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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Gracious God, You have called the men and women of this Senate to glorify You by being servant-leaders. The calling is shared by the officers of the Senate, Senators' staffs, and all who enable the work done in this Chamber. Keep us focused on the liberating truth that we are here to serve by serving our Nation. Our sole purpose is to accept Your absolute Lordship over our own lives and then give ourselves totally to the work this day.

Give us the enthusiasm that comes from knowing the high calling of serving in government. Grant us the holy esteem of knowing that You seek to accomplish Your plan for America through the legislation of this Senate. Free us from secondary, self-serving goals. Help us to humble ourselves and ask how we may serve today. We know that happiness comes not from having things or getting recognition but from serving in the great cause of implementing Your righteousness, justice, and mercy for every person and in every circumstance of this Nation. We take delight in the ultimate paradox of life: The more we give ourselves away, the more we can receive of Your life. In our Lord's name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MIKE DEWINE, a Senator from the State of Ohio, led the Pledge of Allegiance, as follows:

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. DEWINE). The majority leader is recognized.

Mr. LOTT. I thank the Chair.

SCHEDULE

Mr. LOTT. Mr. President, the Senate will resume consideration momentarily of the conference report to accompany the District of Columbia, Labor-HHS, and Education bill. By previous consent, at 10 a.m., the Senate will proceed to a vote on the conference report. That vote will be followed up by two cloture votes in relation to the Caribbean/African trade bill. Senators can expect then at least two stacked votes to begin at approximately 10 a.m. Cloture is expected to be invoked on the trade bill, and therefore the Senate will begin 30 hours of postcloture debate during today's session of the Senate. It is hoped this bill can be completed in the next day or so, certainly before the end of the week, because we do have some other very important issues we want to complete this week. We do want to take up the financial services modernization conference report, and we want to move to the bankruptcy bill that Senator DASCHLE and I have been trying to get an agreement on how to bring to the floor. We have had objection so far, but we are going to persist in getting this to the floor in a way that would be fair to both sides.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I ask unanimous consent that all second-degree amendments must be filed at the desk by 10 a.m. today.

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

Mr. LOTT. I also ask unanimous consent that all amendments to the pending trade bill must be relevant to the substitute or the issue of trade and all other provisions of rule XXII be in order.

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

Mr. LOTT. We will work to get a time for those amendments to be filed because we do need to get a look at those amendments, even though they are relevant, just so they can be considered by the managers of the legislation.

Mr. President, I ask unanimous consent that all first-degree amendments be filed by 2 p.m. today, notwithstanding rule XXII.

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

Mr. LOTT. Mr. President, I ask unanimous consent that the time I am about to use come out of my leader time.

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

WALTER PAYTON

Mr. LOTT. Mr. President, Walter Payton was the pride of Columbia, MS. He died all too early this past Monday at the age of 45 years—too young for a person of such integrity, ability, and generosity.

The Clarion Ledger newspaper of my home State this morning wrote a magnificent article about him. It said Walter Payton amazed his Mississippi teammates with his kindness almost as often as he dazzled them with his ability. They tell of a man who studied audiology in college after playing high school football with a deaf friend. That told a lot about the early life of this outstanding young man, and it is the kind of life he lived until his final day this past Monday.

Surprisingly, the man who would become a great football player did not even try out for football until his junior year in high school, choosing instead to play drums in the high school band. But he learned the game of football as fast as he could run, and long

before the Nation had heard of the Chicago Bear named ''Sweetness,'' Mississippians were cheering a Jefferson High superhero they called ''Spiderman'' and a Jackson State Tiger known as Walter.

His 3,563 yards rushing at Jackson State University was one of nine school records he set, and he scored a college career total of 66 touchdowns. At Jackson State, in 1973, he led the Nation in scoring with 160 points, and his 464 career points set an NCAA record. But Jackson State was a Division 1–AA school, and Walter did not get the same attention as players from some of the bigger, well-known colleges. Still, the Bears knew a caliber player when they saw one, and they knew about some of the other famous Mississippians who had preceded him, so they drafted him fourth in the overall draft in 1975.

In his first NFL game in 1975, he rushed eight times for a total of zero yards. But that did not tell the story of what was to come. The Bears did not give up on him, and Walter Payton didn't give up on himself. He worked as hard in Chicago as he had in Mississippi. By the end of his rookie year, he had started seven games and rushed for 679 yards and seven touchdowns. The next year he had the first of what would be 10 1,000-yard seasons, rushing for 1,390 yards and 13 touchdowns.

NFL coaches termed him the ''complete football player.'' Just last night, I saw Mike Ditka saying he was the best, most complete football player he had ever seen. He bested Jim Brown's longstanding rushing record of 12,312 yards in 1984.

But he also was more than just a football player. He worked to help mankind. He created the Halas/Payton Foundation to assist Chicago inner-city youth in completing their education. He believed in nurturing young people through education and inspiration, and he knew that the rewards of sports came in the challenges he set for himself, what he learned about himself, and what he accomplished as part of a team.

Walter Payton's light shown brighter earlier than many people his age. That is why his passing on Monday was even more difficult to take. At his induction in the NFL Football Hall of Fame in July 1993, he asked his son Jarrett to be the first son to present his father for induction into the Football Hall of Fame. His son said:

''Not only is he a great athlete, he's a role model—he's my role model.''

Drummer, NCAA champion, college Hall of Famer, Pro Football All Star, NFL Hall of Famer, ''Sweetness.''

Role model to his son and millions of other Jarretts, that is the title Walter Payton would most cherish as his legacy.

Mr. COCHRAN. Mr. President, will the Senator yield a moment to me?

Mr. LOTT. I will be delighted to yield to my colleague from Mississippi.

Mr. COCHRAN. Mr. President, I join my distinguished colleague in advising the Senate that today our State of Mississippi, mourns with a heavy heart, the passing of Walter Payton, who died yesterday.

His accomplishments on the football field at Jackson State University and at Soldiers Field in Chicago as a member of the Chicago Bears are well known to all of us. He was the greatest running back in the history of football.

He reflected a great deal of credit on our State not only because he was a great football player but because of his personality, his generosity, and his kindness to his family and friends. I know he would often fly members of his family and friends—including a member of my staff, Barbara Rooks, who is a close friend of the Payton family—to Chicago for football games. He was devoted to his mother, Mrs. Aylene Payton and his sister Pamela and he was very close to his brother Eddie, who was a great football payer too as a well as a professional golfer. Eddie Payton also coached the Jackson State University golf team to the national championship.

The family is well respected in so many ways. I could go on for a long time and tell you more about his mother and what a dear lady she is and the exemplary community spirit of all the members of Walter Payton's family.

I extend to his wife Connie and their children Jarrett and Brittney my deepest sympathies. The articles in the New York Times today describe well his remarkable career, and they include accolades from fellow players, coaches, and friends. I ask unanimous consent that these articles on the life and career of Walter Payton along with his biography as an Enshrinee of the Pro Football Hall of Fame be printed in the RECORD.

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

[From the Clarion Ledger, Nov. 2, 1999]

FROM COLLEGE IN MISSISSIPPI TO CHAMPION

(By William C. Rhoden)

The news that Walter Payton died yesterday at his home in a suburb of Chicago came not so much as a shock but as a sorrowful, piercing spike. We were prepared last February by the shock of seeing the once robust Payton looking gaunt and frail as he announced that he suffered from a rare liver disease. Now we mourn a family's loss of a father and husband, and the industry's loss of a great athlete. I mourn the loss of a shared past, life petals that peel away each time someone contemporary dies.

I was not close to Walter Payton, but rather attached to him.

We first met 28 years ago this month, on Nov. 13, 1971. This was the sort of one-on-one introduction that defensive backs dread and outstanding running backs love. We met at the 10-yard line in Mississippi Memorial Stadium.

This was before Payton became Sweetness; before he became a Chicago Bear; before we were paid for plying our particular crafts. We met in the rarefied atmosphere of black college football. He was a freshman at Jackson State University in Mississippi; I was a senior at Morgan State in Baltimore. This was an inter-sectional game between once-beaten, once-tied opponents. We had beaten Jackson State a year earlier at R.F.K. Stadium in Washington, and now it was our turn to go to the Deep South, deeper than I'd ever been. I was intrigued by Mississippi, the state so tied to civil rights history. All our coach kept talking about was that these Southern boys were still fighting the Civil War: the South thought it was better than the North, he said, and when it came to football, felt it was heartier, better and tougher.

Jackson State had a great football legacy: Willie Richardson, Gloster Richardson, Verlon Biggs, Harold Jackson, Richard Caster, Lem Barney. This particular year it had Jerome Barkum, later a wide receiver with the Jets, Robert Brazile, later a linebacker with the Oilers, and Eddie Payton, Walter's older brother, who became a great N.F.L. punt returner and then a professional golfer. Walter began the year unknown, playing behind his brother. By November he was still playing behind his brother but was Jackson State's secret weapon.

My recollection of the game is reduced to one poignant frame—that first meeting at the 10-yard line. A sweep with Payton slicing past the line, over the linebackers and finally into the secondary. There was Payton, there was me; I hit him and felt solid contact, then felt Payton bounce back to the outside for a touchdown. What I remember thinking at the moment was that this guy had great balance, gyroscopic balance. He was nearly horizontal, legs still churning. Payton was rushing toward the National Football League; I was headed toward journalism, not doing such a good job of tackling but recording the moment.

Years later in Chicago I teased him about Morgan State's victory in 1970. Payton reminded me that we had won that game when he was still in high school.

Payton represents so much to so many. He carried the banner of black college football to an unprecedented level. To one extent or another we all carried a burden of proof. One success reflected well on the group. Individual success was group success, even if the player went to a different institution. Such as when Grambling sent eight players to the N.F.L. one season, or now when Mike Strahan, who played at Texas Southern, runs in the winning touchdown. Payton was an object of such pride. His success felt good and warm.

He held so many N.F.L. records. He set the career record for rushing yards, 16,726; for career attempts, 3,838; for rushing yards in a game, 275; for seasons with 1,000 or more yards, 10. He broke Jim Brown's N.F.L. career rushing mark, 12,312 yards, in Chicago on Oct. 7, 1984, the same day he broke Brown's mark of 58 100-yard rushing games.

A large part of Payton's legacy is made up of numbers. Yesterday, Robert Hughes, the Jackson State head coach, was an assistant coach in 1971, said that what Payton meant went beyond the numbers. ''What's most memorable to me is when he started getting on a roll and started after Jim Brown's record,'' Hughes said. ''Brown was the greatest running back of all time. He didn't come from a predominantly black school; he's from Syracuse. When Walter came in from a little school in Mississippi to top all that, that's what made it great.''

Walter Payton, with the aggressive, elusive style that was formed at Jackson State. The N.F.L.'s career rushing leader. The runner who led Chicago to its only Super Bowl victory. Dead so young, at 45.

[From the New York Times, Nov. 2, 1999]

FOOTBALL REMEMBERS PAYTON, THE ULTIMATE PLAYER

(By Mike Freeman)

Late yesterday afternoon each National Football League team received an e-mail

message from the Chicago Bears. Many executives knew what it said before they read it: Walter Payton, one of the best ever to play running back, had died.

For the past several days it has been rumored that Payton had taken a turn for the worse, so the league was braced for the news. Still, the announcement that Payton had succumbed to bile-duct cancer at 45 rocked and deeply saddened the world of professional football.

''His attitude for life, you wanted to be around him,'' said Mike Singletary, a close friend who played with Payton from 1981 to 1987 on the Bears. Singletary read Scripture at Payton's side on the morning of his death.

''He was the kind of individual if you were down he would not let you stay down,'' Singletary said.

Commissioner Paul Tagliabue said the N.F.L. family was devastated by the loss of Payton. Tagliabue called him ''one of the greatest players in the history of the sport.''

''The tremendous grace and dignity he displayed in his final months reminded us again why 'Sweetness' was the perfect nickname for Watler Payton,'' he said in a statement.

In his 13 seasons with Chicago, Payton rushed for 16,726 yards on 3,838 carries, still both N.F.L. records. One of Payton's most impressive feats was that he played in 189 of 190 games from 1975, his first season, until his retirement in 1987. For someone with Payton's style to participate and dominate in that many games—he enjoyed plowing into defenders and rarely ran out of bounds to avoid a tackle—is remarkable.

''He is the best football player I've ever seen,'' said Saints Coach Mike Ditka, who coached Payton for six seasons with Chicago.

Ditka added: ''At all positions, he's the best I've ever seen. There are better runners than Walter, but he's the best football player I ever saw. To me, that's the ultimate compliment.''

What always amazed Payton's opponents was his combination of grace and power. Payton once ran over half dozen players from the Kansas City Chiefs, and on more than one occasion he sprinted by speedy defensive backs.

It did not take long for the N.F.L. to see that Payton was special. In 1977, his third season, Payton, standing 5 feet 10½ inches and weighing 204 pounds, was voted the league's most valuable player after one of the best rushing seasons in league history. He ran for 1,852 yards and 14 touchdowns. His 5.5 yard a carry that season was a career best and against Minnesota that season he ran for 275 yards, a single-game record that still stands.

''I remember always watching him and thinking, 'How did he just make that run?' '' Giants General Manager Ernie Accorsi said. ''He was just a great player.

Accorsi echoed the sentiments of others that Payton may not have had the natural gift of running back Barry Sanders or the athleticism of Jim Brown, but that he made the most of what he had.

''I think Jim Brown is in a class by himself,'' Accorsi said. ''And then there are other great players right behind him like Walter Payton.''

Payton was known as much for his kindness off the field as his prowess on it. He was involved with a number of charities during and after his N.F.L. career, and although he valued his privacy he was known for his kindness to people in the league whom he did not know.

Accorsi saw Payton at the 1976 Pro Bowl, and even though it was one of the first times the two had met, Payton told Accorsi, ''I hope God blesses you.''

''When some guys say stuff like that, you wonder if it is phony,'' Accorsi said, ''but not with him. You could tell he was very genuine.''

Bears fans in Chicago felt the same way, which is why reaction to his death was swift and universal.

''He to me is ranked with Joe DiMaggio in baseball—he was the epitome of class,'' said Hank Oettinger, a native of Chicago who was watching coverage of Payton's death at a bar on the city's North Side. ''The man was such a gentleman, and he would show it on the football field.''

Several fans broke down crying yesterday as they called into Chicago television sports talk show and told of their thoughts on Payton.

Asked what made Payton special, Ditka said: ''It would have to be being Walter Payton. He was so good for the team. He was the biggest practical joker and he kept everyone loose. And he led by example on the field. He was the complete player. He did everything. He was the greatest runner, but he was also probably the best looking back you ever saw.''

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank my colleagues from the State of Mississippi who are justifiably proud of Walter Payton. His home State of Mississippi can look to Walter Payton with great pride. There is a great deal of sadness in my home State of Illinois, particularly in the city of Chicago, with the passing of Walter Payton at the age of 45.

Later today, I will enter into the RECORD a statement of tribute to Mr. Payton, but I did not want to miss this opportunity this morning to mention several things about what Walter Payton meant to Chicago and Illinois.

He was more than a Hall of Fame football player. He ran for a record 16,726 yards in a 13-year career, one of those years shortened by a strike, and yet he established a record which probably will be difficult to challenge or surpass at any time in the near future.

The one thing that was most amazing about Walter Payton was not the fact he was such a great rusher, with his hand on the football and making moves which no one could understand how he pulled off, but after being tackled and down on the ground, hit as hard as could be, he would reach over and pull up the tackler and help him back on his feet.

He was always a sportsman, always a gentleman, always someone you could admire, not just for athletic prowess but for the fact he was a good human being.

I had the good fortune this last Fourth of July to meet his wife and son. They are equally fine people. His son, late in his high school career, in his junior year, decided to try out for football. The apple does not fall far from the tree; he became a standout at Saint Viator in the Chicago suburb of Arlington Heights and now is playing at the University of Miami. I am sure he will have a good career of his own.

With the passing of a man such as Walter Payton, we have lost a great model in football and in life—the way he conducted himself as one of the most famous football players of all time.

The last point I will make is, toward the end of his life when announcing he faced this fatal illness, he made a plea across America to take organ donation seriously. He needed a liver transplant at one point in his recuperation. It could have made a difference. It did not happen.

I do not know the medical details as to his passing, but Walter Payton's message in his final months is one we should take to heart as we remember him, not just from those fuzzy clips of his NFL career but because he reminded us, even as he was facing his last great game in life, that each and every one of us has the opportunity to pass the ball to someone who can carry it forward in organ donation, and the Nation's commitment to that cause would be a great tribute to him.

I yield the floor.

THE DEATH OF WALTER PAYTON

Mr. FITZGERALD. Mr. President, I rise today to express my sadness at the news of the death of one of football's greatest stars ever, Chicago's own Walter Payton.

Walter Payton was a hero, a leader, and a role model both on and off the field. For 13 years, he thrilled Chicago Bears' fans as the NFL's all-time leading rusher—perhaps one of the greatest running backs ever to play the game of football. After retiring from professional football in 1987, Payton continued to touch the lives of Chicagoans as an entrepreneur and a community leader.

Walter Payton's historic career began at Jackson State University, where he set a college football record for points scored. The first choice in the 1975 NFL draft, Payton—or ''Sweetness'' as he was known to Chicago Bears fans—became the NFL's all-time leader in running and in combined net yards and scored 110 touchdowns during his career with the Bears. He made the Pro Bowl nine times and was named the league's Most Valuable Player twice, in 1977 and 1985. In 1977, Payton rushed for a career-high 1,852 yards and carried the Bears to the playoffs for the first time since 1963. He broke Jim Brown's long-standing record in 1984 to become the league's all-time leading rusher, and finished his career with a record 16,726 total rushing yards. In 1985–86, Walter Payton led the Bears to an unforgettable 15–1 season and Super Bowl victory—the first and only Super Bowl win in Bears' history. Walter Payton was inducted into the Pro Football Hall of Fame in 1993, and was selected this year as the Greatest All-Time NFL Player by more than 200 players from the NFL Draft Class of 1999.

More important, Walter Payton matched his accomplishments on the football field with his selfless actions off the field on behalf of those in need. He earned a degree in special education from Jackson State University and worked throughout his adult life to improve the lives of children. In 1988, he

established the Halas/Payton Foundation to help educate Chicago's youth.

Walter Payton was truly an American hero in every sense of the term. He died tragically at age 45, but his legacy will live in our hearts and minds forever. Today, Mr. President, Illinois mourns. Sweetness, we will miss you.

Mr. DURBIN. Mr. President, I rise today to pay tribute to perhaps the best running back who ever carried a football, Walter Payton, who died yesterday at the age of 45. In Carl Sandburg's City of the Big Shoulders, ''Sweetness,'' as Payton was nicknamed, managed to carry the football hopes of an entire city on his shoulders for 13 magnificent years.

From the law firms on LaSalle to the meat packing plants on Fulton, Monday mornings in Chicago were always filled with tales of Payton's exploits on the field from the previous day. We marveled at his ability and reveled in the glory he brought to Chicago and Da Bears. In a life cut short by a rare disease, he blessed Chicago with several lifetimes of charisma, courage, and talent.

Who could forget the many times Payton lined up in the red zone and soared above opposing defenders for a Bears touchdown? Or the frequency with which his 5–10, 204-pound frame bowled over 250-pound linebackers en route to another 100-yard-plus rushing game? His relentless pursuit of that extra yard and the passion with which he sought it made his nickname, Sweetness, all the more ironic. It would take the rarest of diseases, barely pronounceable and unfortunately insurmountable, to finally bring Sweetness down.

It was that passion that inspired Payton's first position coach, Fred O'Connor, to declare: ''God must have taken a chisel and said, 'I'm going to make me a halfback.''' Coach Ditka called Payton simply ''the greatest football player I've ever seen.'' Payton's eight National Football League (NFL) records, most of which still stand today, merely underscore his peerless performance on the field and his extraordinary life away from it. The man who wore number 34 distinguished himself as the greatest performer in the 80-year history of a team that boasts more Hall of Famers than any other team in League history.

He played hurt many times throughout his career, and on one notable occasion, when he should have been hospitalized with a 102 degree fever, he played football. On that day, November 20, 1977, Payton turned in the greatest rushing performance in NFL history, rushing for a league record 275 yards en route to victory against the Minnesota Vikings.

Self-assured but never cocky, Sweetness had no interest in indulging the media by uttering the self-aggrandizing sound bites that are all too common among today's athletes. Instead, he would praise the blocking efforts of fullback Matt Suhey or his offensive linemen, all of whom were inextricably linked to the surfeit of records he amassed. He play the game with a rare humility—refusing to call attention to himself—always recognizing the individuals who paved the way for his achievements.

He once refused to be interviewed by former Ms. America Phyllis George unless his entire corps of linemen were included. Following his first 1,000 yard rushing season, Payton bought his offensive linemen engraved watches. The engraving, however, made no mention of the 1,390 yards he finished with that year, but instead noted the score of the game in which he reached 1,000 yards, underscoring the essential contributions that his offensive linemen made in enabling him to achieve this feat.

And how many times did we see Walter Payton dance down the field, a limp leg, a quick cut, a break-away. He could find daylight in a crowded elevator. And when a tackler finally brought him down, Walter Payton would jump to his feet and reach down to help his tackler up. That's the kind of football player he was. That's the kind of person he was.

Payton lightened the atmosphere at Hallas Hall with an often outlandish sense of humor, even during the years when the Bears received boos from the fans and scathing criticism from the press. Rookies in training camp were often greeted by firecrackers in their locker room and unsuspecting teammates often faced a series of pranks when they turned their backs on Payton. Just last week, as Payton was clinging to life, he sent Suhey on a trip to Hall of Famer Mike Singletary's house, but not before he gave Suhey a series of incorrect addresses and directed Suhey to hide a hamburger and a malt in Singletary's garage.

While Payton lived an unparalleled life on the football field, he also lived a very full life off the field. He was a brilliant businessman, but never too busy to devote countless hours to charitable deeds, most of which were unsolicited and voluntary. Sweetness shared with us a sense of humanity that will endure as long as his records. I had the good fortune on July 4th to meet his wife and children, who are equally fine people. The apple didn't fall too far from the tree. Jarrett Payton, like his father, decided to try out for football in his Junior Year. Jarrett was a standout at St. Viator High School in Arlington Heights, a Chicago suburb, and he is now playing football at the University of Miami. It looks as if he may have quite a career of his own.

In his last year, Walter Payton helped illuminate the plight of individuals who are afflicted with diseases that require organ transplants. Patients with the rare liver disease that Payton contracted, primary sclerosing cholangitis (PSC), have a 90% chance of surviving more than one year if they receive a liver transplant. Unfortunately, the need for donations greatly exceeds the demand. The longer that patients wait on the organ donation list, the more likely it is that their health will deteriorate. In Payton's case, the risk of deadly complications, which included bile duct cancer, grew too quickly. Payton likely would have had to wait years for his life-saving liver. This was time he did not have before cancer took his life yesterday. A day when everyone who needs a life-saving organ can be treated with one cannot come soon enough.

More than 66,000 men, women, and children are currently awaiting the chance to prolong their lives by finding a matching donor. Minorities, who comprise approximately 25% of the population, represent over 40% of this organ transplant waiting list. Because of these alarming statistics, thirteen people die each day while waiting for a donated liver, heart, kidney, or other organ. Half of these deaths are people of color. The untimely death of Payton is a wake-up call for each of us to become organ donors and discuss our intentions with our families so that we do not lose another hero, or a son, a daughter, a mother or a father to a disease that can be overcome with an organ transplant.

Mr. President, today is a sad day in Chicago and in our nation. We have lost a father, a husband, a friend, and a role model all at once. While we are overcome with grief, we are also reminded of the blessings that Payton bestowed upon his wife, Corrine, his children, Jarrett and Brittney, and the city of Chicago during his brief time with us.

So thanks for the memories, Sweetness. Soldier Field will never be the same.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2000—CONFERENCE REPORT—Resumed

The PRESIDING OFFICER. Under the previous order, the clerk will report the conference report.

The legislative clerk read as follows:

Conference report to accompany H.R. 3064 making appropriations for the Government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2000, and for other purposes.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, what is the time situation with regard to the conference report?

The PRESIDING OFFICER. The Senator from Alaska has 5 minutes.

Mr. STEVENS. Is there a set time to vote, Mr. President?

The PRESIDING OFFICER. We are to vote in 30 minutes. There are six Senators who have 5 minutes apiece.

Mr. STEVENS. Mr. President, we will hear from the managers of the bill, I am certain. There are two sets of managers, as a matter of fact. This is a bill that combines the District of Columbia

appropriations bill and the Labor-Health and Human Services bill. I am here today as chairman to urge Members of the Senate to vote favorably for this bill and to send it to the President.

The big bill in this conference report before us, the Labor-Health and Human Services bill, is the 13th appropriations bill. With the adoption of this conference report, we will have sent all 13 bills to the President. If one considers the timeframe of this Congress, with the time we spent on the impeachment process and then the delays that came our way because of the various emergencies that have taken our attention, particularly in the appropriations process this year—Kosovo, the devastating hurricanes, and the disaster in the farm area—one will understand why we are this late in the day considering the 13th bill.

This bill has had some problems because of our overall budget control mechanisms. We have been limited in terms of the money available. We have stayed within those limits. We have forward funded some of the items so they will be charged against future years. But those are items that primarily would be spent in those years.

We have had a real commitment on a bipartisan basis not to invade the Social Security surplus. As we look into the future with the retirement of an enormous generation, the baby boom generation, there is no question that Social Security surplus must be sound, and we are doing our best to make sure that is the case.

We have had a series of issues before us. We have had some disagreements with the President. In this bill, we try to work out those differences. We have provided moneys for our children, for the Boys and Girls Clubs; we have provided for law enforcement officers to have safe, bulletproof vests. With so many things going on in terms of children and education, we tried to meet the President more than halfway on his requests for education.

The bill would probably be signed but for the differences between the administration and the Congress over how to handle the funding. We have included, as a matter of fact, against my best wishes, an across-the-board cut. That is primarily because only the administration can identify some of the areas we can reduce safely without harming the programs, and I am confident when we come to what we call the final period to devise a bill, we will work out with the administration some offsets that will take care of the bill. I am hopeful we will have no across-the-board cut, but if it comes, it will not be as large as the one in this bill right now.

I am urging Members of the Senate to vote for this bill. I do believe we can be assured, and I was assured yesterday, that the bill will be vetoed. There is no question about that. But also, we had probably the most productive and positive meeting with the administration yesterday. I expect to be starting those discussions in our office in the Capitol with representatives of the President within just a few moments, and we are very hopeful we can come together and bring to the Senate and to the Congress a solution to the differences between us and get this final series of bills completed.

There are five bills that have not been signed: State-Justice-Commerce was vetoed, and that is being reviewed by the group I just mentioned, along with the foreign assistance bill; the Interior bill is in conference and should be ready to send to the President today, I hope; the D.C. bill is here, and it should be available to us.

The impact of what I am saying is, I think it is possible, if the Congress has the will to come together now and to work with the President's people who have indicated their desire to finish this appropriations process, that we can finish our business and complete our work by a week from tomorrow. That will take a substantial amount of understanding on the part of everyone.

I am hopeful from what we are hearing now that some of the rhetoric will subside and we will have positive thinking about how to complete our work. But I do urge approval of this conference report.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I will use leader time to say a few words about this bill and where we are.

Mr. President, there is no one for whom I have greater respect for than the distinguished senior Senator from Alaska. But I must say, I question why we are here today voting on a bill that we know will be vetoed. If we are going to try to retain the positive environment to which the senior Senator has just alluded, I do not understand how it is positive to send a bill down to the President that we know will be vetoed, which will then require us to go right back to the negotiating table where we were yesterday. I do not understand that.

I think a far better course is to defeat this bill, go back downstairs, negotiate seriously with the White House, and come together with Democrats to assure that we can pass a bill overwhelmingly.

I do not recall whether I have ever voted against an Education appropriations bill. This may be unprecedented for many of us on this side of the aisle. As I understand it, the distinguished ranking member of the subcommittee on Health and Human Services is going to vote against this bill. I am going to join him, and I am going to join with most Democrats, if not all Democrats, in our unanimous opposition to what the bill represents. That is unprecedented.

We should not have to be here doing this today. If we are serious about doing something positive and bringing this whole effort to closure, I cannot imagine we could be doing anything more counterproductive than to send a bill down that we know is going to be vetoed.

Why is it going to be vetoed? It is going to be vetoed because we violate the very contract that we all signed 1 year ago, a contract that Republicans and Democrats hailed at the time as a major departure when it comes to education. We recognized that, in as consequential a way as we know how to make at the Federal level, we are going to reduce class size, just as we said we were going to hire more policemen with the COPS Program a couple years before. We committed to hiring 100,000 new teachers and ensuring that across this country the message is: We hear you. We are going to reduce class size and make quality education the priority on both sides of the aisle, Republicans and Democrats.

I think both parties took out ads right afterward saying what a major achievement it was. We were all excited about the fact that we did this for our kids, for education, and what a departure it represented from past practice. We did that 1 year ago.

Here we are now with the very question: Should we extend what we hailed last year to be the kind of achievement that it was? A couple of days ago, a report came out which indicated that in those school districts where additional teachers had been hired, there was a clear and very extraordinary development: Class sizes were smaller, quality education was up, teachers were being hired, and this program was working. We had it in black and white—given to every Senator—it is working.

So why now, with that clear evidence, with the bipartisan understanding that we had just a year ago that we were going to make this commitment all the way through to the end, hiring 100,000 new teachers, why now that would even be on the table is something I do not understand. Twenty-nine thousand teachers could be fired.

But it is as a result of the fact that our Republican colleagues continue to refuse to extend and maintain the kind of program we all hailed last year that we are here with a threat of a veto.

I do not care whether it is this week, next week, if we are into December, if it is the day before Christmas, if that issue has not been resolved satisfactorily, we are not going to leave. We can talk all we want to about a positive environment, but we are not going to have a positive environment conducive to resolving this matter until that issue is resolved satisfactorily.

So there isn't much positive one can say about our dilemma on that issue.

Another big dilemma is the extraordinary impact delaying funding will have on the NIH. Sixty percent of the research grant portfolio will be delayed until the last 2 days of this fiscal year—60 percent. Eight thousand new research grants will be delayed and grantees will be denied the opportunity to compete—8,000 grantees. This is

probably going to have as Earth shaking an impact on NIH as anything since NIH was created.

I do not know of anything that could have a more chilling effect on the way we provide funding for grants through NIH than what this budget proposes. We have heard from the institutions that conduct life-saving research. They say you can't stop and start research programs without irretrievable loss.

I will bet you every Senator has been contacted by NIH expressing their concern and the concern of these researchers about the devastating impact this is going to have.

But it is not just the NIH. The cut across the board alone will have a major impact. Five thousand fewer children are going to receive Head Start services; and 2,800 fewer children are going to receive child care assistance; 120,000 kids will be denied educational services.

This cut across the board has nothing to do with ridding ourselves of waste. This goes to the muscle and the bone of programs that are very profoundly affecting our research, our education, our opportunities for safe neighborhoods, and the COPS Program. The array of things that will happen if this cut is enacted will be devastating.

So I am hopeful that we will get serious and get real about creating the positive environment that will allow us to resolve these matters. We have to resolve the class size issue. We have to resolve the matter of offsets in a way that we can feel good about.

I am hoping we are going to do it sooner rather than later—but we are going to do it. It is the choice of our colleagues. We will do it later, but we will all have to wait until those who continue to insist on this approach understand that it will never happen; the vetoes will keep coming; the opposition will be as strong and as united a week or 2 weeks from now as it is today. That is why I feel so strongly about the need to oppose this conference report. Let's go back downstairs and do it right.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, as I understand it, the Senator from Pennsylvania has 5 minutes and I have 5 minutes.

Is that correct?

The PRESIDING OFFICER. That is correct.

Mrs. HUTCHISON. Mr. President, I yield to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank my distinguished colleague from Texas for yielding to me.

It is my hope that the Senate will support this conference report. I am saddened to hear the arguments from the other side of the aisle which have turned this matter pretty much into a partisan debate.

When we talk about the 1 percent across-the-board cut, frankly, that is something I do not like. But when you take a look at the increases which are in this bill, they remain largely intact, notwithstanding the fact that there will be a 1-percent cut.

For example, on Head Start, at $5.2 billion, it has an increase of some $608.5 million. The 1-percent across-the-board cut will leave, instead of a $608.5 million increase, a $570.9 million increase. You will find that throughout the bill.

When the last Senator who spoke made a reference to the difficulties of the National Institutes of Health in stopping and starting, I point out that it has been the initiative of our subcommittee, significantly a Republican initiative, to increase NIH, which has had the full concurrence of the distinguished Senator from Iowa, Mr. HARKIN, representing the Democrats. But 3 years ago, we sought an increase of almost $1 billion, an increase of some $900 million, after the conference. Last year, we increased NIH funding by $2 billion. This year, the Senate bill had $2 billion, and on the initiative of Congressman PORTER in the House, a Republican, we increased it an additional $300 million. The ranking Democrat would not even attend the conference we had.

So it does not ring with validity for those on the other side of the aisle to point to the National Institutes of Health and say this conference report, this Republican conference report, is doing damage to NIH. The fact is, it is this side of the aisle that has taken the lead. Again, I include my colleague, Senator HARKIN, who has been my full partner. But the lead has been taken on this side of the aisle for the NIH.

Now, this bill has, for these three Departments, in discretionary spending, $93.7 billion, which is an increase of $6 billion over last year. We have $600 million more than the President on these very vital social programs. When it comes to education, this bill has $300 million more than the President. We have provided very substantial funding.

There is a disagreement between this bill and what the President wants on class size reduction. The President has established a priority of class size reduction and wants it his way, and his way exactly. But we have added a $1.2 billion increase in this budget and we have done so listing the President's priority first; that is, to cut class size. We say, if the local school districts don't agree that class size is their No. 1 priority, they can use it on teacher competency, or they can use it for local discretion, but they don't have an absolute straitjacket. I believe that is the solvent principle of federalism.

Why say to the local school boards across America they have to have it for class size if they don't have that problem and they want to use it for something else in education?

Now, Senator HARKIN and I—and I see my distinguished colleague on the floor—have had a full partnership for a decade. He is nodding yes. When he was chairman and I was ranking, and now that I am chairman and he is ranking, we have worked together. I can understand the difficulties of parties, Democrats and Republicans. I know he is deeply troubled by the 1-percent across-the-board cut; so am I. We tried to find offsets and we tried mightily to avoid touching Social Security, without a 1-percent across-the-board cut.

It had been my hope that on my assurances to my colleague from Iowa we could have stayed together on this. I can understand if it is a matter of Democrats and Republicans and he does not see his way clear to do that at this time. I say to him, whatever way he votes—and he smiles and laughs—my full effort will be to avoid a 1-percent across-the-board cut so we can come out with the bill he and I crafted, the subcommittee accepted, the full committee accepted, and the full Senate accepted, which is a very good bill.

In order to advance to the next stage, it is going to be a party-line vote, something I do not like in the Senate. But I urge my colleagues to support the bill so we can move to the next stage.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, as I understand it, I have 5 minutes.

The PRESIDING OFFICER. That is correct.

Mr. HARKIN. Mr. President, I want to follow up with my colleague and friend from Pennsylvania. He is absolutely right; we have had a great working relationship for a long time. He has been open with me, as has his staff. We have had a great working relationship, and I think that proved itself in the bill we brought to the Senate floor. We had a great bill on the Senate floor. We had a strong, bipartisan vote, 75–23. It doesn't get much more bipartisan than that around here. It was about half and half, Democrats and Republicans, voting for it. So it was a good bill, a strong bill.

Now, my friend from Pennsylvania, for whom I have the highest respect and affinity, is right; there are a lot of good things in this bill. It reminds me of sitting down at a dinner and you have a smorgasbord of prime rib, steaks, lamb chops, pasta, and all this wonderful meal spread out, and you can sample each one, but you have to take a poison pill with it. Is that really worth eating? That is the problem with this bill. There are good things in it; I admit that to my friend from Pennsylvania. But this 1-percent across-the-board mindless cut that was added later on—I know not with the support of either one of us on the Senate side—is a poison pill. Then they tried to say this is 1 percent and you can take it from waste, fraud, and abuse, or anything like that. But when you looked at the fine print, it was 1 percent from every program, project, and activity;

every line item had to be cut by 1 percent.

That means in a lot of health programs, labor programs, and in some education programs, with that 1-percent cut, we are actually below what we spent last year—not a reduction in the increase. We are actually below what we were last year.

I ask unanimous consent to have that table printed in the RECORD.

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

SAMPLE OF PROGRAMS CUT BELOW A HARD FREEZE UNDER CONFERENCE AGREEMENT[1]

[Compares Labor-HHS items from fiscal year 1999 level to fiscal year 2000 level, total cut in millions]

Program	Amount
DEPARTMENT OF LABOR	
Adult Job Training	$7.38
Youth Job Training	10.01
Youth Opportunity Grants	2.5
Comm. Service Jobs for Seniors	4.4
DEPARTMENT OF HEALTH AND HUMAN SERVICES	
Family Planning	2.14
CDC AIDS Prevention	1.34
CDC Epidemic Services	0.85
Substance Abuse Block Grant	15.34
Medicare Contractors	33.52
Child Welfare/Child Abuse	2.82
DEPARTMENT OF EDUCATION	
Goals 2000	4.91
Teacher Training (Eisenhower)	3.35
Literacy	0.65

[1] Includes 1 percent across-the-board cut.

Mr. HARKIN. When you look at this table, you can see why it is such a poison pill. I am greatly troubled by the vote coming up. I have been on this committee and the subcommittee now since 1985. I have been privileged to chair it and then to be the ranking member with Senator SPECTER as chairman. To my best recollection I have never voted against a Labor-HHS appropriations bill—not once —when Republicans were in charge and then when Democrats were in charge because we have always worked out a reasonable compromise. Well, this will mark the first time that I will have to vote against it. I don't do so with glee. I don't do so as some kind of a pound on the table, saying this is the worst thing in the world. With that poison pill in there, we just can't eat it. I don't think a lot of people can.

This is cutting Social Security, veterans' health care, Meals on Wheels, community health centers, afterschool programs, and education. Well, we all want to protect Social Security. Let's do it the right way. I believe we are going to have to sit down with the White House. I want to make sure Senator SPECTER, Senator STEVENS, and I are there at the table talking about this because I believe there is a way out of this.

We have a scoring from the CBO that if we have a look-back penalty on tobacco companies for their failure to reduce teen smoking, we can raise the necessary budget authority and outlays needed to meet what we have in our Labor-HHS bill without this mindless 1-percent across-the-board cut, without dipping into Social Security. I believe that is the way to go. I notice that Congressman PORTER, the chairman of the House subcommittee, was quoted just this morning as saying he favors making room for needed spending on discretionary programs by some type of a cigarette tax.

He said that with ''the revenue generated by such a proposal we could get rid of all of the accounting gimmicks such as the delayed obligations at NIH.''

I want to say something else about that. There is no one who has been a stronger supporter of NIH than Senator SPECTER has been through all of this.

Again, we had a good bill. We had some delayed obligations at NIH. But we had an amount that they could live with. Now, we are up to an amount of about $7 billion, if I am not mistaken, in delayed obligations at NIH. I believe that is going to cause them some distinct hardships. We have to get those delayed obligations back down to the area we had when we had the bill on the Senate floor.

I compliment Senator SPECTER for doing a great job. He is a wonderful friend of mine, and he has done a great job of leadership on this bill. It is too bad that other authorities someplace decided to put in a poison pill. But, hopefully, after this is over, we can work together, we can get it out, and we can have a bill that is close to the one that we passed on the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. At this time, under the previous order, the Senator from Illinois has 5 minutes, the Senator from New Jersey has 5 minutes, and the Senator from Texas has 5 minutes.

Mr. DURBIN. Thank you, Mr. President.

I urge my colleagues to vote against this bill. This is nominally the District of Columbia appropriations bill. But D.C. is such a small part of it. It is a flea on the back of a big rogue elephant.

We are happy the District of Columbia appropriations bill has reached a point where it should be passed and signed by the President, and the District of Columbia can go on about the business of managing itself. But, unfortunately, leaders in Congress have decided to take this relatively noncontroversial bill and add to it this behemoth of a Labor-HHS appropriations bill.

I am going to vote against this bill. As many others on the Democratic side, it marks probably one of the few times in my career that I have opposed the bill by which we fund the Department of Labor, the Department of Health and Human Services, and the Department of Education. But I think those who look closely at this bill will understand there is good reason to vote against it.

Mark my word; this bill that may pass today is going to be vetoed before the sun goes down, and we will be back tomorrow to talk about the next version of the Labor-HHS bill.

Senator DASCHLE is correct. This is a colossal waste of time. We should be negotiating a bill that can be signed instead of posturing ourselves. But if we are to address a posture, let's look at this bill and the posture it takes on one agency. That agency is the National Institutes of Health.

Let me tell you that if for no other reason, every Member of the Senate should vote against this bill because of the decision of the budget ''smooths'' to change the way that we fund the agency that pays for medical research in the United States of America.

Look at the way this bill would fund the National Institutes of Health. Historically, the blue lines represent more or less even-line spending throughout the year, month after month, by the National Institutes of Health on medical research, on cancer, on heart disease, on diabetes, and on arthritis. That is the way it should be. It is ordinary business, steady as you go. Researchers know the money will be there and that they are going to be able to use their best skills to find cures for the diseases that afflict Americans and people around the world. But some member of the Budget Committee, or the Appropriations Committee, has said: Let's play a little game here. Let's take 40 percent of all the money for the NIH and give it to them in the last 2 days of the fiscal year. Let them sit for 11 months, 3 weeks, and 5 days without the money, and then dump it on them in the last few days so that 40 percent of the money and 60 percent of the grants will be funded at the tail end.

The red line indicates what would happen if this Republican proposal went through. This is irresponsible. If we are going to play games with the budget, let's not do it with the National Institutes of Health.

I will concede, as Senator SPECTER said earlier, both he and Senator HARKIN, as well as Congressman PORTER from my State, have done yeomen duty in increasing the money available to the National Institutes of Health over the years. I have always supported that. I will tell you why.

Each Member of the Senate can tell a story of someone bringing a child afflicted by a deadly disease into their office and begging them as a Member of the Senate to do everything they can to help the National Institutes of Health. It is heartbreaking to face these families. It is heartbreaking, I am sure, to sit on the subcommittee and consider the scores of people who come in asking for help at the National Institutes of Health. But each of us in our own way gives them our word that we will do everything in our power to help medical research in America so that the mothers and fathers and husbands and wives sitting in hospital waiting rooms around America praying to God that some scientist is going to

come up with a cure will get every helping hand possible from Capitol Hill. This bill breaks that promise. This bill plays politics with the National Institutes of Health.

This bill, if for no other reason, should be voted down by the Senate to send a message to this conference and every subsequent conference that if you are going to find a way out of this morass, don't play politics with the National Institutes of Health.

A few weeks ago, I had the sad responsibility of working with a family in the closing days of the life of their tiny little boy who had a life-threatening genetic disorder called Pompey's disease. He never made it to a clinical trial because we could never bring together the NIH and the university to do something to try to help him. But I did my best, as I am sure every Member of the Senate would.

A mother came to see me last year with a child with epileptic seizures that were occurring sometimes every 2 minutes. Imagine what her life was like and the life of her family.

Each and every one of them said to me: Senator, can you do something to help us with medical research? I gave them my word that I would, as each of us does.

Let's make sure this bill today draws a line in the sand and says to future conference committees that we hold the National Institutes of Health sacred, and we will not allow political games to be played with their budget.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the time allotted to Senator LAUTENBERG of 5 minutes be equally divided between Senator MURRAY and myself.

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

Mr. WELLSTONE. Mr. President, I echo the words of my colleagues, Senator HARKIN from Iowa, and Senator DURBIN from Illinois.

I came here with Senator GRAHAM of Florida when we had this bill on the floor. We talked about the 50-percent cut in title XX block grant social services. That does not sound like much, but let me translate that into human terms.

We talked about the need to have an adequate amount of funding for community mental health services, and the number of people who do not get any care whatsoever. How are we going to deal with people during an extreme mental illness and help children when we don't provide the funding? It is unconscionable.

We talked about the cuts in congregate dining for elderly people, and we talked about cuts for Meals on Wheels for elderly people who can't get dining. We haven't even fully funded that program. Now we are talking about cuts in that program.

What are we about, if we are going to make cuts in these kinds of programs that we haven't adequately funded in the first place?

I talked about the particular problem for Minnesota. When we have these kinds of cuts in these block grant and social service programs, they are passed on to the community level. The States are not involved. It is going to take us a year and a half to two years to provide any of this funding at the State level, if we are ever going to be able to do so.

I say to my colleagues, what about compassion? What about programs that are so important to the neediest people, to the most vulnerable citizens, to children, to the elderly? What are we doing cutting these programs?

I wish Senator GRAHAM was here as well because we restored that 30 percent funding on the floor of the Senate, including community mental health services. All of it has been taken out in conference committee, at least what we were able to add as an increase.

I think that is cruel, shortsighted, unfair, and I don't think it is the Senate at its best.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I join my colleague on this side in urging a ''no'' vote on this bill, simply because, as Senator WELLSTONE just stated, of our compassion for the thousands of women who will not receive services—victims of domestic violence who won't have housing or counseling or health for their young children; the thousands of people who have diabetes or cancer who will not see the result of research done at NIH because of a 1-percent across-the-board cut; and, the thousands of women and children who depend on Head Start, who depend on our education programs, on the social services that are out there so that those young families can grow and be responsible and contribute back to our economy as strong families in the future. A 1-percent cut doesn't take into account the humanity behind the numbers in this bill.

Finally, on the topic of class size reduction, and why this side is so adamant about it, a block grant cannot guarantee that one child will get a better education. Because of the bipartisan work we did last year, today 1.7 million children are getting a better education in a smaller class size that guarantees they will have the ability to read, write, and perform the skills they need to do in order to compete in our complex world. If we continue this program, there will be millions more who are able to learn to read, write, and do better in school.

This is a partnership we have with our States and our local school districts. Our responsibility is to help them do what they need to do; to provide help where help is needed. There has been a call for reducing class size from across this country, because people know what works. The Congress should be a partner and continue our promise of a year ago in making sure that happens.

The bill will be vetoed; it will be an item of contention. The Democrats stand firm. We want to make sure those children get the best education possible. We are a partner in making that happen.

I yield the floor.

IMPACT AID REAUTHORIZATION

Mr. INHOFE. Mr. President, I rise today with several of my fellow Senators to bring an important matter to the attention of our colleagues in the Senate. I refer to the disproportionate allocation of Federal impact aid funding to local school districts across the country.

As you know, this program is a successful example of the role Federal funding can play in education. This program succeeds in placing Federal education dollars directly in the hands of local educators, rather than federal bureaucrats.

State income taxes and local property taxes are often the primary funding sources for public school systems. However, military families pay income taxes to their ''State of residence,'' which may or may not be the same as the State in which their children are attending pubic schools. In addition, military families living on base or American Indians living on trust lands or reservations don't pay property taxes. Public schools are still required to provide these students a quality education. Who pays to educate these children?

Mr. President, Impact Aid fills this gap left when traditional revenue sources are inhibited by the presence of the Federal Government. This program is widely supported by my colleagues. In fact, it's a program which continually receives annual increases in appropriation levels. One would think if more money is flowing into the program then all States are fairly receiving increases in the annual funding levels. Unfortunately, this is not the case.

There is a formula used to determine the amount of funding distributed to each locally impacted school district. While clearly some states are more heavily impacted than others, this formula disproportionately favors certain states and their districts, at the expense of others equally impacted and deserving. Hundreds of school districts across the United States are scraping for the dollars necessary to educate our children. And they are doing it on less and less money every year.

States, local school districts, and parents are the primary resource to educate our children for the future. I would like to inquire of the chairman of Health, Education, Labor, and Pensions his intentions with respect to addressing the formula disparities.

Mr. CAMPBELL. Mr. President, I appreciate my good friend from Oklahoma bringing this to our attention. I have long been a supporter of Impact Aid, and I can speak to this issue from personal experience. For 20 years, my

wife Linda taught at a school in southwest Colorado which is dependent upon the program, so I know firsthand its vital importance. In fact, more than 24 million acres of land in Colorado are federally owned lands. Impact Aid eases the burden on surrounding school districts with a smaller tax base because of these Federal lands, ensuring a high-quality education for all students.

My home State of Colorado has lost 16 percent in funding since this program was reauthorized in 1994. As the Impact Aid reauthorization is considered early next year, I look forward to a fair and honest evaluation of the funding formula.

Mr. COCHRAN. Mr. President, I thank the Senator from Oklahoma for bringing the problem of Impact Aid fund distribution to the attention of the Senate.

In my State, the Impact Aid payments to schools is a relatively small sum, about $300,000. So, it is especially important that those funds are distributed in an accurate and timely manner. I hope that in our consideration of reauthorizing the elementary and secondary education programs, that Impact Aid is given careful review. I will work to be of assistance in this effort.

Again, I thank my friend from Oklahoma for his leadership on this issue. And, I thank the chairman of the Health, Education, Labor, and Pensions Committee, the Senator from Vermont, for his willingness to address the issue.

Mr. NICKLES. I appreciate my colleagues Senator JEFFORDS and Senator KENNEDY working to remedy this situation. As my colleagues know, Oklahoma has historically come out on the short end of the funding stick in terms of Impact Aid distribution formulas.

Oklahoma has a very large number of impacted districts and this funding is so crucial for them. However, since the last authorization of Impact Aid, Oklahoma has lost 29 percent in Impact Aid funding.

I encourage my colleagues to continue to work, as they have been, to address this inequity to ensure that all States are served by the Impact Aid Program.

Mr. JEFFORDS. Mr. President, I appreciate the Senator from Oklahoma's bringing this matter to my attention. The Committee on Health, Education, Labor, and Pensions is currently preparing legislation to reauthorize programs included in the elementary and Secondary Education Act. The reauthorization process offers an opportunity for congress to review the operations of these programs and to make appropriate modifications. During the last reauthorization of ESEA in 1994, we revised the Impact Aid Program in a way intended to target resources to districts based on their relative need in terms of serving federally connected children. I believe that is the right direction to take and am open to considering any proposal which assists us in better meeting this objective. I welcome the recommendations of all Members and look forward to further discussions regarding the problem which my colleague from Oklahoma wishes to address.

Mr. KENNEDY. Mr. President, I appreciate the comments from my colleagues, and I thank them for bringing this matter to my attention. I will work with Chairman JEFFORDS during the reauthorization of the Elementary and Secondary Education Act to ensure that the Impact Aid Program adequately addresses the needs of students in federally impacted school districts, and that funding is directed to the districts with the most need, and is distributed in an equitable manner. I look forward to working with Senator JEFFORDS, Senator INHOFE, and other colleagues to address these issues fairly.

Mr. INHOFE. Mr. President, I thank my friends from Vermont, Massachusetts, Mississippi, Colorado, and Oklahoma for their interest in the reauthorization of Impact Aid and how it affects our States and most importantly our children. I look forward to working together to protect all impacted students.

Mr. ROBB. Mr. President, I had hoped that this year, we could have a reasonable and orderly appropriations process, where we would make the tough decisions that are required to live within our means. I had hoped that we could prioritize our spending, increasing funding for defense to strengthen our nation's readiness, investing in school improvements, devoting needed funds to science and basic research, enhancing our transportation system, and reducing our seemingly inexhaustible demand for pork-barrel projects.

Instead, we are now at the end of the appropriations process and we are facing the prospect of spending even more than we have taken in—despite the fact that revenues exceeded estimates and an on-budget surplus was available to us. At this point we face a Hobson's choice. In order to fulfill a commitment to protect the Social Security surplus that both political parties made to the American people we have to vote for a process that is abhorrent to any concept of responsible budgeting and legislating. In order to fund unwanted and unneeded legislative pork we're taking money from every legitimate program we've already funded—including crucial defense spending and reducing class size.

Rather than making the hard choices throughout the process, and foregoing popular parochial spending that is not critical to our nation's needs, we are forced to make an across-the-board cut in order to meet our commitment. This is not the responsible way to govern. In fact, it's indefensible. We haven't done our job, Mr. President. We're playing rhetorical games and posturing artificially in order to keep this little secret from the American people.

I will vote for this bill very reluctantly because it's the only measure on the table that meets our commitment. Once the President vetoes this bill, then we can get back to the business of making the hard choices. Cutting spending is never easy or popular, but it is necessary if we are to keep our promises.

I oppose spending the Social Security trust funds because I believe that when we voted years ago to take the Social Security trust fund off-budget, we did so in an effort to impose fiscal discipline on ourselves. Although it has taken years to get to a point where we didn't have to rely on Social Security surpluses to pay our bills, we are now at that point, and we've promised the American people that we will refrain from using Social Security and Medicare taxes to fund other government programs. I support the promise because it helps strengthen our spine to cut unnecessary spending. But strengthening Social Security and Medicare for the long term will take more than just placing the trust funds ''off limits.''

Mr. President, we have once again limped pathetically to the end of the appropriations process, past the deadline and over the budget. The mere fact that we have to do an across-the-board cut is a testament to the failure of this budget process. If we have to choose between thoughtful budgeting and honoring a commitment, I will vote to honor the commitment. But that shouldn't be the choice.

I will vote for this bill, knowing that it will be vetoed, to send a strong and clear message: government should not spend more than it takes in.

Mr. LEAHY. Mr. President, this morning I voted against the Conference Report for the Labor-HHS-Education-DC Appropriations bill. I am extremely disappointed with the budgetary stalemate that this Congress seems to have reached. This Congress is yet to do much work that we should be proud of and more than a month into the new fiscal year, we have failed to even complete our appropriations work.

I want to mention just a few of the problems I had with this Conference Report. First, this Report made significant reductions to essential programs funded through the Education Department. For example, the proposal before us provided no funding for a class size reduction program that this Congress supported just last year. Vermont is a state that generally enjoys small class sizes for our students. But even Vermont, a rural state with fairly small student to teacher ratios benefits, from the President's visionary program to put more teachers into our class rooms.

Second, this Conference Report made unacceptable cuts to programs funded through the Department of Health and Human Services. For example, this bill cuts $44 million in requests from the Centers for Disease Control to immunize over 333,000 children against childhood diseases.

In addition to these programmatic cuts, the Conference Report contained

budget gimmicks including the use of the Social Security Trust Fund and an across the board cut in spending that reflects Congress' inability to budget responsibly. I understand the President made it very clear that he will veto this Report when it gets to his desk. In spite of this knowledge, my colleagues on the other side felt it was a productive use of our time to none the less move forward with an unacceptable bill, rather than attempt to negotiate and reach a compromise.

The conference report included a .97 percent across the board, government-wide cut in all discretionary programs. This included the funding for programs such as education and crime prevention—two essential programs for ensuring the safety of our youth. The Office of Management and Budget has estimated some of the effects of this type of across the board cut. For example, approximately 71,000 fewer women, infants, and children would benefit from the important Special Supplemental Nutrition Program for Women, Infants, and Children, also known as the WIC program. An across the board cut of this nature would also mean 1.3 million fewer Meals on Wheels will be delivered to the elderly.

Americans have witnessed over the past several weeks an enormous amount of finger pointing from both sides of the aisle about who's using the Social Security surplus and who's not. I don't think there's much to dispute. According to the non-partisan Congressional Budget Office, even with the so-called across the board cuts, the Republican proposed spending plan will still mean taking $17 billion from the Social Security Trust Fund.

Let's step back and look at the message that we have sent to Americans by agreeing to this Conference Report and sending it to the President. We have made a statement that we are not interested in placing our students into smaller class sizes even though research has shown they will learn faster with less discipline problems and will have higher high school graduation rates. We have said that we are not interested in ensuring the health of our children by providing immunizations that are known to prevent severe illness and even death form numerous childhood diseases. Finally, we have said that we are not concerned about the nutrition of our women and children nor are we interested in the nutrition of our homebound elderly.

What kind of priorities does this Congress have? Looking at this Conference Report and at our work over the past few months, it's hard for me to tell. We have failed on many fronts to do the work the people of this country have sent us here to do. We haven't passed a comprehensive Patients' Bill of Rights. We have not passed responsible gun control legislation. Just last week we were reminded that we have failed to pass comprehensive medical privacy legislation, leaving the Administration to do our work for us. And now, we can't even do one of our most important jobs—appropriating responsibly.

Mr. President, the Labor-HHS-Education-DC Appropriations Conference Report that this Senate passed this morning is just another example of where this Congress has failed. I look forward to the day when we can return to a time when we act responsibly and do the work the American people expect of us.

Mr. SANTORUM. Mr. President, I rise today to urge my colleagues and the American people to carefully consider one of the most pressing public health issues which faces America, an issue about which far too few people are aware and which is ever so obliquely tucked into the many pages of the appropriations measure we are about to consider.

This issue has to do with the workings of our national organ transplantation and allocation system and by extension the lives of hundreds of Americans whose lives hang in the balance.

Ideally, our national organ transplantation and allocation system—which at its core is about saving lives—would be governed according to standard medical criteria whereby donated organs go to those who need them most. Sadly, though, this is not the case. Our current organ allocation system has evolved into a needlessly contentious debate where fragile life-and-death decisions are being reduced to economic—and many times geographic—factors.

If you are an American citizen who needs a liver transplant to survive, and you reside in Arizona, California, Colorado, Connecticut, Illinois, Massachusetts, Maryland, Michigan, New York or Pennsylvania, you have much less chance of receiving a transplant than someone else with a similar level of illness who lives in another part of the country. That is the conclusion of the latest patient outcome data from the U.S. Department of Health and Human Services (HHS).

Despite enhanced capacities to keep organs viable for longer periods of time and to make them available to those who would benefit most, many regional transplant centers are still attempting to keep donated organs in their own geographic area. These ''organ hoarding'' policies and practices contribute to the deaths of thousands of Americans whose lives could otherwise be saved.

Consider: While an estimated 62,000 potential recipients are waiting their turn to receive organs, only 20,000 transplants take place in a given year. More than 4,000 Americans die each year—at least 11 per day—while awaiting organ transplants. Of those, it is estimated that 1,000 Americans—more than 3 each day—might have been saved if the system operated more fairly.

Last year, HHS issued new regulations designed to reduce these inequities. The 1998 Final Rule contained provisions to make the national organ transplant system more fair. Its goal was to ensure that the allocation of scarce organs is based on medical criteria determined by physicians, and not on geography. But a rider to the 1998 omnibus spending bill delayed implementation of the regulations for a year—and required the Institute of Medicine (IOM) to study the impact of the Final Rule.

Whereas I opposed the moratorium that Congress passed just over one year ago because I was convinced that the HHS rule was in the best interest of patients, many of my colleagues ignored previous studies by the Office of the Inspector General and the General Accounting Office, among others, and were swayed by the rhetoric of this very emotional debate when they supported this one-year moratorium. Proponents of the moratorium then argued that we did not have sufficient evidence to conclude that the current system has inequities. So innocent transplant candidates had to wait at least another year for a sensible policy of broader organ sharing.

Yet, ironically, some of my colleagues' action of endorsing a moratorium reflected a bit of wisdom. If not for the provision in the Omnibus Appropriations bill of 1998 which called on the IOM to study these issues, we would not have such clear evidence in support of the rule, evidence that is void of partisan or special interest input. By its very nature, the IOM was able to distance itself from the pronouncements of those with vested interests and to undertake an academic, evidence-based review of the issues. To question the integrity of the report is to question the integrity of the Institute of Medicine, of our nation's greatest minds, and of the scientific process itself.

As charged by Congress, the IOM released its report on June 20, 1999. And the results were a vindication for patients everywhere and irrefutably argue for pressing forward with the HHS Final Rule with its call for broader organ sharing. The IOM report has five noteworthy highlights.

The first is waiting times. The IOM concludes that waiting time for liver transplantation is an issue only for the most critically ill patients. For patients who are less acutely ill, waiting time is not an appropriate criterion in deciding about the allocation of donor organs. The IOM suggests that equitable access to transplantation would be best facilitated by development of a system with objective criteria that reflect medical need.

The second is larger Organ Allocation Areas. The HHS Final Rule places priority on sharing organs as broadly as possible, within limits dictated by science and technology. The IOM report concurs with this approach, and specifically recommends establishing Organ Allocation Areas (OAAs) for livers. The IOM suggests that OAAs serving at least nine million people each would significantly promote equity in

access to transplantation, and be feasible with current technology.

The third is federal oversight. The IOM report recommends that HHS continue to exercise the legitimate oversight responsibilities assigned to it by the National Organ Transplant Act. The report further notes that strong federal oversight is necessary and appropriate to manage the system of organ procurement and transplantation most effectively in the public interest. The report also recommends the establishment of an Independent Scientific Review Board to assist the Secretary in these efforts.

The fourth is data collection and dissemination. The IOM report finds that current data are inadequate to monitor some aspects of the organ transplantation program. They suggest that the Organ Procurement and Transplantation Network contractor should improve data collection, and make standardized and useful data available to independent investigators and scientific reviewers in a timely fashion.

The fifth is effects on organ donation and small transplantation centers. The IOM was also asked to consider whether the requirements in the Final Rule would decrease organ donation, or cause harm to small organ transplantation centers. It found no evidence to suggest that either of these concerns would be realized. The IOM concurs that changes in the organ transplantation system—along the lines proposed by the Secretary—would improve fair access to lifesaving transplantation services.

Mr. President, 20 years ago retaining local allocation of organs was a sensible policy because organ viability—the window of opportunity during which an organ can be successfully transplanted—was not very long. But over the past two decades, the scientific knowledge and techniques for the retrieval, preservation and transplantation of donated organs have improved tremendously and have led to the development of organ transplantation as a means to save lives. These recent advances in science and technology now permit broader sharing of organs, with more focus on medical necessity and less restriction by geography as criteria for organ allocation. And yet, despite these enhanced capacities to keep organs viable for longer periods of time and to make them available to patients in parts of the country far from where those organs first may have been retrieved, many small regional transplant centers incredibly still fight to keep donated organs in their own geographic area.

The Final Rule reflects ongoing commitment by the Secretary of Health and Human Services (HHS), which I share with many of my colleagues on both sides of the aisle, to maintain the most equitable and advanced transplantation system and to reform the anachronistic allocation system which is needlessly costing lives.

The basic principles that underlie the 1998 Final Rule were supported by the conclusions of the IOM study. In late October of this year, HHS released a revised Final Rule, incorporating information and suggestions from the IOM and from the transplant community. This revised Final Rule is the culmination of the IOM study, four Congressional hearings, public hearings and consultations conducted by HHS, and nearly five years of public comment.

Today, proponents of the status-quo system of rank inequities have managed to include in this bill language which calls for yet another moratorium. They now say that any new regulations must be developed only after the National Organ Transplantation Act (NOTA) is reauthorized. This is an interesting change of argumentation now that the facts, as contained in the IOM report and other publications, have been publicized about how the current system in fact does not operate in the public's interest.

Whereas I certainly look forward to working with my colleagues to reauthorize NOTA, and most especially to the opportunity to develop a clear mandate and strategies for increasing organ donation, plans for future NOTA reauthorization should not be used as an excuse to perpetuate the current inequitable system which the Final Rule seeks to remedy. Additionally, the current NOTA statute does provide the Secretary with the necessary authority to immediately address the needs of those who are dying every day because of inequities in the system.

Currently, NOTA mandates that HHS and the transplant community share responsibility to govern the organ transplantation and allocation system. The he underlying principle on which Congress enacted NOTA back in 1984 to better coordinate the use of donated organs and to address the concern that the sickest patients receive priority for organ transplantation. As a result of this law, the Organ Procurement and Transplantation Network (OPTN) was established. As you know, the OPTN's membership is comprised of organ procurement organizations and hospitals with transplant facilities. The primary function of the OPTN is to maintain both a national computerized list of patients waiting for transplantation and a 24-hour-a-day computerized organ placement center, which matches donors and recipients. Currently, the United Network for Organ Sharing (UNOS), a private entity, holds the federal contract for the OPTN and establishes organ allocation policy.

I would like to assure my colleagues that under the revised Final Rule, development of the medical and allocation policies of the OPTN remain the responsibility of transplant professionals, in cooperation with the centers, patients and donor families represented on the OPTN board. Most importantly, in the revised Final Rule, HHS provides for the public accountability that is necessary for a national program on which so many lives depend.

The HHS regulations for broader organ sharing have been the subject of rigorous debate in Congress, within the transplant community, and on the pages and airwaves of the local and national media. While constructive discourse is the root of our democracy, what has concerned me over the past couple of years is that deceit and fear have characterized this particular debate. Even for those who are extremely close to these issues, it has become more and more difficult to distinguish the true facts. Indeed, this is the very reason that Congress stipulated the Institute of Medicine study this issue.

My greatest concern is for the lives of worthy, innocent transplant candidates which hang in the balance each day, each hour, each minute that we delay moving forward with these regulations. Please make every consideration to expedite the process so that the transplant community can move forward to improve the system so that more lives can be saved.

As my colleagues may know, the federal Task Force on Organ Transplantation (formed in 1986), in a critical decision, established that donated organs belong to the community, and it identified that community as a national one. Consistent with this decision, the new HHS regulations identify donated organs as a precious national, not local or regional, resource—thus helping to elicit what James Childress, a medical ethicist who served on the transplant task force, calls ''communal altruism'' or public commitment to organ donation. Childress, an authority on the subject of organ donation, states in a 1989 edition of the Journal of Health Politics, Policy and Law, ''Donations of organs cannot be expected unless there is public confidence in the justice of the system of organ distribution.''

In order to maintain an effective system for the allocation of life-saving organs, we must first ensure that we have an adequate supply of those organs. An adequate supply relies on public generosity and commitment, which, in turn, relies on the public perception that the system for organ allocation is both publicly accountable and fair.

The HHS regulations have prompted debate in large part because they would change the allocation system from a local/regional one to one of broader organ sharing. They would allocate organs to the most medically urgent patients first, rather than to those residing in the same geographic area as where the organ was donated. And I emphasize, that while the HHS regulations call for a national system, they do not call for a national allocation system. They leave the specific policy decisions in the hands of the transplant community.

I have registered as an organ donor; when I die, I do not care whether or not my organs go to a resident of Pittsburgh; I hope they go to the person who needs them the most. The majority of Americans share my sentiments. According to the results of a Gallup public opinion survey released this past

June, most Americans—83 percent—want donated organs to go to the sickest patients first, regardless of where they live.

Not only do the HHS guidelines meet standards of effectiveness, in part, by helping to ensure broad public commitment to organ donation, they also meet the related standard of equity. By creating a process designed to lead to a broader geographic sharing of organs, these proposed regulations equalize waiting times among transplant centers, thus also—and effectively—save more lives. CONSAD Research Corporation has already identified a number of alternative policies that would equalize waiting times and save more lives.

The HHS regulations further require standardized medical criteria to be used when placing patients on the national waiting list and determining their priority among all patients needing organ transplants throughout the United States. They therefore call for equitable organ allocation throughout the country to ensure that the most medically urgent patients, within reasonable medical parameters, have first access to organs.

We know that there currently exists enormous disparity in waiting times for organ transplantation from region to region in the United States.

Mr. President, I ask unanimous consent that the chart of recently released HHS data be printed in the RECORD.

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

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

COMPARISON OF PERCENTAGE OF PATIENTS WHO RECEIVE LIVER TRANSPLANTS WITHIN ONE YEAR

[All numbers are percentage]

Below national median	National median	Above national median
University Medical Center, Tucson, Arizona—42.	47	St. Luke's Episcopal, Houston, Texas—66.
Stanford University, Palo Alto, California—29.	47	Latter Day Saints Hospital, Salt Lake City, Utah—58.
University Hospital, Denver, Colorado—38.	47	St. Louis University, St. Louis, Missouri—56.
Yale Hospital, New Haven, Connecticut—23.	47	Jackson Memorial, Miami, Florida—67.
University of Illinois, Chicago, Illinois—23.	47	Froedtert Memorial, Milwaukee, Wisconsin—83.
Indiana University, Indianapolis, Indiana—37.	47	Jewish Hospital, Louisville, Kentucky—75.
Massachusetts General, Boston, Massachusetts—29.	47	Rochester Methodist, Rochester, Minnesota—68.
Johns Hopkins, Baltimore, Maryland—23.	47	Vanderbilt University, Nashville, Tennessee—73.
University of Michigan, Ann Arbor, Michigan—24.	47	Fairview University, Minneapolis, Minnesota—63.
North Carolina University, Chapel Hill, North Carolina—39.	47	Medical University, Charleston, South Carolina—61.
Thomas Jefferson, Philadelphia, Pennsylvania—28.	47	Ohio State, Columbus, Ohio—55.
New York University, New York, New York—40.	47	University Hospital, Newark, New Jersey—80.

Source: U.S. Department of Health and Human Services, 1999.

Mr. SANTORUM. Mr. President, these disparities were first brought into sharp focus in the 1997 Report of the OPTN: Waiting List Activity and Donor Procurement, and now even more so in this recently released HHS data. Why the median liver transplantation rate during one year for ''listed'' candidates in Chicago would be 23% and 83% in Milwaukee is unconscionable. Equally disturbing is that a patient of blood type ''O'' would have a median waiting time of 721 days in western Pennsylvania and just 46 days in Iowa.

As we can see from the facts under the current allocation system, often a critically ill patient in one region can go without a life-saving organ while a healthier patient in another region—one with a larger supply of organs—can be treated as a priority.

In meeting this standard of equity, the HHS regulations can help to prevent what has become an alarming and extremely parochial trend—that of states passing ''local first'' laws or resolutions. Kentucky, Louisiana, Oklahoma, South Carolina, Wisconsin, Arizona and Texas have either passed laws or resolutions or have proposed such laws that strive to keep organs in their respective states, while not necessarily allocating these organs to state residents.

This is a critical distinction: Patients often travel from other states for the high-quality care offered by large transplant centers, which generate considerable revenue. When states seek to retain organs in this manner, they are serving economic self-interest, not patient interest. And what of the patients who reside in states with no liver or heart transplant program? These patients, including those with Medicaid and Medicare, must travel to other states, where the access to organs and the waiting times can vary significantly.

The new HHS guidelines would better meet procedural and substantive standards of justice than does current policy. They would encourage more public participation in the policy making process and, therefore, more accountability, and they would equalize the treatment of medically similar cases.

In developing policies for the life-and-death issue of organ allocation, we should rise to broadly accepted standards of justice rather than acquiesce to narrowly defined regional interests.

Arthur L. Caplan of the University of Pennsylvania Center for Bioethics and Peter Ubel of the Philadelphia Veterans Affairs Medical Center wrote in The New England Journal of Medicare on Oct. 29, 1998, ''We believe that the United States should end policies that permit geographic inequities and move quickly to determine the best use of data on the efficacy of outcomes to create a more equitable national system of distribution.''

Because I believe that any organ allocation system should be defined by, and accommodate, the moral principles of effectiveness and equity, I strongly support the proposed change to a national allocation system as outlined in the Department of Health and Human Services revised regulation. I firmly believe that the Secretary needs to exercise her authority so that a more equitable system based on uniform medical criteria can immediately move forward. Again, I will repeat for my colleagues that plans for future NOTA reauthorization should not be used as an excuse for delay while innocent Americans are needlessly dying. Further delay prevents more needy transplant candidates from receiving vital, life-saving organs.

Now, I realize that this body will likely adopt this conference report, despite its containing this controversial language for another moratorium. But let us bear in mind that the President has vowed to veto this legislation over this issue and other spending priorities contained herein.

Thus, it is not too late. When our leaders reconvene to negotiate budget priorities with the administration, I urge my colleagues to oppose another moratorium, and join me in ending a system that unfairly deprives patients of access to life-saving organ transplantation, and allow the regulations to go forward. This is an issue which transcends politics.

● Mr. McCAIN. Mr. President, I regret that I was unable to be here for the vote but I thank the conferees for their hard work on the conference report that provides federal funding for the District of Columbia, the Departments of Labor, Health and Human Services (HHS), and Education. I am very disappointed that this report includes wasteful, locality-specific, pork-barrel projects, legislative riders, and budget gimmicks such as ''forward funding'' and a 1-percent cut in government spending across-the-board. Therefore, I cannot support this bill.

This legislation is intended to provide funding directly benefiting American families and senior citizens while assisting our most important resource, our children. It provides funding to help states and local communities educate our children. It also provides the funds to support our scientists in finding treatments for illness. This report also provides funds for ensuring our nation's most vulnerable—our children, seniors and disabled have access to quality health care. Furthermore, it provides the monetary support for important programs assisting older Americans including Meals on Wheels and senior day care programs.

I am pleased that this legislation took an important step towards ensuring that our nation's schools have the flexibility to determine how to meet the unique educational needs of their students instead of Washington bureaucrats mandating a ''one size fits all'' policy. Second, this bill provides a significant increase in funding for the National Institutes of Health (NIH) which is critical in our ongoing battle against disease.

These are just some of the important provisions in this conference report. There are many additional items which are as pertinent to our nation's well-being which makes it all the more frustrating that this bill is still laden with earmarks, legislative riders and unjustifiable budget gimmicks.

First, this legislation contains $388 million in total pork-barrel spending

($335 million in earmarks and set-asides for the Departments of Health and Human Services, and Education). Some of the more egregious violations of the appropriate budgetary review process include:

$2.5 million for Alaska Works in Fairbanks, Alaska for construction job training;

$1.5 million for the University of Missouri-St. Louis for their Regional Center for Education and Work;

$104 million for the construction and renovation of specific health care and other facilities including: Brookfield Zoo/Loyola University School of Medicine, University of Montana Institute for Environmental and Health Sciences and Edward Health Services, Naperville, Illinois; and

$3,000,000 to continue the Diabetes Lower Extremity Amputation Prevention (LEAP) programs at the University of South Alabama.

While these projects may have good reason to be deserving of funding, it is appalling that these funds are specifically earmarked and not subject to the appropriate competitive grant process. I am confident that there are many organizations which need financial assistance and yet, are not fortunate enough to have an advocate in the appropriations process to ensure that their funding is earmarked in this legislation. This is wrong and does a disservice to all Americans who deserve fair access to job training and quality health care.

Some of the legislative riders include $3.5 million in this report to implement the Early Detection, Diagnosis, and Interventions for Newborns and Infants with Hearing Loss Act. This legislative initiative was inserted into the Senate and House appropriation bill without hearings or debate on this proposal by either chamber. I applaud the intentions of this measure and share my colleagues' support for helping ensure that all hospitals, not just the current 20%, provide screening in order to produce early diagnosis and intervention for our children to ensure that they have an equal start in life and learning. However, the manner in which it was included in this measure bypasses the appropriate legislative procedure. Instead, this measure should have been given full consideration by the Senate as a free-standing initiative or as an amendment to appropriate legislation.

Furthermore, I am also opposed to the use of budget gimmicks in this report. First, the report has opted to use the newly popular budget gimmick of ''forward funding,'' used to postpone spending until the next fiscal year to avoid counting costs in the current fiscal year. What this means is that $10 billion in funding for job training, health research, and education grants to states is pushed into next year—a budgetary sleight of hand that merely delays the inevitable accounting for these tax dollars. What a sham.

Finally, now that the surplus has been spent for pork-barrel spending instead of shoring up Social Security and Medicare, paying down the debt, and providing tax relief, the appropriators have opted to include a 1-percent cut in government spending across-the-board to keep Congress from touching Social Security. Why not just cut the pork-barrel spending in the first place to avoid resorting to such gimmicks?

Mr. President, because of the egregious amount of pork-barrel spending in this bill, the addition of legislative riders, and the 1-percent across-the-board spending cut, I must oppose its passage. I regret doing so because of the many important and worthy programs included in the conference agreement, but I cannot endorse the continued waste of taxpayer dollars on special interest programs, nor can I acquiesce in bypassing the normal authorizing process for legislative initiatives. If an Omnibus appropriations bill is required in order to complete the appropriations process for fiscal year 2000, I hope that the Congress finds the courage to remove the many earmarks, the budget gimmicks, and the legislative riders contained in this report, the bill, and all others so that we can provide the much needed financial support for job training, education, health care, research and senior programs and avoid a congressional sequester.

The full list of the objectionable provisions is on my Senate website.●

Mrs. HUTCHISON. Mr. President, I have heard the most amazing rhetoric on the other side. I am told by my colleague from Minnesota we have cut all the increases the Senate put in this bill. What is wrong is the facts. We haven't cut the increases. In fact, we haven't cut them out at all. We have increased in the areas where we have prioritized.

Education: $2 billion more than in last year's budget. What does a 1-percent cut across-the-board mean? It means $1.8 billion more than we spent last year.

NIH: We are committed to giving NIH double the funding for medical research in this country. We are keeping our promise. We are increasing NIH $1.8 billion over last year.

Head Start: We increased it $600 million. A 1-percent cut means we are increasing it $594 million.

We are keeping a promise. We have said the most important thing we are going to do in this Congress is keep our Social Security surplus intact. We are doing it by making sure we do not go into that surplus. We are making a 1-percent across-the-board cut in increases because we have given so much more than we did last year.

Let me talk about what happens in a 1-percent decrease. Any person who has ever run a corporation or an agency or even an office knows a 1-percent cut does not go in the programs. We are not going to lose teachers. We are not going to lose people who are getting veteran benefits. They are going to cut travel budgets, office supplies; they will cut in the bureaucracy; that is, if they have the responsibility to make the right decisions.

We are going to keep our promise to keep social security intact. We are going to do it in a responsible way so they can take cuts in travel budgets, they can take cuts in their bureaucracies to make sure the programs are funded at the increased levels that Congress is requiring them to do.

This is the most responsible act Congress has taken. I am stunned the other side will not step up to the plate and do what they promised also; that is, keep Social Security intact.

I yield my remaining time to Senator DOMENICI.

Mr. DOMENICI. Mr. President, I will not repeat what has been stated, other than generally to say most of the social programs in this bill, from Meals on Wheels to student aid to everything else in between, even after the .97-percent cut, are substantially higher than last year and, in almost every instance, higher than what the President of the United States asked for in his budget.

If doing that amounts to cutting a program, then, frankly, I don't understand what it means to increase a program and increase them as dramatically as we have in this bill. The best friend the National Institutes of Health has ever had is a Republican Congress. We are increasing National Institutes of Health because people such as CONNIE MACK and a few others have said double it in the next 5 years. In this bill, we had in NIH $2.3 billion more than the President; with the across-the-board cut, we are $2 billion in appropriations more than the President.

Essentially, there has been a lot of talk about saving Social Security, and we have used some OMB scoring where we think it is appropriate. There are those who still come to the floor and act as if they actually know we have infringed on the Social Security surplus. Let me repeat for the Senate, in March, April, or May of next year, I predict with almost absolute certainty that a budget comes out close to this budget produced by Senator STEVENS and the appropriations bill and will not take any money out of Social Security.

They can argue that the President's numbers wouldn't have taken any out—CBO's numbers might. But essentially, when the bell tolls and we do the reevaluation, we are going to be able to say to the senior citizens we didn't touch Social Security. The .97 is important to that solution.

Mrs. HUTCHISON. 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 conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative assistant called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from New Hampshire (Mr. GREGG) are necessarily absent.

The result was announced—yeas 49, nays 48, as follows:

[Rollcall Vote No. 343 Leg.]

YEAS—49

Allard	Gorton	Nickles
Bennett	Gramm	Robb
Bond	Grams	Roberts
Brownback	Grassley	Roth
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Byrd	Helms	Smith (NH)
Campbell	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Specter
Coverdell	Jeffords	Stevens
Craig	Kyl	Thomas
Crapo	Lott	Thompson
DeWine	Lugar	Thurmond
Domenici	Mack	Warner
Enzi	McConnell	
Frist	Murkowski	

NAYS—48

Abraham	Edwards	Levin
Akaka	Feingold	Lieberman
Ashcroft	Feinstein	Lincoln
Baucus	Fitzgerald	Mikulski
Bayh	Graham	Moynihan
Biden	Harkin	Murray
Bingaman	Hollings	Reed
Boxer	Inouye	Reid
Breaux	Johnson	Rockefeller
Bryan	Kennedy	Santorum
Cleland	Kerrey	Sarbanes
Conrad	Kerry	Schumer
Daschle	Kohl	Torricelli
Dodd	Landrieu	Voinovich
Dorgan	Lautenberg	Wellstone
Durbin	Leahy	Wyden

NOT VOTING—2

Gregg	McCain

The conference report was agreed to.

Mrs. HUTCHISON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AFRICAN GROWTH AND OPPORTUNITY ACT—Resumed

Pending:

Lott (for Roth/Moynihan) amendment No. 2325, in the nature of a substitute.

Lott amendment No. 2332 (to amendment No. 2325), of a perfecting nature.

Lott amendment No. 2333 (to amendment No. 2332), of a perfecting nature.

Lott motion to commit with instructions (to amendment No. 2333), of a perfecting nature.

Lott amendment No. 2334 (to the instructions of the motion to commit), of a perfecting nature.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the substitute amendment to Calendar No. 215, H.R. 434, an act to authorize a new trade and investment policy for sub-Sahara Africa.

Trent Lott, Bill Roth, Mike DeWine, Rod Grams, Mitch McConnell, Judd Gregg, Larry E. Craig, Chuck Hagel, Chuck Grassley, Pete Domenici, Don Nickles, Connie Mack, Paul Coverdell, Phil Gramm, R. F. Bennett, and Richard G. Lugar.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the substitute amendment No. 2325 to Calendar No. 215, H.R. 434, an act to authorize a new trade and investment policy for sub-Sahara Africa, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from New Hampshire (Mr. GREGG) are necessarily absent.

The yeas and nays resulted—yeas 74, nays 23, as follows:

[Rollcall Vote No. 344 Leg.]

YEAS—74

Abraham	Fitzgerald	Lugar
Akaka	Frist	Mack
Allard	Gorton	McConnell
Ashcroft	Graham	Mikulski
Baucus	Gramm	Moynihan
Bayh	Grams	Murkowski
Bennett	Grassley	Murray
Biden	Hagel	Nickles
Bingaman	Harkin	Robb
Bond	Hatch	Roberts
Breaux	Hutchinson	Rockefeller
Brownback	Hutchison	Roth
Bryan	Inhofe	Santorum
Burns	Jeffords	Schumer
Cochran	Johnson	Sessions
Coverdell	Kerrey	Shelby
Craig	Kerry	Smith (OR)
Crapo	Kohl	Specter
Daschle	Kyl	Stevens
DeWine	Landrieu	Thomas
Dodd	Lautenberg	Thompson
Domenici	Leahy	Voinovich
Durbin	Lieberman	Warner
Enzi	Lincoln	Wyden
Feinstein	Lott	

NAYS—23

Boxer	Edwards	Reid
Bunning	Feingold	Sarbanes
Byrd	Helms	Smith (NH)
Campbell	Hollings	Snowe
Cleland	Inouye	Thurmond
Collins	Kennedy	Torricelli
Conrad	Levin	Wellstone
Dorgan	Reed	

NOT VOTING—2

Gregg	McCain

The PRESIDING OFFICER. On this vote, the yeas are 74, the nays are 23. Three-fifths of the Senate duly chosen and sworn having voted in the affirmative, the motion is agreed to.

AMENDMENTS NOS. 2332 AND 2333 WITHDRAWN

Mr. LOTT. Mr. President, I ask consent that amendments 2332 and 2333 be withdrawn.

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

The amendments (Nos. 2332 and 2333) were withdrawn.

Mr. LOTT. Mr. President, I remind the Senate pending is the trade bill with the substitute amendment pending in the first degree. Cloture was invoked; therefore, there is a total time restriction of 30 hours, including quorum calls and rollcall votes. Under an additional consent, relevant trade amendments are in order in addition to the germaneness requirement under rule XXII. Those additional first-degree trade relevant amendments must be filed by 2:30 today.

I urge all Senators to offer and debate their amendments in a timely fashion. I request relevant amendments not be abused so we can complete this very important trade legislation.

I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Chair recognizes the Senator from Delaware.

Mr. ROTH. Mr. President, I thank my colleagues on both sides of the aisle for their support for the cloture motion. The vote reflects the strong bipartisan support for the bill.

I also want to extend my thanks to the distinguished majority and minority leaders, who worked so hard to find the compromise that would allow the bill to move forward.

Due to their hard work, we have the opportunity to send a clear statement to our neighbors in the Caribbean, Central America, and Africa that we are willing to invest in a long-term economic relationship—a relationship of partners in a common endeavor of expanding trade, enhancing economic growth, and improving living standards.

Most importantly, this bill will also send a clear signal to our trading partners around the world who will join us shortly in Seattle for the ministerial meeting of the World Trade Organization. It signals that the United States is prepared to engage constructively in the wider world around us and to provide the leadership necessary to achieve our common goals.

Most importantly, the bill means we will fulfill our commitment to the American workers and firms that will benefit from this bill—a commitment that means $8.8 billion in new sales and an increase of 121,000 jobs over the course of the next 5 years in the U.S. textile industry alone.

As I have emphasized again and again in this debate, this is not a bill that is good just for our neighbors in the Caribbean and Central America or our partners in Africa. This is a bill that is good for our workers here at home as well. It is a ''win-win'' situation economically for American workers and our friends abroad.

I look forward to working with my colleagues over these coming hours to fashion a still stronger bill that would further those goals.

Let me emphasize once more the strong bipartisan support reflected in the vote just taken. The motion for cloture carried by a vote of 74–23. I urge my colleagues to move as expeditiously as we can because time is limited. As we all know, the Congress is coming to the end of the current session and we want to make sure everybody has the opportunity to bring forward their amendments. It is important we do so in a fashion to expeditiously conclude action on this important piece of legislation.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. MOYNIHAN. Mr. President, I wish to join most emphatically with my revered chairman in congratulating the Senate today, in thanking the majority and minority leaders. We have risen to a moment which was ominously in doubt.

Last week, as the week progressed, two things took place: One, on the Senate floor, as we now have established, we had 74 votes just to proceed with the bill—we will have more when this is done. Even so, we found ourselves in a procedural tangle not unknown to the body which was thwarting the will of an emphatic majority—and not just a majority for this legislation but a majority for a tradition of openness in trade that began 65 years ago with the Reciprocal Trade Agreements Act of 1934 at the depths of the Depression, the aftermath of the Smoot-Hawley legislation, with our system of government very much under challenge. That challenge would grow more fierce and would end in the great World War.

We were then, even so, confident enough of the promise of trade that we could go forward in this matter. We have been going forward for 60 years. However, 5 years ago we stopped. The President did obtain the approval of the Congress for the World Trade Organization. I shouldn't put it that the President ''obtained'' the approval of the Congress; Congress approved what Congress had sent our negotiators to obtain. There was a little side ripple there. An international trade organization was to have been one of the main institutions of the Bretton Woods system created in 1944. The International Bank for Reconstruction and Development—we call it the World Bank—the International Monetary Fund were created; the International Trade Organization didn't happen.

Finally, we caught up with ourselves and we created the World Trade Organization which I believe now has 134 members with 30 observers currently applying for membership. I said there were two ominous, even menacing moments. The second was that there was almost no attention paid in the press and media to this week-long frustrating, seemingly unavailing effort. We have been on this a week and we got nowhere. No one noticed. It is as if no one cared.

We woke up. Yesterday, the Washington Post in a lead editorial on this subject noted neither the administration nor the Congress had done anything they needed to do, and that at the end of this month the World Trade Organization will meet in Seattle. Our Ambassador, our Trade Representative, Ambassador Barshefsky, will open the meeting. Our President will be there, along with heads of state. We will be talking about the next round of global trade negotiations. They can take 9, 10 years. They are fundamentally important.

But our President will not have the authority to enter these negotiations—or rather to send the resulting agreements to the Congress for expedited consideration. If he were to have had the sub-Saharan African legislation fail and the Caribbean initiative of President Reagan fail; if we were to have, in effect, allowed the Trade Expansion Act of 1962, President Kennedy's measure that led to the Kennedy Round, like the Uruguay Round, expire and say to the 200,000 American families who are displaced by trade, as others are, that we should let economic forces work their way and tell them, that's too bad; if we allowed the Generalized System of Preferences to expire and say, no matter, how would our representatives look? What would they say? What could they undertake? Very little.

It would be a moment in trade that would be shameful, after 65 years of bringing the world out of the depths of the Great Depression, now, in the longest economic expansion in the United States, the longest economic expansion in history.

For so many years we talked about ''the longest peacetime expansion.'' No, no, this expansion is greater even than that from World War II. This is what trade has brought us. Not just trade, but without trade expansion we could not have had this economic expansion. Now, at least, we can go to Seattle and say: Here are our bona fides. We are still players. We still want to go forward.

So, Mr. President, let the games begin. We have a long debate before us. It will be a bipartisan debate. The Senator from Delaware, the chairman of our committee, will be leading the debate. His deputy, if I may so deputize myself, will be at his side across the aisle. Let us now proceed, being of good heart and great expectations.

I yield the floor.

Mr. ROTH. Mr. President, I ask the distinguished Senator from New York if he could articulate the importance of the legislation before us.

Mr. MOYNIHAN. I certainly could attempt to do so. I would not risk overstatement. There would be a setting in which, having given the President negotiating authority for a new round of international trade talks, having arranged for Trade Adjustment Assistance to be continued as it has been for 37 years, we could say: The particular matters before us will be part of the trade negotiations—and so forth. We could say we will get to it next year.

But we don't have that negotiating authority. The President goes to Seattle emptyhanded. The only thing he can bring with him is the trade legislation we have before us—which we still have to take to the House. But this is all the United States can show the world, the world which has been following us for all these years.

So I hope, at a very minimum, the sense of tradition—even, if I may say, of honor—will drive us forward in this matter.

Mr. ROTH. I would like to refer to fast track. Like my colleague, I am very unhappy that this authority has not been extended this President.

Mr. MOYNIHAN. And, sir, that this President did not ask for it when he could get it.

Mr. ROTH. That is correct. That is correct.

I also point out our committee in the last 2 years reported this legislation out because there is strong bipartisan support for fast track to be granted to the President, this President, by both Republicans and Democrats.

Mr. MOYNIHAN. Sure.

Mr. ROTH. Unfortunately, there has not been strong leadership from the White House on this matter. It seems to me it is a matter of grave concern. But since that has not happened, I do agree with what my colleague has just said, that it is important we act on this legislation so it becomes clear to our friends and neighbors around the world that we continue to plan to provide leadership in this most important area of trade.

Mr. MOYNIHAN. Yes, sir, and that it becomes clear to our friends around the world, as you say, and our friends downtown—give them heart; give them something to show.

Mr. ROTH. Absolutely. I applaud and congratulate the Senator from New York for his leadership, not only during the current session but down through the years in this most important trade policy. We look forward to bringing home the bacon in the next 30 hours on this important piece of legislation.

Mr. MOYNIHAN. I thank the chairman.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from South Carolina.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the distinguished managers of the bill offered the $8 billion figure in sales and some 121,000 jobs. The truth is, we know from the Labor Department statistics that we have lost 420,000 textile jobs nationwide and some 31,200 textile jobs in South Carolina alone. They said NAFTA was going to create 200,000 jobs. They claim today it is 121,000. In Mexico itself, it was going to create 200,000 jobs. We know textiles alone lost 420,000, and it is undisputed that 31,200 jobs were lost in the State of South Carolina.

I ask unanimous consent to print two articles with respect to the economy and how it has worked in Mexico, one from the Wall Street Journal and the other from the American Chamber of Commerce in Mexico.

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

[From the Wall Street Journal, Sept. 27, 1999]

A DECADE OF CHANGE

(By Jonathan Friedland)

THE HAVE-NOTS: THE FREE-MARKET REVOLUTION PROMISED SO MUCH; TO MANY IN LATIN AMERICA, IT HAS DELIVERED SO LITTLE

Texcalitla, Mexico.—Liberalization, privatization, globalization. Mary Garcia may not be aware of them in so many words, but she has felt their impact from behind the two-frame stove of her cinder-block cafe, the Avenida Nacional.

Perched alongside the highway that was once the main road between Mexico City and the resort city of Acapulco, Mrs. Garcia's restaurant used to serve dozens of plates of rabbit stew to travelers daily. But early this decade, amid a severe downsizing of the Mexican state, the government let private contractors build a swift toll road between the two cities that bypassed the Avenida Nacional.

Mrs. Garcia has far fewer clients nowadays. Not only that, but the taxes she pays have gone up, in part because of the new road. The Highway of the Sun, as it's called, has been such a financial disaster that the government bought it back two years ago from the companies that built it. The same thing happened with a dozen banks, a pair of airlines and 25 other highway projects. After botched privatizations, they are back in the hands of the government, and taxpayers are facing a bill that may total as much as $90 billion.

''I am all for progress,'' Mrs. Garcia says wistfully, straightening up the place settings in her empty restaurant. ''But this kind of progress is killing us.''

From Texcalitla, here in Mexico's rural Guerrero state, to Tierra del Fuego at the southern tip of South America, there are a lot of people who feel the same way. For many Latin Americans, the free-market revolution that has swept the region in the past decade hasn't delivered the kind of progress they were told it would—easier lives, better incomes and a more secure future. Instead, it has confirmed many of their worst fears about capitalism.

Since Chile embarked on its free-market experiment in the late 1970s, widespread domestic market liberalization, privatization of once-unwieldy state asset holdings and a removal of barriers to foreign competition have made Latin America a much healthier place in purely macroeconomic terms. Government finances are in better shape than ever. Foreign direct investment is up, and inflation rates have fallen. And Latin Americans have access to a wider variety of goods and services than ever before.

But there has also been a big downside to the move from closed to open economies. Buffeted by forces beyond their control—such as the woes of other emerging markets as far afield as Russia and Indonesia—Latin American economies have posted frustratingly inconsistent growth rates in recent years. Job creation has actually slowed while overall unemployment in the region has remained stable, according to Inter-American Development Bank statistics. That means that more Latin Americans work in the informal economy than a decade ago, and that income distribution, uneven to begin with, has generally grown more so.

In fact, from 1980 to 1996, the latest year for which hard data are available, the trend has been for an ever greater percentage of national income to end up in ever fewer hands in all Latin American countries except Costa Rica and Uruguay, says Elena Martinez, regional director of the United Nations Development Program. Unlike their bigger neighbors, Costa Rica and Uruguay have kept a lid on competition and have struggled to maintain their state-run social-welfare systems.

Elsewhere, in Argentina, Brazil, Mexico and other countries, the pattern has been this: A handful of entrepreneurs, often with close ties to their country's political elite, have gotten richer. The middle class, never large to begin with and traditionally propped up by plentiful government jobs, urban food subsidies and trade barriers that kept inefficient companies alive, has shrunk. And the poor, whose safety net, never strong, has been strained by demands for fiscal austerity from the international financiers these countries depend on, keep getting poorer.

''In the 1990s, Latin American policy makers have put their emphasis on overall performance, on making sure the macroeconomic indicators were lining up,'' says Gert Rosenthal, a Guatemalan economist. ''But there is a growing consensus that something is terribly wrong when you have this and 40% of your population is in worse shape than before.''

The negative balance of the free-market experiment for many Latin Americans has tipped the scales away from support for further reform. Leading presidential candidates in Argentina, Chile and Mexico—three countries with elections over the next year—are all emphasizing the need to put people before markets. ''There is a search for a kinder, gentler form of capitalism,'' says Lacey Gallagher, head of Latin American sovereign ratings at Standard & Poor's Co. in New York. ''It is sad, but the reform process in a lot of countries is getting stuck because political support for reforms has dwindled so much.''

No one thinks Latin America will return to the days of import substitution and uncontrollable deficit spending, or that social revolution is on the horizon. But observers like Ms. Gallagher worry that although they have embarked on the free-market path, many Latin American economies aren't yet flexible enough to adapt to change in the global economy. Nor can they deliver an improved standard of living to the majority of their citizens. ''The first-stage reforms, which most Latin American countries have already been through, worsen income distribution, make economic cycles more profound and raise unemployment,'' she says. ''The payoff comes with the second-stage reforms.''

But those reforms, which include strengthening tax collections, making taxation fairer and labor laws more flexible, and streamlining institutions like courts and schools, have run into public opposition mainly because of the financial and social costs associated with the first round of reforms. Politicians generally realize these are the steps they have to take, but in the fledgling democratic environment in which they operate, consensus building is a painfully slow process.

In Argentina, for instance, President Carlos Menem has tried for several years to scrap the country's antiquated labor laws, but he can't because still-powerful unions believe the old rules are the only remaining safeguard for their workers. Lately, Mr. Menem hasn't pushed the point because his Peronist party, built originally upon a base of fervent worker support, needs union backing to prevail in presidential elections scheduled for October.

Economists say the cost of the delay has been high. Argentina, which pegged its currency to the dollar earlier in the decade to quash triple-digit inflation, has entered a nasty recession because of a big currency devaluation by Brazil, its No. 1 trading partner. With its inflexible labor laws, Argentina can't reduce wages to remain competitive. The result: Output has fallen and unemployment has soared.

A similar though less pressing dilemma faces Mexican President Ernesto Zedillo. In March, he floated a plan to gradually privatize the country's electrical sector, arguing that the government doesn't have the resources to invest the $25 billion needed over the next few years to increase the power supply. While many Mexicans agree with the president's basic point—that state funds ought to be spent on things like health and education rather than power plants—few trust the private sector to do the job properly.

It isn't hard to see why. Mexico's privatization binge has been plagued by costly blunders that have many wondering whether state finances are truly better off now, and whether the Mexican economy is truly more competitive than before, as the government contends. ''It isn't obvious to most Mexicans that their lives have improved as a result of these programs,'' says Luis Rubio, a Mexico City development expert.

The toll roads provide a case in point. With the passage of the North American Free Trade Agreement on the horizon and an urgent need to upgrade Mexico's crumbling road infrastructure to handle a surge in trade, former President Carlos Salinas de Gortari embarked on a crash public-works program in which private construction companies built a network of pay-as-you-go highways. But in the government's rush to get the job done, unrealistic traffic and income projection's were made, local banks were muscled into coming up with the financing, and companies without the necessary management skills were signed up to do the work.

''Although it had a private-sector complexion, it was really an old-fashioned public-works program,'' says William F. Foote, a former banker who has studied Mexico's toll-road blitz. ''It was done without reference to the realities of the market.''

That quickly became clear. Projects were plagued by cost overruns, and once the roads opened for business, neither truckers nor travelers could afford the high tolls demanded.

Within a few years, the government stepped in to take over many of the roads, leaving the companies that built them to accept a more gradual return on their investment. Those companies are, in several cases, still waiting to be fully reimbursed and claim that their weak financial condition is mainly due to their toll-road commitments. Meanwhile, roads such as the Highway of the Sun remain glittering and desperately short on traffic.

The fact that the road hasn't delivered on its promise isn't lost on Graciela Martinez, an elderly woman sitting under a tree near one of its toll plazas. Mrs. Martinez, who sells iguanas for a living, stands up to show off her product each time a vehicle slows to pay the toll. There haven't been any sales today, she says solemnly, because city people don't appreciate a good lizard.

But, she jokes, the dearth of traffic does have an upside. While it isn't great for here pocketbook, she says,'' at least it's easy on my feet.''

[From the American Chamber of Commerce of Mexico—Business Mexico, April 1997]

WHAT'S WRONG WITH THIS PICTURE?: OPTIMISTIC INVESTORS OVERLOOK MEXICO'S CONSUMER SPENDING GAP

BY NICHOLAS WILSON

At first sight Mexico seems like an investor's dream: a country of 93 million people, number 13 on the world list of natural wealth per capita, recently opened virgin markets,

and a government that is rapidly forging trade agreements in the Americas and aboard. Mexico, however, is also home to grinding poverty, so just how big is its market? The reality, according to economists, is that only between 10 percent and 20 percent of the population are really considered consumers. The extreme unequal distribution of wealth has created a distorted market, the economy is hamstrung by a work force with a poor level of education, and a sizable chunk of the gross domestic product is devoted to exports rather than production for domestic consumption. Furthermore, worker's purchasing power, already low, was devastated by the December 1994 peso crash and the severe recession that followed. Even optimists do not expect wages in real terms to recover until the next century. 'They say there are more than 90 million consumers in Mexico, but less than 20 percent earn more than 5,000 pesos (US$625) per month. The rest of the population lives just above subsistence level,'' says Pedro Javier Gonzalez, economist at the Mexican Institute of Political Studies. the figures make grim reading: the National Statistics Institute (Instituto Nacional de Estadisticas, Geografia e Informatica, INEGI) and the Banco de Mexico estimate that nearly 68 million Mexicans live in poverty. About a million homes do not have electricity and potable water, and adult illiteracy is 13 percent. According to UNICEF's most recent report there are 9 million Mexican children living in extreme poverty (one third of Mexico's population is under 15 years old); 800,000 between the ages of 6 and 14 years working in various productive sectors; and 60,000 ''street kids,'' a number that is increasing by 7 percent annually. The United Nations says poverty is most extreme in the informal sectors of the world's economies. The World Bank estimates 42 percent of Mexico's economic population is employed in the informal sector; the Finance Secretariat put the figure at 50 percent during its recent clampdown on tax evaders. The informal economy includes street vendors as well as largely self-sufficient campesinos who ''effectively neither buy from nor sell to the rest of the economy,'' says Gonzalez. The formal sector, however, is not exactly made up of affluent consumers either. Sixty percent of the registered work force earns between one and two minimum salaries per day, according to a recent study by the Worker's University of Mexico (Universidad Obrera de Mexico). The minimum wage is currently worth about US$3.00 per day. ''Minimum wage guys don't buy imports,'' says one analyst who preferred to remain anonymous.

OVERLY OPTIMISTIC

Despite the poverty indicators, foreign investors often sound cheerful to the point of being almost blase about the economic and social statistics. ''NAFTA will connect the world's largest market (the U.S.) to the world's largest city (Mexico City) says David Dean, promoter of a superhighway to facilitate transport between the free trade agreement's member nations. Yet many of Mexico City's inhabitants don't even have access to drainage, electricity or basic education.

''Mexico has a teledensity of 6–8 telephone lines per one hundred people, compared to 60 per hundred in the U.S. There's a lot of potential in Mexico,'' says recently arrived Bill Ricke, Global One international telecommunications consortium president.

The potential is here, economists agree, but it is unlikely to be developed in the near future with most of the population living in abject poverty. Telefonos de Mexico (Telmex) last year disconnected more customers for not paying their bills than it connected. ''Nearly all of the (US$4 billion) long distance telecommunications market in Mexico is accounted for by businesses. Individuals only make international calls in extreme emergencies,'' says economist Patricia Nelson. In reality the market is only about the top 15 percent of earners and businesses, she says.

Export businesses account for nearly 25 percent of the gross domestic product (GDP), which in 1996 totaled US$326 billion. In 1980 export businesses only accounted for 10 percent of the GDP, says Gonzalez. At the same time, the domestic demand per capita has actually shrunk in the last 20 years, he says. Given the population's low purchasing power, production for the domestic market is minimal. Therefore, the proportion of GDP represented by the export sector is distorted, and is higher than in many developed countries, says ING Barings economist Sergio Martin.

The average salary in Mexico is only US$3,720 a year.

It now takes a worker 23 hours to earn enough to purchase the goods included in the ''basic basket,'' the price of which has shot up 913 percent since 1987, compared to 8.3 hours 10 years ago, according to a report from the National Autonomous University of Mexico (Universidad Nacional Autonoma de Mexico, UNAM).

SELECT FEW

Another distortion in Mexico's market is the eye-opening difference between the rich and poor. Writer Carlos Fuentes describes Mexico as a country where 25 Mexicans earn the same as 25 million Mexicans. In the last two years, the 15 wealthiest families' fortunes leapt from the US$16.4 billion to US$25.6 billion, which is equivalent to 9 percent of the GDP or 23.9 million annual minimum wages.

The result in economic terms is that ''there is a market for luxury Mercedes cars, yet little demand for reasonably priced shoes (relative to a country with Mexico's population),'' says Gonzalez. There are nearly 100 million Mexicans yet there are only 2 million credit cards, adds Martin. ''As some people have more than one it means that less than 2 percent of Mexicans have credit cards and some of them have limits of 1,000 or 2,000 pesos (US$125 or 250).''

Education, or the lack of it, has also played a role in the steady widening of the gap between rich and poor since Carlos Salinas took office in 1988. Between 1987 and 1993, urban workers with higher education saw their wages jump 100 percent, whereas poorly educated workers (50 percent of workers have only a primary school education) saw their wages climb only 10 percent.

The rising poverty is a continual thorn in the government's side. While its tough macroeconomic policies have drawn praises from the international financial community, the benefits have not trickled down to the poor. ''I don't see the government doing anything to address the wealth imbalance,'' Gonzalez says. Many think the government had better get started, however, if it wants to make its newly opened markets attractive to foreign investors. Moreover, there may be social and political consequences if only a handful of Mexicans continue to enjoy the fruit of the economic reforms. ''I think we're living on borrowed time,'' said U.S. Ambassador to Mexico James Jones at the end of last year. ''This generation of adults will probably survive on hope but I think over the next five to ten years if that isn't translated into benefits and real opportunities, you're going to have demagogues rise up who want to turn the clock back.''

Mr. HOLLINGS. Mr. President, the reason I included these articles is because my distinguished mentor, the senior Senator from New York, voted with me on NAFTA and that is against NAFTA. We had misgivings. Of course, the proof is in the Wall Street Journal and the American Chamber of Commerce articles about how they are making less down there 4 to 5 years since the enactment of NAFTA. We were told it was going to create a positive balance of trade. We had a $5 billion-plus balance of trade at the time of enactment. Now we have a $17 billion deficit in the balance of trade with Mexico since NAFTA.

We were told it was going to solve the immigration problem. It has worsened. We were told it was going to solve the drug problem. It has worsened. As I said before, there is no education in the second kick of a mule. We have been through this exercise about how we are all going to put our arms together and hug and love and help our neighbors. Fine with me if it really would work that way. It has not worked that way and is not about to work that way in sub-Sahara and the Caribbean. I will get into those items in just a few minutes.

With respect to the morning article—I try to get into the Wall Street Journal because a lot of my crowd in South Carolina reads it. They have me as the old isolationist: Hollings: ''Info revolution escapes him.''

Really? I know a good bit more about the information revolution than the Wall Street Journal does. I helped bring a good bit of it to South Carolina, in fact, with my technical training for skills. I was in Dublin, Ireland, and walked into the most modern microprocessing plants of Intel outside of Dublin. My friend, Frank McKay, was there. He said: Governor, I want to show you your technical training program. We sent two teams to Midlands Tech in Columbia, SC, and we reproduced what was there, and that is how I got it up and going and operating and in the black.

I told this to Andy Grove when he came by, and he thanked me again. I know a little bit about the information revolution. I am all for it. My problem is, on the one hand, it does not create the jobs they all advertise.

The Wall Street Journal ran an article about Wal-Mart and General Motors. Wal-Mart exceeded the number of employees of General Motors for the first time.

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

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

[From the Wall Street Journal, Aug. 28, 1997]

LABOR: THE CHANGING LOT OF THE HOURLY WORKER

For decades, the U.S. has been evolving from a manufacturing economy to a service economy. But Labor Day 1997 marks a milestone: Earlier this year. Wal-Mart Stores Inc., the discount retailer, passed General Motors Corp. as the nation's largest private employer.

The shift is more than symbolic. Union jobs with lush pay and benefits, like those

held by GM assembly-line worker Tim Philbriek, are disappearing. In their place are nonunion jobs like that of Nancy Handley, who works in the men's department at a Missouri Wal-Mart.

Both punch a time clock, and share a stake in their employers' success. The Wal-Mart workday is less physically taxing than GM's, but the hours are longer and the pay barely supports even a thrifty family. Still, Wal-Mart offers a measure of responsibility and path of advancement to hourly workers, thousands of whom are promoted to management each year.

Mr. HOLLINGS. Mr. President, I want the Wall Street Journal to read its own articles.

The leading line:

For decades, the U.S. has been evolving from a manufacturing economy to a service economy. But Labor Day 1997 marks a milestone: Earlier this year, Wal-Mart Stores, Inc., the discount retailer, passed General Motors Corporation as the nation's largest private employer.

General Motors' average hourly wage is about $19 an hour; including benefits, it is $44 an hour. Whereas at Wal-Mart stores, the average hourly wage is $7.50; including benefits, $10. In manufacturing, the salary is four times that in the service economy. That is why they are all talking about this wonderful economic boom that has to do with the service economy, so much so that the labor unions I see have buddied up with the American Chamber of Commerce. The American Chamber of Commerce has gone international. They are not representing Main Street America.

On yesterday, Monday, November 1, ''Corporate, Labor Leaders Both Trumpet Backing for Clinton's Trade-Talk Plan.'' I ask unanimous consent this article be printed in the RECORD.

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

[From the Wall Street Journal, Nov. 1, 1999]

CORPORATE, LABOR LEADERS BOTH TRUMPET BACKING FOR CLINTON'S TRADE-TALK PLAN

(By Helene Cooper)

WASHINGTON.—Depending on how you look at it, the joint letter from corporate and union leaders supporting the Clinton administration's agenda for global trade talks, was either a huge win for big business or for labor unions.

The way corporate America tells it, the letter was a victory for pro-trade American companies because John Sweeney, head of the AFL–CIO, signed it. ''How are the labor unions going to protest in Seattle [at the upcoming World Trade Organization's big powwow] if Mr. Sweeney is saying labor supports the trade agenda?'' asked Frank Coleman, spokesman for the U.S. Chambers of Commerce.

Indeed, Mr. Sweeney's decision to back the Clinton trade agenda rankled the more militant unions, such as the Teamsters and the United Steelworkers of America.

But AFL–CIO leaders said the letter shows Mr. Sweeney at his savviest. For one thing, the AFL–CIO is backing Vice-President Al Gore's presidential campaign and wants to minimize political damage to his election chances by hammering him on trade.

More significantly, several big company chieftains, including John E. Pepper, chairman of Procter & Gamble Co., Maurice ''Hank'' Greenberg, head of American International Group Inc., and Robert Shapiro, head of Monsanto Co., also signed the letter.

The letter calls for a working group to be established within the WTO to study core labor standards and trade, and marks the first time many of America's biggest companies have agreed to support U.S. moves linking trade liberalization with labor standards.

''The U.S. government must further ensure that any agreements enable the United States to maintain its own high standards for the environment, labor, health and safety,'' the Oct. 25 letter said.

For years, Republican lawmakers, backed by big business, have resisted linking trade expansion with labor and environmental issues. While last week's letter makes no mention of using trade sanctions against countries with poor labor standards, Thea Lee, the AFL–CIO's trade policy director, said that is labor's ultimate goal. ''What we want is the ability to use trade rules to protect worker rights,'' Ms. Lee said.

While AFL–CIO leaders still plan to show up in force in Seattle this month to protest WTO policies they see as antilabor, they also said it's important to get a seat at the table so that union views can be represented.

Whether the Clinton administration will get the rest of the WTO to sign on to its labor agenda for the Seattle meeting remains to be seen. Developing countries, in particular, have fought linking trade and labor, and many of these countries see the establishment of a working group as the beginning of a move to do just that. These countries are bound to fight the issue in Seattle.

America's labor unions are hardly united on the matter. Teamsters spokesman Bret Caldwell said he was ''shocked'' and ''disappointed'' in Mr. Sweeney. ''We in no way agree that the administration's trade policies are good for working men and women,'' he said. ''The Teamsters will play a very active role in demonstrations in Seattle.''

Mr. HOLLINGS. Mr. President, ''Mr. Sweeney's decision to back the Clinton trade agenda rankled the more militant unions, such as the Teamsters, and the United Steelworkers of America.'' Those are the manufacturing jobs. Just as the fabric boys divorced themselves from apparel and now can toot for this kind of legislation, the head of the service economy, John Sweeney, has forgotten about manufacturing jobs, and he is going along. That is why we got this overwhelmingly bipartisan majority.

But back to the point, this is what disturbs this particular Senator, that we are hollowing out the manufacturing strength, the industrial backbone of the United States of America.

The so-called service economy or information technology, or information society, strikingly—why don't they read the November 5, 1999, edition of the London Economist that has just come out? On page 87, there is an article entitled ''The New Economy, E-Exaggeration: The Digital Economy is Much Smaller Than You Think.'' I ask unanimous consent to have that article printed in the RECORD.

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

[From the London Economist, Nov. 5, 1999]

The New Economy E-xaggeration: The Digital Economy is Much Smaller Than You Think

Newspapers and magazines are packed with stories about the digital economy, the information-technology (IT) revolution and the Internet age. That their pages are filled with advertising from IT firms presumably has nothing to do with it. Such firms account for a quarter of the total value of the S&P 500, and this week Dow Jones announced that Microsoft, Intel and SBC Communications will be included in its industrial average from November 1st. Not before time, many say, for high-technology businesses now account for a huge chunk of the economy. Actually, they don't.

New figures published on October 28th by America's Department of Commerce appear to support the view that IT is very important to the American economy. The department now counts all business spending on software as investment (previously, it was a cost). This has both increased the apparent size of IT investment and boosted America's rate of growth in recent years.

But measuring the size of the ''new'' economy is a statistical minefield. The most generous estimate comes from the OECD, which tracks the ''knowledge-based economy''. It estimates that this accounts for 51% of total business output in the developed economies—up from 45% in 1985. But this definition, which tries to capture all industries that are relatively intensive in their inputs of technology and human capital, is implausibly wide. As well as computers and telecoms, it also includes cars, chemicals, health, education, and so forth. It would be a stretch to call many of these businesses ''new''.

A study published in June by the Department of Commerce estimates that the digital economy—the hardware and software of the computer and telecoms industries—amounts to 8% of America's GDP this year. If that sounds rather disappointing, then a second finding—that IT has accounted for 35% of total real GDP growth since 1994—should keep e-fanatics happy.

Perhaps unwisely. A new analysis by Richard Sherlund and Ed McKelvey of Goldman Sachs argues that even this definition of ''technology'' is too wide. They argue that since such things as basic telecoms services, television, radio and consumer electronics have been around for ages, they should be excluded. As a result, they estimate the computing and communications-technology sector at a more modest 5% of GDP—up from 2.8% in 1990. This would make it bigger than the car industry, but smaller than health care or finance. In most other economies, the share is lower; for the world as a whole, therefore, the technology sector might be only 3–4% of GDP.

But what, you might ask, about the Internet? Goldman Sachs's estimate includes Internet service providers, such as America Online, and the technology and software used by online retailers, such as Amazon.com. It does not, however, include transactions over the Internet. Should it? E-business is tiny at present, but Forrester Research, an Internet consultancy estimates that this will increase to more than $1.5 trillion in America by 2003. Internet bulls calculate that this would be equivalent to about 13% of GDP. Yet it is misleading to take the total value of such goods and services, whose production owes nothing to the Internet. The value added of Internet sales—i.e., its contribution to GDP—would be much less, probably little more than 1% of GDP.

This is not to deny that the Internet is changing the way that many firms do business—by, for example, enabling them to slim inventories—but, in the near future, as a proportion of GDP, it is likely to remain small.

A LUDDITE'S LAMENT

If measuring the size of the technology sector is hard, calculating its contribution to

real economic growth is trickier still, because the prices of IT goods and services (adjusted for quality) have fallen sharply relative to the prices of other goods and services. For example, official figures show that America's spending on IT has risen by 14% a year in nominal terms since 1992, but by more than 40% a year in real terms. This figure is so high partly because it is extremely sensitive to assumptions about the rate at which the price and quality of IT is changing.

The Commerce Department calculates that the technology sector has contributed 35% to overall economic growth over the past four years. But because such figures are based on spending in real terms, the Goldman Sachs study reckons they are misleading. In nominal terms, IT has accounted for a more modest 10% of GDP growth in the past four years.

Another popularly quoted figure is that business spending on IT has risen from 10% of firms' total capital-equipment investment in 1980 to 60% today. But again, this is based on constant-dollar figures, and so it hugely exaggerates the true increase. In terms of current dollars (and before the latest revisions), Goldman Sachs calcuate that business investment in computers accounts for 35% of total capital spending, not 60%. And even this exaggerates the importance of IT, because much of the money goes to replace equipment which becomes obsolete ever more quickly. The share of IT in additional ''net'' investment is much smaller. Computers still account for only 2% of America's total net capital stock.

For years economists have been seeking in vain for evidence that computers have dramatically raised productivity. One explanation for the failure of productivity to surge may be that official statistics are understating its growth. Another is that much investment in IT has been wasted: hours spent checking e-mail, surfing the Net or playing games reduce, not increase, productivity. A third may simply be that IT is still too small to make a difference: for the moment, appropriately enough, you can count the digital economy on the fingers of one hand.

That is changing, and firms are learning. And note this: if you add in all computer software and telecoms (on the widest definition), the share of IT in the capital stock rises to 10–12%. As it happens, this is almost the same as railways at the peak of America's railway age in the late 19th century. Railways boosted productivity and changed the face of Victorian commerce. Hype is hype—but the new economy may yet happen anyway.

Mr. HOLLINGS. I quote from the article:

. . . they estimate the computing and communications-technology sector at a more modest 5% of the GDP —up from 2.8% in 1990. . . .

The value added of Internet sales—i.e., its contribution to the gross domestic product—would be much less, probably little more than 1% of the gross domestic product.

Mr. President, another popularly quoted figure is that business spending on information technology has risen from 10 percent of a firm's total capital, equipment and investment in 1980 to 60 percent today. Again, this is based on constant dollar figures. And it hugely exaggerates the true increase.

In terms of current dollars . . . Goldman Sachs calculate that business investments in computers accounts for 35% of total capital spending, not 60%. And even this exaggerates the importance of [information technology] because much of the money goes to replace equipment which becomes obsolete ever more quickly. The share of [information technology] in additional ''net'' investment is much smaller. Computers still account for only 2% of America's total net capital stock.

I want to dwell on this for a moment, for the main and simple reason that this really is what is at issue and why the Senator from South Carolina takes the floor. It is just not textiles. Textiles is on its way out.

And by another headline I saw in the New York Times, on the right-hand upper column of the front page this morning, President Clinton is getting together with the People's Republic of China to admit them to the World Trade Organization. You can pass the CBI, the sub-Sahara, the NAFTA there, there, and there yonder, and pull it all around, but once that is done, once China gets into the World Trade Organization and starts with its transshipments and its appeals, it controls the general assembly.

We had a resolution about 4 years ago to have hearings on human rights within the People's Republic of China. That crowd went back down into Africa and Australia and around and changed the vote, and they never had the hearing.

So I am telling you, we really are going to be a minority in the World Trade Organization. They can change around your environmental protections, your labor protections, your high standard of living, and everything else. And the CBI and sub-Sahara, and everything else that we think we are doing something to help, we are going to China, I can tell you that right now with the front page article about President Clinton. So we know where we are headed with respect to that.

But my friend, Eamonn Fingleton, has written a book, ''In Praise of Hard Industries.'' Obviously, I can't include the book in the RECORD at this particular time. But I refer to its comparisons where the Wall Street Journal time and time again has come out again and again with certain misstatements.

In 1996, when everyone from the Wall Street Journal to the Christian Science Monitor was dismissing the Japanese economy as sluggish or stagnant or even mired in a deep slump, in fact Japan's growth rate that year of 3.9 percent was the best of any major economy and was significantly superior to the rate of 2.8 percent recorded in the booming United States. . . .

Although experts like the Economist's editor in chief . . . predicted a decade ago that Japan's savings rate would plunge in the 1990s, the truth is that at last count Japan was producing $708 billion of new savings a year—or nearly 60 percent more than America's total of $443 billion . . . Japan has now decisively surpassed the United States as the world's main source of capital . . . Japan's net external assets jumped from $294 billion to $891 billion in the first seven years of the 1990s. By contrast, America's net external liabilities ballooned from $71 billion to $831 billion.

With these things going on, you begin to worry where you are headed with the particular trade bill.

Again, instead of doubling the volume of steel imports since 1983, the United States remains by far the largest importer.

So we are importing the steel. We are not having a savings rate. According to the Financial Times article that was printed in the RECORD the other day:

Fears of a slide in the U.S. dollar has haunted global currency markets for several months now. The dollar was granted a reprieve last week following better than expected August trade figures. But many observers believe it is only a matter of time before the dollar succumbs to mounting trade imbalances.

Quoting from the book I previously mentioned:

In the 1960s——

Since the distinguished Senator from New York went back 65 years—

In the 1960s President John F. Kennedy felt so strongly about this that he ranked dollar devaluation alongside a nuclear war as the two things he feared most.

There you go. Here we have it. We have a whole book written on it. Why, yes, it provides jobs. The information technology society or globalization, as they want to call it, the engine of our great economic recovery in the United States, our wonderful world leadership, it provides jobs for the best, the top 5 percent of the population. You have to be highly intelligent and everything else; like I have mentioned the 22,000 employees at Microsoft. All 22,000 are millionaires. More power to them. But that does not give you any exports, that does not give you any growth. That does not give you any strength of manufacturing in the industrial economy.

That is where we are hollowing it out. That is why we cannot afford it. I would love to help the Caribbean Basin. I would love to help the sub-Sahara. But time and again, we have given over and over and over again with respect to—I remember back in the Philippines we had given there. We had other particular initiatives whereby we always sacrificed at the textile desk.

I do not have it with me right now, but I have it down where we have given to Turkey. We gave to Egypt in Desert Storm. We have just eliminated, in the Multifiber Arrangement, over a 10-year period—now we are in the 5th year—all textile tariffs and everything else of that kind. So we do not have any protectionism about which to really talk.

We have important jobs. The textile jobs, compared to those retail jobs—the average textile wage is $11 an hour. With benefits, it increases that. Those are good jobs that we are trying to hold onto—the jobs of middle America, which is the strength of the democratic society.

Let me go right back to the particular editorial. This is how silly they can get. I will quote from the editorial. This editorial is from the Wall Street Journal. So I ask unanimous consent to have printed in the RECORD the editorial of this morning from the Wall Street Journal. The title of the editorial is ''The Old Isolationists.''

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

THE OLD ISOLATIONISTS

We've got the ideal subject for President Clinton's next speech on the ''new isolationism'' in Congress: Senate Democrats. They've been abetting a filibuster that may kill the Africa and Caribbean free-trade bill that Mr. Clinton at least claims he still wants.

No doubt they think they can get away with this because the media have barely noticed. Jesse Helms gives affluent, powerful Carol Moseley-Braun a hard time for an ambassadorship, and it becomes page one race-baiting mews. But the President's own party stonewalls a trade bill that would help millions of Africans escape their desperate poverty, and the story lands back among the real estate ads.

The bill has everything Dan Rather and other good media liberals claim to love. It's bipartisan, with support ranging from New York liberal Charlie Rangel to Texas conservative Phil Gramm. It'd help Africa not with handouts, but by reducing U.S. tariffs and quotas so these countries can share in the wealth of the global economy. And it repudiates Pat Buchanan-style trade protectionism.

It's also a helluva good political story. Fronting for the textile lobby, Ol' Fritz Hollings of South Carolina has been leading a filibuster like he just walked out of the 19th century. His hilarious rants cite as protectionist authorities both Pat Buchanan and left-wing economist Paul Krugman.

''And so Buchanan comes out, and was the best voice we had in a national sense. I have been talking trade while that boy was in GoZANga. Is that the name of tat high school around her, GoZANga?'' Ol' Fritz was yelling on the Senate floor last week, referring to Gonzaga High School.

''We are in trouble,'' the Senator from Milliken & Co. said later. ''This boom they are talking about in the stock market is the information society; it doesn't create the jobs.''

Self-parody aside, his strategy is obvious: run out the Senate clock. That's why, after more than a week of debate, GOP leader Trent Lott wants to get on with the vote and other Senate business. Enter Senate Democratic leader Tom Daschle, who says he's for the bill, but spent last week aiding Mr. Hollings by rallying fellow Democrats to support Fritz's filibuster.

Mr. Daschle's gripe was that Mr. Lott hadn't allowed a wish-list of protectionist amendments: Pennsylvania's steel front-man Rick Santorum on ''anti-dumping negotiations,'' Iowa protectionist Tom Harkin on child labor, Michigan's Carl Levin (a wholly owned subsidiary of the United Auto Workers) on ''worker rights,'' among others. None of this has anything to do with Africa trade.

The Senate is supposed to be full of statesmen. But on this subject the House has been more worldly. When protectionists tried a procedural ruse to kill Africa trade in the House, Mr. Rangel gathered the names of 79 Democrats who would vote for a GOP rule to limit debate. Mr. Lott has 48 or so Republicans in favor of the bill in the Senate, but the White House hasn't yet been able to get even a dozen Democrats for the 60 votes necessary to shut off debate. Democratic Party to Africa: Get lost.

These columns have often saluted Mr. Clinton's achievements on trade policy, notably Nafta and Gatt. But it's been downhill since then. The President hasn't pushed a trade bill through Congress in five years, mainly because of Democratic opposition. He's also taken to soft-selling fast-track negotiating power lest it hurt Vice President Gore with Big Labor. Rest assured this flagging enthusiasm for free trade has been noted in Democratic circles.

Later this month Mr. Clinton traveles to an international trade meeting in Seattle, supposedly to rally the world back to the free-trade flag. But if he can't deliver through Congress something as small as lower tariffs for Africa, Mr. Clinton might as well stay home.

New York Democrat Pat Moynihan made the point with his usual delicate bluntless on the Senate floor last week. ''The chairman (Republican Bill Roth) and I were planning to spend a few days in Seattle just meeting with people. We were not going to speak. Dare we go? I suppose Ambassador Barshefsky, is required to go,'' he said of the predicament the U.S. trade rep would be in if the Africa bill failed. ''I don't want to show my face.''

Late yesterday Mr. Daschle finally agreed to oppose Mr. Hollings, but only after he got Mr. Lott to guarantee him votes later on such domestic political and non-trade matters as the minimum wage. This shows where his priorities lie. When the final Africa trade bill votes are toted up, we'll also see who the real isolationists are.

Mr. HOLLINGS. Mr. DASCHLE is right. Mr. LOTT had not allowed a wish list of protectionist amendments. You see, Mr. LOTT had given fast track to this particular bill, until this morning, he said yesterday afternoon, but that was without notice. I went back to get some amendments. When I was getting those amendments at 5:30, they closed this Senate Chamber down. They didn't want amendments. Now he says you can get amendments. Here is what the Wall Street Journal thinks:

> Pennsylvania's steel front-man Rick Santorum on ''antidumping negotiations,'' Iowa protectionist Tom Harkin on child labor, Michigan's Carl Levin (a wholly owned subsidiary of the United Auto Workers) on ''worker rights,'' among others. None of this has anything to do with Africa trade.

It doesn't? Child labor doesn't have anything to do with Africa trade, with Caribbean Basin Initiative trade? It doesn't? Wait until the Senator from Iowa comes out here and presents his amendment. That is how arrogant they have gotten. They splash a bunch of things people would not understand. It has everything to do with it. In fact, those are the principal amendments the Senator from South Carolina has. If the Senator from Delaware would agree to them, we could move on with this bill.

Specifically, in NAFTA we had the labor side agreements. They are not included in the CBI/sub-Sahara. In NAFTA, we had the environmental side agreements. Not in CBI/sub-Sahara. In the Mexican NAFTA, we had reciprocity. Not in CBI, not in sub-Sahara. In fact, when the Senator from New York jumped back 65 years, to 1934, I didn't hear him enunciate clearly reciprocal trade agreements of Cordell Hull, reciprocity. They had hard, good businessmen. Trade was trade, not a moral thing of foreign aid. That is our problem today. Too many in the political world think about trade as aid, another Marshall Plan. And the Marshall Plan has worked. But there is a limit to what you can give away.

I have time and again said that two-thirds of the clothing I am looking at is imported. One-third of all consumption in the United States is imported right now. If this train continues, it will be over half within the next 5 years. That is the hollowing out. If we are going to follow the London economists and the Brits who went from the production of goods to the providing of services—a service economy—we are going to have minimal growth. They got a British Army, but it is not as big as our Marine Corps. But we are going to lose influence in the World Trade Organization, in GATT, treaties in the Mideast and everywhere else, because money talks. We don't have those things going.

Now, Mr. President, reciprocal trade. I have an amendment on reciprocity, one on labor rights, and I have one with respect to the matter of the environment. It was all included. Let me just note, this is with tremendous interest to this particular Senator because I have just picked up this week's Time magazine. What we really have, in essence, is the campaign finance bill of 1999. They say they are not going to pass it, but this is the campaign finance bill of 1999.

In the middle, on pages 38 and 39, is an open-page Buyers Guide To Congress. Down here listed is the Caribbean tariff relief, a bill to let the Caribbean and Central American countries export apparel to the United States duty and quota free. Then you can go down to the contributions. The clothing firms want access to cheap-tax-advantage offshore production both Clinton and Republicans favor as a free trade measure.

They have in here—yes, the manufacturing and retail side is Sara Lee Corporation, Gap, the ATMI, and everything on the one side, and the AFL–CIO anti-sweat-shop groups. We have seen where that sort of split is. They are going along now with service labor leader John Sweeney and not with the manufacturing jobs in America.

Then we go to last week's edition, and we have the fruit of its labor. We see that, in addition to Sara Lee, we have Bill Farley and the Fruit of the Loom group. It is just embarrassing to me when you take Farley, who already moves 17,000 jobs out of Kentucky and some 7,000 from Louisiana, and then he gets a $50 million bonus when this bill passes. They are talking about how we are going to help working Americans. Then, all we have to do is go back to this week's London Economist again, in the very first part of the magazine section. We can put that in the RECORD.

I ask unanimous consent that the article entitled ''Politics and Silicon Valley'' be printed in the RECORD.

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

[From the Economist, Oct. 30, 1999]

POLITICS AND SILICON VALLEY

The rise of America's high-tech industry is not just a windfall for presidential hopefuls. It could also be a godsend for the liberal political tradition.

Until recently, computer geeks hardly noticed politics. Washington was ''the ultimate big company''. Policy wonks and political theorists—let alone the poor saps sitting in Congress—''just didn't get it''. And the policy establishment, doers and thinkers alike, was only too happy to return the compliment. In the last presidential election campaign, references to a high-tech future were vague and perfunctory, and Silicon Valley or Seattle were not particular ports of call. Washington, DC and the geeks existed in different worlds.

How things have changed. According to the Centre for Responsive Politics, a Washington watchdog group, by the end of June this year contributions from the computer industry were already three times those given to Bill Clinton and Bob Dole combined during the 1996 campaign. Of the $843,000 in direct industry contributions, over one-third went to George W. Bush, the Republican front-runner, with the two Democrats—Vice-President Al Gore and Bill Bradley—both netting about half of the Texas governor's total. These figures tell only part of the story, however. They do not include contributions from telecommunications and biotech companies, nor the millions of dollars the candidates have received in fund-raisers organised by computer executives and venture capitalists: entrepreneurs who helped fuel the high-tech boom, and are now helping pave the way to the White House.

Mr. Bush has courted the computer chiefs of Texas since before he became governor, in 1995. Heading the committee of computer luminaries advising him is Michael Dell, the Godfather of Austin's high-tech revolution, who is actively recruiting other computer executives into the Bush camp. Among the other members of the committee are James Barksdale, founder of Netscape, and John Chambers, president and CEO of Cisco Systems. But if Mr. Bush has Texas sewn up, other candidates have been prospecting elsewhere. In Colorado, which now has the second-highest concentration of high-tech jobs in the country, the state's prosperous telecom industry has been donating generously to both Senator John McCain and Mr. Gore. Trips to the Pacific north-west have been especially lucrative for Mr. Bradley and Mr. McCain, with Microsoft giving both candidates their largest computer-industry donations to date. Nor are the contributions only for the men at the top: the computer industry gave $8m to congressional campaigns in 1998, more than twice what it gave in 1994.

This money is all the sweeter for coming with few strings attached. The computer industry has yet to develop a coherent lobbying strategy, in which campaign donations are implicitly exchanged for influence over the political process. This is partly because the ''computer industry'' is really just a collection of assorted (and often competing) interests. As one industry analyst puts it, ''Just as there is no 'Asia' to Asians, there is no 'technology community' to technology companies.'' The interest of hardware companies are not necessarily those of software or e-commerce companies, and therefore a focused, industry-wide lobbying effort has been difficult to co-ordinate.

Slowly, this is changing, as high-tech executives finally learn the rules of political gamesmanship. Eric Benhamou, boss of 3Com, dates the politicisation of Silicon Valley to 1996, when California's trial lawyers sponsored a ballot measure that would have exposed high-tech companies to a barrage of litigation. Since then the Valley has woken up to the fact that it helps to have friends in Washington. The government has the power to turn off one of the Valley's most important resources: the supply of foreign brains. The Microsoft antitrust case may even prove that it has the power to restructure the entire computer industry. In short, the two sides simple have to talk to each other.

The Technology Network (TechNet), a political action group founded two years ago in Silicon Valley, has just set up a second office in Austin, and plans to open more chapters in the future—an attempt to influence policy at both state and local level. Companies in Washington, DC—home of America Online, America's biggest Internet service provider, and a city where the computer industry has just taken over from government as the biggest local employer—have also started their own lobbying group, CapNet.

According to Steve Papermaster, an Austin entrepreneur who heads TechNet Texas, there is a greater sense of urgency within the technology industry to have more of a say in politics. Like it or not, high-tech businesses have to work in a world of taxes, regulation, lawsuits and legislation; they need politicians just as much as politicians need them. If not more: for political contributions from the high-tech hives are still well below those that come in from such old-fashioned sectors as banking or even agriculture. There is a lot of catching-up to do.

THE GEEKS AND THE PARTIES

The Republican and Democratic candidates who are now trawling the high-tech industry, hands out, hope that this new political awareness has a partisan tinge. Republicans seem to have more grounds for optimism. After years when it looked as if computers favoured big organisations over small ones, and companies such as IBM appeared to be breeding grounds for conformism, the high-tech industry is arguably putting technology back on the side of individual liberty.

The average computer geek is convinced that the rise of clever machines and interlinked networks is inexorably shifting power from organisations to individuals, decentralising authority and accelerating innovation. Not only big companies and big unions, but also big government, seem to be on the point of disappearing. The sort of world the geeks are now conjuring up is a throwback to that of the Founding Fathers, so admired by Republican revolutionaries of the Gingrich mould, where (morally upright) yeomen farmers pursued happiness quite undisturbed by government.

Yet Democrats, too, think they have natural friends in the high-tech industry. There is a growing feeling in some quarters that—as in the case against Microsoft—government is not always a force for evil. Indeed, the public sector may hold the key to solving the social problems that now plague the high-tech industry: the shortage of educated labour, the over-strained transport system and the rapidly growing gap between rich and poor.

Some computer bosses are already appealing to politicians to get their act together. Andy Grove, the head of Intel, has told congressmen that the Internet is about to wipe out entire sections of the economy—and has warned them that, unless politicians start moving at ''Internet rather than Washington speed'', America may see a repeat of the social disaster that followed the mechanisation of agriculture. The high-tech industry is beginning to realise that it is doing nothing less than ''defining the economic structure of the world,'' says Eric Schmidt, the boss of Novell. And with that realisation comes, for some at least, a heavy sense of responsibility.

So which party will gain from the computer industry's belated entry into politics? It is hard to say. Mr. Schmidt points out that most computer folk are seriously disillusioned with the established parties: with the Democrats because they are too soft on vested interests, with the Republicans because of their ''Neanderthal'' social views. They think politics is not about ideology, but about fixing things, a tidy-minded approach that comes easily to scientists and engineers—and which carries echoes of the earlier, not-so-crazy Ross Perot.

It is often claimed that ''libertarian'' and ''progressive'' groupings are emerging in the computer industry. Yet these sound not dissimilar from the sort of shifts that are occurring anyway inside the Republican and Democratic Parties. Libertarians are represented by men like T.J. Rodgers, the boss of Cypress Semiconductor, and Scott McNealy, the head of Sun Microsystems, who argue that government is being rendered largely irrelevant by the power and speed of computers, and that the best way to deal with problems such as the ''digital divide'' may well be to extend the market, not invent new government programmes. This is ''compassionate conservatism''—perhaps operating even through beneficent computer companies themselves, offering training and education—of the sort that George W. Bush might recognize.

The progressives, who originally appeared under Bill Packard at Hewlett-Packard in the 1990s, have now fanned out to a growing number of institutions, from Joint Venture-Silicon Valley, a think-tank dedicated to tackling local problems, to TechNet, which now consists of no fewer than 140 high-tech bosses. They argue that there is still an important place for the government in a computer-driven economy—albeit a much smaller and more intelligent government than the one that currently resides in Washington. They love to point out that government funded the research that gave birth to the Internet, and one of their key complaints is that the federal government's R&D spending over the past 30 years has declined dramatically. Doesn't that sound just a bit like Al Gore?

BRAVE NEW POLITICS

It is tempting to conclude that the high-tech industry, flush with its new success, is claiming an impact on politics that goes far beyond the facts. Yet politics is a theoretical discipline, as well as a practical one; and here the collusion with high-tech is leading in fascinating directions. Computer-folk are beginning to look outside cyber-land for the answers to their questions about the future of society and government. At the same time, the intellectual and policy establishments are increasingly looking to the Valley, and other high-tech corners, for clues as to the shape of things to come.

The latest think-tank in Washington, DC, the New America Foundation, is largely funded by Silicon Valley money and is devoted to exploring the sort of political topics that will be at the heart of the digital age: digital democracy, the future of privacy and the digital divide. New America is in one of the few funky bits of Washington, Dupont Circle. It has scooped up a good proportion of the brightest American thinkers under 40 in its fellowship programme, including Michael Lind, Jonathan Chait and Gregory Rodriguez, and it is making sure that these bright young things interact with the cyber-elite at regular retreats and discussions.

So far, the person who has straddled the worlds of social theory and Silicon Valley most successfully is Manual Castells, a sociologist at the University of California. Mr. Castells enjoys a growing reputation as the

first significant philosopher of cyber-space—a big thinker in the European tradition who nevertheless knows the difference between a gigabit and a gigabyte. His immense three-volume study, ''The Information Age'' (Blackwell), echoes Max Weber in its ambition and less happily in its style (the ''spirit of informationalism'', for example). He writes about the way in which global networks of computers and people are reducing the power of nation states, destabilizing elites, transforming work and leisure and changing how people identify themselves.

Mr. Castells ruminates obscurely about ''the culture of real virtuality'', ''the space of flows'' and ''timeless time''. He also castigates the cyber-elite for sealing themselves off in information cocoons and leaving the poor behind. But this former Marxist and student activist cannot restrain his enthusiasm for the way that it is diffusing 1960s libertarianism ''through the material culture of our societies''. The result is that his sprawling boo, is now an important fashion accessory in Palo Alto cafés.

Will the views it enshrines be more than a passing trend? Very probably. The last time America underwent a fundamental economic change, a fundamental political realignment rapidly followed: the transition from an agrarian to an industrial society in the mid-19th century soon gave rise to mass political parties with their city bosses and umbilical ties to labour and capital. The cyber-elite not only suspects that changes of a similar magnitude are inevitable. It hopes to be able to help shape the new politics.

Today's sharpest intellectuals are fascinated by Silicon Valley for the same reason that thinkers early in this century were intrigued by Henry Ford: the smell of huge amounts of money made in new ways. But the Valley has more interest for them than Motown ever had, because it deals in the very stuff of intellectual life, information: and because this, more than any other place, is a laboratory of the future.

Individualism has been losing out as a practical doctrine for the past century because the invention of mass production encouraged the creation of big business, big labor and, triangulated between the two, big government. this has been the age not of Jefferson's yeoman farmer, but of William Whyte's Organisation Man. Now, however, computers are shifting the balance of power from collective entities such as ''society'' or ''the general good'' and handing it back to those whom governments once condescendingly referred to as their ''subjects''.

This cult of individual effort, completely detached from the old hierarchical or social structures, can be found everywhere in Silicon Valley. The place is full of bright immigrants willing to sacrifice their ancestral ties for a seat at the table; almost 30% of the 4,000 companies started between 1900–96, for example, were founded by Chinese or Indians. The Valley takes the idea of individual merit extremely seriously. People are judged on their brainpower, rather than their sex or seniority; many of the new internet firms are headed by people in their mid-20s.

The Valley's 6,000 firms exist in a ruthlessly entrepreneurial environment. It is the world's best example of what Joseph Schumpeter called ''creative destruction'': old companies die and new ones emerge, allowing capital, ideas and people to be reallocated. The companies are mostly small and nimble, and the workers are as different as you can get from old-fashioned company men. As the saying goes in the Valley, when you want to change your job, you simply point your car into a different driveway.

THE DISAPPEARING STATE

This twofold Siliconisation—the spread of both the Valley's products and its way of doing business—is beginning to challenge the rules of political life in several fundamental ways. And it is doing so, of course, not merely in America but the world over—though America is both farther ahead, and represents more fertile ground.

First, the cyber-revolution is challenging the expansionary tendencies of the state. Over the past century the state has grown relentlessly, often with the enthusiastic support of big business. But corporatism has no future in the new world of creative destruction. (It is a safe bet that imitation Silicon Valleys that have been planned by politicians are going to hit the buffers.)

The spread of computer networks is also moving commerce from the physical world to an ethereal plane that is hard for the state to tax and regulate. The United States Treasury, for example, is currently agonizing over the fact that e-commerce doesn't seem to occur in any physical location, but instead takes place in the nebulous world of ''cyber-space''. The internet also makes it easier to move businesses out of high-taxation zones and into low ones.

One of the state's main claims to power is that it ''knows better what is good for people than the people know themselves''. But the Siliconisation of the world has up-ended this, putting both information and power into the hands of individuals. Innovation is now so fast and furious that big organizations increasingly look like dinosaurs, while wired individuals race past them. And decision-making is dispersed around global networks that fall beyond the control of particular national governments.

The web is also challenging traditional ideas about communities. Americans are accustomed to thinking that there is an uncomfortable trade-off between individual freedom and community ties: in the same breath that he praises America's faith in individualism, Tocqueville warns that there is danger each man may be ''shut up in the solitude of his own heart''. Yet the Internet is arguably helping millions of spontaneous communities to bloom: communities defined by common interests rather than the accident of physical proximity.

Information technology may be giving birth, too, to an economy that is close to the theoretical models of capitalism imagined by Adam Smith and his admirers. Those models assumed that the world was made up of rational individuals who were able to pursue their economic interests in the light of perfect information and relatively free from government and geographical obstacles. Geography is becoming less of a constraint; governments are becoming less interventionist; and information is more easily and rapidly available.

So far—Mr. Castells apart—Silicon Valley has not produced a social thinker of any real stature. Technologists tend not to be philosophers. But at the very least, computerization is helping to push political debate in the right direction: linking market freedoms with wider personal freedoms and suggesting that the only way that government can continue to be useful is by radically streamlining itself for a more decentralized age.

It is a little early to expect that this sort of thinking will colour next year's campaigns; the new alliances between politicians and the cyber-elite have mostly sprung up for the most ancient and pragmatic of reasons. But it may only be a matter of time before America sees, on the back of the computer age, a great new flowering of liberal politics.

Mr. HOLLINGS. It says:

How things have changed. According to the Centre for Responsive Politics, a Washington watchdog group, by the end of June this year, contributions from the computer industry were already three times those given to Bill Clinton and Bob Dole combined during the 1996 campaign. Of the $843,000 in direct industry contributions, over one-third went to George W. Bush, the Republican front-runner, with the two Democrats—Vice President Al Gore and Bill Bradley—both netting about half of the Texas Governor's total. These figures tell only part of the story, however. They do not include contributions from telecommunications and biotech companies, nor the millions of dollars the candidates have received in fundraisers organised by computer executives and venture capitalists: entrepreneurs who helped fuel the high-tech boom, and are now helping pave the way to the White House.

And on and on. If they can see it in downtown London and on Main Street America with the headline, ''The Buyer's Guide To Congress,'' and list in this particular bill the Caribbean tariff relief bill, we Senators don't have any pride. Is there no shame? Can't we understand what is going on and that NAFTA doesn't help the workers in South Carolina? We lost all the jobs. What few remain, they are saying the high-tech revolution has passed by, and it says the info revolution escapes them.

If I could get Gates to South Carolina tomorrow morning, I would bring him in. He is a wonderful industry and everything else. At least give President Reagan credit; we subsidized the semiconductor industry by putting in a voluntary restraint agreement and Sematech.

That is why we would have Intel and otherwise gone. Yes; we have moments of sobriety in this particular body. But it is election 2000. It is all financing, and the buying of the Congress. They ought to be ashamed to bring this bill.

But I will make the Senator from Delaware a deal. If he will accept a side agreement on labor similar to what we have on NAFTA, and a side agreement that we have on NAFTA with respect to the environment and reciprocity, we would not even have to. Those amendments ought to be accepted. They were on the NAFTA agreement. If he will accept those, I will sit down, and we can go ahead and vote on this particular bill. I make that proposal to the distinguished Senator from Delaware. After he has had a chance to study it, I hope to hear from him because it would save all of us a lot of time.

I have had relevant amendments, instead of the ''Hollings filibuster'' all last week. The majority leader filibustered. He knew how to do what he wanted to do. He filled the tree where you couldn't put up those amendments. You couldn't put up any kind of amendment with respect to child labor. You couldn't put up in any amendments with respect to trade. He filled the tree. He forced fast track. It was a bill with his amendments, take it or leave it.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

DOD INSPECTOR GENERAL

Mr. GRASSLEY. Mr. President, it is with a feeling of disappointment that I come to the floor today. What's bothering me is a disturbing report I am releasing today on the Office of the Inspector General, or IG, at the Department of Defense, DOD.

This is about a report prepared by the Majority Staff of the Judiciary Subcommittee on Administrative Oversight and the Courts, of which I am the Chairman.

I have always had such great respect for the DOD IG. I have always thought that we could rely on that office to be fair and independent and thorough, and above all, honest.

In the past, I always felt like I could trust the DOD IG's judgment.

This report, Mr. President is disturbing.

The evidence in this report questions the credibility of the IG's investigative process. And it raises questions about the judgment of the Acting IG, Mr. Donald Mancuso.

It is a report on the Oversight Investigation of allegations of misconduct at the Defense Criminal Investigative Service, or DCIS. DCIS is the criminal investigations arm of the DOD IG.

The allegations examined by the Staff involve possible misconduct by DCIS agents between 1993 and 1996.

The current Acting DOD IG, Mr. Mancuso, is associated with the allegations. Mr. Mancuso was the Director of DCIS from 1988 until 1997, when he became the Deputy DOD IG.

I also understand that Mr. Mancuso is a potential candidate for nomination to be the next DOD IG.

In June 1999, the Staff was approached by a former DCIS agent, Mr. William G. Steakley.

Mr. Steakley raised numerous allegations regarding prohibited employment practices at DCIS, but these were far too extensive and complex to be examined by my small Subcommittee staff.

However, one of Mr. Steakley's allegations caught our attention. This was the allegation that DCIS officials had ''made false statements'' in adverse reports on his conduct.

Mr. Steakley alleged that an agent assigned to the DCIS internal affairs unit, Mr. Mathew A. Walinski, had a history of falsifying investigative reports to damage the reputations of fellow agents.

Mr. Steakley further alleged that senior DCIS management, including Mr. Mancuso, was fully aware of the allegations about this agent's unethical practices, yet failed to take appropriate corrective action.

And Mr. Steakley claimed he had proof to back up the allegations.

The staff conducted a careful examination of these allegations and concluded that some have merit.

To evaluate the allegations, the staff reviewed numerous documents to include the extensive files at the Office of Special Counsel, OSC, DOD personnel files, and DCIS investigative reports. The staff also conducted a number of formal interviews.

A careful review of all pertinent material makes one point crystal clear:

The evidence shows that Mr. Walinski fabricated his reported interview of the Air Force payroll technician, Ms. Nancy Gianino, on May 21, 1993. This reported interview was conducted in connection with the investigation of possible tax evasion charges against Mr. Steakley.

In addition, OSC files contain numerous references to a second internal affairs case handled by Mr. Walinski, in which he apparently fabricated another report.

When the staff asked the DOD IG for this case file—known as the Johanson stolen gun case, they discovered that Mr. Walinski had apparently fabricated the reported interview of Agent Jon Clark on March 2, 1994 and possibly others. This file contains sworn statements by the agents involved that Walinski's reported interview with Clark never took place.

These two cases—when taken together—show that Mr. Walinski has a history of falsifying reports.

And more importantly, the record shows that rank and file complaints about Mr. Walinski's unethical investigative practices went directly to top DCIS management, including Mr. Mancuso.

The record also shows DCIS management knew about the Walinski problem but failed to take appropriate corrective action.

Yet despite rank and file complaints, Mr. Walinski's false reports were used by DCIS management to discredit and punish Agents Johanson and Steakley.

In January 1999, Mr. Walinski was allowed to transfer to another federal law enforcement agency—the Treasury IG—with no record of punishment or accountability. In his new assignment, Mr. Walinski is still responsible for investigating employee misconduct.

In fact, the record shows that at least 3 weeks after DCIS management was informed that Mr. Walinski had fabricated the Clark interview, he was given a generous cash bonus award.

Moreover, Mr. Walinski was assigned to conduct an inspection of the field office where rank and file complaints about his false reports had originated.

While investigating Mr. Steakley's allegations, the staff discovered that the DCIS internal affairs unit—to which Mr. Walinski was assigned—was directed by Mr. Larry J. Hollingsworth.

Mr. Hollingsworth was convicted of a felony in U.S. District Court in March 1996. He was apprehended and confessed to filing a fraudulent passport application after a fellow agent recognized his photo in a law enforcement bulletin.

The government authorities, who investigated Mr. Hollingsworth's criminal conduct, believe that he committed about 12 overt acts of fraud. These overt acts of fraud were committed while Mr. Hollingsworth was Director of the DCIS internal affairs unit—Mr. Walinski's office.

Mr. President, can you imagine that? The head of the internal affairs unit of DOD's criminal investigative division was committing passport fraud. That's certainly a confidence builder in that organization, isn't it?

These authorities further believe Mr. Hollingsworth's actions were especially disturbing since passport fraud is usually committed in furtherance of a more serious crime, but the underlying crime was never discovered.

Although Mr. Mancuso and Mr. Hollingsworth were considered friends by associates, Mr. Mancuso failed to recuse himself from administrative actions affecting Mr. Hollingsworth.

Mr. Mancuso even aided in Hollingsworth's defense during criminal trial proceedings—even though Mr. Hollingsworth was considered uncooperative.

What's more, Mr. Mancuso endorsed an outstanding performance rating for Mr. Hollingsworth three weeks after he confessed to felonious activity to U.S. State Department special agents.

Mr. Mancuso even wrote a letter on official DOD IG stationary to the sentencing judge, Judge Ellis, on the convicted felon's behalf.

In this letter, he asked the judge to consider extenuating circumstances. He told the judge that Mr. Hollingsworth had taken a half day's leave to file the fraudulent passport application. Evidently, Mr. Mancuso thought that taking leave to commit a crime was sonehow exculpatory.

This is what Mr. Mancuso said in his letter to Judge Ellis, and I quote: ''Mr. Hollingsworth could have come and gone as he pleased,'' but he ''took leave to commit a felony.''

Mr. Mancuso concluded with this telling remark: ''To this day, there is no evidence that Mr. Hollingsworth has ever done anything improper relating to his duties and responsibilities as a DCIS agent and manager.''

Coming from a law enforcement officer like Mr. Mancuso, these words defy understanding. The last time I checked, part of doing your job as a law enforcement officer is not committing crimes.

Mr. Hollingsworth confessed to and was convicted of felonious activity while employed by DCIS as a criminal investigator.

As State Department agents put it, these crimes were committed in the furtherance of a more serious crime that was never discovered.

Unfortunately, Mr. Mancuso seems to have been completely blind to the problem.

As a result of a series of decisions—personally approved by Mr. Mancuso, Mr. Hollingsworth was allowed to remain in an employed status at DCIS for 6 months after his felony conviction. He was then allowed to retire with a full federal law enforcement annuity exactly on his 50th birthday in September 1996.

Had Mr. Mancuso exercised good judgement and other available legal options, Mr. Hollingsworth could have been removed from DCIS immediately after conviction—in March 1996. Under these circumstances, he would have been forced to wait 12 years—until the year 2008—to begin receiving a non-law enforcement annuity commencing at age 62. Had Mr. Mancuso exercised this option, he would have saved the taxpayers at least $750,000.00, which is the amount of money Mr. Hollingsworth will collect thanks to the generous treatment he received from his friend and colleague, Mr. Mancuso.

Think of the signal this sends to rank and file law enforcement officers who look to their managers for leadership and fair treatment.

The office of the DOD IG demands the highest standards of integrity, judgment, and conduct.

Does Mr. Mancuso meet those standards?

Given Mr. Mancuso's poor judgment and his irresponsible handling of the three cases examined in the staff report, I believe it is reasonable to question:

(1) Whether Mr. Mancuso should now be nominated and confirmed as the DOD IG;

(2) Whether Mr. Mancuso should be allowed to remain in the post he now occupies—Acting DOD IG;

And given the evidence that Mr. Walinski falsified several investigative reports, it is reasonable to question whether he should be assigned to a position at the Treasury Department in which he is responsible for conducting criminal and administrative inquiries.

Mr. President, today I am forwarding the Majority Staff report to the appropriate committees, the Secretaries of Defense and Treasury and other officials.

These officials must evaluate Mr. Mancuso's fitness to serve as the DOD IG as well as Mr. Walinski's continued assignment as a criminal investigator.

I hope they will take the time to review this report before making a final decision on these matters.

Mr. President, I now ask unanimous consent to have printed two documents in the RECORD: (1) A letter of comment from Mr. Mancuso; and (2) the Majority Staff report. I know it's a lengthy report, and the GPO says it will cost $2,282.00 to print. But leaving no stone unturned in ensuring that a person of the highest integrity occupies the key watch dog post of DOD IG is well worth that cost, in my view.

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

MAJORITY STAFF REPORT TO THE CHAIRMAN ON THE OVERSIGHT INVESTIGATION—THE DEFENSE CRIMINAL INVESTIGATIVE SERVICE, DEPARTMENT OF DEFENSE

(U.S. Senate Judiciary Subcommittee on Administrative Oversight and the Courts, October 1999, Senator Charles E. Grassley, Chairman)

EXECUTIVE SUMMARY

The Majority Staff for the Senate Judiciary Subcommittee on Administrative Oversight and the Courts has conducted an inquiry into the personnel practices and conduct of certain agents within the Defense Criminal Investigative Service (DCIS). The DCIS is an agency in the Office of the Department of Defense (DOD) Inspector General (IG). The former Director of DCIS—a sworn federal law enforcement officer—is now Acting DOD IG, Mr. Donald Mancuso. Mr. Mancuso was Director of DCIS from 1988–1997. Mr. Mancuso is currently a potential candidate for nomination to be the next DOD IG.

This staff report contrasts DCIS personnel management practices that condoned and encouraged maltreatment of rank and file agents, including the use of falsified investigative reports, while protecting and rewarding a fellow manager who was a convicted felon. Management's favorable treatment of the convicted felon, Mr. Larry J. Hollingsworth, will result in his receiving substantial sums of money in federal law enforcement retirement annuities between 1996 and the year 2008. If DCIS management had exercised good judgment and other more reasonable options, Mr. Hollingsworth would not have been allowed to retire on his 50th birthday and receive the $750,000.000 in benefits. He would have had to wait 12 years to retire. In another matter, a criminal investigator, who falsified reports. Mr. Mathew A. Walinski, also received a cash bonus award after this misconduct was brought to the attention of senior DCIS management.

The staff report cites three separate personnel cases brought to the Subcommittee's attention involving DCIS. Each of these cases involves questionable personnel practices that were either condoned or ignored by DCIS management between 1993 and 1996.

The Subcommittee on Administrative Oversight and the Courts has primary jurisdiction and oversight authority for administrative practices and procedures throughout the Federal Government. As part of the process of conducting its oversight responsibilities, the Subcommittee has been examining administrative procedures followed by various inspectors general. This report reflects the Subcommittee Majority Staff's review of questionable administrative decisions and misconduct within the criminal investigative branch in the DOD IG's office—DCIS, while Mr. Mancuso was the director of the organization.

BACKGROUND

In June of 1999, the Subcommittee Majority Staff was approached by a former agent of DCIS, Mr. Gary Steakley. Mr. Steakley alleged that a DCIS internal affairs Special Agent, Mr. Walinski, had a history of falsifying official reports to damage the reputations of fellow agents. Mr. Steakley also alleged that senior officials at DCIS were fully aware of this agent's questionable practices, yet failed to take appropriate corrective action.

It should be noted that an investigator in the Office of Special Counsel (OSC), Mr. William Shea, also looked into Mr. Steakley's allegations of DCIS misconduct. OSC concluded that Mr. Steakley was not a victim of prohibited personnel practices. While the staff examined the conduct of DCIS supervisors in regard to several specific decisions, it did not attempt to examine the numerous other allegations raised by Mr. Steakley.

While investigating Mr. Steakley's allegations, the staff learned that Mr. Walinski was supervised by Mr. Hollingsworth—the director of internal affairs. Mr. Hollingsworth was convicted of a felony in April 1996. Nonetheless, management allowed him to retire with full federal law enforcement retirement benefits six months after his felony conviction. Federal law enforcement agencies commonly remove an employee on criminal misconduct alone, or at a minimum, immediately after a felony conviction. Had management availed itself of other appropriate legal removal options, Mr. Hollingsworth would not have been allowed to retire on his 50th birthday, which gave him entitlement to benefits amounting to more than three quarters of a million dollars.

The staff reviewed numerous documents to include the above-referenced OCS investigation, DOD personnel files, DOD investigative reports, a Subcommittee-requested review by the Office of Personnel Management (OPM), State Department Diplomatic Security investigative reports, and public court papers registered in the U.S. District Court for the Eastern District of Virginia. The Subcommittee Majority Staff also conducted the following formal interviews:

Former DOD personnel:

Mr. Matthew Walinski, DCIS Special Agent Internal Affairs

Mr. Larry Hollingsworth, DCIS Director of Internal Affairs

Mr. William Dupree, Deputy Director of DCIS

Ms. Eleanor Hill, Former DOD Inspector General

Current DOD personnel:

Mr. Donald Mancuso, Former Director of DCIS and Current Acting IG for DOD

Ms. Jane Charters, DCIS Investigative Support

Ms. Donna Seracino, Director of Personnel for DCIS

Ms. Linda Martz, Employee Relations Specialist

Mr. Paul Tedesco, DCIS liaison agent in Hollingsworth criminal case

Mr. John Keenan, Current Director of DCIS, formerly Dir., DCIS Operations

Mr. Thomas Bonner, Current Agent in Charge Dallas Office, DCIS, Assist. Dir DCIS Internal Affairs

Ms. Nancy Gianino, Air Force Payroll Specialist

Lt. Col. Greg McClelland, DOD IG Administrative Investigator

State Department Personnel:

Special Agent Robert Starnes and Special Agent Sean O'Brien

Office of Special Counsel:

Investigator William Shea

Current and former DCIS Special Agents were also interviewed on a confidential basis. They requested confidentiality out of fear of reprisal. This report will show fears of such reprisal are plausible based on the facts developed by the Subcommittee.

SUMMARY OF SIGNIFICANT FINDINGS

The case of convicted felon Mr. Hollingsworth

Mr. Hollingsworth was the Director of internal affairs for DCIS from April 1991 to September 1996. This unit routinely conducted investigations regarding the integrity and conductor of agents in DCIS. As stated above, in at least two cases, DCIS management had knowledge of false witness statements by an internal affairs agent, Mr. Walinski.

Former Director of DCIS, Mr. Donald Mancuso, assisted Mr. Hollingsworth in remaining in an employed status—as Director of internal affairs—for six months after his felony conviction in U.S. District Court. Law enforcement authorities, who investigated Mr. Hollingsworth's criminal activities, believe that he committed at least 12 acts of overt fraud while head of the DCIS internal affairs unit.

Mr. Mancuso, a sworn federal law enforcement officer, aided in the defense of this particular subordinate at his criminal trial. At no time did Mr. Mancuso offer to recuse himself from administrative or personnel actions

in regards to Mr. Hollingsworth—even though they were considered ''close personal friends.''

Mr. Mancuso endorsed an outstanding performance evaluation of Mr. Hollingsworth three weeks after he confessed to felonious activity to the U.S. State Department special agents.

Using official DOD IG stationery, with DOD IG emblem, Mr. Mancuso wrote to the sentencing judge on the convicted felon's behalf, even though the State Department investigators opined Mr. Hollingsworth was an uncooperative defendant. Mr. Mancuso signed the letter in his official capacity as an Assistant Inspector General.

Former DOD Inspector General Eleanor Hill stated that Mr. Mancuso did not advise her of pertinent facts in the case. Ms. Hill had directed Mr. Mancuso to remove Mr. Hollingsworth from his position ''as soon as legally possible.''

Mr. Mancuso directly assisted Mr. Hollingsworth in obtaining over three quarters of a million dollars in full federal law enforcement retirement benefits six months after a felony conviction. OPM retirement experts, legal counsel at DOD's Washington Headquarters Service, and Inspector General regulations all state that Mr. Mancuso had options to remove this employee immediately after conviction. In fact, the law, DOD regulations, and an OPM opinion all suggest that Mr. Hollingsworth could have been removed based on the criminal conduct alone, and not on criminal court procedures.

The retirement benefits given to Mr. Hollingsworth were extremely generous, since federal law enforcement officials may retire at ago 50 instead of age 62, and computation of their general schedule grade has law enforcement availability pay of up to 25% added in on top of regular pay. This resulted in a convicted felon being able to obtain approximately $750,000.00 in additional annuity payments (excluding cost-of-living allowances) as compared to what he would have received had he been terminated immediately after conviction and allowed only non-law enforcement civil service retirement benefits commencing at age 62 in the year 2008.

Falsification of Witness Statements by Agent Walinski in Steakley Case

There were numerous claims of misconduct made by Mr. Steakley in regard to the conduct of the DCIS office of internal affairs. Several of Mr. Steakley's allegations were substantiated.

There is credible evidence that at least one agent assigned to DCIS internal affairs, Agent Walinski, falsified a witness statement in support of a tax evasion charge against Mr. Steakley, and was reprimanded and reassigned for a similar problem in another internal affairs case. Agent Walinski even acknowledged that the tax evasion charge was ''unresolved'' and that his inconclusive findings were not made apparent in his report to the DCIS Administrative Review Board (ARB).

The false tax evasion charge in which Mr. Steakley was eventually exonerated was instigated by DCIS management, to include Mr. Mancuso, in an area in which DCIS had no authority or jurisdiction. The States of California and Virginia repeatedly informed DCIS that the agency could not obtain Mr. Steakley's tax records without a court order or authorization from the taxpayer involved. DCIS had neither.

In an interview with the Subcommittee staff, Lt. Col. Greg McClelland, an independent DOD IG investigator assigned to review allegations by Mr. Steakley, characterized the conduct of Agent Walinski in this case as ''egregious.'' The Subcommittee staff has substantiated evidence that Agent Walinski made false statements to Lt. Col. McClelland in sworn testimony in 1997.

Mr. Steakley's attorney, Mr. Luciano A. Cerasi of the Federal Law Enforcement Officers Association (FLEOA), notified DCIS management that Agent Walinski's witness interview of an Air Force payroll technician was falsified. DCIS management ignored Mr. Cerasi's allegations despite the fact that it had received another FLEOA letter alleging that Agent Walinski had falsified witness statement in a separate internal affairs investigation.

Falsification of Witness Statements by Agent Walinski in Johanson Case

Prior to the adjudication of the Steakley case, Agent Walinski had falsified witness statements against another DCIS agent.

DCIS Agent Stephen Johanson had his undercover weapon stolen from his residence near Los Angeles, California while he was participating in the execution of a search warrant in another California city. In the investigation that followed the theft of Johanson's weapon. Agent Walinski falsified more witness statements. His false reports resulted in a recommendation that Agent Johanson be suspended without pay for 8 calendar days for failing to secure and return an issued weapon. DCIS supervisors and rank and file agents protested to management at DCIS headquarters in Washington that Agent Walinski's interviews were either inaccurate or never took place.

FLEOA attorney Cerasi wrote a second letter to top DCIS management supporting rank and file agents' complaints about Agent Walinski's reports in the Johanson case. Mr. Cerasi alleged that Agent Walinski has falsified his interview of Agent Jon Clark.

DCIS officials *claim* that Agent Walinski was reprimanded for ''failing to show due diligence and accuracy'' in reporting witness interviews in the Johanson case. Agent Walinski reported an interview of DCIS Agent Clark that never took place. Despite these allegations, personnel records indicate that Agent Walinski received a cash award—at least 18 days after rank and file agents had formally complained to senior management at DCIS headquarters that Agent Walinski falsified reports. The staff could find no evidence that DCIS management ever attempted to determine if the allegations about Mr. Walinski's reports had merit. In fact, immediately following the first Johanson investigation and while the re-investigation was in progress, Mr. Walinski was assigned a leadership role in the inspection of the field office where the complaints about his reports had originated. This could be viewed as a retaliatory measure to silence the agents who had ''blown the whistle'' on Agent Walinski.

DCIS now records all witness interviews for accuracy. Some DCIS Agents refer to this new practice as ''the Walinski rule.''.

REPORT FORMAT

This report has been divided into three separate DCIS personnel cases as follows:

—The Case of Mr. Hollingsworth
—The Case of Mr. Steakley
—The Case of Mr. Johanson

In addition, the report includes written comments from the Acting DOD IG, Mr. Mancuso, along with an extensive list of the source documents used in preparing the report.

On September 27, 1999, Mr. Mancuso requested that he be given the opportunity to review this report prior to its release and to provide written comments. In response, the Subcommittee Chairman, Senator Charles E. Grassley, assured Mr. Mancuso that his written response would be attached to the staff report. Consistent with the Chairman's commitment, Mr. Mancuso's written response, dated October 1, 1999, is included at the end of the report.

The attachments listed at the end of each section of the report are far too voluminous to reproduce in the printed report. A complete set of the attachments will be maintained in the Subcommittee files and available on Judiciary Committee's web site along with other Committee documents.

CONCLUSIONS

The three personnel cases, which the staff reviewed, demonstrate disparate treatment given to DCIS employees by senior management.

Mr. Hollingsworth, a high ranking DCIS official, was convicted of a felony but protected by Mr. Mancuso and allowed to retire 6 months later—on his 50th birthday—with a full law enforcement annuity. Mr. Walinski falsified reports to such a degree that several witness statements appearing in his investigative reports never took place. He even claimed in sworn testimony in 1997 that a DOD employee, whom he had interviewed and reported absent from her office due to ''extended illness,'' had ovarian cancer, despite the fact there was no evidence that this person suffered from such a disease. Mr. Walinski received a cash bonus award weeks after allegations about his falsified reports reached senior DCIS management. DCIS management never attempted to determine whether those allegations had merit, and Mr. Walinski was allowed to transfer to another law enforcement agency—Treasury IG—with no record of accountability.

Two other DCIS employees were the subject of disciplinary action by DCIS management for significantly less serious offenses, and in one case, based on no evidence. Mr. Steakley, repeatedly and unjustly accused of numerous misconduct charges, is now retired with a damaged reputation among the federal law enforcement community that was undeserved. Similarly, Mr. Johanson was undeservedly punished for having a gun stolen from his residence during a burglary. This gun was issued to him by his own agency. The initial punishment proposed for Mr. Johanson was based on false witness interviews and a distorted interpretation of disciplinary guidelines.

The Office of the DOD Inspector General is a position that requires a very high standard of integrity, with equal treatment for all departmental employees. When information is developed on the criminal misconduct of a senior employee such as Mr. Hollingsworth, that employee should be removed ''as soon as legally possible'' to ensure that the morale of all employees is maintained. When allegations are made of misconduct such as against Mr. Walinski, the IG's office should ensure that allegations are professionally and thoroughly investigated, and all discrepancies are resolved. When allegations are made against employees such as Mr. Steakley and Mr. Johanson, charges should be investigated, witnesses should be accurately interviewed, and bias should not interfere with the integrity or facts in the investigation.

If DCIS—under Mr. Mancuso's management—could not investigate its own employees honestly and fairly, then how could the much larger Office of the DOD IG—if managed by Mr. Mancuso—be expected by the American people to investigate honestly and fairly misconduct and fraud within the entire Department of Defense?

Given Mr. Mancuso's poor judgment and his irresponsible handling of the three cases examined in this report, it is reasonable to question: 1) Whether Mr. Mancuso should now be nominated and confirmed as the DOD

IG—an office that demands the highest standards of integrity, judgment, and conduct; and 2) Whether Mr. Mancuso should be allowed to remain in the post of Acting DOD IG. In addition, given the evidence that Mr. Walinski falsified several witness interviews, it is reasonable to question whether Mr. Walinski should be assigned to a position in which he is responsible for conducting criminal or administrative inquiries.

RECOMMENDATIONS

1. The Majority Staff recommends that Members consider a change in legislation regarding federal law enforcement officers convicted of felonies. Consideration should be given to whether federal law enforcement officers should be immediately dismissed after their conviction of a felony.

Under current law, agencies have considerable discretionary authority in determining how to handle such cases. In the Hollingsworth case, a series of personnel actions approved by DOD Acting Inspector General Mancuso raise serious questions about his integrity and judgment. The proposed change in legislation could eliminate any discretionary authority on the part of individual law enforcement agencies in dismissing employees convicted of felonies.

2. The Majority Staff recommends that the Chairman forward this report to appropriate committees, the Secretaries of Defense and the Treasury and other officials who must evaluate Mr. Mancuso's fitness as a potential candidate to be DOD IG, as well as Mr. Walinski's continued assignment as a GS–1811 criminal investigator.

THE CASE OF MR. HOLLINGSWORTH

Mr. Larry J. Hollingsworth, former GS–15 Director of internal affairs, DCIS, was convicted of a felony charge in 1996 in U.S. District Court for the Eastern District of Virginia. Mr. Hollingsworth was never terminated by DCIS and allowed to retire on his 50th birthday—six months after a felony conviction. He is currently receiving full federal law enforcement retirement benefits totaling approximately $750,000.00 he would not otherwise have received had management exercised other more reasonable options.

Background on felonious activity by Mr. Hollingsworth

According to State Department law enforcement agents, Mr. Hollingsworth's criminal activity in this case commenced on or about September, 1992, when he reviewed the local obituaries in Florida and obtained the name of Charles W. Drew, who was born in 1944 and died in 1948. Mr. Hollingsworth, with a Top Secret security clearance, requested from the State of Florida a copy of the death certificate, representing himself as the deceased's half-brother. Mr. Hollingsworth leased a mailbox in Springfield, Virginia under the alias of Charles and Maureen Drew and Harold Turner.

Mr. Hollingsworth then obtained a birth certificate for Charles Drew from the State of Georgia and had it sent to the mailbox in Springfield, Virginia. Mr. Hollingsworth then leased another mailbox under the alias of Charles and Mary Drew in Arlington, Virginia. Mr. Holingsworth submitted an application and received a social security card under the alias Charles Drew Jr. by posing as the applicant's father. Mr. Hollingsworth, accompanied by his spouse, applied for and received a Virginia Department of Motor Vehicles identification card in the name of Charles Drew. Using the DMV identification card in the name of Charles Drew, Mr. Hollingsworth applied for a U.S. Passport. It should be noted that his wife, Mrs. Jaureen Hollingsworth, a DOD IG employee at the time, was never implicated or charged in this felonious activity. She was not a suspect in the investigation by the U.S. State Department. Mr. Hollingsworth stated to State Department law enforcement agents that he procured approximately eight to ten false identify documents, to include an international drivers license and a priest ID, by means of mail order.

In April of 1995, U.S. State Department law enforcement officials placed a photo of Mr. Hollingsworth in law enforcement bulletins as an unidentified suspect in passport fraud. the local Philadelphia office of DCIS notified DCIS headquarters in Washington D.C. that a photo of Mr. Hollingsworth was found in a bulletin. Officials at DCIS in Washington D.C. notified Mr. Mancuso who is turn immediately notified Inspector General Eleanor Hill. Mr. Mancuso was then ordered by DOD IG Eleanor Hill to notify the State Department Office of Inspector General.

[See Attachment #1—Sentencing memorandum date stamped 06/04/96]

[See Attachment #2—State Department Investigative Timeline]

Statements made by State Department law enforcement agent

On July 16, 1999, the Subcommittee Majority Staff interviewed Sean O'Brien, Special Agent with the State Department Diplomatic Security Service. Agent O'Brien was one of the agents assigned to the Hollingsworth case. Agent O'Brien stated that there were at least 12 overt acts of fraud perpetrated by Mr. Hollingsworth over the course of several years. Agent O'Brien felt that the actions of Mr. Hollingsworth were disturbing in light of the fact that passport fraud is usually committed in furtherance of a more serious crime, and a credible motive had never been established.

Mr. O'Brien added that family members of the deceased boy, Charles Drew, whose identify was used by Mr. Hollingsworth, were very upset and prepared to testify at trial. Agent O'Brien also opined that various motions to dismiss the case were delaying tactics used by Mr. Hollingsworth until he reached his 50th birthday—when he could retire with law enforcement benefits.

The State Department Supervisor of the Hollingsworth case, Special Agent Robert Starnes, stated that DCIS management initially refused to let him examine the contents of Mr. Hollingsworth's government computer under the pretense that Mr. Hollingsworth may have had personal and/or classified material on a government computer. Despite possessing a Top Secret security clearance, Agent Starnes had to raise the possibility of a search warrant with DCIS management before they acquiesced and allowed a consent search of the computer.

DCIS management assigned DCIS Agent Paul Tedesco as the point of contact in this case for the State Department. Relevant information regarding Mr. Hollingsworth's criminal conduct was provided by State Department investigators directly to DCIS Agent Tedesco during all criminal proceedings. Agent Tedesco also provided certified court documents to then Director of Operations and current Director of DCIS John Keenan. These court documents described the criminal conduct of Mr. Hollingsworth. Agent Tedesco stated that DCIS management was kept fully informed of the criminal conduct of Mr. Hollingsworth from the time of his confession through sentencing.

In the experienced opinion of State Department Case Agent Sean O'Brien, State Department Special Agent Case Supervisor Starnes and DCIS Case Liaison Agent Paul Tedesco, this fraudulent activity was most probably in furtherance of another crime that was never discovered or proven.

[See Attachment #3—Subcommittee memorandum of 07/16/99 interview with agent O'Brien]

Chronology of judicial and personnel actions in the case of Mr. Hollingsworth

07/28/95: Larry J. Hollingsworth's home is searched by U.S. State Department law enforcement agents and he subsequently confesses to fraudulently applying for a U.S. Passport. [See Attachment #4—Time line provided by DOD 7/27/95–9/20/96]

01/27/96: Larry J. Hollingsworth is indicted in U.S. District Court on two felony counts.

03/18/96: Larry J. Hollingsworth pleads guilty and is convicted of a felony, 18 USC 1001.

06/4/96: Convicted felon Larry J. Hollingsworth is sentenced to 30 days imprisonment on weekends, 2 years probation, 200 hours community service and a $5,000.00 fine. [See Attachment #5—U.S. District Court Criminal Docket]

08/12/96: Larry J. Hollingsworth is notified by DOD DCIS of a ''Proposed Removal'' and given thirty days to respond. [See Attachment #6—DOD OIG notice of Proposed Removal dated 08/12/96]

09/19/96: Larry J. Hollingsworth retires on his 50th birthday citing a reason of ''pursuing other interests''. [See Attachment #7—DOD Notice of Personnel Action form 50–B dated 09/19/94]

09/20/96: Larry J. Hollingsworth's attorney notifies then DOD Assistant Inspector General Mancuso that he waives his right to appeal the removal. [See Attachment #8—Letter from Hollingsworth's attorney to Mr. Mancuso dated 09/20/96]

DOD General Counsel claims conditional plea prevented removal of Mr. Hollingsworth

On September 14, 1999, Mr. Mancuso and the Deputy General Counsel (Inspector General), Mr. Kevin Flanagan, stated to the Subcommittee that the reason Mr. Hollingsworth was never removed and allowed to retire, was that his guilty plea was ''conditional'' and that he could withdraw his plea at any time at his own initiative.

The Federal Rules of Criminal Procedure Rule 11(A)(2) states; ''with the approval of the court and the consent of the government, a defendant may enter a conditional plea of guilty or nolo contendere, reserving in writing the right, on appeal from the judgment, a review of the adverse determination of any specified pretrial motion. A defendant who prevails on appeal shall be allowed to withdraw the plea.''

The plea agreement in this case acknowledges a conditional plea by Mr. Hollingsworth reserving ''his right to appeal the Court's adverse March 8, 1996 ruling denying defendant's motion to suppress his statement to State Department Agents''. The plea agreement also states; ''the defendant knowingly waives his right to appeal any sentence.''

Therefore, Mr. Hollingsworth never had unilateral authority to withdraw his plea at anytime, as Mr. Mancuso and DOD General Counsel argued. Their reason for not terminating Mr. Hollingsworth after conviction appears to be invalid.

[See Attachment #20—Rules of Criminal Procedure 11(a)(1)]

[See Attachment #21 Plea Agreement dated 03/15/96 page 3]

Mr. Hollingsworth was never removed by DOD and as stated in the chronology, remains a convicted felon despite the numerous motions to dismiss. Federal Law, DOD IG regulations, legal counsel at the DOD Washington Headquarters Services (WHS) and OPM General Counsel stated that Mr. Hollingsworth could have been removed based on his criminal misconduct alone. The misconduct must be proved with a ''preponderance of the evidence'' and not ''beyond a

reasonable doubt.'' Preponderance of the evidence is a much lower threshold than a criminal court procedure wherein criminal conduct must be proved ''beyond a reasonable doubt.''

Federal law states Mr. Hollingsworth could be dismissed within 7 days

5 U.S.C. 7513, (b), regarding removals of federal employees states:

1. At least 30 days advance written notice, *unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, stating the specific reasons for the proposed action.*

2. A reasonable time, but not less than seven days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer. [See Attachment #9—5 United States Code 7513]

The DOD Time Line cites this law as reason for a 60 day delay in issuing a 30 day ''proposed removal.'' Mr. Hollingsworth had already served a considerable amount of time in jail before the proposed removal was issued.

DOD Inspector General Regulations state Mr. Hollingsworth could have been terminated after Indictment.

IGDR 1400.4, Displinary and Adverse Action dated December 30, 1994, page 7, states an immediate removal can be initiated ''when the agency has reasonable cause to believe that an employee has committed a crime for which a sentence of imprisonment may be imposed. Reasonable cause to believe is not established by the mere fact either of an arrest or an ongoing agency investigation of possible criminal misconduct. A criminal indictment will usually constitute reasonable cause.''

[See Attachment #10—IGDR—dated 12/30/94, Page 7]

DOD WHS Legal Counsel advises Mr. Hollingsworth may be terminated after his guilty plea

On March 14, 1996, Gilda Goldsmith, legal counsel at the DOD WHS, advised that ''the indefinite suspension, which suspends Mr. Hollingsworth from duty until final disposition of criminal charges and any administrative proceedings, does not bar the agency from terminating him based on his guilty plea . . . the agency could remove Mr. Hollingworth for both the guilty plea and underlying conduct, but would have to prove the conduct by a preponderance of the evidence if the conviction is reversed.''

[See Attachment #11—DOD WHS Legal Counsel memo dated 03/14/96]

OPM General Counsel cites other options available to DCIS management

The Subcommittee Majority Staff requested the assistance of OPM in determining whether Mr. Hollingsworth, a convicted felon, was entitled to a federal law enforcement retirement six months after conviction and two months after serving his senence of jail on weekends. He received retirement credit and remained in an employed status as Director of Internal Affairs durng the six months in question to include two months of jail time on weekends.

On July 20, 1999, DOD Personnel Director Donna Seracino stated that Mr. Hollingsworth could not be immediately removed after his guilty plea and felony conviction because ''he had rights to due process under OPM guidelines''.

On September 13, 1999, OPM General Counsel Suzanne Seiden stated in her legal opinion: ''Instead of seeking to remove him because of the criminal conviction, it is possible that DCIS appropriately could have charged him with, among other things, an action under 5 U.S.C., 7513, on grounds of general criminal misconduct or failure to maintain his security clearance. Further, DCIS might have chosen to expedite his removal following Mr. Hollingsworth's guilty plea''.

[See Attachment #12—OPM General Counsel opinion dated 09/13/99]

Outstanding evaluation for Mr. Hollingsworth endorsed by Director of DCIS Mancuso

On August 18, 1999, approximately three weeks after Mr. Hollingsworth's home was searched and he confessed to at least three years of felonious activity (07/27/95), Mr. Mancuso signed and approved an ''outstanding'' performance evaluation for Mr. Hollingsworth. Mr. Hollingsworth replied on the evaluation form; ''I appreciate your comments on my appraisal, especially in light of my recent actions.''

[See Attachment #13—Employee Performance rating signed by Mr. Mancuso 08/18/95]

Mr. Mancuso places Mr. Hollingsworth on Paid Leave

On November 22, 1995, Mr. Mancuso decided to hold indefinite suspension of Mr. Hollingsworth in abeyance and advised ''Mr. Hollingsworth he would be carried on sick leave for any period of time that was supported by acceptable medical documentation, carried on annual leave as long as he had an annual leave balance and requested such leave, and that the indefinite suspension would become effective when his annual leave was exhausted and he no longer met the requirements for sick leave.''

[See Attachment #4—Time line provided by DOD 7/27/95–9/20/96]

Mr. Mancuso advises Mr. Hollingsworth to meet with a physician

On November 22, 1995, ''Mr. Mancuso advises Mr. Hollingsworth to schedule an appointment with the Independent Medical Evaluation (IME) physician. The agency would approve sick leave through November 30, 1995, and any request for additional sick leave would be held in abeyance pending receipt and review of the additional medical documentation.''

[See Attachment #4—Time line provided by DOD 7/27/95–9/20/96]

Assistant United States Attorney opposes use of physician as Defense Witness

On March 8, 1996, Assistant United States Attorney Thomas G. Connolly for the Eastern District of Virginia stated in his legal brief to the U.S. District Court in regards to the testimony of the IME physician for the defense:

''This testimony is not relevant to a determination of any issue to be tried in this case. It is a patent attempt at jury nulifcation by presenting evidence in the hope of making the defendant sympathetic to the jury. It is a backdoor attempt to raise issues of mental condition prohibited by law; and it is prejudicial, confusing, and misleading. This court should exclude any proposed psychiatric testimony from evidence at trial.''

[See Attachment #14—Government's motion to exclude psychiatric testimony page 2]

Mr. Seldon, Attorney for Mr. Hollingsworth, contacts DOD Employee Relations concerning retirement

On February 7, 1996, the defense attorney for Mr. Hollingsworth contacts DOD Employee Relations Specialist Linda Martz. She states the attorney said ''he wanted to ensure that his client was technically on the agency rolls. I said yes. Mr. Seldon said the U.S. Attorney wanted his client to plead guilty to one felony count. He said he understood that if the criminal matter ended and Mr. Hollingsworth was convicted, removal was probable. He asked if that was correct. I said most likely. He said his client's hope was to stay on the agency rolls until September 1996 at which time he would retire. I said he could retire now, but not under law enforcement. Mr. Seldon said he understood that, but there would be a substantial reduction.''

[See Attachment #15—Memorandum for the record of Linda Martz dated 02/07/96]

Defendant Hollingsworth makes motion to dismiss case

On March 12, 1996, Mr. Hollingsworth's defense attorney made a motion in U.S. District Court to dismiss the charges, citing Mr. Mancuso's request for medical information. He said Mr. Mancuso had ''directed him to provide sufficient medical information which will be reviewed by the medical consultant for the Office of Inspector General, to assist him in making a decision on the proposed suspension.''

[See Attachment #16—Motion to dismiss indictment page 3 section 7]

Assistant United States Attorney comments on sick leave status and use of a physician

On March 12, 1996, Assistant United States Attorney Thomas G. Connolly for the Eastern District of Virginia stated in his legal brief to U.S. District Court:

''The defendant's motion to dismiss the indictment is not only untimely, it is frivolous . . . The government (in the form of the United States Attorneys Office) was not party to any negotiations concerning the defendants sick leave. In fact, the first time we head about this was on March 7, 1996, when defense counsel faxed us a letter detailing Dr. Holland's findings.''

''The United States Attorneys Office had no opportunity, whatsoever to be heard in the negotiations between Mr. Hollingsworth's lawyers and the Department of Defense concerning whether Mr. Hollingsworth should be granted sick leave because he was allegedly suffering from depression a year-and-a-half after he had committed the crimes and 4 months after he had been caught.''

[See Attachment #17—Opposition to Defendant's Motion to Dismiss page 3]

Attorney for Mr. Hollingsworth contacts DOD Employee Relations one day after motion to dismiss and complements Mr. Mancuso for assistance.

On March 13, 1996, Linda Martz, DOD Employee Relations Specialists took a call from Mr. Seldon, attorney for Mr. Hollingsworth. She stated; ''Mr. Seldon wanted to know what Larry's sick and annual leave balances were. . . . I went on to explain that when he was indicted the situation took on another look. He said he understood and believed Mr. Mancuso did what he could be help Mr. Hollingsworth''.

[See Attachment #18—Linda Martz memo dated 03/13/96]

Mr. Mancuso acknowledges Mr. Hollingsworth's criminal conduct was perpetrated in furtherance of another unknown crime

On September 14, 1999, during a Subcommittee Majority Staff interview regarding the criminal misconduct of Mr. Hollingsworth, Mr. Mancuso stated he now believes that logically, the criminal misconduct of Mr. Hollingsworth appeared to be in furtherance of another crime.

Mr. Mancuso writes letter to sentencing judge on behalf of Mr. Hollingsworth

Mr. Mancuso wrote a letter dated April 29, 1996, to sentencing Judge Ellis on official DOD Assistant Inspector General stationary. Mr. Mancuso wrote this letter ''on behalf of Mr. Hollingsworth . . . one of the few individuals in whom I placed complete confidence and trust.'' In writing the letter, Mr. Mancuso asked the judge to consider extenuating circumstances. For example, he told

the judge that Mr. Hollingsworth took a half day's leave to file the fraudulent passport application. Mr. Mancuso said he was not surprised by this action. He said: ''Mr. Hollingsworth could have come and gone as he pleased,'' but he ''took leave to commit a felony.'' Mr. Mancuso went on to say: ''To this day, there is no evidence that Mr. Hollingsworth has ever done anything improper relating to his duties and responsibilities as a DCIS agent and manager.''

In concluding the letter, Mr. Mancuso added: ''I do ask, however, that you consider all these things as well as his stated remorse and acceptance of responsibility for his actions . . . it is our intention to consider removal action against him after the conclusion of the criminal charges. In this regard, I would ask that you consider the severity of these administrative actions as you pronounce sentencing.''

The letter was signed; ''Sincerely, Donald Mancuso, Director, Defense Criminal Investigative Service''.

[See Attachment #19—Letter from Mr. Mancuso to Judge Ellis dated 04/29/96]

Mr. Mancuso comments on letter to Judge Ellis

In a Majority Staff interview on September 14, 1999, Mr. Mancuso claimed that the stationary used in the letter to Judge Ellis was ''personal, bought with my own money'' and not official DOD Inspector General stationary. It was pointed out to Mr. Mancuso that the letterhead had a government seal which contained the words; ''Inspector General—Department of Defense.'' In addition, Mr. Mancuso signed the letter in his official capacity as an Assistant Inspector General. The letter was made a part of the sentencing report by Judge Ellis.

[See Attachment #19—Letter from Mr. Mancuso to Judge Ellis dated 04/29/96]

[See Attachment #1—Sentencing memorandum date stamped 06/04/96]

Assistant United States Attorney comments on lack of remorse by Mr. Hollingsworth

On March 12, 1996, Assistant United States Attorney Thomas G. Connolly for the Eastern District of Virginia stated in his legal brief to U.S. District Court:

''The defendant's appreciation of the wrongfulness of his conduct in April of 1994 has never been determined in any hearing at which the United States Attorneys Office (or any other government agency, including the Department of Defense) was a party.''

[See Attachment #17—Opposition to Defendant's Motion to Dismiss page 3]

Assistant United States Attorney comments on Mr. Hollingsworth's mental state

''Mr. Hollingsworth's condition, whatever it is, is not found in DSM IV, the 886-page tome that lists every psychosis, neurosis, syndrome, and personality disorder known to man.''

[See Attachment #14—Government's motion to exclude psychiatric testimony page 5]

Mr. Dupree, former Deputy Director of DCIS, stated Mr. Hollingsworth was considered a cooperative defendant by DCIS management

On August 24, 1999, Mr. Dupree, a former Deputy Director of DCIS, and under the direct supervision of Mr. Mancuso, was interviewed by the Majority Staff. Mr. Dupree reviewed proposals to remove DCIS employees for misconduct based on internal investigations. He characterized Mr. Hollingsworth as a ''cooperative defendant''. Mr. Dupree stated that it would have been easier to remove Mr. Hollingsworth if he had misused a government vehicle.

9/13/96—Mr. Hollingsworth requests extension on proposal removal

On August 23, 1996, Mr. Hollingsworth asks Mr. Mancuso for an extension of his proposed removal pending an oral reply to be made on 09/13/96.

[See Attachment #4 Time line provided by DOD 7/27/95–9/20/96]

Mr. Mancuso grants requested extension and schedules oral response for 09/23/96, four days after Mr. Hollingsworth's 50th Birthday

On August 26, 1996, Mr. Mancuso grants the extension request and schedules the oral reply for September 23, 1996, the first available date because Mr. Mancuso claimed that he would ''be on travel much of September and will not be available to hear Mr. Hollingsworth's oral response'' until that date.

A review of Mr. Mancuso's travel vouchers suggests that the projected travel conflicts—outlined in his August 26, 1996 memo—never materialized and that he would have been available to hear the case at any point during the month of September—with several minor exceptions. During an interview on September 14, 1999, Mr. Mancuso was asked if he was aware of Mr. Hollingsworth's birthday when he signed the August 26, 1996 memo. Initially, he denied having that knowledge, but with coaching from Deputy DOD General Counsel Flanagan, he admitted that he did, in fact, know that Mr. Hollingsworth's 50th birthday was in September 1996.

[See Attachment #4 Time line provided by DOD 7/27/95–9/20/96]

Convicted Felon Mr. Hollingsworth retires with full federal law enforcement retirement benefits totaling over $750,000.00

On September 19, 1996, Mr. Hollingsworth retired on his 50th birthday and first date of eligibility for federal law enforcement retirement, citing his desire ''to pursue other interests.'' Mr. Hollingsworth currently receives full federal law enforcement retirement benefits.

[See Attachment #7 notice of personnel action]

According to OPM, if Mr. Hollingsworth had been removed immediately after his felony conviction, he would have been entitled to an annuity commencing at age 62. Since Mr. Hollingsworth was not removed by DOD after his conviction and was allowed to retire six months after his conviction at age 50, Mr. Hollingsworth immediately began receiving a federal law enforcement yearly annuity of over $60,000. Not including cost of living adjustments, these annuities will total over 750,000.00 for 1996–2008—annuities he would not have received had DCIS management exercised other more reasonable options.

On September 20, 1996, Mr. Hollingsworth's attorney ''waives his right to any further proceedings in connection with the proposed removal due to his retirement.''

[See Attachment #8—Letter from Hollingsworth Attorney dated 09/20/96]

Mr. Mancuso characterizes State Department Investigators as ''Horse's Asses''

On September 14, 1999 the Majority Staff interviewed Mr. Mancuso to review his role in Mr. Hollingsworth's retirement.

Mr. Mancuso claimed that State Department investigators did not brief DCIS on the details of the criminal case against Mr. Hollingsworth until after sentencing. The State Department's failure to share this information in a timely manner was another reason for delay in removal action against Mr. Hollingsworth. Mr. Mancuso characterized State Department investigators in this case as ''Horses' Asses.''

DCIS Agent Tedesco keeps DCIS management informed and complements performance of State Department investigators in the Hollingsworth case

As stated previously, DCIS Agent Tedesco provided all relevant certified court documents to DCIS Director of Operations John Keennan throughout the judicial proceedings against Mr. Hollingsworth. These documents were passed to senior DCIS management as they became available. These documents fully described the criminal conduct for which Mr. Hollingsworth was being prosecuted. Agent Tedesco described his relationship with State Department investigators as ''excellent,'' resulting in a timely, accurate, and professional flow of information between the two law enforcement agencies. Agent Tedesco refutes any assertion that DCIS management was not informed during any part of the judicial process.

DOD Inspector General Eleanor Hill orders Mr. Hollingsworth to be removed ''as soon as legally possible''

Eleanor Hill was the DOD Inspector General during the Hollingsworth criminal procedures. On September 21, 1999, Eleanor Hill stated to the Subcommittee Majority Staff that shortly after Mr. Hollingsworth confessed, she had ordered IG personnel, including Mr. Mancuso, ''to remove Hollingsworth as soon as legally possible.''

DOD Inspector General Eleanor Hill was unaware of several decisions by Mr. Mancuso regarding Mr. Hollingsworth

Ms. Hill stated she was unaware that DCIS management initially refused to allow State Department investigators a consent search of Mr. Hollingsworth's government computer.

Ms. Hill stated she was unaware that Mr. Mancuso endorsed an outstanding evaluation of Mr. Hollingsworth after his confession to criminal conduct.

Ms. Hill stated she was unaware that Mr. Mancuso wrote a letter as an Assistant Inspector General on official stationary to the sentencing judge on Mr. Hollingsworth's behalf.

Hollingsworth Case—Attachments

1. Sentencing Memorandum filed in U.S. District Court, dated 06/04/96
2. State Department Investigative Time line
3. Subcommittee interview of State Department Special Agent O'Brien
4. Timeline provided by DOD 7/27/95–9/20/96
5. U.S. District Court Criminal Docket
6. DCIS Proposal for Removal
7. Notice of Personnel Action
8. Letter from Mr. Hollingsworth's attorney waiving right to appeal removal
9. Copy of 5 U.S.C. 7513
10. DOD IG Regulations on Disciplinary and Adverse Action Page 7
11. DOD General Counsel memo dated 3/14/96
12. OPM response to subcommittee request
13. Evaluation of Mr. Hollingsworth dated 08/18/95.
14. Government's motion to exclude Defendant's Proposed Psychiatric Testimony
15. Memorandum of Linda Martz dated 02/07/96
16. Motion to Dismiss Indictment
17. Opposition to Defendant's Motion to dismiss
18. Memorandum of Linda Martz dated 03/13/96
19. Letter to Judge Ellis written by Mr. Mancuso on behalf of Mr. Hollingsworth dated 04/29/96
20. Rules of Criminal Procedure 11(a)(1)
21. Plea Agreement dated 03/15/96

WALINSKI: CRIMINAL INVESTIGATOR, DCIS INTERNAL AFFAIRS

Mr. Matthew A. Walinski worked at the Defense Criminal Investigative Service (DCIS) as a criminal investigator (GS–1811) from August 1987 through 1998. Since January 1999, he has been employed as a criminal investigator (special agent) in the Office of

the Inspector General at the Department of the Treasury. His assigned duties at the Treasury Department include investigating employee misconduct and fraud. Although Walinski was promoted to the grade of GS–14 at DCIS in August 1991, he accepted a reduction in grade to GS–13 at the Treasury Department. He told the Subcommittee on September 8, 1999 that he left DCIS because he was informed by the DCIS Director Keenan that his goal of becoming a manager was unattainable.

DCIS Internal Affairs

In June 1999, the Subcommittee received a complaint from a former DCIS agent that Walinski had falsified official reports of investigation while employed at DCIS. The complaints about the falsification of reports by Walinski relate to investigations he conducted while assigned to DCIS' Program Review and Analysis Directorate. This office is known informally as ''internal affairs.'' Walinski was assigned to internal affairs from August 1991 until July 1994.

Throughout Walinski's tour of duty in the office of internal affairs, the unit was headed by Mr. Larry J. Hollingsworth. As Director of internal affairs, Hollingsworth held a key position in DCIS's organizational structure—along with the Director (Mancuso), Deputy Director (Dupree), and the Director of Operations (Keenan). Though important internal affairs was a small office. It normally consisted of three investigators (Hollingsworth, Bonnar, and Walinski). However, the office could be augmented—as needed—with special agents from the field.

Hollingsworth directed the DCIS office of internal affairs from April 1991 until his retirement in September 1996, according to a document provided by the IG's office. That Hollingsworth was technically listed as the director of internal affairs until his retirement in September 1996 defies understanding, since Hollingsworth was convicted of a felony (18 USC 1001) in March 1996 and sentenced to 30 days in jail on the weekends in June 1996.

The authorities, who conducted the investigation (Bureau of Diplomatic Security) of Hollingsworth's criminal activities, believe Hollingsworth committed about 12 overt acts of fraud between October 1992 and April 1994. The 12 alleged overt acts of fraud committed by Hollingsworth were perpetrated while he was the director of DCIS' office of internal affairs. Hollingsworth's criminal conduct while director of internal affairs must inevitably raise questions about the overall integrity of the work performed by this office while Hollingsworth was director.

Mr. Thomas J. Bonnar was the Assistant Director of Program Review. Bonnar was Mr. Walinski's immediate supervisor.

While Hollingsworth was in charge of the day-to-day operations of the office of internal review, the DCIS Director, Mr. Donald Mancuso, exercised overall management control of all internal investigations. As DCIS Director, Mancuso was the person chiefly responsible for the conduct of internal inquiries. His position description (DDES0466) states under ''Major Duties,'' paragraph (1): Mancuso ''provides staffing and direction for the conduct of internal investigations, as needed.'' Once allegations were received about potential misconduct by DCIS agents, Mancuso and the Deputy DCIS Director, Mr. William Dupree, would usually decide if an inquiry would be conducted, and what its scope would be. As a rule, those decisions were reached in consultation with Hollingsworth.

Mancuso and Dupree would normally receive periodic briefings or status reports on each internal investigation still in progress. If a problem arose during an inquiry, Mancuso and Dupree would know about it. When Walinski completed his report of investigation, it would usually be forwarded up the chain of command by Hollingsworth to an Administrative Review Board (ARB). The ARB then made recommendations. Either Mancuso or Dupree would review those recommendations and make the final decision on what—if any—disciplinary action was needed.

While assigned to DCIS' office of internal review, Walinski was tasked to complete about 30 ''administrative inquiries'' concerning allegations of misconduct by DCIS agents. The complaints about the falsification of his reports pertain to two ''administrative inquiries'' conducted by Walinski in 1993 and 1994 as follows: (1) the tax fraud case involving Special Agent (SA) William G. Steakley—Administrative Inquiry 91; and (2) Stolen gun case involving Special Agent (SA) Stephen J. Johanson—Administrative Inquiry 108.

The purpose of this portion of our review was to assess the validity of the allegations against Walinski and to search for the answers to three questions: (1) Did Walinski falsify his reports on the Steakley and Johanson cases? (2) If Walinski falsified reports, did senior management at DCIS know about it? And (3) If DCIS management knew about it, did management take appropriate corrective action?

To answer the three questions, the Majority Staff examined all pertinent General Counsel, IG, and U.S. Office of Special Counsel (OSC) files, including reports of investigations and E-mails. The staff also conducted a number of separate interviews.

The Case of Mr. Steakley

On May 11, 1993, Walinski opened the tax evasion case against Steakley. This was Administrative Inquiry 91. It was opened ''based on information that SA Steakley made misleading statements to the DCIS payroll support activity regarding his actual place of residence in an apparent effort to circumvent his state income tax obligations.''

[See Attachment 1—page 1 of Report of Investigation (ROI)]

The foundation for Walinski's ROI on the Steakley tax fraud case was his interview with a payroll specialist at Bolling AFB, Washington, D.C.—Mrs. Nancy Gianino. At the time, Gianino was responsible for handling all DCIS payroll matters. Walinski's official witness interview report, dated June 1, 1993, states that Gianino was interviewed at Bolling AFB on May 21, 1993 ''concerning her knowledge of the payroll deductions of SA Steakley.''

Gianino Interview

Since the Gianino interview is such a crucial piece of evidence in evaluating the accuracy of Walinski's reports, it is quoted here in its entirety:

''Mrs. Gianino said that sometime in late November 1991 she received a letter from SA Steakley which instructed her to discontinue payroll withholding on SA Steakley's salary by the Commonwealth of Virginia. After receiving the letter, which is appended as attachment 1, she contacted SA Steakley via telephone and he informed her that he was being transferred and had, in conjunction with his transfer, established residency in the State of Tennessee. At the time she thought it was strange that an employee who lived and worked in Virginia could move his residency to another state, but because SA Steakley told her he was being transferred in December 1991 she was not concerned. On December 11, 1991, Mrs. Gianino changed SA Steakley's state tax code from Virginia to Tennessee. Mrs. Gianino stated that very shortly after her discussions with SA Steakley she became very ill and was off work for an extended period of time. Because of her illness she was unable to follow-up concerning SA Steakley and his move as would be her normal practice. Normally, Mrs. Gianino makes sure that state income taxes are withheld from the state where the individual's duty assignment is located, especially a state as strict as California.

In the Spring of 1993, after her return from the extended illness, Mrs. Gianino started to reconcile the payroll records for the Defense Criminal Investigative Service. During this reconciliation she reviewed and compared the permanent duty station location for each employee from their Notification of Personnel Action Standard Form 50; the state code of each employee utilized by the Air Force for deductions for state income taxes; and the current mailing address for each employee. She then discovered that SA Steakley was permanently assigned to California, had a state tax code for Tennessee, and a mailing address in Virginia. Mrs. Gianino stated that she brought this discrepancy to the attention of DCIS management as the Air Force considers this situation to be unacceptable under applicable payroll guidelines.

Mrs. Gianino said that in retrospect she felt that both SA Steakley's letter and the subsequent telephone call were vague and very misleading.''

[See Amendment 1, Witness Interview/Gianino]

DCIS Contacts State Tax Authorities

Based on the information provided by Gianino, DCIS officials, including Walinski and Hollingsworth, contacted the departments of taxation in the states of California and Virginia to determine whether Steakley had unpaid income tax liabilities in either state. In addition, they contacted the State of Tennessee to determine whether Steakley was a resident of that state.

DCIS made repeated attempts to obtain information on Steakley's tax obligations in California and Virginia. Letters were sent to the tax authorities in both states on July 27, 1993, July 30, 1993 and December 2, 1993. The letters were followed up by telephone calls.

Access To Tax Records Blocked

In a memo dated December 23, 1993, Walinski reported that he was unable to obtain any information from Virginia on Steakley's tax liabilities. Walinski reported:

On December 22, 1993, an official in Virginia's Department of Taxation informed DCIS: The Commonwealth of Virginia will not acknowledge or provide documentation to generic tax liability issues unless the writer of the correspondence is the Commonwealth of Virginia taxpayer . . . . . Per Commonwealth of Virginia Statute the information in question could not be released to DCIS because DCIS was not the taxpayer in question.''

[See Amendment 1, Contact Report with Department of Taxation, Commonwealth of Virginia]

In an E-mail message to his supervisor, Bonnar, on July 8, 1994, Walinski reported that identical restrictions applied to access on individual tax liability data in California. Walinski reported:

On May 5, 1994, California tax authorities informed DCIS: By law, California can not release any information concerning an individual taxpayer without a court order or a release from the individual in question.''

[See Attachment 1, Contact Report with California Franchise Tax Board]

DCIS Continues to Pursue Tax Data

Even though DCIS was prohibited by state law from obtaining information on Steakley's state tax liabilities, DCIS Director Mancuso and Hollingsworth pressed

Walinski to find a way to obtain that information.

During an interview on August 24, 1999, Hollingsworth reacted strongly to the suggestion that DCIS lacks authority to obtain information on Steakley's unpaid state tax liabilities. He insisted that DCIS had all the authority it needed to get the job done. He said: ''I could have done that investigation.'' Both Mancuso and Hollingsworth were formerly employed criminal investigators at the Internal Revenue Service.

Mancuso's E-mail to Hollingsworth on July 7, 1994 demonstrates something more than a passing interest in the Steakley tax evasion case. Mancuso's message conveys a sense of urgency on the need to obtain Steakley's state tax data. It also seems to suggest that DOD legal counsel may have advised DCIS not to pursue tax fraud charges against Steakley. Mancuso made this request:

''Please copy me on all transmittals between our office and the states of California and Virginia relative to Mr. Steakley's taxes. It has been a ridiculous amount of time since you told me that we were waiting to hear back from them. At the time of our last discussion I directed you to document your contacts so that I could refer to them if some quick action did not ensue. I've spoken to OGC [Office of the General Counsel] and I think I can get their support despite Perkul [Deputy General Counsel, Washington Headquarters Services] and crew.''

''I'd also like to start making phone calls to the two states and finding out what they're doing with our information.''

[See Attachment 1, E-mail from Mancuso to Bonnar and Hollingsworth]

When asked by an independent DOD investigator, Mr. Greg McClelland, why DCIS would pursue tax charges against Steakley when prohibited by state law from obtaining that information, Mancuso replied: ''We'll pursue anything that goes to the integrity of the agent.''

[See Attachment 2, Greg McClelland interview, March 13, 1997, p. 35]

Mancuso's reply to McClelland's question in March 1997 suggests that he may have known that DCIS lacked authority to gain access to Steakley state tax records. During an interview on September 14, 1999, Mancuso provided a completely different answer to essentially the same question. He was asked why DCIS would pursue charges against Steakley in an area—individual state tax obligations—where it had no authority or jurisdiction to operate. He claimed ignorance. He replied: ''I did not know that DCIS was not authorized access to individual state income tax data.''

Walinski Complains about Pressure on Tax Data

One day after Mancuso's E-mail to Hollingsworth—July 8, 1994, Walinski complained about the pressure from Mancuso to his supervisor, Bonnar. In this E-mail, Walinski stated:

''I do not understand what he [Mancuso] wants us to do. . . . Without a release from Steakley, which both he and his attorney(s) stated will not be provided or a court order of some kind there is nothing else that I can do. I am sorry!''

[See Attachment 1, Walinski E-Mail to Bonnar]

Steakley's Tax Attorney Responds

DCIS attempted to interview SA Steakley's tax accountant/lawyer, Mr. John T. Ambrose, but Steakley refused to waive attorney-client privilege, and Mr. Ambrose refused to be interviewed. However, after further discussion, Steakley's tax attorney provided DCIS with a letter addressing various tax issues bearing on the potential charges against his client. The letter was dated February 22, 1994 and hand delivered to Dupree. Mr. Ambrose stated:

''For tax year 1992, based on a determination that Mr. Steakley was a resident of Tennessee, I prepared three (3) state income tax returns for the Steakleys, one resident state income tax return for Virginia and two (2) nonresident state income tax returns for Virginia and California. In determining how to complete those returns, I reviewed the tax instructions published by the respective state tax agencies and consulted with personnel at those agencies.''

[See Attachment 3]

Tennessee Residency

A DCIS records check in Tennessee did show that SA Steakley owned two homes in the state; was registered to vote there and, in fact, voted in the November 1992 general elections; and applied for and received a state driver's license. Mr. Walinski's report of investigation contains the general guidelines in Tennessee tax law that are used as the standard for determining whether a person can claim they are a resident of the state. According to the information contained in Walinski's report, Steakley appears to meet most of the state residency requirements.

No Proof of Tax Fraud

At the conclusion of Walinski's investigation, DCIS had no credible evidence or proof that Steakley had unpaid tax liabilities in either California or Virginia.

In our interview on September 8, 1999, Walinski acknowledged that his report of investigation on the tax evasion case against Steakley was inconclusive and unsubstantiated.

Walinski characterized the tax fraud case against Steakley as ''an unresolved case.'' The investigation had serious shortcomings: ''We couldn't nail him,'' Walinski said. Walinski's inconclusive findings are not apparent in his report. In fact, the report suggests DCIS had an airtight case against Steakley. Walinski also claims Mancuso and Dupree were aware of the flaw. Despite these known deficiencies, Walinski said that he was ''not surprised'' to learn that the ARB Board had subsequently recommended that Steakley ''be removed from his position at DCIS'' for failing to meet his state tax obligations—a recommendation based on Walinski's incomplete report. ''That's just the way DCIS did things,'' he said.

In our interview on September 14, 1999, Mancuso contradicted Walinski's assertion that management knew the tax case against Steakley was weak. Mancuso insisted that he was not aware of the lack of credible evidence to support tax evasion charges that were eventually brought against Steakley. He said: ''I didn't know about that.''

Decisions on Tax Investigation Questioned

The staff does not understand why Mancuso and Dupree decided to pursue the tax evasion charges given the prohibitions in place that effectively blocked access to Steakley's state tax records. If DCIS believed that this matter needed further investigation, it should have referred the matter to an external organization that had the authority and jurisdiction to examine those records and determine if Steakley had unpaid tax liabilities. In the absence of that information, the tax evasion charge would be unjustified.

ARB Board Recommends Removal

The DCIS ARB met on February 7, 1994 to consider the Steakley tax evasion case.

In a memo dated March 7, 1994, the ARB recommended that SA Steakley ''be removed from his position with DCIS for violating Executive Order 12674.'' The Board concluded that ''SA Steakley has a tax liability to the State of California and he took overt steps to avoid paying this tax from December 1991 through February 1993.'' The Board's report was signed by James J. Hagen, Special Agent in Charge.

[See Attachment 4, page 2]

Tax Fraud Charges

On August 4, 1994, after reviewing the ARB's recommendations, DCIS management issued Steakley a ''Notice of Proposed Suspension.'' The notice was signed by Mr. John F. Keenan, Director of Investigative Operations. Mr. Keenan was also previously employed by the Internal Revenue Service as a special agent. He is the Director of DCIS today.

Mr. Keenan rejected the ARB's recommendation to remove Steakley. Instead, he proposed that SA Steakley be ''suspended without pay for fourteen (14) calendar days.'' The proposed suspension was based on: (1) SA Steakley's failure to pay income taxes in the states of California and Virginia; and (2) SA Steakley's failure to comply with Executive Order 12730 [Section 101, paragraph (1)] that requires employees to pay federal, state, and local taxes—''that are imposed by law.''

[See Attachment 5, page 1]

In presenting their case against Steakley, both Mr. Keenan and the ARB relied heavily on Walinski's reported interview of Gianino. Key portions of that interview were incorporated in both memos. For example, after reviewing the communications between Steakley and Gianino in 1991 about payroll deductions—as summarized in Walinski's report, Keenan's memo cites her alleged reconciliation of DCIS payroll records as the event that triggered the whole investigation:

''In the spring of 1993, during a reconciliation of payroll records for DCIS, it was discovered that you were permanently assigned to California, had a state tax code for Tennessee, and a mailing address in Virginia. This discrepancy was brought to the attention of DCIS management as the Air Force considers this situation to be unacceptable under applicable payroll guidelines.

[See Attachment 5, page 2]

Adjudication—Charges Dropped

On October 25, 1994, Mancuso's deputy, Dupree, informed Steakley that the tax fraud charges against him would be dropped.

In a memo addressed to Steakley, Mr. Dupree attempted to provide an explanation for his decision to drop the charges:

''I have considered the written response submitted by your representative, Mr. Luciano Cerasi, as well as the oral response presented by you and Mr. Cerasi on October 20, 1994. Based on the information you provided concerning the filing date of October 15 for the state of California, I have decided that the charges are not substantiated. Therefore, it is my decision to overturn the proposal to suspend you for 14 days.''

[See Attachment 6]

Dupree's explanation seems to suggest that the charges were dropped because the California's state tax filing deadline had not yet arrived. His explanation is difficult to comprehend. Senior DCIS officials had consistently claimed that Steakley's misconduct was ''an integrity issue.'' For example, in his memo dated August 4, 1994, Keenan told Steakley:

''I find you have violated the trust placed in you as a employee of the OIG [Office of the Inspector General].''

[See Attachment 5, page 3]

It very difficult to reconcile Dupree's explanation for dropping the charges with the questions raised about Steakley's integrity—particularly since Dupree's memo was signed ten days after the California filing deadline had passed.

FLEOA's Allegations Against Walinski

During the adjudication process on tax fraud charges, Steakley was represented by an attorney with the Federal Law Enforcement Officers Association (FLEOA), Mr. Luciano A. Cerasi.

As Steakley's defense counsel, Cerasi directed a 10-page letter to Dupree in response to the proposed notice of suspension issued to Steakley in August 1994. Cerasi's letter was hand-delivered to Dupree on September 15, 1994. Cerasi argued that ''the proposed adverse action against SA Steakley must be rescinded due to a lack of preponderant evidence to support the charges.''

In offering a spirited defense of his client, Cerasi, who represents rank and file agents, also raised explosive allegations about the accuracy of the investigative report underlying the tax evasion charges. He alleged that Walinski's report contained ''false, misleading, and fabricated investigative material.''

Cerasi alleged that Walinski had ''fabricated the interview in another [Johanson] case.'' He alleged that Walinski ''completely fabricated the results of his interview with Mrs. Nancy Gianino.'' He referred to Walinski as ''management's pit bull.'' He said Walinski was ''willing to fabricate investigative information to destroy the career of a subject of an investigation.'' Cerasi urged Dupree to re-open the case and re-investigate the entire matter.

[See Attachment 7, pages 2 and 3]

Cerasi's allegations about Walinski's report on the Steakley case in September 1994 followed allegations and complaints, which surfaced two months earlier, about Walinski's report on the Johanson stolen gun case. The Johanson case is discussed in the next section of this report.

Steakley's Request for Re-Investigation

On October 20, 1994, both Cerasi and Steakley were given an opportunity to present an oral response to the tax evasion charges. During the oral rebuttal session in Dupree's office, Steakley followed up on Cerasi's written request for a ''reinvestigation of this whole Walinski file.'' Steakley requested ''an internal investigation of SA Walinski's actions.'' Steakley stated once again ''he had proof that SA Walinski had fabricated the results of the administrative inquiry involving his state income taxes.''

[See Attachments 8, page 1]

Steakley's ''Proof''

The ''proof'' referred to by Steakley was a taped telephone conversation he had with Gianino on September 8, 1994 about Walinski's reported interview of her on May 21, 1993. This tape was subsequently provided to and transcribed by the DOD IG, and a copy of the transcription is located in the files of the U.S. Office of Special Counsel (OSC).

The Majority Staff reviewed the tape transcription in the OSC files.

Gianino's statements on this tape appear to indicate that Walinski fabricated the entire Gianino interview. Steakley read her Walinski's report of interview. She said that every statement in Walinski's report, which was attributed to her, was ''not true.'' She never had an extended illness, and her leave records would prove it. She said Walinski made several visits to her office to examine Steakley's file. She gave him the file, and he took notes from the file. [Walinski probably made these visits in March or April 1993 when checking Steakley's time and attendance records during the investigation of Steakley's accident with a government vehicle in Administrative Inquiry 86]. At the conclusion of the tape, Gianino said: ''Walinski came over here with his badge and puts false accusations in his report. How am I ever going to trust anybody coming over here [from that office] again.''

[See Attachment 2, Telephone Conversation between William G. Steakley and Nancy Gianino, September 8, 1994—Tape Transcription, page 78]

DCIS Rejects Request for Re-Investigation

Except for what appears to be an exchange of perfunctory phone calls in 1995, requests for an independent review of Walinski's report were largely ignored—and finally dismissed—by senior DCIS management. Another three years would pass before Steakley's allegations about Walinski would be subjected to an independent review.

IG Request for Independent Review

The independent review was triggered by a series of letters from Steakley to Ms. Eleanor Hill, DOD IG, and to Senator Fred Thompson. These letters were dated February 9, 1996 and March 12, 1996. In these letters, Steakley renewed his allegations that ''Walinski and Hollingsworth had ''prepared fabricated reports.'' They had ''falsely accused him of tax fraud,'' he alleged. These letters also put a new twist on the allegations. Steakley now alleged that ''Walinski stated directly that the entire matter was directed by Mancuso and Dupree.''

[See Attachment 9, Steakley letters to Hill and Sen. Thompson multiple pages]

DOD IG Refers Case to PCIE

Since Steakley's allegations were ''longstanding in nature and involve a number of individuals in various parts of the IG organization,'' Hill concluded that her office was not capable of conducting ''an objective internal investigation of the allegations.'' She said it simply was ''not feasible.'' Consequently, on May 23, 1996, she referred the entire matter to the President's Council on Integrity and Efficiency (PCIE) for further review.

[See Attachment 10, Hill's letters to PCIE and Senator Thompson, May 23, 1996, page 1]

PCIE Response

On October 16, 1996—five months after Hill's request was made, the PCIE returned the case to the DOD IG ''for appropriate handling,'' because Steakley's complaints concerned IG employees—not the IG herself. [Attachment 10, PCIE letter to Hill, page 2] Following another request from the DOD IG on February 20, 1997, the Integrity Committee of the PCIE agreed to review Steakley's allegations. In her final request, Hill again expressed frustration over her inability to conduct an independent review: ''Our attempts to conduct an impartial internal inquiry have been hampered by the increasing number of senior managers who have recused themselves as a result of the growing allegations, including the Director [Mancuso] of the office which would be investigating this matter internally.''

[See Attachment 10, PCIE letter to Hill, October 16, 1996]

Case Referred to OSC

On June 3, 1997, the case was finally referred to OSC for investigation.

[See Attachment 10, Hill memo to PCIE, February 20, 1997; OSC letter to DOD IG, June 3, 1997; IC letter to PCIE, January 8, 1999, page 2]

OSC Report and Conclusions

On July 21, 1998, the OSC completed a report on Steakley's allegations about senior DCIS officials. The OSC report focused primarily on prohibited employment practices and not whether Walinski had falsified official reports on investigation.

Despite a mountain of evidence pointing to a number of unresolved issues, the OSC notified DOD in December 1998 that Steakley's allegations ''were without merit,'' and the case was closed in January 1999.

[See Attahcment 10, IC letter to PCIE, January 8, 1999. page 2.]

McClelland's Investigation

On March 27, 1996—two months before Hill initially referred the matter to the PCIE, she attempted to launch an investigation of Steakley's allegations. This investigation continued while Hill worked with PCIE/OSC to assume responsibility for the investigation.

The job was assigned to the IG's Office of Departmental Inquiries—an organization that is separate from DCIS—and more independent, though both offices report to the same boss—the DOD IG. Mr. Dennis Cullen was initially assigned as the case action officer on April 2, 1996, but Mr. Greg McClelland was placed in charge of the internal inquiry on December 12, 1996.

Between January and June 1997, McClelland conducted a very extensive set of interviews. The staff has examined the transcripts of McClelland's interviews and believes that McClelland conducted a very thorough and credible investigation. He gathered all pertinent information needed to prepare an independent report on Steakley's allegations. While McClelland actually began drafting a report, it was never finalized. Once the OSC agreed to assume jurisdiction over the case on June 3, 1997, McClelland was directed to terminate his effort and transfer all materials to the OSC. Even though McClelland's report was never finalized, his files contain important information bearing on the allegations against Walinski—information that was completely ignored by OSC.

McClelland's Investigative Plan

The guidance given to McClelland was clear. He was to investigate all the allegations raised by Steakley, including ''alleged false statements'' by a DCIS investigator. On the tax fraud inquiry, he intended to address this issue: ''Did DCIS fabricate an ethics violation [suspected tax fraud] against Mr. Steakley?'' He planned to ''review applicable regulations'' to determine whether ''officials acted within the scope of their authority.'' His investigative plan called for questioning Gianino first. If warranted—based on information obtained from Gianino, he would then interview other DCIS officials as follows: Walinski, Hollingsworth, Dupree, and Mancuso.

[See Attachment 11, page 3]

Gianino

On January 28, 1997, McClelland interviewed the key witness—Gianino—regarding the contents of Walinski's reported interview of her on May 21, 1993. In this interview, Gianino disputes and contradicts virtually every point raised in Walinski's report.

Walinski's report declares that the interview took place at Gianino's Bolling AFB office on May 21, 1993. Gianino, by comparison, testified that she had just one telephone conversation with Walinski; that he called her; but she was unable to remember when the call took place.

McClelland questioned Gianino about each individual part of Walinski's report of interview. McClelland read her each sentence in Walinski's report. In each case, he asked Gianino: ''Is that accurate?'' And in each case, Gianino replied: ''I did not call him.'' Or ''that's not a true statement.'' Or ''that's not true.'' Or ''I did not do that.'' On the question of sick leave between 1991 and 1993, Gianino testified: ''I had maybe a couple of hours of sick leave. But I was not out for a long extended period of time due to illness.''

[See Attachment 2, Gianino interview, 1/28/97, pages 4–12]

Gianino's Leave Records

The staff examined Gianino's leave records for 1991 through 1993.

In his report of investigation, Walinski states: ''Very shortly after her discussions with Steakley [in late 1991], she [Gianino] became very ill and was off work for an extended period of time. Because of her illness she was unable to follow-up concerning Steakley. . . . In the Spring of 1993, after her return from the extended illness, Mrs. Gianino. . . .''

Walinski's assertions about Gianino's absence from her Bolling AFB office due to an extended illness are inconsistent with her official leave records.

Those records show: (1) Gianino used 54.5 hours of sick leave in 1992; and (2) she used .5 hours in the first half of 1993 and a total of 15 hours of sick leave for the balance of the year.

[See Attachment 12]

Walinski

McClelland then interviewed Walinski—first on February 14, 1997—and then again on June 6, 1997. After questioning Walinski at length about other parts of his report of investigation on the Steakley tax fraud case, McClelland confronts him with the conflict between his report and Gianino's sworn testimony:

''Okay. Well, Mr. Walinski, we have a problem. And the problem is that Ms. Gianino controverts almost everything you say about her in here [Walinski's report], under oath, on tape.''

[See Attachment 2, Walinski interview, 2/14/97, page 62]

Walinski replies: ''Okay, Well,—In here somewhere we will find the information that she provided to me, and it will be in her handwriting.''

[See Attachment 2, Walinski interview, 2/14/97, page 62]

Walinski never produced any documentation from Gianino that had a bearing on the contents or accuracy of his May 21, 1993 report of interview.

Then McClelland moved to the key question about sick leave. Walinski's report contains a number of references to how Gianino ''became very ill and was off work for an extended period of time.'' McClelland asked this question:

''Okay. Ms. Gianino states that she was not out sick from December 1991 to spring 1993, and the records substantiate that.''

[See Attachment 2, Walinski interview, 2/14/97, page 65]

McClelland asked Walinski to explain the discrepancy between his report and Gianino's official leave records. Here is Walinski's response:

''Well,—well, the remembrance that I have is, folks, is that she was out sick, and I remember everybody at headquarters telling me that . . . I think she had cancer really bad, ovarian cancer, and she would come into work and work a couple of hours, and then she would go home.

[See Attachment 2, Walinski interview, 2/14/97, pages 14 and 65]

Under intense probing, Walinski admitted that the Gianino interview may not have taken place on May 21, 1993—as stated in his official report. He told McClelland: ''I interviewed her [Gianino], like, two or three times.'' McClelland responded to this revelation with another question: ''Why isn't that reflected in the ROI [report of investigation]?'' Walinski's response helps to shed light on his investigative methods. He told McClelland that his reports do not necessarily reflect the way he conducted the investigation:

''Well, because one day I went over there and she told me this information. Another day I went over there and I interviewed her and I was interviewing her about another, you, something else.''

[See Attachment 2, Walinski interview, 2/14/97, pages 63–65]

During the second interview on June 6, 1997, McClelland attempted to determine if there was any concrete linkage between Walinski's handwritten notes of the Gianino interview and the final version of the interview that accompanied his report of investigation. McClelland determined that there was essentially no linkage. Not one important fact contained in the final report could be traced back to Walinski's handwritten notes. And Walinski agreed with McClelland's assessment. The Majority Staff examined those notes and agreed with McClelland's assessment. Walinski's notes are undated and cannot be considered proof that the interview took place. McClelland asked Walinski about the disconnect. Walinski replied:

''I don't write down verbatim what people tell me, so I remember she just said she was out . . . I just write down highlights in my notes . . . Just enough that jogs my memory so I can remember what people said.''

[See Attachment 2, Walinski interview, 6/6/97, pages 28, 37, 69]

Staff Interviews Gianino

Gianino was interviewed on June 30, 1999 regarding her knowledge of Walinski's May 21, 1993 witness interview report.

At the beginning of the interview, the Majority Staff gave her an opportunity to examine Walinski's report. She had never seen it. She re-confirmed all the facts previously developed by McClelland. Point-by-point, she characterized Walinski's report as completely false. She stated that she was never interviewed by Walinski but may have spoken to him briefly on the telephone. She noted that he was even mistaken about her GS grade. Walinski reported that she was a ''GS-12 Payroll Specialist'' at the top of the witness interview form. In fact, Gianino was a GS-7 Payroll technician on the date of the interview. When asked why she thought Walinski fabricated his report of interview, she offered this opinion:

''DCIS was out to get Steakley. They wanted to destroy him''

On August 20, 1999, the staff conducted a follow-up interview with Gianino. At that time, she was shown portions of Walinski's sworn testimony to McClelland on February 14, 1997 where he attempted to explain the discrepancy between his report and her leave records. In this testimony, Walinski fabricated a new reason for his May 1993 report about her extended absences from the office. He suggested that ''she had cancer really bad, ovarian cancer.'' Gianino was shocked that Walinski had made such a statement under oath. She said: ''that statement is not true. I have never had ovarian cancer.''

Staff Interviews Walinski

On September 8, 1999, the Majority Staff questioned Walinski about the accuracy of his May 21, 1993 interview of Gianino. During the meeting, he attempted to offer evidence that his reported interview of Gianino did, in fact, take place.

This is the explanation offered by Walinski:

Since Steakley had refused to cooperate with the investigation and provide his state income tax returns, DCIS could not prove that Steakley had failed to meet his state tax obligations. This shortcoming was painfully evident when the ARB Board met to review the Steakley case. Walinski's report did not answer the key question: What were Steakley's total unpaid tax liabilities? Exactly how much did he owe Virginia and California?

The ARB wanted that question answered. So Walinski was called into the ARB Board meeting and directed to get the missing information. Walinski claims he contacted Gianino on the telephone and then went over to her office at Bolling AFB. At this meeting, she provided the earnings data that he needed to calculate Steakley's unpaid state taxes for the Board. He said there were detailed notes containing the tax calculations. He further stated that some of those notes were in Gianino's handwriting, and they prove that the Gianino interview actually took place as he reported.

[See Attachment 14]

Walinski offered essentially the same explanation to McClelland in testimony on February 14, 1997, and June 6, 1997.

Walinski's explanation does not stand up to scrutiny for three reasons:

First, Walinski's handwritten notes that he purportedly took during his interview of Gianino on May 21, 1993 do not contain tax calculations or references to them.

Second, The final version of Walinski's report of interview with Gianino on May 21, 1993 contains no reference to income tax calculations.

Third, since the ARB Board did not meet on the Steakley tax evasion case until February 17, 1994—nine months after the reported Gianino interview, and since Walinski claims the tax calculations were prepared in response to a question that arose during the Board meeting, the notes on tax calculations—if they ever existed—could not constitute proof that the Gianino interview took place as reported by Walinski.

McClelland's Evaluation of Walinski

McClelland was interviewed on August 4, 1999 to elicit his impressions on the irreconcilable differences between the testimony of Walinski and Gianino. This is what McClelland stated:

''While he was unable to document willful intent on the part of Walinski, he characterized Walinski's conduct and reporting in the Steakley tax fraud case as egregious. Walinski was a sloppy investigator. His report contained widespread discrepancies and inaccuracies.''

Response by Management

This portion of the reports addresses the question of how DCIS management responded to allegations that Walinski had fabricated his official report on the Steakley investigation:

Did DCIS management make an honest attempt to review the allegations about Walinski's report?

The Majority Staff was unable to find any evidence to suggest that DCIS management attempted to evaluate complaints that Walinski had falsified his report on the Steakley tax fraud case.

Examples of how DCIS management responded to the allegations are cited below.

Bonnar

In a memo dated November 15, 1994, Bonnar—Walinski's immediate supervisor—reported that he had received a telephone call from Steakley the previous day—November 14, 1994. Bonnar reported that Steakley asked if Dupree had launched an investigation into Mr. Walinski's actions. Steakley had requested the investigation during his meeting with Dupree on October 20, 1994. Bonnar told Steakley: ''there are no pending internal administrative inquiries involving your case.''

In the memo, Bonnar also reported on Steakley's overall impressions of DCIS' commitment to reviewing Walinski's actions:

''It was clear to him [Steakley] that Mr. Dupree had decided not to act on his request for an investigation.

[See Attachment 8, page 2]

Hollingsworth

According to the OSC report, Dupree asked Hollingsworth to be certain that Walinski's

report was consistent with the facts, and Hollingsworth assured him that there was no truth to Steakley's allegations:

''Dupree asked Hollingsworth to look into the [Walinski] matter and recalled that he was assured by Hollingsworth that the documents were in support of the information . . . and found the allegation was not correct.''

[See Attachment 15, pages 15 and 22]

OSC's assessment does not seem to square with the facts.

First, there is no evidence to suggest that Hollingsworth investigated the accuracy of Walinski's report. Quite to the contrary, a memo signed by Hollingsworth on November 23, 1994 suggests that he had no plan to do it—unless Steakley provided more specific information Hollingsworth stated:

''Based on a review of the allegations made by SA Steakley, no action will be taken until he provides written documentation.''

[See Attachment 16]

Use of the words ''written documentation'' seems important, since Steakley had taped a conversation with Gianino on September 8, 1994 suggesting that Walinski had falsified the interview. Testimony by Dupree, which is cited in the next section of this report, indicates that management knew about the tape but refused to consider it as a useful piece of evidence.

Secondly, it seems like Hollingsworth thought he knew the answer to the key question surrounding the accuracy of Walinski's report—Gianino's leave status. In his November 23, 1994 memo, Hollingsworth indicated that he had already made up his mind on this core issue:

''The one issue that can be readily resolved is the issue of Mrs. Nancy Gianino's leave status. Contrary to SA Steakley's allegations, her lengthy leave was well known at DCIS since she handles the payroll at Bolling AFB for DCIS.''

[See Attachment 16]

An independent interview of Gianino and review of her leave records would have quickly resolved all the issues surrounding Walinski's report of investigation. However, Hollingsworth failed to pursue this line of inquiry.

Dupree

On March 13, 1997, McClelland interviewed Mancuso's Deputy, Mr. William Dupree, about his knowledge of and reactions to allegations that Walinski had falsified his report on the Steakley tax evasion case.

Initially, Dupree flatly denied having any knowledge about Walinski's fabricated reports. For example, McClelland asked: ''Were you aware of factual inaccuracies in the [Walinski] ROI [report of investigation]?'' Dupree's answer: ''No.'' McClelland's follow-up question: ''You weren't?'' Dupree: ''No.''

[See Attachment 2, Dupree interview 3/13/97, page 37]

Fortunately, McClelland pressed Dupree about the issue and succeeded in making Dupree admit he was aware of the problem. From his response, it seems very clear that he never had any intention of examining the accuracy of Walinski's reports.

Question

McClelland asked him if he remembered if the subject of ''false information in Walinski's ROI [report of investigation] came up at a meeting in his office [Meeting with Steakley and Cerasi in October 20, 1994].''

[See Attachment 2, Dupree interview, 3/13 97, page 38]

This was Dupree's response:

Response

''Oh, Gary [Steakley] was making all kinds of statements about things. Yeah. The falseness, you know, allegedly there are false statements. But you know, he didn't provide any facts or information.''

[See Attachment 2, Page 38]

Question

McClelland then began questioning Dupree about his response to allegations that Walinski had falsified the Gianino interview. McClelland asked this question: ''Did you take any action to look into that?''

Response

''Other than to assure Larry [Hollingsworth], 'Let's make sure that what we're doing is something we can support and back it up and everything. But Gary didn't offer anything. He said he had a tape [interview with Gianino on September 8, 1994]. And I'm saying, Gary, you know, I need more than that.''

[See Attachment 2, Page 39]

Question

McClelland turned to the crucial follow-up question: ''Did anybody call Gianino and find out, find out what she had actually said?''

Response

Dupree's response is very revealing. It suggests he never had any intention of checking out the questions about the inaccuracy of Walinski's report. He said:

''I have no reason to question the statement that she provided to Walinski, an agent, no different than the statement I provide to you.''

Question

McClelland responded with this question: ''Well, you have an allegation from Gary [Steakley]?''

Response

''Allegation. With what? He is the person that's being investigated. I had reason to believe Gary [Steakley] was making a speculative allegation without any evidence other than he doesn't like Matt Walinski.''

Final Exchange

McClelland closed this segment of the interview with another question:

''If you were to find out that there were inaccuracies in the ROI [report of investigation] with regard to—.''

However, before McClelland could complete the sentence, Depuree jumped in with this assertion: ''I would do the similar thing we previously did.'' So McClelland asked: And what's that? Dupree's response: ''Investigate it.''

[See attachment 2, page 41]

The Majority Staff's puzzled by Dupree's response to the last question. He had allegations—from FLEOA and Steakley—about inaccuracies in Walinski's investigation report. Why did he fail to investigate them?

Hollingsworth provided a partial answer to this question during an interview on August 24, 1999. Hollingsworth asserted:

''DCIS gave absolutely no credence to Steakley's allegations.''

Mancuso

McClelland also interviewed DCIS Director Mancuso on March 13, 1997.

Mancuso's responses to McClelland's questions clearly indicate that he was aware of the allegations about Walinski's report.

This is Mancuso's response to McClelland's question about his knowledge of inaccuracies in Walinski's report of investigation and the Gianino interview:

''I know that there was a question that Gary [Steakley] had as to where Matt [Walinski] had gotten the information. I remember something on that * * * * But it was—what I heard of complaints, I heard from Gary. I'm not aware from Bill [Dupree] or from anyone else that there was anything inaccurate in Matt's report.''

[See Attachment 2, Mancuso interview, 3/13/97, page 27]

McClelland then asked Mancuso: ''What did you hear from Gary [Steakley] on that [inaccuracies in Walinski's report]?

In replying to this question, Mancuso indicates that Steakley's allegations about Walinski's report were coming into his office and being relayed to him through secondary sources:

''I would walk down the hall and somebody would say Steakley called me up last night, and he was saying that Matt Walinski had not attributed remarks properly in some way and that kind of thing.''

[See Attachment 2, Mancuso interview, 3/13/97, page 26]

McClelland follow up by asking: Did he [Steakley] tell you anything about a woman over at payroll called Nancy Gianino? Mancuso's reply suggests that he was not only familiar with Gianino's name, but more importantly, he heard about her from sources other than Steakley. It also suggests that Mancuso had knowledge of the core problem with Walinski's report. This is Mancuso's reply: ''I've heard that from other people. I did not hear it from Gary.'' Mancuso's response to that question prompted McClelland to suggest that Mancuso had ''some idea of the allegations that Steakley was making with regard to Gianino?'' Mancuso admitted that he did but again claimed that it was coming from Steakley.

[See Attachment 2, Mancuso interview, 3/13/97, pages 26–27]

Mancuso's response to these questions is consistent with the assessment presented by the OSC in its report of July 21, 1998 on the Steakley case, OSC concluded:

''Mancuso was aware of the conflict between the Walinski interview of Gianino and Steakley's version of the interview. However, Mancuso was not aware of any manufactured information relating to Steakley.''

[See Attachment 15, page 22]

Mancuso Ignored Walinski Problem

To summarize, Mancuso admits that he knew about Steakley's allegation that Walinski had fabricated the Gianino interview, but no one in DCIS, including Dupree, had ever suggested to him that there was any truth to those allegations. Clearly, management did not give the allegations much credibility. As Hollingworth put it: ''DCIS gave absolutely no credence to Steakley's allegations.''

It seems very clear from Mancuso's testimony that he never considered the need to investigate the allegations. The apparent lack of curiosity on the part of the most senior criminal investigator at the DOD IG is astonishing. As a result, the allegations about Walinski were never examined, and no corrective action was taken.

THE CASE OF MR. JOHANSON

Walinski initiated this inquiry—Administrative Inquiry 108—on February 23, 1994 after DCIS headquarters, including Bonnar, Hollingsworth, and Nancuso, were officially notified that a DCIS-issued weapon was stolen from the home of Special Agent Stephen Johanson, who was assigned to the Van Nuys Resident Agency office in California.

Stolen Gun

DCIS had issued Johanson two weapons: (1) a 9mm Sig Sauer that he normally carried; and (2) a smaller Smith and Wesson revolver for undercover work.

Sometime between February 14 and February 16, 1994, while Johanson was participating in the execution of a search warrant in San Diego, his home in Palmdale was burglarized. The burglars stole a number of items valued at about $10,000.00, including jewelry and the loaded Smith and Wesson revolver. The stolen revolver was issued to Johanson because of his involvement in an

undercover operation the previous year. Since an earthquake had severely damaged the Van Nuys Resident Agency office and made it insecure—and no Class-5 safe was available there, Johanson kept this weapon stored on the top shelf of his bedroom closet under a pile of clothing. When he returned from San Diego on February 16th and discovered the burglary, he immediately notified the local police authorities and DCIS management of the break-in and loss of the service weapon.

Walinski's Report

Walinski reported that he conducted the following interviews of DCIS officials assigned to the Los Angeles Field Office: (1) Richard Smith, Special Agent in Charge (SAC)—March 4, 1994; (2) Robert Young, Assistant Special Agent in Charge (ASAC)—March 2, 1994; (3); Jon Clark, Group Manager—March 2, 1994; (4) Michael R. Shiohama (RAC)—March 2, 1994; (5) Michael D. Litterelle, Firearms Coordinator—March 3, 1994; and (6) Stephen J. Johanson, Special Agent—March 3, 1994. While all the interviews were conducted during a 3-day period, March 2–4, it took Walinski more than five weeks to sign, date, and finalize these interviews. They are actually dated April 12–13, 1994.

Based on these interviews, Walinski reached four important conclusions. These conclusions are contained in his report of investigation: First, Johanson's supervisors—RAC, SAC, and ASAC—never authorized Johanson to have the undercover weapon issued to him. Second, has supervisors did not know that Johanson had the undercover weapon until it was reported as stolen. Third, Johanson informed the Group Manager (Clark) on February 10, 1994 that he had the undercover weapon, and the Group Manager ''immediately'' instructed him to turn it in at the next firearms range training session scheduled for March 7, 1994. And fourth, neither Johanson nor the Firearms Coordinator could remember who authorized Johanson to have the undercover weapon.

[See Attachment 1, Report of Investigation, Synopsis]

Walinski completed this inquiry on April 15, 1994. On that date, Hollingsworth forwarded Walinski's report of investigation and appended interviews to Dupree ''for whatever action you deem appropriate.''

[See Attachment 1, letter of transmittal]

ARB Recommendation

The Administrative Review Board (ARB) met on April 21, 1993 to consider Walinski's report on the Johanson case.

After reviewing Walinski's report, the ARB reached these conclusions: (1) Johanson stored a government-issued weapon at his residence while on ''extended leave or nonduty status for 5 or more consecutive days'' in violation of Section 3807.4 of the DCIS Special Agent's Manual; and (2) Johanson was not authorized to posses two issued weapons. The ARB also concluded that Johanson failed to return the weapon at the conclusion of the undercover operation and failed to sign the proper forms when the weapon was issued to him.

The ARB recommended that Johanson be suspended for 10 days without pay. The ARB's report, dated May 9, 1994, was forwarded to the SAC, Los Angeles Field Office, Richard R. Smith, for consideration.

[See Attachment 2, page 1]

Charges

On June 24, 1994, Smith issued a Notice of Proposed Suspension to Johanson. Smith recommended that Johanson be suspended without pay for 8 calendar days: for failing ''to sign for, properly secure, and return a weapon issued to you for an undercover assignment.''

Smith's memo to Johanson recited many facts taken directly from Walinski's report of investigation and accompanying interviews. These same facts were subsequently disputed—and formally challenged—by many of the agents involved.

Smith's decision to discipline Johanson seemed to hinge on one piece of disputed information developed by Walinski. This was a meeting that allegedly occurred in the Van Nuys Resident Agency office on February 10, 1994. At this meeting, Walinski claimed that Group Manager Jon Clark informed Johanson that he would not be assigned to an ongoing undercover operation known as ''Skyworthy.'' According to Walinski, Johanson then informed Clark that he still had an undercover weapon. At this point, Walinski states, Clark told Johanson to bring the weapon to the next firearms qualification session to be held on March 7, 1994. This particular assertion appears in Walinski's interviews of Young, Clark and Johanson as well as in his report of investigation. The February 10, 1994 meeting is the centerpiece of Smith's Notice of Proposed Suspension. Smith used this piece of information as the basis for charging Johanson with failing to return a weapon issued to him for undercover work. This is what Smith said about the alleged February 10, 1994 meeting attended by Clark:

''On February 10, 1994, you [Johanson] were informed by Group Manager Clark that you would not be part of the undercover operation relocated from 50PX [Phoenix]. When you told Group Manager Clark that you still had a second weapon in your possession he instructed you to bring it to the next 50LA range qualification on March 7, 1994. Before you could return the weapon, your home was burglarized and the gun was stolen.''

[See Attachment 3, page 1]

Rank and File Challenge Walinski's Report

The first formal complaint about Walinski's report on the stolen gun case was initiated on the day Johanson received Smith's Notice of Proposed Suspension—July 6, 1994—and saw the erroneous information about the February 10th meeting.

The first complaint was embodied in a sworn statement signed jointly by Supervisory Special Agent Jon Clark and Mr. Thomas J. Bonnar—Walinski's immediate supervisor at DCIS Headquarters in Washington. While this statement was signed on July 19, 1994, it concerned a telephone conversation between Johanson and Clark on July 6, 1994. The joint Clark/Bonnar statement clearly suggests that Walinski falsified information in this report of investigation on the stolen gun case.

Portions of the joint statement are summarized below.

After receiving Smith's Notice of Proposed Suspension on July 6, 1994, Johanson called Jon Clark on the telephone to express alarm and confusion over a statement in Smith's memo that was attributed to Clark. Johanson read the following statement to Clark:

''That he [Johanson] was instructed by Group Manager Jon Clark on February 10, 1994, that he was not going to be participating in the undercover operation at LAFO [Los Angeles Field Office] and that he should return the undercover weapon he had at the next firearms qualification.''

[See Attachment 4, page 1]

Johanson informed Clark that he had no recollection of receiving this instruction from Clark and asked Clark if he could recall giving it. This is how Clark responded to the news:

''I was astonished and confounded by this statement. I asked him to re-read the statement. I said I have no idea how or why that statement was in the letter. I said I had no recollection of providing him those instructions nor had I any recollection of saying that to anyone. Moreover, I was not aware of the fact that he had an undercover weapon.''

[See Attachment 4, page 1]

Clark told Johanson that he would check his calendar for the date of February 10, 1994 to verify whether he was at the meeting in the Van Nuys Resident Agency office as reported by Walinski. In checking his calendar, he discovered that he was not in the Van Nuys office that day. Instead, he spent that entire day at the El Segundo Resident Agency office on other business with both Young and Smith [Smith and Young later confirm the fact. Smith and Young were the SAC and ASAC in the Los Angeles Field Office].

Following the phone conversation with Johanson, Clark contacted Smith and Young in the Los Angeles Field Office to inquire about the origins of the assertions in Smith's letter to Johanson. Smith advised Clark that the information on the February 10, 1994 meeting was extracted for Walinski's ''internal'' report of investigation (ROI). At that point, Clark assured Smith that ''he had not provided a statement on this investigation.'' Clark asked Smith to double-check the ROI ''to be sure that was no mistake.'' Smith re-checked the ROI and ''advised me that there was a DCIS Form 1, Report of Interview of me.''

Clark denied again that he was ever interviewed by Walinski. This is what he said to Smith:

''I was perplexed. I advised SAC Smith that I had no recollection of this report being taken and asked that I be permitted to read it to refresh my recollection. He said no. . . . I informed SAC Smith that these were facts that I not only did not say—but information I did not know. . . . I could not corroborate the statement attributed to me in SAC Smith's letter to Johanson. . . . I cannot believe I made those statements since I had no specific knowledge of those facts. The statements appear to be factually inaccurate, and therefore would not have been stated by me.''

[See Attachment 4, page 1–2]

About a week later—on July 5, 1994—Mr. Michael D. Litterelle [Firearms Coordinator] informed Clark that he had a copy of Walinski's ROI, and Litterelle actually gave Clark a copy of Walinski's form 1 Witness Interview of Clark. After reading it, Clark stated:

''I read the interview and found it contained statements that were attributed to me that I knew were untrue. . . . I never made this statement.''

[See Attachment 4, page 3]

The exact distribution of the joint Bonner-Clark statement is unknown. However, since it was ''solicited'' by Bonner, the Assistant Director of internal affairs, it would not be unreasonable to assume that Hollingsworth—the director—and other DCIS managers knew about it and actually saw it.

Supervisor Challenges Walinski's Report

Several weeks after the Bonnar/Clark complaint, another formal complaint about Walinski's report was submitted to Hollingsworth's office. This one was signed on August 4, 1994 by ASAC Young in the Los Angeles Field Office. It contained a detailed, line-by-line commentary on inaccuracies in Walinski's interview of Young along with highly critical comments on Walinski's interviews of Clark and Shiohama on the same date [March 2, 1994].

Young stated that he was ''somewhat shocked'' after reading Walinski's report. He stated that Walinski's report contained statement that were misleading, ''wrong''

and ''inaccurate.'' He said that Walinski attributed statements to him that he never made.

After alluding to the ''significant discrepancies'' in Walinski's interview of Clark, Young reports that Shiohama had advised him that ''there were subject areas in the report or statements that he had not discussed with SA Walinski. Shiohama stated that the last paragraph of his interview was totally inaccurate.'' However, both Young and Shiohama insisted that portions of their interviews appeared to accurately reflect what they had said to Walinski.

Appeal to Management About Walinski's Reports

In asking Hollingsworth to examine the discrepancies in Walinski's report, Young makes an appeal to senior management on behalf of rank and file agents:

''I am not trying to cause you or Matt [Walinski] problems. But in this situation I am caught in the middle. I have agents that are in the process of being disciplined and based on what I know now the recommended disciplinary actions may be based on incomplete and inaccurate information. The agents throughout the Field Office know this and are now finding fault with management for not taking some type of action to have this situation re-evaluated.''

[See Attachment 5, Note from Young to Hollingsworth]

Young's report was officially moved up the chain of command—to the top. Young forwarded it to Bonnar who, in turn, submitted it to Hollingsworth, and Dupree—Mr. Mancuso's Deputy. However, during an interview on September 14, 1999, Mancuso denied having knowledge of the allegation that the Clark interview was fabricated until recently or August 1999.

FLEOA Letter

Young's formal complaint to Hollingsworth about Walinski's inaccurate reports was followed almost immediately by a formal complaint from another source.

During the adjudication phase of the stolen gun case, Johnson was represented by an attorney with the Federal Law Enforcement Officers Association (FLEOA), Luciano A. Cerasi—the same lawyer who represented Steakley in the tax evasion case.

In a letter to Dupree, dated August 8, 1994, regarding the Johanson case, Cerasi raised the possibility that Walinski had falsified his report of investigation. Cerasi's letter contains this explosive allegation:

''It is questionable whether SA Walinski even interviewed SA Clark.''

Cerasi also raised questions about why five weeks elapsed between the dates on which Walinski conducted the disputed interviews and the final dates on the interview reports. Cerasi suggested that this delay violated DCIS policy requiring that witness reports be completed and finalized within 3 working days of the investigative activity. Cerasi characterized Walinski's report as a ''shabby investigative effort'' that would only serve to demonstrate to other agents that in DCIS ''justice is unattainable.''

[See Attachment 6, pages 3–4]

Attempted DCIS Coverup Possible

Initially, DCIS management may have tried to put a lid on the groundswell of adverse information on Walinski's reports that began to surface in mid-1994. First, there were complaints from rank and file agents—Clark, Young, and Shiohama—in July and August 1994. Those were followed immediately by the FLEOA letter. A month later—in September 1994—FLEOA filed a second complaint with management. This one concerned allegations that Walinski had fabricated the Gianino interview.

The sworn statement signed jointly by Bonnar and Clark alludes to a possible attempt by DCIS management to keep a lid on all the complaints about Walinski's reports:

''On July 8, 1994, ASAC Young advised me that HQ [DCIS Headquarters] had decided that they would wait and not raise the issue regarding my discrepant interview unless it was raised by SA Johanson. I [Clark] expressed concern that this may be released to agents and that they may conclude that I fabricated this story and it would therefore discredit me. I was informed that the information was controlled in its release.''

[See Attachment 4, pages 2–3]

On August 9, 1999, the staff contacted the DOD IG with this question: ''Who at DCIS made this decision?'' The following answer was provided on September 30, 1999: ''We have not been able to determine who, if anyone, made this alleged decision.''

Re-Investigation

As a result of all the complaints. DCIS management eventually made a decision to launch a re-investigation of the Johanson stolen gun case. The re-investigation was conducted by SA Timothy L. Shroeder from August 10, 1994 until October 5, 1994.

Unfortunately, the re-investigation was conducted in a complete vacuum—as if the entire matter had never been investigated by Walinski.

It is easy to understand why DCIS needed to go back to square one and re-examine all the facts bearing on the stolen weapon. The second investigation had to be impartial and independent after Walinski was accused of falsifying information contained in the original investigation. At the same time, DCIS management had a responsibility and an obligation to determine whether Walinski had falsified his report—as alleged by rank and file agents. Unfortunately, there was no attempt to reconcile the facts contained in Walinski's report of investigation with the facts developed in the re-investigation. In fact, the agent in charge of the re-investigation—Shroeder—received specific instructions to steer clear of the disputed interviews. Hollingsworth gave him these instructions: The ''new investigation should be conducted without reviewing the results of the previous interviews.''

[See Attachment 7]

Clearly, Shroeder needed to avoid the pitfalls created in first investigation, but management should have assigned another agent to examine the allegations made about Walinski's report. If Walinski bungled his investigation and the case had to be re-investigated, then DCIS management should have determined exactly where and how Walinski's investigation deviated from accepted standards. All the complaints from rank and file agents and the FLEOA attorney required nothing less than that.

New Charges

Based on the re-investigation, Smith recommended that Johanson be suspended without pay for 10 calendar days. Smith's second Notice of Proposed Suspension was dated November 23, 1994. Smith charged Johanson with violating two sections of the Special Agents' Manual: (1) Failing to exercise ''utmost caution'' in storing a firearm at his residence; and (2) Storing a weapon at his residence while away from his assigned office for an extended time.

[See attachment 8, pages 1–2]

In the final notice on suspension, dated February 9, 1995, Durpee suspended Johanson for 3 calendar days, beginning on February 15, 1995.

[See attachment 9]

Need for Investigation Questioned

It's difficult to understand why DCIS would suspend an agent for losing a gun that was stolen from his home during a burglary. The staff checked with other federal law enforcement authorities to determine how similar cases have been handled in the past. Under normal circumstances, they suggested that a routine administrative inquiry would be conducted. Once it was determined that the firearm was stolen during a burglary and the theft was duly reported to the proper authorities, the entire matter would be dropped.

Walinsky ''Disciplined'' for Bungled Investigation

On July 20, 1999 and again on August 4, 1999, Ms. Jane Charters was interviewed regarding her knowledge of personnel actions taken against Walinski in the wake of the bungled Johanson investigation.

Ms. Charters is currently the Director of the Investigative Support Branch at DCIS—the same position she occupied in 1994 during the Johanson and Steakley investigations. She exercises personnel responsibilities in DCIS.

During the first interview of July 20, 1994, Charters stated that as a result of mistakes in stolen gun case investigations, DCIS ''lost confidence'' in Walinski and transferred him out of internal affairs and into her office. In the new position, Walinski was no longer conducting internal investigations. Instead, he was to be responsible for DCIS training, physical fitness and security. Charters also reported that Walinski was issued a letter of reprimand that was placed in his file—a fact that was confirmed by Bonnar during an interview on July 12, 1999.

Walinski's Personnel File

On two occasions in July—July 7th and again on July 23, 1999, the Majority Staff examined Walinski personnel file to determine if the disciplinary actions taken against him for his mistakes in Johanson investigation—as described by Charters and others—were accurately reflected in performance ratings and other personnel actions in his file.

The Majority Staff found no evidence that Walinski was ever disciplined for the failed Johanson gun case. Quite to the contrary, the available evidence suggests Walinski was actually rewarded for what happened.

Here is what the Majority Staff found in his file:

Employee Performance Rating—1993/94

For the rating period August 26, 1993 to March 31, 1994, Walinski received an ''outstanding'' rating.

The outstanding rating applied to the period of time when Walinski conducted two investigations—Steakley and Johanson—where the accuracy of his reports were later questioned. In fact, the rating period included the date—March 2, 1994—on Walinski claims he conducted interviews with Young, Clark, and Shiohama. Those reports of interview were later characterized as false, misleading and inaccurate by the agents involved and the FLEOA attorney. The Gianino interview occurred on May 21, 1993—just prior to the beginning of the rating period, but considerable investigative activity on the Steakley case occurred during his rating period.

The rating officials offered this comment: ''Walinski continues to excel in every aspect of his job. He is a very valued employee of DCIS.'' The outstanding rating was approved by Bonnar and the Director of internal affairs, Hollingsworth, on April 15, 1994—the exact same day that Hollingsworth forwarded Walinski's completed report of investigation on the Johanson case to Dupree.

[See attachment 10]

Incentive Award Nomination—Recommendation

On April 25, 1994, Hollingsworth recommended that Walinski receive a performance award of $1,200.00 to accompany the

''outstanding'' rating he received for the period August 1993 to March 1994—the same period when he conducted witness interviews in the Johanson case that were later characterized as false, inaccurate and misleading.

[See attachment 11]

Previous Cash Award—1993

The form used to recommend the $1,200.00 performance award also noted that Walinski had not received any other performance awards in the preceding 52 weeks. His personnel file indicates otherwise. He received a ''Special Act or Service Award'' of $2,000.00 on May 2, 1993—several weeks before his fabricated interview with Gianino on May 21, 1993.

[See Attachments 11 & 12]

Special Performance Rating—1994

This a special rating given to Walinski immediately before his sudden transfer out of internal affairs and into the Investigative Support Directorate. It was the last rating he received for his work in internal affairs and covered a ''shortened rating period'' of April 1, 1994 through July 2, 1994. This rating period includes the date on which Walinski finalized the report of investigation on the Johanson case—April 15, 1994. The closing date for this reporting period—July 2, 1994—came one day before his move to Charters' office and just four days before the first known written complaint about Walinski's false and inaccurate reports reached DCIS Headquarters in Washington.

Bonnar and Hollingsworth gave him a ''fully successful'' rating, but for unexplained reasons, took over three months to approve it. It was finally signed on October 12, 1994. Walinski's other ratings were approved quickly—within two weeks of the end of the rating period.

[See Attachment 12].

DCIS says the delay was due to ''an administrative oversight.''

Walinski stated August 2, 1999 that this is the rating where ''he took a hit'' for his mistakes in the Johanson case. The language in the performance rating documents seemed to support Walinski's assessment:

''Unfortunately, during this rating period he failed to show due diligence and accuracy in reporting the results of some interviews with regard to one administrative inquiry. This one shortfall in SA Walinski's performance is not typical of the otherwise high quality and professional level of his work.''

[See Attachment 13, pages 3–4]

when Bonnar and Hollingsworth signed this document in October 1994, they had already received the allegations about Walinski's false reports on the Steakley tax evasion case. For that reason, the reference to ''accuracy of reporting'' in just one internal investigation does not appear to square with the facts.

Reassignment

Walinski's personnel records indicate that his transfer from internal affairs to the Investigative Support Branch became effective on July 3, 1994.

[See Attachment 14]

As previously reported, Charters suggested during two interviews that DCIS management ''had lost confidence in Walinski'' as an investigator ''and moved him into her office'' as a disciplinary measure. Charters' description of the reasons behind Walinksi's transfer are consistent with those provided by Mancuso during an interview on September 14, 1999.

Hollingsworth and Walinski, by comparison, provided a completely different set of reasons behind the July 1994 move.

During an interview on August 24, 1994, Holllingsworth suggested that the move was not taken for disciplinary reasons: ''It was for his health.'' He said Walinki ''blew'' the Johnason case because ''he was totally stressed out.'' Hollingsworth feared he might ''have a heart attack.''

Walinski meaintains that the transfer was driven by routine considerations.

During an interview on September 8, 1999, he gave the following reasons for the move: (1) There was an attractive opening in Charters' organization; (2) The opening offered him some growth potential into a management position in the future; (3) He had completed his planned 3-year tour of duty in internal affairs; and (4) He had a plan for addressing the training deficiencies in Charters' Directorate. When asked if there was any other reasons for the move, he said ''No.''

[See Attachment 15, pages 1–2]

Walinski Assigned Inspection Duties

A personnel document, signed by Bonnar and Hollingsworth on October 12, 1994 suggests that Walinski conduct inspections long after he was reassigned to ''training'' in Charters' office. Along with inquiries of employee misconduct, inspections are the main responsibility of the internal affairs office. This document suggests that Walinski continue to perform, work for the internal affairs office—despite his removal from that office. This document shows that Walinski played a leadership role in various inspections as follows:

''He also worked on the preparation for the Los Angeles FO [field office] inspection. Although the Los Angeles FO inspection was conducted after the end of this special rating period when SA Walinski reported to his new assignment in the Investigative Support Directorate, he returned to assist with the LA inspection and played a significant role by leading inspection efforts in the DCIS offices in Phoenix, Tuscon, Albuquerque, and Honolulu as well as Los Angeles. He worked independently on these inspections without the need for any close supervision.''

[See Attachment 13, page 3]

During an interview on September 14, 1999, Mancuso expressed surprise that Walinski led the inspection of the Los Angeles field office after his reassignment:

Mancuso said he had no knowledge of Walinski's involvement in the inspection of the LA Field Office after his transfer. He would be surprised and concerned if true, and said he would be checking on the accuracy of that information.

Decision on Inspection Duties Questioned

In an information paper provided on September 30, 1999, Mancuso admitted that Walinski was involved in the inspection of the Los Angeles Field Office. However, Mancuso maintains Walinski was kept on the team only ''to train his replacement'' and ''did not participate in the actual inspection.'' Mancuso's statement conflicts with the personnel document signed by Bonnar, Hollingsworth, and Walinski in 1994 referenced above.

It is very difficult to understand why Walinski would have been assigned to prepare the inspection report on the Los Angeles Field Office in the wake of all the allegations and complaints flowing from the Johanson case. The re-investigation of the Johanson case, which began in August 1944 and was concluded in October 1994, was in progress while Walinski conducted the inspection of the Los Angeles Field Office. That re-investigation was specifically triggered by his disputed interviews of at least three agents assigned to the Los Angeles field Office. Those agents made formal complaints to management about the quality of Walinski's reports. In effect, these agents ''blew the whistle'' on Walinski. Assigning Walinski a leadership role in the Los Angeles Field Office inspection could be viewed as a retaliatory measure, and as such, a very questionable management decision.

Performance Award—1994

On July 24, 1994—exactly three weeks after his transfer from internal affairs into training, Walinski received a cash award of $1,200.00.

[See Attachment 16]

At our meeting with Charters on August 4, 1997, she offered an explanation for the $1,200.00 cash award—in light of Walinski's mistakes on the Johanson case. She suggested that it was given for the rating period August 26, 1993 through March 31, 1994—''before the problem arose over the Johanson gun case.''

Charters' explanation is not supported by the facts. The facts cited below clearly indicate that DCIS management was aware of the complaints about Walinski's report at least three weeks before Walinski received the cash award:

—The rating period for which the cash award was given included the date—March 2, 1994—on which Walinski conducted interviews of agents that were later characterized as false, misleading and inaccurate in rank and file complaints to management;

—Management claims that Walinski was transferred from internal affairs into training on July 3, 1994 as a disciplinary measure for the mistakes he made in the Johanson case. This indicates that management knew about the allegations prior to that date;

—Walinski admitted that he received a reprimand for making ''administrative errors'' in his report on the Johanson case while still assigned to internal affairs—or prior to July 3, 1999;

—Clark informed DCIS management, beginning on July 6, 1994, that Walinski's March 2, 1994 interview of Clark was completely false;

The facts show that the $1,200.00 cash award given to Walinski on July 24, 1994 came at least three weeks after DCIS management had knowledge that Walinski had falsified reports on the Johanson case.

Reprimand

The staff was never able to locate the letter of reprimand that was placed in Walinski's file, nor was the staff able to establish the exact date on which the reprimand was given.

During an interview on July 12, 1999, Walinski's immediate supervisor, Tom Bonnar, stated that he was ''furious'' with Walinski about the Johanson interview statements. He said Walinski ''was verbally and officially reprimanded and a letter was placed in his file.'' Bonnar doubted the reprimand would still be in his personnel file, since it's customary to remove them after a brief period of time.

[See Attachment 17, page 2]

On September 8, 1999, Walinski confirmed that Bonnar had indeed ''handed him'' a ''letter of caution'' for making ''administrative errors'' on the Johanson case, but he could not remember if he kept it for 30, 60, or 90 days. In a telephone conversation on August 2, 1999, Walinski claimed that ''Bonnar told him to destroy it in the shredder after 30 days.''

Walinski also seemed somewhat confused about the actual date of the reprimand. Initially, he suggested that it was dated October 12, 1994. However when it was pointed out that date was the exact day Bonnar and Hollingsworth approved his last performance evaluation for internal affairs, he suggested that October 12, 1994 might have seen the day he destroyed the letter of reprimand. Mr. Walinski seemed certain of one fact: he received the reprimand while still in internal

affairs. This statement is consistent with statements by Charters and Mancuso that the reprimand was issued before July 3, 1994.

[See Attachment 15, page 2]

Walinski's Rebuttal

Walinski has a simple explanation for the inaccuracies in his report of investigation on the Johanson stolen gun case. His explanation was given during testimony to McClelland on February 14, 1997 and confirmed in a telephone conversation on August 2, 1999.

He claims it was a clerical error. In a nutshell, this is his explanation:

''The headers got switched. The wrong headers ended up on the Form 1 interview sheet. I said that one guy said one thing when I said another guy said another thing. This happened when the interviews got typed up. We had a secretary that wasn't a top quality individual. She typed them up wrong. . . . But it was my mistake.''

[See Attachment 18, interview, 2/14/97, pages 74–75, and telephone interview 8/2/99]

During an interview on September 8, 1999, Walinski offered a similar explanation:

''It was an administrative error. I roughed out the form 1 interview reports on my computer and gave my write up to a secretary. The secretary got the headers mixed up and switched some paragraphs.''

[See Attachment 15, page 2]

Walinski's explanation is highly questionable for two reasons: 1) if the Clark interview never took place—as Clark stated, then how could Clark's name end up on a Form 1 ''header'' that was only inadvertently ''switched''? Clark's name not should not have appeared on the radar screen; And 2) Both Young and Shiohama contend that portions of their interviews were true and accurate. If portions of the Young and Shiohama interviews were true and accurate, then how could the incorrect portions of their interviews involved ''switched headers''?

Furthermore, Walinski states that he prepared his write-ups of the interviews on a computer and transferred them to a clerk typist to be finalized. That being the case, a mix up of headers seems improbable.

Walinski rule

Following the Johanson investigation, DCIS management instituted investigative reforms, including the so-called ''Walinski rule.'' Under this rule, all interviews have to be recorded and transcripts reviewed and verified by witnesses.

Management Backs Up Walinski

During an official DOD IG interview by McClelland on March 13, 1997, both Dupree and Mancuso attempted to diminish the significance of the allegations that Walinski had falsified his reports on the Johanson case. They seemed to accept the ''wrong headers'' excuse used by Walinski.

McClelland questioned Dupree on March 13, 1997 about ''Walinski's ability as an investigator'' and problems with regard to ''factual inaccuracies'' in his reports. During the course of that interview, Dupree offered Walinski's ''wrong header'' excuse. This is what Dupree said:

''Matt's [Walinski] probably one of the most capable investigators I know. It wasn't factual inaccuracies. It was in the deliberation of putting a lot of statements together. Unfortunately, some of the comments that were made by individuals were transposed to other individuals. The statements and the facts were absolutely correct. They were just attributed to the wrong person.''

[See Attachment 18, interview, 3/13/97, pages 45–46]

During an interview on March 13, 1997, McClelland asked Mancuso if he ever got ''any word from Bill Dupree about inaccuracies in the report of investigation that Walinski prepared.'' Although McClelland appeared to be asking about the Steakley report, Mancuso's response seems to address the Johanson case. Mancuso also accepted the ''switched headers'' excuse:

''No. Again, I'm a little bit fuzzy because we had one or two instances where Matt [Walinski] on different cases which were in the same area, where Matt had inaccurately attributed certain remarks—had confused witnesses' names in his notes. But I don't recall any inaccuracies involving Steakley. . . . Gary [Steakley] was saying Walinski's responsible for other cases that are now suspect because of inaccuracies. . . .''

[See Attachment 18, interview, 3/13/97, pages 25–46]

Management's Knowledge of Allegations

The testimony given by Dupree and Mancuso to McClelland on March 13, 1997 clearly indicates that senior management at DCIS was aware of the allegations about Walinski's falsified report on the Johanson case.

Rank and file complaints about Walinski's false and misleading reports went right to the top at Headquarters as follows:

—On July 19, 1994, Agent Clark signed a sworn statement, alleging that Walinski had falsified his report [based on complaints received from Johanson on July 6, 1994]; Clark's statement was ''solicited'' and witnessed by Bonnar, the Assistant Director of Internal Affairs and Walinski's immediate supervisor; A document indicates that DCIS headquarters was aware of this complaint on or about July 8, 1994;

—On August 4, 1994, ASAC Young in the Los Angeles Field Office formally complained to Hollingsworth about Walinski's false and inaccurate reports of interview with agents Young, Clark, and Shiohama; Young reports that rank and file agents are ''finding fault with management for not taking some type of action to have this situation re-evaluated;'' Hollingsworth forwarded Young's formal complaint to Mancuso's Deputy, Dupree;

—On August 8, 1994, FLEOA addressed a formal complaint to Dupree, alleging that Walinski falsified his report of investigation;

—On August 10, 1994, management launched a re-investigation of the Johanson case based on rank and file complaints about Walinski's reports;

Mancuso's Knowledge of Allegations

Mancuso's broad responsibilities for internal investigations suggest that he would have been informed immediately of rank and file complaints about the integrity of an ongoing inquiry. Testimony and statements indicate that Mancuso was kept up-to-date on the progress of all ongoing internal investigations. Mancuso's responsibilities as DCIS Director—and the DCIS person chiefly responsible ''for staffing and direction for the conduct of internal investigations''—meant that he would have been informed about the controversy over the Walinski report on the Johanson case and would have been involved in the decision to re-investigate the case and reassign Walinski to Charters' office.

During an interview on September 14, 1999, Mancuso was questioned about his knowledge and awareness of the allegations about Walinski's reports. This is what Mancuso said:

Mancuso admitted that he knew about ''the problems of Walinski's reporting'' on the Johanson case back in 1994, but he contends that he was unaware of the allegations that Walinski had fabricated the Clark interview in its entirety ''until a few weeks ago'' or in August 1999.

Mancuso said that Walinski was given a reprimand and transferred [in July 1994] because of rank and file complaints, of which he was aware, about the credibility of the work being performed by the internal affairs office. He said the ''transfer and reprimand were the culmination of several negative reports on Walinski.'' As a result of these complaints, policy changes—like the need to record and verify interviews—were put in place—and the Johanson case was re-investigated.

Mancuso insisted that he ''did not know about the extent of Walinski's mistakes.'' He claims that as DCIS Director, he normally ''did not get beyond that level of detail,'' though he admitted he got deeply involved with the Steakley case because of the lack of progress in the investigation.

[See attachment 19, page 1]

Decision to Re-Open Case

The directive that re-opened the Johanson case was dated September 23, 1994. This memo suggests that DCIS managers were aware of rank and file complaints about Walinski's report.

The memo states that the Johanson case was re-opened ''after allegations of discrepancies were made concerning the original interviews.'' It also states that Charters and Hollingsworth directed the assigned agent [Schroeder] ''to conduct an independent inquiry concerning the circumstances surrounding'' Johanson's stolen firearm.

[See attachment 7]

Legal Questions about Walinski's Reports

There seems to be a consensus within DCIS that Walinski's reports on the Steakley and Johanson were ''inaccurate.'' DCIS thinking seems to suggest that Walinski's reports might have carelessly deviated from the facts, or he may have misinterpreted a statement. He was just mistaken or careless. Or as Walinski put it, he just made ''administrative errors.''

During an interview on July 12, 1999, Bonnar characterized Walinski's reports this way:

''The statements in Walinski's reports were inaccurate and not falsified.''

[See attachment 17, page 2]

Mr. John Kennan, the current Director of DCIS, was interviewed on August 4, 1999. He indicated that he was well aware of all the adverse information on Walinski's reports in August 1994, but he attempted to minimize the significance of the problem. He said those reports were not a concern because:

''Walinski's inaccurate reports did not affect the outcome of the investigation.''

McClelland offered a similar view in an interview with OSC on November 5, 1997:

''Walinski had been inconsistent and inaccurate in his report on the tax issue (regarding Gianino's testimony) but that it was not harmful. Walinski was just a sloppy investigator.''

[See Attachment 20]

The staff believes that Walinski's reports of interview with Gianino and Clark and his sworn testimony to McClelland regarding these matters in 1997 went far beyond simple factual inaccuracies. The staff believes that Walinski invited or fabricated information contained in those reports for the following reasons:

First, both Gianino and Clark deny that they were ever interviewed by Walinski; they deny making the statements attributed to them by Walinski; and both deny any knowledge of the facts attributed to them by Walinski.

Second, it is possible to independently verify certain inaccuracies in Walinski's reports.

—In Gianino's case, Walinski stated ''very shortly after her [Gianino's] discussions with Steakley she became very ill and was off

work for an extended period of time.'' Walinski later explained that ''she had cancer really bad, ovarian cancer.'' Gianino's official leave records clearly indicate that she had no ''extended illness'' as reported by Walinski. In fact, she was shocked when told that Walinski had testified in 1997—under oath—that she had ovarian cancer. She stated: ''That statement is not true.''

—In Clark's case, Walinski stated that Clark had made statements, which Clark said he never made, at a meeting, which Clark said he never attended. Clark's appointment calendar shows that he did not attend the meeting at the DCIS office identified by Walinski. Instead, he spent that entire day at another DCIS office with two other supervisory agents—Young and Smith—who both subsequently confirmed that fact.

DCIS officials also contend that even if Walinski's reports contained false information, that information was ''not harmful.'' For example, what difference does it make if Gianino did not have an ''extended illness' as reported by Walinski. They argued that the questionable facts generated by Walinski did not affect the outcome of the investigation.

The level of danger or harm caused by a false statement is not a valid standard for determining whether the law was violated.

Under the law—18 USC 1001—a person who deliberately makes false statements could be convicted of a felony and sent to prison for up to five years. The law does not make exceptions for the extent of damage or harm caused by a false statement. In fact, a court decision specifically suggests the false statements need not involve loss or damage to the government [U.S. v. Fern, C.A. 11 (Fla.) 1983, 696 F.2d 1269].

Furthermore, the staff would argue that Walinski's false reports did, in fact, cause damage.

First, Walinski's reports undermined the integrity and credibility of the investigative process at DCIS—the Defense Department's criminal investigative arm.

Second, Walinski's reports damage the reputations of two fellow agents—Steakley and Johanson. Walinski's false reports formed the foundation for charges that were eventually made against both individuals. According to Steakley, those reports caused Steakley and Johanson and their families to incur considerable legal expenses and mental anguish.

Other Cases

During the course of the inquiry into the Steakley and Johanson cases, the majority Staff received allegations from a current and a former DCIS agent that Walinski had falsified reports during two other internal investigations, but the staff was unable to investigate and substantiate those allegations.

Conclusion

Based on a thorough review of all documents bearing on the Steakley and Johanson cases, it is crystal clear that senior DCIS management, including Mancuso, were aware of the allegations about Walinski's witness reports. Although management made certain administrative adjustments in the wake of rank and file complaints about Walinski's reports, management never attempted to determine if those allegations had merit. Management never attempted to reconcile Walinski's reports with the facts. Independent interviews of Gianino and Clark would have quickly established the fact that Walinski had fabricated at least two witness interviews. This very simple step would have led to appropriate corrective action. Instead, the record shows that Walinski was never disciplined. In fact, the record shows that Walinski actually was given a cash award—at least three weeks after management began receiving rank and file complaints about the accuracy of his reports.

Stealkey Case—Attachments

(1) Report of Investigation—Administrative Inquiry 91, May 1993, with witness interviews and other documents

(2) McClelland interviews located in Subcommittee and OSC files; Testimony dates and pages cited; Including tape transcriptions

(3) Letter from Steakley's tax attorney, John T. Ambrose, February 22, 1994

(4) Recommendation of the Administrative Review Board on Steakley case, March 7, 1994

(5) Notice of Proposed Suspension, Memo from Keenan to Steakley, August 4, 1994

(6) Final Decision on Proposed Suspension, Memo from Dupree to Steakley, October 25, 1994

(7) Letter from Steakley's attorney, Luciano A. Cerasi, to Dupree, Received by DCIS ON September 15, 1994

(8) Memo from Bonnar to Hollingsworth on telephone call from Steakley, November 15, 1994

(9) Letters from Steakley to DOD IG Eleanor Hill and Senator Fred Thompson, March 9 & 12, 1996

(10) Exchange of letters between DOD IG Hill and President's Council on Integrity & Efficiency, May 23, 1996 and October 16, 1996; Hill's letter to Sen. Thompson, May 23, 1996; Hill's memo to PCIE, February 20, 1997; OSC letter to Hill, June 3, 1997; IC letter to PCIE, January 8, 1999

(11) Investigative Plan Into Allegations by William G. Steakley, March 27, 1996

(12) Gianino's official leave records for 1991–1993

(13) Memo of interview with Gianino, June 30, 1999

(14) Memo of interview with Walinski, September 8, 1999

(15) OSC Report on Steakley case, No. MA–97–1477, July 21, 1999—Located in Subcommittee files]

(16) Hollingsworth memo for the record, November 23, 1994

Johanson Cast—Attachments

(1) Report of Investigation—Administrative Inquiry 108, April 15, 1994, including witness interviews and other documents

(2) Recommendation of the Administrative Review Board on the Johnson case, May 9, 1994

(3) Notice of Proposed Suspension, Memo from Smith to Johnson, June 24, 1994; acknowledged and signed by Johnson on July 6, 1994

(4) Formal Statement ''signed and sworn'' jointly by Clark and Bonnar, July 19, 1994

(5) Memo from Bonnar to Dupree and Hollingsworth, dated August 9, 1994 transmitting Young's signed statement, dated August 4, 1994, to Johnson

(6) Letter from Johnson's attorney, Luciano A. Cerasi, to Dupree, August 8, 1994

(7) Case Re-Initiation, Memo signed by SA Timothy L. Schroeder, September 23, 1994

(8) Notice of Proposed Suspension, Memo from Smith to Johanson, November 23, 1994

(9) Amendment to Final Decision on Proposed Suspension, Memo from Dupree to Johnson, February 9, 1995

(10) Employee Performance Rating, IG Form 1400.430–2 for 8/26/93 thru 3/31/94

(11) Incentive Award Nomination and Action, IG Form 1400.430–3, for 8/26/93 thru 3/31/94

(12) Notification of Personnel Action, Form 50–B, Special Act or Service Award, 5/2/93

(13) Employee Performance Rating, IG FORM 1400.430–2, for 4/1/94 thru 7/2/94

(14) Notification of Personnel Action, Form 50–B, Reassignment, 7/3/94

(15) Memo of interview with Walinski, September 8, 1999

(16) Notification of Personnel Action, Form 50–B, Performance Award, 7/24/94

(17) Memo of interview with Bonnar, July 12, 1999

(18) McClelland interviews located in Subcommittee and OSC files combined with Subcommittee interview on August 2, 1999

(19) Memo of interview with Mancuso, September 14, 1999

(20) OSC (Shea) interview, November 5, 1997

INSPECTOR GENERAL,
DEPARTMENT OF DEFENSE,
Arlington, VA, October 1, 1999.

Hon. CHARLES E. GRASSLEY,
Chairman, Subcommittee on Administrative Oversight and the Courts, Committee on the Judiciary, United States Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing regarding the inquiry of your Subcommittee into certain personnel cases in the Defense Criminal Investigative Service (DCIS). Your letter of September 27, 1999, invited the Office of Inspector General (OIG) to provide a written response based on my interview by your staff on September 14, 1999. I understand that this response will be attached to any final report that you may issue.

In your letter you state that I was allowed the opportunity to review the factual findings of your staff. I respectfully disagree with that assertion. I have not been given an opportunity to review any written work product, nor did your staff orally share any draft findings. Rather, our meeting consisted of an interview in which I responded to a lengthy series of questions. In light of these facts, the OIG would again request the opportunity to review your final written report and provide comments prior to its release.

During my nine-year tenure as Director, DCIS, I supervised approximately 500 investigative personnel at any given time and the conduct of nearly 10,000 defense fraud investigations. I have devoted my life to public service and have proudly served for over 27 years. I am committed to integrity in leadership within the Inspector General community and proud of my investigative and management record.

Given my limited understanding of the scope of the inquiry of your Subcommittee, I will in this letter attempt to furnish you with further insight as to the matters in question. My objective in this matter is to provide you with the information you need to accurately assess these cases. Specifically, I will address actions with respect to the handling of DCIS internal review matters involving Special Agents (SA) Hollingsworth, Steakley and Walinski.

SA Larry Hollingsworth: SA Hollingsworth was employed by the DCIS from November 1983 until his retirement in September 1996. I first met SA Hollingsworth some time after his hiring during which time we were peers, I as Special Agent in Charge (SAC) of the New York Field Office and he as SAC of the Chicago Field Office.

In July 1995, I identified a photograph in a law enforcement journal as possibly that of SA Hollingsworth. The unidentified individual was being sought by the Department of State (DoS) relative to the filing of a false passport application. I immediately contacted the DoS and reported my suspicions to them and later assisted the DoS in arranging a surveillance of SA Hollingsworth in anticipation of a search of his home. Following the search, he was immediately barred from the worksite and kept from any active service with this organization. Although he was arrested in July 1995, he was not indicted until January 1996. During those seven months, while the DoS investigation was ongoing, SA Hollingsworth was allowed to use sick leave to the extent verifiable by

medical authorities and accumulated annual leave. Subsequent to his indictment, he was suspended without pay and denied further use of leave. He entered a conditional guilty plea in March 1996 and was sentenced in June 1996.

During this time period I was involved in a variety of administrative matters in which SA Hollingsworth contested actions proposed by his supervisor. I, as Director, DCIS, at the time was his second level supervisor and acted as deciding official in each of these matters. These administrative actions were separate and distinct from the investigation by the DoS and prosecution by the Department of Justice.

My next involvement with this matter began when SA Hollingsworth appealed a Notice of Proposed Removal issued by his supervisor. On August 23, 1996, his attorney requested an extension until September 13, 1996, to file a written response and notified us of his intent to make a subsequent oral presentation. As deciding official, I granted this request consistent with past DCIS practice and, to preclude further delay, I simultaneously scheduled the oral presentation for September 23, 1996. However, four days prior to his scheduled oral presentation, SA Hollingsworth retired.

SA Hollingsworth was provided the same due process afforded to all other DCIS special agents in the form of a review by the Special Agents Administrative Review Board and reasonable time to prepare a written and oral response to a Notice of Proposed Removal. Variation from past practice would have been unwarranted and inconsistent with my experience as a deciding official in dozens of disciplinary proceedings.

SA Hollingsworth's criminal conduct was both inexcusable and inexplicable. His violation of law was totally out of character and inconsistent with his job performance and lengthy career. I noted this same observation in a letter to the sentencing judge as I went on record describing SA Hollingsworth's job performance.

Throughout this process, the OIG was provided advice by personnel and legal experts. The course of action taken in this case was one of the several available options permitted by Federal personnel guidelines.

SA Gary Steakley: SA Steakley began his employment with DCIS in December 1987. From that time until he entered the Worker's Compensation program in February 1993 as a result of a traffic accident involving a Government vehicle, he worked in a variety of positions within DCIS. As Director, DCIS, I selected him for several positions and promoted him to his last job as manager of a DCIS investigative office in California.

Subsequent to his vehicle accident, SA Steakley was the subject of several adverse personnel and disciplinary actions. With the exception of ensuring that internal reviews proceeded in due course, my actions with respect to SA Steakley were taken as the deciding official in these cases. In addition, as Director, I proposed to involuntarily transfer him in order to ''backfill'' his management billet after his accident. In this case, the then Deputy Inspector General acted as deciding official.

SA Steakley was treated fairly by DCIS, although he has repeatedly alleged that he was subjected to prohibited personnel practices. His allegations have been reviewed in various venues, including the Office of Special Counsel who, in December 1998, closed their file and declined to pursue the case further.

SA Matthew Walinski: SA Walinski held a variety of positions in DCIS from his initial hiring in August 1987, until his transfer to the Office of Inspector General, Department of the Treasury, earlier this year. Your staff has questioned the accuracy of several reports of interview prepared by SA Walinski to include a report dealing with SA Steakley. It is my understanding that your staff perceives that allegations concerning SA Walinski were not pursued with the same tenacity shown in the SA Steakley investigations.

I was not aware of many of the facts alleged in this matter until reviewing documents in response to the inquiry of your Subcommittee. I did, however, have a general concern at the time regarding the handling of internal investigations. As a result, I directed that the internal review process be restructured so as to ensure that all future interviews be taped and transcribed to preclude any further dispute as to reporting. I was also appraised by my deputy that SA Walinski was being transferred from his duties to a position in the DCIS Training Branch. It is my understanding that SA Walinski received a downgraded appraisal as a result of his poor performance as well as a written letter cautioning him as to the importance of accuracy in his reporting.

In closing, I hope that my insights have provided you the information you need to accurately assess these cases. I appreciate your assurance that this letter will be included in any report that may be issued on this topic and look forward to an opportunity to review your draft report.

Sincerely,

DONALD MANCUSO,
Acting Inspector General.

Mr. GRASSLEY. Mr. President, I think it is imperative that Congress continue to send the strongest possible signal only that the highest standards and integrity are acceptable among our law enforcement and watchdog communities, the more we will ensure that outcome. I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until 2:15 p.m. today.

Thereupon, at 12:30 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GRAMS).

AFRICAN GROWTH AND OPPORTUNITY ACT—Continued

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 2379

(Purpose: To require the negotiation, and submission to Congress, of side agreements concerning labor before benefits are received)

Mr. HOLLINGS. I call up my amendment No. 2379 and ask the clerk to report it.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 2379:

At the appropriate place, insert the following:

SEC. . LABOR AGREEMENT REQUIRED.

The benefits provided by the amendments made by this Act shall not become available to any country until—

(1) the President has negotiated with that country a side agreement concerning labor standards, similar to the North American Agreement on Labor Cooperation (as defined in section 532(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 3471(b)(2)); and

(2) submitted that agreement to the Congress.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the amendment has been read in its entirety. It is very brief and much to the point. It is similar to the North American agreement on labor. When we debated NAFTA at length, there was a great deal more participation and attention given. In these closing days, everyone is anxious to get out of town. Most of the attention has been given, of course, to the appropriations bills and the budget, and avoiding, as they say, spending Social Security after they have already spent at least $17 billion, according to the Congressional Budget Office.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. HOLLINGS. Mr. President, I had a very interesting experience with respect to labor conditions in Mexico prior to the NAFTA agreement. I wanted to see with my own eyes exactly what was going on. I visited Tijuana, which is right across the line from southern California.

I was being led around a valley. There were some 200,000 people living in the valley, with beautiful plants, mowed lawns, flags outside. But the 200,000 living in the valley were living in veritable hovels; the living conditions were miserable.

I was in the middle of the tour when the mayor came up to me and asked if I would meet with 12 of the residents of that valley. I told him I would be glad to. He was very courteous and generous.

I met with that group. In a few sentences, summing up what occurred, the Christmas before—actually around New Year's—they had a heavy rain in southern California and in the Tijuana area. With that rain, the hardened and crusted soil became mushy and muddy and boggy, and the little hovels made with garage doors and other such items started slipping and sliding. In those streets, there are no light poles and there are no water lines. There is nothing, just bare existence.

They were all trying to hold on to their houses and put them back in order. These particular workers missed a day of work. Under the work rules in Mexico, if you miss a day of work, you are docked 3 days. So they lost 4 days' pay.

Around February, one of the workers was making plastic coat hangers—the industry had moved from San Angelo to Tijuana. They had no eye protection whatsoever. The machines were stamping out the plastic, and a flick of plastic went into the worker's eye. The

workers asked for protection and could not get any. That really teed them off.

It came to a crisis on May 1 when the favorite supervisor, a young woman who was expecting at the time, went to the front office. She said she was sick and would have to take off the rest of the day. They said: No, you are not taking off the rest of the day; you are working. Later that afternoon, she miscarried, and that exploded the movement of these 12 workers. They said: We are not going to stand for this anymore. We are going to get some consideration of working conditions and pay.

The workers chipped in money and sent two of the folks up to Los Angeles to employ a lawyer. They discovered that when the plant moved from San Angelo to Mexico, they filled out papers showing how the plant was organized and that they had a union and swapped money each month, but no shop steward or union representatives ever met with them. They never knew anything about a union.

Under the work rules of the country of Mexico, if one tries to organize a plant once one is already organized, then that person is subject to firing, and all 12 of them were fired. They lost their jobs, their livelihoods. That is what the mayor wanted me to know and understand. They were out of work.

My colleagues talk about the immigration problem. If I had any recommendation for the 12, I would say: Sneak across the border—don't worry about it—and find work in California or South Carolina or some other place because they could not get a job any longer in the country of Mexico.

That concerned me, and I have followed the work conditions. That is one of the reasons with NAFTA, while I opposed it, I wanted to be sure we had the side agreements. The side agreements were established. The work center is in Dallas. The Secretary of Labor meets with them. They are trying to work on this problem.

I have references to some of the working conditions in El Salvador.

On March 13, 1999, five workers from the Doall factory, where Liz Claiborne garments are sown, met with a team of graduate students from Columbia University who were in El Salvador conducting a study of wage rates in relation to basic survival needs.

A few days later, all five workers were fired. Doall's chief of personnel simply told them: You are fired because you and your friends cried before the gringos, and the Koreans don't want unionists at this factory.

So much for workers' rights in that Liz Claiborne plant.

There are 225 maquila assembly factories in El Salvador, 68,000 workers sending 581 million garments a year to the United States worth $1.2 billion. Yet there is not one single union with a contract in any of these maquila factories because it is against the law; it is not allowed.

This is Yolanda Vasquez de Bonilla:

I was fired from the Doall Factory No. 3 together with 17 others on August 5, 1998.

From the beginning, the unbearable working conditions in the factory impressed me a great deal, which included obligatory overtime hours every day of the week, including Saturdays and sometimes Sundays. On alternate days, we worked until 11 p.m., and some weeks we were obligated to work every day until 11 p.m. at night. We were mistreated, including being yelled at and having vulgar words used against us . . . humiliated for wanting to use the restrooms, and being denied permission to visit the Salvadoran Social Security Institute for medical consults.

The highest wage I received, working 7 days a week and more than 100 hours, was 1,200 colones (U.S. $137). Nevertheless, I accepted all this that I have briefly narrated since I have two children who are in school and I must support them.

They go on to tell similar stories time and again about different workers at that plant in El Salvador.

With the limited time I have, I will reference the United States firm in Guatemala City of Phillips-Van Heusen.

Van Heusen closed its Camisas Modernas plant in Guatemala City just before its 500 workers were to receive their legally mandated year-end bonuses and go on a three-week break.

That is typical of what they do if they get any kind of benefits at all. Just at the end of the year, when they are supposed to get their bonuses, they go down and close the plant.

Unionist and former Zacapa municipal worker Angel Pineda was ambushed and shot to death March 8 in the village of San Jorge, Zacapa. Pineda was a mayoral candidate nominated by the leftist New Guatemala Democratic Front. According to the Guatemalan Workers Central, Pineda had participated in a campaign to remove Zacapa Mayor Carlos Roberto Vargas on corruption charges. Another union leader and Vargas opponent was shot to death in January.

Then again in Guatemala:

A recent U.N. report said poverty encompasses 60 percent of the urban population and 80 percent of rural inhabitants. Figures from the Institute for Economic and Social Investigations of San Carlos University are even more devastating, reporting that 93 percent of the indigenous population lives in poverty and 81 percent cannot meet nutritional needs.

Mr. President, again:

Workers from more than a dozen different factories complain about everything from restricted bathroom visits and sore backs to illegal firings and abuse.

Sewing machines hum and rock music blares as 13-year-old Maria furiously folds clothes inside a Guatemalan factory called Sam Lucas S.A.

Maria is a 13-year-old. According to the Wall Street Journal, of course, that has nothing to do with any employee in the Caribbean Basin Initiative or Africa.

The Grade 2 dropout folds 50 shirts an hour, or 2,700 shirts a week that will end up in North American stores.

Sometimes Maria's boss extends her 10-hour day and asks her to stay until 10:30 p.m. or all night, assembling clothes for export in this tax-free plant called a maquila. . . .

Forced overtime, union busting, no social security benefits and unpaid work are typical grievances of factory staff, who are mostly young, female, Indian, and poor.

Mr. President, in Honduras:

A two-week strike at the Korean-owned Kimi de Honduras maquiladora ended September 2 after they dropped criminal charges against the union and accepted a new pay scale. The strike began August 18 when 500 workers, mostly women, demanded compliance with a March union contract. [This particular plant] produces apparel for U.S. retailer J.C. Penney and is part of the eight-plant Continental Park, a free-trade zone in La Lima. Unionized Kimi workers closed down Continental [in] August with blockades, but anti-riot police arrived August 30. In solidarity, most workers from other factories refused to enter the zone, but were subsequently beaten and gassed by the police. Kimi union officials promptly distributed leaflets to workers of other factories, urging them to return to work and prevent more violence. Some 100,000 workers are employed in the country's 200 maquilas, which export $1.6 billion in goods to the United States each year.

You have the Roca Suppliers Search maquiladora in El Salvador:

The Roca Suppliers Search maquiladora in the town of Mejicanos was abruptly closed November 19, leaving 240 workers laid off. The workers say production was moved to another factory after a group of 22 workers met with representatives of the progressive union federation. [They really work and make] U.S. brands including Calvin Klein and L.L. Bean. The factory's owner said the shop closed due to a lack of raw materials. Labor activists noted that the termination came just before legally mandated Christmas bonuses. The bonuses average about $40.

Then again, in El Salvador: They work from Monday through Friday, from 6:50 a.m. to 6:10 p.m., and on Saturday until 5:40 p.m., and occasional shifts to 9:40 p.m. It is common for the cutting and packing departments to work 20-hour shifts from 6:50 a.m. to 3 a.m.

Anyone unable or refusing to work the overtime hours will be suspended and fined, and upon repeat ''offenses,'' they will be fired.

There is no time clock. Records of an employee's overtime hours are written in a log by the supervisor. Workers report that it is not uncommon to be short changed two hours of overtime if the supervisor is angry with them.

There is a one 40-minute break in the day for lunch from noon to 12:40 p.m.

All new workers must undergo and pay for a pregnancy test. If they test positive, they are immediately fired. The test costs two days' wages.

I ask unanimous consent that this particular group of conditions in El Salvador be printed in the RECORD.

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

KATHIE LEE SWEATSHOP IN EL SALVADOR

CARIBBEAN APPAREL, S.A. DE C.V., AMERICAN FREE TRADE ZONE, SANTA ANA, EL SALVADOR

A Korean-owned maquila with 900 plus workers.

Death threats
Workers illegally fired and intimidated
Pregnancy tests
Forced overtime
Locked bathrooms
Starvation wages
Workers paid 15 cents for every $16.96 pair of Kathie Lee pants they sew

Cursing and screaming at the workers to go faster
Denial of access to health care
Workers fired and blacklisted if they try to defend their rights

Caribbean Apparel is inaccessible to public inspection. The American Free Trade Zone is surrounded by walls topped with razor wire. Armed guards are posted at the entrance gate.

Labels

Kathie Lee (Wal-Mart), Leslie Fay, Koret, Cape Cod (Kmart)

Sweatshop Conditions at Caribbean Apparel

Forced Overtime: 11-hour shifts, 6 days a week—Monday–Friday: 6:50 a.m. to 6:10 p.m. Saturday: 6:50 a.m. to 5:40 p.m. There are occasional shifts to 9:40 p.m. It is common for the cutting and packing departments to work 20-hour shifts from 6:50 a.m. to 3:00 a.m.

Anyone unable or refusing to work the overtime hours will be suspended and fined, and upon repeat ''offenses'' they will be fired.

There is no time clock. Records of an employee's overtime hours are written in a log by the supervisor. Workers report that it is not uncommon to be short changed two hours of overtime if the supervisor is angry with them.

There is a one 40-minute break in the day for lunch from noon to 12:40 p.m.

Mandatory Pregnancy Tests: All new workers must undergo and pay for a pregnancy test. If they test positive they are immediately fired. The test costs two days wages.

Below Subsistence Wages: The base wage at Caribbean Apparel is 60 cents an hour or $4.79 for the day. This wage meets only ⅓ of the cost of living.

Searched On the Way In and Out: Workers are searched on the way in—candy or water is taken away from them which the company says might soil the garments. On the way out, the workers are also searched.

The Factory is Excessively Hot: The factory lacks proper ventilation. There are few fans. In the afternoon the temperature on the shop floor soars.

No Clean Drinking Water: Only tap water is available, which is dirty and warm. Caribbean Apparel refuses to provide cold purified drinking water.

Bathrooms Locked: The workers are not allowed to get up or move from their work sites. The bathrooms are locked from 7:00 a.m. to 8:00 a.m., and again from 5:00 p.m. to 6:00. Workers need permission to use the bathroom, which is limited to one visit per morning shift and one during the afternoon shift. The workers report that the bathrooms are filthy.

Pressure and Screaming to go Faster: There is constant pressure to work faster and to meet production goals of sewing 100–150 pieces an hour. Mr. Lee, the production supervisor, curses and screams at the women to go faster. Some workers have been hit. For talking back to a supervisor the women are locked in isolation in a room. Most cannot reach their daily production quota and if they do the company arbitrarily raises the goal the next day.

Where a Worker Spends Money

Rent for two small rooms costs $57.07 per month, or $1.88 a day.
The round trip bus to work costs 46 cents.
A modest lunch is $1.37.

At the end of the day sewing Kathie Lee garments a worker is left with just $1.08, which is not even enough to purchase supper for a small family. Unable to afford milk, the workers' children are raised on coffee and lemonade.

15 Cents to Sew Kathie Lee Pants

The women earn just 15 cents for every pair of $16.96 Kathie Lee pants they sew. That means that wages amount to only 9/10 of one percent of the retail price of the garment. (62 workers on a production line have a daily production quota of sewing 2,000 pairs of Kathie Lee pants each 8-hour shift. 62 workers × $4.79 = 296.98/2,000 × $16.96 = $33,920/33,920) 296.98 = .0087553/or 9/10 of one percent × $16.96 = 15 cents)

Denied Access to Health Care

Despite the fact that money is deducted from the workers' pay, Caribbean Apparel management routinely prohibits the workers access to the Social Security Health Care Clinic. Nor does the company allow sick days. If a worker misses a day, even with written confirmation from a doctor that she or her child was very sick, she will still be punished and fined two or three days pay.

If the workers are seen meeting together, they can be fired. If the workers are seen discussing factory conditions with independent human rights organizations they will be fired. If workers are suspected of organizing a union they will be fired and blacklisted.

Fear and Repression—There are No Rights at Caribbean Apparel

Fear and repression permeate the factory. The workers have no rights. Everyone knows that they can be illegally fired, at any time, for being unable to work overtime, for needing to take a sick day, for questioning factory conditions or pay, for talking back to a supervisor, or for attempting to learn and defend their basic human and worker rights.

Fired for Organizing

Six workers have been illegally fired beginning in August for daring to organize a union at Caribbean Apparel. All six workers were elected officials to the new union.

List of Fired Workers

Blanca Ruth Palacios
Lorena del Carmen Hernandez Moran
Oscal Humberto Guevara
Dalila Aracely Corona
Norma Aracely Padilla
Jose Martin Duenas

Death Threat

In September, Jiovanni Fuentes, a union organizer assisting the workers at Caribbean Apparel, received a death threat from the company. He was told that he and his friends should leave the work or they would be killed. He was told that he was dealing with the Mafia, and in El Salvador it costs less than $15 to have someone killed.

KATHIE LEE/WAL-MART SWEATSHOP IN MEXICO

HO LEE MODAS DE MEXICO, PUEBLA, MEXICO

550 workers
The Ho Lee factory sews women's blazers, pants and blouses for Wal-Mart and other labels. Kathie Lee garments have been sewn there.

Sweatshop conditions

Forced Overtime: 12½ to 14 hour shifts, 6 days a week. Monday to Friday: 8:00 a.m. to 8:30 p.m. Saturday: 8:00 a.m. to 4:00 p.m.

There is one 40-minute break in the day for lunch.

The workers are at the factory between 67 and 79 hours a week.

New Employees are forced to take a mandatory pregnancy test.

For a 48-hour week the workers earn $29.57 or 61 cents an hour which is well below a subsistence wage.

Workers are searched on the way in and out of the factory.

The supervisors yell and scream at the women to work faster.

Bathrooms are filthy and lack toilet seats or paper. The workers have to manually flush the toilet using buckets of water. Some of the toilets lack lighting.

14-15-16 year old minors have been employed in the plants.

Public access to the plant is prohibited by several heavily armed guards.

KATHIE LEE/WAL-MART SWEATSHOP IN GUATEMALA

SAN LUCAS, S.A., SANTIAGO, SACATEPEQUEZ, GUATEMALA

1,500 workers
The San Lucas factory sews Kathie Lee jackets and dresses.

Sweatshop conditions

Forced Overtime: 11 to 14½ hour shifts, 6 days a week. Monday to Saturday: 7:30 a.m. to 6:30 p.m., sometimes they work until 10:00 p.m. The workers are at the factory between 66 and 80 hours a week.

Refusal to work overtime is punished with an 8-day suspension without pay. The second or third time this ''offense'' occurs, the worker is fired.

Below Subsistence Wages: For 44 regular hours, the pay is $28.57, or 65 cents an hour. This does not meet subsistence needs.

Armed security guards control access to the toilets, and check the amount of time the women spend in the bathroom, hurrying them up if they think they are spending too much time.

Public access to the plant is prohibited by several heavily armed guards.

Mr. HOLLINGS. Mr. President, again quoting:

In September, Jiovanni Fuentes, a union organizer assisting the workers at Caribbean Apparel, received a death threat from the company. He was told that he and his friends should leave work, or they would be killed. He was told that he was dealing with the Mafia, and in El Salvador, it costs less than $15 to have someone killed.

I could go on and on. Obviously, these working conditions are not to the attention of this particular body. They could care less.

Labor conditions are very important. The standard of living in the United States of America is an issue. When you open up a manufacturing plant, it is required that you have clean air, clean water, minimum wage, safe working machinery, safe working conditions, plant closing notice, parental leave, Social Security, Medicare, Medicaid, and unemployment compensation. All of these particulars are needed. These elevate to the high standard of American living. And it deserves protection. At least it deserves a negotiation—which we included in the NAFTA agreement—in this particular CBI and sub-Saharan agreement.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks time?

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. I thank the Chair.

The PRESIDING OFFICER. Who seeks time?

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I ask unanimous consent to lay the pending amendment aside.

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

AMENDMENT NO. 2428

(Purpose: To strengthen the transshipment provisions)

Mr. FEINGOLD. Mr. President, I call up amendment No. 2428 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 2428.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that 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.'')

Mr. FEINGOLD. Mr. President, as I have said before, unless the African Growth and Opportunity Act is significantly improved, it will fail to stimulate any meaningful growth in Africa; it will fail to provide significant opportunities for commerce or development; and, in fact, if we do not make some changes, it may do harm to both Africans and Americans. So what this amendment does is take an important step toward preventing harm and improving this trade legislation.

Mutually beneficial economic legislation has to be fair to all parties involved. The African Growth and Opportunity Act must be amended to adequately address the problems of transshipment, not just to make certain that it is fair to Africans but also to ensure Americans are not cheated and that American law isn't broken.

Let me talk a little bit about transshipment. Transshipment occurs when textiles originating in one country are sent through another before they come to the United States. What this does is, the actual country of origin seeks to disguise itself and therefore ignore our U.S. quotas. This is not a minor matter. Approximately $2 billion worth of illegally transshipped textiles enter the United States every year.

The U.S. Customs Service has determined that for every $1 billion of illegally transshipped products that enter the United States, 40,000 jobs in the textile and apparel sector are lost.

Let me repeat that.

The Customs Service says that every time we have a billion dollars of illegally transshipped products entering the United States, we lose 40,000 jobs in this country in that area of our economy.

Failure to protect against transshipment surely does harm. Those who think transshipment isn't going to be a problem in Africa had better think again.

We have had a chance to take a look at the official web site of the China Ministry of Foreign Trade and Economic Cooperation. It quotes an analyst as follows. This is a direct quote we have on this board. This is what they say on the web site:

Setting up assembly plants with Chinese equipment technology and personnel could not only greatly increase sales in African countries but also circumvent quotas imposed on commodities of Chinese origin by European and American countries.

That is very explicit and very intentional. The Chinese know standard United States protections against transshipment are weak, and they obviously intend to exploit them.

The African Growth and Opportunity Act, as it currently stands without my amendment, relies on those same weak protections—the same textile visa system that China and others have successfully manipulated in the past. This inadequate system requires government officials in the exporting country to give textiles visas certifying the goods' country of origin for those textiles to be exported. Too often, this isn't good enough; corrupt officials simply sell the visas to the highest bidder.

What does this amendment do? This amendment changes this failing system. It makes U.S. importers responsible for certifying where textiles and apparel are produced. This gives the U.S. entities a strong financial stake in the legality of their imports.

This amendment allows us not to rely simply on foreign officials. This standard relies on the American companies that operate right here under American law, and it holds those companies liable for any false statements or omissions in the certification process.

This amendment lays out clear procedures and tough penalties so that these regulations will actually work.

If the Senate agrees to this amendment, countries such as China that want to evade United States trade regulations will have to rethink their designs on Africa. If we agree to this amendment, the opportunities promised by this legislation really will go to Africans, and not to third parties. If we agree to this amendment, Americans will not lose their jobs because of AGOA's inadequate transshipment protection.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. FEINGOLD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 2379

Mr. ROTH. Mr. President, I oppose the Hollings amendment for two reasons.

First, as I have stated previously, the goal of this legislation is to encourage investments in Africa, the Caribbean, and Central America. The amendment would undermine that effort by requiring the difficult negotiations of side agreements which would delay the incentive the bill would create. That, I argue, is of no help to these developing countries and will not lead to any greater improvement in the labor standards provisions that are already incorporated into these programs. Virtually every study available indicates that labor standards rise with a country's level of economic development.

The goal of the bill is to give these countries an opportunity to tap private investment capital as a means of encouraging economic development and economic growth. That is the most certain way to ensure these countries have the ability to enforce any labor standards they choose to enact into law.

Frankly, the worst opponent of labor standards is the lack of economic opportunities in these countries. It is difficult to insist on safe working conditions on the job and negotiate a living wage when you have no other job opportunities. The point of this legislation is to provide those job opportunities. Creating obstacles to that goal will diminish, not enhance, the positive impact the bill would have on labor standards.

The second reason I oppose the amendment is that it essentially depends on economic sanctions to work. The threat is that the economic benefits of the beneficiary countries will be cut off if the countries do not comply with the terms of some agreement yet to be negotiated. That not only undercuts the investment incentive by increasing the uncertainty of a country's participation in the program; it also does little to raise labor standards.

What is needed is a cooperative approach bilaterally between the United States and the particular developing country and among the countries of the region as a whole.

The lesson of the NAFTA side agreement, in my view, is that sanction mechanisms have done little to encourage better labor practices. What has worked under the NAFTA agreement is the cooperative ventures of the three participants. What is needed in the context of both regions targeted by this bill is a stronger effort among the participants, with the support of the United States, to tackle common problems facing their strongest resource—their workforce.

The Senate substitute before us does not preclude those sorts of constructive efforts by the President. Indeed, the President would do well to pursue a similar model in the context of our broader relations with our African, Caribbean, and Central American neighbors. The model offered by the pending amendment would not, in my judgment, help that goal.

I therefore urge my colleagues to oppose the amendment. At the appropriate time, I will make a motion to table the amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I am sort of stunned in a way because the argument is made that this is going to forestall the jobs that are intended under the bill.

Could it really be that we want to finance 13-year-olds and child labor?

Could it be that they have to work 100 hours a week at 13 cents an hour?

Could it be if they become pregnant and have to go home sick that they are fired?

I could go down the list of things.

That is what I just pointed out. I am confident my colleagues don't want to finance those kinds of atrocities.

I am just stunned that someone would say this would hold it up because the agreement is yet to be had. The agreement is to be joined by the authorities and the Governments of El Salvador, Guatemala, Honduras, and the other countries down there in the Caribbean Basin. If they haven't agreed, obviously, they couldn't be in violation, or they couldn't be with the side agreement.

That is why it is very innocent language suggesting that the benefits don't take effect until we have had a chance to sit down, both sides, and decide what will be agreed to and what will be done by the particular governments. So it would be violations of their own government policies.

AMENDMENT NO. 2483

(Purpose: To require the negotiation, and submission to Congress, of side agreements concerning the environment before benefits are received)

Mr. HOLLINGS. Mr. President, I am not trying to forestall. I am trying to comply with the requirements. I call up my amendment on the environmental side, and I ask unanimous consent to set aside the pending amendment.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes an amendment numbered 2483.

At the appropriate place, insert the following:

SEC. . ENVIRONMENTAL AGREEMENT REQUIRED.

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated with that country a side agreement concerning the environment, similar to the North American Agreement on Environmental Cooperation, and submitted that agreement to the Congress.

Mr. HOLLINGS. Mr. President, the emphasis in this Amendment is similar to the North American Agreement on Environmental Cooperation.

It is the very same thing we required in NAFTA with Mexico and Canada with respect to the Canadian side.

I ask unanimous consent to have printed in the RECORD an article entitled ''Canadians Challenge California Pollution Rules Under NAFTA.''

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

[From the Gazette, (Montreal), Oct. 27, 1999]

CANADIANS CHALLENGE CALIFORNIA POLLUTION RULE UNDER NAFTA

(By Andrew Duffy)

OTTAWA.—A Canadian firm has filed a NAFTA environmental complaint against California, charging the state failed to protect its groundwater from leaky gasoline-storage tanks.

The unusual move by Vancouver's Methanex Corporation, which produces a gasoline additive being phased out by California, comes in addition to the company's $1.4-billion lawsuit against the state and the U.S. government, an action launched under Chapter 11 of the North American Free Trade Agreement.

Methanex argues California's ban on MTBE (methyl tertiary-butyl ether) is unfair because the problem lies not with the gasoline additive, but with aging underground gas storage tanks that leak into aquifers.

''It thus treats a symptom (MTBE) of gasoline leakage rather than the leakage itself, deflecting attention from the state's failure to enforce its environmental laws,'' says the company's environmental complaint, which has just been submitted to the Commission on Environmental Co-operation.

The Montreal-based commission was established under a NAFTA side-agreement to ensure Canada, Mexico and the U.S. maintain environmental standards in the face of trade pressures.

In its 16-page submission—the first of its kind from a corporation—Methanex contends California has not enforced existing laws designed to protect groundwater from contamination by leaky underground gas tanks.

Methanex is North America's largest supplier of MTBE, a gasoline additive that makes fuel burn more completely in a car engine, thus reducing tailpipe emissions.

Earlier this year, California Governor Gray Davis issued a regulation that will ban MTBE by 2002 because of concerns that it's polluting lakes and drinking water in the state.

''We believe that what's occurring in California is plain wrong from an environmental perspective,'' said Methanex vice-president Michael Macdonald.

''People have lost sense of the plotline: that MTBE only gets into the environment through gasoline releases. We're trying to focus attention on the root cause of the issue, which is leaking underground storage tanks.''

California has the strictest air-quality controls in North America. As part of those controls, oil-refiners in the state were required to improve their gasolines during the 1990s; many turned to MTBE to cut emissions.

But California researchers now say MTBE is so highly soluble—more so than other gas components—that it travels far from the source of gas leaks to pollute groundwater.

MTBE contamination has forced the closing of wells in Santa Monica, Lake Tahoe, Sacramento and Santa Clara, according to a state auditor's report issued last year. The same report said evidence from animal studies suggests the chemical compound may be a human carcinogen.

Methanex has notified the U.S. government it will seek damages under NAFTA's Chapter 11, which gives corporations the right to sue governments if they make decisions that unfairly damage their interests.

Company officials said yesterday they're about to enter discussions on an out-of-court settlement with the U.S. State Department.

American companies have used Chapter 11 to challenge Canadian laws that restricted the use of another gasoline additive, MMT; banned the export of PCBs; and halted the export of fresh water from British Columbia.

The only case to be settled—the one that involved MMT—cost Canadian taxpayers $20 million.

Mr. HOLLINGS. Similarly, I have an article about the side deals to the trade agreement giving labor and environmental issues a new form of significance that I ask unanimous consent be printed in the RECORD.

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

[From the Chicago Tribune, Nov. 29, 1998]

A VISION UNFULFILLED

(By Karen Brandon)

The new pier's long, crooked finger points deep into the Caribbean Sea near the fragile coral reef off the coast of Cozumel, Mexico.

The mere existence of the structure offers a metaphor for the paradoxes raised by the world's most ambitious attempt to tie environmental concerns to international free trade.

The Puerta Maya pier dispute is the sole case to wind its way completely through the labyrinth of bureaucracy established to resolve environmental conflicts under the North American Free Trade Agreement.

Environmentalists persuasively argued that the Mexican government violated its own environmental laws when it assessed the potential impact of the pier, designed to accommodate more and larger cruise ships and to bring more tourists to the region.

According to the 55-page ''final factual record'' that followed an 18-month investigation, the environmentalists essentially won.

''We proved that the Mexican government violated the law,'' said Gustavo Alanis, president of the Mexican Environmental Law Center, one of the organizations that raised the issue. ''It's an enormous victory for international environmental rights.''

But the victory is only on paper. The Puerta Maya pier was built, and tourists now disembark from cruise ships there to stroll its walkway lined with liquor, perfume and souvenir shops.

As the outcome of the pier project suggests, the environmental legacy of the free trade agreement begun nearly five ago is contradictory.

The very trade agreement that elevated environmental concerns to an unprecedented level, making ''sustainable development'' one of its goals, also gave businesses a new tool to combat pollution regulations they consider onerous. The measure, an investment provision that has been interpreted to allow companies to sue countries whose pollution regulations hinder profits, is essentially unaffected by the environmental side accord and lies beyond the direct jurisdiction of the Commission for Environmental Cooperation, the organization created to oversee environmental concerns.

In analyzing the impact of the agreement's overall environmental agenda, the Tribune interviewed scores of economists, legal experts, government officials and environmental activists in Canada, Mexico and the United States.

The free trade agreement, with its side accord, did not force a cleanup of long-polluted sites. It did not foist tough new international standards on polluters. It did not create a new police agency to enforce regulations that had long been ignored.

The agreement set no minimum or uniform standards for the three participating nations. Instead, it promised to see, somehow, that each nation enforced its environmental laws, and it gave citizens a new international forum to raise complaints about countries that failed to do so.

Even its most passionate advocates concede the pact has no practical means to punish governments or companies other than through the stigma of bad publicity. A provision for sanctions exists for a ''persistent pattern'' of failure to enforce environmental laws, but many experts say it will never be used.

Moreover, though it technically bars the weakening of environmental laws to attract investment, the agreement offers no real tool to counteract any decision by the countries to alter their own environmental laws for any reason, analysts note.

''The implication is that the three governments are going to be at least as good by the environment as they are today,'' said David Gantz, associate director of the National Law Center for Inter-American Free Trade at the University of Arizona in Tucson. That assumption, he added, is ''dependent on their goodwill.''

Scenes from the U.S.-Mexico border, the fastest-growing region in North America, tell the story of the vast environmental problems facing Mexico. Explosive population and industrial growth, some of it fueled by the trade agreement itself, have only worsened the pollution that plagues the region's air, water and ground.

The border remains a stark contradiction, a place where the world's most prosperous corporations using the most modern manufacturing techniques stand beside poor neighborhoods where people live in shacks made of wooden pallets or cardboard, without running water, sewers, electricity or telephones.

In Tijuana, obvious industrial violations are easy to find. The stench of a bathtub refinishing plant burns the eyes and nose of anyone within blocks of the building, and industrial fans meant to clear the air for workers inside stand idle. At the site of the abandoned lead smelting factory Metales y Derivados, a subsidiary of San Diego-based New Frontier Trading Corp., which is now the subject of a citizens' complaint against Mexico, leaking car batteries lie in huge mounds, and the only pretense of a cleanup is torn plastic sheeting.

The New River, which crosses the Mexico-California border, is essentially a sewer, even more so now that the temporary ''fix'' for it has been to encase it in huge tubing, rather than to clean it. Ciudad Juarez has no facility to treat the sewage from its 1.3 million residents.

John Knox, a University of Texas law professor and former negotiator for the State Department on the environmental side accord, said, ''I think it's fairly easy to say it is better than nothing, but if you compare what it's doing to the scope of the problem, then it seems pretty minuscule.''

NEW OPPORTUNITIES

When it took hold on New Year's Day 1994, the trade agreement already had deeply divided environmentalists. Opponents feared it would make Mexico a pollution haven and drag down the higher standards of Canada and the United States. Advocates believed it could be Mexico's best hope, both by pressuring it into better environmental standards and by improving its economy, which in turn could lead to higher environmental standards.

Pollution intensity is highest in the early stages of a country's industrialization, but it wanes as income levels rise. Researchers have found that environmental degradation tends to decline once annual per capita incomes reach a threshold of $8,000—roughly double Mexico's per capita income.

One particular dispute settled in July has only exacerbated environmentalists' fears that governments would be pressured to reduce their pollution standards.

In June 1997, the Canadian government banned a gasoline additive after some studies suggested the chemical, MMT, used to boost octane's power, could cause nerve damage. In retaliation, the manufacturer, Richmond, VA-based Ethyl Corp., sued the Canadian government for $250 million under a provision in the trade agreement's main text, not its environmental side accord, contending that the ban essentially amounted to an ''expropriation'' for which it should be compensated.

The same substance has provoked considerable controversy in the United States, where it was among the chemicals banned by the 1977 Clean Air Act. Eighteen years later, Ethyl won the right to sell MMT from an appeals court ruling that overturned the Environmental Protection Agency's decision to continue the ban in lieu of sufficient studies on the substance's potential effects.

In July, the Canadian government rescinded the ban and agreed to pay Ethyl $13 million for lost profits and legal costs.

''Virtually any public policy which diminishes corporate profits is vulnerable,'' said Michelle Swenarchuk, director of international programs for the Canadian Environmental Law Association. ''It has profound intimidating effects.''

The prospect of such a suit had helped to kill a Canadian proposal that would have required cigarettes be sold only in plain brown packaging to make them less appealing to children, she said.

A similar case is pending against Mexico under the same provision, which authorizes arbitration panels to handle such cases in private. In it, Metalclad Corp., a Southern California hazardous-waste disposal business, is seeking $990 million in damages for being denied permission to open a landfill in central Mexico.

Meanwhile, 20 cases (eight against Canada, eight against Mexico and four against the United States) have been brought to the Commission for Environmental Cooperation alleging that governments have failed to enforce their environmental provisions. Eleven are under review, including one that is undergoing the most advanced procedure for redress available, the preparation of a factual record. That case stems from allegations that the Canadian government has failed to protect fish and fish habitat in British Columbia's rivers from damage by hydroelectric dams.

The notorious environmental problems of Mexico do not stem from its laws. Many are styled after U.S. provisions, and some are more stringent.

But enforcement is lax or absent. In a recent World Bank Group study in Mexico, more than half of the industries surveyed said they did not comply with environmental regulations.

The Mexican government insists that it has made important strides in dealing with the environment, principally with more environmental inspections.

''Government action . . . has presented important advances in the three years of the present administration,'' a statement from the Mexican embassy is Washington, D.C., said.

But its federal government this year has been forced to make deep spending cuts that include its environmental program because of the ongoing drop in the price of oil, upon which Mexico depends for more than one-third of its revenues.

Slow steps

The environmental accord created two institutions dedicated to pollution cleanup along the U.S.-Mexico border: the North American Development Bank, created by $450 million contributed in equal parts by the United States and Mexico to arrange financing for projects; and its sister agency, the Border Environmental Cooperation Commission, which evaluates projects before they can receive the bank's backing. The institutions got off to a slow start, and the chief obstacle for most projects was basic: They had to find a way to pay for themselves.

The bank's mission—to finance the projects primarily by guaranteeing loans, rather than by grants—proved an almost insurmountable hurdle for communities in an impoverished region that had never found the financial resources or the political will to meet basic needs, such as providing drinking water and sewers.

''Is it possible to clean up on a for-profit basis 30 years of raping the environment for profit?'' asked David Schorr, senior trade analyst for the World Wildlife Fund.

Though other development banks offer low-interest loans, the North American Development Bank has no such discount. ''Market rates can make a loan package prohibitively expensive for poor communities,'' said Mark Spalding, a University of California at San Diego instructor who participated in the negotiations to create the two institutions. It was only in April 1996, when the bank received a $170 million infusion of grants from the U.S. Environmental Protection Agency, that its projects began to seem viable.

Now, 19 projects representing a planned investment of $600 million have been approved, and the first of them, two landfills, are to be completed in January. Eight are under construction, and two more, including a sewage treatment plant for Ciudad Juarez, are soon to begin. Dozens of others are in preliminary planning stages, beginning the arduous process to determine how, and whether, they can be financed.

While the bank's sewage-treatment projects represent unquestionable improvements for border communities, they have faced one criticism. The standards set for Mexican communities are beneath those considered basic in the U.S.

One of the few evaluations of the side agreement's environmental agenda suggests that it has been modestly successful in carrying out cooperative initiatives among the countries. The accomplishments include agreements among the countries to phase out some pollutants, and to develop or expand new programs for conservation of species, including monarch butterflies and migratory songbirds, concluded the Institute for International Economics, a non-profit, non-partisan research institution in Washington, D.C

The Commission for Environmental Cooperation, which has been plagued by political rifts between the U.S. and Mexico, admits it has yet to resolve the debate over whether trade liberalization leads to better or worse environmental conditions. ''While there are theoretical arguments on both sides, there is little empirical data available to settle it,'' its own assessment concluded.

This fall the commission published a study purporting to find a drop in pollution across North America during the trade agreement's first year. It failed to take into account one substantial portion of the continent, however—Mexico, which has yet to implement the necessary pollution reporting system.

Mr. HOLLINGS. From that article:

Environmentalists persuasively argued that the Mexican government violated its own environmental laws when it assessed the potential impact of the pier, designed to accommodate more and larger cruise ships.

''We proved that the Mexican government violated the law,'' said Gustavo Alanis, president of the Mexican Environmental Law Center, one of the organizations that raised

the issue. ''It is an enormous victory for international environmental rights.''

The emphasis, of course, is that there are those in the countries involved with labor rights and with the environment. They are not purely nomads. They have an environmental movement in Mexico and in Canada.

We would help to extend environmental concerns and labor rights with this particular agreement if they adopt these two amendments.

I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I remind my colleague that my bill already includes significant labor conditions. Specifically, the beneficiary countries must be taking steps to afford their workers' internationally recognized worker rights. If the beneficiary countries fail to protect worker rights, then the benefits under both the CBI and Africa may be terminated.

AMENDMENT NO. 2428

I will now address the proposed amendment of the Senator from Wisconsin. The legislation he refers to, to add some novel transshipment provisions, raises serious constitutional questions in the United States. What the bill would do is impose joint liability on the importer and the retailer for any material false statement or any omission made in filing the numerous forms and certifications that have to be filed to enter any textile or apparel items into the United States and receive the meager benefits available under the bill.

The bill adds Draconian new penalties for any alleged transshipment. While I am not opposed to adding such penalties for what is outright customs fraud subject to all the normal due process protections ordained by the Constitution and contained in current U.S. law, this bill allows for the imposition of such penalty on what it terms ''the best information available.''

Let me put that in its proper context. Under this bill, a retailer who has no control over either the exporter's or importer's action could be held jointly liable for any minor omission made by either the exporter or importer and held liable not because the retailer was found to be guilty of infraction beyond a reasonable doubt but merely on the basis of the best information available to the Customs Service.

That turns the whole notion of a due process protection guaranteed by the Constitution and by American administrative law on its head. I submit this is the opposite of constitutional protection.

This is an example, in the words of Jeremy Benton, of what is called dog law. The author decided they can't tell the dog right or wrong ahead of time, and they kick it after the fact to let it know they think it has done wrong. My guess is there aren't too many retailers willing to get in the way of a hard left foot. This bill aims at their praises, but what Customs provisions do as a result is discourage trade and thereby discourage investment.

In short, this proposal is not what the author suggested nor is this bill, as the title claims: Hope for Africa. In fact, this bill is the reverse of what we want to do in establishing a new partnership with Africa.

I urge my colleague to oppose this amendment.

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. 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.

Mr. ROTH. Mr. President, I oppose the Hollings amendment No. 2483 and I do so for two reasons. First, as I have stated previously, the goal of this legislation is to encourage investment in Africa, the Caribbean, and Central America. The amendment undermines that effort by requiring the difficult negotiation of side agreements on both labor and the environment that delays the incentive that the bill is intended to create. This is bad for labor and environmental conditions in the beneficiary countries as well as their economies.

The available research suggests labor and environmental standards rise with a country's level of economic development. This is because for countries that are on the edge of famine, enforcing labor standards and protecting the environment are a luxury. The Finance Committee bill helps economically and in improving labor and environmental standards by giving these countries an opportunity to tap private investment capital as a means of encouraging economic development and economic growth. That is a most certain way to ensure that these countries have the wherewithal to pay for environmental protection.

The second reason I will oppose the amendment is that it essentially depends on economic sanctions to work. It threatens to cut off a series of economic benefits if the countries do not comply with the terms of some agreement yet to be negotiated. That not only undercuts the investment incentive by increasing the uncertainty of a country's participation in the program, it also does little to raise labor and environmental standards. As we have heard during the extended debate we have had on economic sanctions in the past, they do, actually, little to affect the behavior of the target country. Indeed, in the case of the intended beneficiaries of these tariff preference programs, they would have the opposite effect on labor and environmental protections by discouraging investment in economic growth.

What is needed, as I said earlier, is a cooperative approach, bilaterally between the United States and the particular developing country and among the countries of the regions as a whole. The experience under the NAFTA side agreement reinforces my point. The sanctions mechanisms have done little to encourage better labor and environmental practices. What has worked under the NAFTA agreement is the cooperative ventures of the three participants on both the labor and the environmental front. The NAFTA Commission on Environmental Cooperation, for example, advises all three countries on how to tackle common environmental problems. That advice has helped ensure coordination rather than conflict among the NAFTA partners over environmental issues.

The Senate substitute before us does not preclude these sorts of constructive efforts by the President. Indeed, the President would do well to pursue a similar model in the context of our broader relations with our African, Caribbean, and Central American neighbors. The model offered by the pending amendment would not help us towards that goal. I, therefore, urge my colleagues to oppose the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Hollings amendment No. 2483.

AMENDMENT NO. 2428

Mr. FEINGOLD. Mr. President, this is a little confusing. We are debating several amendments at once. I would like to see if we could get a little back and forth going. I wanted to respond to the chairman's comments about my amendment, but then he went into several arguments about the amendment of the Senator from South Carolina. I am worried it is going to be awfully hard for people to follow this.

Let me return to and respond to the concerns of the chairman with regard to the amendment I have offered, to try to do something about this problem of transshipment, this problem that some countries—very likely China—will take advantage of this new Africa Growth and Opportunity Act to ship a lot more of their goods through Africa into the United States, and not only harm the African nations and people who are trying to benefit from this but harm American jobs.

Every $1 billion of transshipped goods into this country apparently costs about 40,000 American jobs in the textile-related area.

When the chairman suggests we are trying to discourage legal trade by this amendment, that is the opposite of what we are doing. We are trying to prevent this kind of circumvention of

the spirit and intent of the law by unfair and what should be illegal transshipment.

The Senator has suggested somehow there is a constitutional problem with imposing some penalties on importers who are given some responsibilities in this regard. I was not clear on what the constitutional provision was. I assume it is the notion of taking property without due process of law. But if we take a look at these penalties, what we are trying to do is make absolutely sure the importer cooperates with the Customs Service in order to make sure what is happening is not a scam by a government, such as the Chinese Government, to transship its goods through Africa.

Let's look at the actual language the Senator has complained about. He refers to the use of ''best available information.'' All that is required for an importer is that an importer has to cooperate. Let me emphasize this for my colleagues. It says:

If an importer or retailer fails to cooperate with the Customs Service in an investigation to determine if there was a violation of any provision of this section, the Customs Service shall base its determination on the best available information.

The only time this ''best available information'' is even utilized is where the importer has not been willing to cooperate. I think that is entirely reasonable. The Senator refers to these penalties as draconian, as too severe. Let's remember what this bill does. It gives these importers a golden opportunity, a new opportunity to make a lot of money through these new trade opportunities with Africa. I do not think it is draconian to ask these importers to take reasonable steps to avoid the kind of abuse China obviously intends to pursue in this area.

The penalty for the first offense is a civil penalty in the amount equal to 200 percent of declared value of merchandise, plus forfeiture of merchandise. In light of the new opportunities this gives these importers, I do not see this as draconian. I see this as a penalty that is commensurate with the kind of opportunities they are provided. I assume these importers in good faith do not want to facilitate Chinese circumvention of our laws and our quotas. I assume their goal is a good-faith desire to make a profit by trading with these African countries. So we need to do something other than what is the current law, and all the bill does in its current form is reiterate the current law that does not work because it relies on foreign officials to certify these products are really African goods.

That is not good enough. We need to place some responsibility on the importer who is subject to American law. This is the critical point. Either we are going to simply pass this bill, which, frankly, already is very unbalanced and not sufficient to protect American workers, or we are going to try to fix it. Surely, one area we need to fix is this transshipment problem.

Let me quote, again, these web sites of the People's Republic of China, Ministry of Foreign Trade and Economic Cooperation. They say, about the current law which this bill continues:

There are many opportunities for Chinese business people in Africa. Setting up assembly plants with Chinese equipment and personnel could not only greatly increase sales in African countries, but also circumvent the quotas imposed on commodities of Chinese origin imposed by European and American countries.

The opposition to this amendment simply wants to allow the Chinese Government to continue this program. They provide no tough penalties, no obligation for people we can do something about, such as importers and people under American law. They want to let the good times roll for these Chinese companies and governments that are trying to undercut American jobs.

I think that is wrong. Clearly, if there is anything should be adopted, it should be some cracking down on the extremely abusive practice of transshipping. Let's not let these African countries be pawns for the Chinese goal of undercutting American jobs.

Our amendment will strengthen this bill. It certainly will not weaken the bill. It will make the bill a much more honest attempt to make sure this fosters a trade relationship between the United States and the countries of Africa—not a conduit for Chinese abuse of American quotas.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Delaware.

Mr. ROTH. Mr. President, I ask consent it be in order for me to move to table the following amendment——

AMENDMENT NO. 2483

Mr. HOLLINGS. Will the distinguished Senator withhold? When he moves to table, that will terminate all debate, as I understand it.

I want to offer one more amendment. But with respect to the environmental amendment, it is clear the distinguished chairman of Finance says: Look, this environmental side agreement we had in NAFTA would now discourage investment. It didn't discourage investment in Mexico and didn't discourage investment in Canada. It would not discourage investment. What we are saying is before you open up as compared to the CBI, you have to have clean air and clean water and the environmental protection statements. You have to have all of these particular requirements. But, by the way, if you want to get rid of them, then go down to the CBI.

The message is clear. This is what you might call the Job Export Act of 1999.

AMENDMENT NO. 2485

(Purpose: To require the negotiation of a reciprocal trade agreement lowering tariffs on imports of U.S. goods with a country before benefits are received under this Act by that country)

Mr. HOLLINGS. Mr. President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 2485, relative to reciprocity.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 2485:

At the appropriate place, insert the following:

SEC. . RECIPROCAL TRADE AGREEMENTS REQUIRED.

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated, obtained, and implemented an agreement with the country providing tariff concessions for the importation of United States-made goods that reduce any such import tariffs to rates identical to the tariff rates applied by the United States to that country.

Mr. HOLLINGS. Mr. President, it is a matter of reciprocity. We have that working, as they can tell you, wonderful success with Canada and Mexico; reciprocity on all the trade items.

I ask unanimous consent to have the text of tariffs in the Caribbean, Sub-Sahara Africa, and the tariffs and other taxes on computer hardware and software printed in the RECORD.

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

	In percent as high as
Textile Tariffs in the Caribbean	
Dominican Republic	43 (Includes 8% VAT).
El Salvador	37.5 (Includes 12% VAT).
Honduras	35 (Includes 10% VAT).
Guatemala	40 (Includes 10% VAT).
Costa Rica	39 (Includes 13% VAT).
Haiti	29.
Jamaica	40 (Includes 15% general consumption tax).
Nicaragua	35 (Includes 15% VAT).
Trinidad & Tobago	40 (Includes 15% VAT).
Textile Tariffs in Africa	
Southern Africa Customs Union (South Africa, Botswana, Lesotho, Namibia and Swaziland).	74 (Includes 14% VAT for South Africa).
Central African Republic	30.
Cameroon	30.
Chad	30.
Congo	30.
Ethiopia	80.
Gabon	30.
Ghana	25.
Kenya	80 (Includes 18% VAT).
Mauritius	88.
Nigeria	55 (Includes 5% VAT).
Tanzania	40.
Zimbabwe	200.

WORLDWIDE TARIFFS AND TAXES ON COMPUTER HARDWARE AND SOFTWARE

Country	Hardware tariff (in percent)	Software tariff (in percent)	Other taxes
Africa:			
Angola	(1)	15	1% surcharge.
Benin	(1)	18	5% customs.

WORLDWIDE TARIFFS AND TAXES ON COMPUTER HARDWARE AND SOFTWARE—Continued

Country	Hardware tariff (in percent)	Software tariff (in percent)	Other taxes
Botswana	0	18	14% VAT.
Cameroon	10	10	15% tax on software, 10% on hardware.
Congo	15	15	15% tax on software, 10% on hardware.
Cote d'Ivoire	5	5	11% VAT on software, 20% on hardware.
Ethiopia	0	50	None.
Gabon	10	10	5% tax.
Ghana	10	25	35% customs tax and 40% entry tax on software, 22.5% on hardware.
Kenya	31	50	18% VAT.
Lesotho	0	18	14% VAT.
Malawi	30	45	20% surcharge.
Mauritius	15	18	8% surcharge.
Mozambique	7.5	35	30% tax on computer discs.
Namibia	0	18	14% VAT.
Nigeria	10	25	5% VAT, 7% surcharge.
Senegal	20	20	20% VAT.
South Africa	0	0	14% VAT.
Sudan	0	40	None.
Swaziland	0	18	14% VAT.
Tanzania	20	30	30% sales tax 5% surtax.
Zambia	15	25	20% sales tax.
Zimbabwe	15	40	10% surtax.
Caribbean Basin:			
Bahamas	15	35	4% stamp tax.
Belize	5	35	15% VAT.
Colombia	5	5	16% VAT.
Costa Rica	2	7.5	13% VAT.
Dominican Republic	10	30	8% sales tax.
El Salvador	0	10	13% VAT.
Guatemala	0	10	10% VAT.
Honduras	1	19	7% VAT.
Jamaica	5	5	15% general consumption tax.
Nicaragua	0	10	15% VAT.
Panama	5	15	5% VAT.

[1] Unknown.

Mr. HOLLINGS. Tariffs on textiles, the 10-percent tariff, which is ready to be blended out, in the blending out and termination of the Multifiber Arrangement in the next 5 years. Be that as it may, we have, in the Dominican Republic a tariff of 43 percent plus 8 percent VAT; El Salvador, 37.5 plus; Honduras, 35 percent plus; Guatemala, 40 percent; Costa Rica, 39; Jamaica, 40; Nicaragua, 35; 40 percent to Trinidad. We have a similar group of tariffs with respect to the tariffs in Africa: the Central African Republic, 30 percent; Cameroon, 30; Chad, 30; Congo, 30; Ethiopia, 80 percent; Gabon, 30 percent; Ghana, 25; Kenya, 80 percent; Mauritius, 88; Nigeria, 55 percent; Tanzania, 40; Zimbabwe, 200 percent.

I plead for reciprocity. I plead for the information revolution, which somehow bypassed me according to this morning's editorial in the Wall Street Journal.

With respect to tariffs on computer hardware and software, we are trying to make sure they do not do transshipments, as the distinguished Senator from Wisconsin has pointed out, and in turn, include such tariffs as: Ethiopia, 50 percent on computer hardware and software; Ghana, 25 percent, plus a 35-percent customs tax, plus a 40-percent entry tax on software and a 12.5-percent complementary tax on hardware.

They are keeping out these advancements due to these high tariffs. This will help not just the African countries, but protect the computer information age material.

In Lesoto, 18 percent plus a 14-percent VAT.

In Malawi, 45-percent tariff plus a 20-percent surcharge.

In Mozambique, 35-percent tariff plus a 30-percent tax on computer disks, a 5-percent circulation tax.

In Senegal, 20 percent with a 20-percent VAT plus 5-percent stamp tax, for a total of 45 percent.

In Sudan, 40 percent.

In Tanzania, 30 percent plus a 30-percent sales tax plus a 5-percent surtax. That is a 65-percent tax.

In Zambia, 25 percent and a 20-percent sales tax.

In Zimbabwe, a 40-percent tariff plus a 10-percent surcharge, for a total of 50 percent.

Going down that list, we have traded a lot of things, and this does not just relegate itself to textiles, it relegates itself to all trade.

The distinguished Senator from Wisconsin is pointing out, very appropriately, the transshipments. We encourage the transshipments without reciprocity. That is why we put it into NAFTA. It should be part of this. We voted on this. It was supported by the distinguished chairman of the Finance Committee and the ranking member with NAFTA. I do not see why they cannot support it now rather than moving to table the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I oppose this Hollings amendment for three reasons.

The first reason, as I have stated previously, is that the purpose of this legislation is to encourage investment in Africa, the Caribbean, and Central America by offering these poverty-stricken countries a measure of preferential access to our market. The amendment would undermine the effort by making eligibility explicitly dependent on the offer of reciprocal benefits to the United States equivalent to those to which the United States is entitled under NAFTA.

The underlying requirements of the African-CBI provisions of the Finance Committee's substitute do encourage the beneficiary countries to remove barriers to trade. The existing requirements also impose an affirmative obligation to avoid discrimination against U.S. products in the beneficiary country's trade. What the Finance Committee substitute does not require is market access equivalent to that of NAFTA, a standard that even the WTO members among these beneficiary countries could not currently satisfy.

The second reason I oppose the amendment is that the Finance Committee already instructs the President to begin the process of negotiating with the beneficiary country under both programs for trade agreements that would provide reciprocal market access to the United States as well as a still more solid foundation with a long-term economic relationship between the United States and its African, Caribbean, and Central American neighbors.

Under the Africa provisions of the bill, the President is instructed to assess the prospects for such agreement and is called on to establish a regional economic forum. That forum could prove instrumental in solving market access problems that U.S. firms may face currently as well as a forum for any eventual negotiation.

Under the CBI provisions of the bill, the Finance Committee sought to encourage our Caribbean-Central American trading partners to join with us in pressing for the early conclusion and implementation of the free trade agreements of the Americas. Each of the beneficiary countries of the CBI program has played an active and constructive role in those talks today.

In both Africa and the CBI, we are making progress in opening markets and eliminating barriers to United States trade. The fact that we do not currently enjoy precisely those benefits offered by Canada and Mexico in

the context of the NAFTA is no bar to action here.

Finally, the bill does encourage reciprocity where it really counts in the context of this bill. By encouraging the use of U.S. fabric and U.S. yarn in the assembly of apparel products bound for the United States, the bill establishes a solid economic partnership between industry and the United States and firms in the beneficiary country. That provides real benefits to American firms and workers in the textile industry by establishing the platform by which American textile makers can compete worldwide. That is precisely the benefit our industry most seeks in the context of our growing economic relationship with both regions.

In short, I oppose the amendment and urge my colleagues to do the same.

Mr. President I ask unanimous consent that it be in order for me to move to table the following amendments with one show of seconds. The amendments are: Hollings No. 2379, Feingold No. 2428, Hollings No. 2483, and Hollings No. 2485. I further ask unanimous consent that these votes occur in a stacked sequence beginning at 3:45, with the time between now and then equally divided in the usual form; there be no other amendments in order prior to the votes; there be 4 minutes equally divided just before each vote; and the votes occur in the order in which the amendments were called up.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, Senator GRASSLEY and I had indicated we would like a chance to offer our amendment at about this time. I inquire if this agreement could include an agreement to allow Senator GRASSLEY and me time to present our amendment before these votes.

Mr. ROTH. All these amendments are going to be disposed of by a tabling motion.

Mr. CONRAD. I understand that. What I am inquiring is whether or not, as part of this agreement, the Senator can indicate that Senator GRASSLEY and I will have a chance to offer our amendment.

Mr. ROTH. Before or after the vote?

Mr. CONRAD. Before the vote. We will be happy to take a vote as part of that sequence or have it at a later point, but that we at least have a chance, since we are both here, to present our amendment before these votes are taken.

Mr. ROTH. I will be happy to add the Conrad-Grassley amendment to the list if it is all right with my colleague.

Mr. MOYNIHAN. Yes. May I ask how much time the Senators from Iowa and North Dakota wish?

Mr. CONRAD. I ask my colleague how much time he wants. May we have 10 minutes, at most, on our side to talk about this amendment?

Mr. ROTH. I then change my proposal to 4 o'clock rather than 3:45, with the understanding my colleagues will take 10 minutes for their side of the amendment.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I have a question for the chairman. He and I talked about my adding another amendment prior to these votes as well, amendment No. 2406. I also only need 10 minutes. I ask it be included in the sequence of votes as well.

Mr. ROTH. Will the Senator give me the number of his amendment?

Mr. FEINGOLD. This is No. 2406.

Mr. ROTH. Mr. President, let me renew my request. I ask unanimous consent that it be in order for me to move to table the following amendments, with one show of seconds. The amendments are: Hollings amendment No. 2379, Feingold amendment No. 2428, Hollings amendment No. 2483, Hollings amendment No. 2485, Conrad-Grassley amendment No. 2359, and Feingold amendment No. 2406.

I further ask consent that these votes occur in a stacked sequence beginning at 4 o'clock, with the time between now and then equally divided in the usual form, and there be no other amendments in order prior to the votes, and there be 4 minutes equally divided just before each vote, and the votes occur in the order in which the amendments were called up.

The PRESIDING OFFICER. Is there objection?

Mr. ROTH. Each will be a 15-minute vote.

The PRESIDING OFFICER. The Chair would ask, to clarify the request, that the debate on amendments Nos. 2359 and 2406 be limited to 10 minutes per amendment.

Mr. CONRAD. Mr. President, my understanding was we were going to get 10 minutes on our side on our amendment.

Mr. ROTH. Yes; 10 minutes.

Mr. MOYNIHAN. Yes.

Mr. CONRAD. Would the chairman modify his request in that regard?

Mr. MOYNIHAN. I think he did.

The PRESIDING OFFICER. Let the Chair restate its understanding. The Chair's understanding is, it will be in order for the Senator from Delaware to move to table the amendments which have been listed, with one showing of seconds; further, that these votes would occur in a stacked sequence beginning at 4 p.m.; between now and 4 p.m., however, amendments Nos. 2359, and 2406 will be allowed to be debated for a maximum of 10 minutes each. The remaining time until 4 p.m. would be divided equally as stated in the unanimous consent request.

Is that correct?

Mr. CONRAD. That is not correct from our standpoint because our understanding was we were going to get 10 minutes on our side. As the Chair has stated it, it would be 10 minutes total debate on our amendment. So if you could just amend that unanimous consent request to be that on amendment No. 2359, there be up to 10 minutes on a side—and we will endeavor not to use that full time—it would be fully agreeable.

Mr. ROTH. That is satisfactory.

Mr. FEINGOLD. I would ask for the same on the amendment I am proposing with the expectation we will not use all the time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROTH. But, Mr. President, I ask unanimous consent the votes start at 4:15, then, instead of 4 o'clock.

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

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. May I first congratulate the Chair for having recapitulated this agreement.

The PRESIDING OFFICER. Thank you very much.

Mr. MOYNIHAN. Not a small intellectual feat, equal to my understanding of some of the amendments themselves.

Sir, I am going to make two quick comments. One is anecdotal. I was involved with the negotiation of the Long-Term Cotton Textile Agreement under President Kennedy in 1962. This was a major effort. It was done at the behest of the Southern mill owners and operators, the producers of cotton textiles, and also of the trade unions that represented the garment trades, the Amalgamated Clothing Workers Union and the International Ladies Garment Workers Union, now formed with another union into UNITE. It was a precondition of getting the Trade Expansion Act of 1962, the one major piece of legislation of President Kennedy's first term.

It came and went on to produce what we know as the Kennedy Round. That sequence of long negotiations, most recently was the Uruguay Round, which produced the World Trade Organization. There is another round coming up, we hope, in the aftermath of the Seattle meeting.

Years went by, and I found I was Ambassador to India. On an occasion, in meeting with the Foreign Minister, I said to him, just curiously: Do you find that the quota which India received in the American market of cotton textiles is onerous? It had now been a decade since it was in place. I asked: Is it a trade restriction that is particularly of concern to you? Because if it was, I was required to report it back to Washington.

The Foreign Minister said: Oh, no. That quota guarantees us that much access to the American market which we would otherwise not have, because American textile manufacturers are the low-cost producers. We do not hand loom cotton textiles in this country or wool for that matter. We have the most advanced machinery in the world.

Not to know that, to depict us as the potential victims of the Chinese, with their child labor, does not show any understanding of why nations have child labor. They do so because they do not have machines. They do not have the infrastructure of a modern economy.

The African Growth and Opportunity Act requires that the President certify basically the openness of the trading system, as much as it is going to be open, of the respective countries. The African Growth Act, for example, requires that he determine the country involved has established or is making continual progress towards establishing an open trading system for the elimination of barriers to U.S. trade and investment and the resolution of bilateral trade and investment disputes.

Sir, does anyone wish to name me a nation in the world that would not be open to American investment today? I would ask my friend, the chairman of the committee, is he aware of any country in the world that would refuse American investment?

Mr. ROTH. I would say to the contrary, every country is eager to have American investment.

Mr. MOYNIHAN. They spend their time sending us delegations.

Mr. ROTH. Absolutely.

Mr. MOYNIHAN. There may have been a time—yes, there was, in the era of a planned economy, in the era of the Soviet Union, in another era. Are we debating another era?

We are going to ask the President, under one of these amendments—I have lost track which one—to negotiate 147 reciprocal trade treaties—147—and then, sir, in one of them—I will not say which, because I do not think it would be quite fair—but in one of them, for the third act of imported children's wear, that somehow involves textiles made in the Far East or wherever, the violation is punishable by a fine of $1 million and 5 years in prison.

Do we send people to prison for the mislabeling of cotton goods? I mean, heavens, a little balance, a little perspective. We are talking about marginal producers on the margin of the world economy, trying to give them a hand. In the case of the Caribbean Basin Initiative, we are trying to do what President Reagan said was only fair and balanced: If we were going to have the North American Free Trade Agreement, it should not close out Central America and the Caribbean.

I hope we will proceed as long as we have to with such amendments, but I hope some perspective will be in order.

The PRESIDING OFFICER. The Chair would note, in order to comply with the time agreement previously agreed to, the Conrad amendment would be called up at this time.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 2359

(Purpose: To amend the Trade Act of 1974 to provide trade adjustment assistance to farmers)

Mr. CONRAD. Mr. President, I call up my amendment, the Conrad-Grassley amendment, amendment No. 2359, that has been previously filed at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], for himself and Mr. GRASSLEY, proposes an amendment numbered 2359.

Mr. CONRAD. I ask unanimous consent that 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.'')

Mr. CONRAD. Mr. President, I ask my colleagues to give full consideration to this amendment. I consider this a fairness amendment because this amendment, which would extend trade adjustment assistance to farmers, says we ought to be giving them the protection we already give other folks who work for a living.

Right now we have trade adjustment assistance on the books. It is law. If you are working on a job, and you lose your job because of a flood of unfairly traded imports, you have a chance to get back on your feet. But farmers are left out. Farmers are excluded because farmers do not lose their job when they are faced with a flood of unfairly traded imports. Instead, they are faced with a dramatic drop in income.

Instead, I would like to run through a number of charts that show the conditions facing American farmers today.

This shows what has happened to prices over the last 53 years. These are wheat and barley prices. These are in real terms, inflation adjusted, constant dollars. We have the lowest prices in 53 years. One reason is a flood of unfairly traded Canadian imports.

This is the result. This chart shows what the cost of production is. That is the green line. The red line shows what prices for wheat have been over the last 3 years.

Colleagues, wheat prices are far below the cost of production and have been for over 3 years, again partly because of a flood of Canadian imports unfairly traded.

The question is, Are we going to help farmers the same way we help other workers who are faced with this condition? I hope we say yes. I hope we recognize that it is simple fairness to extend the same protection to farmers we extend to other folks who are working for a living in this country.

This amendment is carefully crafted. It is limited to $10,000 per farmer per year with an overall cap cost of $100 million that is fully and completely paid for. We have an offset.

Interestingly, it is one of those rare circumstances where our offset is supported by the industry that would be paying. We have an offset that affects the real estate investment trust. It is supported by the real estate industry. They are willing to pay a little something more to get what they consider is a fair result. It is the same provision that was in the President's tax bill. It is the same provision that has had support on other matters before the Senate but not included in any final packages.

This matter is completely and fully offset. It simply allows that in a circumstance where the price of a commodity has dropped by over 20 percent as certified by the Secretary of Agriculture and where imports contributed importantly to this price drop, farmers will then be eligible for trade adjustment assistance.

This is the same standard the Department of Labor uses to determine whether workers are eligible for trade adjustment assistance when they lose their jobs. In order to be eligible, farmers would have to demonstrate their net farm income has declined from the previous year, and they would need to meet with the Extension Service to plan how to adjust the import competition.

If all of those conditions are met, training and employment benefits available to workers would then be available to farmers as an option.

My colleague, Senator GRASSLEY, is the cosponsor of this amendment and has played a key role in its development. I know he has words he would like to say about this measure as well.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise today in support of an amendment I am sponsoring with Senator CONRAD to establish a new, limited Trade Adjustment Assistance Program for farmers and fishermen. There are two key reasons why this new program is so necessary, and why Senator CONRAD and I are offering this legislation.

The first and most important reason is that the existing Trade Adjustment Assistance Program simply does not work for farmers. When a sudden surge in imports of an agricultural commodity dramatically lowers prices for that commodity, and sharply reduces the net income for family farmers, these farmers are undeniably hurt by import competition.

They are just as hurt as steel workers, or auto workers, or textile workers who experience the same thing. But because farmers lose income, but not their jobs, they do not qualify for the existing Trade Adjustment Assistance for workers program. The reduction in family farm income from important competition hurts farmers in a very serious way, because it comes at a time when farmers desperately need cash assistance to repay their operating loans and adjust to the import competition.

The second reason why I offer this legislation is to correct an inequity that should not continue. The inequity is that it is clear that President Kennedy, who designed the original Trade

Adjustment Assistance program as part of the Trade Expansion Act of 1962, clearly intended farmers to benefit from the program, just as much as other workers hurt as a result of a federal policy to reduce barriers to foreign trade. In his message to the Congress on the Trade Expansion Act of 1962, President Kennedy spoke about his Trade Adjustment Assistance Program. In fact, in his March 12, 1962 message, he referred to farmers at least three times.

Here is part of what President Kennedy said.

I am recommending as an essential part of the new trade program that companies, farmers, and workers who suffer damage from increased foreign import competition be assisted in their efforts to adjust to that competition. When considerations of national policy make it desirable to avoid higher tariffs, those injured by that competition should not be required to bear the brunt of the impact. Rather, the burden of economic adjustment should be borne in part by the Federal Government.

What President Kennedy said was so important I want to emphasize what he said: those who are injured by the national trade policies of the United States should not bear the brunt of the impact. And trade adjustment assistance should be available for companies, farmers, and workers.

Mr. President, this is simply an issue of fairness. Basic American fairness. The United States has lead the world in liberalizing trade. We started this process of global trade liberalization in 1947, when most of the world was reeling from the enormous physical and economic devastation of World War Two. We saw then that the way to avoid this type of catastrophe in the future was to bring nations closer together through peaceful trade and open markets. That process has been spectacularly successful. Through eight series, or rounds, of multilateral trade negotiations, we have scrapped ten of thousands of tariffs. Many non-tariff trade barriers have been torn down. Others have been sharply reduced. The result of 50 years of trade liberalization has been the creation of enormous wealth and prosperity, and millions of new jobs. But not everyone has prospered.

Some have been injured by this deliberate policy of free trade and open markets. And that's exactly why President Kennedy and the 87th Congress created the Trade Adjustment Assistance program. To help those injured by our national policy of free trade and open markets adjust to their changing circumstances with limited assistance.

President Kennedy's Secretary of Labor, Arthur J. Goldberg put it the best. Secretary Goldberg said:

As a humane Government, we recognize our responsibility to provide adequate assistance to those who may be injured by a deliberately chosen trade policy . . . It is because of the desire to do justice to the people who are affected. . .

Mr. President, we cannot do justice by helping only some of the people affected by our national trade policy. We cannot do justice by ignoring farmers. We must do justice by ignoring farmers. We must reach out to everyone, including farmers, just as President Kennedy envisioned. Now, I know there are some in this Chamber who believe that we should wait to make changes in the Trade Adjustment Assistance program until we can do a full review of the entire TAA program.

I do not agree with that view, for a very fundamental reason. We are only about four weeks away from the start of the WTO Ministerial Conference in Seattle. In Seattle, the United States will help launch the ninth series, or round, of multilateral trade negotiations since 1947.

A key goal of the Seattle Ministerial will be to liberalize world agricultural markets even more. This will mean increased import competition for American agricultural products, not less. Farmers have always been among the strongest supporters of free trade, because so much of what they produce is sold in the international marketplace.

The income our farm families earn in these foreign markets sustains our economy, and contributes greatly to our national well-being. But farm support for free trade cannot, and should not, be taken for granted.

As I said in support of this legislation last week, we are in the worst farm crisis since the depression of the 1930s. Now, low commodity prices are not caused exclusively by import competition. But it is certainly a contributing factor to these historically low prices.

If we lose the support of the farm community for free trade, Mr. President, I doubt that we will be able to win congressional approval for any new trade concessions that may be negotiated in the new round of trade talks. So this is all about fairness. It is about equality. It is about common sense.

For all of these reasons, and because, as Labor Secretary Goldberg said 37 years ago, we must recognize our responsibility as a humane government, I strongly urge my colleagues to support this amendment.

Mr. MURKOWSKI. Mr. President, I am pleased to support the amendment (#2359) proposed by Senators CONRAD and GRASSLEY which would tailor the Trade Adjustment Assistance program so that it helps farmers and fishermen—two groups that are not adequately assisted under the current TAA program.

I voted for this amendment at the Finance Committee markup, and was disappointed that it failed by a narrow margin. But I am pleased that Senators CONRAD and GRASSLEY persevered in pushing this important issue forward. I also want to thank the authors of this amendment for working with my staff to ensure that the provisions cover fishermen in Alaska and Louisiana and other areas along with farmers in the Midwest because these two groups face similar problems.

Finally, I thank the Chairman and Ranking Member of the Finance Committee, Senator ROTH and Senator MOYNIHAN, for accepting this amendment today. I urge them to insist on retaining this language at conference with our House colleagues.

I have long been an advocate of opening markets abroad for U.S. exporters, and putting in place rules to facilitate trade between the nations. I voted for the NAFTA and the Uruguay Round. I support the Finance Committee managers' amendment to the underlying bill which will change our focus in Africa from aid to trade, will give the Caribbean nations parity in their trade with the United States. In addition, I support reauthorizing two important programs; the Trade Adjustment Assistance program and the Generalized System of Preferences program.

But even as we pursue liberalized trade initiatives, we must work harder to help Americans adjust to a changing business climate that is often affected by events half way around the World. For while we can take pride in an historically low unemployment rate nationwide that occurred partly as a result of our open and innovative workplace and trading rules, certain sectors and certain parts of the country are still facing employment losses or income losses as a result of low worldwide commodity prices. Fishermen and Farmers fall in this category.

Let me just use one example. An Alaskan fishing Sockeye Salmon was getting $1.18 per pound in 1996. But last year, that price had sunk to 85 cents—a 28% drop, and a 17% drop over the five-year average. And the drop came in the face of rising imports. Foreign imports of seafood have steadily risen since 1992 while exports have steadily fallen over the same period.

The current TAA program is better suited to traditional manufacturing firms and workers, than to farmers and fishermen. When imports cause layoffs in manufacturing industries, workers are eligible for TAA. In my own state of Alaska, TAA has played an important role both in the oil industry and for the seafood processors. But an independent fisherman does not go to the dock and receive a pink slip, he goes to the radio and hears the latest price for salmon, and he knows that his family's livelihood is threatened. TAA has not been available in his circumstances.

As the authors of this amendment have explained, the TAA for Farmers and Fishers would set up a new program where individual farmers could apply for assistance if two criteria are met.

First, the national average price for the commodity for the year dropped more than 20% compared to the average price in the previous five years.

Second, imports ''contributed importantly'' to the price reduction.

If these two criteria are met, fishermen would be eligible for cash benefits based on the fishermen's loss of income. The cash benefits would be

capped at $10,000 per fisherman. Retraining and other TAA benefits available to workers under TAA also would be available to fishermen interested in leaving for some other occupation.

Mr. President, I believe that this change in the TAA program is long overdue. Again, I want to stress that the traditional TAA program still plays an important role, and I do not want to diminish its current role—but to expand it. The TAA program averts the need for more money in unemployment compensation, welfare, food stamps and other unemployment programs—in short, it keeps Americans employed and able to support themselves and their families.

Let me end, Mr. President, by returning to a few points on the underlying bill. It is unfortunate, in my view, that this might be the only piece of trade legislation that we move this entire Congress.

As you might guess, trade with Africa and the Caribbean Basin countries is not that important to Alaska. I am deeply disappointed that we are not looking at a WTO agreement with China. I continue to believe that President Clinton made a mistake by rejecting the deal that was put together in April, and might not ever get put back together in the same manner. I am also deeply disappointed that we have not considered trade negotiating authority that would be a strong vote of confidence as our negotiators head to the Seattle Round.

Nevertheless, I commend the Chairman of the Finance Committee, Senator ROTH, and the Ranking Member, Senator MOYNIHAN, and our Majority Leader for bringing this legislation to the floor. Perhaps, if we are able to move forward on this piece of legislation, the logjam will be broken. Let's hope.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, in view of the very persuasive arguments of my two colleagues, I ask unanimous consent, notwithstanding the prior consent agreement regarding the Conrad-Grassley amendment, that the amendment be agreed to.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I join my chairman in saying this is a valuable amendment. Having been involved in drafting the legislation in 1962 which created the Trade Adjustment Assistance Act, I think this is an important extension of the same principle.

It is altogether agreeable to this Senator. I hope there will be no objection.

Mr. GRASSLEY. We thank the Senator very much.

Mr. MOYNIHAN. Thank me?

Mr. GRASSLEY. All of you.

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

The amendment (No. 2359) was agreed to.

Mr. CONRAD. Mr. President, I thank the chairman and ranking member for their support of the amendment. We appreciate it very much.

I think this amendment is a matter of fairness. I deeply appreciate the response today. I hope this will prevail through the conference. I have the utmost confidence in the chairman's ability to persuade our colleagues over on the House side of the merits of this amendment.

I again thank the chairman. I thank our ranking member, who all along has recognized that this is a logical extension of trade adjustment assistance we provide other workers in our economy.

I thank also my cosponsor, Senator GRASSLEY from Iowa. He and I have worked together closely not only on this amendment but many other matters as well. I thank him very much for his leadership and support.

I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Senator from Illinois, Mr. DURBIN, be made an original cosponsor of amendment No. 2408 relating to anticorruption efforts.

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

AMENDMENT NO. 2406

(Purpose: To ensure that the trade benefits accrue to firms and workers in sub-Saharan Africa)

Mr. FEINGOLD. Mr. President, I call up my amendment numbered 2406.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. FEINGOLD) proposes an amendment numbered 2406.

Mr. FEINGOLD. 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:

Strike Sec. 111 and insert the following:

SEC. 111. ELIGIBILITY FOR CERTAIN BENEFITS.

(a) IN GENERAL.—Title V of the Trade Act of 1974 is amended by inserting after section 506 the following new section:

"SEC. 506A. DESIGNATION OF SUB-SAHARAN AFRICAN COUNTRIES FOR CERTAIN BENEFITS.

"(a) AUTHORITY TO DESIGNATE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized to designate a country listed in section 4 of the African Growth and Opportunity Act as a beneficiary sub-Saharan African country eligible for the benefits described in subsection (b), if the President determines that the country—

"(A) has established, or is making continual progress toward establishing—

"(i) a market-based economy, where private property rights are protected and the principles of an open, rules-based trading system are observed;

"(ii) a democratic society, where the rule of law, political freedom, participatory democracy, and the right to due process and a fair trial are observed;

"(iii) an open trading system through the elimination of barriers to United States trade and investment and the resolution of bilateral trade and investment disputes; and

"(iv) economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, and promote the establishment of private enterprise;

"(B) does not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities.

"(C) subject to the authority granted to the President under section 502 (a), (d), and (e), otherwise satisfies the eligibility criteria set forth in section 502;

"(D) has established that the cost or value of the textile or apparel product produced in the country, or by companies in any 2 or more sub-Saharan African countries, plus the direct costs of processing operations performed in the country or such countries, is not less than 60 percent of the appraised value of the produce at the time it is entered into the customs territory of the United States; and

"(E) has established that not less than 90 percent of employees in business enterprises producing the textile and apparel goods are citizens of that country, or any 2 or more sub-Saharan African countries.

"(2) MONITORING AND REVIEW OF CERTAIN COUNTRIES.—The President shall monitor and review the progress of each country listed in section 4 of the African Growth and Opportunity Act in meeting the requirements described in paragraph (1) in order to determine the current or potential eligibility of each country to be designated as a beneficiary sub-Saharan African country for purposes of subsection (a). The President shall include the reasons for the President's determinations in the annual report required by section 105 of the African Growth and Opportunity Act.

"(3) CONTINUING COMPLIANCE.—If the President determines that a beneficiary sub-Saharan African country is not making continual progress in meeting the requirements described in paragraph (1), the President shall terminate the designation of that country as a beneficiary sub-Saharan African country for purposes of this section, effective on January 1 of the year following the year in which such determination is made.

"(b) PREFERENTIAL TARIFF TREATMENT FOR CERTAIN ARTICLES.—

"(1) IN GENERAL.—The President may provide duty-free treatment for any article described in section 503(b)(1) (B) through (G) (except for textile luggage) that is the growth, product, or manufacture of a beneficiary sub-Saharan African country described in subsection (a), if, after receiving the advice of the International Trade Commission in accordance with section 503(e), the President determines that such article is not import-sensitive in the context of imports from beneficiary sub-Saharan African countries.

"(2) RULES OF ORIGIN.—The duty-free treatment provided under paragraph (1) shall apply to any article described in that paragraph that meets the requirements of section 503(a)(2), except that—

"(A) if the cost or value of materials produced in the customs territory of the United States is included with respect to that article, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (A) of section 503(a)(2); and

"(B) the cost or value of the materials included with respect to that article that are produced in one or more beneficiary sub-Saharan African countries shall be applied in determining such percentage.

''(c) BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES, ETC.—For purposes of this title, the terms 'beneficiary sub-Saharan African country' and 'beneficiary sub-Saharan African countries' mean a country or countries listed in section 4 of the African Growth and Opportunity Act that the President has determined is eligible under subsection (a) of this section.''.

''(c) BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES, ETC.—For purposes of this title, the terms 'beneficiary sub-Saharan African country' and 'beneficiary sub-Saharan African countries' mean a country or countries listed in section 104 of the African Growth and Opportunity Act that the President has determined is eligible under subsection (a) of this section.''.

(b) WAIVER OF COMPETITIVE NEED LIMITATION.—Section 503(c)(2)(D) of the Trade Act of 1974 (19 U.S.C. 2463(c)(2)(D)) is amended to read as follows:

''(D) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES AND BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country or any beneficiary sub-Saharan African country.''.

(c) TERMINATION.—Title V of the Trade Act of 1974 is amended by inserting after section 506A, as added by subsection (a), the following new section:

''SEC. 506B. TERMINATION OF BENEFITS FOR SUB-SAHARAN AFRICAN COUNTRIES.

''In the case of a country listed in section 104 of the African Growth and Opportunity Act that is a beneficiary developing country, duty-free treatment provided under this title shall remain in effect through September 30, 2006.''.

(d) CLERICAL AMENDMENTS.—The table of contents for title V of the Trade Act of 1974 is amended by inserting after the item relating to section 505 the following new items:

''506A. Designation of sub-Saharan African countries for certain benefits.
''506B. Termination of benefits for sub-Saharan African countries.''.

(e) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2000.

Mr. FEINGOLD. Mr. President, as the Senate considers the African Growth and Opportunity Act, we have to keep asking ourselves the key question: Growth and opportunity for whom?

It is an important question because the Africa trade legislation we are now considering does not require that Africans themselves be employed at the firms that are going to receive the trade benefits. In fact, AGOA, as it now stands, actually takes a step backwards for Africa. The GSP program requires that 35 percent of a product's value added come from Africa, but this legislation actually lowers the bar to 20 percent.

Under this scheme, it is possible that a product would meet the 20-percent requirement and qualify for AGOA benefits. For example, if non-African workers physically standing in West Africa simply sewed a ''Made in Togo'' label on apparel and then shipped it to the United States, that is all they would have to do. It makes something of a mockery of how this is supposed to help African countries and African workers.

This plan undercuts the potential for trade to boost African employment and encourages transshipment of goods from third countries seeking to evade quotas. As I said before on the other amendment, the U.S. Customs Service has determined that for every $1 billion of illegally transshipped products that enter the United States, 40,000 jobs in the textile and apparel sector are lost.

So this amendment would also fight transshipment but in another way, requiring that 60 percent of the value added to a product has to come from Africa. It is a significant improvement over the 20 percent of the bill. I think it is an appropriate improvement over the 35 percent of the GSP standard.

This amendment also emphasizes African opportunities. It requires that any textile firm receiving trade benefits must employ a workforce that is 90-percent African. This doesn't mean that all 90 percent of the people have to come from a particular African country where the company might be or the activity might be, but they do have to be citizens of an African country.

This provision holds out an incentive to African governments, businesses, and civil society to develop their human resources. That would not only be good for Africa; it would be good for America, as well as our trading partners in the region gaining economic strength.

Without these amendments, this legislation offers neither growth nor opportunity to Africans themselves. In fact, unless the Senate makes these changes, we will simply see a continuation of a disturbing trend.

In the first 4 years of this decade, corporate profits in Africa average 24 to 30 percent compared with 16 to 18 percent for all developing countries. But real wages in Africa continue to fall, as they have for nearly three decades now. The number of African families unable to meet their basic needs has doubled. It would be irresponsible to pass an African trade bill that reinforced this dangerous disconnect between corporate profits and African wages.

I know my colleagues who support the African Growth and Opportunity Act do so because they genuinely want to engage with the continent. I share their goal, and I believe this amendment would push U.S. Africa policy in that direction by linking economic growth and human development protecting both African and American interests.

I ask my colleagues to support this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I rise in opposition to Senator FEINGOLD's amendment which incorporates provisions of S. 1636, the HOPE for Africa Act.

Frankly, this legislation would be better described as the ''No Growth and No Opportunity Act.'' Even a cursory reading of the provisions reflect an intent to throttle any form of productive investment in Africa. Rather than offering the nations of sub-Saharan Africa the opportunity to lift themselves out of poverty on their own terms, this bill says Africa will have to do so on our terms or not at all.

Let me explain why.

The sponsors of the bill have made two principal arguments on its behalf: First, that it would expand trade; second, that it would yield responsible investment in Africa. In fact, the bill would have the opposite effect on both counts. The bill would actually impose greater restrictions on trade with Africa than would currently be the case and would actively discourage any form of private investment.

For example, under the current GSP program, the rules require that products from beneficiary countries must contain 35-percent value added for the beneficiary country to qualify; and the HOPE for Africa bill would raise that to 60 percent, which would effectively end any prospects for firms in African countries that hope to enter into production-sharing arrangements for the assembly of products in Africa.

Current law does not impose any requirement that all employees of an enterprise be from the beneficiary country for the company's product to qualify. But the HOPE for Africa bill would dictate that 90 percent of the employees of any enterprise producing textile and apparel goods must be citizens of beneficiary countries. In other words, no legal residents or immigrants would be employed in these plants above a certain set limit.

How, I wonder, would the U.S. Customs Service enforce these provisions? Would U.S. Customs have to investigate and certify every plant in advance? Would Customs have to require reports on all new hires by the individual enterprise? Or would Customs have to be involved in the individual firm's hiring decisions from the start in order to be sure the firm was precisely at 90-percent employment from beneficiary countries?

In short, the amendment does exactly the opposite of what it purports to do. I therefore urge my colleagues to vote against this amendment.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, in response to the chairman's remarks, I believe those provisions would be enforceable. We already have a mechanism where an import's country of origin must be verified. The consent must also be verified. I suggest we use the same mechanisms in place to certify African value content. In fact, it was indicated under GSP that it is a 35-percent requirement and under this bill is a 20-percent requirement.

The question doesn't seem to be whether we can enforce it or identify it; the question seems to be, What should the percentage be?

In response to the broader point that somehow this is going to be unfair to the countries of Africa, it is just the opposite. What we are trying to avoid

with this amendment is, in effect, the exploitation of African countries as a way for other countries to get away with something they can do right now very easily; for example, the Chinese willingness here to use transshipment through African companies to undercut American jobs. All we are trying to do is have a reasonable assurance, in two ways, that Africans are actually having a chance to do the work and they are actually contributing to the product.

A 60-percent requirement is not 100 percent, it is a reasonable level. It still leaves room for joint activities with other entities. And a 90-percent requirement is not restricted, as the chairman has suggested, to one country, but 90 percent have to be African citizens of any one of the over 50 African countries. It still leaves a 10-percent possibility for workers from other countries. If we don't do this, this proposal has nothing to do with making sure African workers get an opportunity to have a decent living and to have these economic opportunities. This bill has to be a two-way street at some level, Mr. President; it is not that now. This amendment is a good-faith effort to make it more balanced and to be fairer to African workers. I strongly suggest it is a modest step that needs to be taken to improve this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I don't wish to suggest there is anything but good intentions behind all these measures. But to introduce the idea of—is it citizenship we are talking about, ancestry, or what? What is an African, sir? South Africa would be part of the arrangements in this African Growth Act.

Suppose there was a plant in Johannesburg that was owned by the descendants of Dutch settlers who arrived in the 17th century; some of the managers were Indian persons who had emigrated in the 19th century under the British Empire—under the British Empire, people moved all over the world. We recently had the great honor of meeting, just off the Senate Chamber, with heads of state from the Caribbean area, and the President of Trinidad and Tobago is of Indian ancestry. That is very normal. Indians moved to California, having gone to the British Empire and gone to Canada and were coming down. And suppose there were Zulu workers there—African, obviously, but they are more recent arrivals than most.

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

Mr. MOYNIHAN. I am happy to.

Mr. FEINGOLD. I wish to ask a question. Our bill only provides that 90 percent of the people who work in the firm have to be citizens of an African country. It does not suggest in any way anything about their ethnic or racial background. I am very sensitive to that. I wonder if the Senator is aware that that is the only requirement, so anyone who is a citizen of any one of the African countries, regardless of their background, would be within the 90 percent.

Mr. MOYNIHAN. I am aware of that, and I recognize that is a very reasonable thought. But I do know, from some experience in that part of the world, that citizenship is not a standard statutory entitlement of the individual, as it would be—well, even in our country, if you come here, you have to go through a great deal to become a citizen. If you are born here, you already are. That can be a very ambiguous situation, sir. I don't know.

May I ask my friend, are Mauritians Africans or Indians? One of the big issues, I can say to the Presiding Officer, is that in Mauritius a considerable textile trade has developed with Mauritian sponsors and Chinese migrant workers. Are Mauritians Africans?

Mr. FEINGOLD. If you are suggesting they are citizens of Mauritius, for the purposes of this bill, they would certainly qualify as people who could be counted within the 90 percent.

Mr. MOYNIHAN. If you are on the Indian Ocean, how sure are you that you are in Africa?

Mr. FEINGOLD. It is the definition of African countries as set forth in the bill. I believe that would be in the list of countries.

Mr. MOYNIHAN. I get to the point, and I don't make it in any hostile manner. I just say the complexities of the world, just that part of it, are very considerable. I am reluctant to see such categories enter trade law. No one has ever asked whether the products of the American clothing workshops in New York City were made by American citizens. There surely would have been a time when the majority—or many of them—were not American citizens at all. They would have come from what would become Poland, and there was no concept of citizenship for the occupants of the shtetls. I just suggest there is considerable ambiguity. I don't wish to press the matter.

I yield the floor.

Mr. FEINGOLD. Mr. President, in response to that, I recognize the argument regarding American history. Surely there is a different scenario when we talk about African countries.

The problem I am trying to address—and I appreciate the Senator's point—is that we are fearful, with good reason, that African countries will be used as a conduit to allow the kind of activity the Chinese entities obviously intend to pursue, which is to essentially run these products through an African country, stamp the label on it, not really let Africans play a significant role in producing the product, and undercut our quota laws. That is the reason for doing this. I don't think it is particularly difficult to administer or to do when we suggest we are talking here about citizenship of an African country without any other criteria.

We do allow for migration in Africa. We allow for Africa seeking out opportunities where they find them. We are trying to make sure this is some nexus between this legislation and the opportunities for Africans to benefit, as well as large corporations that may benefit. This is an attempt to make the bill better. I think it is one that is not too difficult to achieve.

I yield the floor.

Mr. MOYNIHAN. I suggest the absence of a quorum.

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

The legislative assistant proceeded to call the roll.

Mr. HOLLINGS. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HOLLINGS. Mr. President, let me join in with the distinguished Senator from Wisconsin.

One of the areas I am trying to find with respect to the amount of work or the amount of production or percent of production of an article, it was found by merely placing the label on the article because one had to unload, load back, and assimilate in a particular way in order to get the label. The mere labeling was considered to be 20 percent. That would have complied with parts of this particular CBI/Sub-Sahara bill.

The requirement of the Senator from Wisconsin at 60 percent makes sure we can't get this specious argument about the percentage and the extra work of loading and unloading and putting it through a different set of machinery, tools, adding a label. That constitutes 20 percent. I understand the intent is to get investment and jobs with respect to the Caribbean Basin and with respect to the sub-Sahara countries. There is no question it is well considered. It ought to be at least 60 percent, as called for by Senator FEINGOLD's amendment.

With respect to my colleague, the distinguished senior Senator from New York, dramatically asking the question, Can anybody name a country where they don't want American investment? That is very easily done. Go to Japan. They started this. Companies still can't get investment there unless the investment doesn't pay off as an investment. Companies have to have a license technology, make sure the jobs are there, make sure the profits stay there.

We have been trying to invade the Japanese market for 50 years without success. They have their Ministry of Finance. They have their Ministry of Industry and Trade (MITI). There is no question, companies can't get in there.

Go to China. Ask Boeing how they got in China. Read the book ''One World Ready or Not.'' It was pointed out, 40 percent of the Boeing 777 parts are not made up in Seattle or anywhere in the United States; they are made by investments in China. How do those investments happen? They said yes, you

can invest here if you license the technology, if you produce the parts and create the jobs here and keep your profits here. That is fine business.

To the rhetorical question, Does anyone know of a country that doesn't want the American dollar? That is what they are talking about. I can tell Members, as we look at the stock market, they are going from the American dollar to the Japanese yen or to the Deutsche mark. We will be devaluing that dollar shortly at the rate of $300 billion trade deficit and $127 billion fiscal deficit. We did not run a surplus at the end of September; we ran a deficit of $127 billion. That is according to the Treasury's own figures we submitted.

Yes, I can answer that question readily. These countries don't want investment unless you can get what I am trying to get. I am trying to get the jobs. I am trying to get the investment.

Don't tell a southern Governor how to carpetbag. We have been doing that for years on end. I know it intimately. I have traveled all over this country trying to solicit and bring industry to South Carolina. I was the first Governor in the history of this country to go to Latin America, and later took a gubernatorial mission after the election in 1960 with some 27 State Governors, trying to get investment into South Carolina. I traveled to Europe. I called on Michelin in June of 1960. Now we have beautiful plants and the North American headquarters of Michelin. We can go down the list.

We know how to do it, and the others are doing it to us. We understand that. However, there is a degree of takeover, so to speak, or export of these jobs. We cannot afford it, particularly in the textile area. It will happen in all the other hard industries, as has been characterized by Fingleton, if this continues.

Rather than talk about the agriculture getting a special trade representative—agriculture is never left out. The Secretary of Agriculture is always there, the special trade representative, the export-import financing is there; everything is there for agriculture. I don't mind them putting this amendment on there, but it points up, if Members get politically the right support, they can get their amendment accepted around here even though it is not germane and it is not relevant.

However, if one gets a good amendment as required, as both the chairman of the Finance Committee and the ranking member required in the NAFTA bill, it was included in the NAFTA bill. Fortunately, the ranking member did vote with us. The chairman of the Finance Committee went along and supported the side agreements with respect to labor, the side agreement with respect to the environment, and the reciprocity from both Canada and Mexico.

The PRESIDING OFFICER. The Senator from South Carolina has used his hour under cloture.

Mr. ROTH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant 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.

There are 4 minutes equally divided before the vote.

AMENDMENT NO. 2379

Mr. HOLLINGS. Mr. President, the Senator from Delaware said this amendment would discourage investments. The very same amendment was included at his behest in the Finance Committee on NAFTA. It has not discouraged investment whatever in Mexico. On the contrary, the Koreans, the Chinese, Taiwanese, the Americans, everyone is investing like gangbusters down in Mexico.

That is what they talk about, the success of NAFTA. So this is worded to include the language exactly as they have included it in the NAFTA agreement. Could it be on labor rights that this body wants to put a stamp of approval on a situation such as the example I gave of a 13-year-old young girl working 100 hours at 13 cents an hour until 3 in the morning? Do we want that kind of thing going on?

I am sure we do not want to put the stamp of approval on the threats they will be killed when they ask for certain labor considerations down in Honduras. I went through all of those particular examples.

We do not want to invest in scab labor. What we want to invest in is an opportunity and an improved lot with the Caribbean Basin Initiative here. So it is, the amendment should not be tabled. It is in force, working with respect to NAFTA. There is no reason why it cannot work in this particular place.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I rise to urge my colleagues to table the amendment. I do so for two reasons. First, as I have stated previously, the goal of this legislation is to encourage investment in Africa, the Caribbean, and Central America. This amendment would undermine that effort by requiring the difficult negotiations of side agreements that would delay the incentive the bill would create. That, I argue, is of no help to these developing countries and will not lead to any great improvement in their labor standards.

The second reason I oppose the amendment is that it essentially depends on economic sanctions to work. Its threat is that the economic benefits of the beneficiary countries will be cut off if the countries do not comply with the terms of some agreement yet to be negotiated. That not only undercuts the investment incentive by increasing the uncertainty of a country's participation in the program, but it also does little to raise labor standards. For that reason, I urge this amendment be tabled.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I join the chairman in urging this matter be tabled. We have a fine underlying bill and we hope to take it to conference with as little encumbrance as can be, certainly none to which there would be instant objection on the House side.

I yield the floor.

Mr. ROTH. Mr. President, under the provisions of the previous consent, I now move to table the 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.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 2379.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative assistant called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from New Hampshire (Mr. GREGG) are necessarily absent.

The result was announced, yeas 54, nays 43, as follows:

[Rollcall Vote No. 345 Leg.]

YEAS—54

Abraham	Fitzgerald	Lugar
Allard	Frist	Mack
Ashcroft	Gorton	McConnell
Baucus	Graham	Moynihan
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Breaux	Grassley	Roberts
Brownback	Hagel	Roth
Bunning	Hatch	Santorum
Burns	Hutchinson	Sessions
Cochran	Hutchison	Smith (NH)
Coverdell	Inhofe	Smith (OR)
Craig	Jeffords	Specter
Crapo	Kerrey	Stevens
DeWine	Kyl	Thomas
Dodd	Landrieu	Thompson
Domenici	Lieberman	Voinovich
Enzi	Lott	Warner

NAYS—43

Akaka	Feingold	Murray
Bayh	Feinstein	Reed
Biden	Harkin	Reid
Bingaman	Helms	Robb
Boxer	Hollings	Rockefeller
Bryan	Inouye	Sarbanes
Byrd	Johnson	Schumer
Campbell	Kennedy	Shelby
Cleland	Kerry	Snowe
Collins	Kohl	Thurmond
Conrad	Lautenberg	Torricelli
Daschle	Leahy	Wellstone
Dorgan	Levin	Wyden
Durbin	Lincoln	
Edwards	Mikulski	

NOT VOTING—2

Gregg	McCain

The motion was agreed to.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

CHANGE OF VOTE

Mr. ROCKEFELLER. Mr. President, on Hollings amendment No. 2379, the junior Senator from West Virginia voted ''aye'' and wishes to change his vote to ''nay.'' I ask unanimous consent to be able to change my vote. My

change of vote would have no effect on the outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. ROTH. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2428

Mr. MOYNIHAN. Mr. President, I believe a vote is scheduled.

The PRESIDING OFFICER (Mr. HAGEL). The Senator is correct.

There are 4 minutes evenly divided for debate prior to the vote.

Who yields time?

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, this amendment simply intends to try to make sure that the African portion of this legislation does not become a mechanism whereby governments or businesses from China, for example, ship their goods through Africa as a way to evade American quotas.

This is another process called transshipment. During the debate, I pointed out that on a web site of the Chinese Government, they essentially say this is exactly what they are going to do. It is what they are already doing.

We have put some responsibility on importers. American importers will have the benefit of this bill to make sure they vouch for the legitimate content of this product having some characteristic of being actually from Africa. It is a very important provision to make sure this bill has some balance and it doesn't threaten American jobs. The figures I quoted indicate that for every $1 billion in illegally transshipped goods, it costs about 40,000 American jobs in the textile and related areas.

This is a very straightforward amendment that opposes the practice of transshipment I think every Member of this body would like to support.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I rise in opposition to the amendment and ask that it be tabled.

First, the Finance Committee bill already contains the specifically enhanced transshipment provisions beyond those contained in the House bill. The Finance Committee bill would suspend exporters and importers from the benefits of the program for 2 years if found to have transshipped in violation of the rule.

Second, the Customs Service already has extensive power to combat transshipment. Let me be clear what transshipment is. It is Customs law. Customs already has the enforcement power to address these concerns.

Mr. President, I ask unanimous consent that the remaining votes in this series be limited to 10 minutes in length.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New York.

Mr. MOYNIHAN. Mr. President, I would like to associate myself with the chairman and note that this measure, among other things, provides for up to 5 years imprisonment for a third dispute. We don't want to criminalize international trade.

Mr. ROTH. Mr. President, let me add that the Senator from Wisconsin has done nothing to address my concerns regarding the constitutional infirmity of his amendment. As I have already stated, my colleague's amendment would expose individuals to criminal and civil penalties without the due process required by the U.S. Constitution. That is simply unconscionable.

I therefore urge my colleagues to vote to table the amendment.

Mr. FEINGOLD. Mr. President, I wish to respond to both the chairman and the ranking member.

They have suggested, it seems to me, that somehow this provision automatically involves imprisonment. That is simply not correct. Under the first offense, there is only a civil penalty involved for the importer in the amount equal to 200 percent of the declared value of the merchandise. A second offense then would involve perhaps up to 1 year of imprisonment. It is only in a third offense that it would be 5 years.

It is simply not correct to suggest that if somebody makes a mistake once, suddenly they are going to be imprisoned. It is not nearly as harsh as that. It is a reasonable series of penalties for people who are going to get enormous benefit under this legislation.

Mr. MOYNIHAN. Mr. President, the Senator is correct. I believe I said the provision provided ''up to'' on the third event. But we will not dispute it. The facts are accurately stated by the Senator from Wisconsin.

The PRESIDING OFFICER. Is all time yielded?

Mr. ROTH. I yield the remainder of my time.

The PRESIDING OFFICER. The question is on the motion to table amendment No. 2428. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from New Hampshire (Mr. GREGG) are necessarily absent.

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 346 Leg.]

YEAS—53

Abraham	Bond	Craig
Allard	Breaux	Crapo
Ashcroft	Brownback	Daschle
Baucus	Burns	DeWine
Bayh	Cochran	Domenici
Bennett	Coverdell	Enzi
Feinstein	Kerrey	Roberts
Fitzgerald	Kyl	Roth
Frist	Lieberman	Santorum
Gorton	Lincoln	Shelby
Graham	Lott	Smith (OR)
Gramm	Lugar	Stevens
Grams	Mack	Thomas
Grassley	McConnell	Thompson
Hagel	Moynihan	Voinovich
Hatch	Murkowski	Warner
Hutchinson	Murray	Wyden
Jeffords	Nickles	

NAYS—44

Akaka	Feingold	Mikulski
Biden	Harkin	Reed
Bingaman	Helms	Reid
Boxer	Hollings	Robb
Bryan	Hutchison	Rockefeller
Bunning	Inhofe	Sarbanes
Byrd	Inouye	Schumer
Campbell	Johnson	Sessions
Cleland	Kennedy	Smith (NH)
Conrad	Kerry	Snowe
Collins	Kohl	Specter
Dodd	Landrieu	Thurmond
Dorgan	Lautenberg	Torricelli
Durbin	Leahy	Wellstone
Edwards	Levin	

NOT VOTING—2

Gregg	McCain

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2483

The PRESIDING OFFICER (Mr. SMITH of Oregon). Under the previous order, there are 4 minutes of debate equally divided for the motion to table amendment No. 2483. The Senate will be in order. Who yields time? The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, this amendment is nothing more than the previous amendment on side agreements on labor. This one would require the side agreements with respect to the environment. The distinguished Presiding Officer knows I know the feeling of strength out on the west coast for the environment. I have traveled up there, for example, in Puget Sound and have had the hearings with Dixie Lee Ray when she was the oceanographer, John Linberg, and all the rest. I come back to the statement by my distinguished ranking member quoted in the Wall Street Journal this morning——

Mr. MOYNIHAN. Mr. President, we do not have order. We cannot hear the Senator from South Carolina.

The PRESIDING OFFICER. The Senators will take their conversations to the Cloakroom.

The Senator from South Carolina.

Mr. HOLLINGS. As quoted in the morning Wall Street Journal, the distinguished Senator MOYNIHAN of New York said:

> We were planning to spend a few days in Seattle, just meeting people.

But if you could not get this bill passed, they would not have any credibility.

> I don't want to show my face.

I know in general the Democrats are considered prolabor and the Republicans are considered generally as antilabor. But with respect to the environment it has been bipartisan. There

was no stronger protector of the environment than our late friend, John Chafee of Rhode Island. He led the way for Republicans and Democrats. I would not want to show my face in Seattle, having voted that you could not even sit down, talk, and negotiate something on the environment, the very same provisions that the chairman of the Finance Committee required in the NAFTA agreement. It is in the NAFTA agreement. I am only saying, since we are going to extend NAFTA to the CBI, let's put the same requirements there with consideration for the environment.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, may I say that will teach me to ask for order when the Senator from South Carolina is speaking.

But we are required, as managers, to make the same point on this measure, this amendment, that we made on the earlier Hollings amendment. This would require us to negotiate 147 environmental agreements around the world before any of the provisions of the African bill or the Caribbean Basin Initiative or the tariff preferences under the Generalized System of Preferences can be extended.

NAFTA was a relatively simple three-party negotiation. We have very few differences with Canada, and such as we had with Mexico were worked out. In so many of the countries we are talking about in sub-Saharan Africa, the nation, the area, is an environmental disaster. That is why we are trying to develop some trade, some economic influx—trade not aid. We would not do it. What would be your standard for the Sudan? What would be your standard for parts of the Congo? What would you know about the country with which you are negotiating?

These are terribly distressed regions. We have had three decades of declining income, of rising chaos. The best hopes are the countries that want this agreement. We are not going to leave environment behind, but we should move ahead on this measure. I think my chairman agrees with me in this matter. I yield the floor.

The PRESIDING OFFICER. The time has expired.

Mr. MOYNIHAN. I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 2483.

The yeas and nays have previously been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from New Hampshire (Mr. GREGG) are necessarily absent.

The result was announced—yeas 57, nays 40, as follows:

[Rollcall Vote No. 347 Leg.]

YEAS—57

Abraham	Fitzgerald	Lugar
Allard	Frist	Mack
Ashcroft	Gorton	McConnell
Baucus	Graham	Moynihan
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Breaux	Grassley	Roberts
Brownback	Hagel	Roth
Bunning	Hatch	Santorum
Burns	Hutchinson	Sessions
Campbell	Hutchison	Shelby
Cochran	Inhofe	Smith (NH)
Coverdell	Jeffords	Smith (OR)
Craig	Kerrey	Specter
Crapo	Kyl	Stevens
DeWine	Landrieu	Thomas
Dodd	Lieberman	Thompson
Domenici	Lincoln	Voinovich
Enzi	Lott	Warner

NAYS—40

Akaka	Feingold	Murray
Bayh	Feinstein	Reed
Biden	Harkin	Reid
Bingaman	Helms	Robb
Boxer	Hollings	Rockefeller
Bryan	Inouye	Sarbanes
Byrd	Johnson	Schumer
Cleland	Kennedy	Snowe
Collins	Kerry	Thurmond
Conrad	Kohl	Torricelli
Daschle	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Durbin	Levin	
Edwards	Mikulski	

NOT VOTING—2

Gregg	McCain

The motion was agreed to.

Mr. ROTH. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. LAUTENBERG. I ask unanimous consent that on a vote I cast on amendment No. 2483 which I indicated in the affirmative to table, I be permitted to change that vote without affecting the outcome.

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

(The foregoing tally has been changed to reflect the above order.)

AMENDMENT NO. 2485

The PRESIDING OFFICER. There is now 4 minutes of debate equally divided on amendment No. 2485.

Who yields time?

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, by this vote we will determine whether we are for foreign aid or foreign trade. The truth is that the Marshall Plan in foreign aid is really a wonderful thing. We have defeated communism with capitalism. It has worked.

But now after 50 years, with running deficits in excess of $100 billion for some 20 years, we are just infusing more money into the economy than we are willing to take in. There was the deficit of $127 billion here just at the end of September for the year 1999; otherwise, running a deficit in the balance of trade of $300 billion; then with our current account deficit totaling $726 billion in the last 7 years and our net external assets really in the liabilities over the last 7 years from $71 billion to $831 billion.

We are going out of business. It would be a wonderful thing. But let's have some reciprocity. All we are saying is, when we make an agreement, we take some of these particular regulations affecting, for example, textiles—there is a whole book of them here—and if we lower ours, let them lower theirs.

Cordell Hull, 65 years ago, with the reciprocal trade agreements of 1934, is what got the country going again industrially, and that is what will get it going again if we obey the reciprocity that we included in NAFTA.

All I am trying to do, if we are going to extend NAFTA, let's have the same reciprocity we had in NAFTA in these particular CBI agreements.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I oppose the amendment. I do so for three reasons. The first reason, as I have stated previously, is that the purpose of this legislation is to encourage investment in Africa, the Caribbean, and Central America by offering these poverty-stricken countries a measure of preferential access to our markets.

This amendment would undermine that effort by making eligibility explicitly dependent on the offer of reciprocal benefits to the United States equivalent to those that the U.S. is entitled under NAFTA. This is a standard even the WTO members among the beneficiary countries could not currently satisfy.

The second reason I oppose the amendment is that the Finance Committee bill already instructs the President to begin the process of negotiating with the beneficiary countries under both programs for trade agreements that would provide reciprocal market access to the United States, as well as a still more solid foundation for the long-term economic relationship between the United States and its African, Caribbean, and Central American neighbors.

Finally, let me point out that the bill does encourage reciprocity where it really counts in the context of this bill. By encouraging the use of U.S. fabric and U.S. yarn in the assembly of apparel products bound for the United States, the bill establishes a solid economic partnership between industry in the United States and firms in the beneficiary countries. That provides real benefits to American firms and workers in the textile industry by establishing a platform from which American textile makers can compete worldwide. That is precisely the benefit our industry most seeks in the context of our growing economic relationship with both regions.

In short, I oppose the amendment and urge my colleagues to do so as well.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 2484. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from New Hampshire (Mr. GREGG) are necessarily absent.

The result was announced—yeas 70, nays 27, as follows:

[Rollcall Vote No. 348 Leg.]

YEAS—70

Abraham	Feinstein	Mack
Allard	Fitzgerald	McConnell
Ashcroft	Frist	Moynihan
Baucus	Gorton	Murkowski
Bayh	Graham	Murray
Bennett	Gramm	Nickles
Biden	Grams	Reid
Bingaman	Grassley	Roberts
Bond	Hagel	Roth
Breaux	Harkin	Santorum
Brownback	Hatch	Schumer
Bryan	Hutchinson	Sessions
Burns	Hutchison	Shelby
Cochran	Inhofe	Smith (OR)
Conrad	Jeffords	Specter
Coverdell	Kerrey	Stevens
Craig	Kerry	Thomas
Crapo	Kyl	Thompson
Daschle	Landrieu	Voinovich
DeWine	Leahy	Warner
Dodd	Lieberman	Wellstone
Domenici	Lincoln	Wyden
Enzi	Lott	
Feingold	Lugar	

NAYS—27

Akaka	Edwards	Mikulski
Boxer	Helms	Reed
Bunning	Hollings	Robb
Byrd	Inouye	Rockefeller
Campbell	Johnson	Sarbanes
Cleland	Kennedy	Smith (NH)
Collins	Kohl	Snowe
Dorgan	Lautenberg	Thurmond
Durbin	Levin	Torricelli

NOT VOTING—2

Gregg	McCain

The motion was agreed to.

Mr. ROTH. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2406

Mr. ROTH. At the request of the Senator from Wisconsin and with the approval of the senior Senator from New York, I ask that the yeas and nays be vitiated with respect to amendment No. 2406. I ask unanimous consent that the Senate conduct a voice vote on this amendment.

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

The question is on agreeing to the motion to table amendment No. 2406.

The motion was agreed to.

Mr. ROTH. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, under rule XXII, I yield my hour to the Democratic leader.

Mr. THOMAS. Mr. President, under rule XXII, I yield my hour to the majority manager of the bill.

Mr. REED. Mr. President, under rule XXII, I yield my hour to the minority leader.

Mr. COCHRAN. Under rule XXII, I yield my hour to the majority manager.

Mr. EDWARDS. I yield 50 minutes allotted to me to the senior Senator from New York so he may yield to the junior Senator from Wisconsin.

Mr. LAUTENBERG. Under rule XXII, I yield my hour to the Senator from New York.

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

UNANIMOUS CONSENT AGREEMENT—S. 900

Mr. ROTH. I ask unanimous consent the majority leader, after consultation with the minority leader, may proceed to consideration of the conference report to accompany the financial services bill and provide further that the conference report has been made available and the conference report be considered as having been read and the Senate proceed to its immediate consideration.

I further ask that there be 4 hours equally divided between the chairman and the ranking minority member, an additional hour under the control of Senator SHELBY, 1 hour for Senator WELLSTONE, 30 minutes for Senator BRYAN, and 20 minutes for Senator DORGAN. I further ask consent that no motions be in order and a vote occur on adoption of the conference report at the conclusion or yielding back of my time without any intervening action or debate.

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

Mr. ROTH. In light of this agreement, there will be no further votes this evening.

MORNING BUSINESS

Mr. ROTH. I ask unanimous consent the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

VOLUNTARY CONFESSIONS LAW

Mr. THURMOND. Mr. President, I rise today to express my deep disappointment at the Justice Department's decision not to defend a law of Congress regarding voluntary confessions.

Last evening, the Justice Department responded to the petition for certiorari from the Fourth Circuit Dickerson case, which had upheld 18 U.S.C. Section 3501, a law the Congress passed in 1968 to govern voluntary confessions. The Department refused to defend the law, arguing that it is unconstitutional under Miranda v. Arizona.

This position should not be surprising. Earlier, the Clinton Justice Department had refused to defend the law in the lower Federal courts. It had prohibited a career Federal prosecutor from raising the statute to prevent Dickerson, a serial bank robber, from going free, and had actively refused to permit other prosecutors from using the statute. However, it had held out the possibility that it would defend the law before the Supreme Court. Indeed, prior to the time the Department was forced to take a position in the Dickerson case, the Attorney General and Deputy Attorney General had indicated to the Judiciary Committee that the Department would defend Section 3501 in appropriate cases.

The Attorney General's refusal to enforce the law puts her at odds with her predecessors. Former Attorneys General Meese, Thornburg, and Barr have informed me through letters that they did not prevent the statute from being used during their tenures, and indeed, that the statute had been advanced in some lower court cases in prior Administrations. They added that the law should be enforced today. During a hearing on this issue in the Judiciary Criminal Justice Oversight Subcommittee, which I chair, all the witnesses except one shared this view.

The position of the Justice Department is also contrary to the views of law enforcement groups, which believe that Miranda warnings normally should be given but that we should not permit legal technicalities to stand in the way of an otherwise voluntary confession and justified prosecution. Most recently, according to press reports, even Federal prosecutors urged Justice officials to defend this law. It was all to no avail. In my view, the Department has a duty to defend this law, just as it should defend any law that is not clearly unconstitutional. Each court that has directly considered the issue has upheld the law. Nevertheless, the Justice Department will not abide by its duty to defend the statute, and I believe it is critical that the Congress file an amicus brief or intervene in the Supreme Court defending it.

In this case, the Justice Department has deliberately chosen to side with defense attorneys over prosecutors and law enforcement. It has deliberately chosen to side with criminals over victims and their families. This is a serious error. The Department should not make arguments in the courts on behalf of criminals. This is a sad day for the Department of Justice.

THUGGERY IN KOSOVO

Mr. BIDEN. Mr. President, I rise today to condemn in the strongest manner possible the anti-democratic violence that continues in Kosovo. This violence takes many forms, the most widely publicized of which is attacks by ethnic Albanians on Serbs and other minority groups in the province. KFOR and the U.N. Mission must stamp out these attacks immediately.

What has received less media attention is the intimidation, and occasional violence, within the ethnic Albanian

community. Recently there were public threats against the lives of two of Kosovo's most respected journalists, Veton Surroi and Baton Haxhiu, editors of the newspaper ''Koha Ditore.''

On my trip to Kosovo eight weeks ago, I met with Mr. Surroi. He had already spoken out against violence against Kosovo's Serbs and was already receiving private threats as a result. Mr. Surroi is a worldly, courageous democrat—exactly the sort of person that Kosovo needs to achieve genuine democracy.

During the same trip, I also met with Hashim Thaqi, political leader of the Kosovo Liberation Army. I told Mr. Thaqi that he and his forces would have to submit unconditionally to civilian authority and respect the rights of all political parties, ethnic groups, and individuals in Kosovo.

With this as background, Mr. President, I ask unanimous consent that an open letter published in Kosova Sot on October 29, 1999 by James R. Hooper, President of the Balkan Action Council, to Mr. Thaqi appear in the RECORD after my remarks.

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

(See exhibit 1.)

Mr. Hooper, incidentally, testified before the Foreign Relations Committee earlier this year and is considered to be one of this country's most knowledgeable experts on the Balkans.

Mr. President, those of us in the Congress who supported the legitimate rights of the people of Kosovo to escape the brutality of Slobodan Milosevic will not stand idly by and watch a Serbian tyrannical master be replaced by an ethnic Albanian one.

As Mr. Hooper's eloquent letter makes clear, Mr. Thaqi and the other leaders of the Kosovo Liberation Army must immediately and forcefully speak out against the thuggery that is afflicting the province and take measures to eradicate it.

Mr. President, if they do not, they will lose the support of the international community. And without that support, they themselves have no political future.

I thank the Chair and yield the floor.

OCTOBER 29, 1999.

OPEN LETTER TO HASHIM THAQI: I am deeply troubled by the public threats against Veton Surroi and Baton Haxhiu of Koha Ditore that recently appeared in Kosovapress, the media organ associated with your organization. Surroi and Haxhiu are viewed in the United States and Europe as two of the most prominent supporters of democracy and free speech in Kosovo. If they are at risk, it means that Kosovo's hopes for democracy and free speech are jeopardized as well.

Your unwillingness to immediately condemn such extreme attacks on two outstanding representatives of Kosovo's civil society suggests that you hold a vision of Kosovo's political future in which those who democratically express differences of opinion will not be tolerated, and dissent will be harshly disciplined.

This in turn projects to your fellow citizens an anti-democratic attitude that is intolerable. And it conveys the impression to the international community that you and some of your former KLA colleagues maintain a hidden agenda for Kosovo that is far from democratic.

I want to make one thing absolutely clear: I am convinced there will be no support among Kosovo's friends around the world, including me, for the replacement of a Serbian dictatorship by an ethnic Albanian copy. If Kosovo's future is not to be democratic, then it will not likely be independent either. Independence must be earned in the democratic political arena as well as on the battlefield. Support among the American people and their elected representatives and government for the people of Kosovo would disappear rapidly if Kosovo moved in non-democratic directions.

Unfortunately, the actions of some who support you, and your own apparent indifference and inaction in the face of the killing of Kosovo citizens, are already jeopardizing the continuation of that support. The pattern of violence against Kosovo Serbs appears to reflect in part an organized effort by some in the former KLA to expel all Serbs from Kosovo. The murder of elderly Serbs and unarmed villagers evokes an atmosphere of terror in which innocent minorities are brutalized by those with the power to dispense victor's ''justice.''

A Kosovo in which the rights of non-Albanian minorities are routinely violated is not likely to prove respectful of Albanians whose views do not fit those of the prevailing forces. After all, this is the model Belgrade used for over ten years. A mono-ethnic Kosovo forcibly cleansed of its minorities through violence is unlikely to be a democratic Kosovo.

While you have spoken out against the killings of ethnic Serbs in the past, you have taken few serious steps to rein in those who are organizing the violence. I strongly urge you to take determined action to remove suspicions that you condone the violence against Kosovo's non-Albanian minorities and to condemn the threats to Veton Surroi and Baton Haxhiu.

JAMES HOOPER,
Executive Director,
Balkan Action Council.

OVERSEAS PRIVATE INVESTMENT CORPORATION

Mr. ALLARD. Mr. President, I am not going to ask for a recorded vote against S. 688, the re-authorization of the Overseas Private Investment Corporation. But I want to make it clear that I am not stepping back from my philosophies on this issue.

During my campaign for the United States Senate, I stressed the themes of balancing the budget, congressional reform, making government smaller, and moving the power out of Washington and into the states and localities. That is why I introduced the ''Overseas Private Investment Corporation Termination Act.''

I still fee it is time to end this form of subsidies for large companies. I have never believed in giveaway programs. Whether you are a farmer or a large corporation you should play by the rules of the free market system. Less government should be in the motto of this and every Congress.

OPIC may seem to have a good end goal but the problem is not the end but the means. Basically this is an insurance program run by the Federal Government for corporations who want to invest in risky political situations. This leads to the question, ''Is this the appropriate role for government?'' I don't believe so. But I also understand that the time is not yet ripe for ending this program.

I have met with the President of OPIC, George Munoz. He and I have agreed that our problem is not a conflict of interest, not different goals, and not a lack of proper communication. We merely have a fundamental philosophical difference. I believe free trade means free trade, not ''more free than others.''

I am a free trader. I am a supporter of the GATT and NAFTA. I believe that free trade is the best way to raise the living standards for all Americans. We need to support policies that reduce trade barriers. OPIC does not reduce trade barriers for all companies to compete in the marketplace. It is an income transfer program from U.S. taxpayers to a selected group of businesses. These subsidies may increase exports for a few selected companies that have the political influence to secure these loans, but it does little to expand the overall economic growth of this country.

OPIC's re-authorization will soon pass this Senate, but I wish it to be known that I still recommend its termination. I continue to worry that the majority of my colleagues will not fully understand the detrimental potentialities of this organization until the American taxpayer is stuck with a tremendous bill.

COSPONSORSHIP OF AMENDMENT

Mr. ROBB. Mr. President, on October 20, 1999, during debate over S. 1692, the Partial Birth Abortion Ban Act, I had asked to be added as a cosponsor of Senate amendment 2319, offered by Senator DURBIN. Unfortunately, my cosponsorship of this amendment was never reflected in the RECORD. Therefore, I ask unanimous consent that my name be added as a cosponsor of Senator DURBIN's amendment, and that the RECORD reflect that I was a cosponsor of this amendment when it was offered on October 20, 1999.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, November 1, 1999, the Federal debt stood at $5,664,867,046,795.77 (Five trillion, six hundred sixty-four billion, eight hundred sixty-seven million, forty-six thousand, seven hundred ninety-five dollars and seventy-seven cents).

Five years ago, November 1, 1994, the Federal debt stood at $4,728,710,000,000 (Four trillion, seven hundred twenty-eight billion, seven hundred ten million).

Ten years ago, November 1, 1989, the Federal debt stood at $2,879,489,000,000

(Two trillion, eight hundred seventy-nine billion, four hundred eighty-nine million).

Fifteen years ago, November 1, 1984, the Federal debt stood at $1,624,438,000,000 (One trillion, six hundred twenty-four billion, four hundred thirty-eight million).

Twenty-five years ago, November 1, 1974, the Federal debt stood at $479,476,000,000 (Four hundred seventy-nine billion, four hundred seventy-six million) which reflects a debt increase of more than $5 trillion—$5,185,391,046,795.77 (Five trillion, one hundred eighty-five billion, three hundred ninety-one million, forty-six thousand, seven hundred ninety-five dollars and seventy-seven cents) during the past 25 years.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:43 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2303. An act to direct the Librarian of Congress to prepare the history of the House of Representatives, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

At 11:50 a.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the House has agreed to the amendment of the Senate to the bill (H.R. 974) to establish a program to afford high school graduates from the District of Columbia the benefits of in-State tuition at State colleges and universities outside the District of Columbia, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 348. An act to authorize the construction of a monument to honor those who have served the Nation's civil defense and emergency management programs.

H.R. 862. An act to authorize the Secretary of the Interior to implement the provisions of the Agreement conveying title to a Distribution System from the United States to the Clear Creek Community Services District.

H.R. 992. An act to convey the Sly Park Dam and Reservoir to the El Dorado Irrigation District, and for other purposes.

H.R. 1235. An act to authorize the Secretary of the Interior to enter into contracts with the Solano County Water Agency, California, to use Solano Project facilities for impounding, storage, and carriage of nonproject water for domestic, municipal, industrial, and other beneficial purposes.

H.R. 2632. An act to designate certain Federal lands in the Talladega National Forest in the State of Alabama as the Dugger Mountain Wilderness.

H.R. 2737. An act to authorize the Secretary of the Interior to convey to the State of Illinois certain Federal land associated with the Lewis and Clark National Historic Trail to be used as an historic and interpretive site along the trail.

H.R. 2889. An act to amend the Central Utah Project Completion Act to provide for acquisition of water and water rights for Central Utah Project purposes, completion of Central Utah project facilities, and implementation of water conservation measures.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 189. Concurrent resolution expressing the sense of the Congress regarding the wasteful and unsportsmanlike practice known as shark finning.

ENROLLED BILL SIGNED

At 5:34 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3064. An act making appropriations for the District of Columbia, and for the Departments of Labor, Health, and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2000, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 1883. An act to provide the application of measures to foreign persons who transfer to Iran certain goods, services, or technology, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5980. A communication from the Deputy Assistant Administrator for Fisheries, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Technical Amendment, Revises Outdated Terminology, Removes Outdated Provisions, and Makes Other Minor Changes for Clarity and Consistency'', received October 29, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5981. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation dated October 27, 1999; to the Committee on the Budget.

EC–5982. A communication from the Principal Deputy Under Secretary of Defense, Acquisition and Technology, transmitting, pursuant to law, a report entitled ''Establishing an Entitlement to Reimburse Rental Car Costs to Military Members''; to the Committee on Armed Services.

EC–5983. A communication from the Deputy Assistant Administrator for Fisheries, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Recordkeeping and Reporting Requirements'', received October 29, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5984. A communication from the Chairman, National Endowment for the Arts, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5985. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5986. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Turkey; to the Committee on Foreign Relations.

EC–5987. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Turkey; to the Committee on Foreign Relations.

EC–5988. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to the Republic of Korea; to the Committee on Foreign Relations.

EC–5989. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Canada; to the Committee on Foreign Relations.

EC–5990. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Israel; to the Committee on Foreign Relations.

EC–5991. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $14,000,000 or more to Finland; to the Committee on Foreign Relations.

EC–5992. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed transfer of major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more to the United Kingdom; to the Committee on Foreign Relations.

EC–5993. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed Manufacturing License Agreement with the Czech Republic and Canada; to the Committee on Foreign Relations.

EC–5994. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed Manufacturing

License Agreement with the United Kingdom; to the Committee on Foreign Relations.

EC–5995. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed Manufacturing License Agreement with Mexico; to the Committee on Foreign Relations.

EC–5996. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed Manufacturing License Agreement with Belgium; to the Committee on Foreign Relations.

EC–5997. A communication from the Chairman, Broadcasting Board of Governors, transmitting, pursuant to law, the annual report for fiscal year 1998; to the Committee on Foreign Relations.

EC–5998. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to telemedicine; to the Committee on Finance.

EC–5999. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''RIC Waivers and Reimbursement'' (Rev. Proc. 99–40, 1999–46 I.R.B.), received October 27, 1999; to the Committee on Finance.

EC–6000. A communication from the Acting Assistant Secretary of Commerce and Acting Commissioner of Patents and Trademarks, Patent and Trademark Office, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Changes to Permit Payment of Patent and Trademark Office Fees by Credit Card'' (RIN0651–AB07), received October 29, 1999; to the Committee on the Judiciary.

EC–6001. A communication from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled ''Regulation CC, availability of Funds and Collection of Checks'' (Docket No. R–1034), received October 29, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–6002. A communication from the Deputy Legal Counsel, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Community Development Financial Institutions Program'' (RIN1505–AA71), received October 27, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–6003. A communication from the Administrator, Food Safety and Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Sanitation Requirements for Official Meat and Poultry Establishments'' (RIN0583–AC39), received October 29, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6004. A communication from the Congressional Review Coordinator, Regulatory Analysis and Development, Policy and Program Development, Animal and Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Aeration of Imported Logs, Lumber, and Other Unmanufactured Wood Articles That Have Been Fumigated'' (Docket #99–057–1), received October 29, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6005. A communication from the Under Secretary, Food, Nutrition and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Food and Nutrition Services and Administration Funding Formulas'' (RIN0584–AC77), received October 27, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6006. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Buprofezin; Extension of Tolerance for Emergency Exemptions'' (FRL #6387–4), received October 29, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6007. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Propargite; Partial Stay of Order Revoking Certain Tolerances'' (FRL #6390–4), received October 29, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6008. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, a report entitled ''Revision to Emission Budgets Set Forth in EPA's Finding of Significant Contribution and Rulemaking for Purposes of Reducing Regional Transport of Ozone for the States of Connecticut, Massachusetts and Rhode Island''; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6009. A communication from the Associate Chief, Policy Division, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems'' (Docket No. 94–102; FCC 99–245), received October 29, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6010. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Reinvention of Steam Locomotive Inspection Regulations'' (RIN2130–AB07), received October 29, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6011. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Debbies Creek, NJ (CGD05–99–111)'' (RIN2115–AE47) (1999–0053), received October 29, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6012. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Vessel Identification System (CGD 89–050)'' (RIN2115–AD35) (1999–0002), received October 29, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6013. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Duluth Ship Canal (Duluth-Superior Harbor), MN (CGD09–99–077)'' (RIN2115–AE47) (1999–0052), received October 29, 1999; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 439. A bill to amend the National Forest and Public Lands of Nevada Enhancement Act of 1988 to adjust the boundary of the Toiyabe National Forest, Nevada (Rept. No. 106–205).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments.

S. 977. A bill to provide for the conveyance by the Bureau of Land Management to Douglass County, Oregon, of a country park, and certain adjacent land (Rept. No. 106–206).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1296. A bill to designate portions of the lower Delaware River and associated tributaries as a component of the National Wild and Scenic Rivers System (Rept. No. 106–207).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments.

S. 1349. A bill to direct the Secretary of the Interior to conduct special resource studies to determine the national significance of specific sites as well as the suitability and feasibility of their inclusion as units of the National Park System (Rept. No. 106–208).

S. 1569. A bill to amend the Wild and Scenic Rivers Act to designate segments of the Taunton River in the Commonwealth of Massachusetts for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes (Rept. No. 106–209).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment.

S. 1599. A bill to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other land in the Black Hills National Forest and to use funds derived from the sale or exchange to acquire replacement sites and to acquire or construct administrative improvements in connection with Black Hills National Forest (Rept. No. 106–210).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

H.R. 20. A bill to authorize the Secretary of the Interior to construct and operate a visitor center for the Upper Delaware Scenic and Recreational River on land owned by the State of New York (Rept. No. 106–211).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment.

H.R. 592. A bill to redesignate Great Kills Park in the Gateway National Recreation Area as ''World War II Veterans Park at Great Kills'' (Rept. No. 106–212).

H.R. 1619. A bill to amend Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994 to expand the boundaries of the Corridor (Rept. No. 106–213).

By Mr. BOND, from the Committee on Small Business, with an amendment in the nature of a substitute:

S. 791. A bill to amend the Small Business Act with respect to the women's business center program (Rept. No. 106–214).

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

H.J. Res. 65. A joint resolution commending the World War II veterans who fought in the Battle of the Bulge, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment:

S. 1515. A bill to amend the Radiation Exposure Compensation Act, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of a committee were submitted:

By Mr. HATCH, Committee on the Judiciary:

Q. Todd Dickinson, of Pennsylvania, to be Commissioner of Patents and Trademarks.

Anne H. Chasser, of Ohio, to be an Assistant Commissioner of Patents and Trademarks.

Kathryn M. Turman, of Virginia, to be Director of the Office for Victims of Crime.

Melvin W. Kahle, of West Virginia, to be United States Attorney for the Northern District of West Virginia for a term of 4 years.

(The above nominations were reported with the recommendation that they be confirmed.)

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 Mrs. BOXER:

S. 1840. A bill to provide for the transfer of public lands to certain California Indian Tribes; to the Committee on Indian Affairs.

By Mr. COCHRAN:

S. 1841. A bill to provide private chapter 7 panel trustees and chapter 13 standing trustees with remedies for resolving disputes with the United States Trustee Program; to the Committee on the Judiciary.

By Mr. WELLSTONE:

S. 1842. A bill to combat trafficking of persons in the United States and countries around the world through prevention, prosecution and enforcement against traffickers, and protection and assistance to victims of trafficking; to the Committee on Foreign Relations.

By Mr. SESSIONS:

S. 1843. A bill to designate certain Federal land in the Talladega National Forest, Alabama, as the ''Dugger Mountain Wilderness''; considered and passed.

By Mr. ROTH (for himself, Mr. MOYNIHAN, Mr. VOINOVICH, Mrs. FEINSTEIN, Mr. ROBERTS, Mrs. BOXER, Mr. ENZI, Mr. THOMAS, Mr. GRAMM, Mr. KERREY, Mrs. HUTCHISON, and Mr. BAYH):

S. 1844. A bill to amend part D of title IV of the Social Security Act to provide for an alternative penalty procedure with respect to compliance with requirements for a State disbursement unit; considered and passed.

By Mrs. BOXER (for herself and Mr. LAUTENBERG):

S. 1845. A bill to amend title 18, United States Code, to prohibit the sale or transfer of a firearm or ammunition to an intoxicated person; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 214. A resolution authorizing the taking of photographs in the Chamber of the United States Senate; considered and agreed to.

By Mr. LOTT:

S. Res. 215. A resolution making changes to Senate committees for the 106th Congress; considered and agreed to.

By Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. COCHRAN, Mr. GRASSLEY, Mrs. MURRAY, Mr. BINGAMAN, Mr. DOMENICI, Mr. SMITH of Oregon, Mr. AKAKA, Mr. CONRAD, Mrs. BOXER, Mr. HATCH, Mr. JOHNSON, Mr. KOHL, Mr. INHOFE, Mr. REID, Mr. ENZI, Mr. MCCAIN, Mr. MURKOWSKI, Mr. THOMAS, Mr. BURNS, Mr. GRAMS, Mr. DASCHLE, Mr. BENNETT, Mr. ALLARD, Mr. STEVENS, Mr. CRAPO, Mr. WYDEN, Mr. FRIST, Mr. JEFFORDS, and Mr. KENNEDY):

S. Res. 216. A resolution designating the Month of November 1999 as ''National American Indian Heritage Month''; to the Committee on the Judiciary.

By Mr. HUTCHINSON:

S. Res. 217. A resolution relating to the freedom of belief, expression, and association in the People's Republic of China; to the Committee on Foreign Relations.

By Mr. TORRICELLI:

S. Con. Res. 65. A concurrent resolution expressing the sense of Congress regarding the preservation of full and open competition for contracts for the transportation of United States military cargo between the United States and the Republic of Iceland; to the Committee on Commerce, Science, and Transportation.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Con. Res. 66. A concurrent resolution to authorize the printing of ''Capitol Builder: The Shorthand Journals of Captain Montgomery C. Meigs, 1853–1861''; considered and agreed to.

S. Con. Res. 67. A concurrent resolution to authorize the printing of ''The United States Capitol'' A Chronicle, Design, and Politics''; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. BOXER:

S. 1840. A bill to provide for the transfer of public lands to certain California Indian tribes; to the Committee on Indian affairs.

CALIFORNIA INDIAN LAND TRANSFER ACT

Mrs. BOXER. Mr. President, today I am introducing the California Indian Land Transfer Act, which would transfer to eight California tribes approximately 3,500 acres of Bureau of Land Management (BLM) land to be used for housing construction, grazing, resource protection, and non-gaming economic development.

The eight tribes are the Pit River Tribe (Modoc County), the Fort Bidwell Indian Community (Modoc County), the Pala Band of Mission Indians (San Diego County), the Cuyapaipe Band of Mission Indians (San Diego County), the Manzanita Band of Mission Indians (San Diego County), the Barona Band of Mission Indians (San Diego County), and the Morongo Band of Mission Indians (Riverside County).

All of the parcels of BLM land are contiguous to existing reservation trust lands and have been formally classified as suitable for disposal through the BLM land use planning process.

Many California Indian tribes now lack reservations of sufficient size to provide housing or an economic base adequate to meet the needs of their members and their families. Other California Indian reservations have such poor quality lands that the tribal options for economic development are extremely limited. This situation derives from the complex history of federal-tribal relations in California. Instead of the approximately 8.5 million acres of land promised in the treaties, the California tribes now reside on a little more than 400,000 acres. Approximately one-third of California's 107 federally recognized tribes have a land base of less than 50 acres; approximately two-thirds have a land base of less than 500 acres, leaving little opportunity for these tribes to develop viable communities and economies where their members can live and work.

The counties in which these lands are located support the tribes' efforts to acquire these lands and have participated in the federal land planning process through which these parcels were identified and made available for transfer to the tribes. This legislation also has the support of the Administration. A similar bill, H.R. 2742, passed the House of Representatives last Congress and was placed on the Senate's consent calendar but was never brought to a vote before adjournment. An earlier version of the bill suffered the same fate in the 104th Congress and I am informed that the negotiations between the Department of the Interior and the Tribes for transfer of these lands date back to 1994.

This legislation is the result of a multiyear cooperative effort by the tribes, the Secretary, the BLM and the Bureau of Indian Affairs, in consultation with local country governments. This effort allows me to present a model legislative blueprint for interagency transfer of federal lands as a means of enhancing the extremely limited land and resources base of California's small tribes. The bill also stands as an excellent example of federal, tribal, and local governmental consultation and collaboration within the planning process for disposition of federal lands that have been formally classified as suitable for disposal. It is time for Congress to do its part and conclude this successful intergovernmental collaboration.

I ask unanimous consent that the text of the bill and letters of support from the eight tribes and four counties affected by this legislation be included in the RECORD.

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

S. 1840

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 ''California Indian Land Transfer Act''.

SEC. 2. LANDS HELD IN TRUST FOR VARIOUS TRIBES OF CALIFORNIA INDIANS.

(a) IN GENERAL.—Subject to valid existing rights, all right, title, and interest of the United States in and to the lands, including improvements and appurtenances, described in a paragraph of subsection (b) in connection with the respective tribe, band, or group of Indians named in such paragraph are hereby declared to be held in trust by the United

States for the benefit of such tribe, band, or group. Real property taken into trust pursuant to this subsection shall not be considered to have been taken into trust for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

(b) LANDS DESCRIBED.—The lands described in this subsection, comprising approximately 3525.8 acres, and the respective tribe, band, or group, are as follows:

(1) PIT RIVER TRIBE.—Lands to be held in trust for the Pit River Tribe are comprised of approximately 561.69 acres described as follows:

Mount Diablo Base and Meridian

Township 42 North, Range 13 East

Section 3:
S½ NW¼, NW¼ NW¼, 120 acres.

Township 43 North, Range 13 East

Section 1:
N½ NE¼, 80 acres,
Section 22:
SE¼ SE¼, 40 acres,
Section 25:
SE¼ NW¼, 40 acres,
Section 26:
SW¼ SE¼, 40 acres,
Section 27:
SE¼ NW¼, 40 acres,
Section 28:
NE¼ SW¼, 40 acres,
Section 32:
SE¼ SE¼, 40 acres,
Section 34:
SE¼ NW¼, 40 acres,

Township 44 North, Range 14 East,

Section 31:
S½ SW¼, 80 acres.

(2) FORT INDEPENDENCE COMMUNITY OF PAIUTE INDIANS.—Lands to be held in trust for the Fort Independence Community of Paiute Indians are comprised of approximately 200.06 acres described as follows:

Mount Diablo Base and Meridian

Township 13 South, Range 34 East

Section 1:
W½ of Lot 5 in the NE¼, Lot 3, E½ of Lot 4, and E½ of Lot 5 in the NW¼.

(3) BARONA GROUP OF CAPITAN GRANDE BAND OF MISSION INDIANS.—Lands to be held in trust for the Barona Group of Capitan Grande Band of Mission Indians are comprised of approximately 5.03 acres described as follows:

San Bernardino Base and Meridian

Township 14 South, Range 2 East

Section 7, Lot 15.

(4) CUYAPAIPE BAND OF MISSION INDIANS.—Lands to be held in trust for the Cuyapaipe Band of Mission Indians are comprised of approximately 1,360 acres described as follows:

San Bernardino Base and Meridian

Township 15 South, Range 6 East

Section 21:
All of this section.
Section 31:
NE¼, N½SE¼, SE¼SE¼.
Section 32:
W½SW¼, NE¼SW¼, NW¼SE¼.
Section 33:
SE¼, SW¼SW¼, E½SW¼.

(5) MANZANITA BAND OF MISSION INDIANS.—Lands to be held in trust for the Manzanita Band of Mission Indians are comprised of approximately 1,000.78 acres described as follows:

San Bernardino Base and Meridian

Township 16 South, Range 6 East

Section 21:
Lots 1, 2, 3, and 4, S½.
Section 25:
Lots 2 and 5.
Section 28:
Lots, 1, 2, 3, and 4, N½SE¼.

(6) MORONGO BAND OF MISSION INDIANS.—Lands to be held in trust for the Morongo Band of Mission Indians are comprised of approximately 40 acres described as follows:

San Bernardino Base and Meridian

Township 3 South, Range 2 East

Section 20:
NW¼ of NE¼.

(7) PALA BAND OF MISSION INDIANS.—Lands to be held in trust for the Pala Band of Mission Indians are comprised of approximately 59.20 acres described as follows:

San Bernardino Base and Meridian

Township 9 South, Range 2 West

Section 13, Lot 1, and Section 14, Lots 1, 2, 3.

(8) FORT BIDWELL COMMUNITY OF PAIUTE INDIANS.—Lands to be held in trust for the Fort Bidwell Community of Paiute Indians are comprised of approximately 299.04 acres described as follows:

Mount Diablo Base and Meridian

Township 46 North, Range 16 East

Section 8:
SW¼SW¼.
Section 19:
Lots 5, 6, 7.
S½NE¼, SE¼NW¼, NE¼SE¼.
Section 20:
Lot 1.

SEC. 3. MISCELLANEOUS PROVISIONS.

(a) PROCEEDS FROM RENTS AND ROYALTIES TRANSFERRED TO INDIANS.—Amounts which accrue to the United States after the date of the enactment of this Act from sales, bonuses, royalties, and rentals relating to any land described in section 2 shall be available for use or obligation, in such manner and for such purposes as the Secretary may approve, by the tribe, band, or group of Indians for whose benefit such land is taken into trust.

(b) NOTICE OF CANCELLATION OF GRAZING PREFERENCES.—Grazing preferences on lands described in section 2 shall terminate 2 years after the date of the enactment of this Act.

(c) LAWS GOVERNING LANDS TO BE HELD IN TRUST.—

(1) IN GENERAL.—Any lands which are to be held in trust for the benefit of any tribe, band, or group of Indians pursuant to this Act shall be added to the existing reservation of the tribe, band, or group, and the official boundaries of the reservation shall be modified accordingly.

(2) APPLICABILITY OF LAWS OF THE UNITED STATES.—The lands referred to in paragraph (1) shall be subject to the laws of the United States relating to Indian land in the same manner and to the same extent as other lands held in trust for such tribe, band, or group on the day before the date of enactment of this Act.

DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT,
CALIFORNIA STATE OFFICE,
Sacramento, CA, October 8, 1999.

Senator BARBARA BOXER,
112 Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BOXER: Thank you for your inquiry regarding your planned introduction of the California Indian Land Transfer Act. As you know, the Administration has twice forwarded proposed legislation to Congress (in the 104th and the 105th) to effect these land transfers which must be done legislatively. The Bureau of Land Management (BLM) has worked cooperatively for many years with the eight Tribes and the local governments involved to see these transfers are completed.

The tribes, acreages, and counties involved are as follows:

Barona, 5 acres, San Diego County:
Cuyapaipe, 1,360 acres, San Diego County;
Fort Bidwell, 300 acres, Modoc County;
Fort Independence, 200 acres, Inyo County;
Morongo, 40 acres, San Diego County;
Manzanita, 1,000 acres, San Diego County;
Pala, 60 acres, San Diego County; and
XL Ranch/Pit River, 562 acres, Modoc County.

In each of these cases the lands are surrounded by or directly adjacent to the Tribes' existing reservations. The tracts identified represent scattered, unmanageable tracts of public lands that have been identified in our land use plans for disposal. The Tribes have indicated these lands will add to economic viability of their reservations and we are pleased to assist them in this important endeavor.

We look forward to introduction of your legislation in the 106th Congress on this important public issue. Please let us know if we can assist you in any way.

Sincerely,

ELAINE MARQUIS-BRONG
(For Al Wright, Acting State Director).

RESOLUTION NO. 99–34

Be it hereby *Resolved*, That the Board of Supervisors affirms its earlier support (in Resolutions 95–29 and 96–39) of the introduction of the California Indian Land Transfer Act (copy attached), which would transfer approximately 860 acres of public lands under the jurisdiction of the Bureau of Land Management to the United States of America in trust for the Pit River Tribe (560 acres) and the Fort Bidwell Community of Paiute Indians (300 acres) to be added to the tribal trust lands of their respective reservations.

BOARD OF SUPERVISORS,
COUNTY OF RIVERSIDE,
Riverside, CA, August 31, 1999.

Senator BARBARA BOXER,
Suite 112, Senate Hart Office Bldg.,
Washington, DC.

DEAR SENATOR BOXER: We are writing to convey our support for the California Indian land Transfer Act (CILTA) and to urge your support of this legislation. CILTA would transfer to eight California Indian tribes a total of approximately 3,500 acres of Bureau of Land Management (BLM) land to be used for housing construction, grazing, resource protection, and non-gaming economic development.

In our district this would mean the transfer of approximately 40 acres, presently under the jurisdiction of the Bureau of Land management to the United States of America in trust for the Morongo Land of Mission Indians to be added to the tribal trust lands of the Morongo Indian Reservation.

The current version of the CILTA passed the House of Representative last year as H.R. 2742 and was placed on the Senate's consent calendar, but was never brought to a vote before adjournment. Last session was the second time that the bill has passed the House without timely action in the Senate.

California county governments have been supportive of the tribes' past efforts to obtain additional lands for such uses as housing, grazing, resource protection, and non-gaming economic development. Moreover, county governments have had varying degrees of involvement with the federal and planning process through which these parcels were identified and made available for transfer to the tribes.

CILTA has the unqualified support of the Administration, which has invested considered time and effort in urging its enactment. The Secretary of the Interior personally transmitted the bill to the Congress last year with his strong recommendation that it be enacted at the earliest possible date. The Secretary remains similarly committed to

supporting the bill's passage during the current session of Congress.

CILTA is the result of a multi-year, cooperative effort by the tribes, the Secretary, the BLM and the Bureau of Indian Affairs, in consultation with local county governments. It presents a model legislative blueprint for inter-agency transfer of federal lands as a means of enhancing the extremely limited land and resource base of California's small tribes. It also illustrates how federal, tribal and local governmental consultation can successfully occur within the framework of an existing federal planning process.

We hope this letter conveys our support for this important legislation and urge you to support its passage.

Sincerely,

JIM VENABLE,
Supervisor, Third District.

RESOLUTION NO. 99–170

Now, be it *resolved* by the Board of Supervisors of the County of San Diego, supports the introduction of the California Indian Land Transfer Act, which would transfer a total of approximately 2,525 acres of public lands under the jurisdiction of the Bureau of Land Management to the United States of America in trust for the Barona (5.03 acres), Cuyapaipe (1,360 acres), Manzanita (1,000.78 acres), and Pala (59.20) acres) Bands of Mission Indians to be added to the tribal trust lands of their respective reservations.

RESOLUTION NO. 99–41

Whereas, on July 6, 1999, the Fort Independence Indian Community asked the County to reiterate its support for the California Indian Land Transfer Act, and explained the Tribe's need for the additional land, the history of the land proposed for transfer, and the Tribe's plans for development and use of the lands; and

Whereas, this Board desires to both promote economic development and enhance the quality of life within the County and believes that the Tribe's proposed development could play a vital role in these goals by improving the economic, social and cultural health of both the Tribe and the County; and

Whereas, this Board desires to provide for the County adequate housing, jobs, economic development, and recreational and cultural amenities through a reasonable land development plan that ensures the provision of necessary public services and facilities and eliminates or mitigates any potential negative impacts of such development; and

Whereas, the Tribe has notified the Board that it shares these same concerns about their shared community; and

Whereas, the Board recognizes the Tribe's sovereignty; and

Whereas, the Tribe has expressed its desire to the Board to work with the County in a government-to-government relationship to ensure that Tribal development of the parcel proposed for transfer will provide the community with necessary housing and economic development without compromising the environmental, health, safety or welfare concerns of the region; now therefore, be it

Resolved by the Board of Supervisors of the County of Inyo, State of California, that it supports the California Indian Land Transfer Act, and the included transfer to the Fort Independence Indian Community of the 200-acre parcel of Bureau of Land Management land which is contiguous to the existing reservation, provided that the Fort Independence Indian Community agrees with a Memorandum of Understanding, which provides for a mutually agreeable method of dispute resolution, to bring its proposed development plan back to the County in order to discuss, on a government-to-government basis, how applicable federal and tribal laws will address the following issues/concerns, and, in those situations where the County is of the opinion that federal and tribal laws do not adequately address its concerns, to discuss what standards and/or approaches the Tribe might incorporate into its development plan or laws, looking to state and local laws for guidance, so to address, to a reasonable extent, the County's concerns:

(1) Building design and construction;

(2) Land use, planning and zoning;

(3) Health;

(4) Environmental health;

(5) Animal control;

(6) Streets, highways and roads;

(7) Environmental quality;

(8) Police protection;

(9) Fire protection;

(10) Water supply;

(11) Sewage disposal;

(12) School facilities;

(13) Funding for county-provided services; and

(14) Gaming.

Be it further *Resolved,* That the Clerk of the Board is directed to distribute this Resolution to the Fort Independence Indian Tribal Council, the Secretary of the Interior, United States Senators Boxer and Feinstein, the Governor of the State of California, representatives of Inyo County in the United States House of Representatives and the California Legislature; the Bureau of Indian Affairs and the Bureau of Land Management.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 11, 1999.

SAN DIEGO COUNTY BOARD OF SUPERVISORS,
1600 Pacific Hwy, Room 335,
San Diego, CA.

DEAR SUPERVISORS: I am writing to you regarding the transferal of surplus Bureau of Land Management land parcels to the Barona, Cuyapaipe and Manzanita Bands of Mission Indians in San Diego County. It is my understanding that the Board of Supervisors will be considering a resolution to support the introduction of the California Indian Land Transfer Act (CILTA) in Congress to authorize this transferal and I wanted to make you aware of my continued support for this effort.

I firmly believe that this transferal will promote tribal sovereignty while, at the same time, provide numerous benefits to our San Diego county communities. As you may know, I voted in favor of the CILTA when it passed the House of Representatives on two separate occasions. Despite this support, however, this legislation has failed to receive adequate consideration in the Senate.

It is for this reason that I was pleased to learn that Senator Barbara Boxer has expressed interest in reintroducing the CILTA in the 106th Congress. Taking into consideration the numerous endorsements this effort has received in the past, coupled with the fact that these land parcels will be used for ''non-gaming'' economic and community development, it is my full intention to once again support this legislation when it is considered by the House.

Thank you for your time and allowing me to express my thoughts on this important issue. If you have any questions regarding this matter, please do not hesitate to contact me directly, or Michael Harrison in my office at (202) 255–5672.

With best wishes.

Sincerely,

DUNCAN HUNTER,
Member of Congress.

FORT INDEPENDENCE
INDIAN RESERVATION,
Independence, CA, October 13, 1999.

Re California Indian Land Transfer Act.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: On behalf of the Fort Independence Community of Paiute Indians, I want to express our thanks for your agreement to introduce the California Indian Land Transfer Act, a bill that would transfer to eight California Indian Tribes a total of approximately 3,500 acres of Bureau of Land Management (BLM) land to be used for housing construction, grazing resource protection and nongaming economic development. Under the bill's provisions, our tribe will acquire approximately 200 acres of BLM land. These lands would be added to the tribal trust lands of the Fort Independence Indian Reservation. We expect to use the land for non-gaming economic development.

We sincerely appreciate your support for this important legislation.

Sincerely,

WENDY L. STINE,
Chairperson.

BARONA BAND OF MISSION INDIANS,
Lakeside, CA, March 9, 1999.

Re Proposed Southern California Indian Land Transfer Act.

DEAR SENATOR BOXER: By now you should have received the letter of today's date from Stephen V. Quesenberry of California Indian Legal Services, voicing the support of his six tribal clients of the above proposed bill. The Barona Band of Mission Indians is the seventh Californian tribe that would benefit from this bill. We are writing to you separately to add our support for the bill, which was passed in the House in the last session, only to die from inaction in the Senate. Because Congressman Young does not want to introduce it in the House, where we expect little or no opposition at all.

As for the fear that the Barona Band might use the land to be acquired under this bill for gaming purposes, we have two simple responses. First, the 5.03 acres that we would obtain is far too small and far too remote to be used for this purpose. Instead, we would use it for watershed, cattle grazing, and wildlife habitat. This small parcel is over a mile from the nearest paved road, across fairly rough country. Second, the Barona Band already has a very successful gaming enterprise on its primary reservation adjacent to a country road, and therefore does not need any further gaming locations. In addition, the bill itself specifies that this land is not being transferred for gaming purposes in any event.

Instead of lengthening this letter by repeating the statements presented by Mr. Quesenberry on behalf of his tribal clients, we will just adopt them as our own, and urge you to introduce and vigorously support this non-controversial bill on behalf of the Barona Band and other California tribes which would benefit from it.

Sincerely yours,

CLIFFORD M. LACHAPPA,
Chairman.

BARONA BAND OF MISSION INDIANS,
Lakeside, CA, June 29, 1999.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: During the 105th Congress, Congressman Don Young introduced the California Indian Land Transfer Act, H.R. 2742, a bill that would transfer approximately 3,500 acres of Bureau of Land Management (BLM) land to a number of Indian tribes located in California, including

5.03 acres for the Barona Band of Mission Indians. Attached, please find a resolution recently adopted by the Barona Band of Mission Indians Tribal Council urging you to sponsor similar legislation in the United States Senate this year.

As you know, since the early 1930's, the Barona Band has been located on approximately 5,500 acres in rural eastern San Diego County and is home to approximately 300 people. We came to this land after the City of San Diego bought our reservation as a reservoir site and forced us to move. Therefore, the passage of this bill is very important to our history and our future.

As drafted, H.R. 2742 would place a number of restrictions on the use of the new lands. Perhaps most noteworthy is the provision baring the use of any such lands for gaming purposes. Although as a sovereign government we object to any restriction being placed on the use of our lands, we understand that the political nature of this bill demands such a restriction.

Finally, we are encouraged by the action taken by the San Diego County Board when they too adopted a resolution in support of the proposed legislation. We are hopeful that this demonstration of government unity will give you the encouragement necessary to carry this bill forward.

Sincerely,

CLIFFORD M. LACHAPPA,
Chairman.

RESOLUTION NO. 06–2299

Whereas: The Barona Band of Mission Indians is among the 104 Federally recognized Indian Tribes located in the State of California; and,

Whereas: Indian Tribes located in California retain rights to fewer than 500,000 acres of land, seventy-five percent of which is held in Trust by the United States Government on behalf of 14 tribes; and,

Whereas: The Federal Bureau of Land Management (BLM) is considering large scale transfers of trust lands to local governments in California, and to the State of California; and,

Whereas: The Federal Bureau of Land Management (BLM) is considering large scale transfers of trust lands to local governments in California, and to the State of California; and,

Whereas: California Indian Legal Services has been working diligently over the past three years to secure passage of Federal Legislation to transfer approximately 3,600 acres of BLM trust land to 10 specific tribes; and,

Whereas: The Elected leaders of California have a unique responsibility to help California tribes address the issue of securing additional lands so that tribes may develop stronger economies; and,

Whereas: On June 15th, the San Diego county Board of Supervisors unanimously voted to support this transfer of land; and, be it therefore

Resolved: That the Barona Band of Mission Indians urges Senator Barbara Boxer and Senator Dianne Feinstein to sponsor legislation to transfer such lands as identified by the California Indian Legal Services from the BLM to benefit California tribes and work for the passage of such legislation.

BARONA BAND OF MISSION INDIANS,
Lakeside, CA, October 14, 1999.

Re California Indian Land Transfer Act.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: On behalf of the Baraona Group of the Capitan Grande Band of Mission Indians, I want to express our thanks for your agreement to introduce the California Indian Land Transfer Act, a bill that would transfer to eight California Indian tribes a total of approximately 3,500 acres of Bureau of Land Management (BLM) land to be used for housing construction, grazing, resource protection, and non-gaming economic development. Under the bill's provisions, our tribe will acquire approximately 5.03 acres of BLM land. These lands would be added to the tribal trust lands of the Barona Indian Reservation. We expect to use the land for wild land addition to the reservation.

We sincerely appreciate your support for this important legislation.

Sincerely,

CLIFFORD M. LACHAPPA,
Chairman.

MANZANITA BAND OF MISSION INDIANS,
Boulevard, CA, October 1, 1999.

Re California Indian Land Transfer Act.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: On behalf of the Manzanita Band of Mission Indians, I want to express our thanks for your agreement to introduce the California Indian Land Transfer Act, a bill that would transfer to eight California Indian Tribes a total of approximately 3,500 acres of Bureau of Land Management (BLM) land to be used for housing construction, grazing, resource protection, and non-gaming economic development. Under the bill's provisions, our tribe will acquire approximately 1,000 acres of BLM land. These lands would be added to the tribal trust lands of the Manzanita Indian Reservation. We expect to use the land for non-gaming economic development.

We sincerely appreciate your support for this important legislation.

Sincerely,

LEROY J. ELLIOTT,
Chairman.

PALA BAND OF MISSION INDIANS,
Pala, CA, October 1, 1999.

Re California Indian Land Transfer Act.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: On behalf of the Pala Band of Mission Indians, I want to express our thanks for your agreement to introduce the California Indian Land Transfer Act, a bill that would transfer to eight California Indian tribes a total of approximately 3,500 acres of Bureau of Land Management (BLM) land to be used for housing construction, grazing, resource protection, and non-gaming economic development. Under the bill's provisions, our tribe will acquire approximately 60 acres of BLM land. These lands would be added to the tribal trust lands of the Pala Indian Reservation. We expect to use the land for wildland addition to the reservation.

We sincerely appreciate your support for this important legislation.

Sincerely,

ROBERT H. SMITH,
Tribal Chairman.

EWIIAAPAAYP TRIBAL OFFICE,
Alpine, CA, October 4, 1999.

Re California Indian Land Transfer Act.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: On behalf of the Cuyapaipe Band of Mission Indians, I want to express our thanks for your agreement to introduce the California Indian Land Transfer Act, a bill that would transfer to eight California Indian tribes a total of approximately 3,500 acres of Bureau of Land Management (BLM) land to be used for housing construction, grazing, resource protection, and non-gaming economic development. Under the bill's provisions, our tribe will acquire approximately 1,360 acres of BLM land. These lands would be added to the tribal trust lands of the Cuyapaipe Indian Reservation. We expect to use the land for housing and non-gaming economic development.

We sincerely appreciate your support for this important legislation.

Sincerely,

TONY PINTO,
Tribal Chairman.

PIT RIVER TRIBE,
Burney, CA, October 6, 1999.

Re California Indian Land Transfer Act.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: On behalf of the Pit River Tribe, I want to express our thanks for your agreement to introduce the California Indian Land Transfer Act, a bill that would transfer eight California Indian tribes a total of approximately 3,500 acres of Bureau of Land Management (BLM) land to be used for housing construction, grazing, resource protection, and non-gaming economic development. Under the bill's provisions, our tribe will acquire approximately 560 acres of BLM land. These lands would be added to the tribal trust lands of the XL Ranch Indian Reservation. We expect to use the land for housing, grazing and other agricultural development.

We sincerely appreciate your support for this important legislation.

Sincerely,

LAWRENCE CANTRELL,
Chairman.

PIT RIVER TRIBE,
Burney, CA, October 6, 1999.

Re California Indian Land Transfer Act.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: On behalf of the Pit River Tribe, I want to express our thanks for your agreement to introduce the California Indian Land Transfer Act, a bill that would transfer eight California Indian tribes a total of approximately 3,500 acres of Bureau of Land Management (BLM) land to be used for housing construction, grazing, resource protection, and non-gaming economic development. Under the bill's provisions, our tribe will acquire approximately 560 acres of BLM land. These lands would be added to the tribal trust lands of the XL Ranch Indian Reservation. We expect to use the land for housing, grazing and other agricultural development.

We sincerely appreciate your support for this important legislation.

Sincerely,

ARNOLD WILKES,
Vice-Chairman.

FORT BIDWELL INDIAN
COMMUNITY COUNCIL,
Fort Bidwell, CA, October 6, 1999.

Re California Indian Land Transfer Act.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: On behalf of the Fort Bidwell Indian Community, I want to express our thanks for your agreement to introduce the California Indian Land Transfer Act, a bill that would transfer eight California Indian tribes a total of approximately 3,500 acres of Bureau of Land Management (BLM) land to be used for housing construction, grazing, resource protection, and non-

gaming economic development. Under the bill's provisions, our tribe will acquire approximately 300 acres of BLM land. These lands will be added to the tribal trust lands of the Fort Bidwell Indian Reservation. We expect to use the land for housing and grazing.

We sincerely appreciate your support for this important legislation.

Sincerely,

DENISE POLLARD,
Acting Chairpeson.

MORONGO BAND OF MISSION INDIANS,
Banning, CA, October 25, 1999.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: The purpose of this letter is to request that you sponsor and introduce legislation to transfer certain parcels of land from the Bureau of Land Management to various California Indian Tribes. It is our understanding that your staff has been working on this matter with Tribes and their representatives.

As you are aware, this proposed legislation is similar to legislation that was previously enacted transferring other Bureau of Land Management land to California Indian Tribes.

We appreciate your efforts in this area, as well as your support of the Tribes in California on the range of legislative issues and challenges that native Americans face.

Sincerely yours,

MARY ANN MARTIN ANDREAS,
Chairperson.

By Mrs. BOXER (for herself and Mr. LAUTENBERG):

S. 1845. A bill to amend title 18, United States Code, to prohibit the sale or transfer of a firearm or ammunition to an intoxicated person; to the Committee on the Judiciary.

GUN SALES TO INTOXICATED PERSONS

● Mrs. BOXER. Mr. President, last July, when the Senate considered the Commerce-Justice-State appropriations bill, I offered an amendment to prohibit the sale of guns to people who were intoxicated.

State and local laws prohibit intoxicated people from operating a car, a boat, a snowmobile, a plane, an all-terrain vehicle, or a bicycle. There is even one state law that prohibits an intoxicated person from getting a tattoo. In addition, federal law prohibits an intoxicated person from enlisting in the military. And, federal gun laws prohibit the sale of a gun to a drug user.

My amendment simply built on this record. All it said is that if you are intoxicated, you cannot buy a gun or ammunition. To me, it just makes common sense that someone who is drunk should not be able to buy a gun. And, the Senate agreed because my amendment was passed unanimously.

Unfortunately, Mr. President, the conference committee dropped this provision from the bill. I am extremely disappointed that such a common-sense proposal would be abandoned by the Senate leadership.

So, today, I am introducing—along with my colleague, Senator LAUTENBERG—this very reasonable proposal as a free-standing bill.

Mr. President, guns and alcohol do not mix. A 1997 study in the Journal of American Medical Association found that ''alcohol and illicit drug use appear to be associated with an increased risk of violent death.'' And as the two stories I want to share today illustrate, alcohol is also associated with an increased risk of serious injury.

The first story is about a woman by the name of Deborah Kitchen. She is a quadriplegic, and she got that way because her ex-boyfriend shot her.

On the day of the shooting, Deborah's boyfriend, Thomas Knapp, consumed—by his own estimate—a fifth of whiskey and a case of beer. He went to K-Mart in Florida to buy a .22-caliber rifle and a box of bullets. Mr. Knapp was so intoxicated that the clerk had to help him fill out the federal form required to purchase the gun. But he was still able to buy the rifle.

Mr. Knapp then took that rifle, shot his ex-girlfriend Deborah Kitchen, and left her a quadriplegic.

The second story is from Michigan. It involves an 18-year-old named Walter McKay, who had engaged in a day-long drinking spree and then went and bought ammunition for his shotgun. He was so intoxicated that he could not remember whether it was a man or woman who sold him the ammunition and could not identify what he purchased.

He took those shotgun shells, loaded his gun, and intended to shoot out the back window of an acquaintance's truck. He was intoxicated. The shot missed, ricocheted off the wheel of the truck, and hit Anthony Buczkowski. Mr. Buczkowski had to have a finger amputated and his left wrist surgically fused.

Mr. Knapp and Mr. McKay could buy a gun and ammunition because it is not—I repeat, not—against the law to sell a gun or ammunition to someone who is intoxicated.

Mr. President, as I mentioned earlier, states and localities have all sorts of laws prohibiting people who are intoxicated from doing certain things. But, I am unaware of a single state law that prohibits someone who is drunk from buying a gun or ammunition.

It would be nice if states would act. But, gun sales are largely regulated at the federal level and involve federal licenses and federal forms. This is a federal responsibility, and there should be a federal law that stops this outrage.

That is what my bill does. If you are intoxicated, you would not be able to buy a gun or ammunition. It is very reasonable, and it will save lives.●

ADDITIONAL COSPONSORS

S. 59

At the request of Mr. THOMPSON, the name of the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 59, a bill to provide Government-wide accounting of regulatory costs and benefits, and for other purposes.

S. 345

At the request of Mr. ALLARD, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 386

At the request of Mr. GORTON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 386, a bill to amend the Internal Revenue Code of 1986 to provide for tax-exempt bond financing of certain electric facilities.

S. 486

At the request of Mr. HATCH, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Washington (Mr. GORTON) were added as cosponsors of S. 486, a bill to provide for the punishment of methoamphetamine laboratory operators, provide additional resources to combat methoamphetamine production, trafficking, and abuse in the United States, and for other purposes.

S. 512

At the request of Mr. GORTON, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 512, a bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the Department of Health and Human Services with respect to research on autism.

S. 600

At the request of Mr. WELLSTONE, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 600, a bill to combat the crime of international trafficking and to protect the rights of victims.

S. 664

At the request of Mrs. BOXER, her name was added as a cosponsor of S. 664, 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. 941

At the request of Mr. WYDEN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 941, a bill to amend the Public Health Service Act to provide for a public response to the public health crisis of pain, and for other purposes.

S. 964

At the request of Mr. DASCHLE, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 964, a bill to provide for equitable compensation for the Cheyenne River Sioux Tribe, and for other purposes.

S. 1053

At the request of Mr. BOND, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1053, a bill to amend the Clean Air Act to incorporate certain provisions

of the transportation conformity regulations, as in effect on March 1, 1999.

S. 1109

At the request of Mr. MCCONNELL, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1109, a bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes.

S. 1187

At the request of Mr. DORGAN, the names of the Senator from Ohio (Mr. DEWINE), the Senator from North Carolina (Mr. HELMS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Michigan (Mr. ABRAHAM), the Senator from Kentucky (Mr. MCCONNELL), the Senator from Wyoming (Mr. ENZI), the Senator from New York (Mr. MOYNIHAN), the Senator from Minnesota (Mr. GRAMS), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 1187, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Lewis and Clark Expedition, and for other purposes.

S. 1244

At the request of Mr. THOMPSON, the name of the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 1244, a bill to establish a 3-year pilot project for the General Accounting Office to report to Congress on economically significant rules of Federal agencies, and for other purposes.

S. 1317

At the request of Mr. AKAKA, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1317, a bill to reauthorize the Welfare-To-Work program to provide additional resources and flexibility to improve the administration of the program.

S. 1400

At the request of Mrs. BOXER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1400, A bill to protect women's reproductive health and constitutional right to choice, and for other purposes.

S. 1528

At the request of Mr. LOTT, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1528, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions.

S. 1592

At the request of Mr. DURBIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1592, a bill to amend the Nicaraguan Adjustment and Central American Relief Act to provide to certain nationals of El Salvador, Guatemala, Honduras, and Haiti an opportunity to apply for adjustment of status under that Act, and for other purposes.

S. 1680

At the request of Mr. ASHCROFT, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1680, a bill to provide for the improvement of the processing of claims for veterans compensation and pensions, and for other purposes.

S. 1760

At the request of Mr. BIDEN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1760, a bill to provide reliable officers, technology, education, community prosecutors, and training in our neighborhoods.

S. 1798

At the request of Mr. HATCH, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1798, a bill to amend title 35, United States Code, to provide enhanced protection for investors and innovators, protect patent terms, reduce patent litigation, and for other purposes.

S. 1823

At the request of Mr. DEWINE, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1823, a bill to revise and extend the Safe and Drug-Free Schools and Communities Act of 1994.

SENATE CONCURRENT RESOLUTION 61

At the request of Mr. SESSIONS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of Senate Concurrent Resolution 61, a concurrent resolution expressing the sense of the Congress regarding a continued United States security presence in Panama and a review of the contract bidding process for the Balboa and Cristobal port facilities on each end of the Panama Canal.

SENATE CONCURRENT RESOLUTION 63

At the request of Mr. ABRAHAM, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of Senate Concurrent Resolution 63, a concurrent resolution condemning the assassination of Armenian Prime Minister Vazgen Sargsian and other officials of the Armenian Government and expressing the sense of the Congress in mourning this tragic loss of the duly elected leadership of Armenia.

SENATE RESOLUTION 118

At the request of Mr. REID, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of Senate Resolution 118, a resolution designating December 12, 1999, as ''National Children's Memorial Day.''

SENATE RESOLUTION 196

At the request of Mr. WARNER, the names of the Senator from Mississippi (Mr. LOTT), the Senator from Missouri (Mr. BOND), the Senator from North Carolina (Mr. HELMS), the Senator from Nebraska (Mr. KERREY), and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of Senate Resolution 196, a resolution commending the submarine force of the United States Navy on the 100th anniversary of the force.

SENATE RESOLUTION 204

At the request of Mr. HATCH, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of Senate Resolution 204, a resolution designating the week beginning November 21, 1999, and the week beginning on November 19, 2000, as ''National Family Week'', and for other purposes.

AMENDMENT NO. 2319

At the request of Mr. ROBB his name was added as a cosponsor of amendment No. 2319 proposed to S. 1692, a bill to amend title 18, United States Code, to ban partial birth abortions.

AMENDMENT NO. 2408

At the request of Mr. FEINGOLD the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 2408 intended to be proposed to H.R. 434, a bill to authorize a new trade and investment policy for sub-Sahara Africa.

SENATE CONCURRENT RESOLUTION 65—EXPRESSING THE SENSE OF CONGRESS REGARDING THE PRESERVATION OF FULL AND OPEN COMPETITION FOR CONTRACTS FOR THE TRANSPORTATION OF UNITED STATES MILITARY CARGO BETWEEN THE UNITED STATES AND THE REPUBLIC OF ICELAND

Mr. TORRICELLI submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 65

Whereas the Treaty Between the United States of America and the Republic of Iceland to Facilitate Their Defense Relationship and Related Memorandum of Understanding in Implementation of the Treaty, signed September 24, 1986, provides for full and open competition among United States-flag carriers and Icelandic shipping companies for the transportation of United States military cargo between the United States and Iceland: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the President should ensure that full and open competition continues in the selection of companies to transport United States military cargo between the United States and Iceland in accordance with the Treaty Between the United States of America and the Republic of Iceland to Facilitate Their Defense Relationship and Related Memorandum of Understanding in Implementation of the Treaty, signed September 24, 1986; and

(2) to preserve that competition, neither the Secretary of State nor any other official of the United States should, without the advice and consent of the Senate, seek to amend, interpret, or alter the administration of the treaty or memorandum of understanding in any manner (through limitations on eligibility or otherwise) that—

(A) would preclude companies qualified to conduct business under the laws of the

conduct business under the laws of the United States or the Republic of Iceland from submitting offers for, being awarded, or performing a contract for the transportation of United States military cargo under the treaty or memorandum of understanding; or

(B) would otherwise defeat the purpose of enhancing competition among United States-flag carriers or among Icelandic shipping companies under the treaty or memorandum of understanding.

SENATE CONCURRENT RESOLUTION 66—TO AUTHORIZE THE PRINTING OF ''CAPITOL BUILDER: THE SHORTHAND JOURNALS OF CAPTAIN MONTGOMERY C. MEIGS, 1853–1861''

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 66

Whereas November 17, 2000, will mark the 200th anniversary of the occupation of the United States Capitol by the Senate and House of Representatives;

Whereas the story of the design and construction of the United States Capitol deserves wider attention; and

Whereas since 1991, Congress has supported a recently completed project to translate the previously inaccessible and richly detailed shorthand journals of Captain Montgomery C. Meigs, the mid-nineteenth-century engineer responsible for construction of the Capitol dome and Senate and House of Representatives extensions: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. PRINTING OF "CAPITOL BUILDER: THE SHORTHAND JOURNALS OF CAPTAIN MONTGOMERY C. MEIGS, 1853–1861".

(a) IN GENERAL.—There shall be printed as a Senate document the book entitled ''Capitol Builder: The Shorthand Journals of Captain Montgomery C. Meigs, 1853–1861'', prepared under the direction of the Secretary of the Senate, in consultation with the Clerk of the House of Representatives and the Architect of the Capitol.

(b) SPECIFICATIONS.—The Senate document described in subsection (a) shall include illustrations and shall be in the style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

(c) NUMBER OF COPIES.—In addition to the usual number of copies, there shall be printed with suitable binding the lesser of—

(1) 1,500 copies for the use of the Senate, the House of Representatives, and the Architect of the Capitol, to be allocated as determined by the Secretary of the Senate and the Clerk of the House of Representatives; or

(2) a number of copies that does not have a total production and printing cost of more than $31,500.

SENATE CONCONCURRENT RESOLUTION 67—TO AUTHORIZE THE PRINTING OF ''THE UNITED STATES CAPITOL'' A CHRONICLE OF CONSTRUCTION, DESIGN, AND POLITICS''

Mr. LOTT (for himself, and Mr. DASCHLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 67

Whereas the 200th anniversary of the establishment of the seat of government in the District of Columbia will be observed in the year 2000;

Whereas November 17, 2000, will mark the bicentennial of the occupation of the United States Capitol by the Senate and the House of Representatives; and

Whereas the story of the design and construction of the United States Capitol deserves wider attention: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. PRINTING OF "THE UNITED STATES CAPITOL: A CHRONICLE OF CONSTRUCTION, DESIGN, AND POLITICS".

(a) IN GENERAL.—There shall be printed as a Senate document the book entitled ''The United States Capitol: A Chronicle of Construction, Design, and Politics'', prepared by the Architect of the Capitol.

(b) SPECIFICATIONS.—The Senate document described in subsection (a) shall include illustrations and shall be in the style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

(c) NUMBER OF COPIES.—In addition to the usual number of copies, there shall be printed with suitable binding the lesser of—

(1) 6,500 copies for the use of the Senate, the House of Representatives, and the Architect of the Capitol, to be allocated as determined by the Secretary of the Senate; or

(2) a number of copies that does not have a total production and printing cost of more than $143,000.

SENATE RESOLUTION 214—AUTHORIZING THE TAKING OF PHOTOGRAPHS IN THE CHAMBER OF THE UNITED STATES SENATE

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 214

Resolved, That paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting photographs to be taken between the first and second sessions of the 106th Congress in order to allow the Senate Commission on Art to carry out its responsibilities to publish a Senate document containing works of art, historical objects, and exhibits within the Senate Wing.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements to carry out this resolution.

SENATE RESOLUTION 215—MAKING CHANGES TO SENATE COMMITTEES FOR THE 106TH CONGRESS

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 215

Resolved, That the following change shall be effective on those Senate committees listed below for the 106th Congress, or until their successors are appointed:

Committee on Environment and Public Works: Mr. Smith of New Hampshire, Chairman.

SENATE RESOLUTION 216—DESIGNATING THE MONTH OF NOVEMBER 1999 AS ''NATIONAL AMERICAN INDIAN HERITAGE MONTH''

Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. COCHRAN, Mr. GRASSLEY, Mrs. MURRAY, Mr. BINGAMAN, Mr. DOMENICI, Mr. SMITH of Oregon, Mr. AKAKA, Mr. CONRAD, Mrs. BOXER, Mr. HATCH, Mr. JOHNSON, Mr. KOHL, Mr. INHOFE, Mr. REID, Mr. ENZI, Mr. MCCAIN, Mr. MURKOWSKI, Mr. THOMAS, Mr. BURNS, Mr. GRAMS, Mr. DASCHLE, Mr. BENNETT, Mr. ALLARD, Mr. STEVENS, Mr. CRAPO, Mr. WYDEN, Mr. FRIST, Mr. JEFFORDS, and Mr. KENNEDY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 216

Whereas American Indians and Alaska Natives were the original inhabitants of the land that now constitutes the United States;

Whereas American Indian tribal governments developed the fundamental principles of freedom of speech and separation of powers that form the foundation of the United States Government;

Whereas American Indians and Alaska Natives have traditionally exhibited a respect for the finiteness of natural resources through a reverence for the earth;

Whereas American Indians and Alaska Natives have served with valor in all of America's wars beginning with the Revolutionary War through the conflict in the Persian Gulf, and often the percentage of American Indians who served exceeded significantly the percentage of American Indians in the population of the United States as a whole;

Whereas American Indians and Alaska Natives have made distinct and important contributions to the United States and the rest of the world in many fields, including agriculture, medicine, music, language, and art;

Whereas American Indians and Alaska Natives deserve to be recognized for their individual contributions to the United States as local and national leaders, artists, athletes, and scholars;

Whereas this recognition will encourage self-esteem, pride, and self-awareness in American Indians and Alaska Natives of all ages; and

Whereas November is a time when many Americans commemorate a special time in the history of the United States when American Indians and English settlers celebrated the bounty of their harvest and the promise of new kinships: Now, therefore, be it

Resolved, That the Senate designates November 1999 as ''National American Indian Heritage Month'' and requests that the President issue a proclamation calling on the Federal Government and State and local governments, interested groups and organizations, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

Mr. CAMPBELL. Mr. President, I am pleased to submit today, along with the Vice Chairman of the Indian Affairs Committee, Senator INOUYE and many of our colleagues, a Senate resolution that designates the month of November 1999, as 'National American Indian Heritage Month.'

I feel it is appropriate and deserving to honor American Indians and Alaska Natives, as the original inhabitants of the land that now constitutes the United States, with this November designation as Congress has done for almost a decade.

American Indians and Alaska Natives have left an indelible imprint on many aspects of our everyday life that most Americans often take for granted. The arts, education, science, medicine, industry, and government are areas that have been influenced by American Indian and Alaska Native people over the last 500 years. Many of the healing remedies that we use today were obtained from practices already in use by Indian people and are still utilized today in conjunction with western medicine.

Mr. President, many of the basic principles of democracy in our Constitution can be traced to practices and customs already in use by American Indian tribal governments including the doctrines of freedom of speech and separation of powers. Our Founding Fathers benefited greatly from the example of the Indian tribes in the early stages of our Nation.

The respect of Native people for the preservation of natural resources, reverence for elders, and adherence to tradition, mirrors our own values which we developed in part, through the contact with American Indians and Alaska Natives. These values and customs are deeply rooted, strongly embraced and thrive with generation after generation of Native people.

From the difficult days of Valley Forge through our peace keeping efforts around the world today, American Indian and Alaska Native people have proudly served and dedicated their lives in the military readiness and defense of our country in wartime and in peace. In fact, their participation rate in the Armed Forces far outstrips the rates of all other groups in this Nation. Many American Indian men and women gave their lives selflessly in the defense of this Nation even before they were granted American citizenship in 1924.

Many of the words in our language have been borrowed from Native languages, including many of the names of the rivers, cities, and States across our Nation. Indian arts and crafts have also made a distinct impression on our heritage.

It is my hope that by designating the month of November 1999, as ''National American Indian Heritage Month,'' we will continue to encourage self-esteem, pride, and self awareness amongst American Indians and Alaska Natives of all ages. Many schools, organizations, Federal, State, Tribal and local governments can also plan activities and programs to celebrate the achievements of American Indians and Alaska Natives.

November is a special time in the history of the United States; we celebrate the Thanksgiving holiday by remembering the American Indians and English settlers as they enjoyed the bounty of their harvest and the promise of new kinships. By recognizing the many Native contributions to the arts, governance, and culture of our Nation, we will honor their past and ensure a place in America for Native people for generations to come. I ask for the support of my colleagues on both sides of the aisle for this resolution, and urge the Senate to pass this important matter.

Mr. SMITH of Oregon. Mr. President, I want to pay tribute to and recognize the contributions Native Americans and Indian tribes have made in the United States and in particular in the State of Oregon. Native Americans have a unique and important relationship with the United States, and Indian tribes continue to persevere in upholding their sovereign governments, economies, culture and heritage. I am pleased to join Senators CAMPBELL and INOUYE in submitting this resolution to designate this month as American Indian Heritage Month, and I appreciate their efforts on behalf of all Native Americans.

There are nine federally recognized tribes in the State of Oregon. Each of these tribes has successfully collaborated with State and Federal agencies and continues to develop active partnerships with the surrounding communities.

Five of Oregon's tribes are located in Western Oregon: The Confederated Tribes of Grand Ronde, the Confederated Tribes of Siletz, the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw, Coquille Indian Tribe, and the Cow Creek Band of Umpquas. Each of the tribes has made its own extraordinary contribution in Oregon and the Pacific Northwest region. The five tribes of Western Oregon have been successful in recent years in restoring their Federal recognition as Indian tribes, and they continue to work to stabilize and revitalize their social, cultural, and economic ties with the State and local communities.

There are four tribes located east of Oregon's Cascade Mountains. The Confederated Tribes of the Umatilla Reservation, in Easter Oregon, have been successful in their conservation and restoration of salmon and water back into the Umatilla River. The Confederated Tribes of Warm Springs, in Central Oregon, with their Kah-Nee-Ta Resort, have been making significant contributions to Oregon's tourism industry. The Burns Paiute and Klamath Tribes have renewed a foothold in the local economy.

Mr. President, I commend the contributions Native American people have brought to my State and this nation. American Indian Heritage Month is an important recognition to the accomplishments and contributions of Native Americans in our country. I urge my colleagues to join us in support of this resolution and I look forward to its prompt consideration.

SENATE RESOLUTION 217—RELATING TO THE FREEDOM OF BELIEF, EXPRESSION, AND ASSOCIATION IN THE PEOPLE'S REPUBLIC OF CHINA

Mr. HUTCHINSON submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 217

Whereas the United Nations Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights affirm the freedoms of thought, conscience, religion, expression, and assembly as fundamental human rights belonging to all people;

Whereas the United Nations Universal Declaration of Human Rights is a common standard of achievement for all peoples and all nations, including the People's Republic of China, a member of the United Nations;

Whereas the People's Republic of China has signed the International Covenant on Civil and Political Rights but has yet to ratify the treaty and thereby make it legally binding;

Whereas the Constitution of the People's Republic of China provides for the freedom of religious belief and the freedom not to believe;

Whereas according to the Department of State and international human rights organizations, the Government of the People's Republic of China does not provide these freedoms but continues to restrict unregistered religious activities and persecutes persons on the basis of their religious practice through measures including harassment, prolonged detention, physical abuse, incarceration, and police closure of places of worship;

Whereas under the International Religious Freedom Act, the Secretary of State has designated the People's Republic of China as a country of special concern;

Whereas the Government of the People's Republic of China has issued a decree declaring a wide range of activities illegal and subject to prosecution, including distribution of Falun Gong materials, gatherings or silent sit-ins, marches or demonstrations, and other activities to promote Falun Gong and has begun the trials of several Falun Gong practitioners;

Whereas the National People's Congress of the People's Republic of China on October 30, 1999, adopted a new law banning and criminalizing groups labeled by the Government of the People's Republic of China as cults; and

Whereas the Government of the People's Republic of China has officially labeled the Falun Gong meditation group a cult and has formally charged at least four members of the Falun Gong under this new law: Now, therefore, be it

Resolved, That the Senate calls on the Government of the People's Republic of China to—

(1) release all prisoners of conscience and put an immediate end to the harassment, detention, physical abuse, and imprisonment of Chinese citizens exercising their legitimate rights to free belief, expression, and association; and

(2) demonstrate its willingness to abide by internationally accepted norms of freedom of belief, expression, and association by repealing or amending laws and decrees that restrict those freedoms and proceeding promptly to ratify and implement the International Covenant on Civil and Political Rights.

AMENDMENTS SUBMITTED

AFRICAN GROWTH AND OPPORTUNITY ACT

BINGAMAN AMENDMENT NO. 2431

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill (H.R. 434) to authorize a new trade and investment policy for sub-Sahara Africa; as follows:

At the appropriate place, insert the following new section:

SEC. ___. REPORT.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this section, the Comptroller General of the United States shall submit a report to Congress regarding the efficiency and effectiveness of Federal and State coordination of unemployment and retraining activities associated with the following programs and legislation:

(1) trade adjustment assistance (including NAFTA trade adjustment assistance) provided for under title II of the Trade Act of 1974;

(2) the Job Training Partnership Act;

(3) the Workforce Investment Act; and

(4) unemployment insurance.

(b) PERIOD COVERED.—The report shall cover the activities involved in the programs and legislation listed in subsection (a) from January 1, 1994 to December 31, 1999.

(c) DATA AND RECOMMENDATIONS.—The report shall at a minimum include specific data and recommendations regarding—

(1) the compatibility of program requirements related to the employment and retraining of dislocated workers in the United States, with particular emphasis on the trade adjustment assistance programs provided for under title II of the Trade Act of 1974;

(2) the compatibility of application procedures related to the employment and retraining of dislocated workers in the United States;

(3) the capacity of these programs to assist workers negatively impacted by foreign trade and the transfer of production to other countries, measured in terms of employment and wages;

(4) the capacity of these programs to assist secondary workers negatively impacted by foreign trade and the transfer of production to other countries, measured in terms of employment and wages;

(5) how the impact of foreign trade and the transfer of production to other countries would have changed the number of beneficiaries covered under the trade adjustment assistance program if the trade adjustment assistance program covered secondary workers in the United States; and

(6) the effectiveness of the programs described in subsection (a) in achieving reemployment of United States workers and maintaining wage levels of United States workers who have been dislocated as a result of foreign trade and the transfer of production to other countries.

TORRICELLI AMENDMENTS NOS. 2432–2446

(Ordered to lie on the table.)

Mr. TORRICELLI submitted 15 amendments intended to be proposed by him to the bill, H.R. 434, supra; as follows:

AMENDMENT NO. 2432

At the end of the amendment, add the following new subsection:

(__) EXCEPTION.—This section shall not apply to Cuba until the President reports to Congress that the Government of Cuba—

(1) has held free and fair elections conducted under internationally recognized observers;

(2) has permitted opposition parties ample time to organize and campaign for such elections, and has permitted full access to the media to all candidates in the elections;

(3) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(4) is moving toward establishing a free market economic system; and

(5) has committed itself to constitutional change that would ensure regular free and fair elections.

AMENDMENT NO. 2433

At the end of the amendment, add the following new section:

SEC. ___. (a) TREATMENT OF SALES IF CUBA IS ON THE LIST OF TERRORIST STATES.—At any time during which Cuba has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), commercial sales of food and medicine to Cuba shall only be made pursuant to a specific license for each transaction issued by the United States Government.

(b) PREVENTION OF TORTURE AND PROLIFERATION OF CHEMICAL OR BIOLOGICAL WEAPONS.—Nothing in subsection (a) shall be construed as authorizing the sale or transfer of equipment, medicines, or medical supplies that could be used for purposes of torture or human rights abuses or in the development of chemical or biological weapons.

(c) DONATION OF FOOD AND HUMANITARIAN ASSISTANCE TO THE CUBAN PEOPLE.—

(1) IN GENERAL.—Of the amounts available under this Act (including agricultural commodities), under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), or chapter 4 of part II of that Act (relating to the economic support fund) in any fiscal year, up to $25,000,000 may be made available each fiscal year to carry out activities under section 109(a) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6039(a)) or to provide humanitarian assistance through independent nongovernmental organizations to victims of political repression in Cuba.

(2) SAFEGUARDS ON ASSISTANCE.—(A) Funds made available under paragraph (1) shall be subject to notification of the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

(B) Assistance may not be provided under this section if any assistance is likely to be or is found to have been diverted to the Cuban government, to any coercive organization affiliated with the Cuban government, or to any organization that has violated any law or regulation of the United States regarding exports to or financial transactions with Cuba.

AMENDMENT NO. 2434

At the appropriate place, insert the following:

SEC. ___. LICENSING REQUIREMENT FOR COUNTRIES SUPPORTING ACTS OF INTERNATIONAL TERRORISM.

The export of any medicine, medical device, or agricultural commodity sold under contract to any country the government of which the Secretary of States determines under section 6(j) of the Export Administration Act of 1979 has repeatedly provided support for acts of international terrorism shall be made pursuant to a specific license.

AMENDMENT NO. 2435

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

SEC. ___. The commercial export of agricultrual commodities or medicine to a country the government of which on June 1, 1999, had been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) shall only be made—

(1) pursuant to a specific license for each transaction issued by the United States Government;

(2) to nongovernmental organizations or entities, or parastatal organizations, if such organizations or entities are not associated in any way with a coercive body of a government; and

(3) subject to notification of the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

AMENDMENT NO. 2436

At the end of the amendment, add the following new section:

SEC. ___. LIMITATION ON COMMERCIAL SALES OF FOOD AND MEDICINE.

(a) TREATMENT OF SALES IF COUNTRY IS ON THE LIST OF TERRORIST STATES.—At any time during which a country has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), commercial sales of food and medicine to such country shall only be made pursuant to a specific license for each transaction issued by the United States Government.

(b) PREVENTION OF TORTURE AND PROLIFERATION OF CHEMICAL OR BIOLOGICAL WEAPONS.—Nothing in subsection (a) shall be construed as authorizing the sale or transfer of equipment, medicines, or medical supplies that could be used for purposes of torture or human rights abuses or in the development of chemical or biological weapons.

AMENDMENT NO. 2437

At an appropriate place, insert the following:

SEC. ___. EXCLUSION RELATING TO COUNTRY SUPPORTIVE OF INTERNATIONAL TERRORISM.

Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with _____, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 2438

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

SEC. ___. Nothing in this Act shall be construed as authorizing commercial exports or other transactions with any country that on June 1, 1999, was determined by the Secretary of State to have been a country the government of which had repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 2439

At an appropriate place, insert the following:

SEC. ___. EXCLUSION RELATING TO COUNTRY SUPPORTIVE OF INTERNATIONAL TERRORISM.

Nothing in this Act shall be construed as authorizing any commercial sale that is otherwise prohibited by law to any country that on June 20, 1999, had been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 2440

At an appropriate place, insert the following:

SEC. ___. EXCLUSION RELATING TO COUNTRY SUPPORTIVE OF INTERNATIONAL TERRORISM.

Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with Sudan, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 2441

At an appropriate place, insert the following:

SEC. ___. EXCLUSION RELATING TO COUNTRY SUPPORTIVE OF INTERNATIONAL TERRORISM.

Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with Libya, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 2442

At an appropriate place, insert the following:

SEC. ___. EXCLUSION RELATING TO COUNTRY SUPPORTIVE OF INTERNATIONAL TERRORISM.

Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with North Korea, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 2443

At an appropriate place, insert the following:

SEC. ___. EXCLUSION RELATING TO COUNTRY SUPPORTIVE OF INTERNATIONAL TERRORISM.

Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with Iran, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 2444

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

SEC. ____. (a) Nothing in this Act shall be construed as authorizing commercial transactions with Cuba, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 2445

At an appropriate place, insert the following:

SEC. ___. EXCLUSION RELATING TO COUNTRY SUPPORTIVE OF INTERNATIONAL TERRORISM.

Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with Syria, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 2446

At an appropriate place, insert the following:

SEC. ___. EXCLUSION RELATING TO COUNTRY SUPPORTIVE OF INTERNATIONAL TERRORISM.

Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with Iraq, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

ROTH AMENDMENT NO. 2447

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2354 submitted by Mr. LEVIN to the bill, H.R. 434, supra; as follows:

Strike all text on lines 1 through 4 and at the appropriate place in the bill insert the following:

SEC. . PROHIBITION ON IMPORTS MADE WITH CHILD LABOR.

Consistent with the requirements of section 307 of the Tariff Act of 1930, as amended by this Act, none of the benefits provided by the amendments made by this Act shall be made available to any imports that are made with forced or indentured child labor.

ROTH AMENDMENT NO. 2448

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2373 submitted by Mr. COVERDELL to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 2 through page 2, line 3 and at the appropriate place in the bill insert the following:

SEC. . COOPERATION WITH EFFORTS TO COMBAT MONEY LAUNDERING.

In determining a country's eligibility for the beneficial trade preferences provided for under this Act, the President shall consider whether such country has taken steps to prevent its financial system from being used to circumvent the criminal laws of the United States relating to money laundering and other illegal financial activities.

ROTH AMENDMENT NO. 2449

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2378 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on line 1 through 10 and at the appropriate place in the bill insert the following:

SEC. . LABOR CONDITIONS IN BENEFICIARY COUNTRIES.

Within one year after the date of enactment of this Act, the President shall report to Congress regarding whether the labor-related conditions in this Act have been effective in encouraging beneficiary countries to take steps to afford internationally recognized worker rights to workers in such beneficiary countries.

ROTH AMENDEMNT NO. 2450

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2379 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on lines 1 through 11 and at the appropriate place in the bill insert the following:

SEC. . LABOR CONDITIONS IN BENEFICIARY COUNTRIES.

Within one year after the date of enactment of this Act, the President shall report to Congress regarding whether the labor-related conditions in this Act have been effective in encouraging beneficiary countries to take steps to afford internationally recognized worker rights to workers in such beneficiary countries.

ROTH AMENDMENT NO. 2451

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 1 through page 2, line 10 and at the appropriate place in the bill insert the following:

SEC. . LABOR CONDITIONS IN BENEFICIARY COUNTRIES.

Within one year after the date of enactment of this Act, the President shall report to Congress regarding whether the labor-related conditions in this Act have been effective in encouraging beneficiary countries to take steps to afford internationally recognized worker rights to workers in such beneficiary countries.

ROTH AMENDMENT NO. 2452

(Ordered to lie on the table.

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2381 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 3 through page 2, line5 and at the appropriate place in the bill insert the following:

SEC. . LABOR CONDITIONS IN BENEFICIARY COUNTRIES,

Within one year after the date of enactment of this Act, the President shall report to Congress regarding whether the labor-related conditions in this Act have been effective in encouraging beneficiary countries to take steps to afford internationally recognized worker rights to workers in such beneficiary countries.

SEC. . ENVIRONMENTAL COOPERATION WITH BENEFICIARY COUNTRIES.

With respect to any of the countries eligible for benefits under this Act, the President may, at his discretion, direct the Administrator of the Environmental Protection Agency to prepare a report identifying what actions should be taken on a bilateral or multilateral basis to assist such beneficiary country in taking the steps necessary to improve environmental conditions in that country.

ROTH AMENDMENT NO. 2453

(Ordered to lie on the table.)

Mr. ROTH submitted and amendment intended to be proposed by him to

amendment No. 2382 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on lines 4 through 9 and at the appropriate place in the bill insert the following:

The benefits provided by this Act and the amendments made by this Act shall terminate immediately if:

(a) the Bureau of Labor Statistics determines that United States textile and apparel industries have lost 50,000 or more jobs at any time during the first 24 months after the date of enactment of this Act; and,

(b) the International Trade Commission determines that such job losses are directly attributable to the benefits provided by this Act and are not attributable to any other cause.

ROTH AMENDMENT NO. 2454

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2383 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on lines 4 through 9 and at the appropriate place in the bill insert the following:

SEC. . TERMINATION OF BENEFITS IF DOMESTIC INDUSTRY SUFFERS.

The benefits provided by this Act and the amendments made by this Act shall terminate immediately if:

(a) the Bureau of labor Statistics determines that United States textile and apparel industries have lost 50,000 or more jobs at any time during the first 24 months after the date of enactment of this Act; and

(b) the International Trade Commission determines that such job losses are directly attributable to increased trade resulting from the benefits provided by this Act and are not attributable to any other cause.

ROTH AMENDMENT NO. 2455

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2384 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on lines 1 through 10 and at the appropriate place in the bill insert the following:

SEC. . ENVIRONMENTAL COOPERATION WITH BENEFICIARY COUNTRIES.

With respect to any of the countries eligible for benefits under this Act, the President may, at his discretion, direct the Administrator of the Environmental Protection Agency to prepare a report identifying what actions should be taken on a bilateral or multilateral basis to assist such beneficiary country in taking the steps necessary to improve environmental conditions in that country.

ROTH AMENDMENT NO. 2456

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2385 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 1 through line 12 and at the appropriate place in the bill insert the following:

SEC. . ENVIRONMENTAL COOPERATION WITH BENEFICIARY COUNTRIES.

With respect to any of the countries eligible for benefits under this Act, the President may, at his discretion, direct the Administrator of the Environmental Protection Agency to prepare a report identifying what actions should be taken on a bilateral or multilateral basis to assist such beneficiary country in taking the steps necessary to improve environmental conditions in that country.

ROTH AMENDMENT NO. 2457

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2386 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 1 through page 2, line 11 and at the appropriate place in the bill insert the following:

SEC. . ENVIRONMENTAL COOPERATION WITH BENEFICIARY COUNTRIES.

With respect to any of the countries eligible for benefits under this Act, the President may, at his discretion, direct the Administrator of the Environmental Protection Agency to prepare a report identifying what actions should be taken on a bilateral or multilateral basis to assist such beneficiary country in taking the steps necessary to improve environmental conditions in that country.

ROTH AMENDMENT NO. 2458

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2387 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 1 through page 2, line 2 and at the appropriate place in the bill insert the following:

SEC. . ELIMINATION OF MARKET BARRIERS IN BENEFICIARY COUNTRIES.

The President shall take any action he deems necessary under his existing authority to eliminate any trade barriers that, in his view, unduly restrict the access of United States goods, services or investments to the market of a country to which benefits are conferred under this Act.

ROTH AMENDMENT NO. 2459

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2388 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 1 through page 2, line 13 and at the appropriate place on the bill insert the following:

SEC. MINIMUM WAGE REQUIREMENT.

(a) Subject to the requirements of subsection (b), the benefits provided by this Act and the amendments made by this Act shall not be available to any country unless the President determines that:

(1) The country has established by law a requirement that employees in that country who are compensated on an hourly basis be compensated at a rate of not less than $1 per hour; and

(2) the goods imported from that country that are eligible for such benefits are produced in accordance with that law.

(b) The requirements of subsection (a) shall not apply in those instances where the beneficiary country has an unemployment rate that exceeds five percent.

ROTH AMENDMENT NO. 2460

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2389 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 1 through page 2, line 3 and at the appropriate place in the bill insert the following:

SEC. . MINIMUM WAGE REQUIREMENT.

(a) Subject to the requirements of subsection (b), the benefits provided by this Act and the amendments made by this Act shall not be available to any country unless the President determines that:

(1) The Country has established by law a requirement that employees in that country who are compensated on an hourly basis be compensated at a rate of not less than $1 per hour; and

(2) the goods imported from that country that are eligible for such benefits are produced in accordance with that law.

(b) The requirements of subsection (a) shall not apply in those instances where the beneficiary country has an unemployment rate that exceeds five percent.

ROTH AMENDMENT NO. 2461

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2390 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 10 through page 2, line 9 and at the appropriate place in the bill insert the following:

(d) PROHIBITION ON IMPORTS MADE WITH CHILD LABOR.—Consistent with the requirements of section 307 of the Tariff Act of 1930, as amended by this Act, none of the benefits provided by the amendments made by this Act shall be made available to any imports that are made with forced or indentured child labor.

ROTH AMENDMENT NO. 2462

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2391 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on line 2 through line 11 and at the appropriate place in the bill insert the following:

SEC. . PROHIBITION ON IMPORTS MADE WITH CHILD LABOR.

Consistent with the requirements of section 307 of the Tariff Act of 1930, as amended by this Act, none of the benefits provided by the amendments made by this Act shall be made available to any imports that are made with forced or indentured child labor.

ROTH AMENDMENT NO. 2463

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2403 submitted by Mr. HARKIN to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 1 through page 2, line 6 and at the appropriate place in the bill insert the following:

SEC. . ELIMINATION OF THE WORST FORMS OF CHILD LABOR.

In determining a country's eligibility for the benefits under this Act, the President shall consider whether such country has taken or is taking steps to comply with the

standards regarding child labor established by the ILO Convention (No. 182) for the Elimination of the Worst Forms of Child Labor.

ROTH AMENDMENT NO. 2464

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2404 submitted by Mr. HARKIN to the bill, H.R. 434, supra; as follows:

Strike all text on lines 1 through 10 and at the appropriate place in the bill insert the following:

SEC. . ELIMINATION OF THE WORST FORMS OF CHILD LABOR.

In determining a country's eligibility for the benefits under this Act, the President shall consider whether such country has taken or is taking steps to comply with the standards regarding child labor established by the ILO Convention (No. 182) for the Elimination of the Worst Forms of Child Labor.

ROTH AMENDMENT NO. 2465

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2405 submitted by Mr. FEINGOLD to the bill, H.R. 434, supra; as follows:

Make the following modifications to the text:

Page 2, on line 13, strike ''section 4'' and replace with ''section 104''.

Page 4, strike text from top of page to the last unnumbered line.

Page 4, line 19, redesignate paragraph as paragraph ''(C)''.

Page 4, line 25, strike ''section 4'' and replace with ''section 104''.

Page 5, line 8, replace ''section 105'' with ''section 115''.

Page 7, line 5, strike ''section 4'' and replace with ''section 104''.

Page 7, line 20, strike ''505A'' and replace with ''506B''.

Page 9, strike all text on that page and replace with the following:

''(1) the country adopts an efficient visa system to guard against unlawful transshipment of textile and apparel goods and the use of counterfeit documents; and (2) the country enacts legislation or promulgates regulations that would permit United States Customs Service verification teams to have the access necessary to investigate thoroughly allegations of transshipment through such country.

Page 14, strike line 22 through page 20, line 22.

ROTH AMENDMENT NO. 2466

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2406 proposed by Mr. FEINGOLD to the bill, H.R. 434, supra; as follows:

Make the following modifications to the text:

Page 4, strike text from top of page (line 6) through line 10.

Page 4, on line 25, strike ''section 4'' and replace with ''section 104''.

Page 5, on line 8, replace ''section 105'' with ''section 115''.

Page 7, strike lines 1 through 7.

ROTH AMENDMENT NO. 2467

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2416 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on lines 4 through line 9 and at the appropriate place in the bill insert the following:

The benefits provided by this Act and the amendments made by this Act shall terminate immediately if:

(a) The Bureau of Labor Statistics determines that United States textile and apparel industries have lost 50,000 or more jobs at any time during the first 24 months after the date of enactment of this Act; and,

(b) the International Trade Commission determines that such job losses are directly attributable to increased trade resulting from the benefits provided by this Act and are not attributable to any other cause.

ROTH AMENDMENT NO. 2468

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2417 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on line 1 through line 12 and at the appropriate place in the bill insert the following:

SEC. . ENVIRONMENTAL COOPERATION WITH BENEFICIARY COUNTRIES.

With respect to any of the countries eligible for benefits under this Act, the President may, at his discretion, direct the Administrator of the Environmental Protection Agency to prepare a report identifying what actions should be taken on a bilateral or multilateral basis to assist such beneficiary country in taking the steps necessary to improve environmental conditions in that country.

ROTH AMENDMENT NO. 2469

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2418 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 1 through page 2, line 2 and at the appropriate place in the bill insert the following:

SEC. . ELIMINATION OF MARKET BARRIERS IN BENEFICIARY COUNTRIES.

The President shall take any action he deems necessary under his existing authority to eliminate any trade barriers that, in his view, unduly restrict the access of United States goods, services or investments to the market of a country to which benefits are conferred under this Act.

ROTH AMENDMENT NO. 2470

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2419 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 1 through page 2, line 5 and at the appropriate place in the bill insert the following:

SEC. . LABOR CONDITIONS IN BENEFICIARY COUNTRIES.

Within one year after the date of enactment of this Act, the President shall report to Congress regarding whether the labor-related conditions in this Act have been effective in encouraging beneficiary countries to take steps to afford internationally recognized worker rights to workers in such beneficiary countries.

SEC. . ENVIRONMENTAL COOPERATION WITH BENEFICIARY COUNTRIES.

With respect to any of the countries eligible for benefits under this Act, the President may, at his discretion, direct the Administrator of the Environmental Protection Agency to prepare a report identifying what actions should be taken on a bilateral or multilateral basis to assist such beneficiary country in taking the steps necessary to improve environmental conditions in that country.

ROTH AMENDMENT NO. 2471

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2421 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 3 through page 2, line 3 and at the appropriate place in the bill insert the following:

(a) Subject to the requirements of subsection (b), the benefits provided by this Act and the amendments made by this Act shall not be available to any country unless the President determines that:

(1) the country has established by law a requirement that employees in that country who are compensated on an hourly basis be compensated at a rate of not less than $1 per hour; and,

(2) the goods imported from that country that are eligible for such benefits are produced in accordance with that law.

(b) The requirements of subsection (a) shall not apply in those instances where the beneficiary country has an unemployment rate that exceeds 5 percent.

ROTH AMENDMENT NO. 2472

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2430 submitted by Ms. LANDRIEU to the bill, H.R. 434, supra; as follows:

Strike text on page 2, line 1, beginning with ''more than 5 times'' and continuing through the end of the text on line 4, and replace with the following: ''at a level where inclusion of that country would undermine the policy objectives set forth in section 103 of Title I of this Act.''

HOLLINGS AMENDMENTS NOS. 2473–2474

(Ordered to lie on the table.)

Mr. HOLLINGS submitted two amendments intended to be proposed by him to the bill, H.R. 434, supra; as follows:

AMENDMENT NO. 2473

At the appropriate place insert the following:

SEC. ——. RECIPROCAL TRADE AGREEMENTS REQUIRED.

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated, obtained, and implemented an agreement with the country providing tariff concessions for the importation of United States-made goods that reduce any such import tariffs to rates identical to the tariff rates applied by the United States to that country.

AMENDMENT NO. 2474

Strike all after the first word and insert the following:

SEC. . RECIPROCAL TRADE AGREEMENTS REQUIRED.

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated, obtained, and implemented an agreement with the country providing tariff concessions for the importation of United States-made goods that reduce any such import tariffs to rates identical to the tariff rates applied by the United States to that country.

ROTH AMENDMENT NO. 2475

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2428 proposed by Mr. FEINGOLD to the bill, H.R. 434, supra; as follows:

Make the following modifications to the text:

Page 3, strike lines 5 through 18.

Page 3, redesignate section ''(E)'' as section ''(C)''.

Page 7, strike lines 18 through page 8, line 7, and replace with the following text:

''(1) the country adopts an efficient visa system to guard against unlawful transshipments of textile and apparel goods and the use of counterfeit documents; and

''(2) the country enacts legislation or promulgates regulations that would permit United States Customs verification teams to have the access necessary to investigate thoroughly allegations of transshipments through such country.''

Page 9, strike line 25 through page 18, line 7, and replace with the following text:

''(c) PENALTIES FOR TRANSSHIPMENTS.—

''(1) PENALTIES FOR EXPORTERS.—If the President determines, based on sufficient evidence, that an exporter has engaged in transshipment with respect to textile or apparel products from a beneficiary sub-Saharan African country, then the President shall deny all benefits under this section and section 506A of the Trade Act of 1974 to such exporter, any successor of such exporter, and any other entity owned or operated by the principal of the exporter for a period of 2 years.

''(2) TRANSSHIPMENT DESCRIBED.—Transshipment within the meaning of this subparagraph has occurred when preferential treatment for a textile or apparel article under subsection (a) has been claimed on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article of any of its components. For purposes of this clause, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under subsection (a).

''(d) TECHNICAL ASSISTANCE.—The Customs Service shall provide technical assistance to the beneficiary sub-Saharan African countries for the implementation of the requirements set forth in subsection (a)(1) and (2).

''(e) MONITORING AND REPORTS TO CONGRESS.—The Customs Service shall monitor and the Commissioner of Customs shall submit to Congress, not later than March 31 of each year, a report on the effectiveness of the anti-circumvention systems described in this section and on measures taken by countries in sub-Saharan Africa which export textile or apparel to the United States to prevent circumvention as described in article 5 of the Agreement on Textiles and Clothing.

''(f) SAFEGUARD.—The President shall have the authority to impose appropriate remedies, including restrictions on or the removal of quota-free and duty-free treatment provided under this section, in the event that textile and apparel articles from a beneficiary sub-Saharan African country are being imported in such increased quantities as to cause serious damage, or actual threat thereof, to the domestic industry producing like or directly competitive articles. The President shall exercise his authority under this subsection consistent with the Agreement on Textiles and Clothing.

''(g) DEFINITIONS.—In this section:

''(1) AGREEMENT ON TEXTILES AND CLOTHING.—The term 'Agreement on Textiles and Clothing' means the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

''(2) BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY, ETC.—The terms 'beneficiary sub-Saharan African countries' and 'beneficiary sub-Saharan African countries' have the same meaning as such terms have under section 506A(c) of the Trade Act of 1974.

''(3) CUSTOMS SERVICE.—The term 'Customs Service' means the United States Customs Service.''

ROTH AMENDMENT NO. 2476

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2427 submitted by Mr. FEINGOLD to the bill, H.R. 434, supra; as follows:

Make the following modifications to the text:

Page 1, strike text beginning on line 3 through page 23, line 11, and replace with the following:

''SEC. 111. ELIGIBILITY FOR CERTAIN BENEFITS.

''(a) IN GENERAL.—Title V of the Trade Act of 1974 is amended by inserting after section 506 the following new section:

''SEC. 506A. DESIGNATION OF SUB-SAHARAN AFRICAN COUNTRIES FOR CERTAIN BENEFITS.

''(a) AUTHORITY TO DESIGNATE.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized to designate a country listed in section 4 of the African Growth and Opportunity Act as a beneficiary sub-Saharan African country eligible for the benefits described in subsection (b), if the President determines that the country—

''(A) has established, or is making continual progress toward establishing—

''(i) a market-based economy, where private property rights are protected and the principles of an open, rules-based trading system are observed;

''(ii) a democratic society, where the rule of law, political freedom, participatory democracy, and the right to due process and a fair trial are observed;

''(iii) an open trading system through the elimination of barriers to United States trade and investment and the resolution of bilateral trade and investment disputes; and

''(iv) economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, and promote the establishment of private enterprise;

''(B) does not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities; and

''(C) subject to the authority granted to the President under section 502 (a), (d), and (e), otherwise satisfies the eligibility criteria set forth in section 502.

''(2) MONITORING AND REVIEW OF CERTAIN COUNTRIES.—The President shall monitor and review the progress of each country listed in section 4 of the African Growth and Opportunity Act in meeting the requirements described in paragraph (1) in order to determine the current or potential eligibility of each country to be designated as a beneficiary sub-Saharan African country for purposes of subsection (a). The President shall include the reasons for the President's determinations in the annual report required by section 105 of the African Growth and Opportunity Act.

''(3) CONTINUING COMPLIANCE.—If the President determines that a beneficiary sub-Saharan African country is not making continual progress in meeting the requirements described in paragraph (1), the President shall terminate the designation of that country as a beneficiary sub-Saharan African country for purposes of this section, effective on January 1 of the year following the year in which such determination is made.

''(b) PREFERENTIAL TARIFF TREATMENT FOR CERTAIN ARTICLES.—

''(1) IN GENERAL.—The President may provide duty-free treatment for any article described in section 503(b)(1) (B) through (G) (except for textile luggage) that is the growth, product, or manufacture of a beneficiary sub-Saharan African country described in subsection (a), if, after receiving the advice of the International Trade Commission in accordance with section 503(e), the President determines that such article is not import-sensitive in the context of imports from beneficiary sub-Saharan African countries.

''(2) RULES OF ORIGIN.—The duty-free treatment provided under paragraph (1) shall apply to any article described in that paragraph that meets the requirements of section 503(a)(2), except that—

''(A) if the cost or value of materials produced in the customs territory of the United States is included with respect to that article, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (A) of section 503(a)(2); and

''(B) the cost or value of the materials included with respect to that article that are produced in one or more beneficiary sub-Saharan African countries shall be applied in determining such percentage.

''(c) BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES, ETC.—For purposes of this title, the terms 'beneficiary sub-Saharan African country' and beneficiary sub-Saharan African countries' mean a country or countries listed in section 104 of the African Growth and Opportunity Act that the President has determined is eligible under subsection (a) of this section.''.

(b) WAIVER OF COMPETITIVE NEED LIMITATION.—Section 503(c)(2)(D) of the Trade Act of 1974 (19 U.S.C. 2463(c)(2)(D)) is amended to read as follows:

(D) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES AND BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country or any beneficiary sub-Saharan African country.''.

(c) TERMINATION.—Title V of the Trade Act of 1974 is amended by inserting after section 505 of the following new section:

''SEC. 505A. TERMINATION OF BENEFITS FOR SUB-SAHARAN AFRICAN COUNTRIES.

''In the case of a country listed in section 4 of the African Growth and Opportunity Act that is a beneficiary developing country,

duty-free treatment provided under this title shall remain in effect through September 30, 2006.''.

(d) CLERICAL AMENDMENTS.—The table of contents for title V of the Trade Act of 1974 is amended—

(1) by inserting after the item relating to section 505 the following new item: ''505A. Termination of benefits for sub-Saharan African countries.''; and

(2) by inserting after the item relating to section 506 the following new item: ''506A. Designation of sub-Saharan African countries for certain benefits.''.

(e) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 1999.

SEC. 112. TREATMENT OF CERTAIN TEXTILES AND APPAREL.

(a) PREFERENTIAL TREATMENT.—Notwithstanding any other provision of law, textile and apparel articles described in subsection (b) (including textile luggage) imported from a beneficiary sub-Saharan African country, described in section 506A(c) of the Trade Act of 1974, shall enter the United States free of duty and free of any quantitative limitations, if—

(1) the country adopts an efficient visa system to guard against unlawful transshipment of textile and apparel goods and the use of counterfeit documents; and

(2) the country enacts legislation or promulgates regulations that would permit United States customs verification teams to have the access necessary to investigate thoroughly allegations of transshipment through such country.

(b) PRODUCTS COVERED.—The preferential treatment described in subsection (a) shall apply only to the following textile and apparel products:

(1) APPAREL ARTICLES ASSEMBLED IN BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apparel articles assembled in one or more beneficiary sub-Saharan African countries from fabrics wholly formed and cut in the United States, from yarns wholly formed in the United States that are—

(A) entered under subheading 9802.00.80 of the Harmonized Tariff Schedule of the United States; or

(B) entered under chapter 61 or 62 of the Harmonized Tariff Schedule of the United States, if, after such assembly, the articles would have qualified for entry under subheading 9802.00.80 of the Harmonized Tariff Schedule of the United States but for the fact that the articles were subjected to stone-washing, enzyme-washing, acid washing, perma-pressing, oven-baking, bleaching, garment-dyeing, or other similar processes.

(2) APPAREL ARTICLES CUT AND ASSEMBLED IN BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apprel articles cut in one or more beneficiary sub-Saharan African countries from fabric wholly formed in the United States from yarns wholly formed in the United States, if such articles are assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States.

(3) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—A handloomed, handmade, or folklore article of a beneficiary sub-Saharan African country or countries that is certified as such by the competent authority of such beneficiary country or countries. For purposes of this paragraph, the President, after consultation with the beneficiary sub-Saharan African country or countries concerned, shall determine which, if any, particular textile and apparel goods of the country (or countries) shall be treated as being handloomed, handmade, or folklore goods.

(c) PENALTIES FOR TRANSSHIPMENTS.—

(1) PENALTIES FOR EXPORTERS.—If the President determines, based on sufficient evidence, that an exporter has engaged in transshipment with respect to textile or apparel products from a beneficiary sub-Saharan African country, then the President shall deny all benefits under this section and section 506A of the Trade Act of 1974 to such exporter, any successor of such exporter, and any other entity owned or operated by the principal of the exporter for a period of 2 years.

(2) TRANSSHIPMENT DESCRIBED.—Transshipment within the meaning of this subparagraph has occurred when preferential treatment for a textile or apparel article under subsection (a) has been claimed on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of this clause, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under subsection (a).

(d) TECHNICAL ASSISTANCE.—The Customs Service shall provide technical assistance to the beneficiary sub-Saharan African countries for the implementation of the requirements set forth in subsection (a)(1) and (2).

(e) MONITORING AND REPORTS TO CONGRESS.—The Customs Service shall monitor and the Commissioner of Customs shall submit to Congress not later than March 31 of each year, a report on the effectiveness of the anti-circumvention system described in this section and on measures taken by countries in sub-Saharan Africa which export textiles or apparel to the United States to prevent circumvention as described in article 5 of the Agreement on Textiles and Clothing.

(f) SAFEGUARD.—The President shall have the authority to impose appropriate remedies, including restrictions on or the removal of quota-free and duty-free treatment provided under this section, in the event that textile and apparel articles from a beneficiary sub-Saharan African country are being imported in such increased quantities as to cause serious damage, or actual threat thereof, to the domestic industry producing like or directly competitive articles. The President shall exercise his authority under this subsection consistent with the Agreement on Textile and Clothing.

(g) DEFINITIONS.—In this section:

(1) AGREEMENT ON TEXTILES AND CLOTHING.—The term ''Agreement on Textiles and Clothing'' means the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

(2) BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY, ETC.—The terms ''beneficiary sub-Saharan African country'' and ''beneficiary sub-Saharan African countries'' have the same meaning as such terms have under section 506A(c) of the Trade Act of 1974.

(3) CUSTOMS SERVICE.—The term ''Customs Service'' means the United States Customs Service.

(h) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 1999 and shall remain in effect through September 30, 2006.

Page 23, line 12, redesignate section 114 as section 113.

Page 25, after line 8, insert the following text:

''SEC. 114. UNITED STATES-SUB-SAHARAN AFRICA FREE TRADE AREA.

''(a) IN GENERAL.—The President shall examine the feasibility of negotiating a free trade agreement (or agreements) with interested sub-Saharan African countries.

''(b) REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, the President shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the President's conclusions on the feasibility of negotiating such agreement (or agreements). If the President determines that the negotiation of any such free trade agreement is feasible, the President shall provide a detailed plan for such negotiation that outlines the objectives, timing, any potential benefits to the United States and sub-Saharan Africa, and the likely economic impact of any such agreement.''.

KERRY AMENDMENT NO. 2477

(Ordered to lie on the table.)

Mr. KERRY submitted an amendment intended to be proposed by him to the bill, H.R. 434, supra; as follows:

At the appropriate place, insert:

SEC. ___. CREDIT FOR MEDICAL RESEARCH RELATED TO DEVELOPING VACCINES AGAINST WIDESPREAD DISEASES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45D. CREDIT FOR MEDICAL RESEARCH RELATED TO DEVELOPING VACCINES AGAINST WIDESPREAD DISEASES.

''(a) GENERAL RULE.—For purposes of section 38, the vaccine research credit determined under this section for the taxable year is an amount equal to 30 percent of the qualified vaccine research expenses for the taxable year.

''(b) QUALIFIED VACCINE RESEARCH EXPENSES.—For purposes of this section—

''(1) QUALIFIED VACCINE RESEARCH EXPENSES.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualified vaccine research expenses' means the amounts which are paid or incurred by the taxpayer during the taxable year which would be described in subsection (b) of section 41 if such subsection were applied with the modifications set forth in subparagraph (B).

''(B) MODIFICATIONS.—For purposes of subparagraph (A), subsection (b) of section 41 shall be applied—

''(i) by substituting 'vaccine research' for 'qualified research' each place it appears in paragraphs (2) and (3) of such subsection, and

''(ii) by substituting '75 percent' for '65 percent' in paragraph (3)(A) of such subsection.

''(C) EXCLUSION FOR AMOUNTS FUNDED BY GRANTS, ETC.—The term 'qualified vaccine research expenses' shall not include any amount to the extent such amount is funded by any grant, contract, or otherwise by another person (or any governmental entity).

''(2) VACCINE RESEARCH.—The term 'vaccine research' means research to develop vaccines and microbicides for—

''(A) malaria,

''(B) tuberculosis, or

''(C) HIV.

''(c) COORDINATION WITH CREDIT FOR INCREASING RESEARCH EXPENDITURES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), any qualified vaccine research expenses for a taxable year to which an election under this section applies shall not be taken into account for purposes of determining the credit allowable under section 41 for such taxable year.

''(2) EXPENSES INCLUDED IN DETERMINING BASE PERIOD RESEARCH EXPENSES.—Any qualified vaccine research expenses for any taxable year which are qualified research expenses (within the meaning of section 41(b)) shall be taken into account in determining base period research expenses for purposes of applying section 41 to subsequent taxable years.

''(d) SPECIAL RULES.—

''(1) LIMITATIONS ON FOREIGN TESTING.—No credit shall be allowed under this section with respect to any vaccine research (other than human clinical testing) conducted outside the United States by any entity which is not registered with the Secretary.

''(2) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (1) and (2) of section 41(f) shall apply for purposes of this section.

''(3) ELECTION.—This section (other than subsection (e)) shall apply to any taxpayer for any taxable year only if such taxpayer elects to have this section apply for such taxable year.

''(e) SHAREHOLDER EQUITY INVESTMENT CREDIT IN LIEU OF RESEARCH CREDIT.—

''(1) IN GENERAL.—For purposes of section 38, the vaccine research credit determined under this section for the taxable year shall include an amount equal to 20 percent of the amount paid by the taxpayer to acquire qualified research stock in a corporation if—

''(A) the amount received by the corporation for such stock is used within 18 months after the amount is received to pay qualified vaccine research expenses of the corporation for which a credit would (but for subparagraph (B) and subsection (d)(3)) be determined under this section, and

''(B) the corporation waives its right to the credit determined under this section for the qualified vaccine research expenses which are paid with such amount.

''(2) QUALIFIED RESEARCH STOCK.—For purposes of paragraph (1), the term 'qualified research stock' means any stock in a C corporation—

''(A) which is originally issued after the date of the enactment of the Lifesaving Vaccine Technology Act of 1999,

''(B) which is acquired by the taxpayer at its original issue (directly or through an underwriter) in exchange for money or other property (not including stock), and

''(C) as of the date of issuance, such corporation meets the gross assets tests of subparagraphs (A) and (B) of section 1202(d)(1).

''(f) TERMINATION.—This section shall not apply to any amount paid or incurred after December 31, 2000.''

(b) INCLUSION IN GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following new paragraph:

''(13) the vaccine research credit determined under section 45D.''.

(2) TRANSITION RULE.—Section 39(d) (relating to transitional rules) is amended by adding at the end the following new paragraph:

''(9) NO CARRYBACK OF SECTION 45D CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the vaccine research credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D.''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

''(d) CREDIT FOR QUALIFIED VACCINE RESEARCH EXPENSES.—

''(1) IN GENERAL.—No deduction shall be allowed for that portion of the qualified vaccine research expenses (as defined in section 45D(b)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45D(a).

''(2) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (2), (3), and (4) of subsection (c) shall apply for purposes of this subsection.''.

(d) DEDUCTION FOR UNUSED PORTION OF CREDIT.—Section 196(c) (defining qualified business credits) is amended by striking ''and'' at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting '', and'', and by adding at the end the following new paragraph:

''(9) the vaccine research credit determined under section 45D(a) (other than such credit determined under the rules of section 280C(d)(2)).''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45D. Credit for medical research related to developing vaccines against widespread diseases.''.

(f) EFFECTIVE DATE.—Except as provided in subsection (k), the amendments made by this section shall apply to amounts paid or incurred after December 31, 1999, in taxable years ending after such date.

(g) DISTRIBUTION OF VACCINES DEVELOPED USING CREDIT.—It is the sense of Congress that if a tax credit is allowed under section 45D of the Internal Revenue Code of 1986 (as added by subsection (a)) to any corporation or shareholder of a corporation by reason of vaccine research expenses incurred by the corporation in the development of a vaccine, such corporation should certify to the Secretary of the Treasury that, within 1 year after that vaccine is first licensed, such corporation will establish a good faith plan to maximize international access to high quality and affordable vaccines.

(h) STUDY.—The Secretary of the Treasury, in consultation with the Institute of Medicine, shall conduct a study of the effectiveness of the credit under section 45D of the Internal Revenue Code of 1986 (as so added) in stimulating vaccine research. Not later than the date which is 4 years after the date of the enactment of this Act, the Secretary shall submit to the Congress the results of such study together with any recommendations the Secretary may have to improve the effectiveness of such credit in stimulating vaccine research.

(i) ACCELERATION OF INTRODUCTION OF PRIORITY VACCINES.—It is the sense of Congress that the President and Federal agencies (including the Department of State, the Department of Health and Human Services, and the Department of the Treasury) should work together in vigorous support of the creation and funding of a multi-lateral, international effort, such as a vaccine purchase fund, to accelerate the introduction of vaccines to which the tax credit under section 45D of the Internal Revenue Code of 1986 (as so added) applies and of other priority vaccines into the poorest countries in the world.

(j) FLEXIBLE PRICING.—It is the sense of Congress that flexible or differential pricing for vaccines, providing lowered prices for the poorest countries, is one of several valid strategies to accelerate the introduction of vaccines in developing countries.

(k) EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.—

(1) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7527. INTERNAL REVENUE SERVICE USER FEES.

''(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

''(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

''(2) other similar requests.

''(b) PROGRAM CRITERIA.—

''(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

''(A) shall vary according to categories (or subcategories) established by the Secretary,

''(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

''(C) shall be payable in advance.

''(2) EXEMPTIONS, ETC.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

''(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

''Category:	Average Fee:
Employee plan ruling and opinion ..	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination.	$275
Chief counsel ruling	$200.

''(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2009.''.

(2) CONFORMING AMENDMENTS.—

(A) The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7527. Internal Revenue Service user fees.''.

(B) Section 10511 of the Revenue Act of 1987 is repealed.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to requests made after the date of the enactment of this Act.

BANKRUPTCY REFORM ACT OF 1999

THURMOND AMENDMENT NO. 2478

(Ordered to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill (S. 625) to amend title 11, United States Code, and for other purposes, as follows:

On page 124, insert between lines 14 and 15 the following:

SEC. 322. EXCLUSIVE JURISDICTION IN MATTERS INVOLVING BANKRUPTCY PROFESSIONALS.

Section 1334 of title 28, United States Code, is amended—

(1) in subsection (b) by striking ''Notwithstanding'' and inserting ''Except as provided in subsection (e)(2), and notwithstanding''; and

(2) amending subsection (e) to read as follows:

''(e) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction—

''(1) of all the property, wherever located, of the debtor as of the commencement of such case, and of property of the estate; and

''(2) over all matters relating to that case concerning the employment and compensation of professional persons arising out of or related to their employment and performance or nonperformance of the duties undertaken in connection with their employment.''.

AFRICAN GROWTH AND OPPORTUNITY ACT

BINGAMAN AMENDMENT NO. 2479

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment to amendment No. 2325 proposed by Senator ROTH, to the bill, H.R. 434, supra; as follows:

At the appropriate place, insert the following new section:

SEC. ___. REPORT.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this section, the Comptroller General of the United States shall submit a report to Congress regarding the efficiency and effectiveness of Federal and State coordination of unemployment and retraining activities associated with the following programs and legislation:

(1) trade adjustment assistance (including NAFTA trade adjustment assistance) provided for under title II of the Trade Act of 1974;

(2) the Job Training Partnership Act;

(3) the Workforce Investment Act; and

(4) unemployment insurance.

(b) PERIOD COVERED.—The report shall cover the activities involved in the programs and legislation listed in subsection (a) from January 1, 1994 to December 31, 1999.

(c) DATA AND RECOMMENDATIONS.—The report shall at a minimum include specific data and recommendations regarding—

(1) the compatibility of program requirements related to the employment and retraining of dislocated workers in the United States, with particular emphasis on the trade adjustment assistance programs provided for under title II of the Trade Act of 1974;

(2) the compatibility of application procedures related to the employment and retraining of dislocated workers in the United States;

(3) the capacity of these programs to assist workers negatively impacted by foreign trade and the transfer of production to other countries, measured in terms of employment and wages;

(4) the capacity of these programs to assist secondary workers negatively impacted by foreign trade and the transfer of production to other countries, measured in terms of employment and wages;

(5) how the impact of foreign trade and the transfer of production to other countries would have changed the number of beneficiaries covered under the trade adjustment assistance program if the trade adjustment assistance program covered secondary workers in the United States; and

(6) the effectiveness of the programs described in subsection (a) in achieving reemployment of United States workers and maintaining wage levels of United States workers who have been dislocated as a result of foreign trade and the transfer of production to other countries.

NICKLES AMENDMENT NO. 2480

(Ordered to lie on the table.)

Mr. NICKLES submitted an amendment to the bill, H.R. 434, supra; as follows:

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

SEC . APPLICATION OF DENIAL OF FOREIGN TAX CREDIT REGARDING TRADE AND INVESTMENT WITH RESPECT TO CERTAIN FOREIGN COUNTRIES.

(a) IN GENERAL.—Section 901(j) of the Internal Revenue Code of 1986 (relating to denial of foreign tax credit, etc., regarding trade and investment with respect to certain foreign countries) is amended by adding at the end the following new paragraph:

''(5) WAIVER OF DENIAL.—

''(A) IN GENERAL.—Paragraph (1) shall not apply with respect to taxes paid or accrued to a country if the President—

''(i) determines that a waiver of the application of such paragraph is in the national interest of the United States and will expand trade and investment opportunities for U.S. companies in such country, and

''(ii) reports such waiver under subparagraph (B).

''(B) REPORT.—Not less than 30 days before the date on which a waiver is granted under this paragraph, the President shall report to Congress—

''(i) the intention to grant such waiver, and

''(ii) the reason for the determination under subparagraph (A)(i).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply on or after February 1, 2001.

HOLLINGS AMENDMENTS NOS. 2481–2482

(Ordered to lie on the table.)

Mr. HOLLINGS submitted two amendments intended to be proposed by him to the bill, H.R. 434, supra; as follows:

AMENDMENT NO. 2481

At the appropriate place, insert the following:

SEC. . LABOR AGREEMENT REQUIRED.

The benefits provided by the amendments made by this Act shall not become available to any country until—

(1) the President has negotiated with that country a side agreement concerning labor standards, similar to the North American Agreement on Labor Cooperation (as defined in section 532(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 3471(b)(2)); and

(2) submitted that agreement to the Congress.

AMENDMENT NO. 2482

Strike all after the first word and insert the following:

SEC. . LABOR AGREEMENT REQUIRED.

The benefits provided by the amendments made by this Act shall not become available to any country until—

(1) the President has negotiated with that country a side agreement concerning labor standards, similar to the North American Agreement on Labor Cooperation (as defined in section 532(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 3471(b)(2)); and

(2) submitted that agreement to the Congress.

HOLLINGS AMENDMENT NO. 2483

Mr. HOLLINGS proposed an amendment to the bill, H.R. 434, supra; as follows:

At the appropriate place, insert the following:

SEC. . ENVIRONMENTAL AGREEMENT REQUIRED.

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated with that country a side agreement concerning the environment, similar to the North American Agreement on Environmental Cooperation, and submitted that agreement to the Congress.

HOLLINGS AMENDMENT NO. 2484

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill, H.R. 434, supra; as follows:

Strike all after the first word and insert the following:

SEC. . ENVIRONMENTAL AGREEMENT REQUIRED.

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated with that country a side agreement concerning the environment, similar to the North American Agreement on Environmental Cooperation, and submitted that agreement to the Congress.

HOLLINGS AMENDMENT NO. 2485

Mr. HOLLINGS proposed an amendment to the bill, H.R. 434, supra; as follows:

At the appropriate place, insert the following:

SEC. . RECIPROCAL TRADE AGREEMENTS REQUIRED.

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated, obtained, and implemented an agreement with the country providing tariff concessions for the importation of United States-made goods that reduce any such import tariffs to rates identical to the tariff rates applied by the United States to that country.

HOLLINGS AMENDMENT NO. 2486

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill, H.R. 434, supra; as follows:

Strike all after the first word and insert the following:

SEC. . RECIPROCAL TRADE AGREEMENTS REQUIRED.

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated, obtained, and implemented an agreement with the country providing tariff concessions for the importation of United States-made goods that reduce any such import tariffs to rates identical to the tariff rates applied by the United States to that country.

WELLSTONE AMENDMENT NO. 2487

(Ordered to lie on the table.)

Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill, H.R. 434, supra; as follows:

At the appropriate place, add the following:

SEC. . ENCOURAGING TRADE AND INVESTMENT MUTUALLY BENEFICIAL TO BOTH THE UNITED STATES AND CARIBBEAN COUNTRIES.

(a) CONDITIONING OF TRADE BENEFITS ON COMPLIANCE WITH INTERNATIONALLY RECOGNIZED LABOR RIGHTS.—None of the benefits provided to beneficiary countries under the CBTEA shall be made available before the Secretary of Labor has made a determination pursuant to paragraph (b) of the following:

(1) The beneficiary country does not engage in significant violations of internationally recognized human rights and the Secretary of State agrees with this determination; and

(2)(A) The beneficiary country is providing for effective enforcement of internationally recognized worker rights throughout the country (including in export processing zones) as determined under paragraph (b), including the core labor standards enumerated in the appropriate treaties of the International Labor Organization, and including—

(i) the right of association;
(ii) the right to organize and bargain collectively;
(iii) a prohibition on the use of any form of coerced or compulsory labor;
(iv) the international minimum age for the employment of children (age 15); and
(v) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(B) The government of the beneficiary country ensures that the Secretary of Labor, the head of the national labor agency of the government of that country, and the head of the Interamerican Regional Organization of Workers (ORIT) each has access to all appropriate records and other information of all business enterprises in the country.

(b) DETERMINATION OF COMPLIANCE WITH INTERNATIONALLY RECOGNIZED WORKER RIGHTS:—

(1) DETERMINATION—

(A) IN GENERAL.—For purposes of carrying out paragraph (a)(2), the Secretary of Labor, in consultation with the individuals described in clause (B) and pursuant to the procedures described in clause (C), shall determine whether or not each beneficiary country is providing for effective enforcement of internationally recognized worker rights throughout the country (including in export processing zones).

(B) INDIVIDUALS DESCRIBED.—The individuals described in this clause are the head of the national labor agency of the government of the beneficiary country in question and the head of the Inter-American Regional Organization of Workers (ORIT).

(C) PUBLIC COMMENT.—Not later tan 90 days before the Secretary of Labor makes a determination that a country is in compliance with the requirements of paragraph (a)(2), the Secretary shall publish notice in the Federal Register and an opportunity for public comment. The Secretary shall take into consideration the comments received in making a determination under such paragraph (a)(2).

(2) CONTINUING COMPLIANCE.—In the case of a country for which the Secretary of Labor has made an initial determination under subparagraph (1) that the country is in compliance with the requirements of paragraph (a)(2), the Secretary, in consultation with the individuals described in subparagraph (1), shall, not less than once every 3 years thereafter, conduct a review and make a determination with respect to that country to ensure continuing compliance with the requirements of paragraph (a)(2). The Secretary shall submit the determination to Congress.

(3) REPORT.—Not later than 6 months after the date of enactment of this Act, and on an annual basis thereafter, the Secretary of Labor shall prepare and submit to Congress a report containing—

(A) a description of each determination made under this paragraph during the preceding year;

(B) a description of the position taken by each of the individuals described in subparagraph (1)(B) with respect to each such determination; and

(C) a report on the public comments received pursuant to subparagraph (1)(C).

(c) ADDITIONAL ENFORCEMENT.—A citizen of the United States shall have a cause of action in the United States district court in the district in which the citizen resides or in any other appropriate district to seek compliance with the standards set forth under this section with respect to any CBTEA beneficiary country, including a cause of action in an appropriate United States district court for other appropriate equitable relief. In addition to any other relief sought in such an action, a citizen may seek the value of any damages caused by the failure of a country or company to comply.

ASHCROFT (AND OTHERS) AMENDMENT NO. 2488

(Ordered to lie on the table.)

Mr. ASHCROFT (for himself, Mr. DASCHLE, Mr. BAUCUS, Mr. BURNS, Mr. BROWNBACK, Mr. GRASSLEY, Mr. INHOFE, Mr. HARKIN, Mr. ROBB, Mr. CRAIG, Mr. DORGAN, Mr. LUGAR, Mr. HELMS, Mr. DURBIN, Mr. INOUYE, Mr. CONRAD, Mr. WYDEN, Mr. GORTON, Mr. THOMAS, Ms. COLLINS, Mr. ROBERTS, Mr. BINGAMAN, Mr. MCCONNELL, Mr. JOHNSON, Mr. FITZGERALD, Mr. GRAMS, Mr. ALLARD, Mr. HUTCHINSON, Mr. BOND, Mr. ENZI, and Mr. CRAPO) submitted an amendment intended to be proposed by them to the bill, H.R. 434, as follows:

At the appropriate place, add the following:

SEC. . CHIEF AGRICULTURAL NEGOTIATOR.

(a) ESTABLISHMENT OF A POSITION.—There is established the position of Chief Agricultural Negotiator in the Office of the United States Trade Representative. The Chief Agricultural Negotiator shall be appointed by the President, with the rank of Ambassador, by and with the advice and consent of the Senate.

(b) FUNCTIONS.—The primary function of the Chief Agricultural Negotiator shall be to conduct trade negotiations and to enforce trade agreements relating to U.S. agricultural products and services. The Chief Agricultural Negotiator shall be a vigorous advocate on behalf of U.S. agricultural interests. The Chief Agricultural Negotiator shall perform such other functions as the United States Trade Representative may direct.

(c) COMPENSATION.—The Chief Agricultural Negotiator shall be paid at the highest rate of basic pay payable to a member of the Senior Executive Service.

SANTORUM AMENDMENT NO. 2489

(Ordered to lie on the table.)

Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill, H.R. 434, supra; as follows:

On page 22, between lines 5 and 6, insert the following new section:

SEC. 116. STUDY ON IMPROVING AFRICAN AGRICULTURAL PRACTICES.

(a) IN GENERAL.—The United States Department of Agriculture, in consultation with American Land Grant Colleges and Universities and not-for-profit international organizations, is authorized to conduct a two-year study on ways to improve the flow of American farming techniques and practices to African farmers. The study conducted by the Department of Agriculture shall include an examination of ways of improving or utilizing—

(1) knowledge of insect and sanitation procedures;

(2) modern farming and soil conservation techniques;

(3) modern farming equipment (including maintaining the equipment);

(4) marketing crop yields to prospective purchasers; and

(5) crop maximization practices.

The study shall be submitted to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives not later than September 30, 2001.

(b) LAND GRANT COLLEGES AND NOT-FOR-PROFIT INSTITUTIONS.—The Department of Agriculture is encouraged to consult with American Land Grant Colleges and not-for-profit international organizations that have firsthand knowledge of current African farming practices.

(c) AUTHORIZATION OF FUNDING.—There is authorized to be appropriated $2,000,000 to conduct the study described in subsection (a).

GRAMM (AND OTHERS) AMENDMENT NO. 2490

(Ordered to lie on the table.)

Mr. GRAMM (for himself, Mr. ENZI, and Mr. JOHNSON) submitted an amendment intended to be proposed by them to the bill, H.R. 434, supra; as follows:

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Export Administration Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
TITLE I—GENERAL AUTHORITY
Sec. 101. Commerce Control List.
Sec. 102. Delegation of authority.
Sec. 103. Public information; consultation requirements.
Sec. 104. Right of export.
Sec. 105. Export control advisory committees.
Sec. 106. Prohibition on charging fees.
TITLE II—NATIONAL SECURITY EXPORT CONTROLS
Subtitle A—Authority and Procedures
Sec. 201. Authority for national security export controls.
Sec. 202. National Security Control List.
Sec. 203. Country tiers.
Sec. 204. Incorporated parts and components.
Sec. 205. Petition process for modifying export status.
Subtitle B—Foreign Availability and Mass-Market Status
Sec. 211. Determination of foreign availability and mass-market status.
Sec. 212. Presidential set-aside of foreign availability determination.
Sec. 213. Presidential set-aside of mass-market status determination.
Sec. 214. Office of Technology Evaluation.
TITLE III—FOREIGN POLICY EXPORT CONTROLS
Sec. 301. Authority for foreign policy export controls.
Sec. 302. Procedures for imposing controls.
Sec. 303. Criteria for foreign policy export controls.
Sec. 304. Presidential report before imposition of control.
Sec. 305. Imposition of controls.
Sec. 306. Deferral authority.
Sec. 307. Review, renewal, and termination.
Sec. 308. Termination of controls under this title.
Sec. 309. Compliance with international obligations.
Sec. 310. Designation of countries supporting international terrorism.
TITLE IV—EXEMPTION FOR AGRICULTURAL COMMODITIES, MEDICINE, AND MEDICAL SUPPLIES
Sec. 401. Exemption for agricultural commodities, medicine, and medical supplies.
Sec. 402. Termination of export controls required by law.
Sec. 403. Exclusions.
TITLE V—PROCEDURES FOR EXPORT LICENSES AND INTERAGENCY DISPUTE RESOLUTION
Sec. 501. Export license procedures.

Sec. 502. Interagency dispute resolution process.
TITLE VI—INTERNATIONAL ARRANGEMENTS; FOREIGN BOYCOTTS; SANCTIONS; AND ENFORCEMENT
Sec. 601. International arrangements.
Sec. 602. Foreign boycotts.
Sec. 603. Penalties.
Sec. 604. Multilateral export control regime violation sanctions.
Sec. 605. Missile proliferation control violations.
Sec. 606. Chemical and biological weapons proliferation sanctions.
Sec. 607. Enforcement.
Sec. 608. Administrative procedure.
TITLE VII—EXPORT CONTROL AUTHORITY AND REGULATIONS
Sec. 701. Export control authority and regulations.
Sec. 702. Confidentiality of information.
TITLE VIII—MISCELLANEOUS PROVISIONS
Sec. 801. Annual and periodic reports.
Sec. 802. Technical and conforming amendments.
Sec. 803. Savings provisions.

SEC. 2. DEFINITIONS.

In this Act:

(1) AFFILIATE.—The term ''affiliate'' includes both governmental entities and commercial entities that are controlled in fact by the government of a country.

(2) AGRICULTURE COMMODITY.—The term ''agriculture commodity'' means any agricultural commodity, food, fiber, or livestock (including livestock, as defined in section 602(2) of the Emergency Livestock Feed Assistance Act of 1988 (title VI of the Agricultural Act of 1949 (7 U.S.C. 1471(2))), and including insects), and any product thereof.

(3) CONTROL OR CONTROLLED.—The terms ''control'' and ''controlled'' mean any requirement, condition, authorization, or prohibition on the export or reexport of an item.

(4) CONTROL LIST.—The term ''Control List'' means the Commerce Control List established under section 101.

(5) CONTROLLED COUNTRY.—The term ''controlled country'' means a country with respect to which exports are controlled under section 201 or 301.

(6) CONTROLLED ITEM.—The term ''controlled item'' means an item the export of which is controlled under this Act.

(7) COUNTRY.—The term ''country'' means a sovereign country or an autonomous customs territory.

(8) COUNTRY SUPPORTING INTERNATIONAL TERRORISM.—The term ''country supporting international terrorism'' means a country designated by the Secretary of State pursuant to section 310.

(9) DEPARTMENT.—The term ''Department'' means the Department of Commerce.

(10) EXPORT.—

(A) The term ''export'' means—

(i) an actual shipment, transfer, or transmission of an item out of the United States;

(ii) a transfer to any person of an item either within the United States or outside of the United States with the knowledge or intent that the item will be shipped, transferred, or transmitted to an unauthorized recipient outside the United States; and

(iii) a transfer of an item in the United States to an embassy or affiliate of a country, which shall be considered an export to that country.

(B) The term includes a reexport.

(11) FOREIGN AVAILABILITY STATUS.—The term ''foreign availability status'' means the status described in section 211(d)(1).

(12) FOREIGN PERSON.—The term ''foreign person'' means—

(A) an individual who is not—

(i) a United States citizen;

(ii) an alien lawfully admitted for permanent residence to the United States; or

(iii) a protected individual as defined in section 274B(a)(3) of the Immigration and Nationality Act. (8 U.S.C. 1324b(a)(3));

(B) any corporation, partnership, business association, society, trust, organization, or other nongovernmental entity created or organized under the laws of a foreign country or that has its principal place of business outside the United States; and

(C) any governmental entity of a foreign country.

(13) ITEM.—

(A) IN GENERAL.—The term ''item'' means any good, service, or technology.

(B) OTHER DEFINITIONS.—In this paragraph:

(i) GOOD.—The term ''good'' means any article, natural or manmade substance, material, supply or manufactured product, including inspection and test equipment, including source code, and excluding technical data.

(ii) TECHNOLOGY.—The term ''technology'' means specific information that is necessary for the development, production, or use of an item, and takes the form of technical data or technical assistance.

(iii) SERVICE.—The term ''service'' means any act of assistance, help or aid.

(14) MASS-MARKET STATUS.—The term ''mass-market status'' means the status described in section 211(d)(2).

(15) MULTILATERAL EXPORT CONTROL REGIME.—The term ''multilateral export control regime'' means an international agreement or arrangement among two or more countries, including the United States, a purpose of which is to coordinate national export control policies of its members regarding certain items. The term includes regimes such as the Australia Group, the Wassenaar Arrangement, the Missile Technology Control Regime (MTCR), and the Nuclear Suppliers' Group Dual Use Arrangement.

(16) NATIONAL SECURITY CONTROL LIST.—The term ''National Security Control List'' means the list established under section 202(a).

(17) PERSON.—The term ''person'' includes—

(A) any individual, or partnership, corporation, business association, society, trust, organization, or any other group created or organized under the laws of a country; and

(B) any government, or any governmental entity.

(18) REEXPORT.—The term ''reexport'' means the shipment, transfer, transshipment, or diversion of items from one foreign country to another.

(19) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

(20) UNITED STATES.—The term ''United States'' means the States of the United States, the District of Columbia, and any commonwealth, territory, dependency, or possession of the United States, and includes the outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a)).

(21) UNITED STATES PERSON.—The term ''United States person'' means—

(A) any United States citizen, resident, or national (other than an individual resident outside the United States who is employed by a person other than a United States person);

(B) any domestic concern (including any permanent domestic establishment of any foreign concern); and

(C) any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations prescribed by the President.

TITLE I—GENERAL AUTHORITY

SEC. 101. COMMERCE CONTROL LIST.

(a) IN GENERAL.—Under such conditions as the Secretary may impose, consistent with the provisions of this Act, the Secretary—

(1) shall establish and maintain a Commerce Control List (in this Act referred to as the ''Control List'') consisting of items the export of which are subject to licensing or other authorization or requirement; and

(2) may require any type of license, or other authorization, including recordkeeping and reporting, appropriate to the effective and efficient implementation of this Act with respect to the export of an item on the Control List.

(b) TYPES OF LICENSE OR OTHER AUTHORIZATION.—The types of license or other authorization referred to in subsection (a)(2) include the following:

(1) SPECIFIC EXPORTS.—A license that authorizes a specific export.

(2) MULTIPLE EXPORTS.—A license that authorizes multiple exports in lieu of a license for each such export.

(3) NOTIFICATION IN LIEU OF LICENSE.— A notification in lieu of a license that authorizes a specific export or multiple exports subject to the condition that the exporter file with the Department advance notification of the intent to export in accordance with regulations prescribed by the Secretary.

(4) LICENSE EXCEPTION.—Authority to export an item on the Control List without prior license or notification in lieu of a license.

(c) AFTER-MARKET SERVICE AND REPLACEMENT PARTS.—A license or other authorization to export an item under this Act shall not be required for an exporter to provide after-market service or replacement parts, to replace on a one-for-one basis parts that were in an item that was lawfully exported from the United States, unless—

(1) the Secretary determines that such license or other authorization is required to export such parts; or

(2) the after-market service or replacement parts materially enhance the capability of an item which was the basis for the item being controlled.

(d) INCIDENTAL TECHNOLOGY.—A license or other authorization to export an item under this Act includes authorization to export technology related to the item, if the level of the technology does not exceed the minimum necessary to install, repair, maintain, inspect, operate, or use the item.

(e) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to carry out the provisions of this Act.

SEC. 102. DELEGATION OF AUTHORITY.

(a) IN GENERAL.—Except as provided in subsection (b) and subject to the provisions of this Act, the President may delegate the power, authority, and discretion conferred upon the President by this Act to such departments, agencies, and officials of the Government as the President considers appropriate.

(b) EXCEPTIONS.—

(1) DELEGATION TO APPOINTEES CONFIRMED BY SENATE.—No authority delegated to the President under this Act may be delegated by the President to, or exercised by, any official of any department or agency the head of which is not appointed by the President, by and with the advice and consent of the Senate.

(2) OTHER LIMITATIONS.—The President may not delegate or transfer the President's power, authority, or discretion to overrule or modify any recommendation or decision made by the Secretary, the Secretary of Defense, or the Secretary of State under this Act.

SEC. 103. PUBLIC INFORMATION; CONSULTATION REQUIREMENTS.

(a) PUBLIC INFORMATION.—The Secretary shall keep the public fully informed of changes in export control policy and procedures instituted in conformity with this Act.

(b) CONSULTATION WITH PERSONS AFFECTED.—The Secretary shall consult regularly with representatives of a broad spectrum of enterprises, labor organizations, and citizens interested in or affected by export controls in order to obtain their views on United States export control policy and the foreign availability or mass-market status of controlled items.

SEC. 104. RIGHT OF EXPORT.

No license or other authorization to export may be required under this Act, or under regulations issued under this Act, except to carry out the provisions of this Act.

SEC. 105. EXPORT CONTROL ADVISORY COMMITTEES.

(a) APPOINTMENT.—Upon the Secretary's own initiative or upon the written request of representatives of a substantial segment of any industry which produces any items subject to export controls under this Act or under the International Emergency Economic Powers Act, or being considered for such controls, the Secretary may appoint export control advisory committees with respect to any such items. Each such committee shall consist of representatives of United States industry and Government, including the Department of Commerce and other appropriate departments and agencies of the Government. The Secretary shall permit the widest possible participation by the business community on the export control advisory committees.

(b) FUNCTIONS.—

(1) IN GENERAL.—Export control advisory committees appointed under subsection (a) shall advise and assist the Secretary, and any other department, agency, or official of the Government carrying out functions under this Act, on actions (including all aspects of controls imposed or proposed) designed to carry out the provisions of this Act concerning the items with respect to which such export control advisory committees were appointed.

(2) OTHER CONSULTATIONS.—Nothing in paragraph (1) shall prevent the United States Government from consulting, at any time, with any person representing an industry or the general public, regardless of whether such person is a member of an export control advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary, to present evidence to such committees.

(c) REIMBURSEMENT OF EXPENSES.—Upon the request of any member of any export control advisory committee appointed under subsection (a), the Secretary may, if the Secretary determines it to be appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by such member in connection with the duties of such member.

(d) CHAIRPERSON.—Each export control advisory committee appointed under subsection (a) shall elect a chairperson, and shall meet at least every 3 months at the call of the chairperson, unless the chairperson determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this section. Each such committee shall be terminated after a period of 2 years, unless extended by the Secretary for additional periods of 2 years each. The Secretary shall consult with each such committee on such termination or extension of that committee.

(e) ACCESS TO INFORMATION.—To facilitate the work of the export control advisory committees appointed under subsection (a), the Secretary, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security, pertaining to the reasons for the export controls which are in effect or contemplated for the items or policies for which that committee furnishes advice. Information provided by the export control advisory committees shall not be subject to disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary determines that the withholding thereof is contrary to the national interest.

SEC. 106. PROHIBITION ON CHARGING FEES.

No fee may be charged in connection with the submission or processing of an application for an export license under this Act.

TITLE II—NATIONAL SECURITY EXPORT CONTROLS

Subtitle A—Authority and Procedures

SEC. 201. AUTHORITY FOR NATIONAL SECURITY EXPORT CONTROLS.

(a) AUTHORITY.—

(1) IN GENERAL.—In order to carry out the purposes set forth in subsection (b), the President may, in accordance with the provisions of this Act, prohibit, curtail, or require a license, or other authorization for the export of any item subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. The President may also require recordkeeping and reporting with respect to the export of such item.

(2) EXERCISE OF AUTHORITY.—The authority contained in this subsection shall be exercised by the Secretary, in consultation with the Secretary of Defense, the intelligence agencies, and such other departments and agencies as the Secretary considers appropriate.

(b) PURPOSES.—The purposes of national security export controls are the following:

(1) To restrict the export of items that would contribute to the military potential of countries so as to prove detrimental to the national security of the United States or its allies.

(2) To stem the proliferation of weapons of mass destruction, and the means to deliver them, and other significant military capabilities by—

(A) leading international efforts to control the proliferation of chemical and biological weapons, nuclear explosive devices, missile delivery systems, key-enabling technologies, and other significant military capabilities;

(B) controlling involvement of United States persons in, and contributions by United States persons to, foreign programs intended to develop weapons of mass destruction, missiles, and other significant military capabilities, and the means to design, test, develop, produce, stockpile, or use them; and

(C) implementing international treaties or other agreements or arrangements concerning controls on exports of designated items, reports on the production, processing, consumption, and exports and imports of such items, and compliance with verification programs.

(3) To deter acts of international terrorism.

(c) END USE AND END USER CONTROLS.—Notwithstanding any other provision of this title, controls may be imposed, based on the end use or end user, on the export of any item, that could materially contribute to the proliferation of weapons of mass destruction or the means to deliver them.

SEC. 202. NATIONAL SECURITY CONTROL LIST.

(a) ESTABLISHMENT OF LIST.—

(1) ESTABLISHMENT.—The Secretary shall establish and maintain a National Security Control List as part of the Control List.

(2) CONTENTS.—The National Security Control List shall be composed of a list of items the export of which is controlled for national security purposes under this title.

(3) IDENTIFICATION OF ITEMS FOR NATIONAL SECURITY CONTROL LIST.—The Secretary, with the concurrence of the Secretary of Defense and in consultation with the head of any other department or agency of the United States that the Secretary considers appropriate, shall identify the items to be included on the National Security Control List.

(b) RISK ASSESSMENT.—

(1) REQUIREMENT.—The Secretary shall, in establishing and maintaining the National Security Control List, balance the national security risks of not controlling the export of an item against the economic costs of controlling the item, taking into consideration the risk factors set forth in paragraph (2).

(2) RISK FACTORS.—The risk factors referred to in paragraph (1), with respect to each item, are as follows:

(A) The characteristics of the item.

(B) The threat, if any, to the United States or the national security interest of the United States from the misuse or diversion of such item.

(C) The controllability of the item.

(D) Any other risk factor the Secretary deems appropriate to consider.

SEC. 203. COUNTRY TIERS.

(a) IN GENERAL.—

(1) ESTABLISHMENT AND ASSIGNMENT.—In administering export controls for national security purposes under this title, the President shall, not later than 120 days after the date of enactment of this Act—

(A) establish and maintain a country tiering system in accordance with subsection (b); and

(B) based on the assessments required under subsection (c), assign each country to a tier for each item or group of items the export of which is controlled for national security purposes under this title.

(2) CONSULTATION.—The establishment and assignment of country tiers under this section shall be made after consultation with the Secretary, the Secretary of Defense, the Secretary of State, the intelligence agencies, and such other departments and agencies as the President considers appropriate.

(3) REDETERMINATION AND REVIEW OF ASSIGNMENTS.—The President may redetermine the assignment of a country to a particular tier at any time and shall review and, as the President considers appropriate, reassign country tiers on an on-going basis.

(4) EFFECTIVE DATE OF TIER ASSIGNMENT.—An assignment of a country to a particular tier shall take effect on the date on which notice of the assignment is published in the Federal Register.

(b) TIERS.—

(1) IN GENERAL.—The President shall establish a country tiering system consisting of 5 tiers for purposes of this section, ranging from tier 1 through tier 5.

(2) RANGE.—Countries that represent the lowest risk of diversion or misuse of an item on the National Security Control List shall be assigned to tier 1. Countries that represent the highest risk of diversion or misuse of an item on the National Security Control List shall be assigned to tier 5.

(3) OTHER COUNTRIES.—Countries that fall between the lowest and highest risk to the national security interest of the United States with respect to the risk of diversion or misuse of an item on the National Security Control List shall be assigned to tier 2, 3, or 4, respectively, based on the assessments required under subsection (c).

(c) ASSESSMENTS.—The President shall make an assessment of each country in assigning a country tier taking into consideration the following risk factors:

(1) The present and potential relationship of the country with the United States.

(2) The present and potential relationship of the country with countries friendly to the United States and with countries hostile to the United States.

(3) The country's capabilities regarding chemical, biological, and nuclear weapons and the country's membership in, and level of compliance with, relevant multilateral export control regimes.

(4) The country's position regarding missile systems and the country's membership in, and level of compliance with, relevant multilateral export control regimes.

(5) The country's other military capabilities and the potential threat posed by the country to the United States or its allies.

(6) The effectiveness of the country's export control system.

(7) The level of the country's cooperation with United States export control enforcement and other efforts.

(8) The risk of export diversion by the country to a higher tier country.

(9) The designation of the country as a country supporting international terrorism under section 310.

SEC. 204. INCORPORATED PARTS AND COMPONENTS.

(a) EXPORT OF ITEMS CONTAINING CONTROLLED PARTS AND COMPONENTS.—Controls may not be imposed under this title or any other provision of law on an item solely because the item contains parts or components subject to export controls under this title, if the parts or components—

(1) are essential to the functioning of the item,

(2) are customarily included in sales of the item in countries other than controlled countries, and

(3) comprise 25 percent or less of the total value of the item,

unless the item itself, if exported, would by virtue of the functional characteristics of the item as a whole make a significant contribution to the military or proliferation potential of a controlled country or end user which would prove detrimental to the national security of the United States.

(b) REEXPORTS OF FOREIGN-MADE ITEMS INCORPORATING UNITED STATES CONTROLLED CONTENT.—

(1) IN GENERAL.—No authority or permission may be required under this title to reexport to a country (other than a country designated as a country supporting international terrorism pursuant to section 310) an item that is produced in a country other than the United States and incorporates parts or components that are subject to the jurisdiction of the United States, if the value of the controlled United States content of the item produced in such other country is 25 percent or less of the total value of the item.

(2) REEXPORT TO CERTAIN TERRORIST COUNTRIES.—No authority or permission may be required under this title to reexport to a country designated as a country supporting international terrorism pursuant to section 310 an item that is produced in a country other than the United States and incorporates parts or components that are subject to the jurisdiction of the United States, if the value of the controlled United States content of the item produced in such other country is 10 percent or less of the total value of the item.

(3) DEFINITION OF CONTROLLED UNITED STATES CONTENT.—For purposes of this paragraph, the term ''controlled United States content'' of an item means those parts or components that—

(A) are subject to the jurisdiction of the United States;

(B) are incorporated into the item; and

(C) would, at the time of the reexport, require a license under this title if exported from the United States to a country to which the item is to be reexported.

SEC. 205. PETITION PROCESS FOR MODIFYING EXPORT STATUS.

(a) ESTABLISHMENT.—The Secretary shall establish a process for interested persons to petition the Secretary to change the status of an item on the National Security Control List.

(b) EVALUATIONS AND DETERMINATIONS.—Evaluations and determinations with respect to a petition filed pursuant to this section shall be made in accordance with the procedures set forth in section 202.

Subtitle B—Foreign Availability and Mass-Market Status

SEC. 211. DETERMINATION OF FOREIGN AVAILABILITY AND MASS-MARKET STATUS.

(a) IN GENERAL.—The Secretary shall—

(1) on a continuing basis,

(2) upon a request from the Office of Technology Evaluation, or

(3) upon receipt of a petition filed by an interested party,

review and determine the foreign availability and the mass-market status of any item the export of which is controlled under this title.

(b) PETITION AND CONSULTATION.—The Secretary shall establish a process for an interested party to petition the Secretary for a determination that an item has a foreign availability or mass-market status. In evaluating and making a determination with respect to a petition filed under this section, the Secretary shall consult with the Secretary of Defense and other appropriate Government agencies and with the Office of Technology Evaluation (established pursuant to section 214).

(c) RESULT OF DETERMINATION.—

(1) IN GENERAL.—In any case in which the Secretary determines, in accordance with procedures and criteria which the Secretary shall by regulation establish, that an item described in subsection (a) has—

(A) a foreign availability status, or

(B) a mass-market status,

the Secretary shall notify the President (and other appropriate departments and agencies) and publish the notice of the determination in the Federal Register. The Secretary's determination shall become final 30 days after the date the notice is published, the item shall be removed from the National Security Control List, and a license or other authorization shall not be required under this title or under section 1211 of the National Defense Authorization Act of Fiscal Year 1998 with respect to the item, unless the President makes a determination described in section 212 or 213 with respect to the item in that 30-day period.

(2) CONFORMING AMENDMENT.—Section 1211(d) of the National Defense Authorization Act for Fiscal Year 1998 is amended in the second sentence by striking ''180'' and inserting ''60''.

(d) CRITERIA FOR DETERMINING FOREIGN AVAILABILITY AND MASS-MARKET STATUS.—

(1) FOREIGN AVAILABILITY STATUS.—The Secretary shall determine that an item has foreign availability status under this subtitle, if the item (or a substantially identical or directly competitive item)—

(A) is available to controlled countries from sources outside the United States, including countries that participate with the United States in multilateral export controls;

(B) can be acquired at a price that is not excessive when compared to the price at which a controlled country could acquire such item from sources within the United States in the absence of export controls; and

(C) is available in sufficient quantity so that the requirement of a license or other authorization with respect to the export of such item is or would be ineffective.

(2) MASS-MARKET STATUS.—The Secretary shall determine that an item has mass-market status under this subtitle, if the item (or a substantially identical or directly competitive item)—

(A) is produced and is available for sale in a large volume to multiple potential purchasers;

(B) is widely distributed through normal commercial channels, such as retail stores, direct marketing catalogues, electronic commerce, and other channels;

(C) is conducive to shipment and delivery by generally accepted commercial means of transport; and

(D) may be used for its normal intended purpose without substantial and specialized service provided by the manufacturer, distributor, or other third party.

(3) SPECIAL RULES.—For purposes of this subtitle—

(A) SUBSTANTIALLY IDENTICAL ITEM.—The determination of whether an item in relation to another item is a substantially identical item shall include a fair assessment of end-uses, the properties, nature, and quality of the item.

(B) DIRECTLY COMPETITIVE ITEM.—

(i) IN GENERAL.—The determination of whether an item in relation to another item is a directly competitive item shall include a fair assessment of whether the item, although not substantially identical in its intrinsic or inherent characteristics, is substantially equivalent for commercial purposes and may be adapted for substantially the same uses.

(ii) EXCEPTION.—An item is not directly competitive with a controlled item if the item is substantially inferior to the controlled item with respect to characteristics that resulted in the export of the item being controlled.

SEC. 212. PRESIDENTIAL SET-ASIDE OF FOREIGN AVAILABILITY DETERMINATION.

(a) CRITERIA FOR PRESIDENTIAL SET-ASIDE.—

(1) POTENTIAL FOR ELIMINATION.—If the President determines that—

(A) the absence of export controls with respect to an item would prove detrimental to the national security of the United States, and

(B) there is a high probability that the foreign availability status of an item will be eliminated through multilateral negotiations within a reasonable period of time taking into account the characteristics of the item,

the President may set aside the Secretary's determination of foreign availability status with respect to the item.

(2) REPORT TO CONGRESS.—The President shall promptly—

(A) report any set-aside determination described in paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives; and

(B) publish the determination in the Federal Register.

(b) PRESIDENTIAL ACTION IN CASE OF SET-ASIDE.—

(1) IN GENERAL.—

(A) NEGOTIATIONS.—In any case in which export controls are maintained on an item because the President has made a determination under subsection (a), the President shall

actively pursue negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability.

(B) REPORT TO CONGRESS.—Not later than the date the President begins negotiations, the President shall notify in writing the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives that the President has begun such negotiations and why the President believes it is important to the national security that export controls on the item involved be maintained.

(2) PERIODIC REVIEW OF DETERMINATION.—The President shall review a determination described in subsection (a) at least every 6 months. Promptly after each review is completed, the Secretary shall submit to the committees of Congress referred to in paragraph (1)(B) a report on the results of the review, together with the status of multilateral negotiations to eliminate the foreign availability of the item.

(3) EXPIRATION OF PRESIDENTIAL SET-ASIDE.—A determination by the President described in subsection (a) shall cease to apply with respect to an item on the earlier of—

(A) the date that is 6 months after the date on which the determination is made under subsection (a), if the President has not commenced multilateral negotiations to eliminate the foreign availability of the item within that 6-month period;

(B) the date on which the negotiations described in paragraph (1) have terminated without achieving an agreement to eliminate foreign availability;

(C) the date on which the President determines that there is not a high probability of eliminating foreign availability of the item through negotiation; or

(D) the date that is 18 months after the date on which the determination described in subsection (a) is made if the President has been unable to achieve an agreement to eliminate foreign availability within that 18-month period.

(4) ACTION ON EXPIRATION OF PRESIDENTIAL SET-ASIDE.—Upon the expiration of a Presidential set-aside under paragraph (3) with respect to an item, the Secretary shall not require a license or other authorization to export the item.

SEC. 213. PRESIDENTIAL SET-ASIDE OF MASS-MARKET STATUS DETERMINATION.

(a) CRITERIA FOR SET-ASIDE.—If the President determines that—

(1) decontrolling or failing to control an item constitutes a serious threat to the national security of the United States, and

(2) export controls on the item would be likely to diminish the threat to, and advance the national security interests of, the United States,

the President may set aside the Secretary's determination of mass-market status with respect to the item.

(b) PRESIDENTIAL ACTION IN CASE OF SET-ASIDE.—

(1) IN GENERAL.—In any case in which export controls are maintained on an item because the President has made a determination under subsection (a), the President shall publish notice of the determination in the Federal Register not later than 30 days after the Secretary publishes notice of the Secretary's determination that an item has mass-market status.

(2) PERIODIC REVIEW OF DETERMINATION.—The President shall review a determination made under subsection (a) at least every 6 months. Promptly after each review is completed, the Secretary shall submit a report on the results of the review to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives.

SEC. 214. OFFICE OF TECHNOLOGY EVALUATION.

(a) IN GENERAL.—The Secretary shall establish in the Department of Commerce an Office of Technology Evaluation (in this subtitle referred to as the ''Office''), which shall be under the direction of the Secretary. The Office shall be responsible for gathering and analyzing all the necessary information in order for the Secretary to make determinations of foreign availability and mass-market status under this Act.

(b) RESPONSIBILITIES.—The Office shall be responsible for—

(1) conducting foreign availability assessments to determine whether a controlled item is available to controlled countries and whether requiring a license, or denial of a license for the export of such item, is or would be ineffective;

(2) conducting mass-market assessments to determine whether a controlled item is available to controlled countries because of the mass-market status of the item;

(3) monitoring and evaluating worldwide technological developments in industry sectors critical to the national security interests of the United States to determine foreign availability and mass-market status of controlled items;

(4) monitoring and evaluating multilateral export control regimes and foreign government export control policies and practices that affect the national security interests of the United States;

(5) conducting assessments of United States industrial sectors critical to the United States defense industrial base and how the sectors are affected by technological developments, technology transfers, and foreign competition; and

(6) conducting assessments of the impact of United States export control policies on—

(A) United States industrial sectors critical to the national security interests of the United States; and

(B) the United States economy in general.

(c) REPORTS TO CONGRESS.—The Secretary shall make available to the Committee on International Relations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate as part of the Secretary's annual report required under section 801 information on the operations of the Office, and on improvements in the Government's ability to assess foreign availability and mass-market status, during the fiscal year preceding the report, including information on the training of personnel, and the use of Commercial Service Officers of the United States and Foreign Commercial Service to assist in making determinations. The information shall also include a description of representative determinations made under this Act during the preceding fiscal year that foreign availability or mass-market status did or did not exist (as the case may be), together with an explanation of the determinations.

(d) SHARING OF INFORMATION.—Each department or agency of the United States, including any intelligence agency, and all contractors with any such department or agency, shall, consistent with the protection of intelligence sources and methods, furnish information to the Office concerning foreign availability and the mass-market status of items subject to export controls under this Act.

TITLE III—FOREIGN POLICY EXPORT CONTROLS

SEC. 301. AUTHORITY FOR FOREIGN POLICY EXPORT CONTROLS.

(a) AUTHORITY.—

(1) IN GENERAL.—In order to carry out the purposes set forth in subsection (b), the President may, in accordance with the provisions of this Act, prohibit, curtail, or require a license, other authorization, record-keeping, or reporting for the export of any item subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States.

(2) EXERCISE OF AUTHORITY.—The authority contained in this subsection shall be exercised by the Secretary, in consultation with the Secretary of State and such other departments and agencies as the Secretary considers appropriate.

(b) PURPOSES.—The purposes of foreign policy export controls are the following:

(1) To promote the foreign policy objectives of the United States, consistent with the purposes of this section and the provisions of this Act.

(2) To promote international peace, stability, and respect for fundamental human rights.

(3) To use export controls to deter and punish acts of international terrorism and to encourage other countries to take immediate steps to prevent the use of their territories or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism.

(c) EXCEPTION.—The President may not control under this title the export from a foreign country (whether or not by a United States person) of any item produced or originating in a foreign country that contains parts or components produced or originating in the United States.

(d) CONTRACT SANCTITY.—

(1) IN GENERAL.—The President may not prohibit the export of any item under this title if that item is to be exported—

(A) in performance of a binding contract, agreement, or other contractual commitment entered into before the date on which the President reports to Congress the President's intention to impose controls on that item under this title; or

(B) under a license or other authorization issued under this Act before the earlier of the date on which the control is initially imposed or the date on which the President reports to Congress the President's intention to impose controls under this title.

(2) EXCEPTION.—The prohibition contained in paragraph (1) shall not apply in any case in which the President determines and certifies to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives that—

(A) there is a serious threat to a foreign policy interest of the United States;

(B) the prohibition of exports under each binding contract, agreement, commitment, license, or authorization will be directly instrumental in remedying the situation posing the serious threat; and

(C) the export controls will be in effect only as long as the serious threat exists.

SEC. 302. PROCEDURES FOR IMPOSING CONTROLS.

(a) NOTICE.—

(1) INTENT TO IMPOSE FOREIGN POLICY EXPORT CONTROL.—Except as provided in section 306, not later than 45 days before imposing or implementing an export control under this title, the President shall publish in the Federal Register—

(A) a notice of intent to do so; and

(B) provide for a period of not less than 30 days for any interested person to submit comments on the export control proposed under this title.

(2) PURPOSES OF NOTICE.—The purposes of the notice are—

(A) to provide an opportunity for the formulation of an effective export control policy under this title that advances United

States economic and foreign policy interests; and

(B) to provide an opportunity for negotiations to achieve the purposes set forth in section 301(b).

(b) NEGOTIATIONS.—During the 45-day period that begins on the date of notice described in subsection (a), the President may negotiate with the government of the foreign country against which the export control is proposed in order to resolve the reasons underlying the proposed export control.

(c) CONSULTATION.—

(1) REQUIREMENT.—The President shall consult with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives regarding any export control proposed under this title and the efforts to achieve or increase multilateral cooperation on the issues or problems underlying the proposed export control.

(2) CLASSIFIED CONSULTATION.—The consultations described in paragraph (1) may be conducted on a classified basis if the Secretary considers it necessary.

SEC. 303. CRITERIA FOR FOREIGN POLICY EXPORT CONTROLS.

Each export control imposed by the President under this title shall—

(1) have clearly stated, specific, and compelling United States foreign policy objectives;

(2) have objective standards for evaluating the success or failure of the export control;

(3) include an assessment by the President that—

(A) the export control is likely to achieve such objectives and the expected time for achieving the objectives; and

(B) the achievement of the objectives of the export control outweighs any potential costs of the export control to other United States economic, foreign policy, humanitarian, or national security interests;

(4) be targeted narrowly; and

(5) seek to minimize any adverse impact on the humanitarian activities of United States and foreign nongovernmental organizations in the country subject to the export control.

SEC. 304. PRESIDENTIAL REPORT BEFORE IMPOSITION OF CONTROL.

(a) REQUIREMENT.—Before imposing an export control under this title, the President shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives a report on the proposed export control. The report may be provided on a classified basis if the Secretary considers it necessary.

(b) CONTENT.—The report shall contain a description and assessment of each of the criteria described in section 303. In addition, the report shall contain a description and assessment of—

(1) any diplomatic and other steps that the United States has taken to accomplish the intended objective of the proposed export control;

(2) unilateral export controls imposed, and other measures taken, by other countries to achieve the intended objective of the proposed export control;

(3) the likelihood of multilateral adoption of comparable export controls;

(4) alternative measures to promote the same objectives and the likelihood of their potential success;

(5) any United States obligations under international trade agreements, treaties, or other international arrangements, with which the proposed export control may conflict;

(6) the likelihood that the proposed export control could lead to retaliation against United States interests;

(7) the likely economic impact of the proposed export control on the United States economy, United States international trade and investment, and United States agricultural interests, commercial interests, and employment; and

(8) a conclusion that the probable achievement of the objectives of the proposed export control outweighs any likely costs to United States economic, foreign policy, humanitarian, or national security interests, including any potential harm to the United States agricultural and business firms and to the international reputation of the United States as a reliable supplier of goods, services, or technology.

SEC. 305. IMPOSITION OF CONTROLS.

The President may impose an export control under this title after the submission of the report required under section 304 and publication in the Federal Register of a notice of the imposition of the export control .

SEC. 306. DEFERRAL AUTHORITY.

(a) AUTHORITY.—The President may defer compliance with any requirement contained in section 302(a), 304, or 305 in the case of a proposed export control if—

(1) the President determines that a deferral of compliance with the requirement is in the national interest of the United States; and

(2) the requirement is satisfied not later than 60 days after the date on which the export control is imposed under this title.

(b) TERMINATION OF CONTROL.—An export control with respect to which a deferral has been made under subsection (a) shall terminate 60 days after the date the export control is imposed unless all requirements have been satisfied before the expiration of the 60-day period.

SEC. 307. REVIEW, RENEWAL, AND TERMINATION.

(a) RENEWAL AND TERMINATION.—

(1) IN GENERAL.—Any export control imposed under this title shall terminate on March 31 of each renewal year unless the President renews the export control on or before such date. For purposes of this section, the term ''renewal year'' means 2002 and every 2 years thereafter.

(2) EXCEPTION.—This section shall not apply to an export control imposed under this title that—

(A) is required by law;

(B) is targeted against any country designated as a country supporting international terrorism pursuant to section 310; or

(C) has been in effect for less than 1 year as of February 1 of a renewal year.

(b) REVIEW.—

(1) IN GENERAL.—Not later than February 1 of each renewal year, the President shall review all export controls in effect under this title.

(2) CONSULTATION.—

(A) REQUIREMENT.—Before completing a review under paragraph (1), the President shall consult with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representative regarding each export control that is being reviewed.

(B) CLASSIFIED CONSULTATION.—The consultations may be conducted on a classified basis if the Secretary considers it necessary.

(3) PUBLIC COMMENT.—In conducting the review of each export control under paragraph (1), the President shall provide a period of not less than 30 days for any interested person to submit comments on renewal of the export control. The President shall publish notice of the opportunity for public comment in the Federal Register not less than 45 days before the review is required to be completed.

(c) REPORT TO CONGRESS.—

(1) REQUIREMENT.—Before renewing an export control imposed under this title, the President shall submit to the committees of Congress referred to in subsection (b)(2)(A) a report on each export control that the President intends to renew.

(2) FORM AND CONTENT OF REPORT.—The report may be provided on a classified basis if the Secretary considers it necessary. Each report shall contain the following:

(A) A clearly stated explanation of the specific and compelling United States foreign policy objective that the existing export control was intended to achieve.

(B) An assessment of—

(i) the extent to the which the existing export control achieved its objectives before renewal based on the objective criteria established for evaluating the export control; and

(ii) the reasons why the existing export control has failed to fully achieve its objectives and, if renewed, how the export control will achieve that objective before the next renewal year.

(C) An updated description and assessment of—

(i) each of the criteria described in section 303, and

(ii) each matter required to be reported under section 304(b)(1) through (8).

(3) RENEWAL OF EXPORT CONTROL.—The President may renew an export control under this title after submission of the report described in paragraph (2) and publication of notice of renewal in the Federal Register.

SEC. 308. TERMINATION OF CONTROLS UNDER THIS TITLE.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President—

(1) shall terminate any export control imposed under this title if the President determines that the control has substantially achieved the objective for which it was imposed; and

(2) may terminate any export control imposed under this title that is not required by law at any time.

(b) EXCEPTION.—Paragraphs (1) and (2) of subsection (a) do not apply to any export control imposed under this title that is targeted against any country designated as a country supporting international terrorism pursuant to section 310.

(c) EFFECTIVE DATE OF TERMINATION.—The termination of an export control pursuant to this section shall take effect on the date notice of the termination is published in the Federal Register.

SEC. 309. COMPLIANCE WITH INTERNATIONAL OBLIGATIONS.

Notwithstanding any other provision of this Act setting forth limitations on authority to control exports and except as provided in section 304, the President may impose controls on exports to a particular country or countries in order to fulfill obligations of the United States under resolutions of the United Nations and under treaties, or other international agreements and arrangements, to which the United States is a party.

SEC. 310. DESIGNATION OF COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

(a) LICENSE REQUIRED.—A license shall be required for the export of an item to a country if the Secretary of State has determined that—

(1) the government of such country has repeatedly provided support for acts of international terrorism; and

(2) the export of the item could make a significant contribution to the military potential of such country, including its military logistics capability, or could enhance the ability of such country to support acts of international terrorism.

(b) NOTIFICATION.—The Secretary and the Secretary of State shall notify the Committee on International Relations of the

House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate at least 30 days before issuing any license required by subsection (a).

(c) DETERMINATIONS REGARDING REPEATED SUPPORT.—Each determination of the Secretary of State under subsection (a)(1), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1989, shall be published in the Federal Register.

(d) LIMITATIONS ON RESCINDING DETERMINATION.—A determination made by the Secretary of State under subsection (a)(1) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the Chairman of the Committee on Banking, Housing, and Urban Affairs and the Chairman of the Committee on Foreign Relations of the Senate—

(1) before the proposed rescission would take effect, a report certifying that—

(A) there has been a fundamental change in the leadership and policies of the government of the country concerned;

(B) that government is not supporting acts of international terrorism; and

(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

(2) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

(e) INFORMATION TO BE INCLUDED IN NOTIFICATION.—The Secretary and the Secretary of State shall include in the notification required by subsection (b)—

(1) a detailed description of the item to be offered, including a brief description of the capabilities of any item for which a license to export is sought;

(2) the reasons why the foreign country or international organization to which the export or transfer is proposed to be made needs the item which is the subject of such export or transfer and a description of the manner in which such country or organization intends to use the item;

(3) the reasons why the proposed export or transfer is in the national interest of the United States;

(4) an analysis of the impact of the proposed export or transfer on the military capabilities of the foreign country or international organization to which such export or transfer would be made;

(5) an analysis of the manner in which the proposed export would affect the relative military strengths of countries in the region to which the item which is the subject of such export would be delivered and whether other countries in the region have comparable kinds and amounts of the item; and

(6) an analysis of the impact of the proposed export or transfer on the United States relations with the countries in the region to which the item which is the subject of such export would be delivered.

TITLE IV—EXEMPTION FOR AGRICULTURAL COMMODITIES, MEDICINE, AND MEDICAL SUPPLIES

SEC. 401. EXEMPTION FOR AGRICULTURAL COMMODITIES, MEDICINE, AND MEDICAL SUPPLIES.

Notwithstanding any other provision of law, the export controls imposed on items under title III shall not apply to agricultural commodities, medicine, and medical supplies.

SEC. 402. TERMINATION OF EXPORT CONTROLS REQUIRED BY LAW.

Notwithstanding any other provision of law, the President shall terminate any export control mandated by law on agricultural commodities, medicine, and medical supplies upon the date of enactment of this Act except for a control that is specifically reimposed by law.

SEC. 403. EXCLUSIONS.

Sections 401 and 402 do not apply to the following:

(1) The export of agricultural commodities, medicine, and medical supplies that are subject to national security export controls under title II.

(2) The export of agricultural commodities, medicine, and medical supplies to a country against which an embargo is in effect under the Trading With the Enemy Act.

TITLE V—PROCEDURES FOR EXPORT LICENSES AND INTERAGENCY DISPUTE RESOLUTION

SEC. 501. EXPORT LICENSE PROCEDURES.

(a) RESPONSIBILITY OF THE SECRETARY.—

(1) IN GENERAL.—All applications for a license or other authorization to export a controlled item shall be filed in such manner and include such information as the Secretary may, by regulation, prescribe.

(2) PROCEDURES.—In guidance and regulations that implement this section, the Secretary shall describe the procedures required by this section, the responsibilities of the Secretary and of other departments and agencies in reviewing applications, the rights of the applicant, and other relevant matters affecting the review of license applications.

(3) CALCULATION OF PROCESSING TIMES.—In calculating the processing times set forth in this title, the Secretary shall use calendar days, except that if the final day for a required action falls on a weekend or holiday, that action shall be taken no later than the following business day.

(4) CRITERIA FOR EVALUATING APPLICATIONS.—In determining whether to grant an application to export a controlled item under this Act, the following criteria shall be considered:

(A) The characteristics of the controlled item.

(B) The threat to the United States or the national security interests of the United States from the misuse of the item.

(C) The risk of export diversion or misuse by—

(i) the exporter;

(ii) the method of export;

(iii) the end-user;

(iv) the country where the end-user is located; and

(v) the end-use.

(D) Risk mitigating factors including, but not limited to—

(i) changing the characteristics of the controlled item;

(ii) after-market monitoring by the exporter; and

(iii) post-shipment verification.

(b) INITIAL SCREENING.—

(1) UPON RECEIPT OF APPLICATION.—Upon receipt of an export license application, the Secretary shall enter and maintain in the records of the Department information regarding the receipt and status of the application.

(2) INITIAL PROCEDURES.—

(A) IN GENERAL.—Not later than 9 days after receiving any license application, the Secretary shall—

(i) contact the applicant if the application is improperly completed or if additional information is required, and hold the application for a reasonable time while the applicant provides the necessary corrections or information, and such time shall not be included in calculating the time periods prescribed in this title;

(ii) refer the application, through the use of a common data base or other means, and all information submitted by the applicant, and all necessary recommendations and analyses by the Secretary to the Department of Defense and other departments and agencies as the Secretary considers appropriate;

(iii) ensure that the classification stated on the application for the export items is correct; and

(iv) return the application if a license is not required.

(B) REFERRAL NOT REQUIRED.—In the event that the head of a department or agency determines that certain types of applications need not be referred to the department or agency, such department or agency head shall notify the Secretary of the specific types of such applications that the department or agency does not wish to review.

(3) WITHDRAWAL OF APPLICATION.—An applicant may, by written notice to the Secretary, withdraw an application at any time before final action.

(c) ACTION BY OTHER DEPARTMENTS AND AGENCIES.—

(1) REFERRAL TO OTHER AGENCIES.—The Secretary shall promptly refer a license application to the departments and agencies under subsection (b) to make recommendations and provide information to the Secretary.

(2) RESPONSIBILITY OF REFERRAL DEPARTMENTS AND AGENCIES.—The Department of Defense and other reviewing departments and agencies shall take all necessary actions in a prompt and responsible manner on an application. Each department or agency reviewing an application under this section shall establish and maintain records properly identifying and monitoring the status of the matter referred to the department or agency.

(3) ADDITIONAL INFORMATION REQUESTS.—Each department or agency to which a license application is referred shall specify to the Secretary any information that is not in the application that would be required for the department or agency to make a determination with respect to the application, and the Secretary shall promptly request such information from the applicant. The time that may elapse between the date the information is requested by that department or agency and the date the information is received by that department or agency shall not be included in calculating the time periods prescribed in this title.

(4) TIME PERIOD FOR ACTION BY REFERRAL DEPARTMENTS AND AGENCIES.—Within 25 days after the Secretary refers an application under this section, each department or agency to which an application has been referred shall provide the Secretary with a recommendation either to approve the license or to deny the license. A recommendation that the Secretary deny a license shall include a statement of reasons for the recommendation that are consistent with the provisions of this title, and shall cite both the specific statutory and regulatory basis for the recommendation. A department or agency that fails to provide a recommendation in accordance with this paragraph within that 25-day period shall be deemed to have no objection to the decision of the Secretary on the application.

(d) ACTION BY THE SECRETARY.—Not later than 25 days after the date the application is referred, the Secretary shall—

(1) if there is agreement among the referral departments and agencies to issue or deny the license—

(A) issue the license and ensure all appropriate personnel in the Department (including the Office of Export Enforcement) are notified of all approved license applications; or

(B) notify the applicant of the intention to deny the license; or

(2) if there is no agreement among the referral departments and agencies, notify the applicant that the application is subject to the interagency dispute resolution process.

(e) CONSEQUENCES OF APPLICATION DENIAL.—

(1) IN GENERAL.—If a determination is made to deny a license, the applicant shall be informed in writing by the Secretary of—

(A) the determination;

(B) the specific statutory and regulatory bases for the proposed denial;

(C) what, if any, modifications to, or restrictions on, the items for which the license was sought would allow such export to be compatible with export controls imposed under this Act, and which officer or employee of the Department would be in a position to discuss modifications or restrictions with the applicant and the specific statutory and regulatory bases for imposing such modifications or restrictions;

(D) to the extent consistent with the national security and foreign policy interests of the United States, the specific considerations that led to the determination to deny the application; and

(E) the availability of appeal procedures.

(2) PERIOD FOR APPLICANT TO RESPOND.—The applicant shall have 20 days from the date of the notice of intent to deny the application to respond in a manner that addresses and corrects the reasons for the denial. If the applicant does not adequately address or correct the reasons for denial or does not respond, the license shall be denied. If the applicant does address or correct the reasons for denial, the application shall receive consideration in a timely manner.

(f) APPEALS AND OTHER ACTIONS BY APPLICANT.—

(1) IN GENERAL.—The Secretary shall establish appropriate procedures for an applicant to appeal to the Secretary the denial of an application or other administrative action under this Act. In any case in which the Secretary intends to reverse the decision with respect to the application, the appeal under this subsection shall be handled in accordance with the interagency dispute resolution process.

(2) ENFORCEMENT OF TIME LIMITS.—

(A) IN GENERAL.—In any case in which an action prescribed in this section is not taken on an application within the time period established by this section (except in the case of a time period extended under subsection (g) of which the applicant is notified), the applicant may file a petition with the Secretary requesting compliance with the requirements of this section. When such petition is filed, the Secretary shall take immediate steps to correct the situation giving rise to the petition and shall immediately notify the applicant of such steps.

(B) BRINGING COURT ACTION.—If, within 20 days after a petition is filed under subparagraph (A), the processing of the application has not been brought into conformity with the requirements of this section, or the processing of the application has been brought into conformity with such requirements but the Secretary has not so notified the applicant, the applicant may bring an action in an appropriate United States district court for an order requiring compliance with the time periods required by this section.

(g) EXCEPTIONS FROM REQUIRED TIME PERIODS.—The following actions related to processing an application shall not be included in calculating the time periods prescribed in this section:

(1) AGREEMENT OF THE APPLICANT.—Delays upon which the Secretary and the applicant mutually agree.

(2) PRELICENSE CHECKS.—A prelicense check (for a period not to exceed 60 days) that may be required to establish the identity and reliability of the recipient of items controlled under this Act, if—

(A) the need for the prelicense check is determined by the Secretary or by another department or agency in any case in which the request for the prelicense check is made by such department or agency;

(B) the request for the prelicense check is initiated by the Secretary within 5 days after the determination that the prelicense check is required; and

(C) the analysis of the result of the prelicense check is completed by the Secretary within 5 days.

(3) REQUESTS FOR GOVERNMENT-TO-GOVERNMENT ASSURANCES.—Any request by the Secretary or another department or agency for government-to-government assurances of suitable end-uses of items approved for export, when failure to obtain such assurances would result in rejection of the application, if—

(A) the request for such assurances is sent to the Secretary of State within 5 days after the determination that the assurances are required;

(B) the Secretary of State initiates the request of the relevant government within 10 days thereafter; and

(C) the license is issued within 5 days after the Secretary receives the requested assurances.

(4) EXCEPTION.—Whenever a prelicense check described in paragraph (2) or assurances described in paragraph (3) are not requested within the time periods set forth therein, then the time expended for such prelicense check or assurances shall be included in calculating the time periods established by this section.

(5) MULTILATERAL REVIEW.—Multilateral review of a license application to the extent that such multilateral review is required by a relevant multilateral regime.

(6) CONGRESSIONAL NOTIFICATION.—Such time as is required for mandatory congressional notifications under this Act.

(7) CONSULTATIONS.—Consultation with other governments, if such consultation is provided for by a relevant multilateral regime as a precondition for approving a license.

(h) CLASSIFICATION REQUESTS AND OTHER INQUIRIES.—

(1) CLASSIFICATION REQUESTS.—In any case in which the Secretary receives a written request asking for the proper classification of an item on the Control List or the applicability of licensing requirements under this title, the Secretary shall promptly notify the Secretary of Defense and other departments and agencies the Secretary considers appropriate. The Secretary shall, within 14 days after receiving the request, inform the person making the request of the proper classification.

(2) OTHER INQUIRIES.—In any case in which the Secretary receives a written request for information under this Act, the Secretary shall, within 30 days after receiving the request, reply with that information to the person making the request.

SEC. 502. INTERAGENCY DISPUTE RESOLUTION PROCESS.

(a) IN GENERAL.—All license applications on which agreement cannot be reached shall be referred to the interagency dispute resolution process for decision.

(b) INTERAGENCY DISPUTE RESOLUTION PROCESS.—

(1) INITIAL RESOLUTION.—The Secretary shall establish, select the chairperson of, and determine procedures for an interagency committee to review initially all license applications described in subsection (a) with respect to which the Secretary and any of the referral departments and agencies are not in agreement. The chairperson shall consider the positions of all the referral departments and agencies (which shall be included in the minutes described subsection (c)(2)) and make a decision on the license application, including appropriate revisions or conditions thereto.

(2) FURTHER RESOLUTION.—The President shall establish additional levels for review or appeal of any matter that cannot be resolved pursuant to the process described in paragraph (1). Each such review shall—

(A) provide for decision-making based on the majority vote of the participating departments and agencies;

(B) provide that a department or agency that fails to take a timely position, citing the specific statutory and regulatory bases for a denial, shall be deemed to have no objection to the pending decision;

(C) provide that any decision of an interagency committee established under paragraph (1) or interagency dispute resolution process established under this paragraph may be escalated to the next higher level of review at the request of any representative of a department or agency that participated in the interagency committee or dispute resolution process that made the decision; and

(D) ensure that matters are resolved or referred to the President not later than 90 days after the date the completed license application is referred by the Secretary.

(c) FINAL ACTION.—

(1) IN GENERAL.—Once a final decision is made under subsection (b), the Secretary shall promptly—

(A) issue the license and ensure that all appropriate personnel in the Department (including the Office of Export Enforcement) are notified of all approved license applications; or

(B) notify the applicant of the intention to deny the application.

(2) MINUTES.—The interagency committee and each level of the interagency dispute resolution process shall keep reasonably detailed minutes of all meetings. On each matter before the interagency committee or before any other level of the interagency dispute resolution process in which members disagree, each member shall clearly state the reasons for the member's position and the reasons shall be entered in the minutes.

TITLE VI—INTERNATIONAL ARRANGEMENTS; FOREIGN BOYCOTTS; SANCTIONS; AND ENFORCEMENT

SEC. 601. INTERNATIONAL ARRANGEMENTS.

(a) MULTILATERAL EXPORT CONTROL REGIMES.—

(1) POLICY.—It is the policy of the United States to seek multilateral arrangements that support the national security objectives of the United States (as described in title II) and that establish fairer and more predictable competitive opportunities for United States exporters.

(2) PARTICIPATION IN EXISTING REGIMES.—Congress encourages the United States to continue its active participation in and to strengthen existing multilateral export control regimes.

(3) PARTICIPATION IN NEW REGIMES.—It is the policy of the United States to participate in additional multilateral export control regimes if such participation would serve the national security interests of the United States.

(b) ANNUAL REPORT ON MULTILATERAL EXPORT CONTROL REGIMES.—Not later than February 1 of each year, the President shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives a report evaluating the effectiveness of each multilateral export control regime, including an assessment of the steps undertaken pursuant to subsections (c) and (d). The report, or any part of this report, may be submitted in classified form to the extent the Secretary considers necessary.

(c) STANDARDS FOR MULTILATERAL EXPORT CONTROL REGIMES.—The President shall take steps to establish the following features in any multilateral export control regime in which the United States is participating or may participate:

(1) FULL MEMBERSHIP.—All supplier countries are members of the regime, and the policies and activities of the members are consistent with the objectives and membership criteria of the multilateral export control regime.

(2) EFFECTIVE ENFORCEMENT AND COMPLIANCE.—The regime promotes enforcement and compliance with the regime's rules and guidelines.

(3) PUBLIC UNDERSTANDING.—The regime makes an effort to enhance public understanding of the purpose and procedures of the multilateral export control regime.

(4) EFFECTIVE IMPLEMENTATION PROCEDURES.—The multilateral export control regime has procedures for the implementation of its rules and guidelines through uniform and consistent interpretations of its export controls.

(5) ENHANCED COOPERATION WITH REGIME NONMEMBERS.—There is agreement among the members of the multilateral export control regime to—

(A) cooperate with governments outside the regime to restrict the export of items controlled by such regime; and

(B) establish an ongoing mechanism in the regime to coordinate planning and implementation of export control measures related to such cooperation.

(6) PERIODIC HIGH-LEVEL MEETINGS.—There are regular periodic meetings of high-level representatives of the governments of members of the multilateral export control regime for the purpose of coordinating export control policies and issuing policy guidance to members of the regime.

(7) COMMON LIST OF CONTROLLED ITEMS.—There is agreement on a common list of items controlled by the multilateral export control regime.

(8) REGULAR UPDATES OF COMMON LIST.—There is a procedure for removing items from the list of controlled items when the control of such items no longer serves the objectives of the members of the multilateral export control regime.

(9) TREATMENT OF CERTAIN COUNTRIES.—There is agreement to prevent the export or diversion of the most sensitive items to countries whose activities are threatening to the national security of the United States or its allies.

(10) HARMONIZATION OF LICENSE APPROVAL PROCEDURES.—There is harmonization among the members of the regime of their national export license approval procedures and practices.

(11) UNDERCUTTING.—There is a limit with respect to when members of a multilateral export control regime—

(A) grant export licenses for any item that is substantially identical to or directly competitive with an item controlled pursuant to the regime, where the United States has denied an export license for such item, or

(B) approve exports to a particular end user to which the United States has denied export license for a similar item.

(d) STANDARDS FOR NATIONAL EXPORT CONTROL SYSTEMS.—The President shall take steps to attain the cooperation of members of each regime in implementing effective national export control systems containing the following features:

(1) EXPORT CONTROL LAW.—Enforcement authority, civil and criminal penalties, and statutes of limitations are sufficient to deter potential violations and punish violators under the member's export control law.

(2) LICENSE APPROVAL PROCESS.—The system for evaluating export license applications includes sufficient technical expertise to assess the licensing status of exports and ensure the reliability of end users.

(3) ENFORCEMENT.—The enforcement mechanism provides authority for trained enforcement officers to investigate and prevent illegal exports.

(4) DOCUMENTATION.—There is a system of export control documentation and verification with respect to controlled items.

(5) INFORMATION.—There are procedures for the coordination and exchange of information concerning licensing, end users, and enforcement with other members of the multilateral export control regime.

(6) RESOURCES.—The member has devoted adequate resources to administer effectively the authorities, systems, mechanisms, and procedures described in paragraphs (1) through (5).

(e) OBJECTIVES REGARDING MULTILATERAL EXPORT CONTROL REGIMES.—The President shall seek to achieve the following objectives with regard to multilateral export control regimes:

(1) STRENGTHEN EXISTING REGIMES.—Strengthen existing multilateral export control regimes—

(A) by creating a requirement to share information about export license applications among members before a member approves an export license; and

(B) harmonizing national export license approval procedures and practices, including the elimination of undercutting.

(2) REVIEW AND UPDATE.—Review and update multilateral regime export control lists with other members, taking into account—

(A) national security concerns;

(B) the controllability of items; and

(C) the costs and benefits of controls.

(3) ENCOURAGE COMPLIANCE BY NONMEMBERS.—Encourage nonmembers of the multilateral export control regime—

(A) to strengthen their national export control regimes and improve enforcement;

(B) to adhere to the appropriate multilateral export control regime; and

(C) not to undermine an existing multilateral export control regime by exporting controlled items in a manner inconsistent with the guidelines of the regime.

(f) TRANSPARENCY OF MULTILATERAL EXPORT CONTROL REGIMES.—

(1) PUBLICATION OF INFORMATION ON EACH EXISTING REGIME.—Not later than 120 days after the date of enactment of this Act, the Secretary shall, for each multilateral export control regime (to the extent that it is not inconsistent with the arrangements of that regime or with the national interest), publish in the Federal Register the following information with respect to the regime:

(A) The purposes of the regime.

(B) The members of the regime.

(C) The export licensing policy of the regime.

(D) The items that are subject to export controls under the regime, together with all public notes, understandings, and other aspects of the agreement of the regime, and all changes thereto.

(E) Any countries, end uses, or end users that are subject to the export controls of the regime.

(F) Rules of interpretation.

(G) Major policy actions.

(H) The rules and procedures of the regime for establishing and modifying any matter described in subparagraphs (A) through (G) and for reviewing export license applications.

(2) NEW REGIMES.—Not later than 60 days after the United States joins or organizes a new multilateral export control regime, the Secretary shall, to the extent not inconsistent with arrangements under the regime or with the national interest, publish in the Federal Register the information described in subparagraphs (A) through (H) of paragraph (1) with respect to the regime.

(3) PUBLICATION OF CHANGES.—Not later than 60 days after a multilateral export control regime adopts any change in the information published under this subsection, the Secretary shall, to the extent not inconsistent with the arrangements under the regime or the national interest, publish such changes in the Federal Register.

(g) SUPPORT OF OTHER COUNTRIES' EXPORT CONTROL SYSTEMS.—The Secretary is encouraged to continue to—

(1) participate in training of, and provide training to, officials of other countries on the principles and procedures for implementing effective export controls; and

(2) participate in any such training provided by other departments and agencies of the United States.

SEC. 602. FOREIGN BOYCOTTS.

(a) PURPOSES.—The purposes of this section are as follows:

(1) To counteract restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any United States person.

(2) To encourage and, in specified cases, require United States persons engaged in the export of items to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person.

(b) PROHIBITIONS AND EXCEPTIONS.—

(1) PROHIBITIONS.—In order to carry out the purposes set forth in subsection (a), the President shall issue regulations prohibiting any United States person, with respect to that person's activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country that is friendly to the United States and is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, or requirement of, or a request from or on behalf of the boycotting country (subject to the condition that the intent required to be associated with such an act in order to constitute a violation of the prohibition is not indicated solely by the mere absence of a business relationship with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person).

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminate against any United States person on the basis of the race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information (other than furnishing normal business information in a commercial context, as defined by the Secretary) about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person that is known or believed to be restricted from having any business relationship with or in the boycotting country.

(E) Furnishing information about whether any person is a member of, has made a contribution to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement the compliance with which is prohibited by regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) EXCEPTIONS.—Regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) compliance, or agreement to comply, with requirements—

(i) prohibiting the import of items from the boycotted country or items produced or provided, by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country; or

(ii) prohibiting the shipment of items to the boycotting country on a carrier of the boycotted country or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) compliance, or agreement to comply, with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment, or the name of the provider of other services, except that, for purposes of applying any exception under this subparagraph, no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms, other than with respect to carriers or route of shipment as may be permitted by such regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) compliance, or agreement to comply, in the normal course of business with the unilateral and specific selection by a boycotting country, or a national or resident thereof, or carriers, insurers, suppliers of services to be performed within the boycotting country, or specific items which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) compliance, or agreement to comply, with export requirements of the boycotting country relating to shipment or transshipment of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual, or agreement by an individual to comply, with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country, or agreement by such a person to comply, with the laws of the country with respect to the person's activities exclusively therein, and such regulations may contain exceptions for such resident complying with the laws or regulations of the foreign country governing imports into such country of trademarked, tradenamed, or similarly specifically identifiable products, or components of products for such person's own use, including the performance of contractual services within that country.

(3) LIMITATION ON EXCEPTIONS.—Regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) ANTITRUST AND CIVIL RIGHTS LAWS NOT AFFECTED.—Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) EVASION.—This section applies to any transaction or activity undertaken by or through a United States person or any other person with intent to evade the provisions of this section or the regulations issued pursuant to this subsection. The regulations issued pursuant to this section shall expressly provide that the exceptions set forth in paragraph (2) do not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) that are otherwise prohibited, pursuant to the intent of such exceptions.

(c) ADDITIONAL REGULATIONS AND REPORTS.—

(1) REGULATIONS.—In addition to the regulations issued pursuant to subsection (b), regulations issued pursuant to title III shall implement the purposes set forth in subsection (a).

(2) REPORTS BY UNITED STATES PERSONS.—The regulations shall require that any United States person receiving a request to furnish information, enter into or implement an agreement, or take any other action referred to in subsection (a) shall report that request to the Secretary, together with any other information concerning the request that the Secretary determines appropriate. The person shall also submit to the Secretary a statement regarding whether the person intends to comply, and whether the person has complied, with the request. Any report filed pursuant to this paragraph shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any item to which such report relates may be treated as confidential if the Secretary determines that disclosure of that information would place the United States person involved at a competitive disadvantage. The Secretary shall periodically transmit summaries of the information contained in the reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary, considers appropriate to carry out the purposes set forth in subsection (a).

(d) PREEMPTION.—The provisions of this section and the regulations issued under this section shall preempt any law, rule, or regulation that—

(1) is a law, rule, or regulation of any of the several States or the District of Columbia, or any of the territories or possessions of the United States, or of any governmental subdivision thereof; and

(2) pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

SEC. 603. PENALTIES.

(a) CRIMINAL PENALTIES.—

(1) VIOLATIONS BY AN INDIVIDUAL.—Any individual who knowingly violates, conspires to violate, or attempts to violate any provision of this Act or any regulation, license, or order issued under this Act shall be fined up to 10 times the value of the exports involved or $1,000,000, whichever is greater, imprisoned for not more than 10 years, or both, for each violation, except that the term of imprisonment may be increased to life for multiple violations or aggravated circumstances.

(2) VIOLATIONS BY A PERSON OTHER THAN AN INDIVIDUAL.—Any person other than an individual who knowingly violates, conspires to violate, or attempts to violate any provision of this Act or any regulation, license, or order issued under this Act shall be fined up to 10 times the value of the exports involved or $10,000,000, whichever is greater, for each violation.

(b) FORFEITURE OF PROPERTY INTEREST AND PROCEEDS.—

(1) FORFEITURE.—Any person who is convicted under paragraph (1) or (2) of subsection (a) shall, in addition to any other penalty, forfeit to the United States—

(A) any of that person's security or other interest in, claim against, or property or contractual rights of any kind in the tangible items that were the subject of the violation;

(B) any of that person's security or other interest in, claim against, or property or contractual rights of any kind in the tangible property that was used in the export or attempt to export that was the subject of the violation; and

(C) any of that person's property constituting, or derived from, any proceeds obtained directly or indirectly as a result of the violation.

(2) PROCEDURES.—The procedures in any forfeiture under this subsection, and the duties and authority of the courts of the United States and the Attorney General with respect to any forfeiture action under this subsection, or with respect to any property that may be subject to forfeiture under this subsection, shall be governed by the provisions of chapter 46 of title 18, United States Code, to the same extent as property subject to forfeiture under that chapter.

(c) CIVIL PENALTIES; ADMINISTRATIVE SANCTIONS.—

(1) CIVIL PENALTIES.—The Secretary may impose a civil penalty of up to $1,000,000 for each violation of a provision of this Act or any regulation, license, or order issued under this Act. A civil penalty under this paragraph may be in addition to, or in lieu of, any other liability or penalty which may be imposed for such a violation.

(2) DENIAL OF EXPORT PRIVILEGES.—The Secretary may deny the export privileges of any person, including the suspension or revocation of the authority of such person to export or receive United States-origin items subject to this Act, for a violation of a provision of this Act or any regulation, license, or order issued under this Act.

(3) EXCLUSION FROM PRACTICE.—The Secretary may exclude any person acting as an attorney, accountant, consultant, freight forwarder, or in any other representative capacity from participating before the Department with respect to a license application or any other matter under this Act.

(d) PAYMENT OF CIVIL PENALTIES.—

(1) PAYMENT AS CONDITION OF FURTHER EXPORT PRIVILEGES.—The payment of a civil penalty imposed under subsection (c) may be made a condition for the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed. The period for which the payment of a penalty may be made such a condition may not exceed 1 year after the date on which the payment is due.

(2) DEFERRAL OR SUSPENSION.—

(A) IN GENERAL.—The payment of a civil penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period no longer than any probation period (which may exceed 1 year) that may be imposed upon the person on whom the penalty is imposed.

(B) NO BAR TO COLLECTION OF PENALTY.—A deferral or suspension under subparagraph (A) shall not operate as a bar to the collection of the penalty concerned in the event that the conditions of the suspension, deferral, or probation are not fulfilled.

(3) TREATMENT OF PAYMENTS.—Any amount paid in satisfaction of a civil penalty imposed under subsection (c) shall be covered into the Treasury as miscellaneous receipts except as set forth in section 607(h).

(e) REFUNDS.—

(1) AUTHORITY.—

(A) IN GENERAL.—The Secretary may, in the Secretary's discretion, refund any civil penalty imposed under subsection (c) on the ground of a material error of fact or law in imposition of the penalty.

(B) LIMITATION.—A civil penalty may not be refunded under subparagraph (A) later than 2 years after payment of the penalty.

(2) PROHIBITION ON ACTIONS FOR REFUND.—Notwithstanding section 1346(a) of title 28, United States Code, no action for the refund of any civil penalty referred to in paragraph (1) may be maintained in any court.

(f) EFFECT OF OTHER CONVICTIONS.—

(1) DENIAL OF EXPORT PRIVILEGES.—Any person convicted of a violation of—

(A) a provision of this Act or the Export Administration Act of 1979,

(B) a provision of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.),

(C) section 793, 794, or 798 of title 18, United States Code,

(D) section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)),

(E) section 38 of the Arms Export Control Act (22 U.S.C. 2778),

(F) section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16),

(G) any regulation, license, or order issued under any provision of law listed in subparagraph (A), (B), (C), (D), (E), or (F),

(H) section 371 or 1001 of title 18, United States Code, if in connection with the export of controlled items under this Act or any regulation, license, or order issued under the International Emergency Economic Powers Act, or the export of items controlled under the Arms Export Control Act,

(I) section 175 of title 18, United States Code,

(J) section 229, of title 18, United States Code,

(K) a provision of the Atomic Energy Act (42 U.S.C. 201 et seq.),

(L) section 831 of title 18, United States Code, or

(M) section 2332a of title 18, United States Code,

may, at the discretion of the Secretary, be denied export privileges under this Act for a period not to exceed 10 years from the date of the conviction. The Secretary may also revoke any export license under this Act in which such person had an interest at the time of the conviction.

(2) RELATED PERSONS.—The Secretary may exercise the authority under paragraph (1) with respect to any person related through affiliation, ownership, control, or position of responsibility to a person convicted of any violation of a law set forth in paragraph (1) upon a showing of such relationship with the convicted person. The Secretary shall make such showing only after providing notice and opportunity for a hearing.

(g) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a proceeding in which a civil penalty or other administrative sanction (other than a temporary denial order) is sought under subsection (c) may not be instituted more than 5 years after the later of the date of the alleged violation or the date of discovery of the alleged violation.

(2) EXCEPTION.—

(A) TOLLING.—In any case in which a criminal indictment alleging a violation under subsection (a) is returned within the time limits prescribed by law for the institution of such action, the limitation under paragraph (1) for bringing a proceeding to impose a civil penalty or other administrative sanction under this section shall, upon the return of the criminal indictment, be tolled against all persons named as a defendant.

(B) DURATION.—The tolling of the limitation with respect to a defendant under subparagraph (A) as a result of a criminal indictment shall continue for a period of 6 months from the date on which the conviction of the defendant becomes final, the indictment against the defendant is dismissed, or the criminal action has concluded.

(h) VIOLATIONS DEFINED BY REGULATION.—Nothing in this section shall limit the authority of the Secretary to define by regulation violations under this Act.

(i) CONSTRUCTION.—Nothing in subsection (c), (d), (e), (f), or (g) limits—

(1) the availability of other administrative or judicial remedies with respect to a violation of a provision of this Act, or any regulation, order, or license issued under this Act;

(2) the authority to compromise and settle administrative proceedings brought with respect to any such violation; or

(3) the authority to compromise, remit, or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

SEC. 604. MULTILATERAL EXPORT CONTROL REGIME VIOLATION SANCTIONS.

(a) IMPOSITION OF SANCTIONS.—

(1) IN GENERAL.—The President, subject to subsection (c), shall apply sanctions under subsection (b) for a period of not less than 2 years and not more than 5 years, if the President determines that—

(A) a foreign person has violated any regulation issued by a country to control exports for national security purposes pursuant to a multilateral export control regime; and

(B) such violation has substantially aided a country in—

(i) acquiring military significant capabilities or weapons, if the country is an actual or potential adversary of the United States;

(ii) acquiring nuclear weapons provided such country is other than the declared nuclear states of the People's Republic China, the Republic of France, the Russian Federation, the United Kingdom, and the United States;

(iii) acquiring biological or chemical weapons; or

(iv) acquiring missiles.

(2) NOTIFICATION OF CONGRESS.—The President shall notify Congress of each action taken under this section.

(b) APPLICABILITY AND FORMS OF SANCTIONS.—The sanctions referred to in subsection (a) shall apply to the foreign person committing the violation, as well as to any parent, affiliate, subsidiary, and successor entity of the foreign person, and, except as provided in subsection (c), are as follows:

(1) A prohibition on contracting with, and the procurement of products and services from, a sanctioned person, by any department, agency, or instrumentality of the United States Government.

(2) A prohibition on the importation into the United States of all items produced by a sanctioned person.

(c) EXCEPTIONS.—The President shall not apply sanctions under this section—

(1) in the case of procurement of defense items—

(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(B) if the President determines that the foreign person or other entity to which the sanctions would otherwise be applied is a sole source supplier of essential defense items and no alternative supplier can be identified; or

(C) if the President determines that such items are essential to the national security under defense coproduction agreements;

(2) in any case in which such sanctions would violate United States international obligations including treaties, agreements, or understandings; or

(3) to—

(A) items provided under contracts or other binding agreements (as such terms are defined by the President in regulations) entered into before the date on which the President notifies Congress of the intention to impose the sanctions;

(B) after-market service and replacement parts including upgrades;

(C) component parts, but not finished products, essential to United States products or productions; or

(D) information and technology.

(d) EXCLUSION.—The President shall not apply sanctions under this section to a parent, affiliate, subsidiary, and successor entity of a foreign person if the President determines that—

(1) the parent, affiliate, subsidiary, or successor entity (as the case may be) has not knowingly violated the export control regulation violated by the foreign person; and

(2) the government of the country with jurisdiction over the parent, affiliate, subsidiary, or successor entity had in effect, at the time of the violation by the foreign person, an effective export control system consistent with principles set forth in section 601(b)(2).

(e) SUBSEQUENT MODIFICATIONS OF SANCTIONS.—The President may, after consultation with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives, limit the scope of sanctions applied to a parent, affiliate, subsidiary, or successor entity of the foreign person determined to have committed the violation on account of which the sanctions were imposed, if the President determines that—

(1) the parent, affiliate, subsidiary, or successor entity (as the case may be) has not, on the basis of evidence available to the United States, itself violated the export control regulation involved, either directly or through a course of conduct;

(2) the government with jurisdiction over the parent, affiliate, subsidiary, or successor entity has improved its export control system as measured by the criteria set forth in section 601(b)(2); and

(3) the parent, affiliate, subsidiary, or successor entity, has instituted improvements

in internal controls sufficient to detect and prevent violations of the multilateral export control regime.

SEC. 605. MISSILE PROLIFERATION CONTROL VIOLATIONS.

(a) VIOLATIONS BY UNITED STATES PERSONS.—

(1) SANCTIONS.—

(A) IN GENERAL.—If the President determines that a United States person knowingly—

(i) exports, transfers, or otherwise engages in the trade of any item on the MTCR Annex, in violation of the provisions of section 38 (22 U.S.C. 2778) or chapter 7 of the Arms Export Control Act, title II or III of this Act, or any regulations or orders issued under any such provisions,

(ii) conspires to or attempts to engage in such export, transfer, or trade, or

(iii) facilitates such export, transfer, or trade by any other person,

then the President shall impose the applicable sanctions described in subparagraph (B).

(B) SANCTIONS DESCRIBED.—The sanctions which apply to a United States person under subparagraph (A) are the following:

(i) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category II of the MTCR Annex, then the President shall deny to such United States person, for a period of 2 years, licenses for the transfer of missile equipment or technology controlled under this Act.

(ii) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category I of the MTCR Annex, then the President shall deny to such United States person, for a period of not less than 2 years, all licenses for items the export of which is controlled under this Act.

(2) DISCRETIONARY SANCTIONS.—In the case of any determination referred to in paragraph (1), the Secretary may pursue any other appropriate penalties under section 603.

(3) WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to an item if the President certifies to Congress that—

(A) the item is essential to the national security of the United States; and

(B) such person is a sole source supplier of the item, the item is not available from any alternative reliable supplier, and the need for the item cannot be met in a timely manner by improved manufacturing processes or technological developments.

(b) TRANSFERS OF MISSILE EQUIPMENT OR TECHNOLOGY BY FOREIGN PERSONS.—

(1) SANCTIONS.—

(A) IN GENERAL.—Subject to paragraphs (3) through (7), if the President determines that a foreign person, after the date of enactment of this section, knowingly—

(i) exports, transfers, or otherwise engages in the trade of any MTCR equipment or technology that contributes to the design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act,

(ii) conspires to or attempts to engage in such export, transfer, or trade, or

(iii) facilitates such export, transfer, or trade by any other person,

or if the President has made a determination with respect to a foreign person under section 73(a) of the Arms Export Control Act, then the President shall impose on that foreign person the applicable sanctions under subparagraph (B).

(B) SANCTIONS DESCRIBED.—The sanctions which apply to a foreign person under subparagraph (A) are the following:

(i) If the item involved in the export, transfer, or trade is within category II of the MTCR Annex, then the President shall deny, for a period of 2 years, licenses for the transfer to such foreign person of missile equipment or technology the export of which is controlled under this Act.

(ii) If the item involved in the export, transfer, or trade is within category I of the MTCR Annex, then the President shall deny, for a period of not less than 2 years, licenses for the transfer to such foreign person of items the export of which is controlled under this Act.

(iii) If, in addition to actions taken under clauses (i) and (ii), the President determines that the export, transfer, or trade has substantially contributed to the design, development, or production of missiles in a country that is not an MTCR adherent, then the President shall prohibit, for a period of not less than 2 years, the importation into the United States of products produced by that foreign person.

(2) INAPPLICABILITY WITH RESPECT TO MTCR ADHERENTS.—Paragraph (1) does not apply with respect to—

(A) any export, transfer, or trading activity that is authorized by the laws of an MTCR adherent, if such authorization is not obtained by misrepresentation or fraud; or

(B) any export, transfer, or trade of an item to an end user in a country that is an MTCR adherent.

(3) EFFECT OF ENFORCEMENT ACTIONS BY MTCR ADHERENTS.—Sanctions set forth in paragraph (1) may not be imposed under this subsection on a person with respect to acts described in such paragraph or, if such sanctions are in effect against a person on account of such acts, such sanctions shall be terminated, if an MTCR adherent is taking judicial or other enforcement action against that person with respect to such acts, or that person has been found by the government of an MTCR adherent to be innocent of wrongdoing with respect to such acts.

(4) ADVISORY OPINIONS.—The Secretary, in consultation with the Secretary of State and the Secretary of Defense, may, upon the request of any person, issue an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this subsection. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

(5) WAIVER AND REPORT TO CONGRESS.—

(A) WAIVER.—In any case other than one in which an advisory opinion has been issued under paragraph (4) stating that a proposed activity would not subject a person to sanctions under this subsection, the President may waive the application of paragraph (1) to a foreign person if the President determines that such waiver is essential to the national security of the United States.

(B) REPORT TO CONGRESS.—In the event that the President decides to apply the waiver described in subparagraph (A), the President shall so notify Congress not less than 20 working days before issuing the waiver. Such notification shall include a report fully articulating the rationale and circumstances which led the President to apply the waiver.

(6) ADDITIONAL WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the Congress that—

(A) the product or service is essential to the national security of the United States; and

(B) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

(7) EXCEPTIONS.—The President shall not apply the sanction under this subsection prohibiting the importation of the products of a foreign person—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(ii) if the President determines that the person to which the sanctions would be applied is a sole source supplier of the defense articles and services, that the defense articles or services are essential to the national security of the United States, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security of the United States under defense coproduction agreements or NATO Programs of Cooperation;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanctions; or

(C) to—

(i) spare parts,

(ii) component parts, but not finished products, essential to United States products or production,

(iii) routine services and maintenance of products, to the extent that alternative sources are not readily or reasonably available, or

(iv) information and technology essential to United States products or production.

(c) DEFINITIONS.—In this section:

(1) MISSILE.—The term ''missile'' means a category I system as defined in the MTCR Annex, and any other unmanned delivery system of similar capability, as well as the specially designed production facilities for these systems.

(2) MISSILE TECHNOLOGY CONTROL REGIME; MTCR.—The term ''Missile Technology Control Regime'' or ''MTCR'' means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto.

(3) MTCR ADHERENT.—The term ''MTCR adherent'' means a country that participates in the MTCR or that, pursuant to an international understanding to which the United States is a party, controls MTCR equipment or technology in accordance with the criteria and standards set forth in the MTCR.

(4) MTCR ANNEX.—The term ''MTCR Annex'' means the Guidelines and Equipment and Technology Annex of the MTCR, and any amendments thereto.

(5) MISSILE EQUIPMENT OR TECHNOLOGY; MTCR EQUIPMENT OR TECHNOLOGY.—The terms ''missile equipment or technology'' and ''MTCR equipment or technology'' mean those items listed in category I or category II of the MTCR Annex.

(6) FOREIGN PERSON.—The term ''foreign person'' means any person other than a United States person.

(7) PERSON.—

(A) IN GENERAL.—The term ''person'' means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental

entity operating as a business enterprise, and any successor of any such entity.

(B) IDENTIFICATION IN CERTAIN CASES.—In the case of countries where it may be impossible to identify a specific governmental entity referred to in subparagraph (A), the term ''person'' means—

(i) all activities of that government relating to the development or production of any missile equipment or technology; and

(ii) all activities of that government affecting the development or production of aircraft, electronics, and space systems or equipment.

(8) OTHERWISE ENGAGED IN THE TRADE OF.—The term ''otherwise engaged in the trade of'' means, with respect to a particular export or transfer, to be a freight forwarder or designated exporting agent, or a consignee or end user of the item to be exported or transferred.

SEC. 606. CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION SANCTIONS.

(a) IMPOSITION OF SANCTIONS.—

(1) DETERMINATION BY THE PRESIDENT.—Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of enactment of this section, has knowingly and materially contributed—

(A) through the export from the United States of any item that is subject to the jurisdiction of the United States under this Act, or

(B) through the export from any other country of any item that would be, if it were a United States item, subject to the jurisdiction of the United States under this Act,

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

(2) COUNTRIES, PROJECTS, OR ENTITIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

(A) any foreign country that the President determines has, at any time after the date of enactment of this Act—

(i) used chemical or biological weapons in violation of international law;

(ii) used lethal chemical or biological weapons against its own nationals; or

(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

(B) any foreign country whose government is determined for purposes of section 310 to be a government that has repeatedly provided support for acts of international terrorism; or

(C) any other foreign country, project, or entity designated by the President for purposes of this section.

(3) PERSONS AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

(A) the foreign person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person;

(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

(b) CONSULTATIONS WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following the consultations, the President shall impose sanctions unless the President determines and certifies to Congress that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to Congress that government is in the process of taking the actions described in the preceding sentence.

(3) REPORT TO CONGRESS.—The President shall report to Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) SANCTIONS.—

(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

(B) IMPORT SANCTIONS.—The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

(2) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

(C) to—

(i) spare parts,

(ii) component parts, but not finished products, essential to United States products or production, or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

(e) WAIVER.—

(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to Congress that such waiver is important to the national security interests of the United States.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(f) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term ''foreign person'' means—

(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.

SEC. 607. ENFORCEMENT.

(a) GENERAL AUTHORITY AND DESIGNATION.—

(1) POLICY GUIDANCE ON ENFORCEMENT.—The Secretary, in consultation with the Secretary of the Treasury and the heads of other departments and agencies that the Secretary considers appropriate, shall be responsible for providing policy guidance on the enforcement of this Act.

(2) GENERAL AUTHORITIES.—

(A) EXERCISE OF AUTHORITY.—To the extent necessary or appropriate to the enforcement of this Act, officers or employees of the Department designated by the Secretary, officers and employees of the United States Customs Service designated by the Commissioner of Customs, and officers and employees of any other department or agency designated by the head of the department or agency, may exercise the enforcement authority under paragraph (3).

(B) CUSTOMS SERVICE.—In carrying out enforcement authority under paragraph (3), the Commissioner of Customs and employees of the United States Customs Services designated by the Commissioner may make investigations within or outside the United States and at ports of entry into or exit from the United States where officers of the United States Customs Service are authorized by law to carry out law enforcement responsibilities. Subject to paragraph (3), the United States Customs Service is authorized, in the enforcement of this Act, to search, detain (after search), and seize commodities or technology at the ports of entry into or exit from the United States where officers of the United States Customs Service are authorized by law to conduct searches, detentions, and seizures, and at the places outside the United States where the United States Customs Service, pursuant to agreement or other arrangement with other countries, is authorized to perform enforcement activities.

(C) OTHER EMPLOYEES.—In carrying out enforcement authority under paragraph (3), the

Secretary and officers and employees of the Department designated by the Secretary may make investigations within the United States, and may conduct, outside the United States, pre-license and post-shipment verifications of controlled items and investigations in the enforcement of section 602. The Secretary and officers and employees of the Department designated by the Secretary are authorized to search, detain (after search), and seize items at places within the United States other than ports referred to in subparagraph (B). The search, detention (after search), or seizure of items at the ports and places referred to in subparagraph (B) may be conducted by officers and employees of the Department only with the concurrence of the Commissioner of Customs or a person designated by the Commissioner.

(D) AGREEMENTS AND ARRANGEMENTS.—The Secretary and the Commissioner of Customs may enter into agreements and arrangements for the enforcement of this Act, including foreign investigations and information exchange.

(3) SPECIFIC AUTHORITIES.—

(A) ACTIONS BY ANY DESIGNATED PERSONNEL.—Any officer or employee designated under paragraph (2), in carrying out the enforcement authority under this Act, may do the following:

(i) Make investigations of, obtain information from, make inspection of any books, records, or reports (including any writings required to be kept by the Secretary), premises, or property of, and take the sworn testimony of, any person.

(ii) Administer oaths or affirmations, and by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both. In the case of contumacy by, or refusal to obey a subpoena issued to, any such person, a district court of the United States, on request of the Attorney General and after notice to any such person and a hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both. Any failure to obey such order of the court may be punished by such court as a contempt thereof. The attendance of witnesses and the production of documents provided for in this clause may be required from any State, the District of Columbia, or in any territory of the United States at any designated place. Witnesses subpoenaed under this subsection shall be paid the same fees and mileage allowance as paid witnesses in the district courts of the United States.

(B) ACTIONS BY OFFICE OF EXPORT ENFORCEMENT AND CUSTOMS SERVICE PERSONNEL.—

(i) OFFICE OF EXPORT ENFORCEMENT AND CUSTOMS SERVICE PERSONNEL.—Any officer or employee of the Office of Export Enforcement of the Department of Commerce (in this Act referred to as ''OEE'') who is designated by the Secretary under paragraph (2), and any officer or employee of the United States Customs Service who is designated by the Commissioner of Customs under paragraph (2), may do the following in carrying out the enforcement authority under this Act:

(I) Execute any warrant or other process issued by a court or officer of competent jurisdiction with respect to the enforcement of this Act.

(II) Make arrests without warrant for any violation of this Act committed in his or her presence or view, or if the officer or employee has probable cause to believe that the person to be arrested has committed, is committing, or is about to commit such a violation.

(III) Carry firearms.

(ii) OEE PERSONNEL.—Any officer and employee of the OEE designated by the Secretary under paragraph (2) shall exercise the authority set forth in clause (i) pursuant to guidelines approved by the Attorney General.

(C) OTHER ACTIONS BY CUSTOMS SERVICE PERSONNEL.—Any officer or employee of the United States Customs Service designated by the Commissioner of Customs under paragraph (2) may do the following in carrying out the enforcement authority under this Act:

(i) Stop, search, and examine a vehicle, vessel, aircraft, or person on which or whom the officer or employee has reasonable cause to suspect there is any item that has been, is being, or is about to be exported from or transited through the United States in violation of this Act.

(ii) Detain and search any package or container in which the officer or employee has reasonable cause to suspect there is any item that has been, is being, or is about to be exported from or transited through the United States in violation of this Act.

(iii) Detain (after search) or seize any item, for purposes of securing for trial or forfeiture to the United States, on or about such vehicle, vessel, aircraft, or person or in such package or container, if the officer or employee has probable cause to believe the item has been, is being, or is about to be exported from or transited through the United States in violation of this Act.

(4) OTHER AUTHORITIES NOT AFFECTED.—The authorities conferred by this section are in addition to any authorities conferred under other laws.

(b) FORFEITURE.—

(1) IN GENERAL.—Any tangible items lawfully seized under subsection (a) by designated officers or employees shall be subject to forfeiture to the United States.

(2) APPLICABLE LAWS.—Those provisions of law relating to—

(A) the seizure, summary and judicial forfeiture, and condemnation of property for violations of the customs laws;

(B) the disposition of such property or the proceeds from the sale thereof;

(C) the remission or mitigation of such forfeitures; and

(D) the compromise of claims,

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this subsection, insofar as applicable and not inconsistent with this Act.

(3) FORFEITURES UNDER CUSTOMS LAWS.—Duties that are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws may be performed with respect to seizures and forfeitures of property under this subsection by the Secretary or any officer or employee of the Department that may be authorized or designated for that purpose by the Secretary, or, upon the request of the Secretary, by any other agency that has authority to manage and dispose of seized property.

(c) REFERRAL OF CASES.—All cases involving violations of this Act shall be referred to the Secretary for purposes of determining civil penalties and administrative sanctions under section 603 or to the Attorney General for criminal action in accordance with this Act or to both the Secretary and the Attorney General.

(d) UNDERCOVER INVESTIGATION OPERATIONS.—

(1) USE OF FUNDS.—With respect to any undercover investigative operation conducted by the OEE that is necessary for the detection and prosecution of violations of this Act—

(A) funds made available for export enforcement under this Act may be used to purchase property, buildings, and other facilities, and to lease equipment, conveyances, and space within the United States, without regard to sections 1341 and 3324 of title 31, United States Code, the third undesignated paragraph under the heading ''miscellaneous'' of the Act of March 3, 1877, (40 U.S.C. 34), sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22), and subsections (a) and (c) of section 304, and section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254 (a) and (c) and 255);

(B) funds made available for export enforcement under this Act may be used to establish or to acquire proprietary corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 1341, 3324, and 9102 of title 31, United States Code;

(C) funds made available for export enforcement under this Act and the proceeds from undercover operations may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3302 of title 31, United States Code; and

(D) the proceeds from undercover operations may be used to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3302 of title 31, United States Code,

if the Director of OEE (or an officer or employee designated by the Director) certifies, in writing, that the action authorized by subparagraph (A), (B), (C), or (D) for which the funds would be used is necessary for the conduct of the undercover operation.

(2) DISPOSITION OF BUSINESS ENTITIES.—If a corporation or business entity established or acquired as part of an undercover operation has a net value of more than $250,000 and is to be liquidated, sold, or otherwise disposed of, the Director of OEE shall report the circumstances to the Secretary and the Comptroller General of the United States as much in advance of such disposition as the Director of the OEE (or the Director's designee) determines is practicable. The proceeds of the liquidation, sale, or other disposition, after obligations incurred by the corporation or business enterprise are met, shall be deposited in the Treasury of the United States as miscellaneous receipts. Any property or equipment purchased pursuant to paragraph (1) may be retained for subsequent use in undercover operations under this section. When such property or equipment is no longer needed, it shall be considered surplus and disposed of as surplus government property.

(3) DEPOSIT OF PROCEEDS.—As soon as the proceeds from an OEE undercover investigative operation with respect to which an action is authorized and carried out under this subsection are no longer needed for the conduct of such operation, the proceeds or the balance of the proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(4) AUDIT AND REPORT.—

(A) AUDIT.—The Director of OEE shall conduct a detailed financial audit of each closed OEE undercover investigative operation and shall submit the results of the audit in writing to the Secretary. Not later than 180 days after an undercover operation is closed, the Secretary shall submit to Congress a report on the results of the audit.

(B) REPORT.—The Secretary shall submit annually to Congress a report, which may be included in the annual report under section 801, specifying the following information:

(i) The number of undercover investigative operations pending as of the end of the period for which such report is submitted.

(ii) The number of undercover investigative operations commenced in the 1-year period preceding the period for which such report is submitted.

(iii) The number of undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect to the operation.

(5) DEFINITIONS.—For purposes of paragraph (4)—

(A) the term ''closed'', with respect to an undercover investigative operation, refers to the earliest point in time at which all criminal proceedings (other than appeals) pursuant to the investigative operation are concluded, or covert activities pursuant to such operation are concluded, whichever occurs later; and

(B) the terms ''undercover investigative operation'' and ''undercover operation'' mean any undercover investigative operation conducted by the OEE—

(i) in which the gross receipts (excluding interest earned) exceed $25,000, or expenditures (other than expenditures for salaries of employees) exceed $75,000, and

(ii) which is exempt from section 3302 or 9102 of title 31, United States Code, except that clauses (i) and (ii) shall not apply with respect to the report to Congress required by paragraph (4)(B).

(e) WIRETAPS.—

(1) AUTHORITY.—Interceptions of communications in accordance with section 2516 of title 18, United States Code, are authorized to further the enforcement of this Act.

(2) CONFORMING AMENDMENT.—Section 2516(1) of title 18, United States Code, is amended by adding at the end the following:

''(q)(i) any violation of, or conspiracy to violate, the Export Administration Act of 1999 or the Export Administration Act of 1979.''.

(f) POST-SHIPMENT VERIFICATION.—

(1) IN GENERAL.—The Secretary shall target post-shipment verifications to exports involving the greatest risk to national security including, but not limited to, exports of high performance computers.

(2) REPEAL.—Section 1213 of the National Defense Authorization Act for Fiscal Year 1998 is repealed.

(g) REFUSAL TO ALLOW POST-SHIPMENT VERIFICATION.—

(1) IN GENERAL.—If an end-user refuses to allow post-shipment verification of a controlled item, the Secretary shall deny a license for the export of any controlled item to such end-user until such post-shipment verification occurs.

(2) RELATED PERSONS.—The Secretary may exercise the authority under paragraph (1) with respect to any person related through affiliation, ownership, control, or position of responsibility, to any end-user refusing to allow post-shipment verification of a controlled item.

(3) REFUSAL BY COUNTRY.—If the country in which the end-user is located refuses to allow post-shipment verification of a controlled item, the Secretary may deny a license for the export of that item or any substantially identical or directly competitive item or class of items to all end-users in that country until such post-shipment verification is allowed.

(h) AWARD OF COMPENSATION; PATRIOT PROVISION.—

(1) IN GENERAL.—If—

(A) any person, who is not an employee or officer of the United States, furnishes to a United States attorney, to the Secretary of the Treasury or the Secretary, or to appropriate officials in the Department of the Treasury or the Department of Commerce, original information concerning a violation of this Act or any regulation, order, or license issued under this Act, which is being, or has been, perpetrated or contemplated by any other person, and

(B) such information leads to the recovery of any criminal fine, civil penalty, or forfeiture,

the Secretary may award and pay such person an amount that does not exceed 25 percent of the net amount of the criminal fine or civil penalty recovered or the amount forfeited.

(2) DOLLAR LIMITATION.—The amount awarded and paid to any person under this section may not exceed $250,000 for any case.

(3) SOURCE OF PAYMENT.—The amount paid under this section shall be paid out of any penalties, forfeitures, or appropriated funds.

(i) FREIGHT FORWARDERS BEST PRACTICES PROGRAM AUTHORIZATION.—There is authorized to be appropriated for the Department of Commerce $3,500,000 and such sums as may be necessary to hire 20 additional employees to assist United States freight forwarders and other interested parties in developing and implementing, on a voluntary basis, a ''best practices'' program to ensure that exports of controlled items are undertaken in compliance with this Act.

(j) END-USE VERIFICATION AUTHORIZATION.—

(1) IN GENERAL.—There is authorized to be appropriated for the Department of Commerce $4,500,000 and such sums as may be necessary to hire 10 additional overseas investigators to be posted in the People's Republic of China, the Russian Federation, the Hong Kong Special Administrative Region, the Republic of India, Singapore, Egypt, and Taiwan, or any other place the Secretary deems appropriate, for the purpose of verifying the end use of high-risk, dual-use technology.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act and annually thereafter, the Department shall, in its annual report to Congress on export controls, include a report on the effectiveness of the end-use verification activities authorized under subsection (a). The report shall include the following information:

(A) The activities of the overseas investigators of the Department.

(B) The types of goods and technologies that were subject to end-use verification.

(C) The ability of the Department's investigators to detect the illegal transfer of high risk, dual-use goods and technologies.

(k) ENHANCED COOPERATION WITH UNITED STATES CUSTOMS SERVICE.—Consistent with the purposes of this Act, the Secretary is authorized to undertake, in cooperation with the United States Customs Service, such measures as may be necessary or required to enhance the ability of the United States to detect unlawful exports and to enforce violations of this Act.

(l) REFERENCE TO ENFORCEMENT.—For purposes of this section, a reference to the enforcement of this Act or to a violation of this Act includes a reference to the enforcement or a violation of any regulation, license, or order issued under this Act.

(m) AUTHORIZATION FOR EXPORT LICENSING AND ENFORCEMENT COMPUTER SYSTEM.—There is authorized to be appropriated for the Department $5,000,000 and such other sums as may be necessary for planning, design, and procurement of a computer system to replace the Department's primary export licensing and computer enforcement system.

SEC. 608. ADMINISTRATIVE PROCEDURE.

(a) EXEMPTIONS FROM ADMINISTRATIVE PROCEDURE.—Except as provided in this section, the functions exercised under this Act are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

(b) PROCEDURES RELATING TO CIVIL PENALTIES AND SANCTIONS.—

(1) ADMINISTRATIVE PROCEDURES.—Any administrative sanction imposed under section 603 may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code. The imposition of any such administrative sanction shall be subject to judicial review in accordance with sections 701 through 706 of title 5, United States Code.

(2) AVAILABILITY OF CHARGING LETTER.—Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the regulations issued under section 602 shall be made available for public inspection and copying.

(c) COLLECTION.—If any person fails to pay a civil penalty imposed under section 603, the Secretary may ask the Attorney General to commence a civil action in an appropriate district court of the United States to recover the amount imposed (plus interest at currently prevailing rates from the date of the final order). No such action may be commenced more than 5 years after the order imposing the civil penalty becomes final. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(d) IMPOSITION OF TEMPORARY DENIAL ORDERS.—

(1) GROUNDS FOR IMPOSITION.—In any case in which there is reasonable cause to believe that a person is engaged in or is about to engage in any act or practice which constitutes or would constitute a violation of this Act, or any regulation, order, or license issued under this Act, including any diversion of goods or technology from an authorized end use or end user, and in any case in which a criminal indictment has been returned against a person alleging a violation of this Act or any of the statutes listed in section 603, the Secretary may, without a hearing, issue an order temporarily denying that person's United States export privileges (hereafter in this subsection referred to as a ''temporary denial order''). A temporary denial order shall be effective for such period (not in excess of 180 days) as the Secretary specifies in the order, but may be renewed by the Secretary, following notice and an opportunity for a hearing, for additional periods of not more than 180 days each.

(2) ADMINISTRATIVE APPEALS.—The person or persons subject to the issuance or renewal of a temporary denial order may appeal the issuance or renewal of the temporary denial order, supported by briefs and other material, to an administrative law judge who shall, within 15 working days after the appeal is filed, issue a decision affirming, modifying, or vacating the temporary denial order. The temporary denial order shall be affirmed if it is shown that—

(A) there is reasonable cause to believe that the person subject to the order is engaged in or is about to engage in any act or practice that constitutes or would constitute a violation of this Act, or any regulation, order, or license issued under this Act; or

(B) a criminal indictment has been returned against the person subject to the order alleging a violation of this Act or any of the statutes listed in section 603.

The decision of the administrative law judge shall be final unless, within 10 working days after the date of the administrative law judge's decision, an appeal is filed with the Secretary. On appeal, the Secretary shall either affirm, modify, reverse, or vacate the decision of the administrative law judge by written order within 10 working days after receiving the appeal. The written order of

the Secretary shall be final and is not subject to judicial review, except as provided in paragraph (3). The materials submitted to the administrative law judge and the Secretary shall constitute the administrative record for purposes of review by the court.

(3) COURT APPEALS.—An order of the Secretary affirming, in whole or in part, the issuance or renewal of a temporary denial order may, within 15 days after the order is issued, be appealed by a person subject to the order to the United States Court of Appeals for the District of Columbia Circuit, which shall have the jurisdiction of the appeal. The court may review only those issues necessary to determine whether the issuance of the temporary denial order was based on reasonable cause to believe that the person subject to the order was engaged in or was about to engage in any act or practice that constitutes or would constitute a violation of this title, or any regulation, order, or license issued under this Act, or whether a criminal indictment has been returned against the person subject to the order alleging a violation of this Act or of any of the statutes listed in section 603. The court shall vacate the Secretary's order if the court finds that the Secretary's order is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

TITLE VII—EXPORT CONTROL AUTHORITY AND REGULATIONS

SEC. 701. EXPORT CONTROL AUTHORITY AND REGULATIONS.

(a) EXPORT CONTROL AUTHORITY.—

(1) IN GENERAL.—Unless otherwise reserved to the President or a department (other than the Department) or agency of the United States, all power, authority, and discretion conferred by this Act shall be exercised by the Secretary.

(2) DELEGATION OF FUNCTIONS OF THE SECRETARY.—The Secretary may delegate any function under this Act, unless otherwise provided, to the Under Secretary of Commerce for Export Administration or to any other officer of the Department.

(b) UNDER SECRETARY OF COMMERCE; ASSISTANT SECRETARIES.—

(1) UNDER SECRETARY OF COMMERCE.—There shall be within the Department an Under Secretary of Commerce for Export Administration (in this section referred to as the ''Under Secretary'') who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall carry out all functions of the Secretary under this Act and other provisions of law relating to national security, as the Secretary may delegate.

(2) ADDITIONAL ASSISTANT SECRETARIES.—In addition to the number of Assistant Secretaries otherwise authorized for the Department of Commerce, there shall be within the Department of Commerce the following Assistant Secretaries of Commerce:

(A) An Assistant Secretary for Export Administration who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall assist the Secretary and the Under Secretary in carrying out functions relating to export listing and licensing.

(B) An Assistant Secretary for Export Enforcement who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall assist the Secretary and the Under Secretary in carrying out functions relating to export enforcement.

(c) ISSUANCE OF REGULATIONS.—

(1) IN GENERAL.—The President and the Secretary may issue such regulations as are necessary to carry out this Act. Any such regulations the purpose of which is to carry out title II or title III may be issued only after the regulations are submitted for review to such departments or agencies as the President considers appropriate. The Secretary shall consult with the appropriate export control advisory committee appointed under section 105(f) in formulating regulations under this title. The second sentence of this subsection does not require the concurrence or approval of any official, department, or agency to which such regulations are submitted.

(2) AMENDMENTS TO REGULATIONS.—If the Secretary proposes to amend regulations issued under this Act, the Secretary shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives on the intent and rationale of such amendments. Such report shall evaluate the cost and burden to the United States exporters of the proposed amendments in relation to any enhancement of licensing objectives. The Secretary shall consult with the appropriate export control advisory committees appointed under section 105(f) in amending regulations issued under this Act.

SEC. 702. CONFIDENTIALITY OF INFORMATION.

(a) EXEMPTIONS FROM DISCLOSURE.—

(1) INFORMATION OBTAINED ON OR BEFORE JUNE 30, 1980.—Except as otherwise provided by the third sentence of section 602(c)(2), information obtained under the Export Administration Act of 1979, or any predecessor statute, on or before June 30, 1980, which is deemed confidential, including Shipper's Export Declarations, or with respect to which a request for confidential treatment is made by the person furnishing such information, shall not be subject to disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed, unless the Secretary determines that the withholding thereof is contrary to the national interest.

(2) INFORMATION OBTAINED AFTER JUNE 30, 1980.—Except as otherwise provided by the third sentence of section 13(b)(2) of the Export Administration Act of 1979, information obtained under this Act, under the Export Administration Act of 1979 after June 30, 1980, or under the Export Administration regulations as maintained and amended under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1706), may be withheld from disclosure only to the extent permitted by statute, except that information submitted, obtained, or considered in connection with an application for an export license or other export authorization (or recordkeeping or reporting requirement) under the Export Administration Act of 1979, under this Act, or under the Export Administration regulations as maintained and amended under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1706), including—

(A) the export license or other export authorization itself,

(B) classification requests described in section 501(h),

(C) information or evidence obtained in the course of any investigation,

(D) information obtained or furnished under title VII in connection with any international agreement, treaty, or other obligation, and

(E) information obtained in making the determinations set forth in section 211 of this Act,

and information obtained in any investigation of an alleged violation of section 602 of this Act except for information required to be disclosed by section 602(c)(2) or 606(b)(2) of this Act, shall be withheld from public disclosure and shall not be subject to disclosure under section 552 of title 5, United States Code, unless the release of such information is determined by the Secretary to be in the national interest.

(b) INFORMATION TO CONGRESS AND GAO.—

(1) IN GENERAL.—Nothing in this title shall be construed as authorizing the withholding of information from Congress or from the General Accounting Office.

(2) AVAILABILITY TO THE CONGRESS—

(A) IN GENERAL.—Any information obtained at any time under this title or under any predecessor Act regarding the control of exports, including any report or license application required under this title, shall be made available to any committee or subcommittee of Congress of appropriate jurisdiction upon the request of the chairman or ranking minority member of such committee or subcommittee.

(B) PROHIBITION ON FURTHER DISCLOSURE.—No committee, subcommittee, or Member of Congress shall disclose any information obtained under this Act or any predecessor Act regarding the control of exports which is submitted on a confidential basis to the Congress under subparagraph (A) unless the full committee to which the information is made available determines that the withholding of the information is contrary to the national interest.

(3) AVAILABILITY TO THE GAO.—

(A) IN GENERAL.—Notwithstanding subsection (a), information described in paragraph (2) shall, consistent with the protection of intelligence, counterintelligence, and law enforcement sources, methods, and activities, as determined by the agency that originally obtained the information, and consistent with the provisions of section 716 of title 31, United States Code, be made available only by the agency, upon request, to the Comptroller General of the United States or to any officer or employee of the General Accounting Office authorized by the Comptroller General to have access to such information.

(B) PROHIBITION ON FURTHER DISCLOSURES.—No officer or employee of the General Accounting Office shall disclose, except to Congress in accordance with this paragraph, any such information which is submitted on a confidential basis and from which any individual can be identified.

(c) INFORMATION EXCHANGE.—Notwithstanding subsection (a), the Secretary and the Commissioner of Customs shall exchange licensing and enforcement information with each other as necessary to facilitate enforcement efforts and effective license decisions.

(d) PENALTIES FOR DISCLOSURE OF CONFIDENTIAL INFORMATION.—

(1) DISCLOSURE PROHIBITED.—No officer or employee of the United States, or any department or agency thereof, may publish, divulge, disclose, or make known in any manner or to any extent not authorized by law any information that—

(A) the officer or employee obtains in the course of his or her employment or official duties or by reason of any examination or investigation made by, or report or record made to or filed with, such department or agency, or officer or employee thereof; and

(B) is exempt from disclosure under this section.

(2) CRIMINAL PENALTIES.—Any such officer or employee who knowingly violates paragraph (1) shall be fined not more than $50,000, imprisoned not more than 1 year, or both, for each violation of paragraph (1). Any such officer or employee may also be removed from office or employment.

(3) CIVIL PENALTIES; ADMINISTRATIVE SANCTIONS.—The Secretary may impose a civil penalty of not more than $5,000 for each violation of paragraph (1). Any officer or employee who commits such violation may also be removed from office or employment for

the violation of paragraph (1). Subsections 603 (e), (g), (h), and (i) and 606 (a), (b), and (c) shall apply to violations described in this paragraph.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. ANNUAL AND PERIODIC REPORTS.

(a) ANNUAL REPORT.—Not later than February 1 of each year, the Secretary shall submit to Congress a report on the administration of this Act during the fiscal year ending September 30 of the preceding calendar year. All Federal agencies shall cooperate fully with the Secretary in providing information for each such report.

(b) REPORT ELEMENTS.—Each such report shall include in detail—

(1) a description of the implementation of the export control policies established by this Act, including any delegations of authority by the President and any other changes in the exercise of delegated authority;

(2) a description of the changes to and the year-end status of country tiering and the Control List;

(3) a description of the determinations made with respect to foreign availability and mass-market status, the set-asides of foreign availability and mass-market status determinations, and negotiations to eliminate foreign availability;

(4) a description of the regulations issued under this Act;

(5) a description of organizational and procedural changes undertaken in furtherance of this Act;

(6) a description of the enforcement activities, violations, and sanctions imposed under section 604;

(7) a statistical summary of all applications and notifications, including—

(A) the number of applications and notifications pending review at the beginning of the fiscal year;

(B) the number of notifications returned and subject to full license procedure;

(C) the number of notifications with no action required;

(D) the number of applications that were approved, denied, or withdrawn, and the number of applications where final action was taken; and

(E) the number of applications and notifications pending review at the end of the fiscal year;

(8) summary of export license data by export identification code and dollar value by country;

(9) an identification of processing time by—

(A) overall average, and

(B) top 25 export identification codes;

(10) an assessment of the effectiveness of multilateral regimes, and a description of negotiations regarding export controls;

(11) a description of the significant differences between the export control requirements of the United States and those of other multilateral control regime members, the specific differences between United States requirements and those of other significant supplier countries, and a description of the extent to which the executive branch intends to address the differences;

(12) an assessment of the costs of export controls;

(13) a description of the progress made toward achieving the goals established for the Department dealing with export controls under the Government Performance Results Act; and

(14) any other reports required by this Act to be submitted to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives.

(c) CONGRESSIONAL NOTIFICATION.—Whenever the Secretary determines, in consultation with other appropriate departments and agencies, that a significant violation of this Act poses a direct and imminent threat to United States national security interests, the Secretary, in consultation with other appropriate departments and agencies, shall advise the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives of such violation consistent with the protection of law enforcement sources, methods, and activities.

(d) FEDERAL REGISTER PUBLICATION REQUIREMENTS.—Whenever information under this Act is required to be published in the Federal Register, such information shall, in addition, be made available on the appropriate Internet website of the Department.

SEC. 802. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REPEAL.—The Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) is repealed.

(b) ENERGY POLICY AND CONSERVATION ACT.—(1) Section 103 of the Energy Policy and Conservation Act (42 U.S.C. 6212) is repealed.

(2) Section 251(d) of the Energy Policy and Conservation Act (42 U.S.C. 6271(d)) is repealed.

(c) ALASKA NATURAL GAS TRANSPORTATION ACT.—Section 12 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719j) is repealed.

(d) MINERAL LEASING ACT.—Section 28(u) of the Mineral Leasing Act (30 U.S.C. 185(u)) is repealed.

(e) EXPORTS OF ALASKAN NORTH SLOPE OIL.—Section 28(s) of the Mineral Leasing Act (30 U.S.C. 185(s)) is repealed.

(f) DISPOSITION OF CERTAIN NAVAL PETROLEUM RESERVE PRODUCTS.—Section 7430(e) of title 10, United States Code, is repealed.

(g) OUTER CONTINENTAL SHELF LANDS ACT.—Section 28 of the Outer Continental Shelf Lands Act (43 U.S.C. 1354) is repealed.

(h) FOREST RESOURCES CONSERVATION AND SHORTAGE ACT.—Section 491 of the Forest Resource Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620c) is repealed.

(i) ARMS EXPORT CONTROL ACT.—

(1) Section 38 of the Arms Export Control Act (22 U.S.C. 2778) is amended—

(A) in subsection (e)—

(i) in the first sentence, by striking ''subsections (c)'' and all that follows through ''12 of such Act,'' and inserting ''subsections (b), (c), (d) and (e) of section 603 of the Export Administration Act of 1999, by subsections (a) and (b) of section 607 of such Act, and by section 702 of such Act,''; and

(ii) in the third sentence, by striking ''11(c) of the Export Administration Act of 1979'' and inserting ''603(c) of the Export Administration Act of 1999''; and

(B) in subsection (g)(1)(A)(ii), by inserting ''or section 603 of the Export Administration Act of 1999'' after ''1979''.

(2) Section 39A(c) of the Arms Export Control Act is amended—

(A) by striking ''subsections (c),'' and all that follows through ''12(a) of such Act'' and inserting ''subsections (c), (d), and (e) of section 603, section 608(c), and subsections (a) and (b) of section 607, of the Export Administration Act of 1999''; and

(B) by striking ''11(c)'' and inserting ''603(c)''.

(3) Section 40(k) of the Arms Export Control Act (22 U.S.C. 2780(k)) is amended—

(A) by striking ''11(c), 11(e), 11(g), and 12(a) of the Export Administration Act of 1979'' and inserting ''603(b), 603(c), 603(e), 607(a), and 607(b) of the Export Administration Act of 1999''; and

(B) by striking ''11(c)'' and inserting ''603(c)''.

(j) OTHER PROVISIONS OF LAW.—

(1) Section 5(b)(4) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)(4)) is amended by striking ''section 5 of the Export Administration Act of 1979, or under section 6 of that Act to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States'' and inserting ''titles II and III of the Export Administration Act of 1999''.

(2) Section 502B(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2)) is amended in the second sentence—

(A) by striking ''Export Administration Act of 1979'' the first place it appears and inserting ''Export Administration Act of 1999''; and

(B) by striking ''Act of 1979)'' and inserting ''Act of 1999)''.

(3) Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(a)) is amended—

(A) in paragraph (1)(B), by inserting ''or section 310 of the Export Administration Act of 1999'' after ''Act of 1979''; and

(B) in paragraph (2), by inserting ''or 310 of the Export Administration Act of 1999'' after ''6(j) of the Export Administration Act of 1979''.

(4) Section 40(e)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2712(e)(1)) is amended by striking ''section 6(j)(1) of the Export Administration Act of 1979'' and inserting ''section 310 of the Export Administration Act of 1999''.

(5) Section 205(d)(4)(B) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4305(d)(4)(B)) is amended by striking ''section 6(j) of the Export Administration Act of 1979'' and inserting ''section 310 of the Export Administration Act of 1999''.

(6) Section 110 of the International Security and Development Cooperation Act of 1980 (22 U.S.C. 2778a) is amended by striking ''Act of 1979'' and inserting ''Act of 1999''.

(7) Section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)) is amended by striking ''section 5 of the Export Administration Act of 1979, or under section 6 of such Act to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States'' and inserting ''the Export Administration Act of 1999''.

(8) Section 1605(a)(7)(A) of title 28, United States Code, is amended by striking ''section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j))'' and inserting ''section 310 of the Export Administration Act of 1999''.

(9) Section 2332d(a) of title 18, United States Code, is amended by striking ''section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405)'' and inserting ''section 310 of the Export Administration Act of 1999''.

(10) Section 620H(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2378(a)(1)) is amended by striking ''section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j))'' and inserting ''section 310 of the Export Administration Act of 1999''.

(11) Section 1621(a) of the International Financial Institutions Act (22 U.S.C. 262p–4q(a)) is amended by striking ''section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j))'' and inserting ''section 310 of the Export Administration Act of 1999''.

(12) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking ''section 11 (relating to violations) of the Export Administration of 1979'' and inserting ''section 603 (relating to penalties) of the Export Administration Act of 1999''.

SEC. 803. SAVINGS PROVISIONS.

(a) IN GENERAL.—All delegations, rules, regulations, orders, determinations, licenses,

or other forms of administrative action which have been made, issued, conducted, or allowed to become effective under—

(1) the Export Control Act of 1949, the Export Administration Act of 1969, the Export Administration Act of 1979, or the International Emergency Economic Powers Act when invoked to maintain and continue the Export Administration regulations, or

(2) those provisions of the Arms Export Control Act which are amended by section 802,

and are in effect on the date of enactment of this Act, shall continue in effect according to their terms until modified, superseded, set aside, or revoked under this Act or the Arms Export Control Act.

(b) ADMINISTRATIVE AND JUDICIAL PROCEEDINGS.—

(1) EXPORT ADMINISTRATION ACT.—This Act shall not affect any administrative or judicial proceedings commenced or any application for a license made, under the Export Administration Act of 1979 or pursuant to Executive Order 12924, which is pending at the time this Act takes effect. Any such proceedings, and any action on such application, shall continue under the Export Administration Act of 1979 as if that Act had not been repealed.

(2) OTHER PROVISIONS OF LAW.—This Act shall not affect any administrative or judicial proceeding commenced or any application for a license made, under those provisions of the Arms Export Control Act which are amended by section 802, if such proceeding or application is pending at the time this Act takes effect. Any such proceeding, and any action on such application, shall continue under those provisions as if those provisions had not been amended by section 802.

(c) TREATMENT OF CERTAIN DETERMINATIONS.—Any determination with respect to the government of a foreign country under section 6(j) of the Export Administration Act of 1979, or Executive Order 12924, that is in effect on the day before the date of enactment of this Act, shall, for purposes of this title or any other provision of law, be deemed to be made under section 310 of this Act until superseded by a determination under such section 310.

(d) IMPLEMENTATION.—The Secretary shall make any revisions to the Export Administration regulations required by this Act no later than 180 days after the date of enactment of this Act.

ASHCROFT (AND OTHERS) AMENDMENT NO. 2491

(Ordered to lie on the table.)

Mr. ASHCROFT (for himself, Mr. HAGEL, Mr. BAUCUS, Mr. DODD, Mr. DORGAN, Mr. BROWNBACK, Mr. KERREY, Mr. ROBERTS, Mr. ABRAHAM, Mr. ALLARD, Mr. BENNETT, Mr. BINGAMAN, Mr. BOND, Mr. BURNS, Mr. CONRAD, Mr. CRAIG, Mr. CRAPO, Mr. DASCHLE, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. GORTON, Mr. GRAMS, Mr. HARKIN, Mr. HUTCHINSON, Mr. INHOFE, Mr. JEFFORDS, Mr. KENNEDY, Mr. LEAHY, Mrs. LINCOLN, Mr. THOMAS, Mr. WARNER, Mr. SESSIONS, and Ms. LANDRIEU) submitted an amendment intended to be proposed by them to the bill, H.R. 434, as follows:

At the appropriate place, insert the following:

SECTION 1. PURPOSE.

The purpose of this section is to establish U.S. policy with regard to trade of agriculture commodities, medicine and medical equipment.

SEC. 2. REQUIREMENT OF CONGRESSIONAL APPROVAL OF ANY UNILATERAL AGRICULTURAL OR MEDICAL SANCTION.

(a) DEFINITIONS.—In this section:

(1) AGRICULTURAL COMMODITY.—The term ''agricultural commodity'' has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

(2) AGRICULTURAL PROGRAM.—The term ''agricultural program'' means—

(A) any program administered under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et. seq.);

(B) any program administered under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(C) any program administered under the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et. seq.);

(D) the dairy export incentive program administered under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14);

(E) any commercial export sale of agricultural commodities; or

(F) any export financing (including credits or credit guarantees) provided by the United States Government for agricultural commodities.

(3) JOINT RESOLUTION.—The term ''joint resolution'' means—

(A) in the case of subsection (b)(1)(B), only a joint resolution introduced within 10 session days of Congress after the date on which the report of the President under subsection (b)(1)(A) is received by Congress, the matter after the resolving clause of which is as follows: ''That Congress approves the report of the President pursuant to section 2(b)(1)(A) of the Food and Medicine for the World Act, transmitted on _____.'', with the blank completed with the appropriate date; and

(B) in the case of subsection (e)(2), only a joint resolution introduced within 10 session days of Congress after the date on which the report of the President under subsection (e)(1) is received by Congress, the matter after the resolving clause of which is as follows: ''That Congress approves the report of the President pursuant to section 2(e)(1) of the Food and Medicine for the World Act, transmitted on _____.'', with the blank completed with the appropriate date.

(4) MEDICAL DEVICE.—The term ''medical device'' has the meaning given the term ''device'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(5) MEDICINE.—The term ''medicine'' has the meaning given the term ''drug'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(6) UNILATERAL AGRICULTURAL SANCTION.—The term ''unilateral agricultural sanction'' means any prohibition, restriction, or condition on carrying out an agricultural program with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to a multilateral regime and the other member countries of that regime have agreed to impose substantially equivalent measures.

(7) UNILATERAL MEDICAL SANCTION.—The term ''unilateral medical sanction'' means any prohibition, restriction, or condition on exports of, or the provision of assistance consisting of, medicine or a medical device with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to a multilateral regime and the other member countries of that regime have agreed to impose substantially equivalent measures.

(b) RESTRICTION.—

(1) NEW SANCTIONS.—Except as provided in subsections (c) and (d) and notwithstanding any other provision of law, the President may not impose a unilateral agricultural sanction or unilateral medical sanction against a foreign country or foreign entity, unless—

(A) not later than 60 days before the sanction is proposed to be imposed, the President submits a report to Congress that—

(i) describes the activity proposed to be prohibited, restricted, or conditioned; and

(ii) describes the actions by the foreign country or foreign entity that justify the sanction; and

(B) Congress enacts a joint resolution stating the approval of Congress for the report submitted under subparagraph (A).

(2) EXISTING SANCTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), with respect to any unilateral agricultural sanction or unilateral medical sanction that is in effect as of the date of enactment of this Act, the President shall terminate the sanction.

(B) EXEMPTIONS.—Subparagraph (A) shall not apply to a unilateral agricultural sanction or unilateral medical sanction imposed with respect to—

(i) any program administered under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(ii) the Export Credit Guarantee Program (GSM–102) or the Intermediate Export Credit Guarantee Program (GSM–103) established under section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622); or

(iii) the dairy export incentive program administered under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14).

(c) EXCEPTIONS.—Subsection (b) shall not affect any authority or requirement to impose (or continue to impose) a sanction referred to in subsection (b)—

(1) against a foreign country or foreign entity with respect to which Congress has enacted a declaration of war that is in effect on or after the date of enactment of this Act; or

(2) to the extent that the sanction would prohibit, restrict, or condition the provision or use of any agricultural commodity, medicine, or medical device that is—

(A) controlled on the United States Munitions List established under section 38 of the Arms Export Control Act (22 U.S.C. 2778);

(B) controlled on any control list established under the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.); or

(C) used to facilitate the development or production of a chemical or biological weapon or weapon of mass destruction.

(d) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—Subsection (b) shall not affect the prohibitions in effect on or after the date of enactment of this Act under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) on providing, to the government of any country supporting international terrorism, United States government assistance, including United States foreign assistance, United States export assistance, or any United States credits or credit guarantees.

(e) TERMINATION OF SANCTIONS.—Any unilateral agricultural sanction or unilateral medical sanction that is imposed pursuant to the procedures described in subsection (b)(1) shall terminate not later than 2 years after the date on which the sanction became effective unless—

(1) not later than 60 days before the date of termination of the sanction, the President submits to Congress a report containing the recommendation of the President for the continuation of the sanction for an additional period of not to exceed 2 years and the request of the President for approval by Congress of the recommendation; and

(2) Congress enacts a joint resolution stating the approval of Congress for the report submitted under paragraph (1).

(f) CONGRESSIONAL PRIORITY PROCEDURES.—

(1) REFERRAL OF REPORT.—A report described in subsection (b)(1)(A) or (e)(1) shall be referred to the appropriate committee or committees of the House of Representatives and to the appropriate committee or committees of the Senate.

(2) REFERRAL OF JOINT RESOLUTION.—

(A) IN GENERAL.—A joint resolution shall be referred to the committees in each House of Congress with jurisdiction.

(B) REPORTING DATE.—A joint resolution referred to in subparagraph (A) may not be reported before the eighth session day of Congress after the introduction of the joint resolution.

(3) DISCHARGE OF COMMITTEE.—If the committee to which is referred a joint resolution has not reported the joint resolution (or an identical joint resolution) at the end of 30 session days of Congress after the date of introduction of the joint resolution—

(A) the committee shall be discharged from further consideration of the joint resolution; and

(B) the joint resolution shall be placed on the appropriate calendar of the House concerned.

(4) FLOOR CONSIDERATION.—

(A) MOTION TO PROCEED.—

(i) IN GENERAL.—When the committee to which a joint resolution is referred has reported, or when a committee is discharged under paragraph (3) from further consideration of, a joint resolution—

(I) it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any member of the House concerned to move to proceed to the consideration of the joint resolution; and

(II) all points of order against the joint resolution (and against consideration of the joint resolution) are waived.

(ii) PRIVILEGE.—The motion to proceed to the consideration of the joint resolution—

(I) shall be highly privileged in the House of Representatives and privileged in the Senate; and

(II) not debatable.

(iii) AMENDMENTS AND MOTIONS NOT IN ORDER.—The motion to proceed to the consideration of the joint resolution shall not be subject to—

(I) amendment;

(II) a motion to postpone; or

(III) a motion to proceed to the consideration of other business.

(iv) MOTION TO RECONSIDER NOT IN ORDER.—A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(v) BUSINESS UNTIL DISPOSITION.—If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the House concerned until disposed of.

(B) LIMITATIONS ON DEBATE.—

(i) IN GENERAL.—Debate on the joint resolution, and on all debatable motions and appeals in connection with the joint resolution, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution.

(ii) FURTHER DEBATE LIMITATIONS.—A motion to limit debate shall be in order and shall not be debatable.

(iii) AMENDMENTS AND MOTIONS NOT IN ORDER.—An amendment to, a motion to postpone, a motion to proceed to the consideration of other business, a motion to recommit the joint resolution, or a motion to reconsider the vote by which the joint resolution is agreed to or disagreed to shall not be in order.

(C) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the House concerned, the vote on final passage of the joint resolution shall occur.

(D) RULINGS OF THE CHAIR ON PROCEDURE.—An appeal from a decision of the Chair relating to the application of the rules of the Senate or House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(5) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by 1 House of a joint resolution of that House, that House receives from the other House a joint resolution, the following procedures shall apply:

(A) NO COMMITTEE REFERRAL.—The joint resolution of the other House shall not be referred to a committee.

(B) FLOOR PROCEDURE.—With respect to a joint resolution of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House.

(C) DISPOSITION OF JOINT RESOLUTIONS OF RECEIVING HOUSE.—On disposition of the joint resolution received from the other House, it shall no longer be in order to consider the joint resolution originated in the receiving House.

(6) PROCEDURES AFTER ACTION BY BOTH THE HOUSE AND SENATE.—If a House receives a joint resolution from the other House after the receiving House has disposed of a joint resolution originated in that House, the action of the receiving House with regard to the disposition of the joint resolution originated in that House shall be deemed to be the action of the receiving House with regard to the joint resolution originated in the other House.

(7) RULEMAKING POWER.—This paragraph is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such this paragraph—

(i) is deemed to be a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution; and

(ii) supersedes other rules only to the extent that this paragraph is inconsistent with those rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as the rules relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section takes effect on the date of enactment of this Act.

(2) EXISTING SANCTIONS.—In the case of any unilateral agricultural sanction or unilateral medical sanction that is in effect as of the date of enactment of this Act, this section takes effect 180 days after the date of enactment of this Act.

HOLLINGS AMENDMENTS NOS. 2492–2493

(Ordered to lie on the table.)

Mr. HOLLINGS submitted two amendments intended to be proposed by him to the bill, H.R. 434, supra; as follows:

AMENDMENT NO. 2492

At the appropriate place, insert the following:

SEC. . RECIPROCAL TRADE AGREEMENTS REQUIRED.

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated, obtained, and implemented an agreement with the country providing tariff concessions for the importation of United States-made goods that reduce any such import tariffs to rates identical to the tariff rates applied by the United States to that country.

AMENDMENT NO. 2493

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

SEC. . ENVIRONMENTAL AGREEMENT REQUIRED.

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated with that country a side agreement concerning the environment, similar to the North American Agreement on Environmental Cooperation, and submitted that agreement to the Congress.

HARKIN AMENDMENTS NOS. 2494–2495

(Ordered to lie on the table.)

Mr. HARKIN submitted two amendments intended to be proposed by him to the bill, H.R. 434, supra; as follows:

AMENDMENT NO. 2494

At the appropriate place, insert the following new section:

SECTION . SHORT TITLE.

This Act may be cited as the ''Child Labor Deterrence Act of 1999''.

SEC. . FINDINGS; PURPOSE; POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) 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 . . .''.

(2) Article 2 of the International Labor Convention No. 138 Concerning Minimum Age For Admission to Employment states that ''The minimum age specified in pursuance of paragraph 1 of this article shall not be less than the age of compulsory schooling and, in any case, shall not be less than 15 years.''.

(3) The new International Labor Convention addressing the worst forms of child labor calls on member States to take immediate and effective action to prohibit and eliminate such labor. According to the convention, the worst forms of child labor are—

(A) slavery;

(B) debt bondage;

(C) forced or compulsory labor;

(D) the sale or trafficking of children, including the forced or compulsory recruitment of children for use in armed conflict;

(E) child prostitution;

(F) the use of children in the production and trafficking of narcotics; and

(G) any other work that, by its nature or due to the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children.

(4) According to the International Labor Organization, an estimated 250,000,000 children under the age of 15 worldwide are working, many of them in dangerous industries like mining and fireworks.

(5) Children under the age of 15 constitute approximately 22 percent of the workforce in some Asian countries, 41 percent of the workforce in parts of Africa, and 17 percent of the workforce in many countries in Latin America.

(6) The number of children under the age of 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 national laws in many countries which purportedly prohibit the employment of under age children.

(7) In many countries, children under the age of 15 lack either the legal standing or means to protect themselves from exploitation in the workplace.

(8) 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 among adult workers.

(9) The employment of children under the age of 15 commonly deprives the children of the opportunity for basic education and also denies gainful employment to millions of adults.

(10) The employment of children under the age of 15, often at pitifully low wages, undermines the stability of families and ignores the importance of increasing jobs, aggregated demand, and purchasing power among adults as a catalyst to the development of internal markets and the achievement of broadbased, self-reliant economic development in many developing countries.

(11) United Nations Children's Fund (commonly known as UNICEF) estimates that by the year 2000, over 1,000,000 adults will be unable to read or write at a basic level because such adults were forced to work as children and were thus unable to devote the time to secure a basic education.

(b) PURPOSE.—The purpose of this Act is to curtail the employment of children under the age of 15 in the production of goods for export by—

(1) eliminating the role of the United States in providing a market for foreign products made by such children;

(2) supporting activities and programs to extend primary education, rehabilitation, and alternative skills training to child workers, to improve birth registration, and to improve the scope and quality of statistical information and research on the commercial exploitation of such children in the workplace; and

(3) encouraging other nations to join in a ban on trade in products described in paragraph (1) and to support those activities and programs described in paragraph (2).

(c) POLICY.—It is the policy of the United States—

(1) to actively discourage the employment of children under the age of 15 in the production of goods for export or domestic consumption;

(2) to strengthen and supplement international trading rules with a view to renouncing the use of under age children in the production of goods for export as a means of competing in international trade;

(3) to amend Federal law to prohibit the entry into commerce of products resulting from the labor of under age children; and

(4) to offer assistance to foreign countries to improve the enforcement of national laws prohibiting the employment of children under the age of 15 and to increase assistance to alleviate the underlying poverty that is often the cause of the commercial exploitation of such children.

SEC. . UNITED STATES INITIATIVE TO CURTAIL INTERNATIONAL TRADE IN PRODUCTS OF CHILD LABOR.

In pursuit of the policy set forth in this Act, the President is urged to seek an agreement with the government of each country that conducts trade with the United States for the purpose of securing an international ban on trade in products of child labor.

SEC. . DEFINITIONS.

In this Act:

(1) CHILD.—The term ''child'' means—

(A) an individual who has not attained the age of 15, as measured by the Julian calendar; or

(B) an individual who has not attained the age of 14, as measured by the Julian calendar, in the case of a country identified under section 5 whose national laws define a child as such an individual.

(2) EFFECTIVE IDENTIFICATION PERIOD.—The term ''effective identification period'' means, with respect to a foreign industry or host country, the period that—

(A) begins on the date of that issue of the Federal Register in which the identification of the foreign industry or host country is published under section 5(e)(1)(A); and

(B) terminates on the date of that issue of the Federal Register in which the revocation of the identification referred to in subparagraph (A) is published under section 5(e)(1)(B).

(3) ENTERED.—The term ''entered'' means entered, or withdrawn from a warehouse for consumption, in the customs territory of the United States.

(4) EXTRACTION.—The term ''extraction'' includes mining, quarrying, pumping, and other means of extraction.

(5) FOREIGN INDUSTRY.—The term ''foreign industry'' includes any entity that produces, manufactures, assembles, processes, or extracts an article in a host country.

(6) HOST COUNTRY.—The term ''host country'' means any foreign country, and any possession or territory of a foreign country that is administered separately for customs purposes (including any designated zone within such country, possession, or territory) in which a foreign industry is located.

(7) MANUFACTURED ARTICLE.—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 Act.

(8) PRODUCTS OF CHILD LABOR.—An article shall be treated as being a product of child labor—

(A) if, with respect to the article, a child was engaged in the manufacture, fabrication, assembly, processing, or extraction, in whole or in part; and

(B) if the labor was performed—

(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.

(9) SECRETARY.—The term ''Secretary'', except for purposes of section 5, means the Secretary of the Treasury.

SEC. . IDENTIFICATION OF FOREIGN INDUSTRIES AND THEIR RESPECTIVE HOST COUNTRIES THAT UTILIZE CHILD LABOR IN EXPORT OF GOODS.

(a) IDENTIFICATION OF INDUSTRIES AND HOST COUNTRIES.—

(1) IN GENERAL.—The Secretary of Labor (in this section referred to as the ''Secretary'') shall undertake periodic reviews using all available information, including information made available by the International Labor Organization and human rights organizations (the first such review to be undertaken not later than 180 days after the date of enactment of this Act), to identify any foreign industry that—

(A) does not comply with applicable national laws prohibiting child labor in the workplace;

(B) utilizes child labor in connection with products that are exported; and

(C) has on a continuing basis exported products of child labor to the United States.

(2) TREATMENT OF IDENTIFICATION.—For purposes of this Act, the identification of a foreign industry shall be treated as also being an identification of the host country.

(b) PETITIONS REQUESTING IDENTIFICATION.—

(1) FILING.—Any person may file a petition with the Secretary requesting that a particular foreign industry and its host country be identified under subsection (a). The petition must set forth the allegations in support of the request.

(2) ACTION ON RECEIPT OF PETITION.—Not later than 90 days after receiving a petition under paragraph (1), the Secretary shall—

(A) decide whether or not the allegations in the petition warrant further action by the Secretary in regard to the foreign industry and its host country under subsection (a); and

(B) notify the petitioner of the decision under subparagraph (A) and the facts and reasons supporting the decision.

(c) CONSULTATION AND COMMENT.—Before identifying a foreign industry and its host country under subsection (a), the Secretary shall—

(1) consult with the United States Trade Representative, the Secretary of State, the Secretary of Commerce, and the Secretary of the Treasury regarding such action;

(2) hold at least 1 public hearing within a reasonable time for the receipt of oral comment from the public regarding such a proposed identification;

(3) publish notice in the Federal Register—

(A) that such an identification is being considered;

(B) of the time and place of the hearing scheduled under paragraph (2); and

(C) inviting the submission within a reasonable time of written comment from the public; and

(4) take into account the information obtained under paragraphs (1), (2), and (3).

(d) REVOCATION OF IDENTIFICATION.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may revoke the identification of any foreign industry and its host country under subsection (a) if information available to the Secretary indicates that such action is appropriate.

(2) REPORT OF SECRETARY.—No revocation under paragraph (1) may take effect earlier than the 60th day after the date on which the Secretary submits to the Congress a written report—

(A) stating that in the opinion of the Secretary the foreign industry and host country concerned do not utilize child labor in connection with products that are exported; and

(B) stating the facts on which such opinion is based and any other reason why the Secretary considers the revocation appropriate.

(3) PROCEDURE.—No revocation under paragraph (1) may take effect unless the Secretary—

(A) publishes notice in the Federal Register that such a revocation is under consideration and invites the submission within a reasonable time of oral and written comment from the public on the revocation; and

(B) takes into account the information received under subparagraph (A) before preparing the report required under paragraph (2).

(e) PUBLICATION.—The Secretary shall—

(1) promptly publish in the Federal Register—

(A) the name of each foreign industry and its host country identified under subsection (a);

(B) the text of the decision made under subsection (b)(2)(A) and a statement of the facts and reasons supporting the decision; and

(C) the name of each foreign industry and its host country with respect to which an identification has been revoked under subsection (d); and

(2) maintain and publish in the Federal Register a current list of all foreign industries and their respective host countries identified under subsection (a).

SEC. . PROHIBITION ON ENTRY.

(a) PROHIBITION.—

(1) IN GENERAL.—Except as provided in paragraph (2), during the effective identification period for a foreign industry and its host country no article that is a product of that foreign industry may be entered into the customs territory of the United States.

(2) EXCEPTION.—Paragraph (1) shall not apply to the entry of an article—

(A) for which a certification that meets the requirements of subsection (b) is provided and the article, or the packaging in which it is offered for sale, contains, in accordance with regulations prescribed by the Secretary, a label stating that the article is not a product of child labor;

(B) that is entered under any subheading in subchapter IV or VI of chapter 98 of the Harmonized Tariff Schedule of the United States (relating to personal exemptions); or

(C) that was exported from the foreign industry and its host country and was en route to the United States before the first day of the effective identification period for such industry and its host country.

(b) CERTIFICATION THAT ARTICLE IS NOT A PRODUCT OF CHILD LABOR.—

(1) FORM AND CONTENT.—The Secretary shall prescribe the form and content of documentation, for submission in connection with the entry of an article, that satisfies the Secretary that the exporter of the article in the host country, and the importer of the article into the customs territory of the United States, have undertaken reasonable steps to ensure, to the extent practicable, that the article is not a product of child labor.

(2) REASONABLE STEPS.—For purposes of paragraph (1), ''reasonable steps'' include—

(A) in the case of the exporter of an article in the host country—

(i) having entered into a contract, with an organization described in paragraph (4) in that country, providing for the inspection of the foreign industry's facilities for the purpose of certifying that the article is not a product of child labor, and affixing a label, protected under the copyright or trademark laws of the host country, that contains such certification; and

(ii) having affixed to the article a label described in clause (i); and

(B) in the case of the importer of an article into the customs territory of the United States, having required the certification and label described in subparagraph (A) and setting forth the terms and conditions of the acquisition or provision of the imported article.

(3) WRITTEN EVIDENCE.—The documentation required by the Secretary under paragraph (1) shall include written evidence that the reasonable steps set forth in paragraph (2) have been taken.

(4) CERTIFYING ORGANIZATIONS.—

(A) IN GENERAL.—The Secretary shall compile and maintain a list of independent, internationally credible organizations, in each host country identified under section 5, that have been established for the purpose of—

(i) conducting inspections of foreign industries,

(ii) certifying that articles to be exported from that country are not products of child labor, and

(iii) labeling the articles in accordance with paragraph (2)(A).

(B) ORGANIZATION.—Each certifying organization shall consist of representatives of nongovernmental child welfare organizations, manufacturers, exporters, and neutral international organizations.

SEC. . PENALTIES.

(a) UNLAWFUL ACTS.—It shall be unlawful, during the effective identification period applicable to a foreign industry and its host country—

(1) to attempt to enter any article that is a product of that industry if the entry is prohibited under section 6(a)(1); or

(2) to violate any regulation prescribed under section 8.

(b) CIVIL PENALTY.—Any person who commits an unlawful act set forth in subsection (a) shall be liable for a civil penalty not to exceed $25,000.

(c) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (b), any person who intentionally commits an unlawful act set forth in subsection (a) shall be, 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.

(d) CONSTRUCTION.—The unlawful acts set forth in subsection (a) shall be treated as violations of the customs laws for purposes of applying the enforcement provisions of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.), including—

(1) the search, seizure, and forfeiture provisions;

(2) section 592 (relating to penalties for entry by fraud, gross negligence, or negligence); and

(3) section 619 (relating to compensation to informers).

SEC. . REGULATIONS.

The Secretary shall prescribe regulations to carry out the provisions of this Act.

SEC. . UNITED STATES SUPPORT FOR DEVELOPMENTAL ALTERNATIVES FOR UNDER AGE CHILD WORKERS.

In order to carry out section 2(c)(4), there is authorized to be appropriated to the President the sum of—

(1) $30,000,000 for each of fiscal years 2000 through 2004 for the United States contribution to the International Labor Organization for the activities of the International Program on the Elimination of Child Labor; and

(2) $100,000 for fiscal year 2000 for the United States contribution to the United Nations Commission on Human Rights for those activities relating to bonded child labor that are carried out by the Subcommittee and Working Group on Contemporary Forms of Slavery.

AMENDMENT NO. 2495

At the appropriate, insert the following new section:

SEC. ___. LIMITATIONS ON BENEFITS.

(a) IN GENERAL.— Nothwithstanding any other provision of law, no benefits under this Act shall be granted to any country (or to any designated zone in that country) that does not meet any effectively enforce the standards regarding child labor established by the ILO Convention (No. 182) for the Elimination of the Worst Forms of Child Labor.

(b) REPORT.—Not later than 12 months after the date of enactment of this Act and annually thereafter, the President, after consultation with the Trade Policy Review Committee, shall submit a report to Congress on the enforcement of, and compliance with, the standards described in subsection (a).

BOXER AMENDMENT NO. 2496

(Ordered to lie on the table.)

Mrs. BOXER submitted an amendment intended to be proposed by her to the bill, H.R. 434, supra; as follows:

In section 113, add the following new subsection:

(d) CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN.—The President shall direct the Secretary of Commerce, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative to urge participants in the Forum to commit to taking all necessary steps to ensure ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) by the national legislatures of those nations that have not yet ratified the Convention.

HELMS AMENDMENTS NOS. 2497–2500

(Ordered to lie on the table.)

Mr. HELMS submitted four amendments intended to be proposed by him to the bill, H.R. 434, supra; as follows:

AMENDMENT NO. 2497

Nothing in this Act shall be construed as amending, superseding, or restricting in any way the authority of the President under the International Emergency Economic Powers Act.

AMENDMENT NO. 2498

Nothing in this Act shall be construed to permit the commercial export, with or without the benefit of subsidies, guarantees or United States credit, of agricultural commodities, medicine or medical supplies or equipment by United States persons or the United States government to the government of a country designated by the Secretary of State under Section 620A of the Foreign Assistance Act of 1961 (as amended) (22 U.S.C. 2371 et seq.) or any entity controlled by such government.

AMENDMENT NO. 2499

Strike section 2(a)(1) and insert the following:

(1) AGRICULTURAL COMMODITY.—

(A) IN GENERAL.—The term ''agricultural commodity'' has the meaning given that term in section 402(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732(2)).

(B) EXCLUSION.—The term does not include any pesticide, fertilizer, or agricultural machinery or equipment.

Strike section 2(c)(1) and insert the following:

(1) against a foreign country with respect to which—

(A) Congress has declared war or enacted a law containing specific authorization for the use of force;

(B) the United States is involved in ongoing hostilities; or

(C) the President has proclaimed a state of national emergency; or

At the end of section 2(c)(2)(C), add the following:

(C) used or could be used to facilitate the development or production of a chemical or biological weapon or weapons of mass destruction.

Strike section (2)(d) and insert the following:

(d) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—This section shall not affect the prohibitions in effect on the date of enactment of this Act or prohibitions imposed pursuant to any future determination by the Secretary of State, under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), on providing, to the government, or a corporation, partnership, or entity owned or controlled by the government, of any country supporting international terrorism, United States Government assistance, including United States foreign assistance, United States export assistance, or any United States credits or credit guarantees.

AMENDMENT NO. 2500

Strike section 2(a)(1) and insert the following:

(1) AGRICULTURAL COMMODITY.—

(A) IN GENERAL.—The term ''agricultural commodity'' has the meaning given that term in section 402(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732(2)).

(B) EXCLUSION.—The term does not include any pesticide, fertilizer, or agricultural machinery or equipment.

Strike section 2(c)(1) and insert the following:

(1) against a foreign country with respect to which—

(A) Congress has declared war or enacted a law containing specific authorization for the use of force;

(B) the United States is involved in ongoing hostilities; or

(C) the President has proclaimed a state of national emergency; or

At the end of section 2(c)(2)(C), add the following:

(C) used or could be used to facilitate the development or production of a chemical or biological weapon or weapons of mass destruction.

Strike section (2)(d) and insert the following:

(d) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—This section shall not affect the prohibitions in effect on the date of enactment of this Act or prohibitiions imposed pursuant to any future determination by the Secretary of State, under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), on providing, to the government, or a corporation, partnership, or entity owned or controlled by the government, of any country supporting international terrorism, United States Government assistance, including United States foreign assistance, United States export assistance, or any United States credits or credit guarantees.

HOLLINGS AMENDMENT NO. 2501

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill, H.R. 434, supra; as follows:

At the appropriate place, insert the following:

SEC. . LABOR AGREEMENT REQUIRED.

The benefits provided by the amendments made by this Act shall not become available to any country until—

(1) the President has negotiated with that country a side agreement concerning labor standards, similar to the North American Agreement on Labor Cooperation (as defined in section 532(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 3471(b)(2)); and

(2) submitted that agreement to the Congress.

HARKIN AMENDMENT NO. 2502

(Ordered to lie on the table.)

Mr. HARKIN submitted an amendment intended to be proposed by him to the bill, H.R. 434, supra; as follows:

At the appropriate place, insert the following new section:

SEC. ___. GOODS MADE WITH FORCED OR INDENTURED LABOR.

(a) IN GENERAL.—Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended—

(1) in the second sentence, by striking ''; but in no case'' and all that follows to the end period; and

(2) by adding at the end the following new sentence: ''For purposes of this section, the term 'forced labor or/and indentured labor' includes forced or indentured child labor.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a)(1) applies to goods entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.

(2) CHILD LABOR.—The amendment made by subsection (a)(2) takes effect on the date of enactment of this Act.

GRASSLEY AMENDMENT NO. 2503

(Ordered to lie on the table.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill, H.R. 434, supra; as follows:

At the end, insert the following new title:

TITLE VI—OTHER TRADE PROVISIONS

SEC. 601. PRESIDENTIAL DETERMINATION REGARDING THE FEASIBILITY AND DESIRABILITY OF NEGOTIATING FREE TRADE AGREEMENTS WITH ELIGIBLE COUNTRIES.

(a) DETERMINATION AND REPORT.—Not later than 6 months after the date of enactment of this Act and after receiving advice from the Advisory Committee for Trade Policy Negotiations established under section 135(b) of the Trade Act of 1974, the President shall—

(1) make a determination on the feasibility and desirability of commencing formal negotiations regarding a free trade agreement with an eligible Pacific Rim country or countries to which the report relates; and

(2) submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on that determination.

(b) FACTORS IN MAKING DETERMINATION.—In making a determination on the feasibility and desirability of establishing a free trade area between the United States and an eligible country, the President shall consider whether that country—

(1) is a member of the World Trade Organization;

(2) has expressed an interest in negotiating a bilateral free trade agreement with the United States;

(3) has pursued substantive trade liberalization and undertaken structural economic reforms in order to achieve an economy governed by market forces, fiscal restraint, and international trade disciplines and, as a result, has achieved a largely open economy;

(4) has demonstrated a broad affinity for United States trade policy objectives and initiatives;

(5) is an active participant in preparations of the General Council of the World Trade Organization for the 3d Ministerial Conference of the World Trade Organization which will be held in the United States from November 30 to December 3, 1999, and has demonstrated a commitment to United States objectives with respect to an accelerated negotiating round of the World Trade Organization;

(6) is working consistently to eliminate export performance requirements or local content requirements;

(7) seeks the harmonization of domestic and international standards in a manner that ensures transparency and nondiscrimination among the member economies of APEC;

(8) is increasing the economic opportunities available to small- and medium-sized businesses through deregulation;

(9) is working consistently to eliminate barriers to trade in services;

(10) provides national treatment for foreign direct investment;

(11) is working consistently to accommodate market access objectives of the United States;

(12) is working constructively to resolve trade disputes with the United States and displays a clear intent to continue to do so;

(13) is a country whose bilateral trade relationship with the United States will benefit from improved dispute settlement mechanisms; and

(14) is a country whose market for products and services of the United States will be significantly enhanced by eliminating substantially all tariff and nontariff barriers and structural impediments to trade.

(c) ELIGIBLE PACIFIC RIM COUNTRIES.—As used in this section:

(1) APEC.—The term ''APEC'' means the Asian Pacific Economic Cooperation Forum.

(2) ELIGIBLE PACIFIC RIM COUNTRY.—The term ''eligible Pacific Rim country'' means any country that is a WTO member (as defined in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501) and is a member economy of APEC.

LEGISLATION TO PROVIDE SUPPORT FOR CERTAIN INSTITUTES AND SCHOOLS

JEFFORDS AMENDMENT NO. 2504

Mr. HAGEL (for Mr. JEFFORDS) proposed an amendment to the bill (S. 440) to provide support for certain institutes and schools; as follows:

At the end, add the following:

Title V—Robert T. Stafford Public Policy Institute

SEC. 501. DEFINITIONS.

In this section:

(1) ENDOWMENT FUND.—The term ''endowment fund'' means a fund established by the Robert T. Stafford Public Policy Institute for the purpose of generating income for the support of authorized activities.

(2) ENDOWMENT FUND CORPUS.—The term ''endowment fund corpus'' means an amount equal to the grant or grants awarded under this title.

(3) ENDOWMENT FUND INCOME.—The term ''endowment fund income'' means an amount equal to the total value of the endowment fund minus the endowment fund corpus.

(4) INSTITUTE.—The term ''institute'' means the Robert T. Stafford Public Policy Institute.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

SEC. 502. PROGRAM AUTHORIZED.

(a) GRANTS.—From the funds appropriated under section 505, the Secretary is authorized to award a grant in an amount of $5,000,000 to the Robert T. Stafford Public Policy Institute.

(b) APPLICATION.—No grant payment may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

SEC. 503. AUTHORIZED ACTIVITIES.

Funds appropriated under this title may be used—

(1) to further the knowledge and understanding of students of all ages about education, the environment, and public service;

(2) to increase the awareness of the importance of public service, to foster among the youth of the United States greater recognition of the role of public service in the development of the Unites States, and to promote public service as a career choice;

(3) to provide or support scholarships;

(4) to conduct educational, archival, or preservation activities;

(5) to construct or renovate library and research facilities for the collection and compilation of research materials for use in carrying out programs of the Institute;

(6) to establish or increase an endowment fund for use in carrying out the programs of the Institute.

SEC. 504. ENDOWMENT FUND.

(a) MANAGEMENT.—An endowment fund created with funds authorized under this title shall be managed in accordance with the standard endowment policies established by the Institute.

(b) USE OF ENDOWMENT FUND INCOME.—Endowment fund income earned (on or after the date of enactment of this title) may be used to support the activities authorized under section 503.

SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $5,000,000. Funds appropriated under this section shall remain available until expended.

NOTICE OF HEARING

SUBCOMMITTEE ON INVESTIGATIONS

Ms. COLLINS. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings entitled ''Private Banking and Money Laundering: A Case Study of Opportunities and Vulnerabilities.'' The upcoming hearings will examine the vulnerabilities of U.S. private banks to money laundering and the role of U.S. banks in the growing and competitive private banking industry, their services and clientele, and their anti-money laundering efforts. Witnesses will include private bank personnel, bank regulators, and banking and law enforcement experts.

The hearings will take place on Tuesday, November 9, 1999, at 9:30 a.m., and Wednesday, November 10, 1999, at 1:00 p.m., in Room 628 of the Dirksen Senate Office Building. For further information, please contact Linda Gustitus of the Subcommittee's Minority staff at 224–9505.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, November 2, 1999, to conduct a hearing on ''The World Trade Organization, its Seattle Ministerial, and the Millennium Round.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, November 2, 1999 at 10:00 AM and at 2:00 PM to hold two Nomination Hearings.

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

COMMITTEE ON THE JUDICIARY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet on Tuesday, November 2, 1999 at 10:00 a.m., in The President's Room, The Capitol, to conduct a mark-up.

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

COMMITTEE ON THE JUDICIARY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet on Tuesday, November 2, 1999 at 10:30 a.m., in Dirksen Room 226, to conduct a hearing.

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

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs be authorized to meet during the session of the Senate on Tuesday, November 2, 1999 at 3:00 p.m. to hold a hearing.

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

SUBCOMMITTEE ON FOREST AND PUBLIC LAND MANAGEMENT

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Forest and Public Land Management of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, November 2, for purposes of conducting a Subcommittee on Forests and Public Lands Management hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony on the recent announcement by President Clinton to review approximateley 40 million acres of national forest lands for increased protection.

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

ADDITIONAL STATEMENTS

THE PHONY BATTLE AGAINST 'ISOLATIONISM'

• Mr. KYL. Mr. President, Friday's Washington Post contained an excellent op-ed piece by columnist Charles Krathammer arguing that, contrary to claims now being made by senior Clinton Administration officials, the recent defeat of the Comprehensive Test Bank Treaty is not evidence of an emerging isolationist trend in the Republican party. I ask that the column be printed in the RECORD.

The material follows:

THE PHONY BATTLE AGAINST 'ISOLATIONISM'

After seven years, the big foreign policy thinkers in the Clinton administration are convinced they have come up with a big idea. Having spent the better part of a decade meandering through the world without a hint of strategy—wading compassless in and out of swamps from Somalia to Haiti to Yugoslavia—they have finally found their theme.

National Security Adviser Sandy Berger unveiled it in a speech to the Council on Foreign Relations last week. In true Clintonian fashion, Berger turned personal pique over the rejection of the test ban treaty into a grand idea: The Democrats are internationalists, their opponents are isolationists.

First of all, it ill behooves Democrats to call anybody isolationists. This is the party that in 1972 committed itself to ''Come home, America.'' That cut off funds to South Vietnam. That fought bitterly to cut off aid to the Nicaraguan contras and the pro-America government of El Salvador. That mindlessly called for a nuclear freeze. That voted against the Gulf War.

They prevailed in Vietnam but thankfully were defeated on everything else. The contras were kept alive, forcing the Sandinistas to agree to free elections. Nicaragua is now a democracy.

El Salvador was supported against communist guerrillas. It, too, is now a democracy.

President Reagan faced down the freeze and succeeded in getting Soviet withdrawal of their SS–20 nukes from Europe, the abolition of multiwarhead missiles, and the first nuclear arms reduction in history.

And the Gulf War was fought, preventing Saddam from becoming the nuclear-armed hegemon of the Persian Gulf.

''The internationalist consensus that prevailed in this country for more than 50 years,'' claimed Berger, ''increasingly is being challenged by a new isolationism, heard and felt particularly in the Congress.''

Internationalist consensus? For the last 20 years of the Cold War, after the Democrats lost their nerve over Vietnam, there was no internationalist consensus. Internationalism was the property of the Republican Party and of a few brave Democratic dissidents led by Sen. Henry Jackson—who were utterly shut out of power when the Democrats won the White House.

Berger's revisionism is not restricted to the Reagan and Bush years. He can't seem to remember the Clinton years either. He says of the Republicans, that ''since the Cold War ended, the proponents of this [isolationist] vision have been nostalgic for the good old days when friends were friends and enemies were enemies.''

Cold War nostalgia? It was Bill Clinton who early in his presidency said laughingly, ''Gosh, I miss the Cold War.'' Then seriously, ''We had an intellectually coherent thing.

The American people knew what the rules were.''

What exactly is the vision that Berger has to offer? What does the Clinton foreign policy stand for?

Engagement. Hence the speech's title, ''American Power—Hegemony, Isolation or Engagement.'' Or as he spelled it out: ''To keep America engaged in a way that will benefit our people and all people.''

Has there ever been a more mushy, meaningless choice of strategy? Engagement can mean anything. It can mean engagement as a supplicant, as a competitor, as an ally, as an adversary, as a neutral arbiter. Wake up on a Wednesday and pick your meaning.

The very emptiness of the term captures perfectly the essence of Clinton foreign policy. It is glorified ad hocism.

It lurches from one civil war to another with no coherent logic and with little regard for American national interest—finally proclaiming, while doing a victory jig over Kosovo, a Clinton Doctrine pledging America to stop ethnic cleansing anywhere.

It lurches from one multilateral treaty to another—from the Chemical Warfare Convention that even its proponents admit is unverifiable to a test ban treaty that is not just unverifiable but disarming—in the belief that American security can be founded on promises and paper.

If there is a thread connecting these meanderings, it is a woolly utopianism that turns a genuinely felt humanitarianism and a near-mystical belief in the power of parchment into the foreign policy of a superpower.

The choice of engagement as the motif of Clinton foreign policy is a self-confession of confusion. Of course we are engaged in the world. The question is: What kind of engagement?

Engagement that relies on the fictional ''international community,'' the powerless United Nations or the recalcitrant Security Council (where governments hostile to our interests can veto us at will) to legitimatize American action? Or engagement guided by American national interests and security needs?

Engagement that squanders American power and treasure on peacekeeping? Or engagement that concentrates our finite resources on potential warfighting in vital areas such as the Persian Gulf, the Korean peninsula and the Taiwan Strait?

Berger cannot seem to tell the difference between isolationism and realism. Which is the fundamental reason for the rudderless mess that is Clinton foreign policy.●

TRIBUTE TO HELEN WESTBROOK

● Mr. KENNEDY. Mr. President, I would like to take a few moments to recognize an outstanding individual who will soon be retiring from public service. Helen L. Westbrook currently works in the Office of the Deputy Under Secretary of the National Oceanic and Atmospheric Administration. In December, she will complete a career that has spanned many years of distinguished service to our country.

This is a special occasion for me and the Kennedy family, as Helen is truly one of our own. In 1955, as a Senator, my brother John F. Kennedy visited Chicopee, Massachusetts, and delivered an address about a recent visit he had made to Poland and Eastern Europe. Like many other young Americans of that time, Helen heard and heeded my brother's call to public service. She moved to Washington, D.C., and in January 1956, she began work as a secretary in my brother's Senate office. Following the 1960 election, Jack asked Helen to join his White House Staff, and she served as a Secretarial Assistant in the Office of the President until January 1963.

Helen then decided she wanted to gain experience working overseas, and for the next year and a half, she served in our U.S. Embassy in Rome She then returned to America, and at the request of Jackie Kennedy, she came back to work with our family. For the next few years, she served as an assistant to Jackie in New York City. She watched Caroline and John F. Kennedy, Jr. grow up, and went on to marry and raise a family of her own.

In 1992, Helen rejoined the Federal Government and started a career with NOAA. She has been a good friend to Massachusetts and has called for a balanced approach to fisheries management. She has been a skillful advocate for assistance to New England fishermen and coastal communities, and all of us who know her are proud of her achievements and her friendship.

Helen Westbrook is a kind, thoughtful person who truly cares about people. She has brought professionalism, wisdom and dedication to each position that she has held. She is a valued and loyal friend of the Kennedy family.

We don't have enough Helen Westbrooks in government and in the world. She is a shining example of the wonderful people who answered President Kennedy's call to serve their country. I'm proud of her contribution to public service, and I wish her well in her well-deserved retirement.●

CONFERENCE REPORT FOR THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS BILL FOR THE FISCAL YEAR 2000

● Mr. MCCAIN. Mr. President, on October 20, 1999, the Senate passed the conference report for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies appropriations bill for fiscal year 2000. I thank the conferees for their hard work in putting forth this legislation which provides federal funding for fighting crime, enhancing drug enforcement, and responding to threats of terrorism. This bill also addresses the shortcomings of the immigration process, funds the operation of the judicial system, facilitates commerce throughout the United States, and fulfills the needs of the State Department and various other agencies.

For many years, I have tried to cut wasteful and unnecessary spending from the annual appropriations bills—with only limited success, I must admit. Nonetheless, I will continue my fight to curb wasteful pork-barrel spending, and I regret that I must again come forward this year to object to the millions of unrequested, low-priority, wasteful spending in this conference report. This legislation includes $535 million in pork-barrel spending. This is an unacceptable amount of money to spend on low-priority, unrequested, wasteful projects. Congress must curb its appetite for such unbridled spending.

Pork-barrel spending today not only robs well-deserving programs of much needed funds, it also jeopardizes social security reform, potential tax cuts, and our fiscal well-being into the next century.

The multitude of earmarks buried in this proposal will further burden the American taxpayers. While the amounts associated with each individual earmark may not seem extravagant, taken together, they represent a serious diversion of taxpayers' hard-earned dollars to low priority programs at the expense of numerous programs that have undergone the appropriate merit-based selection process. Congress and the American public must be made aware of the magnitude of wasteful spending endorsed by this body.

For the Department of Commerce, there is $400,000 for swordfish research. For the Department of Justice, there is $1 million for the Nevada National Judicial College. For the Department of State, there is $12.5 million for the East-West Center in Hawaii, and for the Small Business Administration, there is $200,000 for Rural Enterprises, Inc., in Durant, Oklahoma. I have compiled a list on my Senate website of these examples and other numerous add-ons and earmarks in the report.

Mr. President, we must continue to work to cut unnecessary and wasteful spending so we can begin to pay down our debt and save billions in interest payments. We have an obligation to ensure that Congress spends taxpayers' hard-earned dollars prudently to protect our balanced budget and to protect the projected budget surpluses. The American public cannot understand why we continue to earmark these huge amounts of money to locality specific special interests at a time when we are trying to cut the cost of government and return more dollars to the people.

Mr. President, it is a sad commentary on the state of politics today that the Congress cannot curb its appetite to earmark funds for programs that are obviously wasteful, unnecessary, or unfair. Unfortunately, however, Members of Congress have demonstrated time and again their willingness to fund programs that serve their narrowly tailored interest at the expense of the national interest.●

DOWNRIVER GUIDANCE CLINIC TRIBUTE

● Mr. ABRAHAM. Mr. President, It is my great pleasure to recognize and honor the Downriver Guidance Clinic as they celebrate their First Downriver Guidance Clinic Week November 7 through November 13, 1999.

For forty-one years the Downriver Guidance Clinic has been at the forefront of providing exceptional health care, mental health services and support to those people who are in need. The Downriver Guidance Clinic has enhanced the quality of life for children, adults and families in the Downriver community. Their programs have built foundations of support for children with behavioral problems, first time parents, teenage mothers, and adults who need help coping with unexpected changes in life.

What is truly remarkable about the Downriver Guidance Center are the innovative and progressive programs they provide. The Opportunity Center combines traditional therapy, volunteer mentoring, and other activities to assist young people who need extra help interacting with parents, teachers and peers. Their Center for Excellence focuses on evaluating and assessing programs as a means for improved services. The Downriver Guidance Center programs continue to reach out to the community by providing employment programs that help ease chronically unemployed people into the workforce. The Center also provides an early childhood development which encourages good emotional and physical health ensuring that children enter school ready to learn.

The accomplishments and work of the Downriver Guidance Center are to be commended. Their impact on the Downriver Community of the future is immeasurable. I applaud the Downriver Guidance Center for all the help they give others as they strive to meet the ever changing needs of the community they serve.●

MEASURE READ THE FIRST TIME—H.R. 1883

Mr. HAGEL. Mr. President, on behalf of the leader, I understand that H.R. 1883 is at the desk. I now ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative assistant read as follows:

A bill (H.R. 1883) to provide for application of measures to foreign persons who transfer to Iran certain goods, services, or technology, and for other purposes.

Mr. HAGEL. Mr. President, I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will remain at the desk.

AUTHORIZING PHOTOGRAPHS IN THE SENATE CHAMBER

Mr. HAGEL. Mr. President, I ask unanimous consent the Senate now proceed to the immediate consideration of S. Res. 214 submitted earlier by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 214) authorizing the taking of photographs in the Chamber of the U.S. Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. HAGEL. I ask unanimous consent the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 214) was agreed to, as follows:

S. RES. 214

Resolved, That paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting photographs to be taken between the first and second sessions of the 106th Congress in order to allow the Senate Commission on Art to carry out its responsibilities to publish a Senate document containing works of art, historical objects, and exhibits within the Senate Wing.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements to carry out this resolution.

AUTHORIZING PRINTING OF ''CAPITOL BUILDER: THE SHORTHAND JOURNALS OF CAPTAIN MONTGOMERY C. MEIGS, 1853–1861''

AUTHORIZING PRINTING OF ''THE U.S. CAPITOL: A CHRONICLE OF CONSTRUCTION, DESIGN, AND POLITICS''

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration en bloc of Senate Concurrent Resolution 66 and Senate Concurrent Resolution 67, submitted earlier by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report the concurrent resolutions by title.

The legislative assistant read as follows:

A concurrent resolution (S. Con. Res. 66) to authorize the printing of ''Capitol Builder: The Shorthand Journals of Captain Montgomery C. Meigs, 1853–1861.''

A concurrent resolution (S. Con. Res. 67) to authorize the printing of ''The United States Capitol: A Chronicle of Construction, Design, and Politics.''

There being no objection, the Senator proceeded to consider the concurrent resolutions.

Mr. HAGEL. Mr. President, I ask unanimous consent that the concurrent resolutions be agreed to, the preambles be agreed to, and the motions to reconsider be laid upon the table, with the above all occurring en bloc.

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

The concurrent resolutions (S. Con. Res. 66 and S. Con. Res. 67) were agreed to.

The preambles were agreed to.

The concurrent resolutions, with their preambles, read as follows:

S. CON. RES. 66

Whereas November 17, 2000, will mark the 200th anniversary of the occupation of the United States Capitol by the Senate and House of Representatives;

Whereas the story of the design and construction of the United States Capitol deserves wider attention; and

Whereas since 1991, Congress has supported a recently completed project to translate the previously inaccessible and richly detailed shorthand journals of Captain Montgomery C. Meigs, the mid-nineteenth-century engineer responsible for construction of the Capitol dome and Senate and House of Representatives extensions: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. PRINTING OF "CAPITOL BUILDER: THE SHORTHAND JOURNALS OF CAPTAIN MONTGOMERY C. MEIGS, 1853–1861".

(a) IN GENERAL.—There shall be printed as a Senate document the book entitled ''Capitol Builder: The Shorthand Journals of Captain Montgomery C. Meigs, 1853–1861'', prepared under the direction of the Secretary of the Senate, in consultation with the Clerk of the House of Representatives and the Architect of the Capitol.

(b) SPECIFICATIONS.—The Senate document described in subsection (a) shall include illustrations and shall be in the style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

(c) NUMBER OF COPIES.—In addition to the usual number of copies, there shall be printed with suitable binding the lesser of—

(1) 1,500 copies for the use of the Senate, the House of Representatives, and the Architect of the Capitol, to be allocated as determined by the Secretary of the Senate and the Clerk of the House of Representatives; or

(2) a number of copies that does not have a total production and printing cost of more than $31,500.

S. CON. RES. 67

Whereas the 200th anniversary of the establishment of the seat of government in the District of Columbia will be observed in the year 2000;

Whereas November 17, 2000, will mark the bicentennial of the occupation of the United States Capitol by the Senate and the House of Representatives; and

Whereas the story of the design and construction of the United States Capitol deserves wider attention: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. PRINTING OF "THE UNITED STATES CAPITOL: A CHRONICLE OF CONSTRUCTION, DESIGN, AND POLITICS".

(a) IN GENERAL.—There shall be printed as a Senate document the book entitled ''The United States Capitol: A Chronicle of Construction, Design, and Politics'', prepared by the Architect of the Capitol.

(b) SPECIFICATIONS.—The Senate document described in subsection (a) shall include illustrations and shall be in the style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

(c) NUMBER OF COPIES.—In addition to the usual number of copies, there shall be printed with suitable binding the lesser of—

(1) 6,500 copies for the use of the Senate, the House of Representatives, and the Architect of the Capitol, to be allocated as determined by the Secretary of the Senate; or

(2) a number of copies that does not have a total production and printing cost of more than $143,000.

MAKING CHANGES TO SENATE COMMITTEES

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 215, submitted earlier by Senator LOTT.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative assistant read as follows:

A resolution (S. Res. 215) making changes to Senate committees for the 106th Congress.

There being no objection, the Senate proceeded to consider the resolution.

Mr. HAGEL. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 215) was agreed to, as follows:

S. RES. 215

Resolved, That the following change shall be effective on those Senate committees listed below for the 106th Congress, or until their successors are appointed:

Committee on Environment and Public Works: Mr. SMITH of New Hampshire, Chairman.

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

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

DUGGER MOUNTAIN WILDERNESS ACT OF 1999

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1843, introduced earlier today by Senator SESSIONS.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1843) to designate certain Federal land in the Talladega National Forest, Alabama, as the ''Dugger Mountain Wilderness.''

There being no objection, the Senate proceeded to consider the bill.

Mr. HAGEL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statement relating to the bill be printed in the RECORD.

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

The bill (S. 1843) was read the third time and passed, as follows:

S. 1843

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 ''Dugger Mountain Wilderness Act of 1999''.

SEC. 2. DESIGNATION OF DUGGER MOUNTAIN WILDERNESS, ALABAMA.

(a) DESIGNATION.—There is designated as wilderness and as a component of the National Wilderness Preservation System, in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), certain Federal land in the Talladega National Forest, Alabama, comprising approximately 9,200 acres, as generally depicted on the map entitled ''Proposed Dugger Mountain Wilderness'', dated July 2, 1999, to be known as the ''Dugger Mountain Wilderness''.

(b) MAP AND DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall submit to Congress a map and description of the boundaries of the Dugger Mountain Wilderness.

(2) FORCE AND EFFECT.—The map and description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the map and description.

(3) PUBLIC AVAILABILITY.—A copy of the map and description shall be on file and available for public inspection in the office of—

(A) the Chief of the Forest Service; and

(B) the Supervisor of National Forest System land located in the State of Alabama.

(c) MANAGEMENT.—

(1) IN GENERAL.—Subject to valid existing rights, land designated as wilderness by this Act shall be managed by the Secretary in accordance with the applicable provisions of the Wilderness Act (16 U.S.C. 1131 et seq.).

(2) EFFECTIVE DATE EXCEPTION.—With respect to the Dugger Mountain Wilderness, any reference in the Wilderness Act (16 U.S.C. 1131 et seq.) to the effective date of that Act shall be considered to be a reference to the date of enactment of this Act.

(d) TREATMENT OF DUGGER MOUNTAIN FIRE TOWER.—

(1) IN GENERAL.—Not later 2 years after the date of enactment of this Act, the Forest Service shall disassemble and remove from the Dugger Mountain Wilderness the Dugger Mountain fire tower (including any supporting structures).

(2) EQUIPMENT.—The Forest Service may use ground-based mechanical and motorized equipment to carry out paragraph (1).

(3) FIRE TOWER ROAD.—

(A) IN GENERAL.—The road to the fire tower shall be open to motorized vehicles during the period required to carry out paragraph (1) only for the purpose of removing the tower (including any supporting structures).

(B) PERMANENT CLOSURE.—After the period referred to in subparagraph (A), the road to the fire tower shall be permanently closed to motorized use.

(4) APPLICABLE LAW.—The Forest Service shall carry out paragraph (1) in accordance with the National Historic Preservation Act (16 U.S.C. 470 et seq.).

CHILD SUPPORT MISCELLANEOUS AMENDMENTS OF 1999

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. 1844 introduced earlier today by Senators ROTH, MOYNIHAN, and others.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1844) to amend Part D of title IV of the Social Security Act to provide for an alternative penalty procedure with respect to compliance with requirements for a State disbursement unit.

There being no objection, the Senate proceeded to consider the bill.

Mr. ROTH. Mr. President, I rise today to introduce the Child Support Miscellaneous Amendments of 1999. This legislation is co-sponsored by Senators MOYNIHAN, VOINOVICH, FEINSTEIN, ROBERTS, BOXER, ENZI, THOMAS, GRAMM, and KERREY.

This bill would provide a more appropriate penalty for States that have not met the deadline for establishing a State Disbursement Unit (SDU). The 1996 welfare reform law (P. L. 104–193) made a number of important changes to the nation's child support system, including a requirement that States establish and operate a State Disbursement Unit (SDU) to receive child support payments and distribute the money in accord with State child support distribution rules. In general, States had until October 1st of this year to establish an SDU.

States that have not met this deadline will lose all Federal funds for the administration of their child support enforcement programs, and also may be in jeopardy of losing Temporary Assistance for Needy Families (TANF) funds.

Although most States have met the deadline, for various reasons about seven States may not. This bill provides that States may apply for an alternative smaller, graduated penalty, as described in the ''Description of the Child Support Miscellaneous Amendments of 1999.''

Mr. President, I ask unanimous consent that a description of the bill be printed in the RECORD following my remarks.

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

(See Exhibit 1.)

Mr. ROTH. Moreover, this legislation provides that any penalty will be waived if a State establishes an SDU within six months of the original deadline, that is, by April 1, 2000. If a State misses the April 1st date but establishes an SDU within a year of the deadline, that is, by September 30, 2000, the penalty shall be limited to one percent of child support funds for the fiscal year.

Mr. President, in my view this alternative penalty system is more suitable for technology-related program requirements, where States may be moving towards compliance but need additional time. Indeed, the proposed legislation follows similar changes made last year in providing an alternative penalty for States that did not meet the deadline for establishing an automated statewide data system for child support. In this regard, the proposed legislation would provide for a single penalty for a State that does not meet either the automated data system or SDU requirements.

The Congressional Budget Office has found this legislation has no cost.

I urge the support of all Senators.

EXHIBIT NO. 1

DESCRIPTION OF THE CHILD SUPPORT MISCELLANEOUS AMENDMENTS OF 1999

PRESENT LAW

The 1996 welfare reform law (P.L. 104–193) required States to establish and operate a State Disbursement Unit (SDU) to receive child support payments and distribute the money in accord with State child support distribution rules. The SDU may be operated by a single State agency, two of more State agencies under a regional cooperative agreement, or by a contractor responsible to the State agency. Alternatively, the SDU may be established by linking local disbursement units, such as counties, under an agreement with the Secretary of Health and Human Services. States that processed receipt of child support payments through their courts at the time of enactment of the 1996 welfare reform law enacted had until October 1, 1999, to operate an SDU. States that did not process child support payments through the courts were required to be operating an SDU by October 1, 1998.

The penalty for not meeting the SDU requirement is the loss of all Federal child support payments. States receive Federal funds for child support enforcement administration according to a matching formula. Furthermore, if a state cannot certify that it has an approved child support enforcement plan—including an SDU—when it renews its Temporary Assistance for Needy Families (TANF) plan (i.e., every 27 months), it is not eligible for TANF funds.

EXPLANATION OF PROVISION

States not operating an approved State Disbursement Unit (SDU) by October 1, 1999, may apply to the Secretary for an alternative penalty. To qualify for the alternative penalty, the Secretary must find that the State has made and is continuing to make a good faith effort to comply, and the State must submit a corrective plan by April 1, 2000. If these conditions are fulfilled, the Secretary must not disapprove the State child support enforcement plan. Instead, the Secretary must reduce the amount the State would otherwise have received in Federal child support payments by the alternative penalty amount for the fiscal year.

The alternative penalty amount is equal to: 4 percent of the penalty base in the first fiscal year; 8 percent in the second fiscal year; 16 percent in the third fiscal year; 25 percent in the fourth fiscal year; and 30 percent in the fifth and subsequent fiscal years. The penalty base is defined as the Federal administrative reimbursement for child support enforcement (i.e., the 66 percent Federal matching funds) that otherwise would have been payable to the State in the previous fiscal year.

If a State that is subject to a penalty has an approved SDU on or before April 1, 2000, the Secretary shall waive the penalty. If a State that is subject to a penalty achieves compliance after April 1, 2000, and on or before September 30, 2000, the penalty amount shall be 1 percent of the penalty base.

In addition, the Secretary may not impose a penalty against a State for a fiscal year for which the State has already been penalized for noncompliance with respect to the automated data processing system requirement, as provided under Section 455 of the Social Security Act.

The loss of Temporary Assistance to Needy Families block grant funds by a State for failure to substantially comply with one or more of the IV-D requirements is not applicable with respect to the SDU requirements (or the automated systems requirement).

EFFECTIVE DATE

October 1, 1999.

Mr. MOYNIHAN. Mr. President, I rise today in support of this technical, yet necessary, legislation, the Child Support Miscellaneous Amendments of 1999. We live in a nation with an ever-increasing number of single mothers. About one-third (32.8%) of all children born in the United States last year were born outside of marriage. At a minimum, we need a comprehensive and effective child support system to see to it that non-custodial parents—often fathers—provide for these children.

Maintaining a central unit for disbursing and collecting child support payments in each state is essential. This eases the burden on the business community, whose cooperation we need. Unfortunately, a handful of states appear to have missed the statutory deadline for having such a central unit in operation. Under current law, all Federal funding for the child support programs in these states will be withdrawn.

This is too harsh of a penalty. States are missing the deadline because they are simply behind schedule in their procurement effort or because of a broader failing in the computer systems undergirding their child support programs. This legislation would provide an alternative, more modest, financial penalty for those states which are late in meeting the deadline. For those states suffering a general failure of their child support computer systems it would not impose a penalty because those states have already been penalized.

I thank the Chairman for his work on this matter, simple one of reasonable program administration.

Mr. BAYH. Mr. President, today I rise as an original cosponsor of the Child Support Miscellaneous Amendments of 1999. This bill will provide states, such as Indiana with additional time to either obtain a waiver from the Department of Health and Human Services or comply with the state disbursement unit requirement without being penalized. It is important that states are provided with sufficient time to determine what system will allow them to collect and disburse child support payments most efficiently.

For many states the most economical and administratively efficient means of delivering and collecting child support payments is to comply with the requirement and create a central state disbursement unit. However, the Department of Health and Human Services has recognized some exceptions to that general rule and granted those states a waiver. The State of Indiana has applied for a waiver but is awaiting the Secretary's determination of whether or not to grant the waiver request. This legislation will allow Indiana, and the other states in a similar predicament, the time they need to determine what system works best for them. In addition, the penalty these states face will be reduced. States will not be in jeopardy of losing all of their administrative dollars for child support collection.

Without this legislation, the State of Indiana could lose as much as $33.5 million, undermining the state's ability to collect child support. While child support collection affects the budgets of the Federal and State Governments, it most importantly affects the children for whom it is intended. The system was designed so children would at least have the economic support of both their parents.

It is important that Congress continue to find ways to collect child support owed to children from noncustodial parents. Child support administrative dollars help states accomplish that goal.

There are other steps Congress can take to reconnect noncustodial parents with their children and encourage them to pay child support. As we continue to discuss the intricacies of child support collection, the need for a child to have the emotional and financial support of both parents should be incorporated into the discussion. I look forward to having that discussion in the near future.

I thank Senator ROTH and Senator MOYNIHAN for their leadership on this issue and for acknowledging the need to provide states with more time to implement a child support collection and disbursement system that works. I urge my colleagues to support this legislation.

Mr. HAGEL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1844) was read the third time and passed, as follows:

S. 1844

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 ''Child Support Miscellaneous Amendments of 1999''.

SEC. 2. ALTERNATIVE PENALTY PROCEDURE RELATING TO COMPLIANCE WITH REQUIREMENTS RELATING TO STATE DISBURSEMENT UNIT.

(a) IN GENERAL.—Section 455(a) of the Social Security Act (42 U.S.C. 655(a)) is amended by adding at the end the following:

''(5)(A)(i) If—

''(I) the Secretary determines that a State plan under section 454 would (in the absence of this paragraph) be disapproved for the failure of the State to comply with subparagraphs (A) and (B)(i) of section 454(27), and that the State has made and is continuing to make a good faith effort to so comply; and

''(II) the State has submitted to the Secretary, not later than April 1, 2000, a corrective compliance plan that describes how, by when, and at what cost the State will achieve such compliance, which has been approved by the Secretary,

then the Secretary shall not disapprove the State plan under section 454, and the Secretary shall reduce the amount otherwise

payable to the State under paragraph (1)(A) of this subsection for the fiscal year by the penalty amount.

''(ii) All failures of a State during a fiscal year to comply with any of the requirements of section 454B shall be considered a single failure of the State to comply with section 454(27)(A) during the fiscal year for purposes of this paragraph.

''(B) In this paragraph:

''(i) The term 'penalty amount' means, with respect to a failure of a State to comply with subparagraphs (A) and (B)(i) of section 454(27)—

''(I) 4 percent of the penalty base, in the case of the 1st fiscal year in which such a failure by the State occurs (regardless of whether a penalty is imposed in that fiscal year under this paragraph with respect to the failure), except as provided in subparagraph (C)(ii);

''(II) 8 percent of the penalty base, in the case of the 2nd such fiscal year;

''(III) 16 percent of the penalty base, in the case of the 3rd such fiscal year;

''(IV) 25 percent of the penalty base, in the case of the 4th such fiscal year; or

''(V) 30 percent of the penalty base, in the case of the 5th or any subsequent such fiscal year.

''(ii) The term 'penalty base' means, with respect to a failure of a State to comply with subparagraphs (A) and (B)(i) of section 454(27) during a fiscal year, the amount other wise payable to the State under paragraph (1)(A) of this subsection for the preceding fiscal year.

''(C)(i) The Secretary shall waive all penalties imposed against a State under this paragraph for any failure of the State to comply with subparagraphs (A) and (B)(i) of section 454(27) if the Secretary determines that, before April 1, 2000, the State has achieved such compliance.

''(ii) If a State with respect to which a reduction is required to be made under this paragraph with respect to a failure to comply with subparagraphs (A) and (B)(i) of section 454(27) achieves compliance with such section on or after April 1, 2000, and on or before September 30, 2000, then the penalty amount applicable to the State shall be 1 percent of the penalty base with respect to the failure involved.

''(D) The Secretary may not impose a penalty under this paragraph against a State for a fiscal year for which the amount otherwise payable to the State under paragraph (1)(A) of this subsection is reduced under paragraph (4) for failure to comply with section 454(24)(A).''.

(b) INAPPLICABILITY OF PENALTY UNDER TANF PROGRAM.—Section 409(a)(8)(A)(i)(III) of such Act (42 U.S.C. 609(a)(8)(A)(i)(III)) is amended by striking ''section 454(24)'' and inserting ''paragraph (24) or (27)(A) of section 454''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1999.

PROVIDING SUPPORT FOR CERTAIN INSTITUTES AND SCHOOLS

Mr. HAGEL. Mr. President, I ask unanimous consent that S. 440 be discharged from the HELP Committee and, further, that the Senate now proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 440) to provide support for certain institutes and schools.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2504

(Purpose: To support the Robert T. Stafford Public Policy Institute)

Mr. HAGEL. Mr. President, Senator JEFFORDS has an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. HAGEL] for Mr. JEFFORDS, proposes an amendment numbered 2504.

The amendment is as follows:

At the end add the following:

TITLE V—ROBERT T. STAFFORD PUBLIC POLICY INSTITUTE

SEC. 501. DEFINITIONS.

In this section:

(1) ENDOWMENT FUND.—The term ''endowment fund'' means a fund established by the Robert T. Stafford Public Policy Institute for the purpose of generating income for the support of authorized activities.

(2) ENDOWMENT FUND CORPUS.—The term ''endowment fund corpus'' means an amount equal to the grant or grants awarded under this title.

(3) ENDOWMENT FUND INCOME.—The term ''endowment fund income'' means an amount equal to the total value of the endowment fund minus the endowment fund corpus.

(4) INSTITUTE.—The term ''institute'' means the Robert T. Stafford Public Policy Institute.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

SEC. 502. PROGRAM AUTHORIZED.

(a) GRANTS.—From the funds appropriated under section 505, the Secretary is authorized to award a grant in an amount of $5,000,000 to the Robert T. Stafford Public Policy Institute.

(b) APPLICATION.—No grant payment may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

SEC. 503. AUTHORIZED ACTIVITIES.

Funds appropriated under this title may be used—

(1) to further the knowledge and understanding of students of all ages about education, the environment, and public service;

(2) to increase the awareness of the importance of public service, to foster among the youth of the United States greater recognition of the role of public service in the development of the United States, and to promote public service as a career choice;

(3) to provide or support scholarships;

(4) to conduct educational, archival, or preservation activities;

(5) to construct or renovate library and research facilities for the collection and compilation of research materials for use in carrying out programs of the Institute;

(6) to establish or increase an endowment fund for use in carrying out the programs of the Institute.

SEC. 504. ENDOWMENT FUND.

(a) MANAGEMENT.—An endowment fund created with funds authorized under this title shall be managed in accordance with the standard endowment policies established by the Institute.

(b) USE OF ENDOWMENT FUND INCOME.—Endowment fund income earned (on or after the date of enactment of this title) may be used to support the activities authorized under section 503.

SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $5,000,000. Funds appropriated under this section shall remain available until expended.

Mr. HAGEL. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 2504) was agreed to.

The bill (S. 440), as amended, was read the third time and passed, as follows:

S. 440

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—HOWARD BAKER SCHOOL OF GOVERNMENT

SEC. 101. DEFINITIONS.

In this title:

(1) BOARD.—The term ''Board'' means the Board of Advisors established under section 104.

(2) ENDOWMENT FUND.—The term ''endowment fund'' means a fund established by the University of Tennessee in Knoxville, Tennessee, for the purpose of generating income for the support of the School.

(3) SCHOOL.—The term ''School'' means the Howard Baker School of Government established under this title.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(5) UNIVERSITY.—The term ''University'' means the University of Tennessee in Knoxville, Tennessee.

SEC. 102. HOWARD BAKER SCHOOL OF GOVERNMENT.

From the funds authorized to be appropriated under section 106, the Secretary is authorized to award a grant to the University for the establishment of an endowment fund to support the Howard Baker School of Government at the University of Tennessee in Knoxville, Tennessee.

SEC. 103. DUTIES.

In order to receive a grant under this title, the University shall establish the School. The School shall have the following duties:

(1) To establish a professorship to improve teaching and research related to, enhance the curriculum of, and further the knowledge and understanding of, the study of democratic institutions, including aspects of regional planning, public administration, and public policy.

(2) To establish a lecture series to increase the knowledge and awareness of the major public issues of the day in order to enhance informed citizen participation in public affairs.

(3) To establish a fellowship program for students of government, planning, public administration, or public policy who have demonstrated a commitment and an interest in pursuing a career in public affairs.

(4) To provide appropriate library materials and appropriate research and instructional equipment for use in carrying out academic and public service programs, and to enhance the existing United States Presidential and public official manuscript collections.

(5) To support the professional development of elected officials at all levels of government.

SEC. 104. ADMINISTRATION.

(a) BOARD OF ADVISORS.—

(1) IN GENERAL.—The School shall operate with the advice and guidance of a Board of Advisors consisting of 13 individuals appointed by the Vice Chancellor for Academic Affairs of the University.

(2) APPOINTMENTS.—Of the individuals appointed under paragraph (1)—

(A) 5 shall represent the University;

(B) 2 shall represent Howard Baker, his family, or a designee thereof;

(C) 5 shall be representative of business or government; and

(D) 1 shall be the Governor of Tennessee, or the Governor's designee.

(3) EX OFFICIO MEMBERS.—The Vice Chancellor for Academic Affairs and the Dean of the College of Arts and Sciences at the University shall serve as an ex officio member of the Board.

(b) CHAIRPERSON.—

(1) IN GENERAL.—The Chancellor, with the concurrence of the Vice Chancellor for Academic Affairs, of the University shall designate 1 of the individuals first appointed to the Board under subsection (a) as the Chairperson of the Board. The individual so designated shall serve as Chairperson for 1 year.

(2) REQUIREMENTS.—Upon the expiration of the term of the Chairperson of the individual designated as Chairperson under paragraph (1) or the term of the Chairperson elected under this paragraph, the members of the Board shall elect a Chairperson of the Board from among the members of the Board.

SEC. 105. ENDOWMENT FUND.

(a) MANAGEMENT.—The endowment fund shall be managed in accordance with the standard endowment policies established by the University of Tennessee System.

(b) USE OF INTEREST AND INVESTMENT INCOME.—Interest and other investment income earned (on or after the date of enactment of this subsection) from the endowment fund may be used to carry out the duties of the School under section 103.

(c) DISTRIBUTION OF INTEREST AND INVESTMENT INCOME.—Funds realized from interest and other investment income earned (on or after the date of enactment of this subsection) shall be available for expenditure by the University for purposes consistent with section 103, as recommended by the Board. The Board shall encourage programs to establish partnerships, to leverage private funds, and to match expenditures from the endowment fund.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $10,000,000. Funds appropriated under this section shall remain available until expended.

TITLE II—JOHN GLENN INSTITUTE FOR PUBLIC SERVICE AND PUBLIC POLICY

SEC. 201. DEFINITIONS.

In this title:

(1) ENDOWMENT FUND.—The term ''endowment fund'' means a fund established by the University for the purpose of generating income for the support of the Institute.

(2) ENDOWMENT FUND CORPUS.—The term ''endowment fund corpus'' means an amount equal to the grant or grants awarded under this title plus an amount equal to the matching funds required under section 202(d).

(3) ENDOWMENT FUND INCOME.—The term ''endowment fund income'' means an amount equal to the total value of the endowment fund minus the endowment fund corpus.

(4) INSTITUTE.—The term ''Institute'' means the John Glenn Institute for Public Service and Public Policy described in section 202.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(6) UNIVERSITY.—The term ''University'' means the Ohio State University at Columbus, Ohio.

SEC. 202. PROGRAM AUTHORIZED.

(a) GRANTS.—From the funds appropriated under section 206, the Secretary is authorized to award a grant to the Ohio State University for the establishment of an endowment fund to support the John Glenn Institute for Public Service and Public Policy. The Secretary may enter into agreements with the University and include in any agreement made pursuant to this title such provisions as are determined necessary by the Secretary to carry out this title.

(b) PURPOSES.—The Institute shall have the following purposes:

(1) To sponsor classes, internships, community service activities, and research projects to stimulate student participation in public service, in order to foster America's next generation of leaders.

(2) To conduct scholarly research in conjunction with public officials on significant issues facing society and to share the results of such research with decisionmakers and legislators as the decisionmakers and legislators address such issues.

(3) To offer opportunities to attend seminars on such topics as budgeting and finance, ethics, personnel management, policy evaluations, and regulatory issues that are designed to assist public officials in learning more about the political process and to expand the organizational skills and policymaking abilities of such officials.

(4) To educate the general public by sponsoring national conferences, seminars, publications, and forums on important public issues.

(5) To provide access to Senator John Glenn's extensive collection of papers, policy decisions, and memorabilia, enabling scholars at all levels to study the Senator's work.

(c) DEPOSIT INTO ENDOWMENT FUND.—The University shall deposit the proceeds of any grant received under this section into the endowment fund.

(d) MATCHING FUNDS REQUIREMENT.—The University may receive a grant under this section only if the University has deposited in the endowment fund established under this title an amount equal to one-third of such grant and has provided adequate assurances to the Secretary that the University will administer the endowment fund in accordance with the requirements of this title. The source of the funds for the University match shall be derived from State, private foundation, corporate, or individual gifts or bequests, but may not include Federal funds or funds derived from any other federally supported fund.

(e) DURATION; CORPUS RULE.—The period of any grant awarded under this section shall not exceed 20 years, and during such period the University shall not withdraw or expend any of the endowment fund corpus. Upon expiration of the grant period, the University may use the endowment fund corpus, plus any endowment fund income for any educational purpose of the University.

SEC. 203. INVESTMENTS.

(a) IN GENERAL.—The University shall invest the endowment fund corpus and endowment fund income in accordance with the University's investment policy approved by the Ohio State University Board of Trustees.

(b) JUDGMENT AND CARE.—The University, in investing the endowment fund corpus and endowment fund income, shall exercise the judgment and care, under circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of the person's own business affairs.

SEC. 204. WITHDRAWALS AND EXPENDITURES.

(a) IN GENERAL.—The University may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of the Institute, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research. No endowment fund income or endowment fund corpus may be used for any type of support of the executive officers of the University or for any commercial enterprise or endeavor. Except as provided in subsection (b), the University shall not, in the aggregate, withdraw or expend more than 50 percent of the total aggregate endowment fund income earned prior to the time of withdrawal or expenditure.

(b) SPECIAL RULE.—The Secretary is authorized to permit the University to withdraw or expend more than 50 percent of the total aggregate endowment fund income whenever the University demonstrates such withdrawal or expenditure is necessary because of—

(1) a financial emergency, such as a pending insolvency or temporary liquidity problem;

(2) a life-threatening situation occasioned by a natural disaster or arson; or

(3) another unusual occurrence or exigent circumstance.

(c) REPAYMENT.—

(1) INCOME.—If the University withdraws or expends more than the endowment fund income authorized by this section, the University shall repay the Secretary an amount equal to one-third of the amount improperly expended (representing the Federal share thereof).

(2) CORPUS.—Except as provided in section 202(e)—

(A) the University shall not withdraw or expend any endowment fund corpus; and

(B) if the University withdraws or expends any endowment fund corpus, the University shall repay the Secretary an amount equal to one-third of the amount withdrawn or expended (representing the Federal share thereof) plus any endowment fund income earned thereon.

SEC. 205. ENFORCEMENT.

(a) IN GENERAL.—After notice and an opportunity for a hearing, the Secretary is authorized to terminate a grant and recover any grant funds awarded under this section if the University—

(1) withdraws or expends any endowment fund corpus, or any endowment fund income in excess of the amount authorized by section 204, except as provided in section 202(e);

(2) fails to invest the endowment fund corpus or endowment fund income in accordance with the investment requirements described in section 203; or

(3) fails to account properly to the Secretary, or the General Accounting Office if properly designated by the Secretary to conduct an audit of funds made available under this title, pursuant to such rules and regulations as may be prescribed by the Comptroller General of the United States, concerning investments and expenditures of the endowment fund corpus or endowment fund income.

(b) TERMINATION.—If the Secretary terminates a grant under subsection (a), the University shall return to the Treasury of the United States an amount equal to the sum of the original grant or grants under this title, plus any endowment fund income earned thereon. The Secretary may direct the University to take such other appropriate measures to remedy any violation of this title and to protect the financial interest of the United States.

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $10,000,000. Funds appropriated under this section shall remain available until expended.

TITLE III—OREGON INSTITUTE OF PUBLIC SERVICE AND CONSTITUTIONAL STUDIES

SEC. 301. DEFINITIONS.

In this title:

(1) ENDOWMENT FUND.—The term ''endowment fund'' means a fund established by Portland State University for the purpose of generating income for the support of the Institute.

(2) INSTITUTE.—The term ''Institute'' means the Oregon Institute of Public Service and Constitutional Studies established under this title.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

SEC. 302. OREGON INSTITUTE OF PUBLIC SERVICE AND CONSTITUTIONAL STUDIES.

From the funds appropriated under section 306, the Secretary is authorized to award a grant to Portland State University at Portland, Oregon, for the establishment of an endowment fund to support the Oregon Institute of Public Service and Constitutional Studies at the Mark O. Hatfield School of Government at Portland State University.

SEC. 303. DUTIES.

In order to receive a grant under this title the Portland State University shall establish the Institute. The Institute shall have the following duties:

(1) To generate resources, improve teaching, enhance curriculum development, and further the knowledge and understanding of students of all ages about public service, the United States Government, and the Constitution of the United States of America.

(2) To increase the awareness of the importance of public service, to foster among the youth of the United States greater recognition of the role of public service in the development of the United States, and to promote public service as a career choice.

(3) To establish a Mark O. Hatfield Fellows program for students of government, public policy, public health, education, or law who have demonstrated a commitment to public service through volunteer activities, research projects, or employment.

(4) To create library and research facilities for the collection and compilation of research materials for use in carrying out programs of the Institute.

(5) To support the professional development of elected officials at all levels of government.

SEC. 304. ADMINISTRATION.

(a) LEADERSHIP COUNCIL.—

(1) IN GENERAL.—In order to receive a grant under this title Portland State University shall ensure that the Institute operates under the direction of a Leadership Council (in this title referred to as the ''Leadership Council'') that—

''(A) consists of 15 individuals appointed by the President of Portland State University; and

''(B) is established in accordance with this section.

(2) APPOINTMENTS.—Of the individuals appointed under paragraph (1)(A)—

(A) Portland State University, Willamette University, the Constitution Project, George Fox University, Warner Pacific University, and Oregon Health Sciences University shall each have a representative;

(B) at least 1 shall represent Mark O. Hatfield, his family, or a designee thereof;

(C) at least 1 shall have expertise in elementary and secondary school social sciences or governmental studies;

(D) at least 2 shall be representative of business or government and reside outside of Oregon;

(E) at least 1 shall be an elected official; and

(F) at least 3 shall be leaders in the private sector.

(3) EX-OFFICIO MEMBER.—The Director of the Mark O. Hatfield School of Government at Portland State University shall serve as an ex-officio member of the Leadership Council.

(b) CHAIRPERSON.—

(1) IN GENERAL.—The President of Portland State University shall designate 1 of the individuals first appointed to the Leadership Council under subsection (a) as the Chairperson of the Leadership Council. The individual so designated shall serve as Chairperson for 1 year.

(2) REQUIREMENT.—Upon the expiration of the term of the Chairperson of the individual designated as Chairperson under paragraph (1), or the term of the Chairperson elected under this paragraph, the members of the Leadership Council shall elect a Chairperson of the Leadership Council from among the members of the Leadership Council.

SEC. 305. ENDOWMENT FUND.

(a) MANAGEMENT.—The endowment fund shall be managed in accordance with the standard endowment policies established by the Oregon University System.

(b) USE OF INTEREST AND INVESTMENT INCOME.—Interest and other investment income earned (on or after the date of enactment of this subsection) from the endowment fund may be used to carry out the duties of the Institute under section 303.

(c) DISTRIBUTION OF INTEREST AND INVESTMENT INCOME.—Funds realized from interest and other investment income earned (on or after the date of enactment of this subsection) shall be spent by Portland State University in collaboration with Willamette University, George Fox University, the Constitution Project, Warner Pacific University, Oregon Health Sciences University, and other appropriate educational institutions or community-based organizations. In expending such funds, the Leadership Council shall encourage programs to establish partnerships, to leverage private funds, and to match expenditures from the endowment fund.

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $3,000,000.

TITLE IV—PAUL SIMON PUBLIC POLICY INSTITUTE

SEC. 401. DEFINITIONS.

In this title:

(1) ENDOWMENT FUND.—The term ''endowment fund'' means a fund established by the University for the purpose of generating income for the support of the Institute.

(2) ENDOWMENT FUND CORPUS.—The term ''endowment fund corpus'' means an amount equal to the grant or grants awarded under this title plus an amount equal to the matching funds required under section 402(d).

(3) ENDOWMENT FUND INCOME.—The term ''endowment fund income'' means an amount equal to the total value of the endowment fund minus the endowment fund corpus.

(4) INSTITUTE.—The term ''Institute'' means the Paul Simon Public Policy Institute described in section 402.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(6) UNIVERSITY.—The term ''University'' means Southern Illinois University at Carbondale, Illinois.

SEC. 402. PROGRAM AUTHORIZED.

(a) GRANTS.—From the funds appropriated under section 406, the Secretary is authorized to award a grant to Southern Illinois University for the establishment of an endowment fund to support the Paul Simon Public Policy Institute. The Secretary may enter into agreements with the University and include in any agreement made pursuant to this title such provisions as are determined necessary by the Secretary to carry out this title.

(b) DUTIES.—In order to receive a grant under this title, the University shall establish the Institute. The Institute, in addition to recognizing more than 40 years of public service to Illinois, to the Nation, and to the world, shall engage in research, analysis, debate, and policy recommendations affecting world hunger, mass media, foreign policy, education, and employment.

(c) DEPOSIT INTO ENDOWMENT FUND.—The University shall deposit the proceeds of any grant received under this section into the endowment fund.

(d) MATCHING FUNDS REQUIREMENT.—The University may receive a grant under this section only if the University has deposited in the endowment fund established under this title an amount equal to one-third of such grant and has provided adequate assurances to the Secretary that the University will administer the endowment fund in accordance with the requirements of this title. The source of the funds for the University match shall be derived from State, private foundation, corporate, or individual gifts or bequests, but may not include Federal funds or funds derived from any other federally supported fund.

(e) DURATION; CORPUS RULE.—The period of any grant awarded under this section shall not exceed 20 years, and during such period the University shall not withdraw or expend any of the endowment fund corpus. Upon expiration of the grant period, the University may use the endowment fund corpus, plus any endowment fund income for any educational purpose of the University.

SEC. 403. INVESTMENTS.

(a) IN GENERAL.—The University shall invest the endowment fund corpus and endowment fund income in those low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State of Illinois, such as federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, or obligations of the United States.

(b) JUDGMENT AND CARE.—The University, in investing the endowment fund corpus and endowment fund income, shall exercise the judgment and care, under circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of the person's own business affairs.

SEC. 404. WITHDRAWALS AND EXPENDITURES.

(a) IN GENERAL.—The University may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of the Institute, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research. No endowment fund income or endowment fund corpus may be used for any type of support of the executive officers of the University or for any commercial enterprise or endeavor. Except as provided in subsection (b), the University shall not, in the aggregate, withdraw or expend more than 50 percent of the total aggregate endowment fund income earned prior to the time of withdrawal or expenditure.

(b) SPECIAL RULE.—The Secretary is authorized to permit the University to withdraw or expend more than 50 percent of the total aggregate endowment fund income whenever the University demonstrates such withdrawal or expenditure is necessary because of—

(1) a financial emergency, such as a pending insolvency or temporary liquidity problem;

(2) a life-threatening situation occasioned by a natural disaster or arson; or

(3) another unusual occurrence or exigent circumstance.

(c) REPAYMENT.—

(1) INCOME.—If the University withdraws or expends more than the endowment fund income authorized by this section, the University shall repay the Secretary an amount equal to one-third of the amount improperly expended (representing the Federal share thereof).

(2) CORPUS.—Except as provided in section 402(e)—

(A) the University shall not withdraw or expend any endowment fund corpus; and

(B) if the University withdraws or expends any endowment fund corpus, the University shall repay the Secretary an amount equal to one-third of the amount withdrawn or expended (representing the Federal share thereof) plus any endowment fund income earned thereon.

SEC. 405. ENFORCEMENT.

(a) IN GENERAL.—After notice and an opportunity for a hearing, the Secretary is authorized to terminate a grant and recover any grant funds awarded under this section if the University—

(1) withdraws or expends any endowment fund corpus, or any endowment fund income in excess of the amount authorized by section 404, except as provided in section 402(e);

(2) fails to invest the endowment fund corpus or endowment fund income in accordance with the investment requirements described in section 403; or

(3) fails to account properly to the Secretary, or the General Accounting Office if properly designated by the Secretary to conduct an audit of funds made available under this title, pursuant to such rules and regulations as may be proscribed by the Comptroller General of the United States, concerning investments and expenditures of the endowment fund corpus or endowment fund income.

(b) TERMINATION.—If the Secretary terminates a grant under subsection (a), the University shall return to the Treasury of the United States an amount equal to the sum of the original grant or grants under this title, plus any endowment fund income earned thereon. The Secretary may direct the University to take such other appropriate measures to remedy any violation of this title and to protect the financial interest of the United States.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $3,000,000. Funds appropriated under this section shall remain available until expended.

TITLE V—ROBERT T. STAFFORD PUBLIC POLICY INSTITUTE

SEC. 501. DEFINITIONS.

In this title:

(1) ENDOWMENT FUND.—The term ''endowment fund'' means a fund established by the Robert T. Stafford Public Policy Institute for the purpose of generating income for the support of authorized activities.

(2) ENDOWMENT FUND CORPUS.—The term ''endowment fund corpus'' means an amount equal to the grant or grants awarded under this title.

(3) ENDOWMENT FUND INCOME.—The term ''endowment fund income'' means an amount equal to the total value of the endowment fund minus the endowment fund corpus.

(4) INSTITUTE.—The term ''institute'' means the Robert T. Stafford Public Policy Institute.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

SEC. 502. PROGRAM AUTHORIZED.

(a) GRANTS.—From the funds appropriated under section 505, the Secretary is authorized to award a grant in an amount of $5,000,000 to the Robert T. Stafford Public Policy Institute.

(b) APPLICATION.—No grant payment may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

SEC. 503. AUTHORIZED ACTIVITIES.

Funds appropriated under this title may be used—

(1) to further the knowledge and understanding of students of all ages about education, the environment, and public service;

(2) to increase the awareness of the importance of public service, to foster among the youth of the United States greater recognition of the role of public service in the development of the United States, and to promote public service as a career choice;

(3) to provide or support scholarships;

(4) to conduct educational, archival, or preservation activities;

(5) to construct or renovate library and research facilities for the collection and compilation of research materials for use in carrying out programs of the Institute;

(6) to establish or increase an endowment fund for use in carrying out the programs of the Institute.

SEC. 504. ENDOWMENT FUND.

(a) MANAGEMENT.—An endowment fund created with funds authorized under this title shall be managed in accordance with the standard endowment policies established by the Institute.

(b) USE OF ENDOWMENT FUND INCOME.—Endowment fund income earned (on or after the date of enactment of this title) may be used to support the activities authorized under section 503.

SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $5,000,000. Funds appropriated under this section shall remain available until expended.

ORDERS FOR WEDNESDAY, NOVEMBER 3, 1999

Mr. HAGEL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Wednesday, November 3. I further ask consent that on Wednesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of the trade bill postcloture.

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

PROGRAM

Mr. HAGEL. For the information of all Senators, at 9:30 a.m. on Wednesday, the Senate will immediately begin debate in relation to the African trade bill. Therefore, Senators may anticipate votes throughout the day and into the evening. In addition, it is expected that the Senate could consider the financial services modernization conference report and any necessary appropriations bills. Therefore, votes will occur each day of Senate session this week.

ORDER FOR ADJOURNMENT

Mr. HAGEL. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator WYDEN.

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

Mr. HAGEL. Mr. President, I yield the floor.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

PRESCRIPTION DRUG COVERAGE FOR OUR NATION'S ELDERLY CITIZENS

Mr. WYDEN. Mr. President, I am on the floor tonight for what is really the 10th time in recent days to talk about the need for decent prescription drug coverage for the Nation's elderly citizens. There is one bipartisan bill now before the Senate. It is the Snowe-Wyden bill. I believe so strongly in this issue because of what I am hearing from senior citizens in my home State and now, frankly, from across the United States.

What I have decided to do, as part of the effort to advance the prospect of dealing with this issue and dealing with it on a bipartisan basis, is to come to the floor as frequently as I can in the hectic Senate schedule to read from some of these bills I am getting from the Nation's senior citizens.

As you can see in the poster next to us, on behalf of the Snowe-Wyden legislation, I am urging seniors to send in copies of their prescription drug bills directly to us at the United States Senate, Washington, DC 20510, because I would like to see the Senate deal with this issue and not just put it off because some are saying it is too difficult and too hard to deal with in this contentious climate. I believe Members of the Senate are sent here to deal with tough issues. This is one that would meet an enormous need.

For a number of years before I was elected to the Congress, I served as director of the Oregon Gray Panthers. The need for coverage of prescription drugs was extremely important back then. It was always a big priority for senior citizens.

Frankly, it is much more important today because so many of the drugs that are available now are preventive in nature. They help keep seniors well. They help us to hold down the cost of medical care in America. A lot of these drugs today, the blood pressure medicine, the cholesterol medicine, keep seniors well and keep us from needing much greater sums of money to pick up the cost of tragic illnesses.

Last week, I cited as one example an important anticoagulant drug. This is a drug that can be available to the Nation's seniors for somewhere in the vicinity of $1,000 a year. But if a senior gets sick, if a senior suffers a debilitating stroke, the expenses associated

with that treatment can be more than $100,000. Just think about that—a modest investment in decent prescription drug coverage for the Nation's elderly people, an anticoagulant drug that costs $1,000 a year can help save $100,000 in much more significant medical expenses.

As the President knows, we have a real challenge in terms of ensuring the stability of the Medicare program. The Part A program, the institutional program, is the one that is going to escalate in cost if we can't do more to make prescription drug coverage a significant part of outpatient benefits for the Nation's seniors.

I am very hopeful this Senate will act on this issue. I believe this is the kind of issue that could be a legacy for this session of Congress.

All over the Nation, seniors are telling us now they cannot afford their prescription medicine. I am going to read from three more letters I have recently received from folks at home. The first is from an elderly woman in Toledo, OR. She writes:

Dear Senator Wyden, I am an 81-year-old widow. My only income, Social Security, allows me to pay for glaucoma, angina, high blood pressure, all of which I have problems. I am taking eight prescription medications daily. My Medicare supplement insurance doesn't cover medication.

For just 1 month for those medicines, she has to spend $166. On top of that, she reports that every other month she has to spend a little over $62 for a small bottle of eye drops. As she says:

That adds up to a lot. If I don't use the eye drops, I go blind. And if I don't use the other medications, I will have a stroke, a heart attack or both. Myself, and I am sure many others, are in exactly the same boat.

She, as part of her letter, encloses a copy of her bills.

Now, this isn't the kind of thing we might hear from some Washington, DC, think tank that is putting out reports about whether or not this is a serious problem and whether or not seniors really need this prescription drug coverage. This is a real live case. This isn't an abstract kind of matter. This is an 81-year-old widow in the State of Oregon who is taking eight prescriptions a day, spending from a modest fixed income $166 a month for those eight prescriptions. Every other month, on top of that, she has to pay for her eye drops. It is very clear that if she doesn't get those medicines, she is going to have the much more serious problems—heart attacks and strokes—that are so debilitating to older people.

Another letter that I got in the last couple of days comes from Medford, OR, from seniors there who discussed the question of prescription drug coverage there at the senior citizens center. They said:

We are glad you are launching a movement to gain support for prescription drug coverage for seniors. They hope it goes through. Enclosed you will find a computer printout of the amounts I spend on prescriptions and drugs. More than 10 percent of our annual budget is used to defray prescription costs. That does not include the miscellaneous items related to drug purchases.

She sent me this, and I will hold up a copy of it. It is an example of the kind of information we are getting. She actually sent us an enumerated copy of the prescription bills that she is paying at home in Medford, OR. These are not isolated cases. I have been on the floor now, this is the tenth occasion, taking three or four of these cases every single time. I hope seniors and families who are listening tonight will look at this poster and see we are urging that they send in copies of their prescription drug bills to their Senators here in the U.S. Senate in Washington, DC, because I am hopeful that this can prick the conscience of the Senate and bring about constructive action before this session is over.

The Snowe-Wyden legislation is bipartisan. Fifty-four Members of this body have already voted for this bill. We have a majority in the Senate on record on behalf of the funding mechanism that we envisage in our legislation. We use marketplace forces. I am not talking about a price control regime or about a one-size-fits-all approach to Federal health care; it is one that is very familiar to the Presiding Officer and to all our colleagues. It is really a model based on the Federal Employees Health Benefits Plan. The Snowe-Wyden legislation is called SPICE. It stands for the Senior Prescription Insurance Coverage Equity Act. It is bipartisan. We do think it would help create choices, options, and alternatives for the Nation's older people.

I am very hopeful this Senate will say we cannot afford to duck this issue. I am often asked whether we can afford to cover prescription medicine for the Nation's older people. I am of the view that we cannot afford not to cover prescriptions, because what we are going to save as a result of these medicines of the future, and the breakthroughs that we are achieving in terms of preventive care and wellness, is going to far exceed the costs that might be incurred as a result of debilitating illnesses that seniors will suffer if they can't get the medicine. As part of this effort to get bipartisan support for the Snowe-Wyden legislation, I intend to keep coming to the floor of the Senate and reading from these letters.

Before I wrap up tonight, I wish to bring up one other case that I thought was particularly poignant. This also was a letter from an elderly person in Medford. Her Social Security monthly income was $582. Over the last few months, she spent over $700 on her prescription medicine, and every 3 months, in addition, she has to pay for her health insurance plan, which doesn't seem to cover many of the health care needs that she has.

Just think about that. With a monthly Social Security income of $582, over recent months she spent more than $700 on prescription drugs. Her private policy doesn't cover many of her health care needs. She also is sending me copies of her bills in an effort to get the Senate to see how important this issue is.

Members of the Senate, I know, care about older people; a number of them have come up to me while I have been on the floor these last couple of weeks talking about this issue and said: You are right; we need to act on it. It is hard to see what is actually holding up the effort to go forward in the Senate.

This is the last period before the year is out. Certainly we can come together as a body and get ready to address this issue early next year. We have a majority in the Senate on record and voting for a specific plan to fund this benefit. It is based on a model that uses marketplace forces that ought to be appealing to both sides of the aisle. It is a model with which Members of Congress are familiar because of the Federal Employees Health Benefits Plan. It is the basis of the Snowe-Wyden legislation. It is hard to see what is really holding up the effort to win passage of this important legislation.

I guess part of the problem is that some of the political prognosticators say it is a difficult issue, that both sides are just going to fight it out on the campaign trail, and we can just wait until 2001 to actually take action on it.

When I hear from seniors at home, such as the letter I raised first from the elderly widow in Toledo who has eight prescriptions and pays more than $165 a month for her prescriptions, and folks in Medford who are on a small monthly income and spending a significant portion of it on prescription drugs, I don't think those people can afford to wait until after the 2001 election. Frankly, I think they expect us to deal with the concerns they have, and to deal with them now.

It is essentially one full year before there is another election. There is plenty of time to go out and campaign and have the vigorous discussion of the issues in the fall of 2000. But what we ought to do now is to act in a bipartisan way. The Snowe-Wyden legislation is that kind of effort. Senator SNOWE and I have said we are going to set aside some of the partisan bickering that has surrounded health care in this session of the Senate in years past; we are going to move forward and try to make sure seniors get some help.

I hope families and seniors who are listening tonight will look at this poster. We are urging that seniors send copies of their prescription drug bills directly to each of us in the Senate here in Washington, DC, and help us in the Senate to come together and deal with the issue that is of such extraordinary importance to our families.

There are a variety of ways this issue could be addressed. I think personally the Snowe-Wyden legislation, because it is bipartisan and because more than half of the Senate has voted for a plan to fund it, is the way to go. But I am sure there are other kinds of ideas.

When seniors send in copies of their prescription drug bills as we try to get action on this issue, I hope they will also let us know their ideas about legislative approaches, be it support for Senator SNOWE, the Snowe-Wyden legislation, or other kinds of approaches. But what to me is unacceptable is just ducking. I do not think there is any excuse for inertia on this issue. I think it is time for the Senate to say we cannot afford, as a nation, to see seniors suffer the way they do when they cannot get prescription drug coverage.

Just as important as the questions of fairness for seniors, it seems to me, are the questions of economics. From an economic standpoint, the need to cover some of these prescription drugs for seniors looks to me like a pretty easy call. With a modest investment, we can save a whole lot of expense that comes about when they suffer strokes and heart attacks and the like when they cannot get their medicine.

So I hope in the days ahead, Members of the Senate, in senior centers and medical facilities and other places where we all go to visit, will take the time to talk to some of the folks at home about the need for prescription drug coverage and discuss ways we can actually get this benefit added in this session of the Senate. Too many of our seniors now cannot afford their medicine. That is what these bills are all about. What these bills and these letters I am getting from seniors at home in Oregon are all about is that they cannot afford their medicine. These are the people who are told by their doctors to take three prescriptions; they cannot afford to do that and they end up taking two prescriptions. Then they cannot afford to do that; then it is one. Pretty soon, sure as the night follows day, they get sicker and they need institutional care. That is, obviously, bad for their health and it is also bad for the Nation's fiscal health. So I intend to keep coming back to the floor of the Senate.

Since my days with the Gray Panthers at home in Oregon, I felt this was an important benefit for the Nation's older people. All these letters I am receiving as a result of folks sending in copies of their prescription drug bills, if anything, just reaffirms to me how important it is that the Senate act on this issue, and do it in a bipartisan way.

Let's show seniors, let's show the skeptics we can come together around this important priority. This is not a trifling matter. This is, for many, many seniors, their big out-of-pocket expense. Many of them do not have private health insurance that covers it. Many of them are simply falling between the cracks in terms of meeting their health care expenses. For many elderly people, as a result of escalating health costs, they are paying more proportionally out of their own pocket today than they were back when Medicare began in 1965. That should not be acceptable to any Member of the Senate.

I intend to come back to the floor again and again and again until this Senate, on a bipartisan basis, looks to addressing this prescription drug coverage. The Snowe-Wyden legislation is bipartisan. It uses marketplace forces. We reject the kind of price control regimes others may wish to pursue. I am hopeful we can get action on this issue because, for the millions of seniors who cannot afford their prescriptions, the Senate's willingness to tackle this issue, and do it on a bipartisan basis and get some relief for the seniors, will help instill a sense of confidence, a sense that the Senate is listening to them, hearing them, and is willing to respond to their most significant needs.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. The Senate, under the previous order, will stand adjourned until 9:30 a.m., Wednesday, November 3, 1999.

Thereupon, the Senate, at 6:49 p.m., adjourned until Wednesday, November 3, 1999, at 9:30 a.m.