing for an annual fecal occult blood test. This low-cost, noninvasive blood-screening test allows for early detection of colorectal cancer. Research shows that this test, as well as a followup exam of a positive result, reduces cancer risks from 33 to 43 percent. The average cost of this test is only $5.

Second, this legislation includes limited coverage of a flexible sigmoidoscopy exam which enables a doctor to inspect the lower part of the colon where 50 to 60 percent of polyps and cancers occur. This preventive service would be available no more than once every 4 years and is an essential component of the basic screening regimen recommended by the American Cancer Society for all asymptomatic, average risk Americans over the age of 50.

Third, this act would allow individuals at high risk for getting colon cancer to receive a screening colonoscopy exam no more than once every 2 years. A screening colonoscopy allows a doctor to inspect the entire colon. This procedure also enables doctors contemporaneously to perform biopsies and to remove potentially precancerous polyps.

The Cancer Screening and Prevention Act of 1995 specifically delineates those individuals at high risk for colon cancer, and allows the Secretary of Health and Human Services the authority to revise the category of high risk individuals. An individual faces a high risk of colon cancer if he or she has a history of cancer, suspicious polyps, or chronic digestive diseases such as inflammatory bowel disease, Crohn's disease, or ulcerative colitis, or if the individual has any gene markers for colorectal cancer present, or has a family history of colon cancer.

The preventive screening services in this act are all standard medical procedures which are recommended by the American Cancer Society, the National Cancer Institute, the American College of Gastroenterology, the American Gastroenterological Association, and the American College of Physicians.

Patient and professional groups alike support this legislation. The American College of Gastroenterology worked closely in providing scientific and technical information. This bill also enjoys the strong support of the American Gastroenterological Association, and the American Society for Gastrointestinal Endoscopy. It is strongly supported by consumer groups including the Crohn's and Colitis Foundation, the United Ostomy Association, and the other 10 patient care groups which comprise the Digestive Disease National Coalition.

It is my understanding that a group of radiologists are concerned that their diagnostic procedures is not named as a covered service in this legislation. It is my hope that should this bill move through the Finance Committee and the Senate, we will work with these groups to resolve this issue.

Several of my colleagues have indicated their strong support by sending a letter urging other Members to support this legislation. I ask unanimous consent that the letter of Senators MACK and LIEBERMAN be included in the RECORD.

I urge my colleagues to cosponsor the Cancer Screening and Prevention Act.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

COLORECTAL CANCER SCREENING SHOULD BE COVERED UNDER MEDICARE

Colorectal cancer screening should be added to the clinical preventive services now covered under Medicare.

Leading scientific organizations recommend colorectal cancer screening services for normal risk individuals beginning at age 50. Three types of tests should be covered: Annual fecal occult blood test (FOBT) for normal risk patients age 50 and over; flexible sigmoidoscopy for normal risk patients 50 and over, once every 3–5 years; and colonoscopy exams for high risk patients.

Currently, Medicare coverage of preventive services is limited to screening for cervical and breast cancer, pneumococcal vaccines and hepatitis B vaccines. Yet, colorectal cancer is the No. 2 cancer killer and is one of the most preventable types of cancer and curable when detected early.

Colorectal cancer screening services should be covered because:

Colorectal cancer is the second deadliest cancer right after lung cancer.

About 138,000 new cases of colorectal cancer will be diagnosed and about 55,300 people will die from the disease in 1995. The disease is most common in people over 50 and strikes men and women in almost equal numbers. In fact, the average age of colorectal cancer patients at time of diagnosis is 71.

It is one of the most preventable types of cancer and curable when detected early.

Most colorectal cancers develop from benign polyps. Finding and removing these polyps reduces the risk of colon cancer by 90 percent.

Detection and prevention strategies are well documented and highly effective.

Screening has long been recommended by many organizations, including American Cancer Society, National Cancer Institute, American College of Physicians, and the Blue Cross and Blue Shield Association in their guidelines.

The nation's leading expert panel—the U.S. Preventive Services Task Force—is releasing their report in September of 1995 and it is expected to recommend screening (FOBT and sigmoidoscopy). An April 1995 study done by the Office of Technology Assessment shows colorectal screening to be cost-effective.

Colorectral screening services are provided to most Federal employees.

Every major Federal employee health care plan recognizes the effectiveness of colorectal cancer screening services and provides coverage for these services.

U.S. SENATE,
Washington, DC, August 10, 1995.

DEAR COLLEAGUE: Even though we face many competing priorities this year, we think it is critically important that we make progress in addressing the No. 2 cancer killer in the United States—colorectal cancer. This year, 149,000 new cases of colorectal cancer will be detected and about 55,300 people will die from the disease, making it second only to lung cancer in causing cancer deaths. It predominantly strikes individuals over the age of 50, most of whom are senior citizens. The average age at the time of diagnosis is 71.

Today our colleague, Senator John Chafee, is introducing the Cancer Screening and Prevention Act of 1995. This bill provides Medicare coverage of preventive services which will enable the detection and early treatment of colon cancer. Its preventive measures track the screening recommendations of the American Cancer Society (ACS), the National Cancer Institute (NCI), the National Institutes on Health (NIH), the American College of Gastroenterology (ACG), the American Gastroenterological Association (AGA), and the American Medical Association (AMA).

We know that early detection of colorectal cancer saves lives. Colon cancer is nearly completely preventable using techniques that have been available for over a decade. Recent research bears this out.

Research published by Dr. Sidney Winawer and colleagues in the New England Journal of Medicine (December 1993) found that removal of precancerous polyps reduced the incidence of colon cancer by 90 percent and mortality by over 95 percent. This work proved conclusively that timely removal of polyps will eliminate most colon cancers.

The way to reduce colorectal cancer is very simple—promote screening. The ACS, the NCI, the ACG, and the AGA recommend that individuals at age 50 be screened annually for colorectal cancer by fecal occult blood tests and by flexible sigmoidoscopic examination every three to five years. High risk individuals should have a more thorough test—colonoscopic surveillance—available every two years. Colorectal cancer screening reduces cancer risk and is at least as cost-effective as other preventive health care services.

The NCI conducted a cost analysis of screening the U.S. population from ages 50 to 80 that demonstrated a beneficial cost-effectiveness ration relative to other preventive services. Scientific evidence is well established to demonstrate that screening of our elderly population for colorectal cancer will save lives and is cost-effective.

Given the prevalence of this disease in older Americans and the overwhelming evidence that screening is effective, these preventive benefits should be covered under Medicare. A recent analysis and estimate of the cost of this legislation, prepared by Peter McMenamin, Ph.D., a former Health Care Financing Administration official, projects the full cost of this legislation to be $429 million over four years, which means an average of $107 million annually.

Please join us as original cosponsors of the Cancer Screening and Prevention Act of 1995. To become a cosponsor or for further information, please call Doug Guerdat of Senator Chafee's staff at 224–2921.

Sincerely,

CONNIE MACK.
JOSEPH I. LIEBERMAN.●

● Mr. MACK. Mr. President, I am pleased to join my colleague, Senator JOHN CHAFEE in introducing the Medicare Cancer Screening and Prevention Act of 1995. The legislation provides for Medicare coverage of preventive care specifically aimed at the early detection, prevention, and treatment of colorectal cancer.

This bill, when enacted, will close a significant gap that currently exists in the preventive services covered by Medicare. Under current law, Medicare does not reimburse for preventive colorectal screening services. A beneficiary must have a presenting condition, such as bleeding, or must already have colorectal cancer before services are provided through Medicare. These are very costly diseases, which Medicare will pay to treat. However, I believe it is in the best interests of patients and the Medicare system to provide for coverage of tests which will identify colorectal cancer at its earliest stages. Medicare currently provides coverage for other preventive services such as mammography screening for breast cancer and flu shots. This legislation will send the message to all beneficiaries that colorectal cancer is curable if detected early.

This legislation will ensure that Medicare beneficiaries will be eligible to receive the basic colorectal cancer screening tests which are recommended by the American Cancer Society for all Americans over the age of 50. As my colleagues will recall, these basic tests were used successfully to detect and successfully treat former President Ronald Reagan's cancerous colon polyps in 1985.

Colorectal cancer is one of the most widely contracted forms of cancer, with higher incidence rates than either breast cancer or prostate cancer. In

1995 alone, according to the American Cancer Society, more than 138,000 new cases of colorectal cancer will be diagnosed. Tragically, more than 55,000 Americans will die from the disease this year. My home State of Florida has been disproportionately affected by colorectal cancer with the third highest estimated number of new cases and deaths associated with this form of cancer.

Scientific data clearly show preventive services can successfully combat many cases of colorectal cancer. If colorectal cancer goes undetected, the 5-year survival rate is approximately 60 percent or less. If, however, colorectal cancer is detected at its earliest stages, then the 5-year survival rate increases dramatically to 87 percent for rectal cancer and 93 percent for colon cancer. The legislation we are introducing today will not only address the early detection of colorectal cancer, but it will also aid in the prevention of colorectal cancer in many Americans over the age of 50.

At a time when the Board of Trustees of Social Security and Medicare warns that the Hospital Insurance, or Medicare part A, trust fund will become insolvent by the year 2002, Congress should enact laws to prevent hospitalization and reduce long-term health care costs. This legislation will greatly enhance this effort by focusing on preventive services which have been shown to be cost-effective. For example, a National Cancer Institute study found the costs of screening for colorectal cancer are favorable as compared to other preventive services. The study also found the costs of medical treatment of advanced colorectal cancer far outweigh the costs of prevention and early treatment. In addition, the onset of this tragic form of cancer leads to lost productivity, lost income, and lost tax revenues.

The scientific evidence supporting the benefits of early detection and screening is clear. The technology to prevent colorectal cancer has been available for more than a decade. Now is the time to increase the accessibility of these services to the population of Americans who are at highest risk of contracting colorectal cancer—our senior citizens. The American Cancer Society, along with physician organizations such as the American College of Gastroenterology, and consumer groups such as the Crohn's and Colitis Foundation of America are unified in their strong support and advocacy for this important legislation. Enactment of this bill is prudent, cost-effective, and humane.

My wife, our daughter, my mother, and I are each alive today because of the early detection of cancer. I've been told that our Nation can see a 50-percent increase in cancer survival rates if only Americans would follow the screening recommendations of the American Cancer Society. The need is great. The cost-effectiveness of these tests is conclusive. I am proud to join in introducing the Medicare Cancer Screening and Prevention Act of 1995. I ask all of my colleagues to join us in this effort.●

By Mr. ROCKEFELLER:

S. 1179. A bill to amend the Internal Revenue Code of 1986 to provide reductions in required contributions to the United Mine Workers of America Combined Benefit Fund, and for other purposes; to the Committee on Finance.

THE SMALL NONCOAL PRODUCING COMPANY RELIEF ACT

Mr. ROCKEFELLER. Mr. President, today, I am introducing a bill to provide relief to small, non-coal producing companies that are experiencing difficulty in meeting their financial obligations under the 1992 Coal Industry Retiree Health Benefit Act. I want to see this bill enacted into law so a group of small companies will get the help needed to preserve and pay for the health care coverage of their former workers. These companies want to make sure miners' health care benefits are protected, just as I do. But they need some help to do it.

I will talk more about why I think it is so important that the Senate act on this legislation, but first, I think it's equally important for everyone to understand what brought me to this place. The context for the introduction of a bill is important, and in this case, the context is the history of the coal fields. So, first some background before I discuss my proposal for small company relief:

Almost 50 years ago, the President of the United States, Harry S. Truman, ended a national coal strike that had forced him to seize the mines. That action established a unique relationship between the Federal government, miners and operators in the coal industry. In that 1946 strike, health care was a central issue. And coal miners' health care benefits remain central to labor relations in the coal industry today.

Through the years since that 1946 strike, coal miners and their families have traded or foregone other benefits to preserve the decent health care benefits upon which they depend because illness and injury are so endemic to coal mining. In fact, the health program that exists for current and retired miners today derives from the one established when President Truman seized the mines.

In the 1950's, a grand compact was reached between labor and management in the coal industry. In return for health and pension security, labor agreed to mechanization of the mines, which led to the elimination of 300,000 jobs in Appalachia alone. This leads to today's situation, because it is largely the retirees of that vast industrial restructuring whose health care was in jeopardy before passage of the 1992 Coal Industry Retiree Health Benefit Act, now simply known as the Coal Act. Those coal miners created the might of modern industrial America. They fueled our Nation's economic progress. In 1992, when Congress passed the Coal Industry Retiree Health Benefit Act, we told those miners that their tremendous contributions and sacrifices mattered and the promises made to them will be kept. We must not forsake that promise now or ever.

The urgent need for legislation to protect miners' health care benefits became increasingly clear during the fall of 1989, when another coal strike broke out, where health care benefits were, once again, a central issue. In that year, I introduced my first bill to prevent collapse of the trust funds that provide health care for retired coal miners. The dwindling base of contributors resulting from bankruptcies and the failure of some companies to keep paying into the funds, along with exploding health care inflation, put the health trust funds in jeopardy. Then-Secretary of Labor Elizabeth Dole appointed a mediator to assist in settlement of the strike. When the settlement was reached, she announced appointment of a commission to recommend a long-term solution to the crisis of the health trust funds. That Commission became known as the Coal Commission.

Secretary Dole explained that during negotiation of the settlement of that strike, which involved a single company, ''it became clear to all parties involved that the issue of health care benefits for retirees affects the entire industry.''

''A comprehensive, industry wide solution is desperately needed,'' Secretary Dole then said.

Secretary Dole's Coal Commission submitted its final report in November, 1990. The Commission observed that health benefits are an emotional subject in the coal industry, not only because coal miners have been promised and guaranteed health care benefits for life, but also because coal miners in their labor contracts have traded lower pensions over the years for better health care benefits. The Commission said it firmly believes that the retired miners are entitled to the health care benefits that were promised and guaranteed them and that such commitments must be honored. To quote from that 1990 report—

> Retired coal miners have legitimate expectations of health care benefits for life; that was the promise they received during their working lives and that is how they planned their retirement years. That commitment should be honored.

The Coal Commission also considered the fairest way to ensure that the health fund did not collapse. They recommended that companies that employed miners, current signatories and former signatories alike, share the costs of providing benefits to miners whose employers went out of business. And, in the words of the Dole Commission, the best way to finance the health benefits promised miners was the ''imposition of a statutory obligation to contribute on current and past signatories, mechanisms to prevent future dumping of retiree health obligations''.

Collective bargaining cannot work when companies are not around to bargain because they are bankrupt or have walked away from their responsibilities, sometimes through legal loopholes created by dozens of conflicting court decisions. Moreover, the orphan retirees whose last employers were gone faced the prospect that when the collective-bargaining agreement expired in 1993, no one would have been responsible for their health care. The miners' health program's shrinking funding base and spiraling costs made continuation of the old program unworkable. The task Congress and the administration had in 1992 when we passed the Coal Act was to do the best we could to assign responsibility for funding the health program, recognizing that there was not then, nor is there now, a perfect solution.

And so, in 1992, Congress met its national responsibility to protect miners' health benefits. I was proud to author that legislation, the Coal Industry Retiree Health Benefit Act, or the Coal Act. It was attached to the Energy Policy Act of 1992. I worked on that legislation with an outstanding group of Members whose invaluable contributions were essential to securing passage of the Act—my esteemed colleagues Senators BYRD and FORD, Senators SPECTER, Wallop, and others from the Finance and Energy Committees. The Coal Act would not have become law without their work and without strong bipartisan cooperation. We did our work and miners' benefits were saved. That makes me enormously proud.

Those miners today, on average, are 73 years old. Most worked in the mines for 20, 30, 40 years, or more. Every day many rode a rail car a mile underground, stooped in a crawlspace 4 feet high with ice cold water up to their knees, and made their mines productive and their employers rich. For them, the legacy of that work is black lung disease, asthma, cancer, back pain, and chronic respiratory disease. Their health benefits remain a matter of life and death. The Coal Act protected their benefits into the future. But in the 104th Congress, some want to take away the health care security of miners. I don't intend to let that happen.

But there are big mining companies still looking for a way to walk from the promise made to these miners nearly 50 years ago. These companies have spent millions to oppose the implementation of the Coal Act. So far, they have not succeeded in robbing miners of the health security the Coal Act provides.

But this year, they are at it again, seeking what amounts to nothing more than a tax break for a select group of special interest companies.

If they succeed, the health benefits of 30,000 West Virginia miners, widows, and orphans will be in jeopardy. Thousands of people like them in other States will face the same peril. If those people lose their health care coverage, we will have a disastrous health care crisis in West Virginia, with miners and widows being forced to sell their homes to pay for the medication and treatment they now receive. Retirees in every State will be in the same desperate straits, and the other coal States where most miners have retired would all face the same health care tragedy.

We must remember that the promise of coal miners' health is not just another entitlement program. These benefits have been earned by a lifetime in the mines—a lifetime of deferred wages as the price paid for health care coverage. Some big companies who are, or were, in the coal business, and who can afford to pay for these benefits, continue to say they do not want to meet their responsibilities. And I am sad to have to report that there are bills in both the Senate and the House which seek to amend the Coal Act and let these companies walk away from their commitment to miners.

Some Members of Congress are supporting a bill to let big coal companies abandon retired miners. Some would like to see such a bill included in this year's budget reconciliation bill, hiding the fate of more than 92,000 retired miners and their dependents as a tiny provision in a massive bill. If Congress is not careful, a cut in coal miners' health benefits may be snuck through in the bill needed to make sure the Federal Government can operate.

What's especially troubling is how many of these companies are using exaggerated claims of a huge surplus in the health fund to bolster their contention that there is sufficient money with which to give them a tax break. The problem is the big surplus which they project is not supported by the independent actuarial analysis commissioned (by the fund's trustees) to review the financial health of the fund. The Ernst and Young analysis, conducted by Guy King, a former chief actuary at HCFA, advises Congress to be very cautious about any changes to the Act which expend the fund's reserves. Guy King's report said that the most likely scenario is there will be a $39 million deficit in the health funds in the year 2003. The General Accounting Office told Congress on May 25, 1995, that ''it now appears that annual deficits—instead of surpluses—are likely to occur, which would erode the current surplus over time.'' That means that there's not a lot of extra money, available to help pay for this proposed tax break.

This tells me we have to be very, very thoughtful about doing anything which would destabilize the health fund—which a big tax break would most certainly do.

While we are seeing all the efforts of the millions- and billion-dollar mining conglomerates who are looking to the courts and to legal fine print for a way out of keeping their promise to retired coal miners and their widows—these companies are certainly not focused on how smaller businesses are affected by the Act.

These large companies are hoping Congress will give them a big tax break, but small businesses in financial need would not be helped under their plans to amend the Coal Act.

I think that's wrong. The Coal Act ensures retired miners and their dependents will receive the health benefits they were promised. That's what it was intended to do. And it's working.

But over the last year or two, as I have monitored the implementation of the Act, I have been hearing from and meeting with small companies who are very troubled. They tell me it is difficult for a number of them to do what is required under the provisions of the Coal Act. They tell me that they need some relief. As you know, the Coal Act requires small and large businesses to contribute to the miners' health funds on behalf of their former employees. But that requirement may be more doable for large companies than it is for small ones.

While holding small businesses legitimately responsible for the health benefits of their former workers is fair, the burden of making those payments may be difficult for some. That's why I am introducing a bill which would amend the Coal Act to help small, non-coal producing businesses make their premium payments under the Act.

I think this legislation is a way we can provide some relief to small companies, who are no longer in the coal business, and yet still maintain the stable financing structure of the Act.

It doesn't make sense to me to bankrupt a viable small company because it cannot meet its full premium obligations under the Act, especially if the company has an ability to make payments consistently over time. I want to make it easier for these small businesses, which create jobs in West Virginia, Pennsylvania, Ohio, and across the Nation, to stay in business and make reasonable premium payments under the Act.

An important point to underscore: the financial condition of the fund is not such that forgiving the health care liability assigned any one group of companies under the Act is possible. Miners' benefits would be at risk. What I think we can do is limit, or cap, the liability of small, non-coal producing companies in a way which provides meaningful assistance. That is what my bill attempts to do. Again, it's not perfect, but it offers relief that could make a real difference to small companies.

The group of small, non-coal producing companies which I have been working with committed themselves to a long process in which we sat down and together figured out a way that small companies could get help while miners' benefits are protected. We struggled with the numbers, and we struggled with the constraints—practical, political, some philosophical.

Keeping in mind our shared goal of protecting miners benefits and doing something concrete to help small companies—something which could actually be signed into law—together, we negotiated the piece of legislation I am introducing today.

This is not necessarily the only way to provide a group of small companies with targeted relief from their obligations under the Coal Act. Others may suggest different approaches. But I firmly believe that this approach is one which can pass, and be signed into law, if we keep this relief package directed at the small companies most in need of financial assistance. I am working on one or two other minor adjustments to the Act, one of particular interest to West Virginia, which I also hope to have ready for the Senate's consideration in the near future.

Another word of caution: If companies with an ability to pay, but with a desire to avoid their responsibilities, want to use a small company relief package as momentum for their efforts, it could be that we go another year or many years without small company relief. I, for one, do not want a bunch of big companies with the ability and obligation to keep promises to miners to get in the way of small company relief along the lines of what I have proposed here. I hope my colleagues don't either. One thing I do know, if efforts to pile on some mega-tax break or relief for companies that do not need or deserve it are successfully attached to this proposal in the legislative process, I will not be able to recommend to the President that he sign such a bill. I cannot support anything that puts miners' health benefits at risk. I hope we can avoid that scenario.

The small company relief bill which I am introducing is enactable. It will go a long way to helping meet the needs of the small companies which I have been working with—and they are a cross-section of small companies from all over the country. This is the product of many, many, months of negotiations. I have consulted with Rich Trumka, the President of the United Mine Workers of America [UMW] about this package. He agrees that there may be a need to address the needs of small companies that truly can't afford to pay. The members of the Bituminous Coal Operators Association [BCOA] also understand my strong desire to see this type of relief enacted this year, and they know what is in this bill and why. With those two disparate interests in agreement that it is appropriate for me to pursue small company relief, I am confident that we can actually make this small company relief a reality this year.

All parties—the small companies, the BCOA, and the UMW—agree that we cannot know today, with any precision, the exact dollar impact of these provisions on the long-term financial health of the fund. As the financial impact comes into better focus, under no circumstances will we move ahead with this amendment if it would cause the fund surplus to fall below a level that protects the benefits.

A sacred promise was made to coal miners, their widows and dependents, and Congress took historic, bipartisan action in 1992 to keep that promise. These guaranteed health benefits cannot be sold off or traded away. But small companies can get some meaningful relief to help them meet their obligations under the 1992 Coal Act without jeopardizing miners' health benefits through the bill I am submitting today. I urge my colleagues to carefully consider this legislation, and to work with me in enacting and achieving its objective.

Mr. President, I ask unanimous consent that the complete text of the Small Non-Coal Producing Company Relief Act of 1995 be printed in the RECORD.

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

S. 1179

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 ''Small Non-Coal Producing Company Relief Act''.

SEC. 2. REDUCTION IN CONTRIBUTIONS OF CERTAIN PERSONS TO COAL MINERS COMBINED BENEFIT FUND.

(a) IN GENERAL.—Part II of subchapter B of chapter 99 of the Internal Revenue Code of 1986 (relating to financing of Combined Benefit Fund) is amended by inserting after section 9704 the following new section:

''SEC. 9704A. REDUCTIONS IN ANNUAL PREMIUMS OF CERTAIN ASSIGNED OPERATORS.

''(a) GENERAL RULE.—The annual premium of an assigned operator under section 9704(a) shall—

''(1) in the case of an eligible small assigned operator, be reduced as provided in subsection (b), and

''(2) in any case in which there is a surplus in the Combined Fund to which subsection (c) applies, be reduced as provided in subsection (c).

''(b) REDUCTIONS FOR ELIGIBLE SMALL ASSIGNED OPERATORS.—

''(1) IN GENERAL.—If this subsection applies to an eligible small assigned operator for any plan year of the Combined Fund, the annual premium under section 9704(a) for such operator for such plan year shall not exceed 5 percent of the operator's average annual taxable income for purposes of chapter 1 for the 5-taxable year period ending with the operator's most recent taxable year ending before the beginning of the plan year.

''(2) YEARS TO WHICH SUBSECTION APPLIES.—

''(A) IN GENERAL.—This subsection shall apply to any plan year of the Combined Fund—

''(i) which begins before October 1, 1998,

''(ii) which begins after September 30, 1998, and before October 1, 2003, but only if the Combined Fund has a surplus as of the close of the plan year ending September 30, 1998, equal to or greater than $150,000,000, or

''(iii) which begins after September 30, 2003, but only if the Combined Fund has a surplus as of the close of the plan year ending September 30, 2003, equal to or greater than $100,000,000.

''(B) COORDINATION WITH SURPLUS REDUCTIONS.—This subsection shall not apply to any eligible small assigned operator for any plan year for which no annual premium is imposed on such operator by reason of subsection (c).

''(3) ELIGIBLE SMALL ASSIGNED OPERATORS.—For purposes of this section—

''(A) IN GENERAL.—The term 'eligible small assigned operator' means any assigned operator—

''(i) the average annual gross income of which for purposes of chapter 1 for the 5-taxable year period ending with the operator's most recent taxable year ending before October 1, 1993, did not exceed $25,000,000, and

''(ii) which is not engaged in the production of coal for the plan year for which the determination is being made.

For purposes of this subparagraph, production by a related person shall be treated as production by the assigned operator.

''(B) PRODUCTION OF COAL.—For purposes of subparagraph (A), an assigned operator or related person shall be treated as engaged in the production of coal if it has employed employees in—

''(i) the extraction of coal, or

''(ii) the preparation, processing, or changing of coal for sale.

''(4) AGGREGATION RULES.—In determining gross income or taxable income for purposes of this section, an assigned operator and any related persons shall be treated as 1 person.

''(c) REDUCTIONS BASED UPON FUND SURPLUS.—

''(1) ASSIGNED OPERATORS.—If, as of the close of any plan year ending after September 30, 1997, the Combined Fund has a surplus equal to or greater than 50 percent of the net expenses of the Combined Fund for the plan year, no annual premium shall be imposed under section 9704(a) on any eligible small assigned operator for the succeeding plan year.

''(2) OTHER OPERATORS.—If, as of the close of any plan year ending after September 30, 1997, the Combined Fund has a surplus equal to or greater than 100 percent of the net expenses of the Combined Fund for the plan year, the annual premium under section 9704(a) for the succeeding plan year of any assigned operator other than an eligible small assigned operator shall be reduced by an amount which bears the same ratio to the surplus in excess of 100 percent of the net expenses of the Combined Fund for the plan year as—

''(A) such assigned operator's applicable percentage (expressed as a whole number), bears to

''(B) the sum of the applicable percentages (expressed as whole numbers) of all assigned operators other than eligible small assigned operators.

''(d) OVERALL LIMITATION.—

''(1) IN GENERAL.—In no event shall the total reductions in annual premiums payable to the Combined Fund under this section for any plan year exceed $5,000,000.

''(2) CALCULATION OF REDUCTIONS.—For purposes of paragraph (1), the total reductions in annual premiums for any plan year shall not include any reductions under this section in premiums payable by an eligible small assigned operator who, prior to the date of the enactment of this section, has not paid at least 50 percent of the premiums assessed such assigned operator for the period October 1, 1994, through June 30, 1995.

''(3) ORDERING RULE.—Any decrease in premium reductions under this section for any plan year by reason of paragraph (1) shall be applied first against the reductions under subsection (b) and then against reductions under subsection (c). Any such decreases shall be made ratably among operators.

''(e) COMPUTATION OF SURPLUS.—For purposes of this section, any determination of a surplus in the Combined Fund—

''(1) shall be calculated on an accrual basis,

''(2) shall be made and certified by an independent auditor retained by the trustees, and

''(3) once so certified, shall be reviewable by a court of law only to determine if such determination is reasonable.

A determination shall be considered reasonable for purposes of paragraph (3) if it is made in accordance with generally accepted accounting principles and is based on assumptions which, in the aggregate, are reasonable.''

(b) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 99 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 9704 the following new item:

''Sec. 9704A. Reductions in annual premiums of certain assigned operators.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after January 31, 1993.

SEC. 3. WAIVER OF PENALTIES.

(a) IN GENERAL.—In the case of an eligible small assigned operator (as defined in section 9704A(b)(3) of the Internal Revenue Code of 1986, as added by section 1), no penalty shall be imposed under section 9707 of such Code on any failure of such operator to pay any installment of a premium due under section 9704 of such Code before January 1, 1996, if the operator pays such installment before such date. For purposes of this subsection, the amount of the installment shall be determined after application of the amendments made by section 1.

(b) COMPLIANCE.—An operator shall not be treated as failing to meet the requirements of subsection (a) with respect to any installment if—

(1) the failure to pay the installment before January 1, 1996, was due to reasonable cause and not to willful neglect, and

(2) the failure is corrected within 90 days of the later of—

(A) notice of the failure, or

(B) a final administrative or judicial determination of the amount of the installment which is not reviewable or appealable.

By Mrs. KASSEBAUM:

S. 1180. A bill to amend title XIX of the Public Health Service Act to provide for health performance partnerships, and for other purposes; to the Committee on Labor and Human Resources.

THE SAMHSA REAUTHORIZATION FLEXIBILITY ENHANCEMENT AND CONSOLIDATION ACT OF 1995

Mrs. KASSEBAUM. Mr. President, I rise today to introduce the SAMHSA Reauthorization, Flexibility Enhancement, and Consolidation Act of 1995. An important aim of this legislation is to increase state flexibility in the use of mental health and substance abuse block grant funds while improving program accountability.

The Substance Abuse and Mental Health Services Administration [SAMHSA] programs address the nation's major substance abuse and mental illness health problems. The SAMHSA programs have greatly improved the quality and availability of substance abuse prevention and treatment and mental health services for our citizens.

The fields of substance abuse treatment and prevention and mental health have changed considerably since the last reauthorization in 1992—so must our approach in addressing these major public health issues.

One important feature of the reauthorization legislation I am proposing is its focus on establishing new partnership block grant arrangements with the states. The performance partnerships will utilize state selected ''benchmarks'' to help us learn what works. They will also facilitate the ability of state and local communities to improve the health of their people. These partnership block grants are a unique blend of categorical and block grants.

I believe performance partnerships will increase state flexibility and streamline Federal management while they also will retain accountability. The performance partnerships would also lead to the development and enhancement of national and state data collection systems and provide for justification of future funding.

Another major issue addressed in my proposal is that of the mentally ill homeless. My proposal to enhance outpatient treatment for the gravely disabled mentally ill who are committed would ensure that these individuals receive needed treatment in the least restrictive setting.

Concerns have been raised about my approach which I would like to address. First, some believe my proposal would not allow a sufficient transition time to develop meaningful partnerships between the Federal Government and the state around the implementation of performance partnerships.

Second, some believe my proposal should not retain any of the set-asides because this does not allow for flexibility for the states.

Third, others perceive the current data systems to be inadequate and irrelevant to measure performance on national and state-local levels.

To address these concerns, the legislation would:

First, establish a minimum 2-year transition period before performance partnerships are implemented;

Second, provide states the option to opt-out of the current set-aside requirements; and

Third, require states to report only on performance for which they have current and relevant data systems.

Mr. President, I realize there are issues which others may continue to raise regarding the performance partnership block grants and the commitment of the mentally ill homeless. The introduction of this proposal today should serve as the starting point for further discussions of these issues.

As discussion of these issues develops, I would welcome any suggestions my colleagues or others may have for improving this legislation. I ask unanimous consent that a summary of this bill and the text of the legislation be made a part of the RECORD.

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

S. 1180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, REFERENCES, AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''SAMHSA Reauthorization, Flexibility Enhancement, and Consolidation Act of 1995''.

(b) REFERENCES IN ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—MENTAL HEALTH

SEC. 101. REPLACEMENT OF STATE PLAN PROGRAM WITH PERFORMANCE PARTNERSHIPS.

(a) ELIMINATION OF STATE PLAN PROGRAM REQUIREMENTS.—Subpart I of Part B of title XIX (42 U.S.C. 300x–1 et seq.) is amended by repealing sections 1911, 1912, and 1913.

(b) PERFORMANCE PARTNERSHIP FRAMEWORK.—Subpart I of Part B of title XIX (as amended by subsection (a) is further amended by inserting after the subpart heading the following new sections:

"SEC. 1911. PERFORMANCE PARTNERSHIP GOALS AND OBJECTIVES.

''(a) GOALS.—

''(1) IN GENERAL.—It is the goal of this subpart for the States and the Federal Government, working together in a partnership, to improve the quality of life of adults with a serious mental illness and children with a serious emotional disturbance, and to improve the overall mental health of United States citizens, by—

''(A) promoting access to comprehensive community mental health services for adults with a serious mental illness and children with a serious emotional disturbance; and

''(B) increasing the development of systems of integrated comprehensive community based services for adults with a serious mental illness and children with a serious emotional disturbance.

''(2) SYSTEMS OF INTEGRATED COMPREHENSIVE COMMUNITY BASED SERVICES.—As used in paragraph (1)(B), the term 'systems of integrated comprehensive community based services' means integrated systems of care that would enable children and adults to receive care appropriate for their multiple needs. With respect to children, such integrated systems of care shall ensure the provision, in a collaborative manner, of mental health, substance abuse, education and special education, juvenile justice, health, and child welfare services. With respect to adults, such integrated systems of care shall ensure the provision, in a collaborative manner, of mental health, vocational rehabilitation, housing, criminal justice, health, and substance abuse services.

''(b) PERFORMANCE PARTNERSHIP OBJECTIVES.—

''(1) ESTABLISHMENT.—Not later than October 1 of the fiscal year prior to the fiscal year in which this section becomes effective as provided for in section 601(c) of the SAMHSA Reauthorization, Flexibility Enhancement, and Consolidation Act of 1995, the Secretary, in consultation with the States, local governments, Indian tribes, health care providers, consumers, and families, shall establish, and as necessary, periodically revise—

''(A) a list of performance partnership objectives to carry out the goals of this subpart, and

''(B) a core set of not more than five of such objectives that address mental health problems of national significance.

''(2) REQUIREMENTS.—Each performance partnership objective established under paragraph (1) shall include—

''(A) a performance indicator;

''(B) the specific population being addressed;

''(C) a performance target; and

''(D) a date by which the target level is to be achieved.

''(3) PRINCIPLES.—In establishing the performance partnership objectives under paragraph (1), the Secretary shall be guided by the following principles:

''(A) The objectives should be closely related to the goals of this subpart, and be viewed as important by and understandable to State policymakers and the general public.

''(B) Objectives should be results-oriented, including a suitable mix of outcome, process and capacity measures.

''(C) In the case of an objective that has suitable outcome measures, measurable progress in achieving the objective should be expected over the period of the grant.

''(D) In the case of an objective that has suitable process or capacity measures, such objective should be demonstrably linked to the achievement of, or demonstrate the potential to achieve, a mental health outcome.

''(E) Data to track the objective should, to the extent practicable, be comparable for all grant recipients, meet reasonable statistical standards for quality, and be available in a timely fashion, at appropriate periodicity, and at reasonable cost.

''(c) DEFINITIONS.—

''(1) ESTABLISHMENT BY SECRETARY OF DEFINITIONS; DISSEMINATION.—For purposes of this subpart, the definitions established on May 20, 1993, for the terms 'adults with a serious mental illness' and 'children with a serious emotional disturbance' shall apply unless such definitions are revised by the Secretary. The Secretary shall disseminate the definitions to the States.

''(2) STANDARDIZED METHODS.—The Secretary shall establish standardized methods for applying the definitions in paragraph (1). A funding agreement for a grant under this subpart for the State is that the State will utilize such methods in making such estimates.

''(3) DATE CERTAIN FOR COMPLIANCE BY SECRETARY.—Not later than 90 days after the date of the enactment of this section, the Secretary shall establish the standardized methods described in paragraph (2).

"SEC. 1912. STATE PERFORMANCE PARTNERSHIP PROPOSAL.

''(a) IN GENERAL.—To be eligible to receive a grant under this subpart, a State shall, in accordance with this section, prepare and submit to the Secretary a performance partnership proposal.

''(b) ELEMENTS RELATED TO PERFORMANCE OBJECTIVES.—A State proposal submitted under subsection (a) shall contain—

''(1) a list of one or more objectives (derived from the performance partnership objectives established under section 1911(b)), including at least one objective in the children's area, toward which the State will work and a performance target for each objective which the State will seek to achieve by the end of the partnership period;

''(2) a rationale for the State's selection of objectives, including any performance targets, and timeframes;

''(3) a statement of the State's strategies for achieving the objectives over the course of the grant period and evidence that the actions taken under a partnership agreement will have an impact on the objective;

''(4) a statement of the amount to be expended to carry out each strategy; and

''(5) an assurance that the State will report annually on all core performance objectives established under section 1911(b)(1)(B) (regardless of whether it is working toward those objectives) and the specific objectives toward which the State will work under the performance partnership.

A State may select an objective that is not an established performance partnership objective under section 1911 if the State demonstrates to the Secretary that the objective relates to a significant mental health problem in the State that would not otherwise be appropriately addressed. The Secretary may require that objectives and requirements be developed by the State in a manner consistent with the requirements of paragraphs (2) and (3) of section 1911(b).

''(c) TRANSITION PROVISION.—A State may select objectives under this section which have solely process or capacity measures until such time as data sets are determined by the Secretary to be readily available, sufficient, and relevant under section 601(a) of the SAMHSA Reauthorization, Flexibility Enhancement, and Consolidation Act of 1995, to make outcome measurements for objectives developed by the Secretary.

"SEC. 1913. FEDERAL-STATE PERFORMANCE PARTNERSHIP.

''(a) NEGOTIATIONS CONCERNING STATE PROPOSAL.—

''(1) REASONABLE EFFORTS TO AGREE.—A State submitting a proposal under section 1912 and the Secretary shall make all reasonable efforts to agree on a performance partnership pursuant to which the State shall expend amounts received under a grant provided under this subpart.

''(2) DUTIES OF SECRETARY.—In negotiations conducted under paragraph (1) concerning the proposal of a State, the Secretary shall consider the extent to which the proposed objectives, performance targets, timeframes, and strategies of the State are likely to address appropriately the most significant mental health problems (as measured by applicable indicators) within the State.

''(b) PARTNERSHIP PERIOD.—The Secretary, in consultation with a State receiving a grant under this subpart, shall set the duration of the partnership with the State. Initial and subsequent partnership periods shall not be less than 3 nor more than 5 years, except that the Secretary may agree to a partnership period of less than 3 years where a State demonstrates to the satisfaction of the Secretary that such shorter period is appropriate in light of the particular circumstances of that State.

''(c) ASSESSMENT AND ADJUSTMENT.—

''(1) ASSESSMENTS.—The Secretary shall annually assess—

''(A) the progress achieved nationally toward each of the core objectives established under section 1911(b)(1)(B); and

''(B) in consultation with each State, the progress of the State toward each objective agreed upon in the performance partnership under subsection (a);

and make such assessment publicly available.

''(2) STATE ASSESSMENTS.—In carrying out paragraph (1)(B), the Secretary shall take into consideration such qualitative assessments of performance as may be provided by each State pursuant to section 1942(a)(3).

''(3) ADJUSTMENTS.—With respect to a performance partnership under subsection (a), the Secretary and the State may at any time in the course of the partnership period renegotiate, and revise by mutual agreement, the elements of the partnership to account for new information or changed circumstances (including information or changes identified during assessments under paragraph (1)).

''(d) GRANTS TO STATES; USE OF FUNDS.—

''(1) GRANTS.—The Secretary shall award a grant to each State that—

''(A) has reached a performance partnership agreement with the Secretary under subsection (a); and

''(B) is carrying out activities in accordance with the terms of such partnership;

in an amount that is equal to the allotment of the State under section 1918. Grants shall be awarded for each fiscal year for which the partnership is in effect.

''(2) USE OF FUNDS.—Funds paid to a State under a grant described in paragraph (1) may be used by the State only for the purpose of carrying out this subpart (including related data collection, evaluation, planning, administration, and educational activities).''.

(c) ADDITIONAL GENERAL PROVISIONS CONCERNING PARTNERSHIPS.—Section 1917 (42 U.S.C. 300x–6) is amended—

(1) by striking the section heading;

(2) by striking ''application'' each place that such term appears and inserting ''proposal'';

(3) in subsection (a)—

(A) in the subsection heading, by striking ''(a) IN GENERAL.—'' and all that follows through paragraph (1) and inserting ''(d) ADDITIONAL ELEMENTS.—A State proposal is in accordance with this subsection if—'';

(B) in paragraph (3), by inserting ''proposed performance partnership and'' before ''agreements'';

(C) in paragraph (5), by striking ''the application contains the plan required in section 1912(a),'';

(D) in paragraph (7), by striking ''including the plan under section 1912(a))'';

(E) by redesignating paragraphs (2) through (4), and paragraphs (6) and (7) as paragraphs (1) through (5), respectively; and

(F) by transferring such subsection to section 1912 (as added by subsection (b)) and inserting such subsection at the end of such section; and

(4) in subsection (b)—

(A) by transferring such subsection to section 1913 (as added by subsection (b));

(B) by inserting such subsection at the end of such section 1913; and

(C) by redesignating such subsection as subsection (e).

(d) DEFINITIONS.—Section 1919 (42 U.S.C. 300x–8) is amended by adding at the end thereof the following new paragraphs:

''(3) The term 'performance indicator' means a quantifiable characteristic used as a measurement.

''(4) The term 'performance target' means a numerical value sought to be achieved within a specified period of time.''.

(e) CONFORMING AMENDMENTS.—Title XIX is amended—

(1) in the heading to subpart I of part B (42 U.S.C. 300x–1), by striking ''**Block**'' and inserting ''**Performance Partnership**'';

(2) in section 1914(b)(1) (42 U.S.C. 300x–3(b)(1)), by striking ''plans'' each place that such appears and inserting ''performance partnerships'';

(3) in section 1915(a) (42 U.S.C. 300x–4(a))—

(A) in the subsection heading, by striking ''PLAN'' in the subsection heading and inserting ''PERFORMANCE PARTNERSHIP''; and

(B) by striking ''plan'' each place that such appears and inserting ''performance partnership'';

(4) in subpart III of part B (300x–51 et seq.), by striking ''section 1911'' each place that such appears, and inserting ''subpart I''.

(5) in section 1941 (42 U.S.C. 300x–51)—

(A) in the section heading, by striking ''**PLANS**'' and inserting ''**PERFORMANCE PARTNERSHIPS**''; and

(B) by striking ''plan'' each place that such appears and inserting ''performance partnership'';

(6) in section 1944(b)(3) (42 U.S.C. 300x–54(b)(3)), by striking ''1912(d) or''; and

(7) in section 1945(d)(2)(A) (42 U.S.C. 300x–55(d)(2)(A)), by striking ''the condition established in section 1912(d) and''.

(f) CONFORMING AMENDMENT TO TITLE V.—Section 520(b) (42 U.S.C. 2900bb–31(b)) is amended—

(1) by striking paragraph (5); and

(2) by redesignating paragraphs (6) through (14) as paragraphs (5) through (13), respectively.

SEC. 102. REVIEW BY PLANNING COUNCIL OF STATE'S REPORT.

Section 1915(a)(1) (42 U.S.C. 300x–4(a)(1)) is amended by inserting ''(and the report of the State under section 1942(a) concerning the preceding fiscal year)'' after ''to the grant''.

SEC. 103. STATE OPPORTUNITY TO CORRECT OR MITIGATE FAILURE TO MAINTAIN EFFORT.

Section 1915(b)(3)(A) (42 U.S.C. 300x–4(b)(3)(A)) is amended by striking the second sentence and inserting the following new sentences: ''If the Secretary determines that a State has failed to maintain such compliance, the Secretary may permit the State, not later than 1 year after notification, to correct or mitigate the noncompliance. If the State does not carry out a correction or mitigation as specified by the Secretary (or if the Secretary decided it was not appropriate to provide that opportunity), the Secretary shall reduce the amount of the grant under this subpart for the State for the current fiscal year by an amount equal to the amount constituting such failure.''.

SEC. 104. FUNDING FOR ORGANIZATIONS THAT ARE FOR-PROFIT.

Section 1916(a)(5) (42 U.S.C. 300x–5(a)(5)) is amended by inserting before the period the following: '', unless the State determines that it is appropriate and beneficial for a for-profit private entity to receive assistance to facilitate the integration of the State Medicaid program or mental health managed care programs under title XIX of the Social Security Act)''.

SEC. 105. AUTHORIZATION OF APPROPRIATION.

Section 1920(a) (42 U.S.C. 300x–9(a)) is amended by striking ''$450,000,000'' and all that follows through the end thereof and inserting ''$280,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999.''.

SEC. 106. DATA COLLECTION, TECHNICAL ASSISTANCE, AND EVALUATIONS.

(a) RESERVED FUNDS.—Section 1920(b) (42 U.S.C. 300x–9(b)) is amended to read as follows:

''(b) RESERVED FUNDS.—

''(1) IN GENERAL.—The Secretary shall reserve 5 percent of the amounts appropriated for a fiscal year under subsection (a)—

''(A) to carry out sections 505 (providing for data collection) and 1948(a) (providing for technical assistance to States) with respect to mental health; and

''(B) to conduct evaluations concerning programs supported under this subpart.

The Secretary may carry out activities funded pursuant to this subsection directly, or through grants, contracts, or cooperative agreements.

''(2) DATA COLLECTION INFRASTRUCTURE.—In carrying out this subsection, the Secretary shall make available grants and contracts to States for the development and strengthening of State core capacity (including infrastructure) for data collection and evaluation.''.

(b) DATA COLLECTION AUTHORITY.—Section 505(a) (42 U.S.C. 290aa–4(a)) is amended—

(1) in paragraph (1), by striking ''and'' at the end thereof;

(2) in paragraph (2), by striking the period at the end thereof and inserting ''; and''; and

(3) by adding at the end the following:

''(3) other factors as needed to carry out part B of title XIX.

The Secretary may conduct activities under this subsection directly, or through grants, contracts, or cooperative agreements.''.

(c) CONFORMING AMENDMENT.—Section 1948(a) (42 U.S.C. 300x–58(a)) is amended by striking ''through contract, or through grants'' and inserting ''or through grants, contracts, or cooperative agreements''.

SEC. 107. PROJECTS FOR ASSISTANCE IN TRANSITION FROM HOMELESSNESS.

(a) PURPOSE OF GRANTS.—Section 522(b) of the Public Health Service Act (42 U.S.C. 290cc–22(b)) is amended—

(1) in paragraph (10)—

(A) in subparagraph (F), by striking ''and'' at the end thereof; and

(B) by adding at the end thereof the following new subparagraph:

''(H) providing ongoing assistance for rental payments and the costs of living in such settings when such housing is considered to be integral for the treatment of mentally ill homeless individuals committed to treatment in outpatient settings; and'';

(2) by redesignating paragraph (11) as paragraph (12); and

(3) by inserting after paragraph (10), the following new paragraph:

''(11) education of the judiciary regarding the manifestations of mental illness which are indications for committing the mentally ill homeless to inpatient or outpatient treatment in accordance with existing State commitment statutes for the mentally ill; and''.

(b) INCENTIVE GRANTS.—Part C of title V of the Public Health Service Act (42 U.S.C. 290cc–21 et seq.) is amended—

(1) by inserting after the part heading the following:

''SUBPART I—FORMULA GRANTS FOR MEDICAL AND SUPPORTIVE SERVICES FOR THE MENTALLY ILL HOMELESS''; and

(2) by inserting after section 529 (42 U.S.C. 290cc–29) the following:

SUBPART II—INCENTIVE GRANTS FOR STATE TO IMPROVE THEIR OUTPATIENT COMMITMENT TREATMENT SYSTEMS AND COMMITMENT LAWS

''SEC. 529A. INCENTIVE GRANTS FOR STATE TO IMPROVE THEIR OUTPATIENT COMMITMENT TREATMENT SYSTEMS AND COMMITMENT LAWS.

''(a) IN GENERAL.—Beginning in fiscal year 1998, the Secretary may make a grant to or enter into a contract with a State or territory under this section for the purpose of providing the services described in subsection (b) to individuals who—

''(1) are suffering from serious mental illness; and

''(2) have been committed to outpatient treatment in accordance with State or territory commitment laws for the mentally ill because such individuals have been found to be gravely disabled as a result of their mental illness.

''(b) SPECIFICATION OF SERVICES.—The services described in this subsection are—

''(1) mental health services in outpatient settings;

''(2) outreach services; and

''(3) case management to assure that individuals remain in treatment and to assist individuals with supportive and supervisory residential settings.

''(c) APPLICATION.—To be eligible to receive a grant or contract under this section, a State or territory shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

''(1) an agreement that the State or territory will ensure that payments under the grant will be expended by the State or territory or through grants made by the State or territory to political subdivisions of the State or territory and to nonprofit private entities;

''(2) a description of the performance objectives that the project to be funded under the grant will be measured against, and that a recipient of the grant under this section shall meet; and

''(3) an assurance that the State or territory will meet information requirements as specified by the Secretary.

''(d) SPECIAL RULE.—

''(1) IN GENERAL.—The Secretary may not award a grant or contract to a State or territory under this subpart unless the State or territory involved has in effect on the date of the award a law—

''(A) which provides for the commitment of the gravely disabled; and

''(B) that provides for intensive case management to monitor compliance and reconnect the gravely disabled to treatment services, a court hearing prior to a gravely disabled individual being re-committed to an inpatient or outpatient setting, or the involvement of outpatient mental health care providers in the initial treatment planning as well as the monitoring and case management aspects of follow-up care for the gravely disabled individual.

''(2) DEFINITION.—For the purpose of this section, the term 'gravely disabled' means an individual who, as a result of mental illness, fails to meet his or her essential needs including the need for food, clothing, shelter or medical care, to the degree that such individual poses a real, present and substantial threat of serious physical harm to self, except that the failure of an individual to meet essential needs shall not, in and of itself, be sufficient grounds to establish that such person is mentally ill.

''(e) ADMINISTRATIVE EXPENSES.—The Secretary may not award a grant or contract to a State or territory under this section unless the State or territory involved agrees that not more than 4 percent of the amounts received under the award will be expended for administrative expenses regarding the amounts.

''(f) MAINTENANCE REQUIREMENTS.—

''(1) MAINTENANCE OF EFFORT.—The Secretary may not award a grant or contract to a State or territory under this section unless the State involved agrees that the State or territory will maintain State or territory expenditures for services described in subsection (b) at a level that is not less than the average level of such expenditures maintained by the State or territory for the 2-year period preceding the fiscal year for which the State or territory is applying to receive such an award.

''(2) MATCHING FUNDS.—The Secretary may require that a State or territory that applies for a grant or contract under this section provide non-Federal matching funds, as appropriate, to ensure the State or territory commitment to the programs funded under this section. Such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

''(g) GENERALLY APPLICABLE PROVISIONS.—

''(1) COMPETITIVE BASIS.—The Secretary shall ensure that grants and contract are awarded under this section on a competitive basis, as appropriate, to States or territories that demonstrate a potential to retain, or a history of retaining, the gravely disabled mentally ill who have been committed to outpatient treatment in outpatient treatment in accordance with court ordered treatment plans.

''(2) TERMS.—The period under which payments are made under a grant or contract under this section may not exceed 5 years. Such payments shall be subject to annual approval by the Secretary and subject to the availability of appropriations for the fiscal year involved. Nothing in this paragraph shall be construed as limiting the number of awards that may be made to a State or territory under this section.

''(3) PEER REVIEW.—An application received by the Secretary under this section shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval.

''SUBPART III—GENERALLY APPLICABLE PROVISIONS''.

(c) FUNDING.—Section 535(a) of the Public Health Service Act (42 U.S.C. 290cc–35(a)) is amended—

(1) by striking ''this part'' and inserting ''section 521''; and

(2) by striking ''$75,000,000'' and all that follows through the period and inserting ''$29,000,000 for each of the fiscal years 1996 and 1997, and $50,000,000 for each of the fiscal years 1998 and 1999. With respect to amounts appropriated under this subsection for fiscal year 1998, the Secretary shall allocate such amounts between subparts I and II based on the ratio of the amounts allocated under section 521 and under sections 520A(e) and 506(e) for the program known as the 'Access to Community Care and Effective Services and Supports' (ACCESS) program for fiscal year 1997.''.

(d) REPEAL.—Effective on October 1, 1997—

(1) section 506 (42 U.S.C. 290aa–5) is repealed; and

(2) the Secretary shall not allocate funds under section 520A (as amended by section 108) (42 U.S.C. 290bb–32) or under any other authority for the program known as the ''Access to Community Care and Effective Services and Supports'' (ACCESS) program.

SEC. 108. PRIORITY MENTAL HEALTH NEEDS OF REGIONAL AND NATIONAL SIGNIFICANCE.

Section 520A (42 U.S.C. 290bb–32) is amended to read as follows:

''SEC. 520A. PRIORITY MENTAL HEALTH NEEDS OF REGIONAL AND NATIONAL SIGNIFICANCE.

''(a) GRANTS.—The Secretary shall address priority mental health needs of regional and national significance through—

''(1) the provision of—

''(A) training; or

''(B) demonstration projects for prevention, treatment, and rehabilitation; and

''(2) the conduct or support of evaluations of such demonstration projects.

In carrying out this section, the Secretary may make grants to, or enter into cooperative agreements with, States, political subdivisions of States, Indian Tribes and tribal organizations, and public or private nonprofit entities.

''(b) PRIORITY MENTAL HEALTH NEEDS.—Priority mental health needs of regional and national significance shall include child mental health services, and may include managed care, systems and partnerships, client-oriented and consumer-run self-help services, training, and other priority populations and conditions as determined appropriate by the Secretary.

''(c) REQUIREMENTS.—

''(1) IN GENERAL.—Recipients of grants, cooperative agreements, and contracts under this section shall comply with information and application requirements determined appropriate by the Secretary.

''(2) PAYMENTS.—With respect to a grant, cooperative agreement, or contract awarded under this section, the period during which payments under such award are made to the recipient may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Secretary and the availability of appropriations for the fiscal year involved. This paragraph may not be construed as limiting the number of awards under the program involved that may be made to an entity.

''(3) MATCHING FUNDS.—The Secretary may require that an entity that applies for a grant, contract, or cooperative agreement under this section provide non-Federal matching funds, as determined appropriate by the Secretary, to ensure the institutional commitment of the entity to the projects funded under the grant, contract, or cooperative agreement. Such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

''(4) MAINTENANCE OF EFFORT.—With respect to activities for which a grant, cooperative agreement, or contract is awarded under this section, the Secretary may require that the recipient agree to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the entity for such fiscal year preceding the fiscal year for which the entity receives such a grant, contract, or cooperative agreement.

''(5) APPLICATION AND FUNDING AGREEMENTS.—

''(A) APPLICATION.—An application for a grant, contract, or cooperative agreement under this section shall ensure that amounts received under such grant, contract, or agreement will not be expended—

''(i) to provide inpatient services;

''(ii) to make cash payments to intended recipients of services;

''(iii) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment; or

''(iv) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

''(B) FUNDING AGREEMENT.—A funding agreement for a grant, contract, or cooperative agreement under this section is that the entity involved will not expend more than 10 percent of the grant, contract, or agreement for administrative expenses with respect to the grant, contract, or agreement.

''(d) REDUCTION IN PAYMENTS.—The Secretary, at the request of a State or a political subdivision of a State, or a public or private nonprofit entity, may reduce the amount of payments under this section by—

''(1) the fair market value of any supplies or equipment furnished the State, political subdivision of the State, or a public of private nonprofit entity; and

''(2) the amount of the pay, allowances, and travel expenses of any officer, fellow, or employee of the Government when detailed to the State, a political subdivision of the State, or a public or private non-profit entity, and the amount of any other costs incurred in connection with the detail of such officer, fellow, or employee;

when the furnishing of such officer, fellow, or employee is for the convenience of and at the request of the State, political subdivision of the State, or public or private nonprofit entity and for the purpose of conducting activities described in this section. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to have been paid to the State, political subdivision of the State, or public or private non-profit entity.

''(e) EVALUATION.—The Secretary shall evaluate each project carried out under section (a)(1)(B) and shall disseminate the findings with respect to each such evaluation to appropriate public and private entities.

''(f) INFORMATION AND EDUCATION.—

''(1) IN GENERAL.—The Secretary shall establish information and education programs to disseminate the findings of the demonstration and training programs under this section to the general public and to health professionals.

''(2) DISSEMINATION.—The Secretary shall take such action as may be necessary to insure that all methods of dissemination and exchange of information are maintained between the Substance Abuse and Mental Health Services Administration and the public, and such Administration and other scientific organizations, both nationally and internationally.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 for each of the fiscal years 1996 and 1997, $30,000,000 for fiscal year 1998, and such sums as may be necessary for fiscal year 1999.''.

SEC. 109. REPEALS.

(a) IN GENERAL.—The following provisions of the Public Health Service Act are repealed:

(1) Subsections (a), (c), and (d) of section 303 (42 U.S.C. 242a(a), (c), and (d)) relating to clinical training and AIDS training.

(2) Section 520B (42 U.S.C. 290bb–33) relating to AIDS demonstrations.

(3) Section 612 of the Stewart B. McKinney Homeless Assistance Act.

(b) CONFORMING AMENDMENT.—Section 303 (42 U.S.C. 242a) as amended by subsection (a)(1), is further amended by striking the remaining subsection designation.

SEC. 110. COMPREHENSIVE COMMUNITY SERVICES FOR CHILDREN WITH A SERIOUS EMOTIONAL DISTURBANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 565(f)(1) (42 U.S.C. 290ff–4(f)(1)) is amended—

(1) by striking ''and'' after ''1993''; and

(2) by inserting before the period the following: '', $60,000,000 for fiscal year 1996, and such sums as may be necessary for each of the 3 succeeding fiscal years''.

(b) FLEXIBILITY FOR INDIAN TRIBES AND TERRITORIES.—Section 562(c) (42 U.S.C. 290ff–1(c)) is amended by adding at the end the following new flush sentence:

''The Secretary may waive one or more of the requirements of the preceding sentence (for a public entity that is an Indian Tribe or tribal organization, or American Samoa, Guam, the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, or the United States Virgin Islands) if the Secretary determines, after peer review, that the system of care is family-centered and uses the least restrictive environment that is clinically appropriate.''.

TITLE II—SUBSTANCE ABUSE

SEC. 201. REPLACEMENT OF STATE PLAN PROGRAM WITH PERFORMANCE PARTNERSHIPS.

(a) REPEALS.—Section 1921 (42 U.S.C. 300x–21) is repealed.

(b) PERFORMANCE PARTNERSHIP FRAMEWORK.—Subpart II of part B of title XIX (42 U.S.C. 300x–21 et seq.) (as amended by subsection (a)) is further amended by inserting after the subpart heading the following new sections:

''SEC. 1921. PERFORMANCE PARTNERSHIP GOALS AND OBJECTIVES.

''(a) GOALS.—It is the goal of this subpart for the States and the Federal Government, working together in a partnership—

''(1) to reduce the incidence and prevalence of substance abuse and dependence;

''(2) to improve access to appropriate prevention and treatment programs for targeted populations;

''(3) to enhance the effectiveness of substance abuse prevention and treatment programs; and

''(4) to reduce the personal and community risks for substance abuse.

''(b) PERFORMANCE PARTNERSHIP OBJECTIVES.—

''(1) ESTABLISHMENT.—Not later than October 1 of the fiscal year prior to the fiscal year in which this section becomes effective as provided for in section 601(c) of the SAMHSA Reauthorization, Flexibility Enhancement, and Consolidation Act of 1995, the Secretary, in consultation with the States, local governments, Indian tribes, providers, and consumers, and in accordance with paragraph (4), shall establish, and as necessary, periodically revise—

''(A) a list of performance partnership objectives to carry out the goals of this subpart; and

''(B) a core set of not more than five of such objectives that address substance abuse problems of national significance.

''(2) REQUIREMENTS.—Each performance partnership objective established under paragraph (1) shall include—

''(A) a performance indicator;

''(B) the specific population being addressed;

''(C) a performance target; and

''(D) a date by which the target level is to be achieved.

''(3) PRINCIPLES.—In establishing the performance partnership objectives under paragraph (1), the Secretary shall be guided by the following principles:

''(A) The objectives should be closely related to the goals of this subpart, and be viewed as important by and understandable to State policymakers and the general public.

''(B) Objectives should be results-oriented, including a suitable mix of outcome, process and capacity measures.

''(C) In the case of an objective that has suitable outcome measures, measurable progress in achieving the objective should be expected over the period of the grant.

''(D) In the case of an objective that has suitable process or capacity measures, such objective should be demonstrably linked to the achievement of, or demonstrate a potential to achieve, a substance abuse treatment outcome.

''(E) Data to track the objective should, to the extent practicable, be comparable for all grant recipients, meet reasonable statistical standards for quality, and be available in a timely fashion, at appropriate periodicity, and at reasonable cost.

''SEC. 1921A. STATE PERFORMANCE PARTNERSHIP PROPOSAL.

''(a) IN GENERAL.—To be eligible to receive a grant under this subpart, a State shall, in accordance with this section, prepare and submit to the Secretary a performance partnership proposal in accordance with the provisions of this subpart .

''(b) ELEMENTS RELATED TO PERFORMANCE OBJECTIVES.—A State proposal submitted under subsection (a) shall contain—

''(1) a list of one or more objectives (derived from the performance partnership objectives specified under section 1921(b)) toward which the State will work and a performance target for each objective which the State will seek to achieve by the end of the partnership period;

''(2) a rationale for the State's selection of objectives, including any performance targets, and timeframes;

''(3) a statement of the State's strategies for achieving the objectives over the course of the grant period and evidence that the actions taken under a partnership agreement will have an impact on the objective;

''(4) a statement of the amount to be expended to carry out each strategy; and

''(5) an assurance that the State will report annually on all core performance objectives established under section 1921(b)(1)(B) (regardless of whether it is working toward those objectives) and the specific objectives toward which the State will work under the performance partnership.

A State may select an objective that is not an established performance partnership objective under section 1921 if the State demonstrates to the Secretary that the objective relates to a significant health problem related to substance abuse in the State that would not otherwise be addressed appropriately. The Secretary may require that objectives developed by the State under this subsection be consistent with the requirements of paragraphs (2) and (3) of section 1921(b).

''(c) TRANSITION PROVISION.—A State may select objectives under this section which solely have process or capacity measures until such time as data sets are determined by the Secretary to be readily available, sufficient, and relevant under section 601(a) of the SAMHSA Reauthorization, Flexibility Enhancement, and Consolidation Act of 1995, to make outcome measurements for objectives developed by the Secretary.

''SEC. 1921B. FEDERAL-STATE PERFORMANCE PARTNERSHIP.

''(a) NEGOTIATIONS CONCERNING STATE PROPOSAL.—

''(1) REASONABLE EFFORTS TO AGREE.—A State submitting a proposal under section 1921A and the Secretary shall make all reasonable efforts to agree on a performance partnership pursuant to which the State shall expend amounts received under a grant provided under this subpart.

''(2) DUTIES OF SECRETARY.—In negotiations conducted under paragraph (1) concerning the proposal of a State, the Secretary shall consider the extent to which the proposed objectives, performance targets, timeframes, and strategies of the State are likely to address appropriately the most significant health problems associated with substance abuse (as measured by applicable indicators) within the State, including the health problems associated with substance abuse of vulnerable populations (such as pregnant women, women with dependent children, and crack-cocaine and injecting drug users).

''(b) PARTNERSHIP PERIOD.—The Secretary, in consultation with a State receiving a grant under this subpart, shall set the duration of the partnership with the State. Initial and subsequent partnership periods shall not be less than 3 nor more than 5 years, except that the Secretary may agree to a partnership period of less than 3 years where a State demonstrates to the satisfaction of the Secretary that such shorter period is appropriate in light of the particular circumstances of that State.

''(c) ASSESSMENT AND ADJUSTMENT.—

''(1) ASSESSMENTS.—The Secretary shall annually assess—

''(A) the progress achieved nationally toward each of the core objectives established under section 1921(b)(1)(B); and

''(B) in consultation with each State, the progress of the State toward each objective agreed upon in the performance partnership under subsection (a);

and make such assessment publicly available

''(2) STATE ASSESSMENTS.—In carrying out paragraph (1)(B), the Secretary shall take into consideration such qualitative assessments of performance as may be provided by each State pursuant to section 1942(a)(3).

''(3) ADJUSTMENTS.—With respect to a performance partnership under subsection (a),

the Secretary and the State may at any time in the course of the partnership period renegotiate, and revise by mutual agreement, the elements of the partnership to account for new information or changed circumstances (including information or changes identified during assessments under paragraph (1)).

''(d) GRANTS TO STATES; USE OF FUNDS.—

''(1) GRANTS.—The Secretary shall award a grant to each State that—

''(A) has reached a performance partnership agreement with the Secretary under subsection (a); and

''(B) is carrying out activities in accordance with the terms of such partnership;

in an amount that is equal to the allotment of the State under section 1933. Grants shall be awarded for each fiscal year for which the partnership is in effect.

''(2) USE OF FUNDS.—Funds paid to a State under a grant described in paragraph (1) may be used by the State only for the purpose of carrying out this subpart (including related data collection, evaluation, planning, administration, and educational activities).''.

(c) ADDITIONAL GENERAL PROVISIONS CONCERNING PARTNERSHIPS.—Section 1932 (42 U.S.C. 300x–32) is amended—

(1) by striking the section heading;

(2) by striking ''application'' each place that such term appears and inserting ''proposal'';

(3) in subsection (a)—

(A) in the subsection heading, by striking ''(a) IN GENERAL.—'' and all that follows through paragraph (1) and inserting ''(c) ADDITIONAL ELEMENTS.—A State proposal is in accordance with this subsection if—'';

(B) in paragraph (3), by inserting ''proposed performance partnership and'' before ''agreements'';

(C) by striking paragraphs (5) and (6)

(D) in paragraph (7), by striking ''including the plan under section paragraph (6)'';

(E) by redesignating paragraphs (2) through (4), and paragraph (7) as paragraphs (1) through (4), respectively; and

(F) by transferring such subsection to section 1921A (as added by subsection (b)) and inserting such subsection at the end of such section; and

(4) in subsection (c)—

(A) by transferring such subsection to section 1921B (as added by subsection (b));

(B) by inserting such subsection at the end of such section 1921B; and

(C) by redesignating such subsection as subsection (h); and

(5) by striking subsections (b) and (d).

(d) DEFINITIONS.—Section 1934 (42 U.S.C. 300x–34) is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (5) through (9), respectively; and

(2) by inserting after paragraph (2), the following new paragraphs:

''(3) The term 'performance indicator' means a quantifiable characteristic used as a measurement.

''(4) The term 'performance target' means a numerical value sought to be achieved within a specified period of time.''.

(e) CONFORMING AMENDMENTS.—Title XIX is amended—

(1) in the heading of subpart II of part B (42 U.S.C. 300x–21 et seq) by striking ''**Block**'' and inserting ''**Performance Partnership**'';

(2) in subpart II of part B (42 U.S.C. 300x–21 et seq.), by striking''section 1921'' each place that such appears and inserting ''this subpart'';

(3) in section 1933(a)(1)(A)) 42 U.S.C. 300x–33(a)(1)(A)), by inserting ''(as in effect on January 1, 1995)'' after ''section 1918(a)''; and

(4) in subpart III of part B (42 U.S.C. 300x–51 et seq.), by striking''section 1921'' each place that such appears and inserting ''subpart II''.

SEC. 202. ALLOCATIONS REGARDING PRIMARY PREVENTION AND WOMENS PROGRAMS.

Section 1922 (42 U.S.C. 300x–22) is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively; and

(3) in subsection (b) (as so redesignated)—

(A) by striking paragraph (1) and inserting the following new paragraph:

''(1) IN GENERAL.—A a funding agreement for a grant under section 1921 for a fiscal year is that in the case of a grant for fiscal year 1996, or a subsequent fiscal year, the State will expend not less than an amount equal to the amount expended by the State for fiscal year 1995 to increase the availability of treatment services designed for pregnant women and women with dependent children (either by establishing new programs or expanding the capacity of existing programs).''; and

(B) by adding at the end thereof the following new paragraph:

''(4) INSUFFICIENT AMOUNTS.—If the Secretary determines that, as a result of a reduction in the amount of Federal funds provided to State under this subpart, a State will be unable to meet the requirement of paragraph (1), the Secretary shall permit the State to prorate amounts provided under such paragraph based on the amount provided to the State under this subpart in fiscal year 1995.''.

SEC. 203. TUBERCULOSIS AND HIV.

(a) TUBERCULOSIS.—Section 1924(a) (42 U.S.C. 300x–24(a)) is amended—

(1) in paragraph (1), to read as follows:

''(1) IN GENERAL.—A funding agreement for a grant under section 1921 is that the State involved will—

''(A)(i) directly or through arrangements with other public or nonprofit private entities, ensure that activities are routinely carried out under subparagraphs (A) and (B) of paragraph (2); and

''(ii) ensure that arrangements are made with other public or nonprofit private entities to make available tuberculosis services, including services under subparagraphs (C) and (D) of paragraph (2), to each individual receiving treatment for substance abuse under this subpart; and

''(B) require that any entity receiving amounts from the grant for operating a program of treatment for substance abuse, in the case of an individual in need of such treatment who is denied admission to the program on the basis of the lack of the capacity of the program to admit the individual, will refer the individual to another provider of tuberculosis services.

Nothing in subparagraph (A)(ii) shall be construed to require that the State expend funds under this Act to make available such services.'';

(2) in paragraph (2)—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) in subparagraph (B), to read as follows:

''(B) tuberculosis testing, based on the risk assessment conducted by the State, to determine whether the individual has contracted such disease, such testing to be based on usual standards as determined to be appropriate by the State health director in cooperation with State and local health agencies for tuberculosis and with other relevant private nonprofit entities;

''(C) testing to determine the form of treatment for the disease that is appropriate for the individual; and''; and

(3) by adding at the end thereof the following new paragraph:

''(3) COUNSELING.—For purposes of paragraph (2), the term 'counseling' with respect to an individual means—

''(A) the provision of information to individuals or communities about risk factors for tuberculosis; and

''(B) conducting tuberculosis risk assessments to determine if tuberculosis testing is required.''.

(b) HIV.—Section 1924(b) (42 U.S.C. 300x–24(b)) is amended—

(1) in paragraph (1)(A), insert ''routinely'' after ''projects to'';

(2) in paragraph (2), by striking ''10'' and inserting ''15''; and

(3) in paragraph (7)(B)(ii), by inserting before the semicolon the following: '', such testing to be based on usual standards as determined to be appropriate by the State health director in cooperation with State and local health agencies for HIV and with other relevant private nonprofit entities; and'';

(c) EXPENDITURE.—Section 1924(c) (42 U.S.C. 300x–24(c)) is amended—

(1) in the subsection heading, by striking ''AGREEMENTS'' and inserting ''PARTNERSHIPS''; and

(2) in paragraph (1), by striking ''agreements'' and inserting ''partnerships''.

(d) PAYOR OF LAST RESORT.—Section 1924 (42 U.S.C. 300x–24) is amended by adding at the end thereof the following new subsection:

''(f) PAYOR OF LAST RESORT.—Amounts made available under this section may only be used as a payment of last resort for tuberculosis and may not be used for the medical evaluation and treatment of such disease.''.

SEC. 204. GROUP HOMES FOR RECOVERING SUBSTANCE ABUSERS.

(a) IN GENERAL.—Section 1925 (42 U.S.C. 300x–25) is amended—

(1) in subsection (a), by striking ''For fiscal year 1993'' and all that follows through the colon and inserting ''Except as provided in subsection (d), for each of the fiscal years 1996 through 1999, the Secretary may make a grant under section 1921 only if the State involved has established and is providing for the ongoing operation of a revolving fund as follows:''; and

(2) by adding at the end thereof the following new subsection:

''(d) NONAPPLICATION OF SECTION.—

''(1) IN GENERAL.—The requirements of this section shall not apply to a State that is not, as of the date of enactment of this subsection, utilizing a revolving fund under this section. Such a State shall not be required to maintain such a fund after such date of enactment.

''(2) USE OF FUNDS.—A State described in paragraph (1), may use amounts set aside under this section, or amounts remaining in the revolving fund, to provide other services under this part.''.

(b) REPEAL.—Section 1925 (42 U.S.C. 300x–25) shall be repealed effective on September 30, 1998.

SEC. 205. STATE SUBSTANCE ABUSE PREVENTION AND TREATMENT PLANNING COUNCIL.

Subpart II of part B of title XIX is amended by inserting after section 1927 (42 U.S.C. 300x–27) the following new section:

''SEC. 1927A. STATE SUBSTANCE ABUSE PREVENTION AND TREATMENT PLANNING COUNCIL.

''(a) IN GENERAL.—A funding agreement for a grant under this subpart is that the State involved will establish and maintain a State substance abuse prevention and treatment planning council in accordance with the conditions described in this section.

''(b) DUTIES.—A condition under subsection (a) for a council is that the duties of the council are—

''(1) to review performance partnerships and related reports provided to the council

by the State involved and to submit to the State any recommendations of the council for modifications;

''(2) to serve as an advocate for individuals suffering from substance abuse; and

''(3) to monitor, review, and evaluate, not less than once each year, the allocation and adequacy of substance abuse prevention and treatment services within the State.

''(c) MEMBERSHIP.—

''(1) IN GENERAL.—A condition under subsection (a) for a council is that the council be composed of residents of the State, including representatives of—

''(A) the principal State agencies with respect to—

''(i) substance abuse prevention and treatment, education, vocational rehabilitation, criminal justice, housing, and social services; and

''(ii) the development of the plan submitted pursuant to title XIX of the Social Security Act;

''(B) public and private entities concerned with the need, planning, operation, funding, and use of substance abuse prevention and treatment services and related support services;

''(C) individuals who are receiving (or have received) substance abuse prevention or treatment services; and

''(D) the families of such individuals.

''(2) LIMITATION ON STATE EMPLOYEES AND PROVIDERS.—A condition under subsection (a) for a council is that not less that 50 percent of the members of the council are individuals who are not State employees or providers of substance abuse prevention or treatment services.

''(d) REVIEW OF STATE PERFORMANCE PARTNERSHIP BY PLANNING COUNCIL.—The Secretary may make a grant under this subpart only if—

''(1) the performance partnership submitted under this subpart with respect to the grant (and the State's report under section 1942(a) concerning the preceding fiscal year) has been reviewed by the council; and

''(2) the State submits to the Secretary any recommendations received by the State from the council for modifications to the performance partnership (without regard to whether the State has made the recommended modifications).

''(e) WAIVERS.—In the case of a State that has other existing processes for complying with the duties required under subsection (b), the Secretary, upon the request of the State, may waive the requirements of such subsection. Such waiver shall be deemed to be granted if the Secretary fails to act within 90 days of the date of the submission of such a request.''.

SEC. 206. ADDITIONAL AGREEMENTS.

Section 1928 (42 U.S.C. 300x–28) is amended—

(1) by striking subsections (a) and (d); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

SEC. 207. STATE OPPORTUNITY TO CORRECT OR MITIGATE FAILURE TO MAINTAIN EFFORT.

Section 1930(c)(1) (42 U.S.C. 300x–30(c)(1)) is amended by striking the second sentence and inserting the following new sentences: ''If the Secretary determines that a State has failed to maintain such compliance, the Secretary may permit the State, not later than 1 year after notification, to correct or mitigate the noncompliance. If the State does not carry out a correction or mitigation as specified by the Secretary (or if the Secretary decided it was not appropriate to provide that opportunity), the Secretary shall reduce the amount of the grant under this subpart for the State for the current fiscal year by an amount equal to the amount constituting such failure.''.

SEC. 208. FUNDING FOR ORGANIZATIONS THAT ARE FOR-PROFIT.

Section 1931(a) (42 U.S.C. 300x–31(a)) is amended—

(1) in paragraph (1)(E), by inserting before the semicolon the following: '', unless the State determines that it is appropriate and beneficial for a for-profit private entity to receive assistance to facilitate the integration of the State Medicaid program or substance abuse managed care programs under title XIX of the Social Security Act)''; and

(2) by adding at the end thereof the following new paragraph:

''(4) FOR-PROFIT RESTRICTIONS.—For purposes of providing assistance to a for-profit entity under paragraph (1)(E), the State shall ensure that—

''(A) such an entity is certified or licensed by the State;

''(B) all profits earned by such entity as a result of assistance provided under this subpart are redistributed by the entity to the community served by the entity for the provision of treatment or prevention services; and

''(C) in the case of an entity that is a private for-profit entity, such entity is the only available provider of substance abuse treatment in the area served.''.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

Section 1935(a) (42 U.S.C. 300x–35(a)) is amended by striking ''$1,500,000,000'' and all that follows through the end thereof and inserting ''$1,300,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999.''.

SEC. 210. DATA COLLECTION, TECHNICAL ASSISTANCE, AND EVALUATIONS.

Section 1935(b) (42 U.S.C. 300x–35(b)) is amended to read as follows:

''(b) RESERVED FUNDS.—

''(1) IN GENERAL.—The Secretary shall reserve 5 percent of the amounts appropriated for a fiscal year under subsection (a)—

''(A) to carry out sections 505 (providing for data collection) and 1948(a) (providing for technical assistance to States) with respect to substance abuse;

''(B) to carry out section 515(d) (providing for a performance substance abuse data base); and

''(C) to conduct evaluations concerning programs supported under this subpart.

The Secretary may carry out activities funded pursuant to this paragraph directly, or through grants, contracts, or cooperative agreements.

''(2) DATA COLLECTION INFRASTRUCTURE.—In carrying out this subsection, the Secretary shall make available grants and contracts to States for the development and strengthening of State core capacity (including infrastructure) for data collection and evaluation.

''(3) PREVENTION.—Of the amounts reserved under paragraph (1) for a fiscal year, the Secretary shall ensure that 20 percent of such amounts shall be used for activities related to prevention.''.

SEC. 211. PRIORITY SUBSTANCE ABUSE PREVENTION AND TREATMENT NEEDS OF REGIONAL AND NATIONAL SIGNIFICANCE.

Section 510 (42 U.S.C. 290bb–3) is amended to read as follows:

''SEC. 510. PRIORITY SUBSTANCE ABUSE PREVENTION AND TREATMENT NEEDS OF REGIONAL AND NATIONAL SIGNIFICANCE.

''(a) GRANTS.—The Secretary shall address the substance abuse health needs of regional and national significance through—

''(1) the provision of

''(A) training; or

''(B) demonstration projects for prevention and treatment; and

''(2) the conduct or support of evaluations of such demonstration projects.

In carrying out this section, the Secretary may make grants to, or enter into cooperative agreements with, States, political subdivisions of States, Indian Tribes and tribal organizations, and public or private nonprofit entities.

''(b) SUBSTANCE ABUSE HEALTH NEEDS.—Substance abuse health needs of regional and national significance shall include prevention activities and may include managed care, systems and partnerships, client-oriented services, and other priority populations (including pregnant substance abusers, women with dependent children, and crack cocaine and injecting drug users) and conditions as determined appropriate by the Secretary.

''(c) REQUIREMENTS.—

''(1) IN GENERAL.—Recipients of grants, cooperative agreements, and contracts under this section shall comply with information and application requirements determined appropriate by the Secretary.

''(2) PAYMENTS.—With respect to a grant, cooperative agreement, or contract awarded under this section, the period during which payments under such award are made to the recipient may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Secretary and the availability of appropriations for the fiscal year involved. This paragraph may not be construed as limiting the number of awards under the program involved that may be made to an entity.

''(3) MATCHING FUNDS.—The Secretary may require that an entity that applies for a grant, contract, or cooperative agreement under this section provide non-Federal matching funds, as determined appropriate by the Secretary, to ensure the institutional commitment of the entity to the projects funded under the grant, contract, or cooperative agreement. Such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

''(4) MAINTENANCE OF EFFORT.—With respect to activities for which a grant, cooperative agreement, or contract is awarded under this section, the Secretary may require the recipient to agree to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the entity for such fiscal year preceding the fiscal year for which the entity receives such a grant, contract, or cooperative agreement.

''(5) APPLICATION AND FUNDING AGREEMENTS.—

''(A) APPLICATION.—An application for a grant, contract, or cooperative agreement under this section shall ensure that amounts received under such grant, contract, or agreement will not be expended—

''(i) to provide inpatient services;

''(ii) to make cash payments to intended recipients of services;

''(iii) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment; or

''(iv) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

''(B) FUNDING AGREEMENT.—A funding agreement for a grant, contract, or cooperative agreement under this section is that the entity involved will not expend more than 10 percent of the grant, contract, or agreement for administrative expenses with respect to the grant, contract, or agreement.

''(d) REDUCTION IN PAYMENTS.—The Secretary, at the request of a State or a political subdivision of a State, or a public or private nonprofit entity, may reduce the amount of payments under this section by—

''(1) the fair market value of any supplies or equipment furnished the State, political subdivision of the State, or a public of private nonprofit entity; and

''(2) the amount of the pay, allowances, and travel expenses of any officer, fellow, or employee of the Government when detailed to the State, a political subdivision of the State, or a public or private non-profit entity, and the amount of any other costs incurred in connection with the detail of such officer, fellow, or employee;

when the furnishing of such officer, fellow, or employee is for the convenience of and at the request of the State, political subdivision of the State, or public or private nonprofit entity and for the purpose of conducting activities described in this section. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to have been paid to the State, political subdivision of the State, or public or private non-profit entity.

''(e) EVALUATION.—The Secretary shall evaluate each project carried out under section (a)(1)(B) and shall disseminate the findings with respect to each such evaluation to appropriate public and private entities.

''(f) INFORMATION AND EDUCATION.—

''(1) IN GENERAL.—The Secretary shall establish information and education programs to disseminate the findings of the research, demonstration, and training programs under this section to the general public and to health professionals.

''(2) DISSEMINATION.—The Secretary shall take such action as may be necessary to insure that all methods of dissemination and exchange of information are maintained between the Substance Abuse and Mental Health Services Administration and the public, and the Administration and other scientific organizations, both nationally and internationally.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $352,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999.''.

SEC. 212. REPEALS.

The following provisions of the Public Health Service Act are repealed:

(1) Section 508 (42 U.S.C. 290bb–1) relating to residential treatment programs for pregnant women.

(2) Section 509 (42 U.S.C. 290bb–2) relating to outpatient treatment programs for pregnant and postpartum women.

(3) Section 511 (42 U.S.C. 290bb–4) relating to substance abuse treatment in State and local criminal justice systems.

(4) Section 512 (42 U.S.C. 290bb–5) relating to training in the provision of treatment services.

(5) Paragraph (5) of section 515(b) (42 U.S.C. 290bb–21(b)(5)) relating to the activities of the Office of Substance Abuse Prevention. Paragraphs (6) through (10) of such section shall be redesignated as paragraphs (5) through (9), respectively.

(6) Section 516 (42 U.S.C. 290bb–22) relating to community prevention programs.

(7) Section 517 (42 U.S.C. 290bb–23) relating to high risk youth demonstrations.

(8) Section 518 (42 U.S.C. 290bb–24) relating to employee assistance programs.

(9) Section 571 (42 U.S.C. 290gg) relating to the National Capital Area Demonstration Program.

(10) Section 1943(a)(1) (42 U.S.C. 300x–53(a)(1)) relating to peer review.

(11) Section 1971 (42 U.S.C. 300y) relating to categorical grants to States.

TITLE III—GENERAL PROVISIONS

SEC. 301. REPORTING BY STATES ON PERFORMANCE.

Section 1942(a) (42 U.S.C. 300x–52(a)) is amended—

(1) in paragraph (1), by striking ''and'' at the end thereof;

(2) in paragraph (2), by striking the period and inserting ''; and''; and

(3) by adding at the end thereof the following:

''(3) the performance of the State in relation to the objectives specified or agreed upon under sections 1912(b)(5) or section 1921A(b)(5), as applicable.''.

SEC. 302. ON SITE PERFORMANCE REVIEWS.

Section 1945(g)(1) (42 U.S.C. 300x–55(g)(1)) is amended by striking ''in fiscal year 1994'' and all that follows through the end thereof and inserting '', not more frequently than once every 3 nor less frequently than once every 5 years, conduct an on-site performance review of a State's activities supported under this part.''.

SEC. 303. ADDITIONAL YEAR FOR OBLIGATION BY STATE.

Section 1952(a) (42 U.S.C. 300x–62(a)) is amended by striking ''until the end'' and all that follows through the end thereof and inserting ''and expenditure until the end of the fiscal year following the fiscal year for which the amounts were paid.''.

SEC. 304. DEFINITIONS.

Section 1954(b) (42 U.S.C. 300x–64(B)) is amended by adding the following new paragraphs at the end thereof:

''(5) The term 'performance indicator' means a quantifiable characteristic used as a measurement.

''(6) The term 'performance target' means a numerical value sought to be achieved within a specified period of time.''.

SEC. 305. REPEAL OF OBSOLETE PROVISIONS CONCERNING ALLOCATIONS.

(a) IN GENERAL.—Section 1933 (42 U.S.C. 300x–33) is amended—

(1) by striking subsection (b);

(2) in subsection (c)(2)—

(A) in subparagraph (A), by adding ''and'' at the end thereof;

(B) in subparagraph (B), by striking ''; and'' at the end of subparagraph (B) and inserting a period; and

(C) by striking subparagraph (C); and

(3) by redesignating subsections (c) and (d) as subsection (b) and (c), respectively.

(b) CONFORMING AMENDMENT.—Section 1923(h) (as so redesignated by section 201(c)(4)(A)) is amended by striking ''section 1933(c)(2)(B)'' and inserting ''section 1933(b)(2)(B)''.

SEC. 306. REPEAL OF OBSOLETE ADDICT REFERRAL PROVISIONS.

(a) REPEAL OF OBSOLETE PUBLIC HEALTH SERVICE ACT AUTHORITIES.— Part E of title III (42 U.S.C. 257 et seq.) is repealed.

(b) REPEAL OF OBSOLETE NARA AUTHORITIES.—Titles III and IV of the Narcotic Addict Rehabilitation Act of 1966 are repealed.

(c) REPEAL OF OBSOLETE TITLE 28 AUTHORITIES.—

(1) IN GENERAL.—Chapter 175 of title 28, United States Code, is repealed.

(2) TABLE OF CONTENTS.—The table of contents to part VI of title 28, United States Code, is amended by striking the items relating to chapter 175.

SEC. 307. REGULATIONS.

Section 1949 (42 U.S.C. 300x–59) is amended to read as follows:

''SEC. 1949. REGULATIONS.

''The Secretary shall promulgate regulations as the Secretary determines are necessary to carry out this part.''.

SEC. 308. ADVISORY COUNCILS.

Section 502(b)(3)(A) (42 U.S.C. 290aa–1(b)(3)(A)) is amended by inserting ''and leading representatives from State and local governments'' after ''sciences)''.

SEC. 309. REPORT ON DEVELOPMENT OF PARTNERSHIPS AND USE OF GRANTS.

Not later than January 1, 1999, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report that contains—

(1) information concerning the adequacy of outcome data sets to measure State performance with respect to amounts received by the State under subparts I and II of part B of title XIX of the Public Health Service Act (as amended by this Act);

(2) information concerning the range and types of performance partnership objectives and measures utilized by the State under such subparts; and

(3) a plan, if determined by the Secretary to be feasible after considering information received under such subparts, for the implementation of incentive-based performance partnership grants that shall include a disclosure of public comments.

TITLE IV—REAUTHORIZATION OF PROTECTION AND ADVOCACY FOR MENTALLY ILL INDIVIDUALS ACT OF 1986

SEC. 401. SHORT TITLE.

The first section of the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99–319) is amended to read as follows:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Protection and Advocacy for Individuals With Mental Illnesses Act'.''.

SEC. 402. REAUTHORIZATION.

Section 117 of the Protection and Advocacy for Individuals With Mental Illnesses Act (as amended by section 401) (42 U.S.C. 10827) is amended by striking ''1995'' and inserting ''1999''.

SEC. 403. ALLOTMENT FORMULA.

(a) MINIMUM AMOUNT.—Section 112(a)(2) of the Protection and Advocacy for Mentally Ill Individuals Act (as amended by section 401) (42 U.S.C. 10822(a)(2)) is amended to read as follows:

''(2)(A) The minimum amount of the allotment of an eligible system shall be the product (rounded to the nearest $100) of the appropriate base amount specified in subparagraph (B) and the factor specified in subparagraph (C).

''(B) For purposes of subparagraph (A), the appropriate base amount—

''(i) for American Samoa, Guam, the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, and the Virgin Islands, is $139,300; and

''(ii) for any other State, is $260,000.

''(C) For purposes of subparagraph (A), the factor specified in this subparagraph is the ratio of the amount appropriated under section 117 for the fiscal year for which the allotment is being made to the amount appropriation under such section for fiscal year 1995.''.

(b) TECHNICAL AMENDMENTS.—Section 112(a) of such Act (42 U.S.C. 10822(a)) is amended—

(1) in paragraph (1)(B), by striking ''Trust Territory of the Pacific Islands'' and inserting ''Marshall Islands, the Federated States of Micronesia, the Republic of Palau''; and

(2) by striking paragraph (3).

TITLE V—REAUTHORIZATION OF CERTAIN INSTITUTES

SEC. 501. REAUTHORIZATION OF CERTAIN INSTITUTES.

(a) NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM.—Section 464H(d)(1) (42 U.S.C. 285m(d)(1)) is amended by striking ''for fiscal year 1994'' and inserting ''for each of the fiscal years 1994 through 1996''.

(b) NATIONAL INSTITUTE ON DRUG ABUSE.—

(1) IN GENERAL.—Section 464L(d)(1) (42 U.S.C. 285o(d)(1)) is amended by striking ''for fiscal year 1994'' and inserting ''for each of the fiscal years 1995 and 1996''.

(2) MEDICATION DEVELOPMENT PROGRAM.—Section 464P(e) (42 U.S.C. 285o–4(e)) is amended by striking ''and $95,000,000 for fiscal year 1994'' and inserting ''$95,000,000 for fiscal year 1994, and such as may be necessary for each of the fiscal years 1995 and 1996''.

(c) NATIONAL INSTITUTE OF MENTAL HEALTH.—Section 464R(f)(1) (42 U.S.C. 285p(f)(1)) is amended by striking ''for fiscal year 1994'' and inserting ''for each of the fiscal years 1994 through 1996''.

TITLE VI—TRANSITION PROVISIONS AND EFFECTIVE DATES

SEC. 601. TRANSITION PROVISIONS AND EFFECTIVE DATES.

(a) OBJECTIVE AND DATA DEVELOPMENT PROCESS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (hereafter referred to in this section as the ''Secretary'') shall develop and implement a process to—

(A) establish a model set of mental health and substance abuse prevention and treatment objectives that, to the extent practicable, meet the requirements of sections 1911 and 1921 of the Public Health Service Act (as amended by sections 101(b) and 201(b) of this Act);

(B) determine the availability, relevancy, and sufficiency of data necessary to measure capacity, process, or outcomes with respect to such model set of objectives; and

(C) establish a plan to improve the availability, relevancy, and sufficiency of data if the data sets that are available at the time such process is being developed are determined to be inadequate.

(2) CONSULTATION.—In carrying out paragraph (1), the Secretary shall consult with representatives from State and local governments, Indian Tribes, mental health and substance abuse service providers, consumers and families, researchers, and other individuals who have technical relevancy with respect to the development of the process under such paragraph.

(3) IMPLEMENTATION.—In implementing the process under paragraph (1), the Secretary may award a contract to an independent entity for—

(A) the conduct of a technical analysis of the availability, relevancy, and sufficiency of data sets existing on the date on which such contract is awarded; and

(B) the development of a data strategy if such existing data sets are determined to be insufficient to measure the model set of mental health and substance abuse prevention and treatment objectives developed under paragraph (1)(A).

(b) GENERAL EFFECTIVE DATE.—Except as provided in subsection (c), this Act shall take effect on the date of enactment of this Act or October 1, 1995, whichever occurs later.

(c) EXCEPTIONS.—

(1) PERFORMANCE PARTNERSHIPS.—The amendments made by sections 101 and 201 shall take effect on the date on which the Secretary of Health and Human Services determines that the model set of objectives and the data sets described in subsection (a) have been developed and are sufficient and available to measure process/capacity or outcomes, but in no event earlier than October 1, 1997.

(2) PREPARATION AND NEGOTIATION.—The Secretary of Health and Human Services may consult with the States, and others, in preparing for the implementation of the performance partnership grants under the amendments made by this Act. In no event shall such Secretary require a State to begin the negotiation process for the implementation of a performance partnership grant for a fiscal year prior to fiscal year 1998.

(3) SPECIFIC EFFECTIVE DATES.—Sections 103 and 207 (relating to maintenance of effort), sections 104 and 208 (relating to for-profit eligibility), section 203 (relating to tuberculosis and HIV), section 204 (relating to group home revolving loan funds), and section 303 (relating to the additional year for obligation), shall become effective as if enacted on October 1, 1994.

(4) MANDATORY EXEMPTIONS.—

(A) IN GENERAL.—Effective on the date on which the Secretary of Health and Human Services determines that the objectives and data described in subsection (a) have been developed and are relevant, sufficient, and available to measure performance in each State, a State shall be exempt from the requirements described in subparagraph (C). If the Secretary determines, using data with respect to the intended purpose of any such requirement, that the State has a significant need to improve the outcomes related to the intended purposes of any such requirements, the Secretary may require the State to utilize an objective that addresses the intended purpose of any such requirement.

(B) CONSULTATION PROCESS.—Until the Secretary makes the determination described in subparagraph (A), a State shall—

(i) comply with the requirements described in subparagraph (C); or

(ii) select objectives to be measured that would address the intended purpose of each of such requirements.

(C) REQUIREMENTS.—The requirements described in this subparagraph are the requirements contained in the following:

(i) Section 1922(b) (42 U.S.C. 300x–21) (as amended by this Act), relating to minimum allocation of funds for services to pregnant women and women with dependent children.

(ii) Section 1923 (42 U.S.C. 300x–23), relating to whether injecting drug users have timely access to treatment upon request.

(iii) Section 1924 (42 U.S.C. 300x–24), relating to requirements related to tuberculosis and HIV.

(iv) Section 1926 (42 U.S.C. 300x–26), relating to curtailing the sale of tobacco products to persons under the age of 18.

(v) Section 1927 (42 U.S.C. 300x–27), relating to preference in the admission of pregnant women for treatment.

(vi) Section 1929 (42 U.S.C. 300x–29), relating to the needs assessments.

(d) EXISTING PROJECTS.—A project that receives support for fiscal year 1996, 1997, 1998, or 1999 under section 506 or 520A of the Public Health Service Act (as amended by section 108 or 109(2), respectively), and that previously received support under title V of the Public Health Service Act for fiscal year 1995, shall be subject to the requirements to which that project was subject to for fiscal year 1995 unless the Secretary of Health and Human Services determines otherwise.

(e) WAIVERS.—Notwithstanding any other provision of this Act, or an amendment made by this Act, the Secretary of Health and Human Services may grant a State a waiver to permit such State to operate a performance partnership program prior to fiscal year 1998. Such programs shall be operated under the requirements described in the amendments made by sections 101 and 201 and shall be funded using amounts appropriated for the fiscal year involved under part B of title XIX of the Public Health Service Act.

THE SAMHSA REAUTHORIZATION, FLEXIBILITY ENHANCEMENT, AND CONSOLIDATION ACT OF 1995—SUMMARY

MENTAL HEALTH

1. Reauthorize the mental health block grant as a Performance Partnership Block Grant (PPG). Under this provision, each State and the Federal Government would work in a partnership to develop goals and performance objectives to improve the mental health of adults with serious mental illness and children with serious emotional disturbances. Each State would submit a performance partnership proposal based on the State selected goals and objectives which the State would be held accountable. Funding for this PPG would be authorized at $280,000,000.

2. Establish a Transition Provision for implementing the PPGs. Under this provision, States would begin the PPGs no sooner than October 1, 1997. This minimum two-year transition period would allow for the development of partnerships between the Federal government and the states to: (1) develop the menu of objectives; (2) carry out a technical analysis of the availability, relevancy, and sufficiency of existing data sets; and (3) develop a plan to address insufficient data systems. This process would include individuals from states, local governments, consumers, and others who have technical expertise in this area.

3. Eliminate set-asides. This section would repeal the 10 percent set-aside to provide services for children with serious emotional disturbances.

4. Repeal the current (4) separate demonstration authorities and establish a transition funding period for the current mental health demonstration programs. This section repeals separate categorical authorities for programs relating to: (1) clinical training and AIDS training, (2) community support programs; (3) homeless demonstrations; and (4) AIDS demonstrations. Each current demonstration grant would continue under the same terms and conditions until the expiration of the grant period.

5. Establish a general authority for priority mental health needs of regional and national significance. Through this single demonstration authority, the SAMHSA could provide technical assistance, conduct applied research, or conduct demonstration projects to address compelling mental health prevention and treatment needs of regional and national importance. All support for a specific problem would be time-limited to five years. Once successful solutions are developed, the SAMHSA would work with States to incorporate these solutions through the use of the State's performance partnership grant.

Funding for this authority would be authorized at $50,000,000 for each fiscal year 1996-1997 and $30,000,000 for fiscal year 1998. This accounts for the repeal of the ACCESS Program in fiscal year 1998. This funding level represents a ten-percent reduction from the combined totals of the three demonstration programs consolidated. In the event of reductions in the appropriations for the demonstration and training programs, the Secretary would decide which existing programs to reduce or eliminate.

6. Establish a separate authority for the Children's Mental Health Services Program. Through this single demonstration authority, appropriate community services for children suffering from severe mental disorders would continue as provided for under current law. Funding for this authority would be authorized at $60,000,000—equal to fiscal year 1995 appropriations.

7. Permit States to provide funding to for-profit organizations in order to facilitate integration of services. This provision would provide flexibility for States to utilize the service of mental health managed care programs to operate Medicaid managed mental health programs. This would facilitate integration of mental health services within each State to achieve standardization of care and cost reductions.

8. Permit the Secretary to reserve up to 5 percent for data collection, technical assistance, and evaluations. This provision would permit the Secretary to reserve up to 5 percent of the amount appropriated in any fiscal year for necessary data collection, technical assistance, and program evaluation. Also, the Secretary could use these funds to assist States with developing and strengthening their capacity for data collection.

SUMMARY OF MENTALLY ILL HOMELESS PROVISION

Generally, the purpose of this proposal would be to improve the mental health treatment—and thus the living conditions—of the mentally ill homeless who are gravely disabled as a result of their illness. It would also continue to fund treatment and support systems for the mentally ill homeless who are not gravely disabled.

1. Reauthorize the current PATH provisions as a new Part I of the PATH program. This will retain a focus on the expansion of services for the mentally ill homeless. The major problem currently facing the mentally ill homeless, regardless of whether they receive outpatient commitment or not, is the lack of adequate treatment capacity. Continuation of the PATH program would assure that services for the mentally ill homeless are either maintained or expanded. Funding for this block grant would be authorized at $29 million—equal to FY 1995 appropriations.

2. Create a second part to the PATH program for incentive grants to states to improve and operate outpatient commitment treatment programs for the gravely disabled mentally ill homeless. The purpose of this grant would be to improve the treatment capacity, which is often inadequate, for individuals with severe mental illness. In addition, these grants could encourage state mental health agencies to work with judges to help assure the consistent enforcement and appropriate use of state commitment statutes for the gravely disabled mentally ill.

Funding for this provision would be provided from funds currently used to support the ACCESS program. Because the current ACCESS grantees are funded for two more years, these incentive grants would become available beginning in fiscal year 1998.

As a condition of receiving a categorical grant under this program, a state would be required to have a statute providing for the commitment of the gravely disabled mentally ill homeless. The state would also be required to provide for intensive case management monitoring and follow-up care, and a hearing prior to recommitment of a gravely disabled individual.

In addition, the grants would be made to states which successfully bring, or which have the greatest chance to bring, the gravely disabled mentally ill homeless into treatment and which show that such individuals remain in treatment. These funds would be used to provide treatment, outreach, and case management services to individuals who have been committed to an outpatient setting because they have been determined to be gravely disabled as a result of their mental illness.

3. Allow the new Part I PATH funds to fund supportive housing for homeless mentally ill individuals who are committed to or were previously committed to outpatient treatment. This would help improve treatment outcomes for these individuals. Supportive housing is critical to the treatment of the gravely disabled mentally ill.

4. Permit the new Part I PATH funds to be used to educate the judiciary regarding mental illness and the appropriateness of outpatient commitment for the gravely disabled mentally ill homeless. Many experts believe that successful implementation of grave disability commitment laws for the mentally ill homeless will require education of the judges. This education is needed because judges are not often prepared to rule on the mental status of the homeless.

SUBSTANCE ABUSE PREVENTION AND TREATMENT

1. Reauthorize the substance abuse prevention and treatment services block grant as a Performance Partnership Block Grant (PPG). Under this provision, each State and the Federal Government would work in a partnership to develop goals and performance objectives. The State Needs Assessments could be utilized to assist States in selection of their objectives. Each State would submit a performance partnership proposal. Through a negotiated process the State and the Federal government would agree to objectives which would: 1) reduce the incidence and prevalence of substance abuse and dependence; 2) improve access to appropriate prevention and treatment programs for targeted populations; 3) enhance the effectiveness of substance abuse prevention and treatment programs; and 4) reduce the personal and community risks for substance abuse. Funding for this authority would be authorized at $1,300,000,000.

2. Establish a Transition Provision for implementing the PPGs. Under this provision, States would begin the PPGs no sooner than October 1, 1997. This minimum two-year transition period would allow for the development of partnerships between the Federal government and the states to: 1) develop the menu of objectives; 2) carry out a technical analysis of the availability, relevancy, and sufficiency of existing data sets; and 3) develop a plan to address insufficient data systems. This process would include individuals from states, local governments, consumers, and others who have technical expertise in this area.

3. Repeal set-asides for alcohol and drugs under the block grant. To allow States the flexibility to plan and implement services specific to their drug and alcohol treatment and prevention needs, set-asides for alcohol and drugs are repealed.

4. Establish a ''mandatory exemption'' provision as a transition to eliminating the set-asides in the PPGs. Under this provision, States would be required either to follow current law for set-asides or to select an objective which meets the intent of the set-aside. This process would remain in place until the menu of objectives and the data sets have been developed and are relevant, sufficient, and readily available to measure outcomes in each state. Then, using outcome data, the Secretary may require a state to select an objective which meets the intent of the set-aside if the Secretary determines that the State has a significant problem in an area previously addressed by the set-aside.

5. Maintain requirements that States spend certain amounts for primary prevention and for programs providing treatment services to pregnant women and women with dependent children under the block grant. The reauthorization bill will continue to provide a 20 percent set-aside for primary prevention activities and the development of effective substance abuse prevention strategies, programs, and systems to reduce drug and alcohol use and abuse.

6. Increase the minimum threshold from 10 per 100,000 cases of AIDS to 15 per 100,000 for a State to be required to carry out HIV Early Intervention services and repeal the provision of treatment requirement for tuberculosis under the block grant. The higher AIDS case rate threshold requirement for the provision of HIV Early Intervention services would allocate resources to States with the greatest need in addressing co-morbid conditions of substance abusers. Also, the higher threshold rate will moderately reflect proportionately the change in the increase number of AIDS cases since the CDC AIDS surveillance case definition was changed (in 1993). Requirement for HIV Early Intervention Services would remain as in current law. Requirements for TB have been streamlined to include only counseling and testing/screening.

7. Repeal the current (7) demonstration authorities and establish a transition funding period for the current substance abuse and prevention demonstration programs. This section would repeal separate categorical authorities for programs relating to: 1) residential treatment programs for pregnant women, 2) demonstration projects of national significance, 3) substance abuse treatment in State and local criminal justice systems, 4) training in the provision of treatment services, 5) community prevention programs, 6) clinical training of substance abuse prevention professionals; and 7) high risk youth and national capital area demonstrations. Also, this provision provides for a transition funding period of these programs. Each current demonstration grant would continue under the same terms and conditions until the expiration of the grant period.

8. Establish a general authority for priority substance abuse prevention and treatment needs of regional and national significance. Through this single demonstration authority, the SAMHSA could provide technical assistance, conduct applied research, or conduct demonstration projects to address compelling substance abuse prevention and treatment needs of regional and national importance. Substance abuse health needs would include prevention activities as a priority. All support for a specific problem would be time-limited to five years. Once successful solutions are developed, the SAMHSA would work with States to incorporate these solutions through the use of the State's performance partnership grant.

Funding for this authority would be authorized at $352,000,000. This funding level represents a ten-percent reduction from the combined total of the 14 demonstration programs consolidated in this authority. In the event of reductions in the appropriations for the demonstration and training programs, the Secretary would decide which existing programs to reduce or eliminate.

9. Maintain the state based loan funds used to establish group homes for recovering substance abusers only for States that have utilized such funds. To allow for greater flexibility to the States, this provision would apply only to States that have current obligations under the revolving loan fund. States which are not currently providing from their loan funds would be exempt from maintaining such loan funds. States would use funds established under this provision to provide other substance abuse treatment services. The requirement for such funds to be maintained in any State would be repealed on September 30, 1998.

10. Permit States to provide funding to for-profit organizations in order to facilitate integration of services. This provision would provide flexibility for States to utilize the

services of substance abuse treatment managed care programs to operate Medicaid managed substance abuse treatment programs. The provision would facilitate integration of substance abuse treatment services within each State to achieve standardization of care and cost reductions. However, for-profit organizations would have to agree to fulfill certain requirements in order to qualify for funds under this Act.

11. Permit the Secretary to reserve up to 5 percent of funding for data collection, technical assistance and evaluations. This provision would permit the Secretary to reserve up to 5 percent of the amount appropriated in any fiscal year for necessary data collection, technical assistance and program evaluation. Also, the Secretary could use these funds to assist states with developing and strengthening their capacity for data collection.

GENERAL PROVISIONS, PROTECTION AND ADVOCACY, AND INSTITUTES OF THE NATIONAL INSTITUTES OF HEALTH

1. Require States to report on performance. This provision would require each State to submit an annual report and to include data concerning its performance in relation to the core set of partnership objectives, including the State's objectives and performance targets.

2. Require State Review. This provision would replace current peer review requirements but establishes reviews by States in accordance with their existing accreditation and certification standards.

3. Require on site performance reviews. This provision would replace current requirements for annual investigations by the Secretary in at least 10 States with a new requirement for on site performance reviews in each State every two to three years.

4. Provide an additional year for obligation by State. This provision would allow States an additional year in which to obligate grant funds.

5. Repeal of Addict Referral Provisions. This section would repeal authority for Federal judges to refer drug addicts in the criminal justice system to the Surgeon General of the Public Health Service for treatment in lieu of prosecution for a criminal offense.

6. Reauthorize Protection and Advocacy for Mentally Ill Individuals. This reauthorization would reauthorize this program for three years and amends the name of the act to ''Protection and Advocacy for Individuals with Mental Illnesses Act of 1986.''

7. Reauthorize the National Institute on Alcohol Abuse and Alcoholism (NIAA), National Institute on Drug Abuse (NIDA) and the National Institute of Mental Health (NIMH). This provision reauthorizes each of the Institutes and programs for only one year in order to correspond with the reauthorization of the entire NIH next year.

ADDITIONAL COSPONSORS

S. 304

At the request of Mr. SANTORUM, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 559

At the request of Mrs. BOXER, her name was added as a cosponsor of S. 559, a bill to amend the Lanham Act to require certain disclosures relating to materially altered films.

S. 789

At the request of Mr. CHAFEE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 789, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly-traded stock to certain private foundations, and for other purposes.

S. 851

At the request of Mr. JOHNSTON, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 851, a bill to amend the Federal Water Pollution Control Act to reform the wetlands regulatory program, and for other purposes.

S. 854

At the request of Mr. LUGAR, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 854, a bill to amend the Food Security Act of 1985 to improve the agricultural resources conservation program, and for other purposes.

S. 885

At the request of Mr. SIMPSON, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Florida [Mr. MACK], the Senator from Arkansas [Mr. PRYOR], the Senator from Oklahoma [Mr. NICKLES], the Senator from Alabama [Mr. HEFLIN], the Senator from Iowa [Mr. HARKIN], the Senator from South Carolina [Mr. THURMOND], the Senator from Oregon [Mr. PACKWOOD], the Senator from New Hampshire [Mr. SMITH], the Senator from Utah [Mr. HATCH], the Senator from Indiana [Mr. COATS], the Senator from Kansas [Mr. DOLE], the Senator from Kentucky [Mr. FORD], the Senator from Louisiana [Mr. BREAUX], the Senator from Utah [Mr. BENNETT], the Senator from North Dakota [Mr. CONRAD], the Senator from Maine [Ms. SNOWE], the Senator from Mississippi [Mr. LOTT], and the Senator from Minnesota [Mr. GRAMS] were added as cosponsors of S. 885, a bill to establish United States commemorative coin programs, and for other purposes.

S. 895

At the request of Mr. BOND, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 895, a bill to amend the Small Business Act to reduce the level of participation by the Small Business Administration in certain loans guaranteed by the Administration, and for other purposes.

S. 955

At the request of Mr. HATCH, the names of the Senator from Maryland [Ms. MIKULSKI], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 955, a bill to clarify the scope of coverage and amount of payment under the medicare program of items and services associated with the use in the furnishing of inpatient hospital services of certain medical devices approved for investigational use.

S. 979

At the request of Mrs. BOXER, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 979, a bill to protect women's reproductive health and constitutional right to choice, and for other purposes.

S. 1000

At the request of Mr. BURNS, the names of the Senator from New Hampshire [Mr. SMITH], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1000, a bill to amend the Internal Revenue Code of 1986 to provide that the depreciation rules which apply for regular tax purposes shall also apply for alternative minimum tax purposes, to allow a portion of the tentative minimum tax to be offset by the minimum tax credit, and for other purposes.

S. 1002

At the request of Mr. CHAFEE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1002, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 1006

At the request of Mr. PRYOR, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1006, a bill to amend the Internal Revenue Code of 1986 to simplify the pension laws, and for other purposes.

S. 1014

At the request of Mr. NICKLES, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 1014, a bill to improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1032

At the request of Mr. ROTH, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1032, a bill to amend the Internal Revenue Code of 1986 to provide nonrecognition treatment for certain transfers by common trust funds to regulated investment companies.

S. 1035

At the request of Mr. DASCHLE, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1035, a bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes.

S. 1052

At the request of Mr. HATCH, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1052, a bill to amend the Internal Revenue Code of 1986 to make permanent the credit for clinical testing expenses for certain drugs for rare diseases or conditions and to provide for carryovers and carrybacks of unused credits.

S. 1086

At the request of Mr. DOLE, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 1086, a bill to amend the Internal Revenue Code of 1986 to allow a family-owned business exclusion from the gross estate subject to estate tax, and for other purposes.

S. 1120

At the request of Mr. DOMENICI, his name was added as a cosponsor of S. 1120, a bill to enhance support and work opportunities for families with children, reduce welfare dependence, and control welfare spending.

SENATE RESOLUTION 117

At the request of Mr. ROTH, the names of the Senator from Kentucky [Mr. FORD], the Senator from Pennsylvania [Mr. SANTORUM], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Resolution 117, a resolution expressing the sense of the Senate that the current Federal income tax deduction for interest paid on debt secured by a first or second home located in the United States should not be further restricted.

SENATE RESOLUTION 146

At the request of Mr. JOHNSTON, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Resolution 146, a resolution designating the week beginning November 19, 1995, and the week beginning on November 24, 1996, as ''National Family Week'', and for other purposes.

SENATE RESOLUTION 147

At the request of Mr. THURMOND, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of Senate Resolution 147, a resolution designating the weeks beginning September 24, 1995, and September 22, 1996, as ''National Historically Black Colleges and Universities Week'', and for other purposes.

SENATE RESOLUTION 149

At the request of Mr. AKAKA, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Senate Resolution 149, a resolution expressing the sense of the Senate regarding the recent announcement by the Republic of France that it intends to conduct a series of underground nuclear test explosions despite the current international moratorium on nuclear testing.

AMENDMENT NO. 2336

At the request of Mr. MURKOWSKI, his name was added as a cosponsor of amendment No. 2336 proposed to H.R. 2002, a bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

At the request of Mr. PRESSLER, the names of the Senator from Oregon [Mr. PACKWOOD], the Senator from Illinois [Mr. SIMON], the Senator from California [Mrs. FEINSTEIN], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of amendment No. 2336 proposed to H.R. 2002, supra.

SENATE CONCURRENT RESOLUTION 24–RELATIVE TO A BUST OF RAOUL WALLENBERG

Mr. PELL (for himself, Mr. STEVENS, and Mr. FORD) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 24

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. DEDICATION CEREMONY AND PLACEMENT OF A BUST OF RAOUL WALLENBERG IN THE CAPITOL

The rotunda of the Capitol may be used on November 2, 1995, for a ceremony incident to the placement of a bust of Raoul Wallenberg in the Capitol as previously authorized by Congress.

SEC. 2. SECURITY AND PHYSICAL PREPARATIONS.

The Capitol Police Board shall take such action with respect to security as may be necessary to carry out section 1. The Architect of the Capitol shall make appropriate physical preparations for the ceremony referred to in section 1.

SENATE RESOLUTION 162–RELATIVE TO THE SENATE PRESS GALLERY

Mr. BYRD submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 162

Whereas the media are a powerful force within our system of government;

Whereas the media have unequaled influence over the dissemination of information to the American people;

Whereas public trust of the media is essential to the health and proper functioning of our republican form of government;

Whereas the media have no industrywide ethical standards regarding the acceptance of earned outside income;

Whereas members of the media could appear to compromise their objectivity by receiving compensation from the same groups they cover; and

Whereas it is in the best interests of the American people and the media that any appearance of a conflict of interest regarding a member of the media's receipt of outside earned income be removed: Now, therefore, be it

Resolved, That (a) not later than May 15 of each year, each accredited member of any of the Senate press galleries who was an accredited member in the preceding year shall file a report for the preceding year with the Secretary of the Senate disclosing the identity of—

(1) the primary employer of the member during the preceding year; and

(2) the identity of any additional sources of earned outside income received by the member, together with the amounts received from each such source, during the preceding year.

(b) For purposes of this resolution

(1) the term ''Senate press galleries'' means—

(A) the Senate Press Gallery;

(B) the Senate Radio and Television Correspondents Gallery;

(C) the Senate Periodical Press Gallery; and

(D) the Senate Press Photographers Gallery; and

(2) the term ''earned outside income'' means any earned income received from sources other than a member's primary employer but does not include interest or dividends received on stocks, bonds, savings accounts, or other forms of passive investment or income from inheritances or rental activities.

(c) A report filed pursuant to this resolution shall be filed with the Secretary of the Senate and available for public inspection as provided in section 103 of the Ethics in Government Act of 1978 for financial reports filed by Members and employees of the Senate.

(d) An accredited member of any of the Senate press galleries who fails to file a report as required by this resolution shall be subject to the loss of the member's accreditation or such other penalties as the member's Senate press gallery deems appropriate.

Mr. BYRD. Mr. President, on July 20, 1995, this body adopted an amendment I proposed which expressed support for public disclosure of certain types of earned income by members of the press in order for them to receive accreditation in the Senate press galleries. By a vote of 60–39, the Senate voiced its concern over the public perception of a press corps that largely lacks any ethical standards to guide its members. Today I am offering a resolution that, if adopted, will require such disclosure from the press.

I know that this is a controversial and somewhat delicate matter. I am aware of the concerns that the fourth estate has with requiring its members to reveal such information. Some members of the media will certainly object to any outside attempt to encourage even a limited code of ethical standards. I believe that those objections are misguided.

This resolution is not intended to be a punitive or vindictive exercise designed to punish, inconvenience or embarrass reporters. When poll after poll records alarming losses of public faith in our traditional institutions, I simply believe that responsible efforts must be made to address that erosion of public trust.

The general perception is that the politicians are corrupt, that judges cannot be entirely trusted, and that the media are biased and unscrupulous. I believe that it is time to take serious steps to restore public credibility in these institutions.

The Senate took one such step in 1991 when it adopted legislation which I sponsored to prohibit its members from receiving honoraria. I believe that action has proved to be meritorious and constructive.

More recently, I offered a sense-of-the-Senate amendment calling on

members of the Judiciary to take another look at their rather lax regulations governing gifts and travel. The amendment passed by a vote of 75 to 23. Again, my intent was to help restore confidence and some measure of accountability to governmental officials and institutions.

Although not a formal governmental institution, the importance of the media in a representative democracy cannot be overstated. The role of the press as interpreter and sole purveyor of the news conveys with it a solemn duty to the public it serves. No single elected official or group of officials can so profoundly affect the focus and tone of the vital daily information which the public digests, believes, and relies upon. The press have an awesome responsibility in our form of government—one that far outweighs any slight inconvenience like filing a list of one's speaking fees. Regrettably, the activities of some—not all, some—members of the press have called into question the ability of the media to be consistently fair and unbiased. As with every institution, most journalists do a good job, providing balanced information that fosters an informed populace. Unfortunately, the perception remains that some reporters' stories are slanted in a particular way or skewed toward a specific interest. It is these perceptions that have to be addressed. My hope, all along, has been that journalists would recognize the need to address this problem themselves. They should do that. That is the way it should be done. As of now, I see little evidence that this will happen.

So today, I am submitting this measure in an effort to jump start the process and begin the frank public discourse which will be necessary in order to meet the justifiable expectations of the American people, whom we all serve. The Senate Rules Committee has jurisdiction over this area. I have spoken with its chairman, Senator STEVENS, some time ago and he is willing to hold hearings on the bill. These hearings will provide an excellent opportunity for all interested parties to come together and offer their varying perspectives and viewpoints. I look forward to a thorough airing of the views of any and all participants who wish to come.

This country is at a critical crossroads. The American people's trust of government has been replaced with a cynicism that is deeply disturbing. If the public continues to lose faith in the traditional institutions which form the bedrock of our republic, before long the very institutions themselves will start crumbling. To avoid such a calamity, we all must work together to try and rebuild confidence in our basic institutions. I firmly believe that this critical need outweighs any one individual's particular concerns and transcends what may be viewed as certain personal prerogatives. All of us involved in this process have a responsibility to make it work. Often a small sacrifice—a good-faith gesture can do wonders toward restoring credibility. The Senate, as it did in 1991, when it adopted my amendment banning honoraria—some Senators did not like that, and we also banned honoraria to our staffs—has led the way and set an example. It is my hope that this resolution will serve the excellent and laudable purpose of encouraging renewed faith in our hallowed fourth estate and in the objectivity of its reporting.

I shall send the resolution to the desk, where it will be appropriately referred.

AMENDMENTS SUBMITTED

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

AKAKA AMENDMENT NO. 2346

(Ordered to lie on the table.)

Mr. AKAKA submitted an amendment intended to be proposed by him to the bill (S. 1026) to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 371, after line 21, add the following:

SEC. 1062. SENSE OF SENATE REGARDING UNDERGROUND NUCLEAR TESTING.

(a) FINDINGS.—The Senate makes the following findings:

(1) The President of France stated on June 13, 1995, that the Republic of France plans to conduct eight nuclear test explosions over the next several months.

(2) The People's Republic of China continues to conduct underground nuclear weapons tests.

(3) The United States, France, Russia, and Great Britain have observed a moratorium of nuclear testing since 1992.

(4) A resumption of testing by the Republic of France could result in the disintegration of the current testing moratorium and a renewal of underground testing by other nuclear weapon states.

(5) A resumption of nuclear testing by the Republic of France raises serious environmental and health concerns.

(6) The United Nations Conference on Disarmament presently is meeting in Geneva, Switzerland, for the purpose of negotiating a Comprehensive Nuclear Test Ban Treaty (CTBT), which would halt permanently the practice of conducting nuclear test explosions.

(7) Continued underground weapons testing by the Republic of France and the People's Republic of China undermines the efforts of the international community to conclude a CTBT by 1996, a goal endorsed by 175 nations at the recently completed NPT Extension and Review Conference (the conference for the extension and review of the Nuclear Non-Proliferation Treaty).

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Republic of France and the People's Republic of China should abide by the current international moratorium on nuclear test explosions and refrain from conducting underground nuclear tests in advance of a Comprehensive Test Ban Treaty.

SARBANES (AND MIKULSKI) AMENDMENT NO. 2347

(Ordered to lie on the table.)

Mr. SARBANES (for himself and Ms. MIKULSKI) proposed an amendment to the bill S. 1026, supra; as follows:

On page 411, line 6, strike out ''$2,058,579,000'' and insert in lieu thereof ''$2,068,579,000''

On page 412, between lines 6 and 7, insert the following:

(7) For the construction of the Large Anechoic Chamber, Phase I, at the Patuxent River Naval Warfare Center, Maryland, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 1993 (Public Law 102–484), as amended by section 2702 of this Act, $10,000,000.

THE DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

McCAIN AMENDMENT NO. 2348

Mr. MCCAIN proposed an amendment to the bill (H.R. 2002) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes; as follows:

On page 72, after line 15, insert: ''(c) This section shall take effect on April 1, 1996.''

On page 73, after line 24, insert: ''(c) This section shall take effect on April 1, 1996.''

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

AKAKA AMENDMENT NO. 2349

(Ordered to lie on the table.)

Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1026, supra; as follows:

On page 277, after line 25, insert the following:

SEC. 650. SELECTED RESERVE INCENTIVE FOR INFANTRY SPECIALTY.

The Secretary of Defense and the Secretary of the Army shall reconsider the decision not to include the infantry military occupational specialty among the military skills and specialties for which special pays are provided under the Selected Reserve Incentive Program.

THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996

STEVENS AMENDMENTS NOS. 2350–2352

Mr. STEVENS proposed three amendments to the bill (S. 1087) making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes; as follows:

AMENDMENT NO. 2350

On page 29, before the period on line 13, insert: '': *Provided further*, That of the funds

appropriated in this paragraph, $35,000,000 shall be available for the Corps Surface-to-Air Missile (Corps SAM) program''.

AMENDMENT NO. 2351

On page 29, before the period on line 13, insert: '': *Provided further*, That of the funds appropriated in this paragraph, $3,000,000 shall be available for the Large Millimeter Telescope project''.

AMENDMENT NO. 2352

On page 29, before the period on line 13, insert: '': *Provided*, That of the funds appropriated in this paragraph, not more than $48,505,000 shall be available for the Strategic Environmental Research Program program element activities and not more than $34,302,000 shall be available for Technical Studies, Support and Analysis program element activities''.

KEMPTHORNE AMENDMENT NO. 2353

Mr. STEVENS (for Mr. KEMPTHORNE) proposed an amendment to the bill, S. 1087, supra; as follows:

At the appropriate place in the bill add the following:

SEC. .

None of the funds appropriated or otherwise made available under this Act may be used for the destruction of pentaborane currently stored at Edwards Air Force Base, California, until the Secretary of Energy certifies to the congressional defense committees that the Secretary does not intend to use the pentaborane or the by-products of such destruction at the Idaho National Engineering Laboratory for—

(1) environmental remediation of high level, liquid radioactive waste; or

(2) as a source of raw materials for boron drugs for Boron Neutron Capture Therapy.

SHELBY AMENDMENTS NOS. 2354 AND 2355

Mr. STEVENS (for Mr. SHELBY) proposed two amendments to the bill, S. 1087, supra; as follows:

AMENDMENT NO. 2354

On page 29, before the period on line 13, insert: '': *Provided further*, That of the $475,470,000 appropriated in this paragraph for the Other Theater Missile Defense, up to $25,000,000 may be available for the operation of the Battlefield Integration Center''.

AMENDMENT NO. 2355

On page 28, before the period on line 4, insert: '': *Provided*, That of the funds appropriated in this paragraph for the Other Missile Product Improvement Program program element, $10,000,000 is provided only for the full qualification and operational platform certification of Non-Developmental Item (NDI) composite 2.75 inch rocket motors and composite propellant pursuant to the initiation of a Product Improvement Program (PIP) for the Hydra-70 rocket''.

DOLE AMENDMENT NO. 2356

Mr. STEVENS (for Mr. DOLE) proposed an amendment to the bill, S. 1087, supra; as follows:

On page 8, line 13, strike out ''Act.'' and insert in lieu thereof ''Act: *Provided further*, That of the funds provided under this heading, $500,000 shall be available for the Life Sciences Equipment Laboratory, Kelly Air Force Base, Texas, for work in support of the Joint Task Force—Full Accounting.''.

STEVENS AMENDMENTS NOS. 2357–2359

Mr. STEVENS proposed three amendments to the bill, S. 1087, supra; as follows:

AMENDMENT NO. 2357

On page 11, before the period on line 9, insert: '': *Provided further*, That of the funds appropriated in this paragraph, $11,200,000 shall be available for the Joint Analytic Model Improvement Program''.

AMENDMENT NO. 2358

On page 11, before the period on line 9, insert: '': *Provided further*, That of the funds appropriated in this paragraph, $10,000,000 shall be available for the Troops-to-Cops program''.

AMENDMENT NO. 2359

On page 11, before the period on line 9, insert: '': *Provided further*, That of the funds provided under this heading, $42,000,000 shall be available for the Troops-to-Teachers program''.

BINGAMAN AMENDMENT NO. 2360

Mr. STEVENS (for Mr. BINGAMAN) proposed an amendment to the bill, S. 1087, supra; as follows:

On page 82, between lines 11 and 12, insert the following:

SEC. 8087. (a) ENERGY SAVINGS AT FEDERAL FACILITIES.—The head of each agency for which funds are made available under this Act shall take all actions necessary to achieve during fiscal year 1996 a 5 percent reduction, from fiscal year 1995 levels, in the energy costs of the facilities used by the agency.

(b) USE OF COST SAVINGS.—An amount equal to the amount of cost savings realized by an agency under subsection (a) shall remain available for obligation through the end of fiscal year 1997, without further authorization or appropriation, as follows:

(1) CONSERVATION MEASURES.—Fifty percent of the amount shall remain available for the implementation of additional energy conservation measures and for water conservation measures at such facilities used by the agency as are designated by the head of the agency.

(2) OTHER PURPOSES.—Fifty percent of the amount shall remain available for use by the agency for such purposes as are designated by the head of the agency, consistent with applicable law.

(c) REPORT.—

(1) IN GENERAL.—Not later than December 31, 1996, the head of each agency described in subsection (a) shall submit a report to Congress specifying the results of the actions taken under subsection (a) and providing any recommendations concerning how to further reduce energy costs and energy consumption in the future.

(2) CONTENTS.—Each report shall—

(A) specify the total energy costs of the facilities used by the agency;

(B) identify the reduction achieved; and

(C) specify the actions that resulted in the reductions.

FEINSTEIN AMENDMENT NO. 2361

Mrs. FEINSTEIN proposed an amendment to the bill, S. 1087, supra; as follows:

On page 29, strike out the period at the end of line 13 and insert in lieu thereof '': *Provided*, That the funds made available under the second proviso under this heading in Public Law 103–335 (108 Stat. 2613) shall also be available to cover the reasonable costs of the administration of loan guarantees referred to in that proviso and shall be available to cover such costs of administration and the costs of such loan guarantees until September 30, 1998.''.

On page 82, between lines 11 and 12, insert the following:

SEC. 8087. ELIGIBILITY FOR DEFENSE DUAL-USE ASSISTANCE EXTENSION PROGRAM.

Section 2524(e) title 10, United States Code, is amended—

(1) in paragraph (3), by striking out ''at least 25 percent of the value of the borrower's sales during the preceding year'' in the matter preceding subparagraph (A) and inserting in lieu thereof ''at least 25 percent of the amount equal to the average value of the borrower's sales during the preceding 5 fiscal years'';

(2) by redesignation paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph (4):

''(4) A borrower that meets the selection criteria set forth in paragraph (2) and subsection (f) is also eligible for a loan guarantee under subsection (b)(3) if the borrower is a former defense worker whose employment as such a worker was terminated as a result of a reduction in expenditures by the United States for defense, the termination of cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.''

FEINSTEIN AMENDMENTS NOS. 2361–2362

Mr. STEVENS (for Mrs. FEINSTEIN) proposed two amendments to the bill, S. 1087, supra; as follows:

AMENDMENT NO. 2361

On page 29, strike out the period at the end of line 13 and insert in lieu thereof '': *Provided*, That the funds made available under the second proviso under this heading in Public Law 103–335 (108 Stat. 2613) shall also be available to cover the reasonable costs of the administration of loan guarantees referred to in that proviso and shall be available to cover such costs of administration and the costs of such loan guarantees until September 30, 1998.''.

AMENDMENT NO. 2362

On page 32, line 19, strike out ''*Provided,*'' and insert in lieu thereof ''*Provided*, That of the funds provided under this heading, $5,000,000 shall be available for conversion of surplus helicopters of the Department of Defense for procurement by State and local governments for counter-drug activities: *Provided further*,''.

GRASSLEY AMENDMENT NO. 2363

Mr. GRASSLEY proposed an amendment to the bill, S. 1087, supra; as follows:

On page 82, between lines 11 and 12, insert the following:

SEC. 8087. (a)(1) Not later than October 1, 1995, the Secretary of Defense shall require that each disbursement by the Department of Defense in an amount in excess of $1,000,000 be matched to a particular obligation before the disbursement is made.

(2) Not later than September 30, 1996, the Secretary of Defense shall require that each disbursement by the Department of Defense in an amount in excess of $500,000 be matched to a particular obligation before the disbursement is made.

(b) The Secretary shall ensure that a disbursement in excess of the threshold amount applicable under subsection (a) is not divided into multiple disbursements of less than that amount for the purpose of avoiding the applicability of such subsection to that disbursement.

(c) The Secretary of Defense may waive a requirement for advance matching of a disbursement of the Department of Defense with a particular obligation in the case of (1) a disbursement involving deployed forces, (2) a disbursement for an operation in a war declared by Congress or a national emergency declared by the President or Congress, or (3) a disbursement under any other circumstances for which the waiver is necessary in the national security interests of the United States, as determined by the Secretary and certified by the Secretary to the congressional defense committees.

(d) This section shall not be construed to limit the authority of the Secretary of Defense to require that a disbursement not in excess of the amount applicable under subsection (a) be matched to a particular obligation before the disbursement is made.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

EXON AMENDMENTS NOS. 2364–2369

(Ordered to lie on the table.)

Mr. EXON submitted six amendments intended to be proposed by him to the bill, S. 1026, supra; as follows:

AMENDMENT NO. 2364

On page 557, between liens 9 and 10, insert the following:

SEC. 3144. TRANSPORTATION AND STORAGE OF SPENT NAVAL NUCLEAR FUEL AT IDAHO NATIONAL ENGINEERING LABORATORY.

(a) REQUIREMENT.—Notwithstanding any other provision of law, the Secretary of Energy and the Secretary of the Navy shall—

(1) transport to Idaho National Engineering Laboratory, Idaho, such spent nuclear fuel from naval reactors as the Secretary of the Navy determines appropriate in order to protect the national security interests of the United States; and

(2) store at the laboratory the spent nuclear fuel transported to the laboratory under paragraph (1).

(b) STANDARDS.—The Secretary of the Navy shall determine the spent nuclear fuel to be transported to the Idaho National Engineering Laboratory under subsection (a), and the manner of the transportation of such spent nuclear fuel, in accordance with standards and practices utilized by the Secretary in shipping spent nuclear fuel from naval reactors to the laboratory before the date of the enactment of this Act.

(c) TERMINATION OF TRANSPORTATION AND STORAGE.—The Secretary of Energy and the Secretary of the Navy shall continue the transportation and storage of spent nuclear fuel at the Idaho National Engineering Laboratory under subsection (a) until the date of the issuance by a United States court of appeals of a final ruling in—

(1) any litigation challenging the environmental impact statement issued by the Department of Energy and the Department of the Navy in April 1995 regarding the management of spent nuclear fuel from naval reactors; or

(2) any litigation challenging the record of decision issued by the Department of Energy on June 1, 1995, regarding the management of spent nuclear fuel from naval reactors.

(d) DEFINITION.—In this section, the term ''spent naval fuel'' has the meaning given such term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)).

AMENDMENT NO. 2365

On page 331, strike out line 21 and all that follows through page 333, line 3.

AMENDMENT NO. 2366

On page 39, strike out line 22 and all that follows through page 40, line 6, and insert in lieu thereof the following:

(a) FUNDING.—Of the funds authorized to be appropriated to the Department of Defense under section 201(4), $114,500,000 shall be available for the Counterproliferation Support Program, of which $6,300,000 shall be available for research and development of technologies for Special Operations Command (SOCOM) counterproliferation activities.

AMENDMENT NO. 2367

On page 567, strike out line 22 and all that follows through page 568, line 20.

AMENDMENT NO. 2368

On page 548, between lines 20 and 21, insert the following into Section 3135:

(c) LIMITATIONS.—Nothing in this Act shall be construed as an authorization to conduct a nuclear weapon test as defined in Section 507 of Public Law 102–377. Furthermore, nothing in this Act shall be construed as amending or repealing the requirements of Section 507 of Public Law 102–377.

AMENDMENT NO. 2369

On page 53, between lines 14 and 15, insert the following into Section 233:

(7) pursue the deployment of a national missile defense system that will not jeopardize the successful implementation of the START I Treaty and the successful ratification and implementation of the START II Treaty.

STEVENS AMENDMENTS NOS. 2370–2371

(Ordered to lie on the table.)

Mr. STEVENS submitted two amendments intended to be proposed by him to the bill, S. 1026, supra; as follows:

AMENDMENT NO. 2370

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

SEC. . SUBCONTRACTS FOR OCEAN TRANSPORTATION SERVICES.

Notwithstanding any other provision of law, funds authorized under this Act shall not be used prior to May 1, 1996 to implement regulations under section 34(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 430(b)) which include either section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241(b)) or section 2631 of title 10, United States Code, on any list promulgated under such section.

AMENDMENT NO. 2371

On page 305, beginning on line 1, strike all through line 10 and insert in lieu thereof the following:

SEC. 802. PROCUREMENT NOTICE POSTING THRESHOLDS AND SUBCONTRACTS FOR OCEAN TRANSPORTATION SERVICES.

(a) PROCUREMENT NOTICE POSTING THRESHOLDS.—Section 18(a)(1)(B) of the Office of Federal Procurement Policy Act (41 U.S.C. 416 (a)(1)(B)) is amended—

(1) by striking out ''subsection (f)—'' and all that follows through the end of the subparagraph and inserting in lieu thereof ''subsection (b); and''; and

(2) by inserting after ''property or services'' the following: ''for a price expected to exceed $10,000, but not to exceed $25,000,''.

(b) SUBCONTRACTS FOR OCEAN TRANSPORTATION SERVICES.—Notwithstanding any other provision of law, neither section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241(b)) nor section 2631 of title 10, United States Code, shall be included prior to May 1, 1996 on any list promulgated under section 34(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 430(b)).

THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996

MCCAIN (AND DODD) AMENDMENT NO. 2372

Mr. MCCAIN (for himself and Mr. DODD) proposed an amendment to the bill, S. 1087, supra; as follows:

On page 82, between lines 11 and 12, insert the following:

SEC. 8087. (a) Except as provided in subsection (b), the total amount obligated or expended for procurement of the SSN–21, SSN–22, and SSN–23 Seawolf class submarines may not exceed $7,223,695,000.

(b) The amount of the limitation set forth in subsection (a) is increased after fiscal year 1995 by the following amounts:

(1) The amounts of outfitting costs and postdelivery costs incurred for the submarines referred to in such subsection.

(2) The amounts of increases in costs attributable to economic inflation after fiscal year 1995.

(3) The amounts of increases in costs attributable to compliance with changes in Federal, State, or local laws enacted after fiscal year 1995.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

LEVIN AMENDMENT NO. 2373

(Ordered to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to the bill, S. 1026, supra; as follows:

At the appropriate point in the bill, insert the following new section:

''SEC. . BUDGETING AND ACCOUNTING FOR OVERHEAD.

''(a) The Secretary shall include in the budget justification submitted each year to the Committees on Appropriations of both Houses of Congress—

''(1) amounts requested for overhead expenses;

''(2) the appropriation accounts from which the amounts are to be paid; and

''(3) a description of the efforts taken by the Department to reduce overhead expenses in the preceding fiscal year.

''(b) For the purpose of this section, the term ''overhead expenses'' includes costs incurred for the following:

''(1) travel and transportation of civilian personnel;

''(2) transportation of things (other than military equipment);

''(3) rental payments, communications expenses (not including expenses for the development, acquisition, maintenance and operation of military command, control and communications systems), utilities and miscellaneous charges;

''(4) printing and reproduction;
''(5)(A) services not directly related to the development, acquisition, maintenance and operation of military equipment or the operations of troops in the field;
''(B) purchase of goods other than military equipment;
''(C) acquisition of capital assets other than military equipment; and
''(6) storage of inventory.

McCAIN (AND DODD) AMENDMENT NO. 2374

Mr. McCAIN (for himself and Mr. DODD) proposed an amendment to the bill, S. 1087, supra; as follows:

On page 71, between lines 11 and 12, insert the following: ''Shipbuilding and Conversion, Navy, 1991/1995'', $13,570,000.

THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996

McCAIN AMENDMENT NO. 2375

Mr. McCAIN proposed an amendment to the bill, S. 1087, supra; as follows:

On page 82, between lines 11 and 12, insert the following:
SEC. 8087. (a) Funds available to the Department of Defense for fiscal year 1996 may not be obligated or expended for a program or activity referred to in subsection (b) except to the extent that appropriations are specifically authorized for such program or activity in an Act other than an appropriations Act.
(b) Subsection 9a) applies to the following programs and activities:
(1) Environmental remediation at National Presto Industries, Inc., Eau Claire, Wisconsin.
(2) Transfer of federally owned educational facilities on military installations to local education agencies.
(3) Activities at the Marine and Environmental Research and Training Station.
(4) Support for Coast Guard activities from the Defense Business Operations Fund.
(5) Contributions to the Kaho'olawe Island Restoration Trust Fund.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

STEVENS AMENDMENT NO. 2376

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1026, supra; as follows:

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

SEC. . SUBCONTRACTS FOR OCEAN TRANSPORTATION SERVICES.

No funds are authorized in this Act to implement regulations under section 34(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 430(b)) which list either section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241(b)) or section 2631 of title 10, United States Code, prior to May 1, 1996.

THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996

DORGAN AMENDMENT NO. 2377

Mr. DORGAN proposed an amendment to the bill, S. 1087, supra; as follows:

On page 29, beginning on line 12, strike out ''$9,196,784,000, to remain available for obligation until September 30, 1997.'', and insert in lieu thereof ''$8,896,784,000, to remain available for obligation until September 30, 1997: *Provided*, That, of the amount appropriated under this heading, not more than $357,900,000 shall be available for national missile defense.''.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

HELMS AMENDMENT NO. 2378

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill, S. 1026, supra; as follows:

On page 422, in the table preceding line 1, in the matter relating to the Special Operations Command at Fort Bragg, North Carolina, strike out ''$8,100,000'' in the amount column and insert in lieu thereof ''$9,400,000''.
On page 424, line 22, increase the amount by $1,300,000.
On page 424, line 25, increase the amount by $1,300,000.

DOLE AMENDMENT NO. 2379

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to the bill, S. 1026, supra; as follows:

On page 31, after line 22, insert the following:

SEC. 133. JOINT PRIMARY AIRCRAFT TRAINING SYSTEM PROGRAM.

Of the amount authorized to be appropriated under section 103(1), $54,968,000 shall be available for the Joint Primary Aircraft Training System program for procurement of up to eight aircraft.

LOTT AMENDMENT NO. 2380

(Ordered to lie on the table.)

Mr. LOTT submitted an amendment intended to be proposed by him to the bill, S. 1026, supra; as follows:

Beginning on page 20, line 24, strike out ''reviewed'' and all that follows through page 21, line 2, and insert in lieu thereof ''qualified for operational use and platform certification have been completed for full qualification of an alternative composite rocket motor and propellant.''.

ROBB AMENDMENT NO. 2381

(Ordered to lie on the table.)

Mr. ROBB submitted an amendment intended to be proposed by him to the bill, S. 1026, supra; as follows:

On page 137, after line 24, insert the following:

SEC. 389. REPORT ON PRIVATE PERFORMANCE OF CERTAIN FUNCTIONS PERFORMED BY MILITARY AIRCRAFT.

(a) REPORT REQUIRED.—Not later than May 1, 1996, the Secretary of Defense shall submit to Congress a report on the feasibility, including the costs and benefits, of using private sources for satisfying, in whole or in part, the requirements of the Department of Defense for VIP transportation by air, airlift for other personnel and for cargo, in-flight refueling of aircraft, and performance of such other military aircraft functions as the Secretary considers appropriate to discuss in the report.
(b) CONTENT OF REPORT.—The report shall include a discussion of the following:
(1) Contracting for the performance of the functions referred to in subsection (a).
(2) Converting to private ownership and operation the Department of Defense VIP air fleets, personnel and cargo aircraft, and in-flight refueling aircraft, and other Department of Defense aircraft.
(3) The wartime requirements for the various VIP and transport fleets.
(4) The assumptions used in the cost-benefit analysis.
(5) The effect on military personnel and facilities of using private sources, as described in paragraphs (1) and (2), for the purposes described in subsection (a).

WARNER (AND OTHERS) AMENDMENT NO. 2382

(Ordered to lie on the table.)

Mr. WARNER (for himself, Mr. KEMPTHORNE, and Mr. CRAIG) submitted an amendment intended to be proposed by them to the bill, S. 1026, supra; as follows:

On page 570, between lines 10 and 11, insert the following:

SEC. 3168. SENSE OF SENATE ON NEGOTIATIONS REGARDING SHIPMENTS OF SPENT NUCLEAR FUEL FROM NAVAL REACTORS.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Defense, the Secretary of Energy, and the Governor of the State of Idaho should continue good faith negotiations for the purpose of reaching an agreement on the issue of shipments of spent nuclear fuel from naval reactors.
(b) REPORT.—(1) Not later than September 1, 1995, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a written report on the status or outcome of the negotiations urged under subsection (a).
(2) The report shall include the following matters:
(A) If an agreement is reached, the terms of the agreement, including the dates on which shipments of spent nuclear fuel from naval reactors will resume.
(B) If an agreement is not reached—
(i) the Secretary's evaluation of the issues remaining to be resolved before an agreement can be reached;
(ii) the likelihood that an agreement will be reached before October 1, 1995; and
(iii) the steps that must be taken to insure that the Navy can meet the national security requirements of the United States.

THURMOND AMENDMENT NO. 2383

(Ordered to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill, S. 1026, supra; as follows:

On page 69, line 25, decrease the amount by $10,000,000.
On page 70, line 5, strike out ''$1,472,947,000'' and insert in lieu thereof ''$1,482,947,000''.

GLENN (AND OTHERS) AMENDMENT NO. 2384

(Ordered to lie on the table.)

Mr. GLENN (for himself, Mrs. FEINSTEIN, Mr. PELL, and Mr. MOYNIHAN) submitted an amendment intended to be proposed by them to the bill, S. 1026, supra; as follows:

On page 49, between lines 14 and 15, insert the following:

SEC. 224. JOINT SEISMIC PROGRAM AND GLOBAL SEISMIC NETWORK.

To the extent provided in appropriations Acts, $9,500,000 of the unobligated balance of funds available to the Air Force for research, development, test, and evaluation for fiscal year 1995 for the Defense Support Program shall be available for continuation of the Joint Seismic Program and Global Seismic Network.

HARKIN (AND OTHERS) AMENDMENT NO. 2385

(Order to lie on the table.)

Mr. HARKIN (for himself, Mr. SHELBY, Mr. CAMPBELL, Mr. ROBB, Mr. HEFLIN, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill, S. 1026, supra; as follows:

On page 72, between lines 18 and 19, insert the following:

SEC. 305. INCREASE IN FUNDING FOR THE CIVIL AIR PATROL.

(a) INCREASE.—(1) The amount of funds authorized to be appropriated by this Act for operation and maintenance of the Air Force for the Civil Air Patrol Corporation is hereby increased by $5,000,000.

(2) The amount authorized to be appropriated for operation and maintenance for the Civil Air Patrol Corporation under paragraph (1) is in addition to any other funds authorized to be appropriated under this Act for that purpose.

(b) OFFSETTING REDUCTION.—The amount authorized to be appropriated under this Act for Air Force support of the Civil Air Patrol is hereby reduced by $2,900,000. The amount of the reduction shall be allocated among funds authorized to be appropriated for Air Force personnel supporting the Civil Air Patrol and for Air Force operation and maintenance support for the Civil Air Patrol.

BROWN AMENDMENT NO. 2386

(Ordered to lie on the table.)

Mr. BROWN submitted an amendment intended to be proposed by him to the bill, S. 1026, supra; as follows:

At the appropriate place in the bill add the following

"SEC. . STUDY ON CHEMICAL WEAPONS STOCKPILE.

(a) STUDY.—(1) The Secretary of Defense shall conduct a study to assess the risk associated with transportation of the unitary stockpile, any portion of the stockpile to include drained agents from munitions and munitions, from one location to another within the continental United States. Also, the Secretary shall include a study of the assistance available to communities in the vicinity if the Department of Defense facilities co-located with continuing chemical stockpile and chemical demilitarization operations which facilities are subject to closure, realignment, or reutilization.

(2) The review shall include an analysis of—

(A) the results of the physical and chemical integrity report conducted by the Army on existing stockpile;

(B) a determination of the viability of transportation of any portion of the stockpile, to include drained agent from munitions and the munitions;

(C) the safety, cost-effectiveness, and public acceptability of transporting the stockpile, in its current configuration, or in alternative configurations;

(D) the economic effects of closure, realignment, or reutilization of the facilities referred to in paragraph (1) on the communities referred to in that paragraph; and

(E) the unique problems that such communities face with respect to the reuse of such facilities as a result of the operations referred to in paragraph (1).

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study carried out under subsection (a). The report shall include recommendations of the Secretary on methods for ensuring the expeditions and cost-effective transfer or lease of facilities referred to in paragraph (1) of subsection (a) to communities referred to in paragraph (1) for reuse by such communities."

JEFFORDS AMENDMENT NO. 2387

(Ordered to lie on the table.

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill, S. 1026, supra; as follows:

On page 137, after line 24, add the following:

SEC. 389. FUNDING FOR CERTAIN IMPACT AID.

(a) IN GENERAL.—Of the funds authorized to be appropriated under this title, $400,000,000 shall be available for carrying out programs of financial assistance to local educational agencies authorized by title VIII of the Elementary and Secondary Education Act of 1965, of which—

(1) $340,000,000 shall be for payments under section 8003(b) of that Act;

(2) $20,000,000 shall be for payments under section 8003(d) of that Act; and

(3) $40,000,000 shall be for payments under section 8003(f) of that Act, which amount shall remain available until expended.

(b) LIMITATIONS ON AVAILABILITY OF FUNDS.—(1) Funds available under subsection (a) shall be used only for payments on behalf of children described in subparagraphs (A)(ii), (B), and (D) of section 8003(a)(1) of that Act.

(2) Such funds may not be used for payments under section 8003(d) of that Act.

(3) Such funds shall be governed by the provisions of title VIII of that Act.

(c) PAYMENT AMOUNTS.—(1) Payment amounts for local educational agencies shall be calculated by the Secretary of Education under the provisions of title VIII of that Act based on the total amounts provided to the Department of Education and the Department of Defense for Impact Aid.

(2) The Secretary of Defense shall distribute funds to local educational agencies based on calculations under paragraph (1).

PRYOR AMENDMENTS NOS. 2388–2389

(Ordered to lie on the table.)

Mr. PRYOR submitted two amendments intended to be proposed by him to the bill, S. 1026, supra; as follows:

AMENDMENT NO. 2388

On page 468, after line 24, add the following:

SEC. 2825. INTERIM LEASES OF PROPERTY APPROVED FOR CLOSURE OR REALIGNMENT.

Section 2667(f) of title 10, United States Code, is amended by adding at the end the following:

"(4)(A) Notwithstanding the National Environmental Policy Act of 1969, the scope of any environmental impact analysis necessary to support an interim lease of property under this subsection shall be limited to the environmental consequences of activities authorized under any such lease proposal and the cumulative impacts of other past, present, and reasonably foreseeable future proposed leasehold, so long as the lease would not irreversibly alter the environment in a way that reasonable disposal alternatives would be precluded.

"(B) Interim leases entered into under this subsection that will not have a significant effect on the quality of the human environment shall, in consultation with the local redevelopment authority, be deemed not to prejudice the final property disposal decision, even though final property disposal may be delayed until completion of the interim lease term, unless authorized activities under the lease would irreversibly alter the environment in a way that reasonable disposal alternatives would be precluded.".

AMENDMENT NO. 2389

On page 69, between lines 9 and 10 insert the following:

SEC. 242. TESTING OF THEATER MISSILE DEFENSE INTERCEPTORS.

(a) SENSE OF THE SENATE.—The Senate strongly supports the rapid development and deployment of a theater missile defense capability that protects American Service personnel in theaters around the world. The importance of developing and fielding an effective and suitable theater missile defense system on a timely basis is of paramount importance to the Senate. The complexity and unique requirements for the theater missile defense systems and the implication of any delays in fielding a theater missile defense capability strongly concern the Senate. Therefore, the Senate strongly desires to be informed on the progress of each theater missile defense acquisition program and its integration into a system that will effectively defend our forward deployed and expeditionary forces, friends and allies.

"(b) TESTING OF THEATER MISSILE DEFENSE INTERCEPTORS.—(1) The Secretary of Defense may not approve a theater missile defense interceptor program proceeding beyond the low-rate initial production acquisition stage until the Secretary certifies to the Congressional defense committees that such program has successfully completed initial operational test and evaluation, and is found to be a suitable and effective system.

"(2) In order to be certified under paragraph (b) as having been successfully completed, the initial operational test and evaluation conducted with respect to an interceptors program must have included flight tests—

"(A) that were conducted with multiple interceptors and multiple targets in the presence of realistic countermeasures; and

"(B) the results of which demonstrate the achievement by the interceptors of the baseline performance thresholds.

"(3) For purposes of this subsection, the baseline performance thresholds with respect to a program are the weapons systems performance thresholds specified in the baseline description for the system established (pursuant to section 2435(a)(1) if title 10, United States Code) before the program entered the engineering and manufacturing development stage.

"(4) The number of flight tests described in paragraph (2) that are required in order to make the certification under paragraph (1) shall be a number determined by the Director, Operational Test and Evaluation to be sufficient for the purposes of this section.

''(5) The Secretary may augment flight testing to demonstrate weapons system performance goals for purposes of the certification under paragraph (1) through the use of modeling and simulation that is validated by ground and flight testing.

''(6) The Director, Operational Test and Evaluation and Ballistic Missile Defense Organization shall include in their annual reports to Congress plans to adequately test theater missile defense interceptor programs throughout the acquisition process. As these theater missile defense systems progress through the acquisition process, the Director, Operational Test and Evaluation and Ballistic Missile Defense Organization shall include in their annual reports to Congress an assessment of how these programs satisfy planned test objectives.''

THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996

BINGAMAN (AND OTHERS) AMENDMENT NO. 2390

Mr. BINGAMAN (for himself, Mr. LAUTENBERG, Mr. EXON, and Mr. KERREY) proposed an amendment to the bill, S. 1087, supra; as follows:

On page 81, strike out lines 16 through 23, and insert in lieu thereof the following:

SEC. 8082. (a) In addition to the amounts appropriated in title I for military personnel, funds are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1996, for purposes and in amounts as follows:

(1) For military personnel, Army, an additional amount of $9,800,000.

(2) For military personnel, Navy, an additional amount of $39,400,000.

(3) For military personnel, Marine Corps, an additional amount of $6,000,000.

(4) For military personnel, Air Force, an additional amount of $61,200,000.

(5) For reserve personnel, Navy, an additional amount of $2,700,000.

(b) In addition to the amounts appropriated in title II for operation and maintenance, funds are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1996, for purposes and in amounts as follows:

(1) For operation and maintenance, Army, an additional amount of $171,300,000.

(2) For operation and maintenance, Navy, an additional amount of $210,400,000.

(3) For operation and maintenance, Marine Corps, an additional amount of $8,000,000.

(4) For operation and maintenance, Air Force, an additional amount of $645,100,000.

(5) For operation and maintenance, Defense-wide, an additional amount of $25,800,000.

(6) For operation and maintenance, Navy Reserve, an additional amount of $1,000,000.

(c) In addition to the amount appropriated in title VI under the heading ''DEFENSE HEALTH PROGRAM'', funds are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1996, for expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, an additional sum in the amount of $7,400,000 for operation and maintenance.

(d)(1) The total amount appropriated in title III under the heading ''SHIPBUILDING AND CONVERSION, NAVY'' is hereby reduced by $1,300,000,000.

(2) None of the funds appropriated in title III under the heading ''SHIPBUILDING AND CONVERSION, NAVY'' may be obligated or expended for the LHD–1 amphibious assault ship program.

BROWN (AND OTHERS) AMENDMENT NO. 2391

Mr. BROWN (for himself, Mr. SIMON, Mr. DOLE, Ms. MIKULSKI, Mr. SANTORUM, Mr. LIEBERMAN, Mr. ROTH, Mr. MCCAIN, Mr. MCCONNELL, Mr. WARNER, Mr. NICKLES, Mr. CRAIG, Mrs. HUTCHISON, Mr. INHOFE, Mr. DOMENICI, Mr. HELMS, Ms. MOSELEY-BRAUN, and Mr. D'AMATO) proposed an amendment to the bill, S. 1087, supra; as follows:

AMENDMENT NO. 2391

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

TITLE ____—NATO PARTICIPATION ACT AMENDMENTS OF 1995

SEC. ___01. SHORT TITLE.

This title may be cited as the ''NATO Participation Act Amendments of 1995''.

SEC. ___02. FINDINGS.

The Congress makes the following findings:

(1) Since 1949, the North Atlantic Treaty Organization (NATO) has played an essential role in guaranteeing the security, freedom, and prosperity of the United States and its partners in the Alliance.

(2) NATO has expanded its membership on three different occasions since 1949.

(3) The sustained commitment of the member countries of NATO to mutual defense of their security ultimately made possible the democratic transformation in Central and Eastern Europe and the demise of the Soviet Union.

(4) NATO was designed to be and remains a defensive military organization whose members have never contemplated the use of, or used, military force to expand the borders of its member states.

(5) While the immediate threat to the security of the United States and its allies has been reduced with the collapse of the Iron Curtain, new security threats, such as the situation in Bosnia and Herzegovina, are emerging to the shared interests of the member countries of NATO.

(6) NATO remains the only multilateral security organization capable of conducting effective military operations to protect Western security interests.

(7) NATO has played a positive role in defusing tensions between NATO members and, as a result, no military action has occurred between two NATO member states since the inception of NATO in 1949.

(8) NATO is also an important diplomatic forum for the discussion of issues of concern to its member states and for the peaceful resolution of disputes.

(9) America's security, freedom, and prosperity remain linked to the security of the countries of Europe.

(10) Any threat to the security of the newly emerging democracies in Central Europe would pose a security threat to the United States and its European allies.

(11) The admission to NATO of Central and East European countries that have been freed from Communist domination and that meet specific criteria for NATO membership would contribute to international peace and enhance the security of the region.

(12) A number of countries have expressed varying degrees of interest in NATO membership, and have taken concrete steps to demonstrate this commitment.

(13) Full integration of Central and East European countries into the North Atlantic Alliance after such countries meet essential criteria for admission would enhance the security of the Alliance and, thereby, contribute to the security of the United States.

(14) The expansion of NATO can create the stable environment needed to successfully complete the political and economic transformation envisioned by Eastern and Central European countries.

(15) In recognition that not all countries which have requested membership in NATO will necessarily qualify at the same pace, the date for membership of each country will vary.

(16) The provision of NATO transition assistance should include those countries most ready for closer ties with NATO, such as Poland, Hungary, the Czech Republic and Slovakia and should be designed to assist other countries meeting specified criteria of eligibility to move toward eventual NATO membership, including Lithuania, Latvia, Estonia, Ukraine, Romania, Bulgaria, and Slovenia.

(17) Lithuania, Latvia, and Estonia have made significant progress in preparing for NATO membership and should be given every consideration for inclusion in programs for NATO transition assistance.

SEC. ___03. UNITED STATES POLICY.

It should be the policy of the United States—

(1) to join with the NATO allies of the United States to redefine the role of the NATO Alliance in the post-Cold War world;

(2) to actively assist European countries emerging from communist domination in their transition so that such countries may eventually qualify for NATO membership;

(3) to use the voice and vote of the United States to urge observer status in the North Atlantic Council for countries designated under section 203(d) of the NATO Participation Act of 1994 (as amended by this title) as eligible for NATO transition assistance; and

(4) to work to define the political and security relationship between an enlarged NATO and the Russian Federation.

SEC. ___04. REVISIONS TO PROGRAM TO FACILITATE TRANSITION TO NATO MEMBERSHIP.

(a) ESTABLISHMENT OF PROGRAM.—Subsection (a) of section 203 of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note) is amended to read as follows:

''(a) ESTABLISHMENT OF PROGRAM.—The President shall establish a program to assist countries designated under subsection (d) in the transition to full NATO membership.''.

(b) ELIGIBLE COUNTRIES.—

(1) ELIGIBILITY.—Subsection (d) of section 203 of such Act is amended to read as follows:

''(d) DESIGNATION OF ELIGIBLE COUNTRIES.—

''(1) SPECIFIC COUNTRIES.—The following countries are hereby designated for purposes of this title: Poland, Hungary, the Czech Republic, and Slovakia.

''(2) OTHER EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—In addition to the countries designated in paragraph (1), the President may designate other European countries emerging from Communist domination to receive assistance under the program established under subsection (a). The President may make such a designation in the case of any such country only if the President determines, and reports to the designated congressional committees, that such country—

''(A) has made significant progress toward establishing—

''(i) shared values and interests;

''(ii) democratic governments;

''(iii) free market economies;

''(iv) civilian control of the military, of the police, and of intelligence services;

''(v) adherence to the values, principles, and political commitments embodied in the Helsinki Final Act of the Organization on Security and Cooperation in Europe; and

''(vi) more transparent defense budgets and is participating in the Partnership For Peace defense planning process;

''(B) has made public commitments—

''(i) to further the principles of NATO and to contribute to the security of the North Atlantic area;

''(ii) to accept the obligations, responsibilities, and costs of NATO membership; and

''(iii) to implement infrastructure development activities that will facilitate participation in and support for NATO military activities;

''(C) meets standards of the NATO allies to prevent the sale or other transfer of defense articles to a state that has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j)(1)(A) of the Export Administration Act of 1979; and

''(D) is likely, within five years of such determination, to be in a position to further the principles of the North Atlantic Treaty and to contribute to its own security and that of the North Atlantic area.''.

(2) CONFORMING AMENDMENTS.—

(A) Subsections (b) and (c) of section 203 of such Act are amended by striking ''countries described in such subsection'' each of the two places it appears and inserting ''countries designated under subsection (d)''.

(B) Subsection (e) of section 203 of such Act is amended—

(i) by striking ''subsection (d)'' and inserting ''subsection (d)(2)''; and

(ii) by inserting ''(22 U.S.C. 2394)'' before the period at the end.

(C) Section 204(c) of such Act is amended by striking ''any other Partnership for Peace country designated under section 203(d)'' and inserting ''any country designated under section 203(d)(2)''.

(c) TYPES OF ASSISTANCE.—Section 203(c) of such Act is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively; and

(2) by inserting after subparagraph (D) (as redesignated) the following new subparagraphs:

''(E) Assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the Economic Support Fund).

''(F) Funds appropriated under the 'Nonproliferation and Disarmament Fund' account''.

''(G) Funds appropriated under chapter 6 of part II of the Foreign Assistance Act of 1961 (relating to peacekeeping operations and other programs).''.

(3) by inserting ''(1)'' immediately after ''TYPE OF ASSISTANCE.—''; and

(4) by adding at the end the following new paragraphs:

''(2) For fiscal years 1996 and 1997, in providing assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 for the countries designated under subsection (d), the President shall include as an important component of such assistance the provision of sufficient language training to enable military personnel to participate further in programs for military training and in defense exchange programs.

''(3) Of the amounts made available under chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training), not less than $5,000,000 for fiscal year 1996 and not less than $5,000,000 for fiscal year 1997 shall be available only for—

''(A) the attendance of additional military personnel of Poland, Hungary, the Czech Republic, and Slovakia at professional military education institutions in the United States in accordance with section 544 of such Act; and

''(B) the placement and support of United States instructors and experts at military educational centers within the foreign countries designated under subsection (d) that are receiving assistance under that chapter.''.

SEC. ___05. PARTICIPATION IN THE NORTH ATLANTIC COUNCIL.

The NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note) is amended—

(1) by redesignating section 205 as section 206; and

(2) by inserting after section 204 the following:

''SEC. 205. PARTICIPATION IN THE NORTH ATLANTIC COUNCIL.

''The President should, at all bilateral and international fora, use of the voice and vote of the United States to urge observer status in the North Atlantic Council for countries designated under section 203(d) commensurate with their progress toward attaining NATO membership.''.

SEC. ___06. TERMINATION OF ELIGIBILITY.

Section 203(f) of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note) is amended to read as follows:

''(f) TERMINATION OF ELIGIBILITY.—(1) The eligibility of a country designated under subsection (d) for the program established in subsection (a) shall terminate 60 days after the President makes a certification under paragraph (2) unless, within the 60-day period, the Congress enacts a joint resolution disapproving the termination of eligibility.

''(2) Whenever the President determines that the government of a country designated under subsection (d)—

''(A) no longer meets the criteria set forth in subsection (d)(2)(A);

''(B) is hostile to the NATO alliance; or

''(C) poses a national security threat to the United States,

then the President shall so certify to the appropriate congressional committees.''.

(b) CONGRESSIONAL PRIORITY PROCEDURES.—Section 203 of such Act is amended by adding at the end the following new subsection:

''(g) CONGRESSIONAL PRIORITY PROCEDURES.—

''(1) APPLICABLE PROCEDURES.—A joint resolution described in paragraph (2) which is introduced in a House of Congress after the date on which a certification made under subsection (f)(2) is received by Congress shall be considered in accordance with the procedures set forth in paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98–473 (98 Stat. 1936)), except that—

''(A) references to the 'resolution described in paragraph (1)' shall be deemed to be references to the joint resolution; and

''(B) references to the Committee on Appropriations of the House of Representatives and to the Committee on Appropriations of the Senate shall be deemed to be references to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

''(2) TEXT OF JOINT RESOLUTION.—A joint resolution under this paragraph is a joint resolution the matter after the resolving clause of which is as follows: 'That the Congress disapproves the certification submitted by the President on _____ pursuant to section 203(f) of the NATO Participation Act of 1994.'.''.

SEC. ___07. REPORTS.

(a) ANNUAL REPORT.—Section 206 of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note), as redesignated by section ___05(1) of this title, is amended—

(1) by inserting ''annual'' in the section heading before the first word;

(2) by inserting ''annual'' after ''include in the'' in the matter preceding paragraph (1);

(3) in paragraph (1), by striking ''Partnership for Peace'' and inserting ''European''; and

(4) by striking paragraph (2) and inserting instead the following new paragraph:

''(2) In the event that the President determines that, despite a period of transition assistance, a country designated under section 203(d) has not, as of January 10, 1999, met the standards for NATO membership set forth in Article 10 of the North Atlantic Treaty, the President shall transmit a report to the designated congressional committees containing an assessment of the progress made by that country in meeting those standards.''.

SEC. ___08. DEFINITIONS.

The NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note), as amended by this title, is further amended by adding at the end the following new section:

''SEC. 207. DEFINITIONS.

''For purposes of this title:

''(1) NATO.—The term 'NATO' means the North Atlantic Treaty Organization.

''(2) DESIGNATED CONGRESSIONAL COMMITTEES.—The term 'designated congressional committees' means—

''(A) the Committee on International Relations, the Committee on National Security, and the Committee on Appropriations of the House of Representatives; and

''(B) the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate.

''(3) EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The term 'European countries emerging from Communist domination' includes, but is not limited to, Albania, Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia, and Ukraine.''.

BINGAMAN AMENDMENT NO. 2392

Mr. BINGAMAN proposed an amendment to the bill, S. 1087, supra; as follows:

On page 81, strike out lines 16 through 20.

JEFFORDS AMENDMENT NO. 2393

Mr. JEFFORDS proposed an amendment to the bill, S. 1087, supra; as follows:

On page 82, between lines 11 and 12, insert the following:

SEC. 8087. FUNDING FOR CERTAIN IMPACT AID.

(a) IN GENERAL.—Of the funds appropriated by the provisions of this Act, $400,000,000 shall be available for carrying out programs of financial assistance to local educational agencies authorized by title VIII of the Elementary and Secondary Education Act of 1965, of which—

(1) $340,000,000 shall be for payments under section 8003(b) of that Act;

(2) $20,000,000 shall be for payments under section 8003(d) of that Act; and

(3) $40,000,000 shall be for payments under section 8003(f) of that Act, which amount shall remain available until expended.

(b) LIMITATIONS ON AVAILABILITY OF FUNDS.—(1) Funds available under subsection (a) shall be used only for payments on behalf of children described in subparagraphs

(A)(ii), (B), and (D) of section 8003(a)(1) of that Act.

(2) Such funds may not be used for payments under section 8003(e) of that Act.

(3) Such funds shall be governed by the provisions of title VIII of that Act.

(c) PAYMENT AMOUNTS.—(1) Payment amounts for local educational agencies shall be calculated by the Secretary of Education under the provisions of title VIII of that Act based on the total amounts provided to the Department of Education and the Department of Defense for Impact Aid.

(2) The Secretary of Defense shall distribute funds to local educational agencies based on calculations under paragraph (1).

(d) OFFSET.—The amount made available by subsection (a) shall be derived from a reduction in the amounts appropriated by this Act. In achieving the reduction, a reduction of an equal percentage shall be made from each account (other than the account from which the funds under subsection (a) are made available) for which funds are appropriated by this Act.

BINGAMAN AMENDMENT NO. 2394

Mr. BINGAMAN proposed an amendment to the bill, S. 1087, supra; as follows:

On page 81, strike out lines 21 through 23.

BUMPERS AMENDMENT NO. 2395

Mr. BUMPERS proposed an amendment to the bill, S. 1087, supra; as follows:

On page 69, strike line 3 and insert in lieu thereof the following: ''section may not exceed $5,000,000: Provided further, That the exposure fees charged and collected by the Secretary for each guarantee, shall be paid by the country involved and shall not be financed as part of the loan guaranteed by the United States;''

HUTCHISON AMENDMENT NO. 2396

Mrs. HUTCHISON proposed an amendment to the bill, S. 1087, supra; as follows:

Insert at the appropriate place:

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. WEAPONS ACTIVITIES.

(a) STOCKPILE STEWARDSHIP.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for stockpile stewardship in carrying out weapons activities necessary for national security programs in the amount of $1,624,080,000, to be allocated as follows:

(A) For core stockpile stewardship, $1,386,613,000, to be allocated as follows:

(A) For operation and maintenance, $1,305,308,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $81,305,000, to be allocated as follows: Project 96–D–102, stockpile stewardship facilities revitalization, Phase VI, various locations, $2,520,000.

Project 96–D–103, Atlas, Los Alamos National Laboratory, Los Alamos, New Mexico, $8,400,000.

Project 96–D–104, processing and environmental technology laboratory (PETL), Sandia National Laboratories, Albuquerque, New Mexico, $1,800,000.

Project 96–D–105, contained firing facility addition, Lawrence Livermore National Laboratory, Livermore, California, $6,600,000.

Project 95–D–102, Chemical and Metallurgy Research Building upgrades, Los Alamos National Laboratory, New Mexico, $9,940,000.

Project 94–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase V, various locations, $12,200,000.

Project 93–D–102, Nevada support facility, North Las Vegas, Nevada, $15,650,000.

Project 90–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations, $6,200,000.

Project 88–D–106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $17,995,000.

(2) For inertial fusion, $230,667,000, to be allocated as follows:

(A) For operation and maintenance, $193,267,000.

(B) For the following plant project (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and land acquisition related thereto), $37,400,000:

Project 96–D–111, national ignition facility, location to be determined.

(3) For Marshall Islands activities and Nevada Test Site dose reconstruction, $6,800,000.

(b) STOCKPILE MANAGEMENT.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for stockpile management in carrying out weapons activities necessary for national security programs in the amount of $2,035,483,000, to be allocated as follows:

(1) For operation and maintenance, $1,911,858,000.

(2) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $123,625,000, to be allocated as follows:

Project GPD–121, general plant projects, various locations, $10,000,000.

Project 96–D–122, sewage treatment quality upgrade (STQU), Pantex Plant, Amarillo, Texas, $600,000.

Project 96–D–123, retrofit heating, ventilation, and air conditioning and chillers for ozone protection, Y–12 Plant, Oak Ridge, Tennessee, $3,100,000.

Project 96–D–125, Washington measurements operations facility, Andrews Air Force Base, Camp Springs, Maryland, $900,000.

Project 96–D–126, tritium loading line modifications, Savannah River Site, South Carolina, $12,200,000.

Project 95–D–122, sanitary sewer upgrade, Y–12 Plant, Oak Ridge, Tennessee, $6,300,000.

Project 94–D–124, hydrogen fluoride supply system, Y–12 Plant, Oak Ridge, Tennessee, $8,700,000.

Project 94–D–125, upgrade life safety, Kansas City Plant, Kansas City, Missouri, $5,500,000.

Project 94–D–127, emergency notification system, Pantex Plant, Amarillo, Texas, $2,000,000.

Project 94–D–128, environmental safety and health analytical laboratory, Pantex Plant, Amarillo, Texas, $4,000,000.

Project 93–D–122, life safety upgrades, Y–12 Plant, Oak Ridge, Tennessee, $7,200,000.

Project 93–D–123, complex–21, various locations, $41,065,000.

Project 88–D–122, facilities capability assurance program, various locations, $8,660,000.

Project 88–D–123, security enhancements, Pantex Plant, Amarillo, Texas, $13,400,000.

(c) PROGRAM DIRECTION.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for program direction in carrying out weapons activities necessary for national security programs in the amount of $118,000,000.

(d) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to his section is the sum of the amounts authorized to be appropriated in subsections (a) through (c) reduced by the sum of—

(1) $25,000,000, for savings resulting from procurement reform; and

(2) $86,344,000, for use of prior year balances.

SEC. 3102. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) CORRECTIVE ACTIVITIES.—Subject to subsection (i), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for corrective activities in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $3,406,000, all of which shall be available for the following plant project (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and land acquisition related thereto):

Project 90–D–103, environment, safety and health improvements, weapons research and development complex, Los Alamos National Laboratory, Los Alamos, New Mexico.

(b) ENVIRONMENTAL RESTORATION.—Subject to subsection (i) funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for environmental restoration for operating expenses in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,550,926,000.

(c) WASTE MANAGEMENT.—Subject to subsection (i), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for waste management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $2,386,596,000, to be allocated as follows:

(1) For operation and maintenance, $2,151,266,000.

(2) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $235,330,000, to be allocated as follows:

Project GPD–171, general plant projects, various locations, $15,728,000.

Project 96–D–400, replace industrial waste piping, Kansas City Plant, Kansas City, Missouri, $200,000.

Project 96–D–401, comprehensive treatment and management plan immobilization of miscellaneous wastes, Rocky Flats Environmental Technology Site, Golden, Colorado, $1,400,000.

Project 96–D–402, comprehensive treatment and management plan building 374/774 sludge immobilization, Rocky Flats Environmental Technology Site, Golden, Colorado, $1,500,000.

Project 96–D–403, tank farm service upgrades, Savannah River, South Carolina, $3,315,000.

Project 96–D–405, T-plant secondary containment and leak detection upgrades, Richland, Washington, $2,100,000.

Project 96–D–406, K-Basin operations program, Richland, Washington, $41,000,000.

Project 96–D–409, advanced mixed waste treatment facility, Idaho National Engineering Laboratory, Idaho, $5,000,000.

Project 96–D–410, specific manufacturing characterization facility assessment and upgrade, Idaho National Engineering Laboratory, Idaho, $2,000,000.

Project 95–D–402, install permanent electrical service, Waste Isolation Pilot Plant, New Mexico, $4,314,000.

Project 95–D–405, industrial landfill V and construction/demolition landfill VII, Y–12 Plant, Oak Ridge, Tennessee, $4,600,000.

Project 95–D–406, road 5–01 reconstruction, area 5, Nevada Test Site, Nevada, $1,023,000.

Project 94–D–400, high explosive wastewater treatment system, Los Alamos National Laboratory, Los Alamos, New Mexico, $4,445,000.

Project 94–D–402, liquid waste treatment system, Nevada Test Site, Nevada, $282,000.

Project 94–D–404, Melton Valley storage tanks capacity increase, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $11,000,000.

Project 94–D–407, initial tank retrieval systems, Richland, Washington, $9,400,000.

Project 94–D–411, solid waste operations complex project, Richland, Washington, $5,500,000.

Project 94–D–417, intermediate-level and low-activity waste vaults, Savannah River, South Carolina, $2,704,000.

Project 93–D–178, building 374 liquid waste treatment facility, Rocky Flats Plant, Golden, Colorado, $3,900,000.

Project 93–D–182, replacement of cross-site transfer system, Richland, Washington, $19,795,000.

Project 93–D–183, multi-tank waste storage facility, Richland, Washington, $31,000,000.

Project 93–D–187, high-level waste removal from filled waste tanks, Savannah River, South Carolina, $34,700,000.

Project 92–D–171, mixed waste receiving and storage facility, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,105,000.

Project 92–D–188, waste management environmental, safety and health (ES&H) and compliance activities, various locations, $1,100,000.

Project 90–D–172, aging waste transfer lines, Richland, Washington, $2,000,000.

Project 90–D–177, RWMC transuranic (TRU) waste characterization and storage facility, Idaho National Engineering Laboratory, Idaho, $1,428,000.

Project 90–D–178, TSA retrieval containment building, Idaho National Engineering Laboratory, Idaho, $2,606,000.

Project 89–D–173, tank farm ventilation upgrade, Richland, Washington, $800,000.

Project 89–D–174, replacement high-level waste evaporator, Savannah River, South Carolina, $11,500,000.

Project 86–D–103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, California, $8,885,000.

Project 83–D–148, nonradioactive hazardous waste management, Savannah River, South Carolina, $1,000,000.

(d) TECHNOLOGY DEVELOPMENT.—Subject to subsection (i), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for technology development in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $505,510,000.

(e) TRANSPORTATION MANAGEMENT.—Subject to subsection (i), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for transportation management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $16,158,000.

(f) NUCLEAR MATERIALS AND FACILITIES STABILIZATION.—Subject to subsection (i), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for nuclear materials and facilities stabilization in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,596,028,000, to be allocated as follows:

(1) For operation and maintenance, $1,463,384,000.

(2) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $132,644,000, to be allocated as follows:

Project GPD–171, general plant projects, various locations, $14,724,000.

Project 96–D–458, site drainage control, Mound Plant, Miamisburg, Ohio, $885,000.

Project 96–D–461, electrical distribution upgrade, Idaho National Engineering Laboratory, Idaho, $1,539,000.

Project 96–D–462, health physics instrument laboratory, Idaho National Engineering Laboratory, Idaho, $1,126,000.

Project 96–D–463, central facilities craft shop, Idaho National Engineering Laboratory, Idaho, $724,000.

Project 96–D–464, electrical and utility systems upgrade, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $4,952,000.

Project 96–D–465, 200 area sanitary sewer system, Richland, Washington, $1,800,000.

Project 96–D–470, environmental monitoring laboratory, Savannah River Site, Aiken, South Carolina, $3,500,000.

Project 96–D–471, chlorofluorocarbon heating, ventilation, and air conditioning and chiller retrofit, Savannah River Site, Aiken, South Carolina, $1,500,000.

Project 96–D–472, plant engineering and design, Savannah River Site, Aiken, South Carolina, $4,000,000.

Project 96–D–473, health physics site support facility, Savannah River Site, Aiken, South Carolina, $2,000,000.

Project 96–D–474, dry fuel storage facility, Idaho National Engineering Laboratory, Idaho, $15,000,000.

Project 96–D–475, high level waste volume reduction demonstration (pentaborane), Idaho National Engineering Laboratory, Idaho, $5,000,000.

Project 95–D–155, upgrade site road infrastructure, Savannah River, South Carolina, $2,900,000.

Project 95–D–156, radio trunking system, Savannah River, South Carolina, $10,000,000.

Project 95–D–454, 324 facility compliance/renovation, Richland, Washington, $3,500,000.

Project 95–D–456, security facilities upgrade, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $8,382,000.

Project 94–D–122, underground storage tanks, Rocky Flats, Golden, Colorado, $5,000,000.

Project 94–D–401, emergency response facility, Idaho National Engineering Laboratory, Idaho, $5,074,000.

Project 94–D–412, 300 area process sewer piping system upgrade, Richland, Washington, $1,000,000.

Project 94–D–415, medical facilities, Idaho National Engineering Laboratory, Idaho, $3,601,000.

Project 94–D–451, infrastructure replacement, Rocky Flats Plant, Golden, Colorado, $2,940,000.

Project 93–D–147, domestic water system upgrade, Phase I and II, Savannah River, South Carolina, $7,130,000.

Project 93–D–172, electrical upgrade, Idaho National Engineering Laboratory, Idaho, $124,000.

Project 92–D–123, plant fire/security alarms system replacement, Rocky Flats Plant, Golden, Colorado, $9,560,000.

Project 92–D–125, master safeguards and security agreement/materials surveillance task force security upgrades, Rocky Flats Plant, Goldern, Colorado, $7,000,000.

Project 92–D–181, fire and life safety improvements, Idaho National Engineering Laboratory, Idaho, $6,883,000.

Project 91–D–127, criticality alarm and production annunciation utility replacement, Rocky Flats Plant, Golden, Colorado, $2,800,000.

(g) COMPLIANCE AND PROGRAM COORDINATION.—Subject to subsection (i), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for compliance and program coordination in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $81,251,000, to be allocated as follows:

(1) For operation and maintenance, $66,251,000.

(2) For the following plant project (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and land acquisition related thereto), $15,000,000:

Project 95–E–600, hazardous materials training center, Richland, Washington.

(h) ANALYSIS, EDUCATION, AND RISK MANAGEMENT.—Subject to subsection (i), funds are hereby authorized to be appropriated to the Department of Enegy for fiscal year 1966 for analysis, education, and risk management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $80,022,000.

(i) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts specified in subsections (a) through (h) reduced by the sum of—

(1) $276,942,000, for use of prior year balances; and

(2) $37,000,000 for recovery of overpayment to the Savannah River Pension Fund.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

(a) OTHER DEFENSE ACTIVITIES.—Subject to subsection (b) funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for other defense activities in carrying out programs necessary for national security in the amount of $1,408,162,000, to be allocated as follows:

(1) For verification and control technology, $430,842,000 to be allocated as follows:

(A) For nonproliferation and verification research and development, $226,142,000.

(B) For arms control, $162,364,000.

(C) For intelligence, $42,336,000.

(2) For nuclear safeguards and security, $83,395,000.

(3) For security investigations, $25,000,000.

(4) For security evaluations, $14,707,000.

(5) For the Office of Nuclear Safety, $15,050,000.

(6) For worker and community transition, $100,000,000.

(7) For fissile materials disposition, $70,000,000.

(8) For naval reactors development, $682,168,000, to be allocated as follows:

(A) For operation and infrastructure, $659,168,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $23,000,000, to be allocated as follows:

Project 95–D–200, laboratory systems and hot cell upgrades, various locations, $11,300,000.

Project 95–D–201, advanced test reactor radioactive waste system upgrades, Idaho National Engineering Laboratory, Idaho, $4,800,000.

Project 93–D–200, engineering services facilities, Knolls Atomic Power Laboratory, Niskayuna, New York, $3,900,000.

Project 90–N–102, expended core facility dry cell project, Naval Reactors Facility, Idaho, $3,000,000.

(b) ADJUSTMENT.—The total amount that may be appropriated pursuant to this section is the total amount authorized to be appropriated in subsection (a) reduced by $13,000,000, for use of prior year balances.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1996 for payment to the Nuclear Waste Fund established in section 302c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $198,400,000.

SEC. 3105. PAYMENT OF PENALTIES ASSESSED AGAINST ROCKY FLATS SITE.

The Secretary of Energy may pay to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507), from funds appropriated to the Department of Energy for environmental restoration and waste managements activities pursuant to section 3102, stipulated civil penalties in the amount of $350,000 assessed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) against the Rocky Flats Site, Golden, Colorado.

Subtitle B—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

(A) IN GENERAL.—Until the Secretary of Energy submits to the congressional defense committees the report referred to in subsection (b) and a period of 30 days has elapsed after the date on which such committees receive the report the Secretary may not use amounts appropriated pursuant to this title for any program—

(1) in amounts that exceed, in a fiscal year—

(A) 110 percent of the amount authorized for that program by this title; or

(B) $1,000,000 more than the amount authorized for that program by this title; or

(2) which has not been presented to, or requested of, Congress.

(b) REPORT.—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—(1) In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

(2) Funds appropriated pursuant to this title may not be used for an item for which Congress has specifically denied funds.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.

(a) IN GENERAL.—The Secretary of Energy may carry out any construction project under the general plant projects authorized by this title if the total estimated cost of the construction project does not exceed $2,000,000.

(b) REPORT TO CONGRESS.—If, any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $2,000,000, the Secretary shall immediately furnish a complete report to the congressional defense committees explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by sections 3101, 3102, and 3103, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such action necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY.

(a) TRANSFER TO OTHER FEDERAL AGENCIES.—The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title to other federal agencies for the performance of work for which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same period as the authorizations of the Federal agency to which the amounts are transferred.

(b) TRANSFER WITHIN DEPARTMENT OF ENERGY; LIMITATIONS.—(1) Subject to paragraph (2), the secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title between any such authorizations. Amounts of authorizations so transferred may be merged with and be available for the same purposes and for the same period as the authorization to which the amounts are transferred.

(2) Not more than 5 percent of any such authorization may be transferred between authorizations under paragraph (1). No such authorization may be increased or decreased by more than 5 percent by a transfer under such paragraph.

(3) The authority provided by this section to transfer authorizations—

(A) may only be used to provide funds for items relating to weapons activities necessary for national security programs that have a higher priority than the items from which the funds are transferred; and

(B) may not be used to provide authority for an item that has been denied funds by Congress.

(c) NOTICE TO CONGRESS.—The Secretary of Energy shall promptly notify the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives of any transfer of funds to or from authorizations under this title.

SEC. 3125. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN.

(A) REQUIREMENT FOR CONCEPTUAL DESIGN.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(2) If the estimated cost of completing a conceptual design for a construction project exceeds $3,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds—

(A) for a construction project the total estimated cost of which is less than $2,000,000; or

(B) for emergency planning, design, and construction activities under section 3126.

(b) AUTHORITY FOR CONSTRUCTION DESIGN.—(1) Within the amounts authorized by this title, the Secretary of Energy may carry out construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such design does not exceed $600,000.

(2) If the total estimated cost for construction design in connection with any construction project exceeds $600,000, funds for such design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING DESIGN, AND CONSTRUCTION ACTIVITIES.

(A) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy pursuant to an authorization in this title, including funds authorized to be appropriated under sections 3101, 3102, and 3103 for advance planning and construction design, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to project public health and safety, meet the needs of national defense, or to protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making such activities necessary.

(c) SPECIFIC AUTHORITY.—The requirement of section 3125(b)(2) does not apply to emergency planning, design, and construction activities conducted under this section.

(d) REPORT.—The Secretary of Energy shall report to the congressional defense committees any exercise of authority under this section.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriations Acts and section 3121 of this title, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS.

When so specified in an appropriation Act, amounts appropriated for operating expenses, plant projects, and capital equipment may remain available until expended.

Subtitle C—Program Authorizations, Restrictions, and Limitations

SEC. 3131. TRITIUM PRODUCTION.

(a) TRITIUM PRODUCTION.—Of the funds authorized to be appropriated to the Department of Energy under section 3101, not more than $50,000,000 shall be available to conduct an assessment of alternative means of ensuring that the tritium production of the Department of Energy is adequate to meet the tritium requirements of the Department of Defense. The assessment shall include an assessment of various types of reactors and an accelerator.

(b) LOCATION OF NEW TRITIUM PRODUCTION FACILITY.—The Secretary of Energy shall locate the new tritium production facility of the Department of Energy at the Savannah River Site, South Carolina.

(c) TRITIUM TARGETS.—Of the funds authorized to be appropriated to the Department of Energy under section 3101, not more than $5,000,000 shall be available for the Idaho National Engineering Laboratory for the test and development of nuclear reactor tritium targets for the various types of reactors to be assessed by the Department under subsection (a).

SEC. 3132. FISSILE MATERIALS DISPOSITION.

Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1996 under section 3103(a)(7), $70,000,000 shall be available only for purposes of completing the evaluation of, and commencing implementation of, the interim- and long-term storage and disposition of fissile materials (including plutonium, highly enriched uranium, and other fissile materials) that are excess to the national security needs of the United States, of which $10,000,000 shall be available for plutonium resource assessment.

SEC. 3133. TRITIUM RECYCLING.

(a) IN GENERAL.—Except as provided in subsection (b), the following activities shall be carried out at the Savannah River Site, South Carolina:

(1) All tritium recycling for weapons, including tritium refitting.

(2) All activities regarding tritium formerly carried out at the Mound Plant, Ohio.

(b) EXCEPTION.—The following activities may be carried out at the Los Alamos National Laboratory, New Mexico:

(1) Research on tritium.

(2) Work on tritium in support of the defense inertial confinement fusion program.

(3) Provision of technical assistance to the Savannah River Site regarding the weapons surveillance program.

SEC. 3134. MANUFACTURING INFRASTRUCTURE FOR REFABRICATION AND CERTIFICATION OF ENDURING NUCLEAR WEAPONS STOCKPILE.

(a) MANUFACTURING PROGRAM.—The Secretary of Energy shall carry out a program for purposes of establishing within the Government a manufacturing infrastructure that has the following capabilities as specified in the Nuclear Posture Review:

(1) To develop a stockpile surveillance engineering base.

(2) To refabricate and certify weapon components and types in the enduring nuclear weapons stockpile, as necessary.

(3) To design, fabricate, and certify new nuclear warheads, as necessary.

(4) To support nuclear weapons.

(5) To supply sufficient tritium in support of nuclear weapons to ensure an upload hedge in the event circumstances require.

(b) REQUIRED CAPABILITIES.—The manufacturing infrastructure established under the program under subsection (a) shall include the following capabilities (modernized to attain the objectives referred to in that subsection):

(1) The weapons assembly capabilities of the Pantex Plant.

(2) The weapon secondary fabrication capabilities of the Y–12 Plant, Oak Ridge, Tennessee.

(3) The tritium production and recycling capabilities of the Savannah River Site.

(4) A weapon primary pit refabrication/manufacturing and reuse facility capability at Savannah River Site (if required for national security purposes).

(5) The non-nuclear component capabilities of the Kansas City Plant.

(c) NUCLEAR POSTURE REVIEW.—For purposes of subsection (a), the term ''Nuclear Posture Review'' means the Department of Defense Nuclear Posture Review as contained in the Report of the Secretary of Defense to the President and the Congress dated February 19, 1995, or subsequent such reports.

(d) FUNDING.—Of the funds authorized to be appropriated under section 3101(b), $143,000,000 shall be available for carrying out the program required under this section, of which—

(1) $35,000,000 shall be available for activities at the Pantex Plant;

(2) $30,000,000 shall be available for activities at the Y–12 Plant, Oak Ridge, Tennessee;

(3) $35,000,000 shall be available for activities at the Savannah River Site; and

(4) $43,000,000 shall be available for activities at the Kansas City Plant.

SEC. 3135. HYDRONUCLEAR EXPERIMENTS.

Of the funds authorized to be appropriated to the Department of Energy under section 3101, $50,000,000 shall be available for preparation for the commencement of a program of hydronuclear experiments at the nuclear weapons design laboratories at the Nevada Test Site which program shall be for the purpose of maintaining confidence in the reliability and safety of the enduring nuclear weapons stockpile.

SEC. 3136. FELLOWSHIP PROGRAM FOR DEVELOPMENT OF SKILLS CRITICAL TO THE DEPARTMENT OF ENERGY NUCLEAR WEAPONS COMPLEX.

(a) IN GENERAL.—The Secretary of Energy shall conduct a fellowship program for the development of skills critical to the ongoing mission of the Department of Energy nuclear weapons complex. Under the fellowship program, the Secretary shall—

(1) provide educational assistance and research assistance to eligible individuals to facilitate the development by such individuals of skills critical to maintaining the ongoing mission of the Department of Energy nuclear weapons complex;

(2) employ eligible individuals at the facilities described in subsection (c) in order to facilitate the development of such skills by these individuals; or

(3) provide eligible individuals with the assistance and the employment.

(b) ELIGIBLE INDIVIDUALS.—Individuals eligible for participation in the fellowship program are the following:

(1) Students pursuing graduate degrees in fields of science or engineering that are related to nuclear weapons engineering or to the science and technology base of the Department of Energy.

(2) Individuals engaged in postdoctoral studies in such fields.

(c) COVERED FACILITIES.—The Secretary shall carry out the fellowship program at or in connection with the following facilities:

(1) The Kansas City Plant, Kansas City, Missouri.

(2) The Pantex Plant, Amarillo, Texas.

(3) The Y–12 Plant, Oak Ridge, Tennessee.

(4) The Savannah River Site, Aiken, South Carolina.

(d) ADMINISTRATION.—The Secretary shall carry out the fellowship program at a facility referred to in subsection (c) through the stockpile manager of the facility.

(e) ALLOCATION OF FUNDS.—The Secretary shall, in consultation with the Assistant Secretary of Energy for Defense Programs, allocate funds available for the fellowship program under subsection (f) among the facilities referred to in subsection (c). The Secretary shall make the allocation after evaluating an assessment by the weapons program director of each such facility of the personnel and critical skills necessary at the facility for carrying out the ongoing mission of the facility.

(f) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1996 under section 3101(b), $10,000,000 may be used for the purpose of carrying out the fellowship program under this section.

SEC. 3137. EDUCATION PROGRAM FOR DEVELOPMENT OF PERSONNEL CRITICAL TO THE DEPARTMENT OF ENERGY NUCLEAR WEAPONS COMPLEX.

(a) IN GENERAL.—The Secretary of Energy shall conduct an education program to ensure the long-term supply of personnel having skills critical to the ongoing mission of the Department of Energy nuclear weapons complex. Under the program, the Secretary shall provide—

(1) education programs designed to encourage and assist students in study in the fields of math, science, and engineering that are critical to maintaining the nuclear weapons complex;

(2) programs that enhance the teaching skills of teachers who teach students in such fields; and

(3) education programs that increase the scientific understanding of the general public in areas of importance to the nuclear weapons complex and to the Department of Energy national laboratories.

(b) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1996 under section 3101(a), $10,000,000 may be used for the purpose of carrying out the education program under this section.

SEC. 3138. LIMITATION OF USE OF FUNDS FOR CERTAIN RESEARCH AND DEVELOPMENT PURPOSES.

Funds appropriated or otherwise made available to the Department of Energy for fiscal year 1996 under section 3101 may be obligated and expended for activities under the Department of Energy Laboratory Directed Research and Development Program or under Department of Energy technology transfer programs only if such activities support the national security mission of the Department.

SEC. 3139. PROCESSING OF HIGH LEVEL NUCLEAR WASTE AND SPENT NUCLEAR FUEL RODS.

(a) ELECTROMETALLURGICAL PROCESSING ACTIVITIES.—Of the amount authorized to be appropriated to the Department of Energy under section 3102, not more than $2,500,000 shall be available for electrometallurgical processing activities at the Idaho National Engineering Laboratory.

(b) PROCESSING OF SPENT NUCLEAR FUEL RODS AT SAVANNAH RIVER SITE.—Of the amount authorized to be appropriated to the Department of Energy under section 3102, $30,000,000 shall be available for operating and maintenance activities at the Savannah River Site, which amount shall be available for the development at the canyon facilities at the site of technological methods (including plutonium processing and reprocessing) of separating, reducing, isolating, and storing the spent nuclear fuel rods that are sent to the site from other Department of Energy facilities and from foreign facilities.

(c) PROCESSING OF SPENT NUCLEAR FUEL RODS AT IDAHO NATIONAL ENGINEERING LABORATORY.—Of the amount authorized to be

appropriated to the Department of Energy under section 3102, $15,000,000 shall be available for operating and maintenance activities at the Idaho National Engineering Laboratory, which amount shall be available for the development of technological methods of processing the spent nuclear fuel rods that will be sent to the laboratory from other Department of Energy facilities.

(d) SPENT NUCLEAR FUEL DEFINED.—In this section, the term ''spent nuclear fuel'' has the meaning given such term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)).

SEC. 3140. DEPARTMENT OF ENERGY DECLASSIFICATION PRODUCTIVITY INITIATIVE.

Of the funds authorized to be appropriated to the Department of Energy under section 3103, $3,000,000 shall be available for the Declassification Productivity Initiative of the Department of Energy.

SEC. 3141. AUTHORITY TO REPROGRAM FUNDS FOR DISPOSITION OF CERTAIN SPENT NUCLEAR FUEL.

(a) AUTHORITY TO REPROGRAM.—Notwithstanding any other provision of law and subject to subsection (b), the Secretary of Energy may reprogram funds available to the Department of Energy for fiscal year 1996 under section 3101(b) or 3102(b) to make such funds available for use for storage pool treatment and stabilization or for canning and storage in connection with the disposition of spent nuclear fuel in the Democratic People's Republic of Korea, which treatment and stabilization or canning and storage is—

(1) necessary in order to meet International Atomic Energy Agency safeguard standards with respect to the disposition of spent nuclear fuel; and

(2) conducted in fulfillment of the Nuclear Framework Agreement between the United States and the Democratic People's Republic of Korea dated October 21, 1994.

(b) LIMITATION.—The total amount that the Secretary may reprogram under the authority in subsection (a) may not exceed $5,000,000.

(c) DEFINITION.—In this section, the term ''spent nuclear fuel'' has the meaning given such term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C.

10101(23)).

SEC. 3142. PROTECTION OF WORKERS AT NUCLEAR WEAPONS FACILITIES.

Of the funds authorized to be appropriated to the Department of Energy under section 3102, $10,000,000 shall be available to carry out activities authorized under section 3131 of the National Defense Authorization Act for Fiscal years 1992 and 1993 (Public Law 102–190; 105 Stat. 1571; 42 U.S.C. 7274d), relating to worker protection at nuclear weapons facilities.

Subtitle D—Review of Department of Energy National Security Programs

SEC. 3151. REVIEW OF DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS.

(a) REPORT.—Not later than March 15, 1996, the Secretary of Defense shall, in consultation with the Secretary of Energy, submit to the congressional defense committees a report on the national security programs of the Department of Energy.

(b) CONTENTS OF REPORT.—The report shall include an assessment of the following:

(1) The effectiveness of the Department of Energy in maintaining the safety and reliability of the enduring nuclear weapons stockpile.

(2) The management by the Department of the nuclear weapons complex, including—

(A) a comparison of the Department of Energy's implementation of applicable environmental, health, and safety requirements with the implementation of similar requirements by the Department of Defense; and

(B) a comparison of the costs and benefits of the national security research and development programs of the Department of Energy with the costs and benefits of similar programs sponsored by the Department of Defense.

(3) The fulfillment of the requirements established for the Department of Energy in the Nuclear Posture Review.

(C) DEFINITION.—In this section, the term ''Nuclear Posture Review'' means the Department of Defense Nuclear Posture Review as contained in the Report of the Secretary of Defense to the President and the Congress dated February 19, 1995, or in subsequent such reports.

Subtitle E—Other Matters

SEC. 3161. RESPONSIBILITY FOR DEFENSE PROGRAMS EMERGENCY RESPONSE PROGRAM.

The Office of Military Applications under the Assistant Secretary of Energy for Defense Programs shall retain responsibility for the Defense Programs Emergency Response Program within the Department of Energy.

SEC. 3162. REQUIREMENTS FOR DEPARTMENT OF ENERGY WEAPONS ACTIVITIES BUDGETS FOR FISCAL YEARS AFTER FISCAL YEAR 1996.

(a) IN GENERAL.—The weapons activities budget of the Department of Energy shall be developed in accordance with the Nuclear Posture Review, the Post Nuclear Posture Review Stockpile Memorandum currently under development, and the programmatic and technical requirements associated with the review and memorandum.

(b) REQUIRED DETAIL.—The Secretary of Energy shall include in the materials that the Secretary submits to Congress in support of the budget for a fiscal year submitted by the President pursuant to section 1105 of title 31, United States Code, a long-term program plan, and a near-term program plan, for the certification and stewardship of the enduring nuclear weapons stockpile.

(c) DEFINITION.—In this section, the term ''Nuclear Posture Review'' means the Department of Defense Nuclear Posture Review as contained in the Report of the Secretary of Defense to the President and the Congress dated February 19, 1995, or in subsequent such reports.

SEC. 3163. REPORT ON PROPOSED PURCHASES OF TRITIUM FROM FOREIGN SUPPLIERS.

(a) REQUIREMENT.—Not later than May 30, 1997, the President shall submit to the congressional defense committees a report on any plans of the President to purchase from foreign suppliers tritium to be used for purposes of the nuclear weapons stockpile of the United States.

(b) FORM OF REPORT.—The report shall be submitted in unclassified form, but may contain a classified annex.

SEC. 3164. REPORT ON HYDRONUCLEAR TESTING.

(A) REPORT.—The Secretary of Energy shall direct the joint preparation by the Lawrence Livermore National Laboratory and the Los Alamos National Laboratory of a report on the advantages and disadvantages for the safety and reliability of the enduring nuclear weapons stockpile and permitting alternative limits to the current limits on the explosive yield of hydronuclear tests. The report shall address the following explosive yield limits:

(1) 4 pounds (TNT equivalent).

(2) 400 pounds (TNT equivalent).

(2) 4,000 pounds (TNT equivalent).

(2) 40,000 pounds (TNT equivalent).

(b) FUNDING.—THE SECRETARY SHALL MAKE AVAILABLE FUNDS AUTHORIZED TO BE APPROPRIATED TO THE DEPARTMENT OF ENERGY UNDER SECTION 3101 FOR PREPARATION OF THE REPORT REQUIRED UNDER SUBSECTION 9A).

SEC. 3165. PLAN FOR THE CERTIFICATION AND STEWARDSHIP OF THE ENDURING NUCLEAR WEAPONS STOCKPILE.

(a) REQUIREMENT.—Not later than March 15, 1996, and every March 15 thereafter, the Secretary of Energy shall submit to the Secretary of Defense a plan for maintaining the enduring nuclear weapons stockpile.

(b) PLAN ELEMENTS.—EACH PLAN UNDER SUBSECTION (A) SHALL SET FORTH THE FOLLOWING:

(1) The numbers of weapons (including active weapons and inactive weapons) for each type of weapon in the enduring nuclear weapons stockpile.

(2) The expected design lifetime of each weapon system type, the current age of each weapon system type, and any plans (including the analytical basis for such plans) for lifetime extensions of a weapon system type.

(3) An estimate of the lifetime of the nuclear and non-nuclear components of the weapons (including active weapons and inactive weapons) in the en-during nuclear weapons stockpile, and any plans (including the analytical basis for such plans)for life-time extensions of such components.

(4) A schedule of the modifications, if any, required for each weapon type (including active weapons and inactive weapons) in the enduring nuclear weapons stockpile, and the cost of such modifications.

(5) The process to be used in recertifying the safety, reliability, and performance of each weapon type (including active weapons and inactive weapons) in the enduring nuclear weapons stockpile.

(6) The manufacturing infrastructure required to maintain the nuclear weapons stockpile stewardship management program.

BUMPERS (AND SIMON) AMENDMENT NO. 2397

Mr. BUMPERS (for himself and Mr. SIMON) proposed an amendment to the bill, S. 1087, supra; as follows:

On page 69, at the end of line 3 insert the following: ''That the exposure fees charged and collected by the Secretary for each guarantee, shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States;''.

BUMPERS AMENDMENT NO. 2398

Mr. BUMPERS proposed an amendment to the bill, S. 1087, supra; as follows:

On page 22, strike lines 1–2 and insert in lieu thereof the following: ''tor-owned equipment layaway: $1,651,421,000, to remain available for obligation until September 30, 1998: Provided, that of the funds appropriated in this paragraph, none shall be obligated for any D–5 missiles, D–5 missile components, ship modifications and ship components that are associated with backfitting any Trident I submarines to carry D–5 Trident II missiles.''

HARKIN (AND BOXER) AMENDMENT NO. 2399

Mr. HARKIN (for himself and Mrs. BOXER) proposed an amendment to the bill, S. 1087, supra; as follows:

At the appropriate place, insert:

SEC. . RESTRICTION ON REIMBURSEMENT OF COSTS.

''(a) None of the funds authorized to be appropriated in this Act for fiscal year 1996 may be obligated for payment on new contracts on which allowable costs charged to the government include payments for individual compensation (including bonuses and other incentives) at a rate in excess of $250,000 per year.''

HARKIN AMENDMENTS NOS. 2400–2402

Mr. HARKIN proposed three amendments to the bill, S. 1087, supra; as follows:

AMENDMENT NO. 2400

On page 18, line 7, strike out ''$1,498,623,000'' and insert in lieu thereof ''$1,373,623,000''.

AMENDMENT NO. 2401

On page 29, line 12, strike out ''$9,196,784,000'' and insert in lieu thereof ''$9,126,784,000''.

AMENDMENT NO. 2402

On page 29, line 12, strike out ''$9,196,784,000'' and insert in lieu thereof ''$9,166,784,000''.

BINGAMAN AMENDMENT NO. 2403

Mr. BINGAMAN proposed an amendment to the bill, S. 1087, supra; as follows:

On page 82, between lines 11 through 12, insert the following:

SEC. 8087. (a) The total amount appropriated in title III under the heading ''MISSILE PROCUREMENT, ARMY'' is hereby reduced by $60,000,000.

(b) The total amount appropriated in title III under the heading ''OTHER PROCUREMENT, AIR FORCE'' is hereby reduced by $30,000,000.

WELLSTONE (AND OTHERS) AMENDMENT NO. 2404

Mr. WELLSTONE (for himself, Mr. FEINGOLD, Mr. HARKIN, Mr. BUMPERS, Mr. SIMON, and Mr. DORGAN) proposed an amendment to the bill, S. 1087, supra; as follows:

On page 34, between lines 13 and 14, insert the following:

SEC. 8000. REDUCTION IN TOTAL AMOUNT TO BE APPROPRIATED.

Notwithstanding any other provision of this Act, the total amount appropriated for fiscal year 1996 under the provisions of this Act is hereby reduced by $3,200,000,000, with the total amount of such reduction to be used exclusively for reducing the amount of the Federal budget deficit.

AKAKA AMENDMENT NO. 2405

Mr. AKAKA proposed an amendment to the bill, S. 1087, supra; as follows:

On page 83, between lines 11 and 12, insert the following:

SEC. 8087. The Secretary of Defense and the Secretary of the Army shall reconsider the decision not to include the infantry military occupational specialty among the military skills and specialties for which special pays are provided under the Selected Reserve Incentive Program.

AKAKA (AND PELL) AMENDMENT NO. 2406

Mr. AKAKA (for himself and Mr. PELL) proposed an amendment to the bill, S. 1087, supra; as follows:

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

SEC. 1062. SENSE OF SENATE REGARDING UNDERGROUND NUCLEAR TESTING.

(a) FINDINGS.—The Senate makes the following findings:

(1) The President of France stated on June 13, 1995, that the Republic of France plans to conduct eight nuclear test explosions over the next several months.

(2) The People's Republic of China continues to conduct underground nuclear weapons tests.

(3) The United States, France, Russia, and Great Britain have observed a moratorium on nuclear testing since 1992.

(4) A resumption of testing by the Republic of France could result in the disintegration of the current testing moratorium and a renewal of underground testing by other nuclear weapons states.

(5) A resumption of nuclear testing by the Republic of France raises serious environmental and health concerns.

(6) The United Nations Conference on Disarmament presently is meeting in Geneva, Switzerland, for the purpose of negotiating a Comprehensive Nuclear Test Ban Treaty (CTBT), which would halt permanently the practice of conducting nuclear test explosions.

(7) Continued underground weapons testing by the Republic of France and the People's Republic of China undermines the efforts of the international community to conclude a CTBT by 1996, a goal endorsed by 175 nations at the recently completed NPT Extension and Review Conference (the conference for the extension and review of the Nuclear Non-Proliferation Treaty).

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Republic of France and the People's Republic of China should abide by the current international moratorium on nuclear test explosions and refrain from conducting underground nuclear tests in advance of a Comprehensive Test Ban Treaty.

KYL AMENDMENT NO. 2407

Mr. KYL proposed an amendment to the bill, S. 1087, supra; as follows:

On page 82, between lines 11 and 12, insert the following:

SEC. 8087. LIMITATION ON USE OF FUNDS FOR COOPERATIVE THREAT REDUCTION.

(a) LIMITATION.—Of the funds available under title II under the heading ''FORMER SOVIET UNION THREAT REDUCTION'' for dismantlement and destruction of chemical weapons, not more than $52,000,000 may be obligated or expended for that purpose until the President certifies to Congress the following:

(1) That the United States and Russia have completed a joint laboratory study evaluating the proposal of Russia to neutralize its chemical weapons and the United States agrees with the proposal.

(2) That Russia has, with the assistance of the United States (if necessary), prepared a comprehensive plan to manage the dismantlement and destruction of the Russia chemical weapons stockpile.

(3) That the United States and Russia are committed to resolving outstanding issues under the 1989 Wyoming Memorandum of Understanding and the 1990 Bilateral Destruction Agreement.

(b) DEFINITIONS.—In this section:

(1) The term ''1989 Wyoming Memorandum of Understanding'' means the Memorandum of Understanding between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

(2) The term ''1990 Bilateral Destruction Agreement'' means the Agreement between the United States of America and the Union of Soviet Socialist Republics on destruction and non-production of chemical weapons and on measures to facilitate the multilateral convention on banning chemical weapons signed on June 1, 1990.

PRYOR AMENDMENT NO. 2408

Mr. PRYOR proposed an amendment to the bill, S. 1087, supra; as follows:

At the appropriate place, insert the following:

SEC. . TESTING OF THEATER MISSILE DEFENSE INTERCEPTORS.

(a) APPROVAL BEYOND LOW-RATE INITIAL PRODUCTION.—The Secretary of Defense may not approve a theater missile defense interceptor program beyond the low-rate initial production acquisition stage until the Secretary certifies to the congressional defense committees that the program—

(1) has successfully completed initial operational test and evaluation; and

(2) involves a suitable and effective system.

(b) CERTIFICATION REQUIREMENTS.—(1) In order to be certified under subsection (a), the initial operational test and evaluation conducted with respect to a program shall include flight tests—

(A) that were conducted with multiple interceptors and multiple targets in the presence of realistic countermeasures; and

(B) the results of which demonstrate the achievement of baseline performance thresholds by such interceptors.

(2) The Director of Operational Test and Evaluation shall specify the number of flight tests required with respect to a program under paragraph (1) in order to make a certification referred to in subsection (a).

(3) The Secretary may utilize modeling and simulation validated by ground and flight testing in order to augment flight testing to demonstrate weapons system performance for purposes of a certification under subsection (a).

(c) REPORTS.—(1) The Director of Operational Test and Evaluation and the head of the Ballistic Missile Defense Organization shall include in the annual reports to Congress of such officials plans to test adequately theater missile defense interceptor programs throughout the acquisition process.

(2) As each theater missile defense system progresses through the acquisition process, the officials referred to in paragraph (1) shall include in the annual reports to Congress of such officials an assessment of the extent to which such programs satisfy the planned test objectives for such programs.

(d) DEFINITION.—For purposes of this section, the baseline performance thresholds for a program are the weapon system performance thresholds specified in the baseline description for the weapon system established pursuant to section 2435(a)(1) of title 10, United States Code, before the program entered into the engineering and manufacturing development stage.

PRYOR (AND OTHERS) AMENDMENT NO. 2409

Mr. PRYOR (for himself, Mrs. BOXER, and Mrs. FEINSTEIN) proposed an amendment to the bill, S. 1087, supra; as follows:

At the appropriate place, add the following:

SEC. . INTERIM LEASES OF PROPERTY APPROVED FOR CLOSURE OR REALIGNMENT.

Section 2667(f) of title 10, United States Code, is amended by adding at the end the following:

''(4)(A) Notwithstanding the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the scope of any environmental impact analysis necessary to support an interim lease of property under this subsection shall be limited to the environmental consequences of activities authorized under the proposed lease and the cumulative impacts of other past, present, and reasonably foreseeable future actions during the period of the proposed lease.

''(B) Interim leases entered into under this subsection shall be deemed not to prejudice the final property disposal decision, even if final property disposal may be delayed until completion of the interim lease term. An interim lease under this subsection shall not be entered into without prior consultation with the redevelopment authority concerned.

''(C) The provisions of subparagraphs (A) and (B) shall not apply to an interim lease under this subsection if authorized activities under the lease would—

''(i) significantly effect the quality of the human environment; or

''ii) irreversibly alter the environment in a way that would preclude any reasonable disposal alternative of the property concerned.''.

HARKIN (AND BOXER) AMENDMENT NO. 2410

Mr. STEVENS (for Mr. HARKIN, for himself and Mrs. BOXER) proposed an amendment to the bill, S. 1087, supra; as follows:

At the appropriate place, insert:

SEC. . RESTRICTION ON REIMBURSEMENT OF COSTS.

''(a) None of the funds provided in this Act may be obligated for payment on new contracts on which allowable costs charged to the government include payments for individual compensation at a rate in excess of $250,000 per year.''

GRAHAM (AND MACK) AMENDMENT NO. 2411

Mr. STEVENS (for Mr. GRAHAM, for himself and Mr. MACK) proposed an amendment to the bill, S. 1087, supra; as follows:

At the appropriate place, insert:

SEC. . The Secretary of Defense shall develop and provide to the congressional defense committees an Electronic Combat Master Plan, to establish an optimum infrastructure for electronic combat assets, no later than March 31, 1996.

BOXER AMENDMENT NO. 2412

Mr. STEVENS (for Mrs. BOXER) proposed an amendment to the bill. S. 1087, supra; as follows:

At the appropriate place in the bill insert the following new section:

SEC. . PROHIBITION OF PAY AND ALLOWANCES FOR MILITARY PERSONNEL CONVICTED OF SERIOUS CRIMES.

''(a) Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be obligated for the pay or allowances of any member of the Armed Forces who has been sentenced by a court-martial to any sentence that includes confinement for one year or more, death, dishonorable discharge, bad-conduct discharge, or dismissal during any period of confinement or parole.

''(b) In a case involving an accused who had dependents, the convening authority or other person acting under title 10, section 860, may waive any or all of the forfeitures of pay and allowances required by subsection (a) for a period not to exceed six months. Any amount of pay or allowances that, except for a waiver under this subsection, would be forfeited shall be paid, as the convening authority or other person taking action directs, to the dependents of the accused.

''(c) If the sentence of a member who forfeits pay and allowances under subsection (a) is set aside or disapproved or, as finally approved, does not provide for a punishment referred to in subsection (a), the member shall be paid the pay and allowances which the member would have been paid, except for the forfeiture, for the period during which the forfeiture was in effect.''

FEINGOLD (AND KOHL) AMENDMENT NO. 2413

Mr. STEVENS (for Mr. FEINGOLD, for himself and Mr. KOHL) proposed an amendment to the bill. S. 1087, supra; as follows:

On page 9 on line 4 after ''30, 1997'' insert the following: '': *Provided further,* That, of the funds appropriated under this heading, not more than $12,200,000 shall be available only for paying the costs of terminating Project ELF''.

DOMENICI (AND INOUYE) AMENDMENT NO. 2414

Mr. STEVENS (for Mr. DOMENICI, for himself and Mr. INOUYE) proposed an amendment to the bill, S. 1087, supra; as follows:

On page 29, before the period on line 13, insert: '': *Provided further,* That of the funds appropriated in this paragraph for the Ballistic Missile Defense Organization, $10,000,000 shall only be available to continue program activities and launch preparation efforts under the Strategic Target System (STARS) program''.

GLENN AMENDMENT NO. 2415

Mr. STEVENS (for Mr. GLENN) proposed an amendment to the bill, S. 1087, supra; as follows:

On page 17, increase the amount on line 3 by $40,000,000.

On page 10, reduce the amount on line 19 by $40,000,000.

WARNER (AND DODD) AMENDMENT NO. 2416

Mr. STEVENS (for Mr. WARNER, for himself and Mr. DODD) proposed an amendment to the bill, S. 1087, supra; as follows:

On page 82, between lines 11 and 12, insert the following:

SEC. 8087. (a) If, on February 18, 1996, the Secretary of the Navy has not certified in writing to the Committees on Appropriations of the Senate and the House of Representatives that—

(1) the Secretary has restructured the new attack submarine program to provide for—

(A) procurement of the lead vessel under the program from General Dynamics Corporation Electric Boat Division (hereafter in this section referred to as ''Electric Boat Division'') beginning in fiscal year 1998 (subject to the price offered by Electric Boat Division being determined fair and reasonable by the Secretary),

(B) procurement of the second vessel under the program from Newport News Shipbuilding and Drydock Company beginning in fiscal year 1999 (subject to the price offered by Newport News Shipbuilding and Drydock Company being determined fair and reasonable by the Secretary), and

(C) procurement of other vessels under the program under one or more contracts that are entered into after competition between Electric Boat Division and Newport News Shipbuilding and Drydock Company for which the Secretary shall solicit competitive proposals and award the contract or contracts on the basis of price, and

(2) the Secretary has directed, as set forth in detail in such certification that—

(A) no action is to be taken to terminate or to fail to extend either the existing Planning Yard contract for the Trident class submarines or the existing Planning Yard contract for the SSN–688 Los Angeles class submarines except by reason of a breach of contract by the contractor or an insufficiency of appropriations,

(B) no action is to be taken to terminate any existing Lead Design Yard contract for the SSN–21 Seawolf class submarines or for the SSN–688 Los Angeles class submarines, except by reason of a breach of contract by the contractor or an insufficiency of appropriations,

(C) both Electric Boat Division and Newport News Shipbuilding and Drydock Company are to have access to sufficient information concerning the design of the new attack submarine to ensure that each is capable of constructing the new attack submarine, and

(D) no action is to be taken to impair the design, engineering, construction, and maintenance competencies of either Electric Boat Division or Newport News Shipbuilding and Drydock Company to construct the new attack submarine,

then, funds appropriated in title III under the heading ''SHIPBUILDING AND CONVERSION, NAVY'' may not be obligated for the SSN–21 attack submarine program or for the new attack submarine program (NSSN–1 and NSSN–2).

(b) Funds referred to in subsection (a) for procurement of the lead and second vessels under the new attack submarine program may not be expended during fiscal year 1996 for the lead vessel under that program (other than for class design) unless funds are obligated or expended during such fiscal year for a contract in support of procurement of the second vessel under the program.

ABRAHAM (AND OTHERS) AMENDMENT NO. 2417

Mr. STEVENS (for Mr. ABRAHAM, for himself, Mr. INHOFE, and Mr. GRAMS) proposed an amendment to the bill, S. 1087, supra; as follows:

At the appropriate place in the bill, add the following new section:

SEC. . None of the funds available to the Department of Defense during fiscal year 1996 may be obligated or expended to support or finance the activities of the Defense Policy Advisory Committee on Trade.

SPECTER (AND SANTORUM) AMENDMENT NO. 2418

Mr. STEVENS (for Mr. SPECTER, for himself and Mr. SANTORUM) proposed an amendment to the bill, S. 1087, supra; as follows:

On page 28 line 19, insert the following before the period: '': *Provided further,* That of the funds appropriated under this heading, $45,458,000 shall be made available for the Intercooled Recuperative Turbine Engine Project''.

McCONNELL AMENDMENT NO. 2419

Mr. STEVENS (for Mr. MCCONNELL) proposed an amendment to the bill, S. 1087, supra; as follows:

At the appropriate place in the bill add the following:

SEC. . Six months after the date of enactment of this Act the General Accounting Office shall report to the Committees on Appropriations of the Senate and the House of Representatives on any changes in Department of Defense commissary access policy, including providing reservists additional or new privileges, and addressing the financial impact on the commissaries as a result of any policy changes.

LUGAR AMENDMENT NO. 2420

Mr. STEVENS (for Mr. LUGAR) proposed an amendment to the bill, S. 1087, supra; as follows:

At the appropriate place in the bill add the following:

SEC. . None of the funds made available in this Act under the heading ''Procurement of Ammunition, Army'' may be obligated or expended for the procurement of munitions unless such acquisition fully complies with the Competition in Contracting Act.

STEVENS AMENDMENTS NOS. 2421–2424

Mr. STEVENS proposed four amendments to the bill, S. 1087, supra; as follows:

AMENDMENT NO. 2421

Strike on page 49 between lines 3–12, Sec. 8024, and insert in lieu thereof:

''SEC. 8024. During the current fiscal year, none of the funds available to the Department of Defense may be used to procure or acquire (1) defensive handguns unless such handguns are the M9 or M11 9mm Department of Defense standard handguns, or (2) offensive handguns except for the Special Operations Forces: Provided, That the foregoing shall not apply to handguns and ammunition for marksmanship competitions.''

AMENDMENT NO. 2422

On page 71, line 12 insert: ''Shipbuilding and Conversion, Navy, 1993/1997'', $32,804,000''.

AMENDMENT NO. 2423

On page 71, line 12 insert: ''Shipbuilding and Conversion, Navy, 1993/1997'', $32,804,000''.

''Shipbuilding and conversion, Navy, 1994/1998'', $19,911,000''.

AMENDMENT NO. 2424

On page 71, line 12 insert: ''Shipbuilding and Conversion, Navy, 1994/1998'', $19,911,000''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Thursday, August 10, 1995 session of the Senate for the purpose of conducting an executive session and markup.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. STEVENS. Mr. President, I ask unanimous consent for the Full Committee on Environment and Public Works to conduct a hearing Thursday, August 10, at 10 a.m., to receive testimony from Greta Joy Dicus, nominated by the President to be Member, Nuclear Regulatory Commission.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, August 10, 1995, at 10 a.m.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, August 10, at 10 a.m. for a markup.

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

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, August 10, 1995, at 10 a.m., to hold a hearing on ''United States Sentencing Commission and Cocaine Sentencing Policy''.

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

SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER DEVELOPMENT CORPORATION AND RELATED MATTERS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Special Committee to Investigate Whitewater Development Corporation and Related Matters be authorized to meet during the session of the Senate on Thursday, August 10, 1995, to conduct a hearing on the handling of the documents in Deputy White House Counsel Vincent Foster's office after his death.

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

SUBCOMMITTEE ON FOREST AND PUBLIC LAND MANAGEMENT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, August 10, 1995, for purposes of conducting a Subcommittee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to review the implementation of Section 2001 of the fiscal year 1995 Emergency Appropriations and Funding Rescissions bill, the section dealing with emergency salvage of diseased dead timber on Federal forest lands.

The PRESIDING OFFICER. Without objection it is so ordered.

ADDITIONAL STATEMENTS

AFFIRMATIVE ACTION

• Mr. ASHCROFT. Mr. President, I call my colleagues' attention to an important addition to the debate concerning preferential policies in America. Former Secretary of Housing and Urban Development Jack Kemp recently published in the Washington Post an article that I believe goes to the heart of our troubles with affirmative action. Mr. Kemp first notes that affirmative action based on racial quotas and racial preferences is ''wrong in principle and ruinous in practice.'' He goes on to issue a call for policymakers to come forward with truly positive proposals—affirmative efforts—to replace it. Mr. Kemp has spent his public career valiantly fighting for an opportunity society. In this article, he continues that fight, arguing for school vouchers, tax and regulatory reforms, and other programs aimed at giving every American the chance to work for a decent education and a decent job in our free market economy.

Mr. President, I commend Secretary Kemp's article to all our colleagues. In conjunction with Senator LIEBERMAN, I will be presenting legislation in a few weeks aimed at furthering the cause of equal opportunity. By reducing taxes and regulations, particularly in distressed areas denoted enterprise zones, this bill will encourage economic opportunity. By providing for school choice in these same areas it will promote educational opportunities. In sum, it is an attempt to make the opportunity society a reality, particularly for America's inner cities and other distressed areas.

I request that the following be entered into the RECORD:

[From the Washington Post, Aug. 6, 1995]

AFFIRMATIVE ACTION: THE ''RADICAL REPUBLICAN'' EXAMPLE

(By Jack Kemp)

The scene is Washington: a Republican President, new to the White House, defiantly throwing down the gauntlet to a Republican Congress, saying he will veto any bill that proposes to do more for ''black Americans'' than for ''whites.'' This is not some fast-forward vision of 1997 and the first days of a new Republican White House. It's a flashback to 1866. The agency to be vetoed was the Freedman's Bureau, established in President Lincoln's administration to ''affirmatively'' assist the recently emancipated African Americans. The president—Andrew Johnson, Lincoln's successor—worried that any ''affirmative action'' would hurt the white population by specifically helping ''Negroes.''

I offer this page from history not to prove once again that politically, there is not much new under the sun but to illustrate that the issues of race and equality are woven into the essence of our American experience. While our present-day passions on the subject of affirmative action open old wounds, they also summon us to moral leadership of Lincolnesque proportions.

Thus far the summons goes unanswered by both liberals and conservatives alike. The

unreconstructed liberal notion of endless racial reparations and race-based preferences is doubly guilty: wrong in principle and ruinous in practice. President Clinton's much-vaunted affirmative action review produced more of a bumper sticker than a policy; Clinton's focus-group-fashioned ''mend it, not end it'' slogan makes a far better rhyme than reason.

The same, however, is true of the new affirmative action ''abolitionist'' position, which heralds equality but seldom addresses the way to truly give all people an equal footing. Critics are right in asserting that ''affirmative action'' quotas have contributed to the poisoning of race relations in this country. But critics must offer much more than just opposition and reproach. We know what they are against, but what are they for?

''A colorblind society,'' comes their response. Of course, the goal of equal opportunity is paramount and a worthy destiny to seek. But to say that we have arrived at that goal is simply not true. My friends on the right call for a colorblind society and then quote Martin Luther King's inspirational ''I have a dream'' speech, in which he imagined a nation in which every American would be judged not on the color of his or her skin but on the ''content of his character.'' All too often, though, they neglect to quote the end of his speech, where he describes the painful plight of minority America: ''The Negro,'' King said, ''lives on a lonely island of poverty in the midst of a vast ocean of material prosperity.''

Much has changed in the 30 years since King stood on the steps of the Lincoln Memorial. Minority enterprises have begun to gain a foothold, although there are far too few of them. But can anyone venture to the crumbling brick and mortar of Cabrini Green Public Housing, or the fear-ridden projects of Bed-Stuy or the streets lined with the unemployed in South Central LA or East St. Louis and believe that what he sees there today would pass as progress since Dr. King's day?

This is not to negate the gains made by so many in the black and minority communities. But for large numbers the situation has not only not improved in 30 years, it has grown dramatically worse—with a welfare system that entraps rather than empowers, punishes work and marriage and prevents access to capital, credit and property.

Reality requires that we admit two things—difficult admissions for both liberals and conservatives. First, that a race conscious policy of quotas and rigid preferences has helped make matters worse. Second, and more important, the Good Shepherd reminds all of us that our work is not done, and as we think about moving into the 21st century, we must not leave anyone behind.

Sound policy begins with strong principles. Affirmative action based on quotas is wrong—wrong because it is antithetical to the genius of the American idea: individual liberty. Counting by race in order to remedy past wrongs or rewarding special groups by taking from others perpetuates and even deepens the divisions between us. But race-based politics is even more wrong and must be repudiated by men and women of civility and compassion.

Instead, like the ''radical Republicans'' of Lincoln's day, who overrode President Johnson's veto on the Freedman's Bureau, we would honor the past by creating a future more in keeping with our revolutionary founding ideals of equality. In this way, the eventual ending of affirmative action is only a beginning—the political predicate of a new promise of outreach in the name of greater opportunity for access to capital, credit, prosperity, jobs and educational choice for all.

The time has definitely come for a new approach an ''affirmative action'' based not just on gender or race or ethnicity but ultimately based on need. ''Affirmative'' because government authority must be employed to remove the obstacles to upward mobility and human advancement. ''Action'' because democratic societies must act positively and create real equality of opportunity—without promising equality of reward.

Affirmative opportunity in America begins with education, America's schools, particularly our urban public schools, are depriving minority and low-income children of the education that may be their passport out of poverty. Even the poorest parent must have the option more affluent families enjoy; the right to send their children to the school of their choice. Affirmative effort means ending the educational monopoly that makes poor public school students into pawns of the educational bureaucracy. And we should be paving the way to a voucher and magnet school system of public and private school choice.

Opportunity means an entryway into the job market. That mean removing barriers for job creation and entrepreneurship and expanding access to capital and credit. According to the Wall Street Journal, from 1982 to 1987, the number of black-owned firms increased by nearly 38 percent, about triple the overall business growth rate during that period. Hispanic-owned businesses soared by 57 percent, and their sales nearly tripled.

Even so, of the 14 million small businesses in existence across the United States today, fewer than 2 percent are black-owned. And of $27 to $28 trillion of capital in this country, less than one percent is in black ownership. Affirmative effort would take aim at expanding capital and credit as the lifeblood of business formation and job creation—including an aggressive effort to end the red-lining of our inner cities and a radical redesign of our tax code to remove barriers to broader ownership of capital, savings and credit.

Opportunity means the ability to accumulate property. Affirmative effort would mean an end to every federal program that penalizes the poor for managing to save and accumulate their own assets. An AFDC mother's thrift and foresight in putting money away for a child's future should not be penalized by the government welfare system as fraud as is currently the case.

Finally, real opportunity for racial and ethnic reconciliation requires an expanding economy—one that invites the effort and enterprise of all Americans, including minorities and women. A real pro-growth policy must include policies ranging from enterprise zones in our cities to a commitment to lowering barriers to global trade. It should also offer relief from red tape and regulation and freedom from punitive tax policies. Each is part of an affirmative action that can ''move America forward without leaving anyone behind.''

Now that we have opened a somewhat hysterical dialogue on affirmative action, we can never go back—only forward. Our challenge is to put aside the past—abandon the endless round of recrimination and a politics that feeds on division, exclusion, anger and envy. We must reaffirm, as Lincoln did at his moment of maximum crisis, a vision of the ''better angels of our nature,'' a big-hearted view of the nation we were always meant to become and must become if we are to enter the 21st century as the model of liberal democracy and market-oriented capitalism the world needs to see.●

MARYLAND ATHLETES VICTORIOUS AT OLYMPIC FESTIVAL

● Ms. MIKULSKI. Mr. President, I want to share with my colleagues my pride in the accomplishments of Maryland's athletes in the recent Olympic Festival.

As my colleagues know, the Olympic Festival is one of the premiere events for Olympic-caliber athletes. Many of the more than 3,500 American athletes who participated in the festival will go on to compete in next year's summer Olympics in Atlanta and in the winter games in Nagano, Japan. They truly are America's finest.

I am proud to note that two dozen Maryland athletes were awarded gold medals. I salute them for their dedication to their sport and to the pursuit of excellence. I look forward to hearing of their future achievements.

The names of Maryland's gold medal winners follow:

MARYLAND'S GOLD MEDAL WINNERS

Peggy Boutillier of Baltimore, gold medal in field hockey.

Sonia Chase of Baltimore, gold medal in basketball.

John Criscione of Baltimore, gold medal in canoe/kayak—slalom, c–2 team.

Dana Rucker of Baltimore, gold medal in boxing—middleweight.

Jennifer Hearn of Bethesda, gold medal in canoe/kayak—slalom, k–1 team.

William Hearn of Bethesda, gold medal in canoe/kayak—slalom, c–1 team.

Steven Jennings of Bethesda, gold medal in field hockey.

Brian Parsons of Bethesda, gold medal in canoe/kayak—slalom, k–1 team.

Brent Wiesel of Bethesda, gold medal in canoe/kayak—slalom, k–1 team.

David Briles Jr. of Bowie, gold medal in soccer.

Clint Peay of Columbia, gold medal in soccer.

Zach Thornton of Edgewood, gold medal in soccer.

Carolyn Schwarz of Gaithersburg, gold medal in field hockey.

Kendra Cameron of Gambrills, gold medal in bowling—team.

Catherine Hearn of Garrett Park, gold medal in canoe/kayak—slalom, k–1 team.

Paul Dulebohn of Germantown, gold medal in figure skating—pairs.

Louis Bullock of Laurel, gold medal in basketball.

Tricia Burdt of Olney, gold medal in field hockey.

Joseph Criscione of Perry Hall, gold medal in canoe/kayak—slalom, c–2 team.

Kira Orr of Poolesville, gold medal in basketball.

Julie I-Wei Lu of Potomac, gold medal in table tennis.

Todd Sweeris of Rockville, gold medal in table tennis, singles.

Anthony Wood of Rockville, gold medal in soccer.

Amy Jun Feng of Wheaton, gold medal in table tennis—doubles and singles.●

RETIREMENT OF OFFICER WILLIAM DENNIS BAGIS

● Mr. KEMPTHORNE. Mr. President, during my first 2½ years as a U.S. Senator, I have had the privilege of getting to know many of the Capitol Hill Police officers. They are an exceptional

group of men and women who enjoy what they do and are good at it.

At this time, I want to pay special tribute to Officer William Bagis who will retire from the Capitol Hill Police Force after 24 years of distinguished service.

Officer Bagis has served under six Presidents, from Nixon to Clinton, five Speakers, from Albert to GINGRICH; and five chiefs of police, from Powell to Abrecht. He has been a part of several firsts in the history of the Capitol: The first female officer hired by Capitol Police—1974; the first Presidential helicopter landing on the east front—Nixon, 1974; the first Presidential inauguration on the west front—Reagan, 1981; the first President to be sworn in in the rotunda—Reagan, 1985; the first time the Statue of Freedom was taken down in 130 years—1993.

He has served during the Vietnam demonstrations, Watergate, and the farmers' demonstration.

In my conversations with Officer Bagis, he has told me of his appreciation for the opportunity to have served Congress over these past 24 years.●

KEN HECHLER

● Mr. ROCKEFELLER. Mr. President: I rise today to salute a true Renaissance man, a great light in both national and West Virginia history: former Congressman Ken Hechler. Having recently celebrated the 50th anniversary of the World War II crossing of the Ludendorff Bridge at Remagen, Germany, it is fitting now to honor this combat historian and decorated officer who enshrined his memories of the victory in our hearts forever. However, heroism was not only his to behold and chronicle. Winning five battle stars and a Bronze Star in the European theater of the war, Ken Hechler is a hero of the West Virginia people.

A dedicated servant of the United States in time of war and peace, he left both a Princeton teaching career and his talented pen to serve under Presidents Roosevelt and Truman as researcher and speechwriter, then joined the Stevenson campaign. Serving in Congress from 1959 to 1977, Congressman Hechler was, in a short time, heralded for his integrity and noted by many as one of the most effective and insightful Members in the House. It should be noted that, although born in New York, in adopting West Virginia as his new native State, he demonstrated that he was very wise as well.

Ken Hechler gave voice to the voiceless among his West Virginia constituents. Fighting tirelessly for the rights of impoverished miners in the Appalachian coal fields, he decried the terrible conditions in the mines, calling them criminal. He struggled for mine safety legislation, unwilling to appease others unwilling to work toward change. After the Farmington and other mine disasters, arising from the tears of miners' widows, he helped enact the Mine Safety and Health Act of 1969.

His criticism of the mining conditions did not end there, however, as he became a strong advocate of environmental protection, railing against rampant pollution in West Virginia and strengthening legislation to improve air quality in the Nation. He crusaded against strip mining, helped protect wilderness areas, and in perhaps his greatest achievement, saved West Virginia's New River, the oldest river in North America, from a proposed dam project.

With a profound sense of history, love of honor, and independence of thought, Congressman Hechler throughout his career inspired many with his character and endeavors. After leaving Congress, he resumed teaching at Marshall University, served twice as a delegate to the Democratic National Convention, and began to write again. In 1984, he was elected secretary of state of West Virginia, a position he still holds today.

It is not often that we have the opportunity to laud such a great public figure as Ken Hechler. A consummate politician, he has been a consummate citizen as well. West Virginia is grateful to Dr. Hechler: he has kept hope in the hearts of the downtrodden and toiled for election reform for the public interest. The needs, financial and emotional, of his electorate were foremost in his social conscience. A true maverick, his life of selfless service is legend.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD:)

ISSUANCE OF THE ALICE PAUL STAMP

● Mr. BRADLEY. Mr. President, I rise today to celebrate the tremendous achievements of Alice Paul, a New Jerseyan, suffragist and dedicated believer in social justice. On August 18, 1995 the Alice Paul Centennial Foundation and the U.S. Postal Service will join together to celebrate a First Day of Issue Ceremony dedicating a new postal stamp that features Alice Paul.

Alice Stokes Paul, born in Mount Laurel, NJ in 1885, gave birth to the woman's rights movement, facilitating some of the most important political and legal achievements made by women in the 20th century. The date of August 26, 1995 marks the 75th anniversary of the passage of the 19th amendment, which granted women the right to vote. Accordingly, I am extremely pleased that it is at this time that the U.S. Postal Service has selected Alice Paul for their 78 cent stamp. Alice Paul's contributions to women's suffrage made possible the increased advancement and recognition of women in our society and throughout the world.

After graduating from Swarthmore College in 1905 as a social worker, Alice Paul studied in England for a doctoral degree in economics. It was there that she became involved in the British women's suffrage movement led by the Parkhursts. Those 3 years in England showed Alice that women would have to adopt revolutionary methods that would take the vote, not wait passively for it to be given.

Upon her return to America, Alice Paul reenergized the battle to win the right to vote for American women. In 1916, she founded the National Woman's Party, which worked to gain suffrage at the Federal level through a constitutional amendment. Proving to be an extraordinary organizer, fund-raiser, and politician, Alice Paul allowed nothing into her life that did not have a direct bearing on suffrage. In her later years, Alice often reminisced that she lived in a cold room so that she wouldn't be tempted to read novels late at night.

Alice Paul fostered an incredible solidarity in those around her. She organized massive demonstrations, picketing rallies, conventions, and hunger strikes that raised the profile of the suffragist movement, revitalized other women's rights groups and awakened the consciousness of the entire Nation to the women's suffrage issue.

Once the vote was won, when most suffragists believed that their work had ended, Alice Paul was just beginning her crusade. In 1923, 3 years after suffrage was granted, she authored the equal rights amendment, stipulating that neither the Federal Government nor States could abridge any rights on the basis of sex. From the date of its inception to its final passage by Congress for State ratification in 1972, Alice Paul kept the issue of the ERA alive before the Congress and State legislators for 54 years.

In addition to her efforts on behalf of the right to vote and the equal rights amendment, Alice Paul successfully campaigned to make the nondiscrimination clause based on sex part of the 1964 Civil Rights Act. This clause granted women Federal protection for the first time in the realm of equal job protection and pay in the workplace. Furthermore, she worked to include equal rights clauses in the United Nations Charter and the United Nation's Declaration of Human Rights.

In 1977, Alice Paul died in Moorestown, NJ, leaving behind a legacy of dedication to women's rights and social justice. To the very end, she worked with the fervent desire to see the equal rights amendment become Federal law. Even at the age of 88, she was directing the struggle for the passage of the ERA in the Maine Legislature—from the telephone of a nursing home. Her life exemplified what she once said in response to a question about her unwavering steadiness in the cause of women's rights: ''Well, I always thought once you put your hand on the plough you don't remove it until you get to the end of the row.''

In the case of Alice Paul, this simple resolve left a legacy that has forever

changed the lives of men and women throughout the world.●

THE DEATH OF A WORLD WAR II HERO, CAPT. CHARLES ASHLEY AUSTIN, JR.

● Mr. DODD. Mr. President, before Congress adjourns for recess, I ask my colleagues to join me in honoring a young World War II American pilot—Capt. Charles Ashley ''C.A.'' Austin, Jr.—whose final acts of courage and sacrifice, while legendary in a little village in France, are largely unknown to most Americans. In her quest to reveal her fallen husband's heroism, Etta Rizzo Austin Lepore, who lives in Connecticut, has sought from the Army the posthumous bestowal of the full range of military honors on Captain Austin.

A choice of incredible valor ended the life of Capt. C.A. Austin. Jr., 50 years ago. On July 4, 1944, following a successful tactical bombing mission of German-occupied France, Captain Austin's P–47 Thunderbolt airplane was shot down by enemy fire. His disabled aircraft careened directly toward the French village of Limetz-Villet—to the horror of the villagers watching from the ground. Miraculously, it veered off its course of destruction and crashed in a nearby cornfield. Captain Austin was killed in the crash. The villagers of Limetz were convinced that Captain Austin could have bailed out and saved himself. But Austin chose to stay with the plane and, by maneuvering it from its burning trajectory, save the lives of the helpless people of Limetz. Those who witnessed Captain Austin's final moments have never forgotten the young man who traded his own life for the lives of their families and neighbors. In fact, the people of Limetz-Villet defied their Nazi occupiers when they buried Austin with full honors.

Because Captain Austin's plane had been separated from the squadron he commanded when it was hit by German antiaircraft fire, the returning pilots in his squadron did not know their captain's fate. He was reported missing in action. There were no official recommendations for Captain Austin to be awarded the highest military honors, namely, the Medal of Honor, the Distinguished Flying Cross, or the Bronze Star Medal, because no American serviceman had direct knowledge of the extraordinary circumstances of his death. In a letter from the mayor of Limetz, written in broken English a year after Captain Austin's death, Mrs. Lepore learned of the details of her husband's fate. The mayor wrote:

> (i)n a supreme effort the pilot succeed to place his airship in straight line and by wonderful bend . . . avoid the village . . . reaching a small plain far from many. . .

The people and descendants of those whose lives and homes Captain Austin spared revere him to this day, and his story has been woven into the lore of Limetz. Recently, on the 50th anniversary of Captain Austin's death, the villagers erected a monument in his memory. A stolen propeller from the wreckage of Captain Austin's plane, the Etta II, serves as the centerpiece of this memorial.

We Americans have spent much of this year commemorating and reflecting upon World War II—its battles and its strategy, its causes and consequences. We have questioned—as only latter generations can—the course it took. We have interpreted its drama in broad conceptualized strokes. Captain Austin's story brings into focus the reality that World War II—like all wars—consisted of the acts of individuals, either combined in the maelstrom of battling armies or—in the case of Captain Austin, singled out, separated from the confidence of the group, in places of extremity where private conscience provided the only compass.

Captain Austin's single act of grace stands out in the human consciousness. It fortifies a belief that something worthy of hope in the human spirit survives even the most brutal conflagrations of civilization. His is a story that ought to be told and woven into the American lore. Perhaps of all the characterizations of the American role in World War II, this is the most relevant: Hundreds of thousands of American soldiers sacrificed their lives for strangers—Capt. C.A. Austin not the least among them. And in this truth, Americans may glimpse a noble piece of our national identity.●

TRIBUTE TO JERRY GARCIA AND REX FOUNDATION

● Mr. ABRAHAM. Mr. President, I rise to discuss private arts funding in this country as envisioned under my proposal to privatize the Endowments, and at the same time to pay tribute to one of the Nation's most beloved and most philanthropic artists, Jerry Garcia. Jerry Garcia, acoustic guitarist, artist, and the spirit and soul of the Greatful Dead, died early yesterday morning.

As is well known, especially in light of the outpouring of grief across the country yesterday, Garcia and his band have attracted perhaps the most loyal and dedicated fans of any rock group. What is less well known, and is to the band's credit, is that Garcia's band also donated millions of private dollars to charitable causes—particularly to offbeat and undiscovered artists, through the Grateful Dead's philanthropic arm, the Rex Foundation.

The leader of that band died yesterday and I would like to pay tribute to Jerry Garcia and his spirit of genuine philanthropy by discussing one of his many charitable ventures, the Rex Foundation.

The Rex Foundation is precisely the sort of private philanthropy that opponents of my bill believe cannot exist, or will not exist in sufficient numbers to make up the 2 percent of private funding of the arts that the NEA now provides. Well, this one rock-and-roll band provided a million dollars a year to struggling artists, composers, and other charitable causes. And unlike NEA grants, Rex Foundation grants came with no strings attached.

Rex was established as an independent charity in the early eighties, what some call the decade of greed. The profits from the band's charity concerts—about $1 million a year—are funnelled into the Rex Foundation, named for road manager Donald Rex Jackson, who died in a car crash in 1976.

The Greatful Dead have played as many as five benefits a year for the Rex Foundation. Half of the royalties from the Ben & Jerry's ice-cream flavor ''Cherry Garcia'' go to the Rex Foundation. The rest of the foundation's money mainly comes from private donations. The band absorbs almost all of the administrative and personnel costs.

Rex money has had perhaps its greatest impact on modern symphonic music. Since its inception, the foundation has spent over $100,000 commissioning and recording works by avantgarde composers.

Composer Robert Simpson was much acclaimed but poorly remunerated for his work during a long career. At 73 years old, many of his works remained unrecorded. One day, he received a $10,000 money order from the Rex Foundation, out of the blue. The composer used the grant to help record his ninth symphony.

In addition to supporting obscure composers, the Rex Foundation has assisted saxophonist Pharaoh Sanders, bought uniforms for the finacially-strapped Lithuanian Olympic basketball team, set up scholarships that have enabled Salvadoran refugees to go to camp and Sioux women to study medicine, and financed programs to eradicate blindness in Nepal, clean up rivers in Alabama, protect striped bass in California and feed the homeless in Boston.

Rex Foundation money was used to record the prison gospel choir of San Quentin. In 1991, Grateful Dead drummer, Mickey Hart, helped bring the Gyoto Tantric Choir Tibetan monks to America. As the monks passed San quentin in a van, they said they felt the presence of trapped souls within.

They wanted to go right in, but Hart informed them that that might be a little difficult. When the monks later performed at San Quentin through the Rex Foundation they were able to see the prison's gospel choir perform. According to Hart, one prison guard began playing the drums and another played the organ. Guards and inmates were mixing and singing sacred songs.

The album, titled ''He's All I Need,'' peaked at No. 28 on the Billboard gospel charts. All proceeds went to a fund earmarked for victims of the inmates.

And it's not just musical events the Rex Foundation has funded. Another recipient of Rex Foundation Funds was the Blue Moon, the historic University District tavern in Seattle which received a grant from the Rex Foundation to support three projects: Words

on Wednesdays, the Pym Cup cash prize and ''Point-No-Point,'' a literary journal.

Just a month ago, on July 30, 1995, the band performed a show at Deer Creek Music Center in Indiana and donated all the net proceeds—about $300,000—to the Rex Foundation. Some of the beneficiaries of that show were local charities: Hoosier Hills Food Bank; Broadway United Methodist Church, for a day camp program; Pleasant Run Children's Home; Health Net Community Health Centers; Horizon House; Prevention of Child Abuse, Indiana; Gleaners Food Bank; Habitat for Humanity.

The Rex Foundation has few hard and fast rules—the Grateful Dead have never been strict rule-followers for themselves or for anyone else. The Rex Foundation has no endowment, no fund-raising campaigns, and no paid staff. It solicits no grant proposals, rarely advertises its good works and raised almost all its money at rock concerts at which the Grateful Dead perform. Most of the 60 to 100 grants awarded each year go to recipients nominated by a body called the Circle of Deciders. It is composed of band members and their families, its 50 employees, and friends.

Of course, I cannot list every grant the Rex Foundation has ever made—and if I could there might well be some I would not like. But that is one of the greatest virtues of a private philanthropy such as the Rex Foundation: No Senator, Congressman or Government bureaucrat's approval is required.

So while we debate the appropriations to be afforded the Government agencies charged with funding arts and humanities, and debate as well as restrictions that must be attached to any Government distribution of taxpayer money, I think it is worth reflecting on the contributions to the arts and humanities made by Jerry Garcia's band, the Grateful Dead over the past 12 years—contributions made without taxpayer money, without offense to the people whose money is used, and—most strikingly—without self-congratulatory fanfare.

And also I would like to give my condolences to Jerry Garcia's family, friends, and fans, who mourn the passing of the artist, musician and generous spirit, Jerry Garcia.●

CONGRATULATIONS TO RAYMOND KNAPE FOR RECEIVING THE AQUINAS COLLEGE REFLECTION AWARD

● Mr. LEVIN. Mr. President, I rise today to pay tribute to Raymond E. Knape. In so doing, I join with the members of his community who are honoring Ray Knape on Wednesday, September 6, 1995, with the third annual Aquinas College Reflection Award.

This award is presented to Ray as someone who reflects the values of Grand Rapids, Michigan's Aquinas College. These values include commitment, vision, service, loyalty, integrity, and trust.

Ray is a native of Grand Rapids, MI. He graduated from Catholic Central High School in 1949 and Georgetown University in 1953 with a bachelor's degree in business administration. Ray proceeded to enter the University of Michigan and earn both a masters degree in business and a law degree.

Ray has served his country by joining the U.S. Naval Reserves in 1951. He went on active duty after his graduation from the University of Michigan. He served as an attorney at the Pensacola Naval Air Station in Florida and retired from the Naval Reserves as a captain in 1984.

In 1962 Ray joined Knape & Vogt Manufacturing, founded by his grandfather in 1898. Knape & Vogt is the largest manufacturer of adjustable wall shelving in the world and holds one third of the market. It is also the second largest manufacturer of drawer slides for wood office furniture and kitchen and utility cabinet makers. Ray became president of Knape & Vogt in 1985 and in 1989 attained his current position as chairman of the board.

Ray has been a community-oriented person throughout his life. He has generously contributed both his time and talents with many organizations including the Serra Club of America, Junior Achievement, Aquinas and Davenport Colleges, Saint Mary's Hospital, the Grand Rapids Employers Association, the Grand Rapids Chamber of Commerce, the Symphony Board, and many others. He has been an active fund-raiser and tireless worker on behalf of his parish, St. Stephen's Church, and the Roman Catholic Diocese of Grand Rapids.

Mr. President I ask you along with all of my colleagues in the Senate to join with me in extending our heartfelt congratulations to Raymond E. Knape in receiving the Aquinas College Reflection Award.●

TO DELAY IMPLEMENTATION OF THE ADMINISTRATION'S RANGELAND REFORM PROPOSAL

● Mr. THOMAS. Mr. President, the bipartisan amendment I am offering today addresses an issue that is critical to ranching families in my State of Wyoming and throughout the West. The initiative would put in place a 90-day moratorium on implementation of Secretary of Interior Bruce Babbitt's rangeland reform proposal, which is scheduled to take effect August 21, 1995. Soon after the Secretary released his plan on February 22, 1995, Senators PETE DOMENICI and LARRY CRAIG introduced S. 852, the Public Rangelands Management Act of 1995—of which I am an original cosponsor—to amend Bruce Babbitt's initiative. However, faced with a full legislative agenda and time constraints, the Congress was not able to take up and debate this issue before its scheduled summer recess.

As a result, a group of western Senators, myself included, met with Secretary Babbitt just this morning to ask him to refrain from putting his final rule in place administratively. Unfortunately, the Secretary was unwilling to work with us and grant additional time, which left no other alternative than to offer this amendment.

Mr. President, I believe this entire discussion comes down to a matter of fairness. If Bruce Babbitt's proposal would not have completely dismantled the way livestock grazing is conducted on public lands there would not be a need for action. As many will remember, 2 years ago the Secretary of Interior proposed a plan soundly rejected by people throughout the West because it would have forced many small-to medium-sized ranchers out of business. Congress sent a clear message to Mr. Babbitt by defeating his plans. Now, however, the Secretary intends to carry out his ideas administratively and believes Members of Congress should no longer have a voice in this issue.

I strongly disagree. What we are talking about here are the livelihoods of thousands of ranchers in my State and across the West. Folks everywhere tell me that if they are forced to live under the rules outlined in Bruce Babbitt's initiative, they could lose their business. I am not going to let that happen. We have made great progress on the Public Rangelands Management Act. It passed the Senate Energy and Natural Resources Committee with bipartisan support, and I am certain that with an additional 90 days the Senate will also pass this measure with the support of Republicans and Democrats alike. I would like to thank my colleagues who cosponsored this important amendment and I urge its adoption.●

THE 50TH ANNIVERSARY OF INDONESIAN INDEPENDENCE

● Mr. JOHNSTON. Mr. President, on August 17th, the Republic of Indonesia, one of America's strongest and best allies, will celebrate the 50th anniversary of its declaration of independence. It was on this day 50 years ago that this great friend ended 300 years of colonial rule by the Dutch. The United States, I am pleased to say, was the first to recognize Indonesia.

Since that momentous day one half century ago our two nations have enjoyed a warm and mutually supportive relationship. Indeed, Indonesia has proved this friendship time and time again in matters as diverse as votes in the United Nations and support of the United States position during the Vietnamese war.

Mr. President, on this anniversary it is also appropriate to pay tribute to President Soeharto under whose leadership, truly astonishing progress has been made. President Soeharto assumed control of the country in 1965 and was named Acting President by the

national legislature 2 years later and was then formally elected to office in 1968.

Today, the adult illiteracy rate has been cut by two-thirds and primary education is now universal throughout the islands. Per capita income is over $900 a year, putting Indonesia at the edge of membership in the tigers groups. Life expectancy at birth has increased by 20 years, or 50 percent, and the rate of infant mortality has plummeted.

Perhaps the most telling measure of all, overall poverty rates, best illustrates the economic miracle which has occurred in Indonesia. From a rate of 60 percent in 1967, today less than 15 percent of the total population is now considered to live in poverty.

Indonesia's remarkable growth and development has affected every sector of society, every geographic area of this island nation, and all ethnic groups.

There is no question in my mind that these wise economic and social achievements have helped build and nurture this relatively new nation, and that the nation of Indonesia now rests on a solid foundation.

We in the United States along with our many friends in Asia and elsewhere have also benefited from the stability which has emerged in Indonesia. This stability has enabled Indonesia to move away from the earlier years of konfontasi and toward the regional leadership role Indonesia has asserted in promoting the peaceful resolution of disputes in Southeastern Asia including Cambodia and the Sprattlys. Indonesia has become an important voice of reason throughout Asia and the third world, and is a key part of a peaceful stable Pacific.

Mr. President, I know I am joined by my colleagues in sending our very best wishes to our great friend and ally, the Republic of Indonesia, and in sending our heartiest congratulations to its distinguished President.●

R&D INVESTMENT AND THE FUTURE OF THE U.S. ECONOMY

● Mr. LIEBERMAN. Mr. President, the Institute for the Future has completed an important report on the future of research and development in this country. This report makes the critical connection between research and development investment and the competitiveness of American industry. This important link between R&D and our economy must not be underestimated. Without sufficient investment in R&D today, we are destined to be losers in the global economic battles of tomorrow. Government and the private sector need to work as partners to make sure that our business remains competitive, bringing jobs and prosperity to our economy.

Congress is currently contemplating a major shift in our R&D policy. In their zeal to balance the budget, many Members have forgotten why we are striving to balance the budget. The reason we need to balance the budget is to increase our economic prosperity. Therefore, it is counterproductive to balance the budget by cutting spending in areas that are adding to our economic prosperity. We are on the verge of making the mistake of cutting investments in the very areas that we are trying to stimulate. R&D is one of those areas. We are making unprecedented cuts in R&D, departing from an R&D policy that has enjoyed bipartisan support for 50 years, since the end of World War II.

I have been working hard in support of research and development initiatives in Congress to promote many of the objectives put forth in the report from the Institute for the Future. We are currently engaged in a battle to save the Department of Commerce, business' seat at the Cabinet table. Those in Congress who seek to dismantle the Department of Commerce have not recognized that Government has a role to play in partnership with private industry to stimulate the technology development that will be the foundation of the next generation of products in the global marketplace. The Department of Commerce also performs the basic science that is required to set standards that are the critical benchmarks of modern industry. Other programs educate small- and mid-size industry in state-of-the-art technologies that allow them to compete in an increasingly fierce international competition for consumers. In addition to its R&D functions, the Department of Commerce performs trade functions that promote and protect our interests abroad.

Government also has the responsibility of providing an economic environment that promotes R&D in the private sector. I am currently involved in legislation in two areas that will have a significant impact on R&D investment. I am working on a bipartisan basis to draft legislation to make the R&D tax credit permanent and more inclusive. Business cannot function in an uncertain economic environment. To make good business decisions, particularly investment in R&D, business needs to have reliable and well defined tax laws regarding R&D tax credits. A permanent R&D tax credit will provide business with this certainty. I have also introduced a bill with Senator HATCH which provides a 50-percent across-the-board exclusion on capital gains with an increased exclusion for qualified small businesses. The bill has a dozen cosponsors, spanning the range of the Senate's political spectrum. This change in capital gains taxes should encourage capital investment, including investment in new businesses which are bringing new technologies to market, and new jobs to our work force.

These efforts are particularly important in the current economic climate. Decreasing product life-cycles and increasing competition is forcing industry to focus on shorter time scales, not the longer time horizons required for high risk R&D. We must make sure that there are incentives that encourage investment in long-range, high-risk R&D. These private sector programs, however, are only a complement, not a replacement for federally funded R&D efforts. The Government's role in science and technology tends to be longer term and in areas where industry does not invest. Industry is not prepared to undertake the risk that longer term R&D entails. Private sector R&D tends to be increasingly short-term, and focused on areas where there will be a clear short-term return. We need increasing investment in both Government and private sector R&D, yet we are faced with declining private sector R&D investment and major cuts by the new Congress in Government's R&D. Both of these problems must be addressed if the United States is to retain its economic leadership. Our competitors are increasing their investments in both R&D arenas.

I applaud the Institute for the Future in their efforts to research the current R&D climate and to delineate goals for the future. As partners, private industry and Government can lay the groundwork for effective investments in our future. At a recent event to introduce the report from the Institute for the Future, Dr. Mary Good, Under Secretary for Technology, U.S. Department of Commerce, and Richard J. Kogan, president and chief operating officer, Schering-Plough Corp., made statements concerning the critical role that research and development plays in our economy. I ask that these statements be printed in the RECORD.

The statements follow:

COMMENTS ON ''THE FUTURE OF AMERICA'S RESEARCH-INTENSIVE INDUSTRIES,'' PREPARED BY THE INSTITUTE FOR THE FUTURE

(By Mary L. Good, Under Secretary for Technology, U.S. Department of Commerce, July 24, 1995)

First, let me say how pleased I am to have an opportunity to participate in this News Conference which announces the publication of the report entitled ''The Future of America's Research-Intensive Industries''. The Institute for the Future and the sponsors of this report are to be congratulated for their foresight and commitment to the long-term health of the U.S. economy. Clearly, the U.S. research-intensive industries have been one of the major vehicles for the country's economic growth since World War II. They have played a disproportionate role in the improvement of our standard of living, in the development of our industrial infrastructure, and particularly in establishing the United States as the world's leader in high-technology development. In many ways they have been the motivation for the creation of the world's leading higher education system because they generated the jobs that required high-quality graduate training in science and engineering. They appreciated and utilized the research output from our research universities, the national laboratories, and the mission agencies of the government, particularly Defense, NASA, and Energy. Less well recognized, they played a vital role in the success of entrepreneurial, high-tech startup companies that utilized

the people and technology that was nurtured in their major research centers but did not meet their internal criteria for further in-house development. Many of our successful high-tech startups over the last 30 years or so can trace their ancestry back to ''parents'' or ''grandparents'' in the research-intensive companies who grew and flourished in the years after World War II. In addition, they have provided the market for thousands of small companies, first, second and third tier suppliers who have flourished over the same period of time.

The success of this industry, as so capably defined by this report, has been the result of both government and business foresight in the development of a research and development infrastructure in the private sector, the government, and academia. This infrastructure provided the intellectual capital required for our industry to excel. However, it was developed at a time when the government motivation was substantially based on defense needs. The industry had a world competitive position that encouraged long-term investment in R&D that benefited it directly, and indirectly spilled over to provide great social benefit ranging from the creation of entirely new industries to the development of technology based, civilian infrastructure.

As the report documents, the end of the Cold War and the rise of many able competitors all over the world have changed dramatically the position and behavior of both the government and the industry in their role in the R&D infrastructure which has sustained them over the last 50 years. The questions addressed by the report are vital to our country's future and the ability of our children and grandchildren to enjoy the same opportunities and quality of life that we have. The conclusions of the report and their implications for public policy must not be ignored. The recommendations require active government participation with the industry in working out the new paradigm for R&D infrastructure which is appropriate for the 21st century. To suggest that the solution to these problems belongs to the industry alone and that it is time for the government to provide significantly less resources and investment in this area so vital to economic growth is to declare defeat in the economic security battles that are raging around the world today. Our future depends on the realignment of a greater share of our government funded R&D effort to civilian industries; the continued support of university research, both basic and applied science and engineering; the cultivation of a core of the ''best and the brightest'' students to seek an education in science and engineering; and the encouragement of industrial R&D growth over time. The global market of today may well create the forces which cause individual companies to realign and adjust their R&D resources to be economically successful. However, those same forces may cause the United States as a country to under-invest in the future where our R&D intensive industries are world players but not the overall contributors to the nation's well-being that they have been in the past. Thus, public policy must be developed which maintains the results of our Cold War policies but which is focused on programs and resource allocation which are appropriate for the new post-Cold War environment of today.

Let me conclude by commenting on each of the five recommendations for public policy listed in the conclusion of the report.

MAINTAIN FEDERAL SUPPORT FOR BASIC RESEARCH

This is a major priority for going forward. Not only must we maintain the portfolio in the universities funded by the civilian agencies like NSF and NIH, we must continue at least the current level of support from the mission agencies like Defense, NASA, Energy, and Agriculture. This university research includes a significant amount of applied and engineering research which must not be removed on the fallacious argument that the government's role should be limited to ''basic research''.

In addition, the role of a segment of the government laboratories in fundamental research must be re-examined and strengthened to provide facilities and long-term programs which support and supplement both the civilian industry and academic efforts.

ENCOURAGE LONG-TERM PRIVATE INVESTMENT FOR R&D

An environment must be created that induces both U.S. industry and U.S. subsidiaries of foreign-owned firms to invest in R&D and high-level manufacturing within the United States. Future high-paying and intellectually challenging jobs depend on this environment. Tax and investment policies which provide these incentives must be part of any public ''technology policy''.

LOWER GOVERNMENT-GENERATED RISK ASSOCIATED WITH INNOVATION

Public policy must address regulatory and litigation issues so that public interests are balanced against innovation incentives. The lost value of innovations *not done* because of regulatory and legal disincentives must be considered in the overall context of the optimization of public protection vs. private industry activities.

PROTECT INTELLECTUAL PROPERTY

In the market place, intellectual property is a major part of the competitive edge which justifies R&D expenditures. Without world-wide protection of that intellectual property, companies cannot capture the full value of their R&D investment through global sales with appropriate margins. As products and services become more knowledge-based and software intensive, the need for new paradigms in the protection of intellectual property will become more urgent. Clearly, public policy must focus on international trade relations as well as on domestic legislation if our companies can continue to reap the benefits of extensive R&D investments.

SUPPORT INDUSTRY COOPERATION ON R&D

As product live cycles continue to decrease and private industry spends less on enabling and emerging pre-competitive technologies, the need for better bridges between university and government research and the industrial sector become more urgent. Joint ventures and government-private partnerships provide rapid technology transfer and continue to technological infrastructure that has served us so well in the past. These activities must not be lost by ideological attacks on so-called ''corporate welfare'' and arguments about the government's role in industrial innovation. Programs which have been developed over the past five or six years such as the Advanced Technology Program in the Department of Commerce and the CRADA programs in the Department of Energy must be strengthened and continued. Overall a 5–10% portion of the federal R&D budget should be reserved for these partnership programs. They should encourage both government and academic interaction with industrial R&D and foster the kind of relationships where emerging technologies can develop and spin off new industries in a competitive time frame and new enabling technologies can be rapidly assimilated by the industry.

The response to these recommendations by today's policy makers and legislators will determine the quality of our country's future. The investments called for must be made in an era of great need to reduce the overall federal deficit and where the need for investments in education and continued support for the needy and the elderly must be found. Thus it is a time when a thoughtful review of government R&D activities is in order to prioritize the expenditures to meet the recommendations of today's report. Current budget resolutions in the House and Senate project a decrease of at least one-third of all federal government R&D expenditures by the year 2002 and a prohibition on all R&D partnership activities where the federal government funds any part of an industrial firm's civilian technology development. The appropriation process which is now underway for 1996 budgets would indicate that the plan is on track. Some $5–6 billion of the $34 billion or so of civilian R&D have been identified for reduction and most of the newer partnership programs have been severely reduced or eliminated. The Advanced Technology Program has been eliminated, the Technology Reinvestment Program in the Defense Department has almost been eliminated and the DOE CRADA budget has been reduced to a few million dollars. The report before us outlines why the industry will not and can not replace these activities. The discontinuity which will be caused by these budget actions, the consequent loss of thousands of R&D jobs, and the effect it will have on academic research departments will not be amenable to ''quick fixes'' next year or in the foreseeable future. We can only hope that this report and other current analyses will convince the public and the Congress that this approach is suicidal. A balanced budget will only be achieved by *both* government reductions *and* strategic investments in labor, capital and technology which will provide the economic growth and jobs of the future. This report goes a long way to explaining in clear terms why that is true.

Thank you.

''THE FUTURE OF AMERICA'S RESEARCH-INTENSIVE INDUSTRIES''

(By Richard J. Kogan, President and Chief Operating Officer, Schering-Plough Corp.)

Members of the Administration and Congress, distinguished scientists and professors, ladies and gentlemen:

Good morning. As the Institute's researchers have noted, pharmaceuticals and biotechnology are one of this nation's ''top eight'' R&D-based industries examined for their ability to continue their innovation track record.

Certainly, major challenges lie ahead for our industry. With biopharmaceutical industry R&D costs rising, it's increasingly difficult to repeat our previous innovation achievements that have made America the worldwide technological leader in medicine. Just as we cannot return to yesterday's markets, we cannot replicate our former R&D expenditures. Growth in industry R&D spending today is less than half the level of the early 1980s.

Schering-Plough in the 15-year period 1979–1994 spent almost $500 million to develop our recombinant alpha interferon, plunging ahead even when it initially appeared the drug would help only a handful of cancer patients. It took nearly 14 years of work before we saw a penny of return on that investment. Today, such an effort might not be made—nor our subsequent discovery that the drug can treat 16 cancer and viral diseases.

For pharmaceutical and biotech firms, the burning issue now is not only whether we can continue bringing products to patients that treat unconquered diseases, but whether we can continue covering the expenditure for leading-edge research. Our industry is currently responsible for more than 90 percent of all new U.S. drug discoveries.

Today's diseases—Alzheimer's, AIDS, heart and kidney disease, prostate cancer and arthritis—are far more complex than those successfully treated in the past. Moreover, many of today's most prevalent diseases—primarily chronic and degenerative conditions—are at the high-cost stage in the innovation cycle. If we cut investment in medical progress today, the consequence may be irrevocable and society may rue that decision for years to come.

The annual medical costs of only seven major uncured diseases account for about half of today's health care bill. However, many of those diseases are within reach of effective pharmaceutical control or cure. As biomedical technology progresses to that point, the total cost of treating these major ailments should drop sharply. If the cycle of innovation is disrupted, we run the risk of being trapped with today's higher-cost, less-effective options.

Today's rapidly changing health care market signals the continuing sense of urgency for optimal patient care and cost containment. By the same token, we must constantly remind ourselves that medical innovation is the most viable, long-term solution for cost-effective quality care—as the findings of the Institute study attest.

In 1995, an urgent task before U.S. policymakers should be to assure that the path of innovation remains open, unobstructed and attractive to investors. And, that statement applies across the aboard—from our industry that has cured polio, tuberculosis, measles and diphtheria to our fellow industries that have brought the world the laser, fiber optics, lightweight alloys, integrated circuits, the CAT scanner, and that have taken us into outer space.

Thank you.●

BOB SELTZER

● Mr. LEVIN. Mr. President, I want to take a few minutes of the Senate's time this evening to salute the career of one of the best among us. Tomorrow, Bob Seltzer is turning off his Senate computer terminal for the last time, analyzing his last floor debate, perhaps writing his last perceptive piece of policy analysis. After spending much of the last 17 years serving three different Senators, Bob is leaving Capitol Hill for less hectic pursuits. Along with the many people who have had the privilege of working with him, I will miss him very much.

Bob was teaching college in Detroit when I was lucky enough to get him to manage my first campaign for the U.S. Senate in 1978. Despite the odds against a city councilman like me winning his first statewide race, Bob maneuvered me into winning and followed me to Washington as the chief of my staff. We both dove into the challenges and opportunities of this institution, and he was at my side throughout my first 4 years. He set up my office, hired my staff, shaped my legislative program, wrote some speeches for me and endorsed me in many aspects of my job. Even after moving on to other challenges, Bob came back when I needed him for another stint on my staff as my communications director.

We learned the ways of Washington together, and we both developed a deep love for the Senate. He was as fascinated as I with its traditions and procedures, and he became one of a handful of students of the Senate who have a deep understanding of how and why things happen here they way they do. His unique, wry and creative sense of humor helped me and all those he worked with survive the many strains of Senate life. He enjoyed poking fun at himself. I relied on his political instincts and insights, and on his ability to tell me things straight. His grasp of the fundamental principles of what makes our complex society function and his incredible ability to analyze and explain a problem and argue for a solution to it were invaluable assets to this Senator.

That ability to paint word pictures of people and problems and their solutions which Bob has is truly remarkable. He can write about virtually any subject and bring it to vivid life, creating memorable images that stay with the listener or the reader. I remember, for example, the way he once described his suspicions about someone's guilt: ''There may not be a smoking gun, but there's a trail of spent shells leading to his door.'' Even his internal office memos describing the most mundane administrative matters, which he claimed to be terrible at dealing with, contained priceless paragraphs of prose and self deprecating humor.

I would be less than truthful if I did not point out, however, that Bob did have a weakness in his writing style, a tendency toward excessive alliteration. Perhaps this grows out of his interest in literature, which he is going to pursue in the years ahead by opening a bookstore. One of his close friends and former coworkers, Chuck Cutolo, who also recently moved on from the Senate, called to say that if Bob were writing his own headline for the story of this departure, it would probably read something like ''Seltzer Severs Senatorial Services; Banks on Books to Bring Him a Breather.''

But this one weakness did not stop Bob from getting two other Senators to make him a key advisor after he left my staff. Senator HERB KOHL made Bob his legislative director, and he most recently has served Senator FRANK LAUTENBERG in that same capacity. They probably don't know it, but Bob continued to help me, in his spare time. He continued to be a political strategist and advisor, and I hope he continues to give me the benefit of his extraordinary skills and his trenchant wisdom.

When we came here together he was a young man. He's now old enough to be beloved. And that he is.●

NOMINATION OF JOHN J. CALLAHAN

● Mr. PRYOR. Mr. President, on July 21, 1995, the Senate Committee on Finance favorably reported the nomination of John J. Callahan for the position of Assistant Secretary for Management and Budget and Chief Financial Officer (ASMB/CFO) for the Department of Health and Human Services. I support Dr. Callahan's nomination and feel his expertise would be advantageous to this Department. The importance of this Department and its role in our society is immeasurable. For this reason it is crucial that this Department, like every other, be served by outstanding people such as Dr. Callahan.

For more than 25 years, John J. Callahan has had an exemplary public service record. He served in the United States Senate for over 15 years. During that period he served as Staff Director for the U.S. Senate Governmental Affairs Subcommittee on Intergovernmental Relations and the Subcommittee on Government Efficiency, Federalism, and the District of Columbia. His service also includes serving as Deputy Staff Director of the Senate Budget Committee and Chief of Staff to my good friend from Tennessee, former Senator Jim Sasser. Dr. Callahan's vast Congressional and budget experience should help him tremendously as he wrestles with the issues that HHS deals with every day.

Earlier in Dr. Callahan's public service career he was a Director at the National Conference of State Legislatures (NCSL). During that time he had the opportunity to conduct studies that helped State legislatures review their school finance plans to meet with educational mandates. Working for the State governments has given him the background needed to better link state and national government agencies, and to better interpret the effect of Federal requirements on state and local governments.

As Chief Financial Officer, Dr. Callahan will have the responsibility of handling the more than $300 billion budget that is allocated annually to HHS programs. He is ably credentialed for this task. Dr. Callahan's work at the Senate Budget Committee included assisting in the preparation of more than 20 Committee hearings and in the development and passage of two budget reconciliation bills (which together reduced projected deficits by nearly $1 trillion).

HHS is considered by many to be one of the most crucial entities of our government. This Department affects all Americans at some point or another in their lives. From childhood immunization programs to the supervision of Medicare, we will all eventually benefit from the services of this agency. The Assistant Secretary of Management and Budget has many responsibilities that help to make this a productive Department. John Callahan has the expertise and track record to run this office efficiently and purposefully. In a recent meeting with Dr. Callahan, we discussed his role in designing more efficient programs. John Callahan brings with him to this important post not only new and innovative ideas but invaluable experience that has taken him many years to acquire.

When it comes to the health of the people of the United States, we must make education and public awareness a top priority. John J. Callahan is a devoted student, having earned his Bachelor's Degree in Political Science at Fordham University, his Master's Degree in Regional Planning at Syracuse University and his Ph.D. in Social Science also at Syracuse. John has served as an Assistant Professor of Education and Planning at the University of Virginia and an adjunct professor at the USDA Graduate School and American University.

Further, John J. Callahan is a devoted family man. He is very supportive of his wife and three children. He wants to ensure a health future for his children as well as the children of our entire nation.

I would like to conclude by saying that the Department of Health and Human Services has played a key role in today's health care debate. I have no doubt that our great Nation will pull together to find solutions to the problems that have been identified. The solutions will come from individuals like John Callahan, one who has devoted his lifetime to education, research and public service.

It is again my honor and pleasure to declare my full support for John J. Callahan's nomination to be the Assistant Secretary for Management and Budget and Chief Financial Officer of the Department of Health and Human Services.

I would like to thank Jeffrey C. Lederman for his capable work on development of this statement. Mr. Lederman is a medical student at the University of Medicine and Dentistry of New Jersey-School of Osteopathic Medicine who ably assisted by Aging Committee staff as a fellow over the last 2 months. We are grateful to Mr. Lederman for his service to the Committee. ●

U.S. AIR FORCE AIR MOBILITY COMMAND

● Mr. BOND. Mr. President, I rise today to congratulate the Secretary, the Chief of Staff of the U.S. Air Force and the officers, men and women of the United States Air Force Air Mobility Command for their performance during the recently concluded reliability, maintainability, and availability evaluation of the C–17 Globemaster III. This aircraft, though controversial at the start has more than proven itself under intense scrutiny by the USAF testers, but most importantly it has proven itself to the men and women who load it, fly it, and maintain it.

During the RM&A evaluation, the C–17 and their crews transported 5,500 tons of Air Force and Army equipment, airdropped nearly 770,000 pounds, including Sheridan tanks and accommodated over 3,000 paratroopers of the 82d Airborne from Fort Bragg, NC and I send my congratulations to them as well. The C–17 flew more than 2,250 flight hours and 500 sorties with a 99-percent launch reliability rate.

We look for jointness in many of our procurements, the C–17 was built with this in mind. Its load capacity has been designed to carry Patriots, helicopters, humvees, main battle tanks, multiple launcher rocket systems and the Army's huge communications vans. These items can not only be transported but driven on and driven off of the aircraft * * * and in an austere environment. It can take the mission essential equipment to where the troops need it. It truly can carry the fight to the enemy * * *wherever he is.

And so Mr. President, I hope this puts to rest those critics of the C–17 who look to less flexible, limited commercial freight haulers to support the combat requirements of this Nation's military personnel. Again, I pass my congratulations and ''a job well done'' to all those involved in the C–17 program.●

LAURA HUDSON

● Mr. JOHNSTON. Mr. President, for almost 23 years I have been privileged to serve in the U.S. Senate. For some 20 of those years I have been blessed with the able assistance of Laura Hudson, who completes her Senate service this week, as my legislative director and indispensable right hand.

In so many ways, Laura personifies the best tradition of Senate service—beginning in one capacity and growing into so many more. The young history post-graduate, who took a legislative-correspondent position in my office in 1975, quickly grew beyond that and has been my invaluable counsel on a variety of legislative challenges over the years.

Her knowledge of the budgetary process is legendary among her colleagues. And her command of the appropriations process has no equal among those who serve on personal staffs in the Senate.

There are parks and preservation projects, in Louisiana and beyond which exist solely because of the personal commitment and legislative skill of Laura Hudson, whole regions of the globe, such as Micronesia, routinely neglected by many in the Congress, receive a respect and recognition in Washington due heavily to Laura's devotion. That component Closeup Program, which brings hundreds of students and teachers each year from the former Trust Territories of Micronesia, is but one example of Laura's passion.

Moreover, I am convinced that the relationship between our country and many of the developing and emerging economies of the world, such as China, Viet Nam, and Indonesia, profit in immeasurable ways from the understanding and leadership of staff persons such as Laura.

This is a woman, Mr. President, who has forsaken many opportunities in the private sector because of a deep belief in the merits of public service, and a belief in the simple tenet that she could make a difference. More than we often acknowledge, it is the Laura Hudsons who made a qualitative difference in our daily work product.

I know that Laura will continue to contribute, as only she can, to public policy. But I will miss her in a way immediate and direct, as will so many of her longtime colleagues in the Senate. But I know they join me in expressing appreciation and best wishes as Laura enters an exciting new chapter of her life.●

JUNEAU DRILL TEAM WORLD CHAMPIONS

Mr. STEVENS. Mr. President, the drill team from Juneau-Douglas High School in the capital of my State recently won the world championship International Dance-Drill Competition in Nagoya, Japan.

In recognition of their accomplishment, I ask that articles from the Juneau Empire detailing the team's achievements be printed in the RECORD.

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

[From the Juneau Empire, August 6, 1995]

DRILL TEAM WORLD CHAMPS!—JUNEAU GIRLS SWEEP ALL THREE CATEGORIES IN JAPAN

(By Mike Sica)

They're the best on the planet.

The Juneau-Douglas High School Drill Team dazzled the world, performing the best show, military and prop routines at the International Dance-Drill Competition today in Nagoya, Japan.

The girls also received a special award from the mayor of Nagoya.

Drill team head coach Leslie Dahl said it was hard to understand what was being said because it was all in Japanese.

''All I know is the mayor thinks we're the best,'' Dahl said.

So did the panel of judges who ranked the Juneau girls ahead of hundreds of other competitors spanning the globe.

The JDHS drill team finished ahead of two Japanese squads in the show routine, beat California and Australia in the military march, and topped Japan and California in the prop routine.

''This is beyond our wildest imaginations,'' an excited Dahl said over the phone just minutes after the announcement of the winners. ''The girls had to push Jennifer Frederick (team captain) forward because she thought she had heard wrong, she just couldn't believe it.''

Neither could Craig Dahl, Leslie's husband and a member of the Drill Team Dads. He didn't expect the girls to win the show routine, only because they had few props compared to their competitors in that category.

''I'm sure they drew the crowd into their routine,'' he figured. ''It's exactly what they did in Long Beach (Calif.), when they won the three national titles'' earlier this year.

Craig Dahl said the girls must have turned it on under pressure, captivating the audience with their energy and enthusiasm.

''It's absolutely fantastic, they're as good as we think they are,'' he added.

Juneau made the finals, making the first cut with their preliminary performances on Saturday. Leslie Dahl knew they were strong in the prop routine but thought they were shaky in the military march.

She was also concerned about the show routine because Juneau did not have props that the other teams from Japan had. Dahl said it was time to be daring.

''We decided to go for it in finals, show them what we really can do,'' she said. ''We had nothing to lose.''

There were about 7,000 people jam-packed in the huge arena in Nagoya, and they responded to the Juneau girls.

''It felt like we were in the Olympics, with the lighting turned down and spotlights flashing,'' Leslie Dahl said. ''It was unbelievable, especially the way the people supported us.''

The drill team will head back to Juneau on Monday. But they were off to a reception today, ready to exchange gifts and trade T-Shirts.

''A lot of Japanese students want to take pictures of the girls,'' she said. ''They're not used to seeing girls so tall.''

Craig Dahl said the sweep in the International competition was the drill team's way of thanking Juneau for its generosity.

''The whole community supported the girls and they repayed the town with three world titles,'' he said.

Leslie Dahl agreed.

''The girls worked so hard, and so did the community,'' she said before rushing to a bus that would take the Juneau girls to the reception honoring them.

''Juneau should be proud!''

So should Alaska and the United States.

[From the Juneau Empire, August 9, 1995]

THE CHAMPS RETURN—ENTHUSIASTIC CROWD GREETS DRILL TEAM AT AIRPORT

(By Mike Sica)

About 400 people celebrated the Juneau-Douglas High School Drill Team as most of its members returned home after winning three world championship trophies at an international competition in Japan.

The enthusiastic crowd at the Juneau Airport Tuesday carried balloons, flowers and placards. One sign said, ''World's Greatest!'' Another read, ''JDHS Drill Team—The Pride of Alaska, The Pride of the USA.''

And there was one that said, ''The Best on the Planet,'' which has become the team's rallying cry.

Family, friends and fans waited anxiously for the team to arrive.

''I'm here to support my sister,'' 16-year-old James Roberts said of Jodi Timothy. ''I want to congratulate her and give her a Coke.''

Drill Team dad Jay Boone paced the floor, waiting to see his daughter Gretchen.

And Charlie and Barbara Mitchell joked about living with a world champion.

''We'll have to open our double doors wide enough to fit her head through,'' Barbara Mitchell said. ''But really, we're just very proud of them all. They worked very hard and deserve this.''

Linda Egan said she was excited for her daughter Leslie and the rest of the girls, ''not just for winning but for the chance to meet people of different nationalities.''

Charlotte Richards said her daughter Erin called about 4 a.m. Sunday (Alaska Standard Time), saying Saturday was the ''the greatest day of her life.''

''She wasn't talking about winning as much as meeting kids from other countries,'' the proud mother explained. ''The amazing thing is that on the same day they won, Japan was observing the end of World War II.

''It's neat that the grandchildren of former enemies can enjoy each other so much.''

Bart Rozell made the trip to Japan with his two daughters, Mariah and Rebecca. He said the Japanese were wonderful hosts.

''The atmosphere was so friendly and receptive,'' he said. ''They treated our kids like celebrities, asking for autographs and wanting to have pictures taken with them.

''The girls had to pinch themselves, making sure it wasn't a dream.''

There were lots of hugs, kissing and tears as the girls entered the airport lounge. The crowd then moved to the Taku Room for brief presentations.

Mayor and drill team parent Dennis Egan told the girls the city, state and country are proud of them. He then told a story about a fax he sent to his daughter Leslie.

''I told her, You still had to clean up your room when you get back, it looks exactly like it did when you left,'' Egan said.

The Juneau mayor announced a special community reception for the drill team will be held next Wednesday at 7 p.m. in Centennial Hall

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[From the Juneau Empire, August 9, 1995]

CAPTAIN'S COMEBACK HIGHLIGHTS RETURN—DRILL TEAM GETS WARM WELCOME IN RETURN HOME

(By Mike Sica)

Jennifer Frederick typifies the never-say-die attitude of the Juneau-Douglas High School Drill Team, going from wheelchair to world champ in less than a year and helping her teammates become ''the best on the planet.''

That phrase—which has become the team's slogan since it won world championships in the show, military and prop routines at the International Dance-Drill Competition in Nagoya, Japan last week—was repeated time and again Tuesday evening at the Juneau Airport as the Drill Team returned home to a hero's welcome.

A crowd of about 700 people made up of friends, family members and well-wishers packed the airport to congratulate the Drill Team.

Frederick, who almost died in a car wreck last September, was full of life as she addressed the huge crowd Tuesday night at the Juneau Airport.

''Thank you very much from our hearts for giving us this opportunity to go (to Japan)'', said Frederick, who is the drill team captain. ''It was amazing and wonderful, and we couldn't have done it without you.''

The team raised about $60,000—mostly in Juneau—to pay for the trip.

Carrying three big trophies and a special award from Nagoya's mayor, they stepped into the departure lounge from the Alaska Airlines jet that brought them home.

The crowd cheered each team member individually, from coaches Leslie Dahl and Evonne Noonan to 16 of the 20 girls who competed in Japan. Four other drill team members stayed in the Lower 48 on family vacations.

Longtime high school basketball coach Jim Hamey was one of many people on the evening to remark in disbelief about the team's success.

''I've seen them quite a bit and they know I'm a big fan,'' he said. ''They work so hard and are disciplined. The staff and students at the high school are very proud of them.''

Hamey said whenever he's concerned about the work ethic of his basketball players, he tells them to go watch the drill team practice. He then joked about wishing he coached the drill team after seeing the huge crowd welcoming them home at the airport.

After being introduced as the coach of the ''best drill team on the plant,'' Leslie Dahl praised the community for its generosity.

''The people in Japan asked us how many years it took to raise the money for our trip,'' she said.

It took less than two months to collect the $60,000.

Dahl said the Japanese treated the Juneau girls ''like heroes.''

Erin Richards said the Korean and Japanese kids followed the Drill Team everywhere.

''The asked me about my hobbies, kept touching my hair and wanted me to sing a song,'' she explained. I sang 'The Rose,' by Bette Midler. They said I had beautiful eyes and that I looked like a movie star.

''They were the sweetest people on earth * * * it's the nicest I've ever been treated by people who didn't know me.''

For team captain Frederick, the Japan trip was the culmination of an incredible comeback.

She suffered 19 fractures and punctured a lung in a car crash on September 6. She took 18 units of blood and was put on a ventilator as she laid unconscious for several days at Seattle's Harborview Medical Center.

Her mother Susan said the first thing her daughter talked about when she came out of her coma was the drill team.

''She woke up in intensive care asking if Leslie and her teammates knew about the accident,'' said her mother Susan.

Her father David said the coaches and girls were responsible for his daughter's amazing recovery.

''I can't say enough things about Leslie. Evonne and the girls,'' David Frederick said. They really pulled her through, making her feel like she belonged to the team and was needed.

''There's no doubt in my mind that they made her more determined to recover.''

''I knew I'd be back on the drill team again,'' Jennifer Frederick said Monday night. ''My coaches, my teammates, my family and the community helped me get better faster.''

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDERS FOR TOMORROW

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 a.m. on Friday, August 11, and following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then immediately resume consideration of the defense appropriations bill, with 15 minutes of debate remaining on the Bumpers amendment, No. 2398, with 10 minutes allocated to Senator BUMPERS and 5 to myself, to be followed by 15 minutes of debate on the Harkin amendment, No. 2400, with 10 reserved for Senator HARKIN and 5 for myself, to be followed by 4 minutes of debate equally divided on the Kerry motion to recommit; provided further that following the debate, the Senate proceed immediately to a vote on or in relation to the Bumpers amendment, No. 2398, to be followed by a vote on or in relation to the Harkin amendment, No. 2400, to be followed by a vote on or in relation to the Kerry motion to recommit. And I further ask unanimous

consent that the votes on the second and third amendments be limited to 10 minutes.

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

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 83–420, as amended by Public Law 99–371, appoints the following Senator to the Board of Trustees of Gallaudet University: The Senator from Arizona, [Mr. MCCAIN].

The Chair, on behalf of the Vice President, pursuant to 93–642, appoints the following Senators to be members of the Harry S. Truman Scholarship Foundation Board Trustees: The Senator from Missouri, [Mr. BOND] and The Senator from Montana [Mr. BAUCUS].

PROGRAM

Mr. STEVENS. Mr. President, for the information of all Senators, the Senate will resume consideration of the Defense appropriations bill at 9 a.m. tomorrow with a series of consecutive rollcall votes occurring at approximately 9:30. Additional amendments will still be pending following the three previously mentioned votes. Therefore, additional votes are possible.

Also, for the information of our colleagues, if an agreement has not been reached on the Department of Defense authorization bill, a cloture vote would occur on the Defense authorization bill during Friday's session.

I now ask unanimous consent that the cloture vote scheduled to occur on that bill, the Department of Defense authorization bill, be postponed to occur at a time to be determined by the majority leader, after consultation with the Democratic leader.

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

Mr. STEVENS. All Members should be on notice that rollcall votes are expected throughout Friday's session. Also, Senators are reminded that under rule XXII, Members have 1 hour prior to the cloture vote in order to file second-degree amendments to the Department of Defense authorization bill.

Again, Senators are reminded that a serious of rollcall votes will begin at approximately 9:30 a.m. tomorrow.

RECESS UNTIL 9 A.M. TOMORROW

Mr. STEVENS. Mr. President, if there is no further business to come before the Senate—I see none and I hear none—I ask that the Senate now stand in recess under the previous order.

There being no objection, the Senate at 11:25 p.m. recessed until tomorrow, Friday, August 11, 1995, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate August 10, 1995:

SOCIAL SECURITY ADMINISTRATION

WILLIAM C. BROOKS, OF MICHIGAN, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD FOR A TERM OF 2 YEARS EXPIRING SEPTEMBER 30, 1996. (NEW POSITION.)

HARLAN MATHEWS, OF TENNESSEE, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD FOR A TERM OF 6 YEARS EXPIRING SEPTEMBER 30, 2000. (NEW POSITION.)

GERALD M. SHEA, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD FOR A TERM OF 4 YEARS EXPIRING SEPTEMBER 30, 1998. (NEW POSITION.)

DAVID C. WILLIAMS, OF ILLINOIS, TO BE INSPECTOR GENERAL, SOCIAL SECURITY ADMINISTRATION. (NEW POSITION.)

LINDA COLVIN RHODES, OF PENNSYLVANIA, TO BE DEPUTY COMMISSIONER OF SOCIAL SECURITY FOR THE TERM EXPIRING JANUARY 19, 2001. (NEW POSITION.)

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

MEL CARNAHAN, OF MISSOURI, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 1999, VICE TERRY EDWARD BRANSTAD, TERM EXPIRED.

THE JUDICIARY

BRUCE D. BLACK, OF NEW MEXICO, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW MEXICO, VICE JUAN GUERRERO BURCIAGA, RETIRED.

SUSAN J. DLOTT, OF OHIO, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF OHIO, VICE S. ARTHUR SPIEGEL, RETIRED.

HUGH LAWSON, OF GEORGIA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF GEORGIA, VICE WILBUR D. OWENS, JR., RETIRED.

HILDA G. TAGLE, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS, VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

KIM MCLANE WARDLAW, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE DAVID V. KENYON, RETIRED.

E. RICHARD WEBBER, OF MISSOURI, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI, VICE EDWARD L. FILIPPINE, RETIRED.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

ZELL MILLER, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON FELLOWSHIP FOUNDATION FOR A TERM EXPIRING NOVEMBER 6, 1995, VICE CARROLL A. CAMPBELL, JR., TERM EXPIRED.

ZELL MILLER, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON FELLOWSHIP FOUNDATION FOR A TERM EXPIRING NOVEMBER 6, 2001. (REAPPOINTMENT.)

DEPARTMENT OF JUSTICE

D.W. BRANSOM, JR., OF TEXAS, TO BE U.S. MARSHALL FOR THE NORTHERN DISTRICT OF TEXAS FOR THE TERM OF 4 YEARS, VICE W. BRUCE BEATY.

FRANK POLICARO, JR., OF PENNSYLVANIA, TO BE U.S. MARSHAL FOR THE WESTERN DISTRICT OF PENNSYLVANIA FOR THE TERM OF 4 YEARS, VICE EUGENE V. MARZULLO.

STATE JUSTICE INSTITUTE

JOSEPH FRANCIS BACA, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1998. (REAPPOINTMENT.)

DAVID ALLEN BROCK, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1998. (REAPPOINTMENT.)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HAL C. DE CELL III, OF MISSISSIPPI, TO BE AN ASSISTANT SECRETARY OF HOUSE AND URBAN DEVELOPMENT, VICE WILLIAM J. GILMARTIN.

ELIZABETH K. JULIAN, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF HOUSE AND URBAN DEVELOPMENT, VICE ROBERTA ACHTENBERG, RESIGNED.

KEVIN G. CHAVERS, OF PENNSYLVANIA, TO BE PRESIDENT, GOVERNMENT NATIONAL MORTGAGE ASSOCIATION, VICE DWIGHT P. ROBINSON.

DEPARTMENT OF TRANSPORTATION

NANCY E. MCFADDEN, OF CALIFORNIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF TRANSPORTATION, VICE STEPHEN H. KAPLAN, RESIGNED.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

ELI J. SEGAL, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR THE REMAINDER OF THE TERM EXPIRING FEBRUARY 8, 1999, VICE JAMES A. JOSEPH.

LEGAL SERVICES CORPORATION

HULETT HALL ASKEW, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 1998. (REAPPOINTMENT.)

EDNA FAIRBANKS-WILLIAMS, OF VERMONT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 1998. (REAPPOINTMENT.)

U.S. INSTITUTE OF PEACE

CHESTER A. CROCKER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 1999. (REAPPOINTMENT.)

THEORDORE M. HESBURGH, OF INDIANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 1999. (REAPPOINTMENT.)

MAX M. KAMPELMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 1999. (REAPPOINTMENT.)

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 3383 AND 12203(A):

ARMY PROMOTION LIST

To be colonel

DAVID G. BARTON, 000–00–0000
HOWARD G. BECKER, 000–00–0000
TROY L. BOOKER, 000–00–0000
WILLIAM J. HAWES, 000–00–0000
MICHAEL HESS, 000–00–0000
VANCE R. HIGHSMITH, 000–00–0000
ROBERT R. JORDAN, 000–00–0000
DENNIS W. KELLY, 000–00–0000
CHARLES J. KIBERT, 000–00–0000
JAMES R. LEE, 000–00–0000
CHARLES R. MILLAR, 000–00–0000
NICK MONTEFORTE, 000–00–0000
RONALD G. PEARSON, 000–00–0000
NESTOR D. RAMIREZCUEBAS, 000–00–0000
MICHAEL N. RAY, 000–00–0000
TERRELL W. ROWAN, 000–00–0000
STANALAND A. SEERY, 000–00–0000
JERRY J. SHOEMAKER, 000–00–0000
DAVID J. SUTHERLAND, 000–00–0000

To be lieutenant colonel

ROBERT G. ANISKO, 000–00–0000
DANIEL L. JOLING, 000–00–0000
LARRY T. KIMMICH, 000–00–0000
RANDY W. KING, 000–00–0000
NORRIS R. MIKEAL, 000–00–0000
CHARLES R. NEARHOOD, 000–00–0000
MARK D. NYVOLD, 000–00–0000
COLLEEN P. PARKER, 000–00–0000
ROBERT REINKE, JR., 000–00–0000
WILLIAM J. SIMMONS, 000–00–0000
JACK I. WIER, JR., 000–00–0000

CHAPLAIN CORPS

To be colonel

JOHNNIE L. DICKSON, 000–00–0000
DAVID L. FLEMING, 000–00–0000
EVERETT L. WRIGHT, 000–00–0000

MEDICAL CORPS

To be lieutenant colonel

PAUL W. SUTHERLAND, JR., 000–00–0000
DENISE L. WINLAND, 000–00–0000