United States of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, SECOND SESSION

## SENATE—*Friday, June 18, 1976*

The Senate met at 9 a.m. and was called to order by Hon. DICK CLARK, a Senator from the State of Iowa.

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PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, in this hallowed moment at the beginning of the day, give us the upward look and the open heart that we may hear Thy voice and be guided by Thy spirit.

Make us mindful of our duty to our country, to love her, to support her Constitution, to obey her laws, to respect her flag, to defend her against all enemies. Make us mindful also of our duty to our families, to love them, to give time to them, to be faithful in every relationship.

As we work to shape a better future—

"Set our feet on lofty places;
Gird our lives that they may be
Armored with all Christ-like graces
In the fight to set men free.
Grant us wisdom, grant us courage,
That we fail not man nor Thee!

"Save us from weak resignation
To the evils we deplore;
Let the gift of Thy salvation
Be our glory evermore.
Grant us wisdom, grant us courage,
Serving Thee whom we adore." Amen.
—Harry Emerson Fosdick, 1930.

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### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., June 18, 1976.*

*To the Senate:*

Being temporarily absent from the Senate on official duties, I appoint Hon. DICK CLARK, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
*President pro tempore.*

Mr. CLARK thereupon took the chair as Acting President pro tempore.

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### THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, June 17, 1976, be dispensed with.

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

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### COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today until 1 p.m.

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

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### EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the calendar beginning with the Department of Justice.

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

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### DEPARTMENT OF JUSTICE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of Justice.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

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### FEDERAL POWER COMMISSION

The second assistant legislative clerk read the nomination of John Holliday Holloman III, of Mississippi, to be a member of the Federal Power Commission.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President of the United States be immediately notified of the confirmation of these nominations.

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

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### LEGISLATIVE SESSION

Mr. MANSFIELD. I ask unanimous consent that the Senate resume the consideration of legislative business.

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

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### SENATE RESOLUTION 466—AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF THE PROGRAM IN THE CAPITOL ROTUNDA RELATING TO THE PRESENTATION OF THE MAGNA CARTA

Mr. MANSFIELD. Mr. President, this has been cleared all around.

I ask unanimous consent that the Committee on Rules and Administration be discharged from the consideration of Senate Resolution 466, and that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 466) authorizing the printing of additional copies of the program in the Capitol Rotunda relating to the presentation of the Magna Carta.

The ACTING PRESIDENT pro tempore. Without objection, the committee will be discharged and the Senate will proceed to its consideration.

The resolution was considered and agreed to, as follows:

*Resolved,* That there be printed for the use of the Senate one thousand three hundred additional copies of the program in the Rotunda of the United States Capitol on the occasion of the presentation of the Magna Carta to the American people.

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### ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, has the Senate granted unanimous consent to hold a period for the transaction of routine morning business?

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 9:30 a.m., with statements therein limited to 5 minutes each.

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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



AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

## EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of calling up the following: The supplementary extradition treaty with Spain, executive B, 94th Congress, 2d session; the extradition treaty with the United Kingdom of Great Britain and Northern Ireland, executive A, 94th Congress, 2d session; and the Convention on Registration of Objects Launched Into Outer Space, executive G, 94th Congress, 2d session.

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

## THE SUPPLEMENTARY EXTRADITION TREATY WITH SPAIN, EX. B, 94TH CONG., 2D SESS.; THE EXTRADITION TREATY WITH THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, EX. A, 94TH CONG., 2D SESS.; AND THE CONVENTION ON REGISTRATION OF OBJECTS LAUNCHED INTO OUTER SPACE, EX. G, 94TH CONG., 2D SESS.

The Senate, as in Committee of the Whole, proceeded to consider the following treaties and conventions, which were read the second time:

### SUPPLEMENTARY TREATY ON EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND SPAIN

The President of the United States of America and the Chief of the State of Spain, desiring to make more effective the cooperation of the two countries in the repression of crime through the rendering of maximum assistance in matters of extradition,

Have decided to conclude a Supplementary Treaty on Extradition to amend the Treaty of Extradition signed at Madrid on May 29, 1970, hereinafter referred to as the 1970 Treaty, and to this end have named as their representatives:

The President of the United States of America:

Samuel D. Eaton, Esquire, Chargé d'Affaires ad interim,

The Chief of State of Spain:

His Excellency Señor D. Pedro Cortina Mauri, Minister of Foreign Affairs,

who, after having exchanged their full powers, found to be in good and due form, have agreed as follows:

ARTICLE I

Paragraph D of Article XI of the 1970 Treaty is revised as follows: "A person arrested upon such an application shall be set at liberty upon the expiration of 45 days from the date when the Embassy of the country seeking extradition is informed through diplomatic channels of the fact of his arrest if a request for his extradition accompanied by the documents specified in Article X shall not have been received. However, this stipulation shall not prevent the institution of proceedings with a view to extraditing the person sought if the request is subsequently received."

ARTICLE II

This Supplementary Treaty is subject to ratification and the instruments of ratification shall be exchanged in Washington as soon as possible.

This Supplementary Treaty shall enter into force upon the exchange of instruments of ratification and shall cease to be effective on the date of the termination of the 1970 Treaty.

IN WITNESS WHEREOF the Plenipotentiaries have signed this Supplementary Treaty and have hereunto affixed their seals.

Done in duplicate, in the English and Spanish languages, both equally authentic, at Madrid this twenty-fifth day of January, one thousand nine hundred seventy-five.

FOR THE UNITED STATES OF AMERICA: SAMUEL D. EATON.

FOR SPAIN: D. PEDRO CORTINA MAURI.

### EXTRADITION TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

The Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland;

Desiring to make provision for the reciprocal extradition of offenders;

Have agreed as follows:

ARTICLE I

Each Contracting Party undertakes to extradite to the other, in the circumstances and subject to the conditions specified in this Treaty, any person found in its territory who has been accused or convicted of any offense within Article III, committed within the jurisdiction of the other Party.

ARTICLE II

(1) This Treaty shall apply:

(*a*) in relation to the United Kingdom: to Great Britain and Northern Ireland, the Channel Islands, the Isle of Man, and any territory for the international relations of which the United Kingdom is responsible and to which the Treaty shall have been extended by agreement between the Contracting Parties embodied in an Exchange of Notes; and

(*b*) to the United States of America;

and references to the territory of a Contracting Party shall be construed accordingly.

(2) The application of this Treaty to any territory in respect of which extension has been made in accordance with paragraph (1) of this Article may be terminated by either Contracting Party giving six months' written notice to the other through the diplomatic channel.

ARTICLE III

(1) Extradition shall be granted for an act or omission the facts of which disclose an offense within any of the descriptions listed in the Schedule annexed to this Treaty, which is an integral part of the Treaty, or any other offense, if:

(*a*) the offense is punishable under the laws of both Parties by imprisonment or other form of detention for more than one year or by the death penalty;

(*b*) the offense is extraditable under the relevant law, being the law of the United Kingdom or other territory to which this Treaty applies by virtue of sub-paragraph (1)(*a*) of Article II; and

(*c*) the offense constitutes a felony under the law of the United States of America.

(2) Extradition shall also be granted for any attempt or conspiracy to commit an offense within paragraph (1) of this Article if such attempt or conspiracy is one for which extradition may be granted under the laws of both Parties and is punishable under the laws of both Parties by imprisonment or other form of detention for more than one year or by the death penalty.

(3) Extradition shall also be granted for the offense of impeding the arrest or prosecution of a person who has committed an offense for which extradition may be granted under this Article and which is punishable under the laws of both Parties by imprisonment or other form of detention for a period of five years or more.

(4) A person convicted of and sentenced for an offense shall not be extradited therefor unless he was sentenced to imprisonment or other form of detention for a period of four months or more or, subject to the provisions of Article IV, to the death penalty.

ARTICLE IV

If the offense for which extradition is requested is punishable by death under the relevant law of the requesting Party, but the relevant law of the requested, Party does not provide for the death penalty in a similar case, extradition may be refused unless the requesting Party gives assurances satisfactory to the requested Party that the death penalty will not be carried out.

ARTICLE V

(1) Extradition shall not be granted if:

(*a*) the person sought would, if proceeded against in the territory of the requested Party for the offense for which his extradition is requested, be entitled to be discharged on the grounds of a previous acquittal or conviction in the territory of the requesting or requested Party or of a third State; or

(*b*) the prosecution for the offense for which extradition is requested has become barred by lapse of time according to the law of the requesting or requested Party; or

(*c*)(i) the offense for which extradition is requested is regarded by the requested Party as one of a political character; or

(ii) the person sought proves that the request for his extradition has in fact been made with a view to try or punish him for an offense of a political character.

(2) Extradition may be refused on any other ground which is specified by the law of the requested Party.

ARTICLE VI

If the person sought should be under examination or under punishment in the territory of the requested Party for any other offense, his extradition shall be deferred until the conclusion of the trial and the full execution of any punishment awarded to him.

ARTICLE VII

(1) The request for extradition shall be made through the diplomatic channel, except as otherwise provided in Article XV.

(2) The request shall be accompanied by:

(*a*) a description of the person sought, his nationality, if known, and any other information which would help to establish his identity;

(*b*) a statement of the facts of the offense for which extradition is requested;

(*c*) the text, if any, of the law:

(i) defining that offense;

(ii) prescribing the maximum punishment for that offense; and

(iii) imposing any time limit on the institution of proceedings for that offense; and

(*d*)(i) where the requesting Party is the United Kingdom, a statement of the legal provisions which establish the extraditable character of the offense for which extradition is requested under the relevant law, being the law of the United Kingdom or other territory to which this Treaty applies by virtue of sub-paragraph (1)(*a*) of Article II;

(ii) where the requesting Party is the United States of America, a statement that the offense for which extradition is requested, constitutes a felony under the law of the United States of America.

(3) If the request relates to an accused person, it must also be accompanied by a warrant of arrest issued by a judge, magistrate or other component authority in the

territory of the requesting Party and by such evidence as, according to the law of the requested Party, would justify his committal for trial if the offense had been committed in the territory of the requested Party, including evidence that the person requested is the person to whom the warrant of arrest refers.

(4) If the request relates to a convicted person, it must be accompanied by a certificate or the judgment of conviction imposed in the territory of the requesting Party and by evidence that the person requested is the person to whom the conviction refers and, if the person was sentenced, by evidence of the sentence imposed and a statement showing to what extent the sentence has not been carried out.

(5) The warrant of arrest, or the judicial document establishing the existence of the conviction, and any deposition or statement or other evidence given on oath or affirmed, or any certified copy thereof shall be received in evidence in any proceedings for extradition;

(*a*) if it is authenticated in the case of a warrant by being signed, or in the case of any other original document by being certified, by a judge, magistrate or other competent authority of the requesting Party, or in the case of a copy by being so certified to be a true copy of the original; and

(*b*) where the requesting Party is the United Kingdom, by being sealed with the official seal of the appropriate Minister and certified by the principal diplomatic or consular officer of the United States of America in the United Kingdom; and where the requesting Party is the United States of America, by being sealed with the official seal of the Department of State for the Secretary of State; or

(*c*) if it is authenticated in such other manner as may be permitted by the law of the requested Party.

ARTICLE VIII

(1) In urgent cases the person sought may, in accordance with the law of the requested Party, be provisionally arrested on application through the diplomatic channel by the competent authorities of the requesting Party. The application shall contain an indication of intention to request the extradition of the person sought and a statement of the existence of a warrant of arrest or a conviction against that person, and, if available, a description of the person sought, and such further information, if any, as would be necessary to justify the issue of a warrant of arrest had the offense been committed, or the person sought been convicted, in the territory of the requested Party.

(2) A person arrested upon such an application shall be set at liberty upon the expiration of forty-five days from the date of his arrest if a request for his extradition shall not have been received. This provision shall not prevent the institution of further proceedings for the extradition of the person sought if a request is subsequently received.

ARTICLE IX

(1) Extradition shall be granted only if the evidence be found sufficient according to the law of the requested Party either to justify the committal for trial of the person sought if the offense of which he is accused had been committed in the territory of the requested Party or to prove that he is the identical person convicted by the courts of the requesting Party.

(2) If the requested Party requires additional evidence or information to enable a decision to be taken on the request for extradition, such evidence or information shall be submitted within such time as that Party shall require.

ARTICLE X

If the extradition of a person is requested concurrently by one of the Contracting Parties and by another State or States, either for the same offense or for different offenses, the requested Party shall make its decision in so far as its law allows, having regard to all the circumstances including the provisions in this regard in any Agreements in force between the requested Party and the requesting States, the relative seriousness and place of commission of the offenses, the respective dates of the requests, the nationality of the person sought and the possibility of subsequent extradition to another State.

ARTICLE XI

(1) The requested Party shall promptly communicate to the requesting Party through the diplomatic channel the decision on the request for extradition.

(2) If a warrant or order for the extradition of a person sought has been issued by the competent authority and he is not removed from the territory of the requested Party within such time as may be required under the law of that Party, he may be set at liberty and the requested Party may subsequently refuse to extradite him for the same offense.

ARTICLE XII

(1) A person extradited shall not be detained or proceeded against in the territory of the requesting Party for any offense other than an extraditable offense established by the facts in respect of which his extradition has been granted, or on account of any other matters, nor be extradited by that Party to a third State—

(*a*) until after he has returned to the territory of the requested Party; or

(*b*) until the expiration of thirty days after he has been free to return to the territory of the requested Party.

(2) The provisions of paragraph (1) of this Article shall not apply to offenses committed, or matters arising, after the extradition.

ARTICLE XIII

When a request for extradition is granted, the requested Party shall, so far as its law allows and subject to such conditions as it may impose having regard to the rights of other claimants, furnish the requesting Party with all sums of money and other articles—

(*a*) which may serve as proof of the offense to which the request relates or

(*b*) which may have been acquired by the person sought as a result of the offense and are in his possession.

ARTICLE XIV

(1) The requested Party shall make all necessary arrangements for and meet the cost of the representation of the requesting Party in any proceedings arising out of a request for extradition.

(2) Expenses relating to the transportation of a person sought shall be paid by the requesting Party. No pecuniary claim arising out of the arrest, detention, examination and surrender of a person sought under the provisions of this Treaty shall be made by the requested Party against the requesting Party.

ARTICLE XV

A request on the part of the Government of the United States of America for the extradition of an offender who is found in any of the territories to which this Treaty has been extended in accordance with paragraph (1) of Article II may be made to the Governor or other competent authority of that territory, who may take the decision himself or refer the matter to the Government of the United Kingdom for their decision.

ARTICLE XVI

(1) This Treaty shall be ratified, and the instruments of ratification shall be exchanged at Washington as soon as possible. It shall come into force three months after the date of exchange of instruments of ratification.

(2) This Treaty shall apply to any offense listed in the annexed Schedule committed before or after this Treaty enters into force, provided that extradition shall not be granted for an offense committed before this Treaty enters into force which was not an offense under the laws of both Contracting Parties at the time of its commission.

(3) On the entry into force of this Treaty the provisions of the Extradition Treaty of December 22, 1931 shall cease to have effect as between the United Kingdom and the United States of America.

(4) Either of the Contracting Parties many terminate this Treaty at any time by giving notice to the other through the diplomatic channel. In that event the Treaty shall cease to have effect six months after the receipt of the notice.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

Done in duplicate at London in the English language this 8th day of June, 1972.

For the Government of the United States of America: W. H. ANNENBERG.

For the Government of the United Kingdom of Great Britain and Northern Ireland: ANTHONY KERSHAW.

SCHEDULE

LIST OF OFFENSES REFERRED TO IN ARTICLE III

1. Murder; attempt to murder, including assault with intent to murder.
2. Manslaughter.
3. Maliciously wounding or inflicting grievous bodily harm.
4. Unlawful throwing or application of any corrosive or injurious substance upon the person of another.
5. Rape; unlawful sexual intercourse with a female; indecent assault.
6. Gross indecency or unlawful sexual acts with a child under the age of fourteen years.
7. Procuring a woman or young person for immoral purposes; living on the earnings of prostitution.
8. Unlawfully administering drugs or using instruments with intent to procure the miscarriage of a woman.
9. Bigamy.
10. Kidnapping, abduction, false imprisonment.
11. Neglecting, ill-treating, abandoning, exposing or stealing a child.
12. An offense against the law relating to narcotic drugs, cannabis sativa L, hallucinogenic drugs, cocaine and its derivatives, and other dangerous drugs.
13. Theft; larceny; embezzlement.
14. Robbery; assault with intent to rob.
5. Burglary or housebreaking or shopbreaking.
16. Receiving or otherwise handling any goods, money, valuable securities or other property, knowing the same to have been stolen or unlawfully obtained.
17. Obtaining property, money or valuable securities by false pretenses or other form of deception.
18. Blackmail or extortion.
19. False accounting.
20. Fraud or false statements by company directors and other officers.
21. An offense against the bankruptcy laws.
22. An offense relating to counterfeiting or forgery.
23. Bribery, including soliciting, offering or accepting bribes.
24. Perjury; subornation of perjury.
25. Arson.
26. Malicious damage to property.
27. Any malicious act done with intent to endanger the safety of persons travelling or being upon a railway.

28. Piracy, involving ships or aircraft, according to international law.

29. Unlawful seizure of an aircraft.

PROTOCOL OF SIGNATURE

At the time of signing this day the Extradition Treaty between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as "the Treaty"), the undersigned have agreed as follows:

(1) Article III of the Treaty shall permit the Government of the United States of America to obtain the extradition of a person for an offense to which the Treaty relates when United States Federal jurisdiction is based upon interstate transport or transportation or the use of the mails or of interstate facilities, these aspects being jurisdictional only.

(2) This Protocol of Signature shall form an integral part of the Treaty.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Protocol.

Done in duplicate at London in the English language this 8th day of June, 1972.

For the Government of the United States of America: WALTER ANNENBERG.

For the Government of the United Kingdom of Great Britain and Northern Ireland: ANTHONY KERSHAW.

CONVENTION ON REGISTRATION OF OBJECTS LAUNCHED INTO OUTER SPACE

*The States Parties to this Convention,*

*Recognizing* the common interest of all mankind in furthering the exploration and use of outer space for peaceful purposes,

*Recalling* that the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies of 27 January 1967 affirms that States shall bear international responsibility for their national activities in outer space and refers to the State on whose registry an object launched into outer space is carried,

*Recalling also* that the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space of 22 April 1968 provides that a launching authority shall, upon request, furnish identifying data prior to the return of an object it has launched into outer space found beyond the territorial limits of the launching authority,

*Recalling further* that the Convention on International Liability for Damage Caused by Space Objects of 29 March 1972 establishes international rules and procedures concerning the liability of launching States for damage caused by their space objects,

*Desiring,* in the light of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, to make provision for the national registration by launching States of space objects launched into outer space,

*Desiring further* that a central register of objects launched into outer space be established and maintained, on a mandatory basis, by the Secretary-General of the United Nations,

*Desiring also* to provide for States Parties additional means and procedures to assist in the identification of space objects,

*Believing* that a mandatory system of registering objects launched into outer space would, in particular, assist in their identification and would contribute to the application and development of international law governing the exploration and use of outer space,

*Have agreed* on the following:

ARTICLE I

For the purposes of this Convention:

(*a*) The term "launching State" means:

(i) A State which launches or procures the launching of a space object;

(ii) A State from whose territory or facility a space object is launched;

(*b*) The term "space object" includes component parts of a space object as well as its launch vehicle and parts thereof;

(*c*) The term "State of registry" means a launching State on whose registry a space object is carried in accordance with article II.

ARTICLE II

1. When a space object is launched into orbit or beyond, the launching State shall register the space object by means of an entry in an appropriate registry which it shall maintain. Each launching State shall inform the Secretary-General of the United Nations of the establishment of such a registry.

2. Where there are two or more launching States in respect of any such space object, they shall jointly determine which one of them shall register the object in accordance with paragraph 1 of this article, bearing in mind the provisions of article VIII of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, and without prejudice to appropriate agreements concluded or to be concluded among the launching States on jurisdiction and control over the space object and over any personnel thereof.

3. The contents of each registry and the conditions under which it is maintained shall be determined by the State of registry concerned.

ARTICLE III

1. The Secretary-General of the United Nations shall maintain a Register in which the information furnished in accordance with article IV shall be recorded.

2. There shall be full and open access to the information in this Register.

ARTICLE IV

1. Each State of registry shall furnish to the Secretary-General of the United Nations, as soon as practicable, the following information concerning each space object carried on its registry:

(*a*) Name of launching State or States;

(*b*) An appropriate designator of the space object or its registration number;

(*c*) Date and territory or location of launch;

(*d*) Basic orbital parameters, including:

(*i*) Nodal period,

(*ii*) Inclination,

(*iii*) Apogee,

(*iv*) Perigee;

(*e*) General function of the space object.

2. Each State of registry may, from time to time, provide the Secretary-General of the United Nations with additional information concerning a space object carried on its registry.

3. Each State of registry shall notify the Secretary-General of the United Nations, to the greatest extent feasible and as soon as practicable, of space objects concerning which it has previously transmitted information, and which have been but no longer are in earth orbit.

ARTICLE V

Whenever a space object launched into earth orbit or beyond is marked with the designator or registration number referred to in article IV, paragraph 1(*b*), or both, the State of registry shall notify the Secretary-General of this fact when submitting the information regarding the space object in accordance with article IV. In such case, the Secretary-General of the United Nations shall record this notification in the Register.

ARTICLE VI

Where the application of the provisions of this Convention has not enabled a State Party to identify a space object which has caused damage to it or to any of its natural or juridical persons, or which may be of a hazardous or deleterious nature, other States Parties, including in particular States possessing space monitoring and tracking facilities, shall respond to the greatest extent feasible to a request by that State Party, or transmitted through the Secretary-General on its behalf, for assistance under equitable and reasonable conditions in the identification of the object. A State Party making such a request shall, to the greatest extent feasible, submit information as to the time, nature and circumstances of the events giving rise to the request. Arrangements under which such assistance shall be rendered shall be the subject of agreement between the parties concerned.

ARTICLE VII

1. In this Convention, with the exception of articles VIII to XII inclusive, references to States shall be deemed to apply to any international intergovernmental organization which conducts space activities if the organization declares its acceptance of the rights and obligations provided for in this Convention and if a majority of the States members of the organization are States Parties to this Convention and to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies.

2. States members of any such organization which are States Parties to this Convention shall take all appropriate steps to ensure that the organization makes a declaration in accordance with paragraph 1 of this article.

ARTICLE VIII

1. This Convention shall be open for signature by all States at United Nations Headquarters in New York. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall enter into force among the States which have deposited instruments of ratification on the deposit of the fifth such instrument with the Secretary-General of the United Nations.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of the Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Secretary-General shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification of and accession to this Convention, the date of its entry into force and other notices.

ARTICLE IX

Any State Party to this Convention may propose amendments to the Convention. Amendments shall enter into force for each State Party to the Convention accepting the amendments upon their acceptance by a majority of the States Parties to the Convention and thereafter for each remaining State Party to the Convention on the date of acceptance by it.

ARTICLE X

Ten years after the entry into force of this Convention, the question of the review of the Convention shall be included in the provisional agenda of the United Nations General Assembly in order to consider, in the light of past application of the Convention, whether it requires revision. However, at any time after the Convention has been in force for five years, at the request of one third of the States Parties to the Convention and with the concurrence of the majority of the

States Parties, a conference of the States Parties shall be convened to review this Convention. Such review shall take into account in particular any relevant technological developments, including those relating to the identification of space objects.

ARTICLE XI

Any State Party to this Convention may give notice of its withdrawal from the Convention one year after its entry into force by written notification to the Secretary-General of the United Nations. Such withdrawal shall take effect one year from the date of receipt of this notification.

ARTICLE XII

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all signatory and acceding States.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at New York on * * *.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD appropriate excerpts from the committee reports (Executive No. 94–26, Executive No. 94–27, and Executive No. 94–28) explaining the purposes of these treaties and conventions.

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

PROVISIONS OF THE SUPPLEMENTARY THREAT

According to the State Department's letter of submittal, the primary purpose of the supplementary treaty with Spain is to provide 45 days, instead of 30, for the time in which a person can be incarcerated when he has been provisionally arrested pending the formal presentation through diplomatic channels of documents in support of a request for extradition. Experience under the 1970 Treaty has demonstrated that more than 30 days is often required to prepare and submit the requisite documents, particularly when the translation of documents is involved. The Supplementary Treaty, if ratified, would substitute 45 days for the 30 and would thus minimize the possibility of a provisionally arrested person being set free because of a lack of properly prepared documents. Such an amendment would bring this aspect of the Spanish Extradition Treaty into conformity with contemporary extradition treaties with other nations. In most other respects the 1970 Treaty with Spain follows the form and content of extradition agreements recently concluded by the United States.

DATE OF ENTRY INTO FORCE

The pending Supplementary Treaty will enter into force upon the exchange of instruments of ratification and will cease to the effective on the date of the termination of the 1970 Treaty with Spain.

COMMITTEE ACTION

The Committee on Foreign Relations held a public hearing on the Supplementary Extradition Treaty with Spain on June 15, 1976, at which time testimony in support of the convention was received from Mr. K. E. Malmborg, Assistant Legal Adviser for Management of the Department of State. His prepared statement is attached. In it he states that 45 days are required to prepare the documents necessary for extradition because of our own decentralized legal system and the need to translate them into Spanish. The Supplementary Treaty will only revise Paragraph D of Article XI of the original 1970 Treaty so as to read:

"A person arrested upon such an application shall be set at liberty upon the expiration of 45 days from the date when the Embassy of the country seeking extradition is informed through diplomatic channels of the fact of his arrest if a request for his extradition accompanied the documents specified in Article X shall not have been received. However, this stipulation shall not prevent the institution of proceedings with a view to extraditing the person sought if the request is subsequently received."

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PURPOSE

This Treaty, together with a Protocol of Signature and an Exchange of Notes, was signed on June 8, 1972 and sent to the Senate on February 3, 1976. In President Ford's letter of transmittal he stated that it "will make a significant contribution to the international effort to control narcotics traffic and aircraft hijacking."

MAJOR PROVISIONS

According to the Department of State, this Treaty follows generally the form and content of extradition treaties recently concluded by the United States. It provides for the extradition of fugutives who have been charged with, or convicted of, any of the twenty-nine offenses specified in the Schedule of the Treaty. The most significant offenses added are those relating to narcotics, including psychotropic and other dangerous drugs, and the offense of aircraft hijacking. Also significant is the inclusion of a provision in Article III which authorizes extradition under certain conditions for conspiracy to commit any of the listed offenses.

The Protocol of Signatures permits the Government of the United States to obtain extradition of a person for an offense to which the Treaty relates when United States federal jurisdiction is based upon interstate transport or transportation or the use of the mails or of interstate facilities. The Exchange of Notes gives a restrictive application to Article XVI(2) of the Treaty which relates to retroactivity.

SECTION-BY-SECTION ANALYSIS

In *Article I*, it is agreed that any person, regardless of citizenship, found in the Territory of the other party and accused or convicted by the requesting party of any of the offenses listed in the Schedule may be extradited.

In *Article II*, the Territories included under the sovereignty of the United Kingdom are stipulated together with a proviso that the application of the Treaty to any British Territory may be terminated upon six months' written notice.

*Article III*, in addition to the offenses listed in the schedule, broadens the list by including any offense for which the laws of both parties provide for over one year of detention or which constitutes a felony. Impeding arrest or obstructing justice can also be an extraditable offense under certain conditions.

*Article IV* contains a death penalty waiver, now quite standard in recently negotiated treaties of this nature. If the crime for which one is being extradited is punishable by death under the laws of the requesting country, but not under the other's, the requested party may refuse extradition until it has been assured that the death penalty will not be carried out.

*Article V* lists various other reasons for refusing extradition, such as (a) prior imprisonment for the same offense, (b) the offense has been barred by the lapse of time, (c) is of a political nature, or (d) is specified by law as being non-extraditable.

*Article VI* defers extradition of a fugitive until a trial or sentence already underway in the requested nation has been terminated.

*Article VII* outlines the standard procedure for requesting extradition, including documentation, warrants, legal texts of the law defining the offense, etc.

*Article VIII* provides for provisional arrest until all the documentation required in Article VII has been submitted, but stipulates that if that material has not been presented within 45 days the prisoner will be released.

*Article IX* allows the requested party to refuse extradition if it finds the evidence insufficient, unless the requesting party supplies additional evidence within a stipulated time.

*Article X* describes how the requested party can determine which country has first claim in case two or more nations concurrently request the extradition of the same individual.

*Article* XI stipulates that the requested Party shall promptly communicate to the requesting Party through diplomatic channels its decision on the request for extradition, and adds that if an order for the extradition has been issued, but that the fugitive is not extradited promptly, he may be set at liberty and the requested Party may subsequently refuse to extradite him for the same offense.

*Article XII* provides that a person extradited shall not be detained or proceeded against in the territory of the requesting Party for any offense other than an extraditable offense established by the facts.

*Article XIII* asks the requested Party to turn over to the requesting Party all sums of money and other articles which may serve as proof of the offense to which the request relates or which may have been acquired by the person sought as a result of the offense and are in his possession.

*Article XIV* provides that the requested Party shall meet the cost of the representation of the requesting Party in any proceedings arising out of a request for extradition, but that the expenses relating to the transportation of a person sought shall be paid by the requesting Party.

*Article XV* allows a request for extradition from a British Territory to be made direct to the Governor or other competent authority of that Territory who may himself decide to accede or refer the matter to the United Kingdom.

The Schedule referred to in Article I and III which lists the 29 extraditable offenses is found following Article XVI.

DATE OF ENTRY INTO FORCE

Article XVI stipulates that the Treaty will enter into force three months after the exchange of instruments of ratification. On the entry into force of this Treaty, the provisions of the Extradition Treaty of December 22, 1951 will be terminated.

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PURPOSE

The purpose of the Convention is to provide the international community with a central, public, and current registry of objects launched into outer space. In order to help ensure completeness and uniformity of data submitted, the registration process is made mandatory and the particular kinds of information to be supplied are specified.

Pursuant to this Convention launching States would be required to submit certain information to the U.N. Secretary-General regarding objects which they launch into earth orbit or beyond. The Convention builds on the foundation of a voluntary system of notification to the Secretary-General of the United Nations by U.S. Member States of objects they have launched. That voluntary system has now been in operation since 1962.

BACKGROUND

The voluntary registration system, in whose establishment the United States played a leading role, has received a variety of data on launchings from Australia, Canada, France (acting also for the European Space Agency), the Federal Republic of Germany, Italy, Japan, the United Kingdom, the United States,

and the U.S.S.R. The People's Republic of China, which has only recently become involved in outer space launchings, has not reported on them, but may do so.

Since the establishment of the voluntary registration system the United States has adopted the practice of reporting on its launchings at approximately two- or three-month intervals, a practice which is consistent with the Convention's requirements. In order to help keep the registry as current as possible the United States has also reported when space objects have deorbited or when they have fragmented.

The Convention was negotiated in the United Nations Committee on the Peaceful Uses of Outer Space, now a thirty-seven member body, which earlier had developed the 1967 Outer Space Treaty, the 1968 Astronaut Rescue Agreement, and the 1972 Liabilities Convention. The Senate has given its advice and unanimous consent to each of these treaties and the United States has ratified them. In 1968 France introduced draft treaty proposal measures to strengthen and codify the 1962 voluntary system and to ensure the better functioning of the international registry. In March 1973, the United States introduced its own treaty proposal on this subject. On December 18, 1973, the Twenty-Eighth Session of the U.N. General Assembly requested the Outer Space Committee to consider as a matter of high priority the completion of the text of the draft Registration Convention, and on November 12, 1974, the General Assembly unanimously commended the text of the Convention and requested the Secretary-General to open it for signature and ratification (A/Res. 3235 (XXIX)).

SECTION-BY-SECTION ANALYSIS

The Convention's Preamble recalls relevant provisions of the 1967 Outer Space Treaty, the 1968 Astronaut Rescue Agreement, and the 1972 Liability Convention, and expresses the Parties' desire to provide for national registration of objects launched into outer space, to establish a mandatory central Register to be maintained by the U.N. Secretary-General, and to provide States Parties assistance in the identification of space objects.

*Article I* defines "launching State," "space object," and "State of registry."

*Article II* provides for the establishment and maintenance of national registries, and leaves to the discretion of each State of registry determination of the contents and conditions of its national registry. After considerable discussion the negotiators did not include a requirement for registration of an object before it was launched, but rather left the timing as well as the other details of the national registry to the State maintaining it, or in cases of cooperative international space activities to the agreement between or among the launching States.

*Article III* provides for the maintenance of the central Register by the Secretary-General of the United Nations. It provides, as suggested by the United States, that there be full and open access to the information of the Register. This provision would allow use of the Register by the scientific community and other interested individuals, as well as by States Parties to the Convention.

*Article IV* specifies the types of information which a State of registry shall transmit to the Secretary-General for inclusion in the Register. Consistent with the voluntary reporting practice which the United States has followed for over twelve years, it requires the registration of information about objects launched into earth orbit or into sustained space transit, such as lunar or deep space probes. Additional information, such as that concerning launch failures, may be voluntarily registered. Article IV does not, however, either require or anticipate the reporting of information about objects which may briefly transit outer space, such as sounding rockets or ballistic missile test vehicles. No State has ever submitted such information under the voluntary registration system. In addition, Article IV calls for notification "to the greatest extent feasible and as soon as practicable" of the deorbit of objects earlier reported. The goal of this provision is to encourage the idea that the Register should serve as a net tabulation of objects launched into earth orbit or beyond, a tabulation that to the extent feasible should reflect the current state of such space activities as well as serving as a historical record of past undertakings.

*Article V* deals with the controversial issue of marking space vehicles. A number of delegations participating in the negotiations held the view that a launching State should be required to mark each satellite and launching vehicle in some manner which could be relied on to survive reentry into the atmosphere. These delegates were concerned that their States would otherwise not on their own be able to identify the launching State of an object which landed within their respective jurisdictions. The United States took the position that a marking system designed to survive reentry would not be worth the extraordinarily difficult technical task and additional expense which would be involved, particularly since there is publicly available existing methods for identifying the national origin of a space object such as through tracking data and scientific tests of various kinds.

Extensive negotiations resulted in a compromise formula which requires that if a space object is marked with a designator or national registration number, the State of registry should notify the Secretary-General of this fact as part of the information reported to the central Register. The Convention, however, does not in any way require such marking; it requires notification only if marking is voluntarily undertaken.

*Article VI* contains a formula developed from a United States proposal to deal with the space object identification problem in a manner other than marking. Article VI obligates States Parties to respond to the greatest extent feasible to requests from other States Parties for assistance in identifying a space object in the unlikely event it has caused damage to the requesting State or to any of its natural or juridicial persons, or which may be of a hazardous or deleterious nature. States possessing space tracking facilities would have a particular responsibility to give such assistance when requested. This Article provides as well that a requesting State shall to the greatest extent feasible submit information as to the time, nature, and circumstances of the events giving rise to the request in order to assist in the identification process.

*Article VII* provides for the application of Articles I through VII to international intergovernmental organizations which conduct space activities, such as the European Space Agency.

*Article VIII* provides that the U.N. Secretary-General will be the depositary for the Treaty, and for the signature, ratification, and accession to the Convention by States.

*Article IX* provides a procedure for amending the Convention.

*Article X* provides the possibility of a review conference after a period of years to examine whether the Convention needs revision.

*Article XI* provides withdrawal procedures.

*Article XII* specifies the six authentic languages of the original of the Convention, and that it shall be deposited with the Secretary-General.

The Convention has been signed by Argentina. Austria, Belgium, Bulgaria, Burundi, Byelorussia, Canada, Czechoslovakia, Denmark, France, German Democratic Republic, German Federal Republic, Hungary, Iran, Mexico, Mongolia, Nicaragua, Pakistan, Poland, Switzerland, Ukrania, U.S.S.R., the United Kingdom, and the United States, France and Bulgaria have also ratified it.

DATE OF ENTRY INTO FORCE

This Convention will enter into force among the States which have deposited instruments of ratification on the deposit of the fifth such instrument with the Secretary-General of the United Nations.

For States whose instruments of ratification or accession are deposited subsequent to the entry into force of the Convention, it will enter into force on the date of the deposit of their instruments of ratification or accession.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that these treaties be considered as having passed through their various parliamentary stages up to and including the presentation of the resolution.

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

The resolutions of ratification of executive B, 94th Congress, 2d session, executive A, 94th Congress, 2d session, and executive G, 94th Congress, 2d session will be read.

The second assistant legislative clerk read as follows:

*Resolved,* (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Supplementary Extradition Treaty with Spain, signed at Madrid on January 25, 1975 (Executive B, 94th Congress, second session).

*Resolved,* (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the treaty on extradition between the United States of America and the United Kingdom of Great Britain and Northern Ireland, signed at Washington on June 8, 1972 (Ex. A. 94–2).

*Resolved,* (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on Registration of Objects Launched into Outer Space, which was signed by the United States at New York, on January 24, 1975 (Ex. G, 94th Congress, 2nd Sess.)

ORDER FOR VOTE TO OCCUR AT 1 P.M., MONDAY, JUNE 21, 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on these treaties occur at the hour of 1 p.m. on Monday next.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on these treaties occur only once but that three votes be recorded at that time.

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

## LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

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

## AUTHORIZATION FOR CONSIDERATION OF S. 3557—WAIVER OF SECTION 402(a) OF CONGRESSIONAL BUDGET ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate pro-

ceed to the consideration of Calendar No. 901, Senate Resolution 464.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 464) waiver under section 402(a) of the Congressional Budget Act with respect to the consideration of S. 3557.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 464) was agreed to, as follows:

*Resolved*, That (a) pursuant to section 402(c)(1)(A) of the Congressional Budget Act of 1974 (Public Law 93-344; 88 Stat. 297), subsection (a) of such section shall not apply with respect to the consideration in the Senate of the bill (S. 3557) to authorize the appropriation of funds necessary to implement the provisions of the Treaty of Friendship and Cooperation between the United States and Spain (Executive E, Ninety-fourth Congress, First Session), signed at Madrid on January 24, 1976, and for other purposes.

(b) Such waiver is necessary for the following reasons:

(1) The consideration of such bill would not, under such section 402(a), be in order in the Senate in that such bill, authorizes the enactment of new budget authority for a fiscal year and was not reported on or before May 15 of the previous fiscal year; and

(2) The Committee on Foreign Relations did not desire to consider the authorizations until after it had disposed of the broader questions involved in the treaty with Spain which were not resolved until the committee ordered the treaty reported on May 18, 1976.

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

## SENATOR JENNINGS RANDOLPH: CONSISTENT, EFFECTIVE, HUMANITARIAN

Mr. MANSFIELD. Mr. President, on a recurring basis the Members of Congress deal in issues involving billions of dollars and affecting the lives of millions of individuals. These are programs so vast and far-reaching that it is almost impossible to assess their true worth or effectiveness. Yet, each of us is aware that there are lesser acts of official concern which do contribute greatly to betterment of mankind.

Sunday, June 20, marks the 40th anniversary of the signing of the Vending Stand Act for the Blind of 1936. It is regarded as one of the pioneering acts on behalf of the handicapped which opened the doors of industry and the minds of the general public to the abilities and aspirations of our Nation's blind population.

Today, the distinguished senior Senator from West Virginia (Mr. RANDOLPH) serves as chairman of the Senate Subcommittee on the Handicapped, carrying forward a commitment which began more than four decades ago to help the blind to help themselves. The legislation he coauthorized in 1936 with the late Senator Morris Sheppard of Texas is now officially known as the Randolph-Sheppard Act. Amendments to the act (20 U.S.C. sec. 107) were incorporated as a part of the Rehabilitation Amendments of 1974.

In establishing the blind vending stand program, Senator RANDOLPH responded to a humane attempt to rescue good people from a lifetime of dependency and welfare and make them self-supporting, taxpaying entrepreneurs. As a result of this creative effort, many thousands of blind men and women have become independent despite their severe handicaps and demonstrated their ability to become capable and productive workers. All this has been accomplished at very little cost to the taxpayers; the nominal funds expended to train blind workers and establish vending stands have been repaid may times over in taxes paid by the individual operators.

Senator RANDOLPH, who was a second-term Member of the House of Representatives in 1936, recalls that the concept of federally sponsored jobs for blind vendors originated legislatively with a blind U.S. Senator, Thomas Schall, of Minnesota, who served in the Senate from 1925 until his death in 1935. Senator Schall introduced a bill in 1929 which authorized news, candy, and refreshment stands to be operated by blind persons in Federal buildings. That bill received little support.

A subsequent legislative effort was undertaken by a blind Representative in Congress, Matthew Dunn, of Pennsylvania. Although a hearing was held on that measure again very small support emerged, and it was not passed.

In January of 1935, at the beginning of the 74th Congress, then Representative RANDOLPH introduced a new blind vendor bill. He was persuaded to make another attempt by a persistent advocate for the blind, Leonard A. Robinson, a blind attorney of Cleveland, Ohio. Mr. Robinson later served as chief of rehabilitation services for the blind of the District of Columbia. He recently authored a book detailing the development of the Randolph-Sheppard Act entitled, "Light at Tunnel End."

Support for the legislation introduced by JENNINGS RANDOLPH, and a companion measure introduced in the Senate by Morris Sheppard, came from organized labor, from Lions International, from the media, and from the American Foundation for the Blind. There was residual opposition from a number of sources, but eventually that was overcome. President Roosevelt signed the Randolph-Sheppard Act into law on June 20, 1936. Appropriately, June 20 is the anniversary date of the State of West Virginia, which Senator RANDOLPH has served so well in his more than 32 years of public service in the Congress.

In 40 years, the blind vendor program has grown in Federal, State, and private establishments. The District of Columbia's, the first blind vendor, Earl Richardson, set up shop in January of 1938.

In fiscal year 1952, when national statistics on the program became available, there were 1,513 operators, averaging about $2,000 in net annual earnings. Total gross sales were $18.7 million. In the most recent fiscal year, 1975, there were 3,810 operators, averaging $8,800 per year, with total gross sales of $149.2 million.

The pioneering efforts of Senator RANDOLPH and others have achieved much much, more than the relief of human suffering and despair. Their actions and considerations for human welfare have provided the catalyst for many subsequent programs for rehabilitation, education and health for this Nation's estimated 22 million handicapped persons.

In helping the handicapped to help themselves, Senator RANDOLPH ackonwledges the premiere role of the millions of disabled Americans who perform splendidly when given an opportunity to demonstrate their ability to contribute to society.

In a recent speech, Senator RANDOLPH commented:

It is the public recognition of their abilities that has provided the breakthrough for severely handicapped citizens to achieve a wide variety of job opportunities. It also laid the groundwork for a large body of humane legislation that protects and encourages the handicapped individual to make the most of his or her capabilities.

Mr. President, in this Bicentennial Year we reflect on the past and the events that have contributed to our present. Today I express tribute to a little-known act of human consideration which occurred 40 years ago and has provided bright promise for the future for our handicapped citizens.

(Routine morning business transacted today is printed later in today's RECORD of Senate proceedings.)

## CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

## TAX REFORM ACT OF 1976

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 10612, which the clerk will state.

The second assistant legislative clerk read as follows:

A bill (H.R. 10612) to reform the tax laws of the United States.

The Senate resumed the consideration of the bill.

## ORDER FOR RECESS UNTIL 10 A.M. MONDAY, JUNE 21, 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Sen-

ate completes its business this evening late it stand in recess until the hour of 10 a.m. Monday morning next.

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

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

## ORDER FOR CONSIDERATION OF CERTAIN TREATIES ON MONDAY, JUNE 21, 1976

Mr. MANSFIELD. Mr. President, as in executive session, I ask unanimous consent that, the Senate convening at 10 o'clock Monday morning next, beginning at the hour of approximately 10:30, the Senate at that time turn to consideration of Executive E (94th Cong., 2d sess.) Treaty of Friendship and Cooperation with Spain; that there be a time limitation of not to exceed 2 hours; that at the conclusion of the debate, there be a vote on the declaration, followed by a vote on the resolution of ratification; and that immediately following that vote, there be a combined vote, as already agreed to, on the other treaties and conventions which have already been discussed.

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

The text of the unanimous-consent agreement is as follows:

*Ordered,* That at 10:30 a.m. on Monday, June 21, 1976, the Senate go into executive session to consider the Treaty of Friendship and Cooperation with Spain (Cal. No. 2), and that debate thereon be limited to two hours, to be followed by (1) a vote on the declaration to the resolution of ratification and (2) a vote on the resolution of ratification, with declaration, to the treaty; and

*Ordered, further,* That immediately following the votes on the treaty with Spain, the Senate proceed to vote en bloc on the resolutions of ratification to four treaties (Cal. Nos. 3, 4, 5 and 6)—extradition treaties with Spain and the United Kingdom, the space objects registration treaty and the treaty with the Swiss Confederation on mutual assistance in criminal matters—with the vote to be counted as four votes.

Mr. MANSFIELD. This agreement is subject to the distinguished Senator from Nevada (Mr. LAXALT) being on the floor at that time, because he has expressed a wish that that be the case.

Mr. MANSFIELD. I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

## IMPLEMENTATION OF TREATY OF FRIENDSHIP WITH SPAIN

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and that the Senate turn to consideration of Calendar No. 893, S. 3557.

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

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill S. 3557 to authorize the appropriation of funds necessary during the fiscal year 1977 to implement the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes.

The Senate proceeded to consider the bill.

Mr. HUMPHREY. Mr. President, S. 3557 authorizes the appropriation of $36 million for fiscal year 1977 for grant military assistance, security supporting assistance, military training, and guaranties of foreign military sales credits to implement provisions of the Treaty of Friendship and Cooperation between the United States and Spain. In addition the bill specifies that the financing of an aircraft control and warning network shall be made available from Department of Defense appropriations and provides for the transfer and financing of certain naval vessels and aircraft for Spain. These authorizations, however, would not be effective until the treaty enters into force.

The Committee on Foreign Relations, in its deliberations on the Spanish treaty, devoted considerable attention to the question of related authorization procedures. The committee's conclusion that funding should be made available through normal processes was reflected in paragraph five of the declaration which is part of the resolution of advice and consent to ratification. This paragraph reads:

(5) the sums referred to in the Supplementary Agreement on Cooperation Regarding Material for the Armed Forces and Notes of January 24, 1976, appended to the Treaty, shall be made available for obligation through the normal procedures of the Congress, including the process of prior authorization and annual appropriations, and shall be provided to Spain in accordance with the provisions of foreign assistance and related legislation. . . .

The committee intends that funds to implement the treaty be authorized and appropriated annually in foreign assistance legislation.

Specific authorizations in this bill for fiscal year 1977 are:

Grant military assistance, $15 million;

Military education and training, $2 million;

Security supporting assistance, $7 million; and

Foreign military sales credits, $12 million.

The $7 million in security supporting assistance will be used to support scientific and technical programs and expanded educational and cultural cooperation programs.

The $12 million in foreign military sales credits will be used to guarantee a $120 million loan for military purchases.

The bill also specifies that assistance programs be carried out in accordance with applicable legislation—the Foreign Assistance Act, the Foreign Military Sales Act, and the Congressional Budget Act of 1974.

In conclusion, Mr. President, this bill preserves the integrity of the annual authorization and appropriations processes of the Congress. It does not prejudge the Senate's action on advice and consent to ratification of the treaty because all authorizations are contingent upon ratification of the treaty.

I therefore recommend passage of this bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there are authorized to be appropriated for the fiscal year 1977, in addition to amounts otherwise available for such purposes, to carry out the programs and activities provided for in the Treaty of Friendship and Cooperation between the United States of America and Spain, signed at Madrid on January 24, 1976, including its supplementary agreements and the exchanges of notes related to those supplementary agreements (hereinafter "the treaty") the following amounts:

(1) for military assistance under chapter 2 of part II of the Foreign Assistance Act of 1961, $15,000,000;

(2) for security supporting assistance under chapter 4 of part II of such Act, $7,000,000;

(3) for international military education and training under chapter 5 of part II of such Act, $2,000,000; and

(4) for guaranties under section 24 of the Foreign Military Sales Act, $12,000,000.

SEC. 2. (a) Foreign assistance and military sales activities carried out pursuant to the treaty shall be conducted in accordance with provisions of law applicable to foreign assistance and military sales programs of the United States, except that section 620(m) of the Foreign Assistance Act of 1961 shall not apply with respect to such programs and activities.

(b) In carrying out the provisions of article VI of supplementary agreement numbered 7 (relating to modernizing, semiautomating, and maintaining the aircraft control and warning network in Spain), the United States contribution of not to exceed $50,000,000 shall be financed from Department of Defense appropriations.

(c) This Act satisfies the requirements of section 7307 of title 10, United States Code, with respect to the transfer of naval vessels pursuant to supplementary agreement numbered 7.

SEC. 3. In carrying out the provisions of article X of supplementary agreement numbered 7 (relating to lease and purchase of aircraft), the President is authorized to apply the proceeds from the lease of aircraft to Spain under that article to the purchase of aircraft for the purposes of that article without regard to the provisions of section 2667 of title 10, United States Code, or any comparable provisions of law.

SEC. 4. The sums authorized to be appropriated by the first section of this Act shall be available for obligation within the limitations of appropriations made pursuant to this Act in accordance with the Foreign Assistance Act of 1961, the Foreign Military Sales Act, the Congressional Budget Act of 1974, and other applicable legislation.

SEC. 5. The authorities contained in this Act shall become effective only upon such date as the treaty enters into force and shall continue in effect only so long as the treaty remains in force.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

## DEATH OF AMBASSADOR FRANCIS E. MELOY, JR.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a commentary by James Wieghart, carried in the New York Daily News of today, entitled "A True Soldier of the Diplomatic Corps" and referring to the untimely passing of an old, long-time, trusted friend, the late Ambassador Francis E. Meloy, Jr., be printed at this point in the RECORD.

The commentary speaks for itself and I think it shows the greatness of this man.

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

[From the Daily News, June 18, 1976]

A TRUE SOLDIER OF THE DIPLOMATIC CORPS

(By James Wieghart)

WASHINGTON.—Francis E. Meloy Jr. was a courageous and dedicated man, of that there can be no doubt. A 59-year-old veteran of 30 years in the United States Foreign Service, he knew when he accepted the post as Ambassador to Lebanon two months ago that he faced the danger of death at the hands of terrorists from any one of several factions engaged in the bitter fighting for control of the small, but strategically located nation.

But Meloy accepted the assignment to Beirut unhesitatingly when asked to go there by President Ford two months ago, just as he had accepted an ambassadorial appointment in 1973 to Guatemala, where Ambassador J. Gordon Mein had been murdered by revolutionaries only five years before.

Details of Meloy's murder in Beirut and the execution-style slaying of his economic counselor, Robert O. Waring, and their Lebanese driver are still sketchy. But on the basis of Meloy's record, we can be sure he met his death as bravely as he faced life.

Testifying about the tragedy on Capitol Hill yesterday, Secretary of State Kissinger said that Meloy went to Lebanon "knowing the danger he would face." He agreed to take on the dangerous assignment, Kissinger said, "because he thought he was serving his country and contributing to peace."

Meloy attracted Kissinger's notice and probably won his fatal assignment to Beirut by his resourceful and effective direction of U.S. emergency aid for victims of the Guatemalan earthquake early this year. When Kissinger visited the earthquake scene in February, he suggested that primary rebuilding efforts be focused on repair and reconstruction of homes and buildings. But Meloy disagreed, arguing that if first priority were given to road and bridge repair, then home reconstruction and other humanitarian relief would actually proceed more swiftly.

Meloy won the argument and when Kissinger returned to the United States, he told reporters: "I like that man. He disagreed with me, and he turned out to be right."

Normally, it would be gross exaggeration to call disagreeing with a superior an act of courage. But if that superior happens to be Kissinger, who is not noted for welcoming contrary views from subordinates, it probably is not much of an overstatement.

His willingness to take on dangerous assignments and his dedication and fearlessness in carrying them out earned Meloy a reputation as a thorough professional among his colleagues.

But before Meloy is buried and the memory of his life and work dims for all except his family, friends and colleagues, it should be noted that he displayed another form of courage in the course of his career by refusing to accept an assignment to another hazardous job, this time to a high-ranking post in Saigon. The incident, which occurred in 1965 but went unreported at the time, was recalled by former Undersecretary of State George Ball, now an international lawyer and foreign policy expert.

Meloy, who was then deputy chief of mission in Rome and would likely have been in line to be the next U.S. ambassador to South Vietnam had he accepted the assignment, told Ball he could not do so "as a matter of conscience" because he opposed American policy in Vietnam.

It was obviously a difficult decision for Meloy who, with the exception of military service during World War II, had been a career Foreign Service officer for his entire adult life and was aware of the tradition that the alternative to accepting whatever assignment given was resignation. But Meloy had served in the U.S. embassy's political section in Saigon from 1953 to 1955 during the last throes of French colonial rule and was convinced that American involvement was a tragic mistake.

"He said he couldn't go to Saigon as a matter of conscience," Ball recalled. "He said that if it meant giving up his career, then so be it. He just felt that he could not represent the views of the United States in carrying out a policy which he strongly opposed."

Ball, who was himself opposed to the administration's Vietnam policy and argued against the deepening American involvement until he retired in 1966, said that Meloy's refusal precipitated a great deal of controversy in the State Department's upper echelons. "There was a strong feeling in some quarters that he should be forced to resign," Ball said. "I did what I could to help him, and he was subsequently returned to Rome. I was greatly impressed by his sincerity and his willingness to lay his career on the line."

It was Meloy's willingness to lay his career and his life on the line for his country that brought him to Beirut and a hero's death 11 years later.

## QUORUM CALL

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

## CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the five following measures which have been cleared on both sides of the aisle: Calendar Orders No. 906 through 910.

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

## BEATRICE SERRANO TOLEDO

The Senate proceeded to consider the bill (S. 1477) for the relief of Beatrice Serrano Toledo, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert:

That, in the administration of the Immigration and Nationality Act, Beatrice Serrano-Toledo, the widow of a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 and section 245(c) of such Act shall not be applicable in this case.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Beatrice Serrano-Toledo."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-955), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of an immediate relative to Beatrice Serrano-Toledo, to which status she would have been entitled were it not for the death of her husband, a citizen of the United States. The bill has been amended in accordance with established precedents and to correct the spelling of the beneficiary's name.

STATEMENT OF FACTS

The beneficiary of the bill is a 29-year-old native and citizen of Mexico who currently resides in Nampa, Idaho with her 2-year-old U.S. citizen daughter. The beneficiary married a U.S. citizen in Mexico on June 3, 1973. Her husband was murdered in that country on September 6, 1973.

A letter, with attached memorandum, dated July 29, 1975 to the Chairman of the Senate Committee on the Judiciary from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND
NATURALIZATION SERVICE,
*Washington, D.C., July 29, 1975.*

A20663886

Hon. JAMES O. EASTLAND,
*Chairman, Committee on the Judiciary,*
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S. 1477) for the relief of Beatrice Serrano-Toledo, there is attached a memorandum of information concerning the beneficiary.

The bill would grant the beneficiary permanent residence in the United States as of the date of its enactment, upon payment of the required visa fee. It would also direct that a visa number deduction be made.

The beneficiary, a native of Mexico, is chargeable to the numerical limitation for immigrants from the Western Hemisphere. She is statutorily ineligible to adjust her status while in the United States and will be required to apply for visa outside of this country.

Sincerely,

L. F. CHAPMAN, Jr., *Commissioner.*

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICES FILE, RE S. 1477

Information concerning this case was obtained from both the beneficiary and Mrs. Frank Denke, the interested party in this case.

The beneficiary, Beatrice Serrano-Toledo, a native and citizen of Mexico, was born April 1, 1947. She is widowed and is presently residing with the interested party in Nampa, Idaho. She has no assets and is supported by Mr. and Mrs. Frank Denke. The beneficiary completed four years of elementary school in her native country. She was married June 3, 1973, in Mexico, to a native and citizen of the United States. Her spouse was murdered in Mexico on September 6, 1973.

The beneficiary has one child from this marriage, a daughter she alleges was born April 19, 1974, in Marsing, Idaho. The child's birth has not been recorded and efforts to verify her claim have been unsuccessful. The beneficiary has a mother, father, four brothers, and a sister residing in Mexico.

The beneficiary's only entry into the United States occurred on April 3, 1974, when she was admitted at Nogales, Arizona, as a nonimmigrant visitor for pleasure until May 3, 1974. Deportation proceedings have not been instituted.

Senator James A. McClure, the author of the bill, submitted the following supporting information:

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
*Washington, D.C., September 4, 1975.*

Hon. JAMES O. EASTLAND,
*Chairman, Senate Subcommittee on Immigration and Naturalization, Dirksen Building, Washington, D.C.*

DEAR SENATOR EASTLAND: Pursuant to your letter requesting written information in support of my bill, S. 1477, for the relief of Beatrice Serrano-Toledo, I am enclosing a copy of a House Joint Memorial passed earlier this year by the State of Idaho.

Although I am fully aware that this state resolution has no bearing upon the legislative proceedings as they pertain to private relief legislation, the contents of this material certainly describes the unfortunate circumstances of Mrs. Serrano-Toledo. As the resolution states, had Juan Toledo survived to bring his wife and child to the United States, the rights and privileges of citizenship would have been available to them. Due to the tragic death of Mr. Toledo this remedy was foreclosed to Mrs. Serrano-Toledo and her child, a very sad circumstance. It is my understanding that Mr. Toledo was in fact making preparations to take the appropriate steps to bring his family to the United States just prior to his death.

I can only re-emphasize that I too believe that "the laws of the United States are intended to be tempered with compassion, justice and humanity" and upon this basis I respectfully request that the committee permit favorable consideration of my bill for the relief of Mrs. Serrano-Toledo.

Sincerely,

JAMES M. MCCLURE,
*U.S. Senator.*

Enclosure.

HOUSE OF REPRESENTATIVES,
*State of Idaho, March 25, 1975.*

Hon. JAMES A. MCCLURE,
*U.S. Senate, Dirksen Building, Washington, D.C.*

DEAR SENATOR MCCLURE: I am directed by the Legislature of the State of Idaho to transmit to you House Joint Memorial No. 3, by State Affairs, urging Congress to consider the unfortunate circumstances of Beatrice Serrano-Toledo, to consider the intention of her husband, a citizen of the United States, and to take the steps necessary to extend to her the rights, duties and privileges of citizens in the United States.

This Memorial has been passed by the Senate and the House of Representatives of the First Regular Session of the Forty-third Idaho Legislature. A printed copy of HJM 3 is enclosed.

Respectfully,

CRAIG S. HARVEY,
*Chief Clerk.*

Enclosure.

The material referred to in the above correspondence is contained in the files of the Senate Committee on the Judiciary.

Senator James A. McClure has also submitted the following supplemental information:

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
*Washington, D.C., February 25, 1976.*

Hon. JAMES O. EASTLAND,
*Chairman, Senate Subcommittee on Immigration and Naturalization, Washington, D.C.*

DEAR CHAIRMAN EASTLAND: I regret that it has taken so long for me to get back to your letter of September 23, 1975 concerning my private immigration bill, S. 1477 for the relief of Beatrice Serrano-Toledo. I have only recently received word from the beneficiary concerning her attempts to verify that her child is in fact a United States citizen.

The beneficiary forwarded to me a copy of a baptismal certificate for her child stating that this was the only "proof" she had available that her child was a U.S. citizen. On February 18th, I wrote to Mrs. Serrano-Toledo explaining that this was not sufficient proof. She had indicated that a midwife had assisted her with the birth of her child but she was unable to remember the woman's name and she had subsequently returned to Mexico. Mrs. Serrano-Toledo has some difficulties with our language but from all indications it appears that she did not register the birth of her child. As stated, I have written to Mrs. Serrano-Toledo requesting that she verify if this is in fact the case and if so, that she make every possible attempt to locate the Mexican midwife who assisted in the birth of her child.

I have not as yet had word from the beneficiary, but I will notify you immediately when I do receive word.

I appreciate your patience in this matter.

Sincerely,

JAMES A. MCCLURE, *U.S. Senator.*

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
*Washington, D.C. April 6, 1976.*

Re S. 1477 for the relief of Beatrice Serrano-Toledo.

Hon. JAMES O. EASTLAND,
*Chairman, Senate Subcommittee on Immigration and Naturalization, Washington, D.C.*

DEAR CHAIRMAN EASTLAND: I am enclosing a copy of an affidavit executed by one Lupe DeLeon who served in the capacity as midwife in the birth of the above named beneficiary's child.

As you will recall, the committee requested that Mrs. Toledo submit substantiating evidence to prove that her child was in fact born within the United States in light of the fact that the birth was not registered.

The original copy of the affidavit is being held in my files should the committee wish to further examine it. It is hoped that the enclosed will provide the committee with the necessary proof to favorably act on this measure.

Sincerely,

JAMES A. MCCLURE,
*U.S. Senator.*

Enclosure.

KIBLER, HAMILTON & CLARK,
*Nampa, Idaho, March 31, 1976.*

Re Verification of Mrs. Toledo's child's birth.

Senator JAMES A. MCCLURE,
*U.S. Senate, Committee on Public Works, Washington, D.C.*

Senator MCCLURE: Please find enclosed, an affidavit executed by Lupe DeLeon, verifying the birth of Mrs. Toledo's child, Maria Juanita Toledo.

We hope this is all that is needed to clear up this matter, and if it is not, please write to Lupe DeLeon at Route 6, Caldwell, Idaho. We would also appreciate it very much if you would send us a carbon copy of any further information.

Thank you for your assistance in this matter and if we can be of any help on obtaining information further required by your office, please feel free to contact us at any time.

Very truly yours,

MARK L. CLARK.

AFFIDAVIT

Lupe DeLeon, after being first duly sworn, deposes and says:

That she was present, and assisted Mrs. Toledo in the birth of her child Maria Juanita Toledo, on April 19, 1974, at Sunny Slope, Idaho which is located about one mile Northeast of Marsing, Idaho. The above stated child was born at approximately 1:00 a.m. in my own home which is situated at the above address.

Affiant further deposes and says, that she is a United States citizen and is a resident of the State of Idaho and has been such for the past twenty (20) years and has lived at the above described address for the past five (5) years.

LUPE DELEON.

Subscribed and sworn to before me this 31st day of March, 1976.

[SEAL] DOLORES J. JONES,
*Notary Public for Idaho, Residence, Nampa, Idaho.*

## LEE MEE SUN

The Senate proceeded to consider the bill (S. 2322) for the relief of Lee Mee Sun, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That, in the administration of the Immigration and Nationality Act, Lee Mee Sun may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Kenneth Simantel, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act shall be inapplicable in this case.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-956), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the entry into the United States as an immediate relative the alien child to be adopted by citizens of the United States, notwithstanding the fact that the prospective adoptive parents have previously had the maximum number of petitions approved. The bill has been amended in accordance with established precedents.

STATEMENT OF FACTS

The beneficiary of the bill is a 13-year-old native and citizen of Korea who presently resides in an orphanage in Seoul. The prospective adoptive parents who have three children in addition to adopted twin orphans plan to adopt the beneficiary after her arrival in the United States. Information is to the effect that they are financially able to care for the beneficiary.

A letter, with attached memorandum, dated January 2, 1976 to the chairman of the Senate Committee on the Judiciary from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
*Washington, D.C., January 2, 1976.*

Hon. JAMES O. EASTLAND,
*Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S. 2322) for the relief of Lee Mee Sun, there is attached a memorandum of information concerning the beneficiary.

The bill provides that the provision of the Immigration and Nationality Act which limits the number of petitions that may be approved for adopted children shall not be applicable in this case. The bill further provides that the natural brothers and sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Absent enactment of this bill, the beneficiary, a native of Korea, would be chargeable to the nonpreference portion of the numerical limitations for immigration and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

L. F. CHAPMAN, Jr.,
*Commissioner.*

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 2322

Information concerning this case was obtained from Mr. and Mrs. Kennth H. Simantel, the prospective adoptive parents of the beneficiary.

The beneficiary, Lee Mee Sun, a native and citizen of Korea, was born on June 15, 1962. She is living in an orphanage in Seoul, Korea. Mr. and Mrs. Simantel plan to adopt the beneficiary after her arrival in the United States. No information concerning the beneficiary's parents or other members of her family is available, as she was abandoned on April 20, 1965.

Mr. and Mrs. Simantel, who are natives and citizens of the United States, were born on November 23, 1938 and January 13, 1939, respectively. They were married April 5, 1958 and have three minor children born of this marriage. They reside in Cornelius, Oregon.

Mr. and Mrs. Simantel previously adopted twin orphans on January 19, 1970. These children are now 7 years of age. They became naturalized United States citizens on March 16, 1972 and are presently residing with Mr. and Mrs. Simantel.

A petition for immediate relative status as an eligible orphan may not be approved in behalf of the beneficiary because the maximum number of such petitions permitted under the Immigration and Nationality Act have already been approved for Mr. and Mrs. Simantel. The beneficiary does not come within the statutory exception designed to prevent that separation of brothers and sisters.

Mr. Simantel is self-employed as a building contractor and carpenter. Mrs. Simantel is a housewife. Their income is approximately $18,000 a year. The assets of Mr. and Mrs. Simantel consist of savings in the amount of $3,666, an unencumbered home and 4 acres of land valued at $75,000, two lots valued at $6,000 each, household furnishings worth $9,650, 3 motor vehicles, a travel trailer valued at $13,000, and insurance policies worth $46,570.

A letter, with attached memorandum, dated April 7, 1976 to the chairman of the Senate Committee on the Judiciary from the Assistant Secretary for Congressional Relations, U.S. Department of State, with reference to the bill reads as follows:

DEPARTMENT OF STATE,
*Washington, D.C., April 7, 1976.*

Hon. JAMES O. EASTLAND,
*Chairman, Committee on the Judiciary, U.S. Senate.*

DEAR MR. CHAIRMAN: In reference to your request for a report concerning the case of Lee Mee Sun, beneficiary of S. 2322, 94th Congress, there is enclosed a memorandum of information concerning the beneficiary. This memorandum has been submitted by the American Embassy at Seoul, Korea where the beneficiary resides.

This bill makes the requirement of section 204(c) of the Immigration and Nationality Act limiting the number of petitions which may be approved for children inapplicable to a petition filed by Mr. and Mrs. Kenneth Simantel, Americans citizens, to classify the beneficiary as a child within the meaning of section 101(b)(1)(F) of the Act. The bill also provides that the brothers and sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege or status under the Immigration and Nationality Act.

Since the beneficiary will be over the age of 14 years on June 15, 1976, the Committee may wish to amend the bill to waive the age limitation in the event a petition to accord Lee Mee Sun classification as an immediate relative has not been filed in her behalf.

Sincerely yours,

ROBERT J. MCCLOSKEY,
*Assistant Secretary for Congressional Relations.*

Enclosure: Memorandum of information.

SUBMITTED BY THE AMERICAN EMBASSY AT SEOUL, KOREA

MEMORANDUM OF INFORMATION CONCERNING S. 2322 FOR THE RELIEF OF LEE MEE SUN

The beneficiary was born in Korea on June 15, 1962. She is an orphan and presently resides at the Yeo-Kwang-Won Orphanage, Yeo-Ju Eup, Kyunggi-do, Korea, where she is a sixth grade student at the Yeo-Ju Elementary school; no information is available concerning her natural parents.

The beneficiary is registered as an intending immigrant chargeable to the nonpreference category of the numerical limitation for Korea, with a registration priority date of March 15, 1976.

A check of the Embassy's visa files failed to reveal a record of derogatory information pertaining to the beneficiary.

The beneficiary underwent a medical examination on October 29, 1975 and was found to be in good health.

Senator Bob Packwood, co-author of the bill with Senator Mark O. Hatfield, has submitted the following information in support of the bill:

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS,
*Washington, D.C., September 19, 1975.*

Hon. JAMES O. EASTLAND,
*Dirksen Office Building*

DEAR JIM: On Wednesday, September 10, 1975 I introduced with Senator Hatfield S. 2322, a private bill for the relief of Lee Mee Sun. Lee Mee Sun is a 13 year old Korean female who has lived the majority of her life in an orphanage in Korea.

The Simantels, United States citizens and residents of Oregon, have adopted twin Korean girls. They were in the process of adopting a third, Lee Mee Sun, having been told by Immigration that the adoption of twins counted only as one visa for immigration purposes under Section 204(c) of the Immigration and Nationality Act.

After initiating adoption proceedings for Lee Mee Sun, the Simantels were advised that the information furnished by Immigration was erroneous and that the adoption of the twins counted not as one child but two children for visa purposes precluding them from adopting a third child and obtaining a visa for that child. It therefore appears that the only relief for Lee Mee Sun is through private legislation.

I have attached copies of correspondence from the Simantels' which provides additional background and facts in this matter.

Cordially,

BOB PACKWOOD.

Enclosures.

HOLT ADOPTION PROGRAM, INC.,
*Eugene, Oreg., September 4, 1975.*

Re: Simantel, Mr. and Mrs. Kenneth (Joyce), Route No. 1, Box 81–B, Cornelius, Oreg.
Ch: Lee Mee Sun, No. K–3495, Birthdate: 6–15–62.

Senator ROBERT PACKWOOD,
*Dirksen Senate Building, Washington, D.C.*

DEAR SENATOR PACKWOOD: We thank you for your efforts on behalf of the Kenneth Simantel family. To create a special bill for the immigration of Lee Mee Sun appears to be the only alternative for the Simantels towards this adoption.

Kenneth and Joyce Simantel were erroneously informed by U.S. Immigration and Naturalization Service in Portland, that they had one remaining orphan visa available to them. Further investigation revealed that the Simantels had used their allotted orphan visas when they petitioned for their adopted Korean twin daughters.

Lee Mee Sun is a 13-year-old Korean female who has lived the majority of her life in an orphanage in Korea. Mee Sun's eligibility for U.S. immigration orphan status will expire in nine months. The Simantels are moved by her plight, and the very grim projected future for her if she remains in Korea. They also believe that they will be enriching their own lives by adding to their family through the adoption of this child. This family has shown unusual abilities. Each member of this family is looking forward to the arrival of Lee Mee Sun with anticipation.

Holt International Children's Services approves of the Simantels request for the adoption of this Korean orphan. Legal guardianship is held by Holt International Children's Services. The Simantels show strong family patterns in love, concern, communication, stability, excellent physical and emotional care, as well as spiritual undergirding in coping with daily affairs. They have an adequate, stable financial record. The community expresses the highest regard for the Simantels, and support the Orphan Adoption Program through the school system. The en-

richment of life one receives from extending themselves toward these children, is felt by many in this community.

I wish to add my own personal appreciation in your efforts towards this matter.

Sincerely,

ELINOR CAVES, MSW,
*Social Worker.*

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ADOPTION STUDY—AUGUST 29, 1975

Re Simantel, Kenneth/Joyce, Route No. 1, Box 81-B, Cornelius, Oreg. 97113, Telephone: 331-2957

SITUATIONAL DIFFICULTY

Mr. and Mrs. Kenneth Simantel adopted twin, female, Korean orphans on November 13, 1969. They, at this time, used both visas available to them for the immigration of their twins. In July of 1975, the Simantels were erroneously informed by Portland Immigration and Naturalization Service that they had one visa still available to them for the adoption of another Korean child. It was stated that since the first children were siblings, that only one visa had been used. It is now substantiated that they had used both visas in bringing their adoptive twins to the United States. The child the Simantels are asking to adopt is LEE, Mee Sun, birth date: June 15, 1962, a Korean female still in Korea.

FAMILY CONSTELLATION

Father, Kenneth Homer Simantel, birth date: November 22, 1938; mother, Joyce Winfield Simantel, birth date: January 13, 1939; children; Michael, male, birth date: September 8, 1959; Randall, male, birth date: August 5, 1961; Tracy, Korean female twin, birth date: November 10, 1967; Trina, the other Korean female twin, birth date: November 10, 1967 and Kimberley, female, birth date: June 26, 1970.

CONTACTS WITH FAMILY

Five visits were made with this family. In addition, individual interviews were held with the children. The Simantels also attended a group meeting in reference to placement of older children. Subsequently, we contacted the references given by the Simantels (their pastor, family physician and personal friends) regarding the family background. All references give the Simantels the very highest of recommendations. Each reference has observed the Simantels' involvement with their Korean children as well as the excellent parenting they have done with their natural children. The Simantels are seen as a family who makes a great contribution to the community.

MOTIVATION

Kenneth and Joyce Simantel renewed their interest in adoption when they were asked to temporarily care for two Vietnamese orphans. It was during this time of caring for the Vietnamese children that the family's life was enriched, and they all experienced a self-enlargement. Mr. and Mrs. Simantel inquired of this agency about other children who may have urgent need of placement. The Simantels followed through with initial inquiry and selected LEE, Mee Sun, birth date: June 15, 1962, a Korean female.

Kenneth Simantel and Joyce Winfield were married in Portland, Oregon on April 5, 1958. This marriage has been verified. The Simantels met through family acquaintances. Their courtship was over a period of several months during which time they began to know each other well and felt sure of their commitment to each other. It appears that they have a stable and happy marriage. They compliment each other for their happy and gratifying experiences. Both Mr. and Mrs. Simantel are understanding of others and are supportive of one another. The Simantels have observed traditional husband and wife roles in their married life. Kenneth is seen as head of the household. His greatest purpose is to see his family happy. Joyce is respected and loved by her children and reverenced by her husband. She in turn gives him the praise, love and respect that cements a marriage. Decision making is usually a mutual sharing of those decisions. There seems to be a demarcation of responsibilities in terms of Joyce making decision for the internal household affairs whereas Kenneth's decisions are more involved with the external financial affairs of the family.

CULTURAL AND FAMILY BACKGROUND

*Adoptive father*

Kenneth Simantel was born in Wolsey, South Dakota on November 22, 1938. He is of tall, moderate build, a Caucasian male having blond hair and blue eyes. Kenneth Simantel is a quiet, somewhat reserved, reflective man. He handles himself with confidence and therefore elicits confidence in others. He spent his early childhood on a farm. He views his early life as one marked by great satisfaction in family life. He feels he had a Christian-based upbringing. He is one of four siblings. The family remains in close ties and continues family contacts. His mother died of a brain tumor in 1952. His father has since remarried. He has brought into his adult life a sense of reward for a job well done. He is versatile in his ability to handle work involving farming, machinery and carpentry. He appears to have a sense of business management and leadership.

*Adoptive mother*

Joyce Winfield Simantel was born January 13, 1939, in Delight, Arkansas, Joyce is attractive, 5'4'' tall, of slight build, with brown hair, brown eyes, and is a Caucasian female. She has a background of Indian-French extraction. Mrs. Simantel is the oldest of six siblings. She considered her background one in which there was a feeling of closeness to family members: yet there was not the excitement nor investment in each child's life they attempt now to provide for their own children. Mrs. Simantel is a compassionate, gracious lady who manages the affairs of her household with orderliness and control. She has gained from her own mother a sense of enjoyment of motherhood. Joyce Simantel is a good mother who is very understanding and supportive of her family in all their undertakings.

*Children*

Michael is an outgoing, 10-year old male. He is involved in sports at school, is a good student, and is in excellent health. Others see him as a leader.

Randal is a 14-year old, sensitive, affectionate, contended child. He is a good student at school and enjoys being part of the total school program. Tracy is a 7-year old twin and adoptive Korean daughter of the Simantels. She also is a very good student at school, is an ardent reader, and enjoys having a few close friends. Trina is the other half of the pair of 7-year twins; she is opposite to her sister in that she is more interested in the extra-curricular activities of school as opposed to scholarship although she is average in her grade attainment. Kimberley, the 5-year-old natural daughter, is a lovely, little blonde girl who is a lively, outgoing, and the delight of the whole family. The Simantels have seen their children grow into happy, secure youngsters. They appear to know their limits. They appear to be well adjusted and present little behavior problems.

*Church affiliation*

The Simantels are members of the Zion Lutheran Church of Cornelius, Oregon. They are seen as outstanding Christian members of that church. Mr. Simantel is on the Board of Elders. They also feel very strongly about their Christian commitment and endeavor to present christian truths to their children both by example and by teaching.

*Social and family life*

This is a very active family who enjoys the Oregon coast and mountain areas. They enjoy many camping and fishing opportunities as a family. They feel that this is an activity in which the family can grow even closer together.

*Housing and community*

The Simantels live on the outskirts of Cornelius, a small farming community. They have built a new home and it is spacious and attractively furnished. They have neighbors within walking distance and their home is one in which the children feel welcome. The Oriental children in this family, as well as others in community, have been readily accepted. They anticipate no problems concerning the child's adjustment in school. The particular school district has provided, within their school program, the special services that are needed for the adjustment of the Oriental child.

*Finances*

Kenneth Simantel's adjusted gross income is $12,000. He is self employed as a contractor/carpenter. They have real estate valued at $75,000 including their home. They are free of mortgages and encumbrances concerning this property. They have savings in excess of $5,000, and have other assets valued at $25,000. Kenneth Simantel has insurance valued in excess of $35,000. They are fully covered by medical insurance. The Simantels live well within their income. Money management does not appear to be a problem in any area.

*Evaluation and recommendation*

The Simantels have shown unusual qualities in parenting. They are emotionally stable individuals. They appear to have a sincere desire to involve themselves with others in need. Their marriage is seen by others, as well as themselves, as being a happy and stable one. The community in which they find themselves has extended acceptance to the Oriental children. It is a very child-conscious community where programs are set up to meet the needs of their children. The Simantels enjoy open communication with their children, and at the same time set reasonable limits. They show a very solid financial picture and are well able to care for another child.

This family is looking forward with great anticipation to adopting a Korean 14-year-old girl. They see this adoption as a means of giving love to the child as well as receiving family satisfaction back from her involvement with them. I highly recommend that Kenneth and Joyce Simantel be allowed to adopt the Korean female known as LEE, Mee Sun.

ELINOR CAVES, MSW, *Social Worker.*

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CORNELIUS, OREG.,
*August 1, 1975.*

DEAR SENATOR PACKWOOD: We are writing to you, our Senator, for advice. We are faced with a heartbreaking situation and we do not know where to turn. We have hopes that you may be able to help us.

We live in a farming community eight miles from Hillsboro, Oregon. In 1968 we adopted a pair of twin Korean girls through the Holt Adoption Program. They have been a blessing to our family and we praise God for bringing them to us.

In May of this year we became aware of a critical need in Korea involving eighteen girls ranging in age from 11 to 13 years old. We write to you concerning one of these beautiful children, 13-year-old Lee Mee Sun.

Mee Sun is in the Holt Orphanage in Seoul, Korea. When we saw her picture we fell in love with her and felt that we have the room in our hearts and in our home to become the parents that she has waited so long for.

We were aware that U.S.A. families are al-

lowed only 2 visas for adoption abroad, so before we ever started proceedings we called the Immigration Department in Portland to check on our status. We were instructed to call Mr. Luken of that Department. He told us that since we had adopted twins, we would be eligible for another visa. Believing that his information was correct we did proceed with the adoption process. Our case has received top priority attention from Holt's as Mee Sun must be out of Korea before her fourteenth birthday or she will never be able to be adopted as that is the cut-off age.

Two days ago, as our case neared completion, we were informed that Mr. Luken was in error. It seems our twins will be counted as two separate visa petitions and we will be unable to file for a petition for Mee Sun.

We know that the Lord has led us into this adoption and that there has to be a way for us to bring our child home.

We talked to Mr. Luken yesterday and he said we might file a nonpreference visa but these usually take over a year and by that time Mee Sun will be over-age.

Mr. Packwood, we pray that you can help us. Mee Sun's need, and ours, is urgent as her time is running out. We love her deeply and will appreciate any advice you can give us.

We thank you and pray that the Lord will continue to bless you as you work for your State and your country.

Sincerely,

Mr. and Mrs. KEN SIMANTEL.

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CORNELIUS, OREG.,
*August 25, 1975.*

Senator ROBERT PACKWOOD,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR PACKWOOD: We wanted to take this time to thank you for the interest which you have taken in our precious Mee Sun. Although we realize that, except for a miracle, there may still be many months of waiting for us and for her. But we now feel that at last a door has been opened and we thank you for that.

We have now completed all of the adoption procedures with Holt's. All of the necessary notarized papers which you requested were also completed and returned to Holt's on August 19 and we trust that you now have them.

We thought that both you and your staff might like to see a picture of our Toni, so we are enclosing the first picture we received of her and also one that arrived last week. We believe these pictures tell her story much better than could ever be expressed in words.

The first picture was taken in November, 1974. She knew this picture was to be sent to America and it transmits the joy and hope that someone might love and want her. The other picture was taken last month and reflects the loneliness and rejection which she must be feeling now as she knows that her time is running out. If she only knew how much we love her and how hard we are praying for her to come to us. But, of course, she cannot be told any of this until we receive our approval from our U.S. Government. We look forward to that day when we can tell her of all the people who helped to bring her home.

Again we thank you, Senator, and our prayers will continue to be with you.

God Bless You,

Mr. and Mrs. KEN SIMANTEL.

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## CHEA HYO SUK

The Senate proceeded to consider the bill (S. 2618) for the relief of Chea Hyo Suk, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That, in the administration of the Immigration and Nationality Act, Chea Hyo Suk may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Theodore Thatcher, citizens of the United States pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act shall be inapplicable in this case.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–957), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the entry into the United States as an immediate relative the alien child to be adopted by citizens of the United States, notwithstanding the fact that the prospective adoptive parents have previously had the maximum number of petitions approved. The bill has been amended in accordance with established precedents.

STATEMENT OF FACT

The beneficiary of the bill is a 15-year-old native and citizen of Korea who currently resides in that country as a ward of the state. The prospective adoptive parents, citizens of the United States, have six natural children and two adopted children. They reside in Farmington, Utah.

A letter, with attached memorandum, dated April 5, 1976 to the Chairman of the Senate Committee on the Judiciary from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
*Washington, D.C., April 5, 1976.*

A21340398

Hon. JAMES O. EASTLAND,
*Chairman, Committee on the Judiciary,*
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S. 2618) for the relief of Chea Hyo Suk, there is attached a memorandum of information concerning the beneficiary.

The bill, as drawn, would waive the provision of the Immigration and Nationality Act which limits the number of petitions that may be approved for adopted children. However, the beneficiary does not qualify for immediate relative status as a child under Section 101(b)(1)(F) of the Act because the beneficiary has attained the age of fourteen years. The bill does not waive the requirement that the beneficiary would be under fourteen years of age.

The beneficiary, a native of Korea, is chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

L. F. CHAPMAN, Jr.,
*Commissioner.*

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 2618

Information concerning this case was obtained from Theodore Reed Thatcher and his wife, Huntley Goldsmith Thatcher, the prospective adoptive parents of the beneficiary.

The beneficiary, Chea Hyo Suk, a native and citizen of Korea, was born on January 10, 1961 and is presently a ward of the state at the Sung Sae Rehabilitation Center in Tae Jon, Korea. The beneficiary has no near relatives and is one of a group of fourteen orphans all of whom, except the beneficiary, are in the process of being adopted.

Mr. and Mrs. Thatcher were married in 1959 and have six natural children and two adopted children from Korea. The Korean children were adopted in 1974 and 1975 and were beneficiaries of approved visa petitions submitted by the Thatchers to accord the children immediate relative status in the issuance of immigrant visas. The second child adopted by the couple was also one of the group of fourteen of which the beneficiary is a part. It is the desire of the Thatchers to reunite these two orphans.

Mr. Thatcher is a plant manager for Utah Emulsions, Inc. earning $18,000 per year plus an equal amount in bonuses per year. Mrs. Thatcher is not employed. They own a home valued at $60,000 and have savings in the amount of $10,000 and bonds in the amount of $3,000.

Senator Frank E. Moss, the author of the bill, has submitted the following supporting information:

FARMINGTON, UTAH,
*November 11, 1975.*

FRANK E. MOSS,
*U.S. Senator,*
*Washington, D.C.*

DEAR SENATOR MOSS: Thank you for your prompt reply to our request. I am deeply grateful that you will help us.

All of my information on Hyo Suk's present circumstances comes from Miss Young and my daughter Sarah, but I will relate what I know. Firstly, I am sure you realize that being an orphan in Korea is in no way comparable to that of an orphan in American. In Korea, family is everything and without the family ties, you are considered a nonperson, possibly comparable to that of a slave before the Civil War. Also, handicaps are very much discriminated against in Korea; therefore Hyo Suk has two negatives in her life to begin with. Song Sae School, where she is residing, is a rehabilitation center and the majority of the children there are not orphans and the older orphans feel the discrimination greatly. The man that runs the school is Dr. Nam, a medical doctor. He did not attend school to gain his degree, but rather "purchased" it many years ago when it was possible to do so. I am hesitant to go into character assassination when I have not personally met the man, but I have heard from Miss Young, who worked with him, and Sarah, that he is dishonest and cruel to the children.

Miss Young told me that Dr. Nam taught her the meaning of the word hate. Those who can walk do the work and it is hard and tiring. My Sarah worries about who has to pick up the load that she left when she came to America! It is difficult, nearly impossible, for us to make Hyo Suk's wait more comfortable as it is common practice to take things away from the orphans almost immediately after they have received it. I have tried to send a package and I know that it arrived, but the girls who wrote Sarah to thank her only thanked her for the gum and candy, never mentioning the socks, shampoo, hand lotion etc. that was sent. Did they get

it? I don't know! I was also told by Helen Miller, Director of Social Services at Holt that Dr. Nam has requested that Holt withdraw its financial help to the orphans there and that Holt has had to comply with Dr. Nam's request. Jack Theis, field director in Korea for Holt has had to deal with Dr. Nam and finds him most difficult and unpleasant.

I previously asked Helen Miller at Holt if Holt could move some of the girls to Holt's facility at Il San, but they felt unable to do that even if Ted and I provided the money for their total support. The school that Hyo Suk attends has no heat which of course makes it difficult to study and write especially in the winter months. The orphans are also hit often in school, according to Sarah. Apparently they have no gloves and socks or they are few and far between because Sarah especially asked me to send over hand lotion to rub on their hands and feet as they get sore, swollen and chap. I certainly understand that things like this take time, but I am also glad you would like to get Hyo Suk out of Korea and here as soon as possible. For a girl almost fifteen time is a very important thing. She has been denied love, support, proper nutrition and good environment for so long that it will take years to help her feel secure and good about herself. I know that as a child of God she has great potential and we sincerely feel that our family can help her develop this potential.

There is one possibility that has occurred to me and I have acted on it as far as I can, to see what would happen. I first suggested this to Bob James and he gave me the "go-ahead". I have very little knowledge of legal or immigration affairs so I will suggest this idea for what it is worth. I inquired at the immigration department about a student visa. They told me I would have to fill out an affidavit of support and get an I20 form from the school district and have it signed by the proper authority there. These two things have been done with absolutely no problems at all, much to my surprise. I then contacted the immigration department again and they said that the next and only step would be to send these two forms to Chea Hyo Suk and have her present them to the American Consulate in Seoul. When they were signed there and a visa issued she could come here immediately. I do not know if there would be any problems getting it signed in Seoul or who actually has to sign it.

Possibly your support could help there! Also, at one time we mentioned our desire to bring Hyo Suk over here to Helen Miller at Holt and she told my husband that if we could get the visa that they would send her over and make the plane arrangements. Possibly they could also take the papers to the American Consulate for us. My only negative feeling on a student visa is that it would be good for only six years and would have to be renewed every year and emotionally I feel it would be difficult for Hyo Suk to be a part of our family on a temporary basis. But, if your bill was being acted upon at this time I would feel more secure that she would be able to stay here, as our daughter. Is this a good idea—or is there a better way?

I realize that my descriptions on Hyo Suk's circumstances are vague, but it is all that I know. I have written Miss Young and her brother Ben and asked them to fill you in more specifically. May I again take this opportunity to thank you for responding to our family's need. I have never had a need to call on a Senator before and it strengthens my faith in our government to know that you really are working for us and listening! God bless you!

Sincerely,

HUNTLEY THATCHER.

HONOLULU, HAWAII,
*November 13, 1975.*

Senator FRANK MOSS,
*U.S. Senator,*
*Washington, D.C.*

DEAR SENATOR MOSS: I am writing to you in reference to Bill S. 2618. This is the Bill in which Huntley Thatcher of Utah is seeking a visa for Chea Hyo Suk, a fourteen year old handicapped orphan from Korea.

I was a Peace Corps volunteer in Korea and lived with the children of Sung Sae Rehabilitation center where Chea Hyo Suk lives and studies. I would like to tell you a little bit about the Rehabilitation center and Hyo Suk's particular circumstances.

The rehabilitation center is privately operated by a man who has been exploiting the children for his own profit. There are more than one hundred children who live at Sung Sae. All of them are physically handicapped. There are approximately 25 orphans who have spent most of their lives at Sung Sae.

Handicapped persons are considered "non-persons" in Korea. In public they are stared at and shunned. Koreans feel a strong sense of pity for persons with handicaps but they are not willing to hire them because having persons with disabilities around them makes them feel uncomfortable.

Family and heritage are important in the Orient. Handicapped orphans have no identity. They can't marry or find jobs and live with little hope for a decent future. Suicide among this group is not uncommon.

The orphans at Sung Sae are mistreated, mistrusted and abused. Hyo Suk is given more than her share of chores, she is beaten without just cause and her basic needs are hardly met. They eat a diet of rice, soup and kimchee every day. They sleep in one room with just enough heat from the floor to keep them warm. Classrooms are not heated in the winter and the orphans must wait four to five months to go to the public bath. The director of the school will spare no expense for their comfort.

I have seen that it is possible to live under the conditions described without physical comforts. Truly the most difficult thing for them is living in the total absence of love. They do develop a strong kinship together as orphans but they have no adult figure to care for them, to guide them and to respect them as persons of worth.

The orphans who have been released for adoption live with the small hope that some day their need to love and be loved will be fulfilled. When Hyo Suk turned fourteen, her dream was shattered. Hyo Suk is a bright child, who in spite of her suffering has a zest for life. When she completes junior high she will be turned out into the streets or put to work like a slave for the director.

The Thatcher family has opened their hearts and their home to her. They want to give her a new life. She will surely have a tragic future in Korea. I urge you to help Hyo Suk join this very special loving family.

I will be happy to furnish any information about Hyo Suk and her situation. Thank you for your help and concern in this matter.

Sincerely,

JAN YOUNG.

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NOVEMBER 14, 1975.

DEAR SENATOR MOSS: My name is Ben Kim. I used to live in Korea at Sung Sae Rehabilitation Center. I was adopted two years ago and now I live in Hawaii. I'm writing to you about my friend and sister Chea Hyo Suk.

I heard from Mr. and Mrs. Thatcher of Utah that you are trying to help Hyo Suk by passing a bill (S. 2618) so that she can get a visa to come to America and have a family. I just want to tell you that what you are doing is very, very important. It is like giving new life to a child. When I was at Sung Sae I felt like I was in prison. Do you know what it is like to have such an unhappy miserable life? We helped each other but there was never much joy in our life. Now, I feel free and happy and I'm glad to be alive. I love life. I like to do everything. I'm strong and healthy now. I want my sister Hyo Suk to be strong and healthy and happy too. I think the people in the Senate might be too busy to think about one person but I hope you will make them think about giving her a chance. I have learned in America that every individual is important; that life is dear. Hyo Suk's life is dear too.

Thank you very much.

Sincerely,

BEN KIM.

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## ARTURO MORENA HERNANDEZ

The Senate proceeded to consider the bill (S. 2668) for the relief of Arturo Morena Hernandez, which had been reported from the Committee on the Judiciary with amendments, as follows:

On page 1, in line 4, strike out "Morena" and insert "Moreno".

On page 1, in line 7, strike out "Morena" and insert "Moreno", so as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in the administration of the Immigration and Nationality Act, Arturo Moreno Hernandez may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Jose Jesus Palacios Moreno, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Arturo Moreno Hernandez".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-958), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the entry into the United States as an immediate relative of the adopted child of U.S. citizens. The amendments correct typographical errors.

STATEMENT OF FACTS

The beneficiary of the bill is an eleven-year-old native and citizen of Mexico who currently resides in that country with his natural parents. He was adopted in Mexico on August 14, 1975 by Mr. and Mrs. Jose Jesus Palacios, citizens of the United States.

A letter, with attached memorandum, dated March 9, 1976 to the Chairman of the Senate Committee on the Judiciary from the then Acting Commissioner of Immigration and Naturalization reads as follows.

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
*Washington, D.C., March 9, 1976.*

A21340355

Hon. JAMES O. EASTLAND,
*Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S. 2668) for the relief of Arturo Moreno Hernandez, there is attached a memorandum of information concerning the beneficiary.

The bill provides that the eleven-year-old beneficiary, who was adopted by United States citizens, may be classified as a child and be granted immediate relative status. The bill further provides that the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationships, be accorded any right, privileges, or status under the Immigration and Nationality Act.

Absent enactment of the bill, the beneficiary, a native of Mexico, is chargeable to the numerical limitations for immigrants from the Western Hemisphere.

Sincerely,

JAMES F. GREENE,
*Acting Commissioner.*

Enclosure.

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MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 2668

Information concerning the case was obtained from Jose Jesus Palacios and his wife, Maria Isaura Palacios, the beneficiary's adoptive parents and the interested parties.

The beneficiary, whose name is spelled Arturo Moreno Hernandez, is a native and citizen of Mexico born on May 25, 1964. He resides in Chihuahua, Mexico, with his natural parents, Jose Guadalupe Moreno and Ofelia Hernandez. He was adopted by the interested parties in Mexico on August 14, 1975 in the Second Civil Court of Law of the District of Morelos, Chihuahua, Mexico. The adoptive parents were present at the time of the adoption and a copy of the adoption decree is attached. The beneficiary has completed five years of school in his native country. He has one sister and eight brothers who are citizens and residents of Mexico. The beneficiary's natural father is the first cousin of his adoptive father.

Mr. and Mrs. Palacios, who were married on September 28, 1942, reside in East Carbon City, Utah. They are the parents of six children who are citizens and residents of the United States. Jose Jesus Palacios was born in Mexico in 1922, has resided in the United States since 1923, and became a naturalized citizen in 1945 while serving in the United States Army. He is presently employed as a mine foreman and earns $25,250 a year. Maria Isaura Palacios was born in the United States in 1920. She is not employed. Their assets consist of personal property valued at $3,000, life insurance policies presently valued at $88,189, stocks and bonds worth $5,029, and cash savings of $600.

The adoption decree referred to above is contained in the files of the Senate Committee on the Judiciary.

Senator Frank E. Moss, the author of the bill, submitted the following supporting information:

U.S. SENATE,
*Washington, D.C., April 14, 1976.*

Hon. JAMES O. EASTLAND,
*Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Thank you for your recent letter concerning S. 2668, the private immigration bill introduced for the relief of Arturo Moreno Hernandez, I am pleased to write in support of this measure.

Early last December, I was contacted by Miss Victoria Palacios, the daughter of Mr. and Mrs. Joe Palacios of East Carbon, Utah. She explained that in June her parents went to Chihuahua, Mexico, in order to adopt and bring back with them an 11-year old boy, Arturo Moreno Hernandez, the beneficiary of S. 2668. Arturo's natural parents are Guadalupe Moreno Navarro and Ofelia Hernandez de Moreno, both now living. They have given their consent to the adoption, having relinquished all of their parental rights because they are unable to provide support for the child. Mr. Palacios is a first cousin of one of the boy's parents.

A Mexican attorney advised the Palacios what documents would be required in order to complete the adoption. They later attended a proceeding which was preliminary to the adoption. When they returned to the United States later on, however, they were informed by U.S. border officials that they could not bring the boy into the country without a visa. The Palacios family is eager to have Arturo become a part of their family and I have introduced S. 2668 to help.

Miss Palacios has written to me more recently detailing the situation, Mr. Chairman, and I will include a portion of her comments. She points out that the lad is one of seven children, that his nine-member family live in an adobe house with no indoor plumbing, that . . . "Arturo's natural father is an unskilled laborer who works primarily in construction. He is only able to find work at irregular intervals. The net result is that the family's diet suffers critically. My parents were sad to observe that Arturo's physical appearance indicates that he experiences severe nutrition problems. The child's overall health is poor; he is extremely underweight and badly requires dental care. Needless to say his clothing is also far from adequate. . . ."

The family situation in Utah is certainly sufficient to care for Arturo and I urge that favorable consideration be given to this measure so they can bring him to the United States as soon as possible.

Sincerely,

FRANK E. MOSS,
*U.S. Senator.*

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UNIVERSITY OF WISCONSIN-MADISON,
*Madison, Wis., December 4, 1975.*

Hon. FRANK E. MOSS,
*U.S. Senate*
*Washington, D.C.*

Please excuse the delay in getting this information to you. In this letter I will attempt to provide as fully as possible details of the circumstances surounding my parents' adoption of Arturo.

Mom and Dad have known Arturo since 1967 when he was just three years old. They met him when they visited Arturo's natural parents (one of whom is my father's first cousin) on their first summer vacation to Mexico eight years ago. Since my father had that year worked his way to the supervisory level at Kaiser Steel and since only three of my parents' six natural children were still living at home, my parents' finances thereafter permitted them to make annual trips to Mexico. On each of these trips they visited with Arturo and his natural family. They became increasingly fond of the child and several years ago began discussing with the natural parents the prospect of taking Arturo to live with them and be adopted into our family. The decision was not spurious, but rather one which was arrived at mutually by all concerned. Although one's first reaction is to judge harshly the decision by natural parents to relinquish their child, perhaps the following facts will make that decision more understandable to outsiders.

Arturo is one of seven children. His nine-member family lives in an adobe house with no indoor plumbing. These poor facilities inevitably cause sanitation problems. For example, chickens which the family raises for food cannot be prevented from wandering into the area where the sewage is dumped.

Arturo's natural father is an unskilled laborer who works primarily in construction. He is only able to find work at irregular intervals. The net result is that the family's diet suffers critcially. My parents were sad to observe that Arturo's physical appearance indicates that he experiences severe nutrition problems. The child's overall health is poor; he is extremely underweight and badly requires dental care. Needless to add his clothing is far from adequate.

During the eight year period in which my parents made their visits to Arturo they have been impressed with his intellectual acuity. It is significant to note that neither of my parents graduated from high school. This was at a time when public schools were completely insensitive to the needs of bilingual children. Nevertheless, the inspiration and training of this unusual couple prompted all six of their children to higher education; two of us have gone to graduate school; three are currently full-time students in undergradaute school; and one, a part-time student in undergraduate school. I must say that these are impressive results for any family, especially for a bilingual, bicultural set of parents in this society. My parents' interest in Arturo includes particularly a desire to provide similar guidance to Arturo who shows so much promise. His enthusiasm for doing well and learning persists dispite the fact that the family's financial situation forces him to miss much school.

Finally, with respect to the mutual decision concerning the adoption, I must make a brief point about the nature of the Mexican and Mexican-American family. Sociological evidence shows that our family concept includes the extended family and that family bonds are unusually strong. Add to this data which shows that we generally occupy positions of low economic standing and you arrive at this result: It is not unusual, nor is one considered a "bad parent" if he agrees to let another member of the family rear his child where he is unable to do so himself. This does not mean that Mexicans and Mexican-Americans find it "easier" to part with their children; it means only that often this is the only alternative to watching their children suffer the effects of poverty. I wish to emphasize that, as I stated in my first letter, the only distinction between the deprivation suffered by Lance Bush and that suffered by Arturo is that Lance's parents are spared watching their son's afflictions. Pragmatically speaking, parenting consists of more than loving a child. As far as meeting Arturo's physical needs is concerned, he is virtually parentless.

Over the course of my parents' visits to Arturo in Mexico, they have formed a familial attachment which is greater than that in many natural families. They have provided some assistance to the natural family generally, and of late they have given substantial support to Arturo. They made an earlier attempt to bring him into the country but were bewildered and discouraged.

In speaking with my father he recounted some incidents which are significant. On several occasions, in his quest for custody of his adopted son, he has been approached by persons who have offered illegal shortcuts into the country. Persons ranging from lawyers and agencies to sleazy characters at the border have at least strongly hinted that he would probably "get away with it." Regardless of whether there is any reliability behind such suggestions, my father has and continues to have absolutely nothing to do with such propositions. He insists (calling me by my childhood nickname); "Batcha, I want to do this legal."

Finally, I wish to compliment and thank you and the Senator for your speedy action

in setting in motion the private bill. My folks were extremely pleased to report that they met with Fern Alexander of the Salt Lake City INS Office on Dec. 1 in conjunction with the bill. Many thanks.

Respectfully yours,

VICTORIA PALACIOS,
*Counselor at Law.*

## ANTHONY AUGUSTUS DALEY AND BEVERLY EVELYN DALEY

The Senate proceeded to consider the bill (S. 2770) for the relief of Anthony Augustus Daley and Beverly Evelyn Daley, which had been reported from the Committee on the Judiciary with an amendment on page 1, in line 10, strike out "The brothers and sisters" and insert "The natural mother, brothers, and sisters," so as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in the administration of the Immigration and Nationality Act, Anthony Augustus Daley and Beverly Evelyn Daley, his sister, may be classified as children within the meaning of section 101(b)(1)(F) of such Act upon approval of a petition filed in their behalf by Mr. and Mrs. Samuel U. Daley, a lawfully resident alien and a citizen of the United States, respectively, pursuant to section 204 of such Act. The natural mother, brothers, and sisters of the said Anthony Augustus Daley and Beverly Evelyn Daley shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–959), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the entry into the United States as immediate relatives the adopted children of a lawfully resident alien and a citizen of the United States, respectively. The bill has been amended in accordance with established precedents.

STATEMENT OF FACTS

The beneficiaries of the bill are brother and sister, aged 12 and 14, who are natives and citizens of Jamaica. They were adopted in Florida on August 4, 1975 by their natural father, a lawful permanent resident of the United States and his U.S. citizen wife. The children are presently residing with their paternal grandparents in Jamaica.

A letter, with attached memorandum, dated March 17, 1976, to the chairman of the Senate Committee on the Judiciary from the Commissioner of Immigration and Naturalization with reference to the bill, reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
*Washington, D.C., March 17, 1976.*

A20217382

Hon. JAMES O. EASTLAND,
*Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S. 2770) for the relief of Anthony Augustus Daley and Beverly Evelyn Daley, there is attached a memorandum of information concerning the beneficiaries.

The bill provides that the beneficiaries, a twelve-year-old adopted son and a fourteen-year-old adopted daughter of Mr. and Mrs. Samuel U. Daley, may be classified as children within the meaning of Section 101(b)(1)(F) of the Immigration and Nationality Act and be granted immediate relative status. The bill further provides that the natural brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Act.

Absent enactment of the bill, the beneficiaries, natives of Jamaica, would be chargeable to the numerical limitation for immigrants from countries in the Western Hemisphere.

Sincerely,

L. F. CHAPMAN, Jr.,
*Commissioner.*

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE: S. 2770

Information concerning this case was obtained from Mr. and Mrs. Samuel U. Daley, the beneficiaries' adoptive parents.

The beneficiaries, Anthony Augustus Daley and Beverly Evelyn Daley, are brother and sister who are both natives and citizens of Jamaica, born on June 28, 1963 and December 4, 1961, respectively. The children were born of a commonlaw relationship which existed from 1960 to 1962 in Jamaica between Samuel U. Daley and Verel Dodd, a native, citizen, and present resident of Jamaica. The beneficiaries were adopted by Mr. Daley and his wife, Bertha Lee, on August 4, 1975 in the Circuit Court of the Ninth Judicial Circuit, Orange County, Florida. Copies of the final adoption decrees are attached. The children are residing with their paternal grandparents in Jamaica.

Samuel U. Daley, born Uel Samuel Daley on June 2, 1937, is a native and citizen of Jamaica. He received an elementary school education in his homeland. He was admitted to the United States on November 14, 1969 as a contract agricultural laborer under the name of Vincent Daley, and he absconded from his employment on December 26, 1969. On January 17, 1972 he married Bertha Lee Brown, a United States citizen, who filed a visa petition in Mr. Daley's behalf. He returned to Jamaica and obtained an immigrant visa and he was admitted to the United States as a lawful permanent resident on October 2, 1974.

Bertha Lee Daley was born March 23, 1925 in Florida. She has an elementary school education. She has three children by a previous marriage, which was terminated by divorce on January 17, 1966. The children are all self-supporting. Mrs. Daley has never seen the beneficiaries but has stated that she is willing to raise them as her own children.

Mr. Daley is employed by William S. Browning, Orlando, Florida as a deliveryman at a salary of $90 per week. Mrs. Daley is employed as a maid at a salary of $120 per week. They own a home valued at $18,000 with a $8,000 mortgage and have personal property worth approximately $17,000.

912735 Recorded. August 5, 1975.

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT, IN AND FOR ORANGE COUNTY, FLORIDA

CIVIL ACTION
CASE NO. 75–CI–5683

In Re Adoption of ANTHONY AUGUSTUS DALEY, A Minor

By SAMUEL U. DALEY, His Natural Father, and BERTHA LEE DALEY, His Stepmother

FINAL JUDGMENT OF ADOPTION

This cause came on to be heard before me this day on petition for adoption, and on Motion for Entry of Final Judgment of Adoption, and the Court, now being advised in the premises, finds:

1. That the petitioner Samuel U. Daley is the natural father of the minor sought to be adopted, Anthony Augustus Daley, and the Petitioner Bertha Lee Daley, is the wife of said natural father, and is the stepmother of the said minor, and that the best interests of the said child will be promoted by such adoption.

2. That the said child is suitable for adoption by the said petitioners.

3. That the only person required to be given notice, by law, is Verel Dodd, natural mother of said minor, and that constructive service was effected by publication as directed by law; that further, actual service was made on said Verel Dodd by registered mail.

4. That the consents of said Verel Dodd and of the minor child sought to be adopted have been executed, obtained, and filed with this Court.

It is therefore, upon consideration:

Ordered, Adjudged, and Decreed:

(a) That the permanent custody of the child known as Anthony Augustus Daley in these proceedings be and the same is hereby given to Samuel U. Daley and his wife, Bertha Lee Daley.

(b) That the said child now known as Anthony Augustus Daley is given the lawful name of and shall henceforth be known as Anthony Augustus Daley.

(c) That the said child is hereby declared to be the legal child and lawful heir of Samuel U. Daley and Bertha Lee Daley, his wife, and the said child shall be subject to all of the obligations and entitled to all of the rights and privileges of children born to the adopting parents in lawful wedlock, all of which is

Done and Ordered in Chambers, at Orlando, Orange County, Florida, on this, the 4th day of August, 1975.

RICHARD B. KEATING,
*Judge of the Circuit Court.*

Recorded and record verified, County Comptroller, Orange County, Fla.

Senator Lawton Chiles, the author of the bill, has submitted the following information:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
*Washington, D.C., December 12, 1975.*

Hon. JAMES O. EASTLAND,
*Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.*

DEAR SENATOR EASTLAND: On December 10 I introduced S. 2770, a bill for the relief of Anthony Augustus Daley and Beverly Evelyn Daley, and this measure has been referred to your Committee for study and consideration.

I am enclosing some fact sheets on this case which I feel will be helpful to the Committee. If you need additional information or if I can be helpful in any other way, I hope you will let me know.

Most sincerely,

LAWTON CHILES.

Date: August 11, 1975.

From: Attorney Joseph Agar, 1114 New York Avenue, St. Cloud, Fla.

To: U.S. Senator Lawton M. Chiles, Jr., Federal Building, Lakeland, Fla.

Subject: Private Relief Bills, Immigration.

Constituents: Samuel U. Daley & Bertha L. Daley, his wife, 2103 Mantilla Street, Orlando, Fla.

Persons For Whom Relief is Sought: Anthony Augustus Daley, Age 12, and his sister, Beverly Evelyn Daley, Age 13, both presently resident in Jamaica, West Indies.

Relationship to Constituents, with other salient facts, etc.

Samuel Uel Daley is a native of Jamaica. About five years ago he came to the United States (Florida) as a temporary farm worker.

Subsequent to his arrival in the United States, he married Bertha Lee Brown (Date

of Marriage, Jan. 17, 1972.) The spouse was an American citizen, born in the United States. As a result of this bona fide marriage, Mr. Daley was duly given status of legal resident, on petition to the U.S. Immigration Service for proper classification, and upon approval of the U.S. Consul at Jamaica, to which he returned, in accordance with law, to obtain his visa.

Prior to his coming to this country, Samuel U. Daley had never been married. However, he did father two children, who were the subjects of this petition. The mother of the two said children was one Verel Dodd, unmarried. However, in a manner that seems to be in accord with practices in the country of Jamaica, the children were given the names at birth of "Daley", although there is no annotation on the birth certificates as to the name of the putative father.

Proof is available of the fact that shortly after the birth of the younger child, that they were given up to Mr. Daley by the mother, and that he took them to his home, where he reared them, with the assistance of his mother, so that he has in fact had continuing care and custody of the children since their births.

When Mr. Daley came to the United States, the children remained with his mother.

On August 6, 1975, a Judgment of Adoption was entered by the Circuit Court for Orange County, Florida, whereby Samuel Daley, as Natural Father of the children, and his wife, Bertha Lee Daley, were decreed to be the legal adoptive parents of said children, upon the Court being satisfied that the Natural Mother, Verel Dodd, has caused to be filed with the court her consents, and that Mr. Daley was and had continually been in loco parentis to the children.

Mr. Daley now wishes to have the children accorded legal resident status in the United States, and to have them come to live permanently with him and his wife.

However, the children, being natives of the Western Hemisphere, are not eligible for the procurement of a visa, since they "have not lived with the adoptive parent for a period of two years after the date of the adoption".

We now have here a case where the blood father of the children, whose status as their parent has been legalized, is barred from petitioning for the admission of his own children into the United States.

Only one other avenue exists, other than the filing of private bills. The children might be admitted to the United States for the purpose of attending school here—after they were here two years, then a petition could be filed to accord them permanent resident status, but we do not feel (a) that it would look well in the eyes of the Immigration Service two years hence were a petition to be then filed on that basis, nor (b) that there is any assurance that the United States Department through its Jamaica Consular Office would necessarily approve the handling of this matter in this manner.

SUMMARY

It would seem therefore that these cases are a meritorious subject for consideration as to the granting of private relief, since it represents nothing more than the desire of the natural parent of the children to have them come to live with him permanently.

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## QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

## TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

UP AMENDMENT NO. 61

Mr. ROTH. Mr. President, I send an amendment to the desk and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

The amendment is as follows:

At the end of Amendment number 1887, add the following new section:

(g) Congress commits itself, under the Congressional Budget process, that, subject to such adjustments as may be required to reflect changed economic needs or other unforeseen circumstances, any continuation of the credits, allowed under Section 42 beyond June 30, 1977 will be accompanied by dollar for dollar reductions in Federal spending during the fiscal year ending September 30, 1977.

Mr. ROTH. Mr. President, I would like to vote for the pending amendment to extend a portion of the tax cuts for an additional 3 months. This amendment would result in an extension of the anti-recession tax cuts for an additional 15 months instead of the 12-month tax cut extension voted by the Senate Finance Committee.

The Budget Committee argues that a full 15-month extension is mandated by the first budget resolution agreed to by Congress in May of this year. But I must point out that the additional 3-month extension will also have the effect of violating the budget targets by $1.8 billion.

It seems to me that the choice before the Senate is now very clear. The Senate can either raise other taxes by $1.8 billion or the Senate can reduce Federal spending by $1.8 billion.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ROTH. Yes, I am happy to yield to the Senator.

Mr. LONG. Mr. President, I believe the Senator is making a significant statement, and I regret that there are only a few Senators in the Chamber at this time. It seems to me that if one is to offer an amendment that has very substantial merit, as does the amendment of the Senator, he is really entitled to be heard by his colleagues, who are entitled to know his argument.

I am getting somewhat weary of this thing, of seeing someone suggest the absence of a quorum, when anyone can look around and see a quorum is not present, and then, having so suggested, proceed to withdraw the quorum. I do not know whether I am going to vote for the Senator's amendment or not, but I do think the Senator is entitled to be heard by his colleagues. I would like to suggest the absence of a quorum, unless the Senator prefers not to have a quorum present. What are the wishes of the Senator?

Mr. ROTH. I would be very happy to have you suggest the absence of a quorum. I believe this is a very important amendment to the Muskie amendment. For that reason, I appreciate the suggestion of the Senator.

Mr. LONG. The Senator from Maine has a Dear Colleague letter addressed to all Senators, and it is on our desk. If the Senators would come to the Chamber, they could read the letter. It is succinct and could be quickly read. I fear the Senator would not have equal consideration. He does not have a letter which has been written and is on everybody's desk. I think the Senator is entitled to equal treatment.

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## QUORUM CALL

Mr. LONG. Mr. President, I suggest the absence of a quorum, if the Senator will yield for that purpose.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. LONG. And, Mr. President, this will be a live quorum.

The second assistant legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 22 Leg.]

| | | |
|---|---|---|
| Byrd, Harry F., Jr. | Hollings | Muskie |
| Byrd, Robert C. | Jackson | Nelson |
| Clark | Johnston | Packwood |
| Curtis | Long | Ribicoff |
| Fannin | Mansfield | Roth |
| Hansen | McGee | Scott, Hugh |
| | McIntyre | Taft |

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

| | | |
|---|---|---|
| Magnuson | Stafford | Stevens |
| Pell | | |

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Indiana (Mr. HARTKE), and the Senator from Utah (Mr. MOSS) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH), the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

Mr. HUGH SCOTT. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Nebraska (Mr. HRUSKA) are necessarily absent.

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be di-

rected to compel the attendance of absent Senators.

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

The PRESIDING OFFICER (Mr. Johnston). 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 of the Senator from West Virginia (Mr. ROBERT C. BYRD) to direct the Sergeant at Arms to compel the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Indiana (Mr. HARTKE), and the Senator from Utah (Mr. Moss) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

Mr. HUGH SCOTT. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from New New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Nebraska (Mr. HRUSKA) are necessarily absent.

The result was announced—yeas 82, nays 3, as follows:

[Rollcall Vote No. 300 Leg.]

YEAS—82

| | | |
|---|---|---|
| Allen | Hart, Philip A. | Nelson |
| Baker | Haskell | Nunn |
| Beall | Hatfield | Packwood |
| Brock | Hathaway | Pastore |
| Brooke | Helms | Pearson |
| Bumpers | Hollings | Pell |
| Burdick | Huddleston | Percy |
| Byrd, Harry F., Jr. | Humphrey | Proxmire |
| | Inouye | Randolph |
| Byrd, Robert C. | Jackson | Ribicoff |
| Cannon | Javits | Roth |
| Chiles | Johnston | Schweiker |
| Clark | Kennedy | Scott, Hugh |
| Cranston | Laxalt | Scott, William L. |
| Culver | Leahy | |
| Curtis | Long | Sparkman |
| Dole | Magnuson | Stafford |
| Domenici | Mansfield | Stennis |
| Durkin | Mathias | Stevens |
| Eagleton | McClellan | Stevenson |
| Eastland | McClure | Stone |
| Fannin | McGee | Taft |
| Fong | McGovern | Talmadge |
| Garn | McIntyre | Thurmond |
| Glenn | Mondale | Tower |
| Gravel | Montoya | Tunney |
| Hansen | Morgan | Williams |
| Hart, Gary | Muskie | Young |

NAYS—3

| | | |
|---|---|---|
| Biden | Metcalf | Weicker |

NOT VOTING—15

| | | |
|---|---|---|
| Abourezk | Buckley | Griffin |
| Bartlett | Case | Hartke |
| Bayh | Church | Hruska |
| Bellmon | Ford | Moss |
| Bentsen | Goldwater | Symington |

So the motion was agreed to.

The PRESIDING OFFICER A quorum is present.

## KLONDIKE GOLD RUSH NATIONAL HISTORICAL PARK

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 98.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 98) to establish the Klondike Gold Rush National Historical Park, and for other purposes.

(The amendment of the House is printed in the RECORD of June 8, 1976, begining at page H5421.)

Mr. JACKSON. Mr. President, for several years, the National Park Service and Parks Canada have been assembling the necessary data to establish a Klondike Gold Rush Historical Park in our respective countries. These parks are proposed to protect and preserve those historic structures, lands, artifacts, and records associated with the Klondike gold rush of 1897–98. To many who have studied this event, it represents one of the most adventuresome undertakings of American and Canadian citizens and others throughout the world. Tens of thousands of people left their homes for unknown and hostile surroundings, risked their life savings, endured immense hardship, and in those remaining historical assets, left a legacy of achievement which awe all who study or retrace this event.

The proposal for the Klondike Gold Rush National Historical Park in the United States consists of four detached units which capture the essence of those remaining historic features for the American public's study and enjoyment. The Klondike gold rush was one of the most photographed events after the invention of the camera and these historic photographic records along with existing structures, lands, and artifacts present an unparalleled potential for interpretation of this event to the public. National recognition of gold rushes in America's heritage is not represented within the national park system.

The Seattle Unit consists of leased space in the Pioneer Square district for administrative and interpretive purposes. A program interpreting Seattle's role in the Klondike gold rush will be provided for the public.

During the gold rush, structures such as the Pioneer Building which can still be seen today, were the prestigious addresses of many shipping, mining, and outfitting companies that served those going north. The Puget Sound Bank opposite Pioneer Square housed tons of the miners nuggets and dust. Within the Pioneer Square area for blocks, street trees fell to make room for the supplies heading north and Pioneer Square was the hub of many of the partnerships and dealings associated with the Klondike.

These additional units of this park will be located in Alaska. In Skagway, Alaska, a central unit of 55 buildings still exists from the days when it became the second step of the Klondikers long journey north from Seattle. The Chilhoot and White Pass units will preserve the trails used by the miners during the gold rush.

Mr. President, this legislation was reported from the Senate Interior Committee in June of last year after full hearings and extensive consideration. I believe that enactment of this measure during this our Bicentennial Year is altogether fitting and appropriate.

Mr. President, the House has made several amendments to S. 98 which do not affect the substance or the purpose of this measure which was carefully considered by the Senate Interior Committee and which passed the Senate on June 2, 1975.

The major changes incorporated by the House are provisions providing rights-of-way for a railroad, a pipeline, and a possible highway. Each of these provisions are strictly regulated, and permission to use these rights-of-way depend upon a finding by the Secretary that their use will not adversely affect the park.

Therefore, Mr. President, I move that the Senate concur in the amendments of the House to S. 98.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. STEVENS. Mr. President, I am delighted that the chairman of the Committee on Interior and Insular Affairs has accepted these amendments, so that we may commemorate the trail of 1898.

Mr. STEVENS. Mr. President, on June 8 the House passed H.R. 1194 which would establish the Klondike Gold Rush National Historic Park in Washington and Alaska. The Senate passed the companion measure, S. 98, on June 4 of last year.

This bill is of major interest to Alaska and I am pleased that Alaska's Congressman, DON YOUNG, succeeded in obtaining in the House several amendments which improve the legislation. One amendment contained in the House bill would permit the Secretary of the Interior to grant additional rights-of-way and related benefits through the White Pass Unit for pipeline and railroad purposes. This will allow expansion of a vital transportation link connecting Alaska and Canada if significant adverse impacts to the park do not occur.

The other major provision which Congressman YOUNG worked for authorizes the Secretary to grant the State a road right-of-way across the Chilkoot Trail Unit to link the towns of Skagway and Haines. Again, this road may be needed in the future to provide transportation between these two important communities but the grant of the right-of-way must be conditioned to minimize harm to the park values.

The House amendments strengthen this important bill which, as the Senate knows, embodies a unique two-State, multiple-unit park designed to preserve the important heritage of the Klondike gold rush. I urged the Senate to approve the House changes in this bill so that this part of Washington and Alaska's history can be properly honored.

Mr. GRAVEL. Mr. President, final congressional approval of the Klondike Gold Rush National Historical Park insures the creation of an important and fitting

monument to a major event in American history, the Klondike Gold Rush of 1898.

When my family and I hiked the Chilkoot Trail, over which many Klondikers traveled to get to the rich gold deposits, we were continually impressed with the area's scenic beauty. Even more impressive were the numerous relics which remain along the trail after having been discarded by the frantic 1898 stampeders.

While hiking the trail, it occurred to me that Congress should take whatever steps are necessary to protect this priceless national resorurce. Through the establishment of this park, with its Chilkoot, White Pass, Skagway, and Seattle units, a solid foundation will be created for the proper management and interpretation of the Klondike story. Passage of this legislation insures the continued availability of this area for the enlightenment and enjoyment of this and future generations.

It is with a great deal of pride that the citizens of Alaska, as well as myself, witness the approval of the Klondike Park bill.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

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## TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

The PRESIDING OFFICER. The question is on the motion of the Senator from Delaware.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. ROTH. I yield.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the following members of Mr. BARTLETT's staff be allowed the privilege of the floor during the debate on this bill: Mark Isaac, Tom Biery, and Ed King.

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

Mr. ROTH. Mr. President, I have offered an amendment that I think can provide a way out of the dilemma that the Senate now faces. The amendment is very simple. It permits the extension of the tax cuts.

Mr. RIBICOFF. Mr. President, I make a point of order. The Senate is not in order. This is a very important amendment, and I would like to hear the discussion.

The PRESIDING OFFICER. The Senator's point is well taken. The Senate will be in order. Senators who wish to converse will retire to the cloakrooms.

Mr. ROTH. Mr. President, this is a very important amendment, because I think it offers us a way out of our dilemma, a way of providing for the extension of the tax cuts for an additional 3 months, and a means of being fiscally responsible in doing so.

Mr. President, as I said earlier, I would like to vote for the amendment offered by the Senator from Maine to extend a portion of the tax cuts for an additional 3 months. This amendment will result in an extension of the antirecession tax cuts for an additional 15 months, instead of the 12-month tax cut extension voted by the Senate Finance Committee.

The Budget Committee argues that a full 15-month extension is mandated by the first budget resolution agreed to by Congress in May of this year. But I must point out that the additional 3-month extension will also have the effect of violating the budget targets by $1.8 billion.

The choice before the Senate is now very clear. The Senate can either raise other taxes by $1.8 billion, or the Senate can reduce Federal spending by $1.8 billion.

I remind the Senate, that, last December, Congress made a firm commitment to reduce Federal spending dollar-for-dollar for any additional tax cuts. In my opinion, there is now only one way for the Senate to offset this additional $1.8 billion in tax cuts and that is by enacting a matching $1.8 billion reduction in Federal spending. The Senate should not, and must not, offset this additional tax cut by increasing other people's taxes or by repealing some of the tax cuts in the Finance Committee's bill.

I believe that the only real way to regain control of the Federal budget and to reduce Federal spending programs is to reduce the amount of taxes the Government can collect from taxpayers. As long as Congress is allowed to collect huge amounts of Federal tax dollars from the people, Congress will be able to continue spending this revenue on more and more Government programs.

I have found in my travels in Delaware that what the people want is not more government but better government. They are interested in reducing the total amount of Federal spending. So I think that what I am offering here as an amendment accomplishes two purposes.

First, it accomplishes the purpose of providing the tax cuts endorsed by the Budget Committee. It also provides a step forward in our efforts to bring the Federal budget under control.

Specifically, my amendment provides this:

It would add a paragraph (g) at the end of amendment No. 1887 saying that "Congress commits itself, under the congressional budget process, that, subject to such adjustments as may be required to reflect changed economic needs or other unforeseen circumstances, any continuation of the credits allowed under section 42 beyond June 30, 1977, will be accomplished by dollar-for-dollar reductions in Federal spending during the fiscal year ending September 30, 1977."

So this provides an alternative, an alternative to tax increases, by requesting the Budget Committee to find ways and means of holding down Federal spending during the remainder of fiscal year 1977.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ROTH. I am happy to yield to the Senator from Louisiana.

Mr. LONG. Mr. President, it seems to me that the ideal thing would be to permit the Senate to proceed in an orderly fashion on this bill, let the Senate vote for the tax increases it wants to vote for, then vote for the tax reduction it wants. Then, when get through the bill, we can see whether we are above the budget or below the budget.

At that time, it might very well be that we will say that we will either reduce spending or put the tax cuts in the bill to come within that, or even consider a motion to commit and report back, where the bill had been tailored down where we had had a squeezing out process, or even a substitute that would suggest that we put some on these items and take some from other items.

What I find difficult to deal with is the matter of proceeding out of order, where we get on title I, and before we can even vote for the committee amendment to strike the House language, we are confronted with an amendment that should be in title IV, which would greatly increase the tax cuts.

If we are going to proceed in that fashion, we are going to be confronted with the situation in which everybody tries to get some advantage and charges down to offer an amendment and tries to get the Chair to recognize him before the other fellow.

We became involved in that kind of fiasco when we were on the tax cut bill. That is the kind of thing I thought I had agreed with various Senators that we were not going to do. I cannot fault the Senator from Delaware for a second, when he sees a big budget-busting amendment coming in here, to move to try to uphold fiscal responsibility.

I wonder whether the Senator will agree with me that it would be a better procedure if we could proceed in an orderly fashion, to see whether the Senate really wants to vote these tax increases that the committee has recommended, or at least some of them, whether it has the courage to vote for some tax increases, such as the ones that the committee thinks would be good ones—before we proceeded to vote these vast additional tax cuts.

I wonder what the Senator thought about the hope of orderly procedure, in sequence?

Mr. ROTH. If I understand the distinguished chairman, I very much agree with him that it would be preferable to deal with these amendments in the order they appear in our legislation.

If I further understand the Senator correctly, what he is saying is that today we really do not know exactly what the impact on the budget will be because we do not know what the Senate is going to do with respect to some of these amendments. It is possible, I think the Senator is saying, that additional revenue might be raised by some amendments, by increases in taxes. It is possible that other changes may decrease it, so we do not really know what the net effect is going to be. Is that correct?

Mr. LONG. Yes. Furthermore, I am advised that the Muskie budget-buster would have been subject to a point of order had the Muskie budget-buster been offered after the second budget resolu-

tion. But the Muskie budget-buster comes in here before the second budget resolution. So the Senator from Maine is trying to break away from the idea of the whole purpose of the budget law and get a budget-buster and assign us a chore of trying to find some way to save the country.

If we proceed in an orderly fashion, we can see first whether the Senate is willing to measure up to as much responsibility as the Committee on Finance has recommended: that in the process of finding these joyous tax cuts for people, we will raise an additional $2 billion in taxes. Will the Senator agree with me that we should see if the Senate is willing to uphold the Senate Finance Committee in some of these tax increases before we try to see if the Senate is willing to spread more joy, throw more money off the top of the Washington Monument—that kind of thing?

Mr. ROTH. As I indicated, I do agree with the chairman. The question I have at this time, of course, is that the pending business is Senator MUSKIE's amendment. For that reason, I have offered an amendment in the second degree to provide a way out.

I would personally welcome the opportunity to proceed along the line the Senator was proposing, so we can let the Senate work its will.

Mr. LONG. I thank the distinguished Senator. It seems to me that the chairman of the Committee on the Budget gave us enough of a chore when he asked us to raise $2 billion. We worked hard at it and did him one better: We raised $2.5 billion. Now he wants to give us a chore of raising another $1.5 billion. It seems to me before we vote for more and more tax cuts, spread more joy, give away more money, cut down on the Government revenues, we ought first to try to see if the people in the Senate are willing to proceed in an orderly fashion, first to raise some money in responsible ways that we think make good sense. Then, having voted on those matters, get over to title IV, where, having voted to raise money in title II and title III, we raise about $1.5 billion, then proceed; say, "All right, now we have raised a billion and a half dollars. Now let us dispense some of these good tidings to the American people by cutting some taxes."

Does the Senator agree with me that to start right out, cutting more taxes before we have had a chance to consider the other proposals in the bill and to proceed out of order, breaks completely away from the whole theory that orderly procedure would mean to vote on each section, in ways that the Senate can understand what it is voting on in context?

Mr. ROTH. I think, Mr. President, that tax reform is extraordinarily complicated. So, in the best interests of the country, and I might say in the best interests of economy, it is important that we proceed in a responsible manner and that we give Congress the opportunity to work its will. My only concern, and the point I am trying to make in my amendment, is that if we are going to offer additional tax cuts beyond what was agreed on the budget earlier this year, I feel very strongly that we must also reduce Federal spending, and that we should justify those additional tax cuts through cuts in Federal spending and not through increases in taxes.

Mr. LONG. In other words, if the Senator would like to dispense with this, the only way you can cut taxes is by raising taxes on somebody else; he would like to make it clear that the ideal way to cut taxes is by cutting down on Federal spending.

Mr. ROTH. That is exactly right. I think we should try to proceed in a responsible way.

My concern here is the same as the chairman's: I think it is important that we go through the bill, section by section, with everybody having the opportunity to raise any amendments that they care to make, and see what the will of the Senate is.

Then, at the end, we are in a logical position to decide what needs to be done responsibly to carry out the will of the Senate. At that time, again, it would be my intention to try to insist that we should offset any further tax cuts through cuts in Federal spending.

Mr. LONG. Mr. President, the Senator has repeatedly stood here and championed fiscal responsibility. I am pleased to see that he has not lost his interest in that subject. I was a little bit concerned for fear we had lost the Senator as a leader in that cause when he offered his amendment in the committee that would cost a great deal of money in future years. It would provide a tax credit for families to send their children to college. I was fearful that we had lost the Senator as a great leader for fiscal responsibility when he proposed this amendment, which, although it would not affect us in the budget this year, would, in future years, cause problems because we would have to find some way to fit that within our overall budget. I am pleased to see that he fully intends to do that kind of thing when he shows the responsibility to offer an amendment to say that whatever we do here should be a balanced bill; it ought to be within the overall targets set by the budget and by the Senate itself. No matter what the Budget Committee chairman might have thought when that chairman made his suggestion to the Senate respecting his right to bust the budget just as everybody else has a right to offer a budget-buster, the Senate ought to have a return of conscience now and then in the fiscal area and then should, from time to time, proceed to overcome the mischief of its ways by balancing the bill out in such a way that we could have the good things, at the same time being willing to pay for them either by tax cuts or by reductions in spending.

Mr. ROTH. That is correct.

Mr. HOLLINGS. Will the Senator from Delaware yield for a question?

Mr. ROTH. I am happy to yield.

Mr. HOLLINGS. Does the distinguished Senator from Delaware feel that the Senate was busting the budget back on April 12 when by a vote of 62 to 22 we voted the continuation of the tax cut for a full year?

Mr. ROTH. I am happy to tell the distinguished Senator that I voted against the budget resolution. I was not happy with the budget deficit it projected.

Mr. HOLLINGS. I know, but 62 Senators voted for it. We are talking tbout first things first. The Senate acted budgetarily, in accordance with the rules and the law, on April 12. They voted, 62 to 22, for the extension which included this $1.7 billion. Does the Senator from Delaware consider that throwing money off the top of the Washington Monument?

Mr. ROTH. If we are talking about the budgetary procedure that we finally adopted, the first budget resolutions merely set targets and it does not prevent the Senate from trying to modify it at later times to reduce the deficit. All I am proposing here is a different approach to finance the tax cuts that have been proposed by the chairman of the Committee on the Budget. I think it is a perfectly responsible way of proceeding at this stage.

Mr. HOLLINGS. Does the Senator from Delaware think it is irresponsible budget-busting for the chairman of the Senate Committee on the Budget to resubmit that and for the Senate to act upon it favorably by a 3-to-1 vote less than 2 months ago? Does the Senator from Delaware really go along with these characterizations of busting the budget and throwing money off the Washington Monument?

Mr. ROTH. I think each Senator has the right to propose whatever he thinks is proper under the circumstances, and I do not quarrel with the right of the Senator from Maine to make his proposal.

Mr. HOLLINGS. Particularly a proposal that has been passed.

Mr. ROTH. I have not yet completed my statement.

What I am saying as the Senator from Delaware, and speaking only for the Senator from Delaware, is if we are going to extend the tax cuts which, as I have indicated in my statement, I would be happy to do so, I want to be fiscally responsible by proposing that we offset this through cuts in Federal spending, and that is the issue I am trying to raise at this time.

Mr. HOLLINGS. Does the Senator realizes at the present time what is before the Senate now is being proposed for a second reading? Talking about responsibility and first things first, what has occurred is that the extension of the tax cut has received three readings in the Senate, three readings in the House, and reconfirmed on May 14; is that not correct?

Mr. ROTH. There is nothing to prevent at this time the Senate from taking steps to modify what was done earlier.

Mr. HOLLINGS. That is true, but it would be a modification. It would not be an innovative or new budget-busting, throwing money off the Washington Monument.

Mr. ROTH. I have to agree fundamentally that the only controlling target in the original resolution is the $15.3 billion target. The Senator from Louisiana.

Mr. LONG. Did the Senator feel, when he voted to confine the amount by which aggregate level of Federal revenues shall be decreased to $15.3 billion, that he was voting for a precise mix of tax cuts and

tax increases or did he feel he was voting to live with a figure of $15.3 billion?

Mr. ROTH. No, as one who was involved in the formation of the Budget Committee, frankly, I had urged that we go further than we did in restricting Federal spending. But it was my understanding, and is still my understanding, that the only controlling target is the $15.3 billion figure. The mix is the responsibility of the Finance Committee.

Mr. LONG. That is what I thought I was doing.

Mr. ROTH. We make our recommendations. If the Senate does not like it then it has the opportunity of amending it on the floor, and that is what I think the chairman is contending.

Mr. LONG. That is what this Senator thought, that is what I thought I was voting for. I voted for it. I did not have a chance to read all the fine print in the Budget Committee's report or to pick the mind of Mr. MUSKIE, nor to pick the mind of Mr. HOLLINGS, nor to know what somebody else had in his mind, but I can read the language of what I was voting on, and that to me meant just what the legislative history of that budget law said. It said that you assign us a total and we expect to live within it.

Frankly, may I say to the Senator, so far as I am concerned, I wish the Senator could make a point of order; I wish he could uphold these budget processes. I would sure make that point of order and knock that Muskie amendment out right here and now. Mr. MUSKIE could not bust the budget with my help. I would make him do his duty under the law. He is asking us now to vote to go beyond the $15.3 billion, and he will not do it with my vote.

Now, may I say to the Senator from Delaware, his amendment, while I have got some doubts that this is the ideal way to proceed, the Senator's amendment, if it was agreed to, will save the budget process.

It will uphold fiscal responsibility; it will make Mr. MUSKIE do what Mr. MUSKIE is supposed to be doing, protect the budget, protect the fiscal integrity of this Government. If we cannot do it that way, we will find some other way, but if the Budget Committee and its chairman will not protect the fiscal solvency of this Government then the old Finance Committee, which has done it year in and year out, before we ever heard of the Budget Committee, will save the country. [Laughter.]

Several Senators addressed the Chair.

The PRESIDING OFFICER. There will be order in the Senate.

Mr. MUSKIE. Mr. President, I appreciate the respect with which the Senator from Louisiana refers to "Mr. MUSKIE," so I will refer to him as Mr. LONG. But I ask the Senator to yield for a purpose. Has the Senator submitted his amendment? Has it been called up?

Mr. ROTH. Yes.

Mr. MUSKIE. Is it pending?

Mr. ROTH. It is pending, that is correct.

Mr. MUSKIE. In due course I will raise a point of order with respect to it, and I will be glad to explain it before I raise it. I simply did not want to catch the Senator by surprise. I was not sure that it had been submitted and that it was the pending business. If the Senator would like me to raise a point of order now in order to save time, by letting the point of order be resolved, I would be glad to raise it now. But if the Senator would prefer to continue with an explanation of it, I would be happy to let him continue and then at some point convenient to him raise the point of order.

Mr. ROTH. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROTH. Is a point of order debatable?

The PRESIDING OFFICER. A point of order is not debatable.

Mr. MUSKIE. Would the Senator like to know my reasons and then he can address himself to the reasons before I raise the point of order?

The PRESIDING OFFICER. Has the Senator raised the point of order?

Mr. MUSKIE. No; I have not yet. I have simply, on the Senator's time, alerted him to the fact that I believe that his amendment is subject to a point of order and that I will raise the point of order. I will not spring it by surprise. I will explain my reasons first, at a time convenient to him, before I raise the point of order. He has got a right to hear why I raise it, but, at the same time, if I am right in the point of order, maybe we ought to get it settled and get on to other matters. But out of courtesy to the Senator from Delaware, if he would prefer to proceed before we get into the matter of the point of order, I will raise it and discuss it at his convenience.

Mr. ROTH. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROTH. Mr. President, I intend to when the point of order is made, to move that pursuant to section 904(b) of the Budget Act I will move to waive section 306. I ask whether that is debatable.

The PRESIDING OFFICER. That is a debatable motion.

Mr. ROTH. I am ready for the Senator to make his point of order.

Mr. MUSKIE. Mr. President, let me, before I make the point, discuss it.

Mr. KENNEDY. Mr. President, may we have order.

The PRESIDING OFFICER. Let there be order in the Senate. It is difficult to hear. Will everyone in the well please be seated.

Mr. MUSKIE. I would hope, Mr. President, that the Senators would attend. Other Senators may not regard this debate on this issue as serious in connection with the budget process and its integrity as I do. But I regard this amendment of the Senator from Delaware as direct an assault upon it as anything that has occurred.

It pleases the Senator from Louisiana to refer to my amendment as a budget-buster. That is the way he debates. I have listened to him for 18 years, and it pleases him always to put his opponent's propositions in the worst possible light in order to ridicule them and to attack them. Well, that is his privilege and I think we all understand how he operates.

But I am going to try to present this in a straightforward and direct way because, if the Roth initiative prevails, and if the Muskie-Bellmon amendment loses, the budget process, in my judgment, would have been enormously weakened. No one else may share that concern but, as chairman of the Budget Committee, I have it, and if I feel it I have got to express it. That is the reason why I am going to raise the point of order with respect to the amendment of the Senator from Delaware.

In order to attract as many Senators as possible, I suggest the absence of a quorum, and I would like the first one to go rapidly so that we can get to the live quorum and get Senators in attendance. I also ask unanimous consent that I not lose my right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MUSKIE. I would be glad to talk at length. Mr. President, I withdraw my request. I ask my colleagues to honor my request. I undertook to accommodate the convenience of the Senator on the other side who had the floor. I have accommodated his convenience. This is a serious matter, whether the Senator from Oregon agrees with me or not, and I would like an opportunity to discuss it and to present the issue to the Senate with as many Senators as possible. The Senator from Oregon used a similar device last night to get maximum attendance. I ask the same courtesy. So I ask unanimous consent, Mr. President, that I might ask for a quorum call without losing my right to the floor; I ask it once more.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MUSKIE. Then I will yield the floor until the Senate is ready to get to the question.

Mr. MANSFIELD. Will the Senator retain the floor?

There is a goodly number in attendance; we will get others here, and I think he ought to pursue his point.

Mr. MUSKIE. There seems to be an indisposition to listen on the floor of the Senate.

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

Mr. MUSKIE. For a question.

Mr. LONG. Mr. President, the Senator noted, did he not, that I do not object to having a quorum? As far as I am concerned, that is perfectly all right with me.

He does have, I think, more Senators than we ordinarily speak to when we explain an amendment. It is not usually my good fortune to have this many here. But if he wants a quorum with more Senators here, I would like to accommodate him.

QUORUM CALL

Mr. LONG. Mr. President, I ask unanimous consent that there might be a quorum call and, at the conclusion, the Senator from Maine be recognized.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 23 Leg.]

| | | |
|---|---|---|
| Allen | Fannin | Magnuson |
| Bumpers | Garn | Mansfield |
| Burdick | Hansen | McClure |
| Byrd, Harry F., Jr. | Hart, Gary | Mondale |
| Byrd, Robert C. | Hart, Philip A. | Muskie |
| Chiles | Haskell | Nelson |
| Cranston | Hathaway | Packwood |
| Culver | Helms | Pastore |
| Curtis | Hollings | Ribicoff |
| Domenici | Johnston | Roth |
| Durkin | Kennedy | Talmadge |
| | Long | |

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the presence of absent Senators, and on that 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 of the Senator from Montana. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. METCALF (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota, (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Indiana (Mr. HARTKE), and the Senator from Utah (Mr. MOSS) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

Mr. HUGH SCOTT. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Nebraska (Mr. HRUSKA) are necessarily absent.

The result was announced—yeas 83, nays 1, as follows:

[Rollcall Vote No. 301 Leg.]

YEAS—83

| | | |
|---|---|---|
| Allen | Byrd, Harry F., Jr. | Curtis |
| Baker | Byrd, Robert C. | Dole |
| Beall | Cannon | Domenici |
| Biden | Chiles | Durkin |
| Brock | Clark | Eagleton |
| Brooke | Cranston | Eastland |
| Bumpers | Culver | Fannin |
| Burdick | Garn | Fong |
| Glenn | Magnuson | Ribicoff |
| Gravel | Mansfield | Roth |
| Hansen | Mathias | Schweiker |
| Hart, Gary | McClellan | Scott, Hugh |
| Hart, Philip A. | McClure | Scott, William L. |
| Haskell | McGee | Sparkman |
| Hatfield | McGovern | Stafford |
| Hathaway | McIntyre | Stennis |
| Helms | Mondale | Stevens |
| Hollings | Montoya | Stevenson |
| Huddleston | Morgan | Stone |
| Humphrey | Muskie | Taft |
| Inouye | Nelson | Talmadge |
| Jackson | Nunn | Thurmond |
| Javits | Packwood | Tower |
| Johnston | Pastore | Tunney |
| Kennedy | Pearson | Williams |
| Laxalt | Pell | Young |
| Leahy | Percy | |
| Long | Proxmire | |
| | Randolph | |

NAYS—1

Weicker

ANSWERED "PRESENT"—1

Metcalf

NOT VOTING—15

| | | |
|---|---|---|
| Abourezk | Buckley | Griffin |
| Bartlett | Case | Hartke |
| Bayh | Church | Hruska |
| Bellmon | Ford | Moss |
| Bentsen | Goldwater | Symington |

So the motion was agreed to.

The PRESIDING OFFICER (Mr. MORGAN). A quorum is present. Under the previous order, the Senator from Maine is recognized. The Senate will be in order.

Mr. MUSKIE. Mr. President, I yield to the Senator from Ohio for a unanimous consent request.

Mr. GLENN. Mr. President, I ask unanimous consent that a member of my staff, Lyle Morris, be accorded floor privileges during consideration of this measure.

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

Mr. MUSKIE. Mr. President, before proceeding with my argument on the Roth amendment, I would like at this time to modify my amendment—No. 1887—to make it a substitute for the language proposed to be stricken by committee amendment No. 2.

Mr. LONG. Mr. President, reserving the right to object, I do not know that I will object, but I would like to see what the language is before I decide.

Mr. MUSKIE. I understand I have the right to modify.

The PRESIDING OFFICER. The amendment will be so modified.

The modification is as follows:

AMENDMENT NO. 1887, AS MODIFIED BY UP AMENDMENT NO. 62

TITLE I—TAX REFORM

SEC. 101. INDIVIDUAL INCOME TAX REDUCTIONS.

(a) TAXABLE INCOME CREDIT.—

(1) IN GENERAL.—Subsection (a) of section 42 (relating to taxable income credit) is amended to read as follows:

"(a) GENERAL RULE.—

"(1) In the case of an individual, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the greater of—

"(A) 2 percent of so much of the taxpayer's taxable income for the taxable year as does not exceed $9,000, or

"(B) $35 multiplied by each exemption for which the taxpayer is entitled to a deduction for the taxable year under subsection (b) or (e) of section 151.".

(2) NINE-MONTH RULE FOR 1977.—Paragraph (2) of section 42(a) (relating to application of six-month rule) is amended to read as follows:

"(2) NINE-MONTH RULE.—Notwithstanding the provisions of paragraph (1), in the case of taxable years ending after December 31, 1976, and before January 1, 1978, the percentage '1.5 percent' shall be substituted for '2 percent' in subparagraph (A) of such paragraph and the amount '$26.25' shall be substituted for the amount '$35' in subparagraph (B) of such paragraph.".

(3) TECHNICAL AMENDMENTS.—

(A) Section 56(a)(2) (relating to imposition of minimum tax), as in effect on the day before the date of the enactment of the Tax Reduction Act of 1975, is amended by striking out "and" at the end of clause (iv), by striking out "; and" at the end of clause (v) and inserting in lieu thereof ", and", and by inserting after clause (v) the following new clause:

"(vi) section 42 (relating to taxable income credit); and".

(B) Section 56(c)(1) (relating to tax carryovers), as in effect on the day before the date of enactment of the Tax Reduction Act of 1975, is amended by striking out "and" at the end of subparagraph (D), by striking out "exceed" at the end of subparagraph (E) and inserting in lieu thereof "and", and by inserting after subparagraph (E) the following new subparagraph:

"(F) section 42 (relating to taxable income credit), exceed".

(C) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund), as in effect on the day before the date of enactment of the Tax Reduction Act of 1975, is amended by striking out "and 41" and inserting in lieu thereof "41, and 42".

(4) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1, as in effect on the day before the date of enactment of the Tax Reduction Act of 1975, is amended by striking out the item relating to section 42 and inserting in lieu thereof the following:

"Sec. 42. Taxable income credit.".

(b) STANDARD DEDUCTION.—

(1) LOW INCOME ALLOWANCE.—Subsection (c) of section 141 (relating to low income allowance) is amended to read as follows:

"(c) LOW INCOME ALLOWANCE.—The low income allowance is—

"(1) $2,100 in the case of—

"(A) a joint return under section 6013, or

"(B) a surviving spouse (as defined in section 2(a)),

"(2) $1,700 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(3) $1,050 in the case of a married individual filing a separate return.".

(2) PERCENTAGE STANDARD DEDUCTION.—Subsection (b) of section 141 (relating to percentage standard deduction) is amended to read as follows:

"(b) PERCENTAGE STANDARD DEDUCTION.—The percentage standard deduction is an amount equal to 16 percent of adjusted gross income, but not more than—

"(1) $2,800 in the case of—

"(A) a joint return under section 6013, or

"(B) a surviving spouse (as defined in section 2(a)),

"(2) $2,400 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(3) $1,400 in the case of a married individual filing a separate return.".

(3) TECHNICAL AMENDMENTS.—

(A) Subsection (a) of section 3402 (relating to income tax collected at source) is amended to read as follows:

"(a) REQUIREMENT OF WITHHOLDING.—Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables prescribed by the Secretary. For purposes of

applying such tables, the term 'the amount of wages' means the amount by which the wages exceed the number of withholding exemptions claimed, multiplied by the amount of one such exemption as shown in the table in subsection (b)(1).".

(B) Paragraph (6) of section 3402(c) (relating to wage bracket withholding), as such paragraph existed on the day before the date of enactment of the Tax Reduction Act of 1975, is amended by striking out "table 7 contained in subsection (a)" and inserting in lieu thereof "the table for an annual payroll period prescribed pursuant to subsection (a)".

(C) Subparagraph (B) of section 3402(m)(1) (relating to withholding allowance based on itemized deductions) is amended to read as follows:

"(B) an amount equal to the lesser of (i) 16 percent of his estimated wages, or (ii) $2,800 ($2,400 in the case of an individual who is not married (within the meaning of section 143) and who is not a surviving spouse (as defined in section 2(a))).".

(D) So much of paragraph (1) of section 6012(a) (relating to persons required to make returns of income) as precedes subparagraph (C) thereof is amended to read as follows:

"(1)(A) Every individual having for the taxable year a gross income of $750 or more, except that a return shall not be required of an individual (other than an individual referred to in section 142(b))—

"(i) who is not married (determined by applying section 143), is not a surviving spouse (as defined in section 2(a)), and for the taxable year has a gross income of less than $2,450,

"(ii) who is a surviving spouse (as so defined) and for the taxable year has a gross income of less than $2,850, or

"(iii) who is entitled to make a joint return under section 6013 and whose gross income, when combined with the gross income of his spouse, is for the taxable year, less than $3,600 but only if such individual and his spouse, at the close of the taxable year, had the same household as their home. Clause (iii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(e).

"(B) The amount specified in clause (i) or (ii) of subparagraph (A) shall be increased by $750 in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the amount specified in clause (iii) of subparagraph (A) shall be increased by $750 for each additional personal exemption to which the individual or his spouse is entitled under section 151(c);".

(c) EARNED INCOME CREDIT.—Section 209 (b) of the Tax Reduction Act of 1975 (as in effect on November 30, 1975) is amended by striking out "and before January 1, 1976".

(d) EFFECTIVE DATES.—The amendments made by subsection (a) apply to taxable years ending after December 31, 1975. The amendments made by subsection (b) apply to taxable years ending after December 31, 1975. The amendment made by subsection (c) takes effect on the date of enactment of this Act.

(e) Section 3(b) of the Revenue Adjustment Act of 1975 is amended by striking out "December 31, 1976" and inserting in lieu thereof "December 31, 1977".

(f) DISREGARD OF EARNED INCOME CREDIT FOR CERTAIN PURPOSES.—Any refund of Federal income taxes made to any individual by reason of section 43 of the Internal Revenue Code of 1954 (relating to earned income credit) shall not be taken into account as income or receipts for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

Mr. MUSKIE. Mr. President, I guess I have relearned the lesson I have learned many times before, that a live quorum does not necessarily improve the attendance; but anyway, I appreciate the courtesy of the Senator from Louisiana in affording me the opportunity, and I appreciate the presence of those who are here.

The Senator from Delaware had submitted an amendment at the desk, and it was the pending business. After examining it and discussing it with the Parliamentarian, I reached the conclusion that it was subject to a point of order under section 306 of the Budget Act. Rather than make the point of order arbitrarily without notice, I told the Senator from Delaware that I would not make the point of order until I had explained my reasons. I will try to do so now very briefly, if I may first read the language of the Roth amendment:

Congress commits itself, under the Congressional Budget process, that, subject to such adjustments as may be required to reflect changed economic needs or other unforeseen circumstances, any continuation of the credits allowed under Section 42 beyond June 30, 1977, will be accompanied by dollar for dollar reductions in Federal spending during the fiscal year ending September 30, 1977.

This, I take it, is intended to offset any tax cuts that would be implemented if the Muskie-Bellmon amendment were adopted by accompanying cuts in spending. Am I correct, may I ask the Senator?

Mr. ROTH. That is correct.

Mr. MUSKIE. After reading I recall that it was the intent of the Budget Act that any changes in budget resolutions shall be accomplished only by subsequent budget resolutions so that those changes are subject to the same kind of review, examination, and scrutiny as all of the proposals that are included in the first concurrent budget resolution.

Section 306 was written with that in mind. Let me read section 306:

No bill or resolution and no amendment to any bill or resolution dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House or from consideration of which such committee has been discharged or unless it is an amendment to such a bill or resolution.

The whole purpose of that should be eminently clear.

Without this kind of constraint any Senator who wants to report a bill that would breach the budget targets could include in that bill a proposal to amend the budget resolution so that we would be confronted on a daily or weekly basis with proposals to amend the budget resolution by amendments from particular committees or by particular Senators.

If that kind of habit were to develop the budget process would become a farce. Every budget-busting bill that came down the pike, once that lesson were learned, once that practice were adopted, would be accompanied by language similar to this which has been proposed by the Senator from Delaware.

If it is the wish of the Senate, if the Muskie-Bellmon amendment were adopted, to request the Budget Committee to consider spending cuts to offset the revenue losses, that of course can be done, and this amendment could be reframed in the form of a resolution and referred to the Committee on the Budget, and the Committee on the Budget would then consider it.

As a matter of fact, last year the distinguished Senator from Delaware (Mr. ROTH) introduced a bill to implement the President's proposal that revenue cuts be accompanied by spending cuts. Appropriately, under section 306, it was referred to the Committee on the Budget. Again, Senator STONE introduced a bill last October affecting spending in Congress, and again it was referred to the Committee on the Budget. That is the process.

So clearly, and I understand the Parliamentarian agrees with me, this amendment is subject to the point of order that it has not been referred to the Committee on the Budget, it has not been considered by the Committee on the Budget, and it has not been reported out by the Committee on the Budget as a bill or resolution pursuant to the Budget Act.

I understand from my earlier colloquy that the Senator from Delaware, if I raise the point of order and if the Parliamentarian sustains me, will move to waive section 306. I hope the Senate does not do that. If the Senate were to do that, in the context of this debate over what the budget resolution means, it will have the same precedent-setting effect that I raised concern about in these brief remarks. It would have the effect of denigrating the budget process to the point where the temptation would grow for every Senator, who wanted to come up with a new spending proposal, to take that route and to use whatever emotion he could generate relative to his spending proposal, to breach the budget on an ad hoc basis. We would have established a new habit comparable to the budgetary anarchy that we knew before the budget process was adopted in the first instance.

Mr. BROCK. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield, without losing my right to the floor because I would like to make the point of order, but a limited amount of debate is certainly appropriate.

Mr. BROCK. I shall ask a couple questions. I think I agree with the Senator from Maine, and he knows my own interest in the budget process and the work I put into that bill. But it does beset me with this particular difficulty: The Senator's own amendment would raise expenditures by $1.6 billion without an offset in revenue. So that is a budget-busting amendment by its very nature unless there is some further action taken by the Senate.

What the Senator from Delaware has proposed is that in consequence of that action we commit ourselves to a second-stage action which is to reduce spending. I understand the Senator's concern and,

as I say, I think I may support him. But what troubles me is how then do we create an enforcing mechanism for ourselves to take that second step if the Roth amendment is not in order and if the point of order is not waived? How can we commit ourselves to take that action if this is the proper course we would like to follow?

Mr. MUSKIE. Let me say, first of all, that the Muskie-Bellmon amendment simply implements the first budget resolution.

Mr. BROCK. But it does so in a fashion which breaks the budget.

Mr. MUSKIE. Mr. President, I shall answer the question.

Mr. BROCK. All right.

Mr. MUSKIE. To re-pass the first concurrent budget resolution today is not a practical approach. We adopted it once. All we have to do to conform it is to implement all of its policy implications. If the Senate wants to change its policy implications, if it wants to write another game plan, then under the Budget Act a Senator can introduce a new concurrent resolution that would reflect the game plan of the Finance Committee. It would be referred to the Committee on the Budget. But there is no limit to the number of concurrent resolutions, as the Senator knows, that Congress can consider in any session. But what section 306 is designed to do is prevent the ad hoc amendment of a resolution already adopted. If the Senate as a whole does not like the idea of extending the tax cuts through fiscal year 1977, as was clearly the underlying policy of the first concurrent budget resolution, then amend the budget resolution by the means and procedures outlined in the Budget Act.

That is clearly open.

The other option is this: If the Senator agrees with me that this is the underlying policy of the first concurrent resolution, and I find it difficult to understand how any Senators could believe otherwise, after listening to the debate or who reading in the committee report which explains what the budget resolution underlying policies are, then what I am doing with my amendment is to implement that part of the resolution that covers the extension of the tax cuts. The budget resolution was designed to offset those tax cuts, in part, by tax expenditures of $2 billion. There are options available pending at the desk which would enable the Senate to implement that part of the budget resolution. If after considering all these proposals we are in disagreement as a body with the budget resolution, then we can appropriately take whatever action the Senate wishes to take. The Budget Act does not in any way limit the sovereign prerogatives of the Senate. I am not suggesting that. But what I am saying is that we adopt a policy in the spring; if we want to change it, unless we change it in accordance with the procedures that we have written into the Budget Act, we are undermining that act.

Mr. BROCK. I accept that, but I would like to ask one further question, because I am a little troubled by the prospect.

The Senator has a very attractive amendment, for which everybody would like to vote. It cuts taxes another $1.8 billion, and we want to be able to explain why we are for or against that sort of thing.

If the Senators amendment is agreed to and the Senate decides, as the Finance Committee has decided, that we do not want to increase taxes in some other area by $2 billion, what then? Would the Senator move to recommit, to make the Finance Committee bill conform with the budget resolution, as it does now, but as it would not if his amendment is agreed to? Or what would be his suggested course of action for the Senate?

If the Roth amendment is not going to be allowed to be offered, where do we go? We will bust the budget.

Mr. MUSKIE. The question implies that I would act from my own personal inclinations. That is not the case. I make these observations not an an individual Senator but as chairman of the Budget Committee, with those responsibilities.

Second, if we adopt my amendment, we will be in exactly the same position we were in when we adopted the budget resolution. We committed ourselves in that resolution to tax cuts through fiscal 1977. We committed ourselves to $2 billion in tax expenditures without knowing at that time what their composition would be. So that if we were to adopt my amendment today, we would reaffirm the tax extension policy of the budget resolution. We would be back in the same position with respect to tax expenditures in not yet knowing what their composition would be.

For the benefit of those who do not know what all the proposals for raising revenues by reducing tax expenditures are, we have this document, which was produced with the help of the Congressional Budget Office and the Congressional Research Service, which I think gives us some inkling as to what tax expenditures are, for those who find it a complete mystery.

In any case, at that point, if I were to take the initiative, I would take it in the light of what I believe to be—given my best sensitivity to what the mood of the Senate is—the desire of the Senate. We might have to go back to the Budget Committee and ask for a new resolution, taking into account the change in the revenue picture. That certainly is open to us under the Budget Act. Or we might want to take some legislative initiative on the floor. Or it might be the feeling of the Senate that perhaps the Finance Committee could best address itself to the problem at that point. I would not prejudge that. There are at least three major options procedurally that would be available to us at that point.

With respect to the Senator from Louisiana's concern that we proceed in an orderly fashion, I make this point: It is the Senator from Louisiana who established this order the other day, when he asked that we not move to the consideration of any serious amendment until—I think I have his words. He said, "Once that matter has been resolved"—that is, the question of whether or not this bill is in conformity with the budget resolution. He said, "Once that matter has been resolved, then I think we ought to vote on these amendments on their merits."

So a time was set—3 o'clock the next day—for me to come back and get involved. I rushed back in order to avoid delaying the Senate's consideration of these amendments, because the Senator from Louisiana had raised this as the first question that should be decided. That is why I offered the amendment—because it is the clearest way for me at this point to get the attention of the Senate and to let the Senate decide.

I am not saying that I have any rule in my possession, as chairman of the Budget Committee, to force the Senate to do one thing or another about this amendment. I do not have a point of order available. All I have is whatever powers I have to explain what I think Congress has done budgetwise up to this point, so that the Senate can take it into account when it makes decisions on this bill. That is the only power I have, and it is pretty limited, compared to the persuasiveness of the Senator from Louisiana.

Procedurally—getting back to the Senator's question—he can go back to the Committee on the Budget and say, "The Senate clearly does not want $2 billion in tax expenditure reduction, and that changes the budget. The Senate clearly does not want to extend the tax cuts—if that is the decision. Now will you take your budget to the drawing board and make whatever changes need to be made in the budget to conform to those two changes in budget policy?"

That is the procedure I would recommend.

Mr. BROCK. I say to the Senator that if he wants to make a point, he has done it well, by presenting us with the easiest of the alternatives which is supportive of his case, and that is to cut taxes without worrying about where we are going to get the money.

Mr. MUSKIE. I have presented Congress case. This budget was adopted by the majority of the 535 Members of Congress. I am presenting their case.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield to the Senator from Minnesota, who has been seeking recognition.

Mr. RIBICOFF. To continue what the Senator from Tennessee brought out, the Senator from Delaware, the Senator from Tennessee, the Senator from Connecticut, and the Senator from Maine all were on the Government Operations Committee that first wrote the Budget Act.

Mr. BROCK. That is correct.

Mr. RIBICOFF. As I listened to the distinguished Senator from Maine, I think he still labors under the illusion that the budget operation allows him to state a philosophy which has the nature of actual law.

Mr. MUSKIE. I do not believe I said that.

Mr. RIBICOFF. He talked about the policy in the Budget Act. When the Government Operations Committee first reported its bill, there was a provision in section 301(a)(4) which gave them the right to set out tax expenditures. But

when we were required to send this measure to the Committee on Rules and Administration, that committee deleted from the bill which finally became law the authority and the power of the Budget Committee to list tax expenditures. We did adopt a resolution, and the only thing the resolution provided was that the amount by which the aggregate level of Federal revenues should be decreased is $15.3 billion.

The policy or the philosophy of the Budget Committee has no bearing and no binding effect upon this body or any other body. The Finance Committee has just as much right to state its philosophy, so long as it stays within the $15.3 billion. Then it is up to this body to decide which philosophy it will accept—and it is deciding it by vote after vote on amendments being presented.

When the distinguished Senator from Maine comes in and adds another $1.7 billion, he really is going beyond the resolution that this entire body adopted.

Therefore, the point that is made by the distinguished Senator from Tennessee is absolutely correct, and the Senator from Delaware is absolutely correct. If the Senator from Maine feels he is right, the thing for him to do is to move to recommit the entire bill and make the decision of what he wants to do. But I do not see how the Senator from Maine can make the argument that he is correct and that it is within his power to offer an amendment to raise expenditures of $1.7 billion but that the Senator from Delaware is wrong in trying to assure that we will have tax cuts, correlatively, of $1.7 billion. The Senator from Maine cannot be right and the Senator from Delaware cannot be wrong. They are either both right or both wrong.

Mr. MUSKIE. I say to the Senator from Connecticut—assuming I still have the floor—that all of his many arguments we believe to be correct. But as I understand the Senator's reading of legislative history, he is saying that because in the process of writing the bill changes were made, the final form of the bill is meaningless.

Mr. RIBICOFF. Oh, no, I say the final form——

Mr. MUSKIE. I think I have the floor. If I may continue.

I think that addresses itself to my amendment. I think at this moment, we ought to address ourselves to the amendment of the Senator from Delaware because I want to make the point of order. I agreed to let the Senator from Delaware speak on it, and I will, as soon as I yield briefly to the Senator from Minnesota.

Mr. MONDALE. As I understand the Budget Act, all resolutions and amendments that are budget resolutions must first be referred to the Committee on the Budget. That is the basis of the Senator's point of order.

Mr. MUSKIE. The Senator is correct.

Mr. MONDALE. I am trying to understand the basis of the amendment being offered by the Senator from Maine to extend the temporary individual tax cuts. As I understand the argument of the Senator from Maine, we have before us a budget resolution, a concurrent resolution that has been adopted by Congress, that provides a revenue target which Congress is supposed to reach in the process of reaching an overall budget result that is desirable. That is the $15.3 billion net cut figure that is set forth on that blackboard.

The argument of the Senator from Maine is that the bill of the Senate Committee on Finance, by terminating the individual tax cuts that are now the law on a temporary basis on July 1 of this next fiscal year, has pursued a strategy which is bound to fail, in the sense that almost certainly those temporary cuts are going to be extended, because to do otherwise would cause great injury to Americans of modest income, greater income, and the rest.

Therefore, in order to deal realistically with this pending tax reform bill—to determine whether we are going to meet the revenue targets set forth in the resolution—the Senator recommends that the Senate now determine whether or not we are going to extend those cuts; because if we do, the option is either to increase the deficit beyond that of the concurrent resolution or, while we are acting on this bill, to pick up enough revenue through tax reform to end up at the $15.3 billion target figure set forth in the congressionally adopted concurrent budget resolution. Am I correct in that?

Mr. MUSKIE. The Senator is eminently correct. He has stated it very well.

Mr. MONDALE. Let me ask further. It is not the argument of the Senator from Maine that his colleagues in the Senate are compelled to vote for his amendment under some power that rests in the Budget Committee or flowing from that concurrent resolution that forces them to vote that. Therefore, is not the argument or the controversy putting words in the Senator's mouth that he has not uttered?

Mr. MUSKIE. Exactly.

Mr. MONDALE. One final point: The target figure set forth in the first concurrent resolution is not even binding.

Mr. MUSKIE. That is right.

Mr. MONDALE. The idea behind the first concurrent resolution is that Congress established targets for revenues, for total spending broken down by functions, which we use as sort of informal guidelines and targets to gage how well we are doing as the process moves along in reaching this congressionally agreed objective. So if the Senator's amendment is adopted and we extend these temporary cuts, which I hope we will and which we are going to do anyway—we might as well deal with reality—then what we all know is that it would then make sense also to deal more seriously with revenue pickups in order to come out with that $15.3 billion figure. But we do not have to.

In other words, the Senate, when it finishes, can do it any way it wishes and a point of order does not lie against the final product of this finance formula, except that we should be aware of its significance in relation to the concurrent resolution that we have adopted. Is that correct?

Mr. MUSKIE. The Senator is correct. I just add one note: that I think we should regard those targets as serious, because they do make a whole—that is, they are interrelated and dependent on each other. We ought to regard them as sufficiently serious that we ought to stay with them short of a deliberate, rational discussion and decision; we should not fool ourselves that we are not changing the targets, we should not fool ourselves that the consequences are not going to flow.

Mr. MONDALE. Once again, the argument of the Senator from Maine is based on what, in his judgment, is wise policy that he urges upon his colleagues, and not on some inherent authority in the Budget Committee to force us to do something differently than what we would otherwise do.

I think, with that understanding, that no one is in disagreement around here that I can see.

Mr. BROCK. Will the Senator yield?

Mr. MUSKIE. I promised to yield to the Senator from Delaware.

I yield to the Senator from Tennessee.

Mr. BROCK. I think the Senator from Minnesota has raised a new issue. That is the fact that I thought we were debating the budget resolution. I thought that was the whole argument that the Senator from Maine is making.

Mr. MUSKIE. I am.

Mr. BROCK. If we are not, let us get clear what we are talking about. Are we talking about a tax cut or talking about the budget resolution and the authority of the Committee on the Budget to tell the Committee on Finance what it wants to do? The Senator from Minnesota says it was not the latter.

Mr. MUSKIE. I suppose we all listen to that which we want to hear. Let me state it my way. As far as I am concerned, we are not debating the authority of the Committee on the Budget. The Budget Committee has no authority with respect to this debate except——

Mr. BROCK. Are we debating it at all?

Mr. MUSKIE. May I finish?

Mr. BROCK. Yes.

Mr. MUSKIE. The Budget Committee has no authority to force anybody on this floor to do one thing or another with respect to my amendment or this bill. But the Budget Committee does have a responsibility. It has a responsibility to remind the Senate of what the Senate and Congress have already done in the budget resolution and the consequences for that resolution if something different is done today. That is our responsibility. I refuse to throw that responsibility away.

Mr. BROCK. I am not asking the Senator to do that.

Mr. MUSKIE So it is a debate over the budget policy, but it is not a debate over budget authority, because we have no authority.

Mr. BROCK. I shall use the Senator's words, then, "budget responsibility." I just want to walk through a little bit of history with the Senator for 1 minute, because he and I worked diligently on this one bill together.

Mr. MUSKIE. I sometimes wish the Senator were chairman instead of I.

Mr. BROCK. So do I.

Mr. MUSKIE. It is so easy when you are not chairman.

Mr. BROCK. One of these days, the Lord willing, that may happen, but not for a while.

The Senator from Delaware made the point in the Committee on Government Operations that the first concurrent resolution should be firm. The Senator from Maine and I disagreed with him. We said they should be targets, because they will not work if they are firm. If we do line item, functional categories, firmly, without being able to change them, the Congress would break down, the budget process would break down and it would fail.

The Senator remembers the argument as well as I do. We fought that battle.

Now, it seems that we have reversed sides. The Senator from Delaware is saying, let us keep this thing on a target basis. The Senator from Maine, at least by implication if not directly—but I sure get the implication—is saying, even though the budget resolution said $15.3 billion, we have to go to the component parts of tha $15.3 billion and adhere to every jot and tittle. That is not what the law said when it was written and the Senator knows that as well as I do.

Mr. MUSKIE. The Senator is stating a position I have not stated. I am sure the Senator would not tell me now that at that distant point, he believed the first target should be meaningless.

Mr. BROCK. I do not. I think it is very firm.

Mr. MUSKIE. That is all I am saying, that the targets are not meaningless, that if it is unpleasant for me to spell out the consequences for those targets, if that is too much firmness, if that converts me to an inconsistent position, then I apologize. I do not think it does. All I am saying is that those targets are firm enough so that when we are breaching them, we ought to know that we are breaching them. When we are departing from the underlying policy, we ought to know that we are doing it, and we ought to take that decision consciously. If we enact the tax cuts of the Muskie-Bellmon amendment which are assumed by the first budget resolution—if we enact them and do nothing more, then, of course, we all ought to understand that we increase the deficit by $1.8 billion.

On the other hand, if we adopt the Finance Committee package as a whole, without change, many of us believe—and, I suspect, the majority, believe—that down the road we will extend those tax cuts to fiscal year 1977. Then we ought to understand that the strong implication, at least in my judgment—and every Senator can disagree—of the Finance Committee's package is that we will increase the deficit by $1 billion at some point next year. If that happens, we will have lost the opportunity of offsetting that loss in revenues in the 1977 fiscal year by amendments to the Revenue Code. We will then have to either raise the deficit or cut some kind of spending program.

Now, those are the consequences of these alternative courses of action. As long as the Senate understands that, and decides to vote against the Muskie-Bellmon amendment, it is my job as Budget Committee chairman to accept that decision and to try to live with it. But it is my job to spell out what I understand to be the consequences in advance of that decision.

There are those around here who say I ought not to be saying such things because we never said them before. But we did say them before. We said them in the first concurrent budget resolutions.

Mr. BROCK. One of the reasons I am delighted the Senator was named chairman of the committee was because I knew he would fight for that committee, and I believe in him and I am appreciative of his efforts.

I do think in this particular case he must give us credit for believing that we are in compliance with the budget resolution. We think we are, we honestly believe we are and, as far as I am concerned, the debate is over whether or not, in prospect, we might break the budget later on. I do not think that is possible under the law because I think we will be bound by the second concurrent resolution. I think it would be very tough to break it in June of next year or whether we break it now. I would rather stay with the Finance Committee, and I would rather for us to maintain our position that we are in compliance with the figure we were given in the budget resolution, which was $15.3 billion. It is there in the bill, and we have it and are in compliance with it.

Mr. MUSKIE. I am sure the mistakes of my colleagues are always honest mistakes.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. MUSKIE. Yes.

Mr. MONDALE. To respond to the Senator, Senator BROCK, I understand the Senator from Maine is not arguing that the Senate Finance bill is not in compliance with the resolution.

Mr. MUSKIE. With the revenue number.

Mr. MONDALE. What the Senator is arguing is that it is inevitable that we will extend those temporary tax cuts, and if you assume that is correct—and I think everyone does—and you crank that into the figure, although there is technical compliance, it is almost certain that we will either have to increase revenues or increase the deficit as the result of that event. That is what I understand the argument from the Senator from Maine to be.

Mr. MUSKIE. Well, there is another addition to that, and that is that the first concurrent resolution assumed an economic policy which said——

Mr. MONDALE. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. LEAHY). May we have order so that the Senator from Maine can be heard?

Mr. MUSKIE. The first concurrent resolution assumed an economic policy which said that the economy needs that extension.

Mr. MONDALE. The second argument is that it would be a very unwise and cruel economic policy not to extend those temporary cuts, because this would take between $180 and more out of the pockets of most families in America next July, and it would fuel inflation for those families in terms of increased taxes, which add to the cost of living.

It would increase unemployment. And I cannot believe for a moment that this Senate is going to let those temporary cuts expire, nor do I believe does the Senate Finance Committee believe they are going to expire because in their report they say in effect "We will review this at the right time."

So does it not make sense to decide whether we intend to extend those temporary cuts, and then having made that decision—and I hope it will be favorable—proceed to markup the rest of the bill to see if we cannot reach the revenue targets nevertheless? Is that not the way to proceed?

Mr. MUSKIE. That is right. Then we will see where we are.

Mr. HANSEN. Mr. President, will the distinguished Senator yield for just one question?

Mr. MONDALE. Can I just finish?

My friend from Tennessee said why pass new tax cuts. That is not a new tax cut. It is in the law now. It is significant that in the Senate Finance bill the only thing that was terminated that was in the temporary set of laws were those tax cuts extended to individuals. We did not terminate the investment tax credit; we did not terminate the corporate rate cut; we did not terminate, to my knowledge, any of the taxes that affect business.

The only thing we terminated under this law was tax relief for average Americans. And I think that is bad social policy; I think it is bad tax policy. I think it is bad economic policy. And I do not think it is going to happen.

So there is no argument here about the Senate Finance Committee violating the Budget Act. The argument is that how we did it was inadvisable and we should change it here, and that is what the Senate is for.

Mr. MUSKIE. I yield to the Senator from Wyoming for one question, and then I yield to the Senator from Arkansas and the Senator from New Mexico in that order.

Mr. HANSEN. I just ask one question. I was intrigued by what I think the Senator from Minnesota said. He said that if we did not extend the tax cut, those persons who would have benefited from it would be subject to higher inflation. I ask the Senator if this is the substance of his statement.

Mr. MONDALE. That is exactly what I said because the cost of living would go up by the increased taxes.

Mr. HANSEN. Without trying to engage in semantics, I would like to ask the distinguished chairman of the Budget Committee if one of these major methods of attacking inflation is to assure that the amount of taxes that this Government collects come nearer in balance with what the Government spends.

Mr. MUSKIE. That is one of the reasons we advocated $2 billion in tax expenditures.

Mr. HANSEN. Then my second question is, does he agree with the Senator from Minnesota that we will come a little

closer to achieving that budget balance, if we adopt the amendment offered by the Senator from Delaware reducing Federal spending in an amount equal to the cost of the additional 3-month tax cut extension proposal offered by the Senator from Maine. Will reduction in Federal spending not tend to dampen inflation?

Mr. MUSKIE. I think it is your choice. If you think $2 billion spent by the average taxpayer is more inflationary that $2 billion by those who enjoy these tax preferences, that is a judgment you make. I think that the people the Senator from Minnesota is talking about are the people who are having difficulty in meeting the cost of the day-to-day necessities of life.

I do not believe giving people enough to eat ought to be regarded as inflationary, or enabling them to pay for their bare necessities in energy is inflationary. As a matter of fact, people in the higher income brackets are more likely to spend money in ways that are inflationary.

But the third point that you want to consider is whether or not in the current state of the economy it is Federal budgetary policy that is exerting inflationary pressures. In the first quarter of this year the inflation rate, that President Ford takes great satisfaction out of, was 3.5 percent, notwithstanding the fact that last year we were told that congressional budget policy was going to produce dangerous inflationary pressures. Well, that did not materialize because the economy was not working at full steam.

Now, as the economy rises and as it approaches full employment, then excessive government spending indeed could be inflationary. The economy could require the use of tax policy as a dampener. So the Senator is right in the right kind of circumstances. But at the moment the choice is not really, you know, tax cuts or no tax cuts, as I understand the differences between the two sides in this debate. The difference is tax cuts for whom?

I prefer from the point of view of the economy, as well as of equity, that the tax cuts should go to the consumer and to those of the lower income groups. Others think that the tax cuts ought to go and continue to go to those who are enjoying tax privileges at the present time.

Mr. HANSEN. I say to my good friend from Maine, I do appreciate his response to the question. In responding, it seems to me he tried to argue his case, which he does very well.

Mr. MUSKIE. A typical Senate habit.

Mr. HANSEN. Let us not get into that argument because I think it has been pretty well explained to the satisfaction of people who are objective.

But I would just say, he does answer my question when he says, as I understood him to say, that I was right about the inflationary matter.

I do not think it is fair to say that if we are talking solely about a balanced budget that we can say that if we put money into certain individuals hands it is not inflationary, but to place the same amount of money into the hands of other individuals it is inflationary.

This is a complicated bill with 1,536 pages.

I do not suspect my good friend from Maine would contend that he is intimately familiar with every part of it.

Mr. MUSKIE. I am not sure that anybody in this Chamber would, with one possible exception.

Mr. HANSEN. It seems now we are trying to open up on the floor rewriting of the bill.

I thank my friend from Maine.

Mr. MUSKIE. May I say, incidentally, that to the individual taxpayer who is struggling to get along, an addition of $180 to his tax burden next year, I think would be regarded by him as inflationary.

Mr. LONG. Will the Senator yield?

Mr. MUSKIE. The Senator from Arkansas asked me to yield, and then I will yield to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I wish to make two or three observations. I think most of the people in the Chambers are the faces I have seen here since this bill was laid before the Senate Wednesday afternoon. They have heard all the arguments pro and con.

I think the Senator from Minnesota yesterday afternoon and again this morning has very clearly stated what the issues are.

I do not believe there is a soul on this floor that does not know precisely what we are talking about.

I have listened with great interest to the vignettes of the distinguished chairman of the Finance Committee. I have added a lot of stories from my special reference file that I can use on the banquet circuit and I might add one for the Senator's benefit.

At one time, Maury Maverick, who was a maverick Congressman from Texas, came up to the southwestern part of my State. We are the Arkansas razorbacks. The razorback hog is a pretty ugly critter except to the people who are fanciers of it.

But in any event, Maury stopped at a farmer's house. He had a pen full of razorback hogs. He asked the farmer, "What are those creatures?" The old famer said, "Those are razorback hogs." Maury said, "How long does it take to get them up to that size?" The old farmer said, "About 3 years." Maury said, "That's an awful long time, isn't it?" And the old farmer said, "I don't know. What's time to a hog?"

We have spent since Wednesday afternoon here in a confrontation between the Budget Committee and the Finance Committee. We are now in the position, apparently, of making a point of order, which I think is a legitimate point of order, against the Senator from Delaware's amendment.

We ought to confront, then, the Senator from Maine's amendment, which simply states that we can face up to raising $1.8 billion now or we can do it next year.

I do not think there are 10 people in this Chamber who are prepared to say right now that they are not going to vote to extend those tax cuts to the people who, I feel, as does the Senator from Minnesota, need it the most.

I am not sure I am going to support the Senator from Maine's amendment, but I can assure that whether I do today or not, I intend to support it when the time comes next July 1.

The question is, do we want to face up to it now or next year? Would we rather wait until next year to figure out where we are going to get the extra $2 billion or face up to it now?

The point I am trying to make is, we will be here until Christmas at the rate we are going.

The issue is very clearly established. I do not think anybody here does not know what the issue is.

I regret that when the Senator from Maine called for the quorum call this morning, more Senators did not stay. Some maybe do not really understand what has been said here in the last 2 or 3 days, but I think most of us do and that we ought to get on with it.

I thank the Senator for yielding.

Mr. MAGNUSON. Will the Senator yield?

Mr. MUSKIE. If I might yield to my ranking Member from Washington, and then to Senator ROTH.

Mr. MAGNUSON. I want the RECORD to be clear. I hope the Senator from Maine will help me.

The Senator mentioned that we might have to do something about cutting spending.

The PRESIDING OFFICER. Will the Senator from Washington use his microphone.

Mr. MUSKIE. What I said, may I say to the Senator, that in my judgment if the Finance Committee bill is passed as it is, that it is inevitable that the tax cuts which were terminated as of July 1, at some point will be extended for another 3 months.

If that happens, we would then be $1 billion short of the revenues we based the budget on, and there are only three ways to meet that problem at that point.

One, enact tax expenditure reforms; two, raise the deficit; or three, to cut spending elsewhere.

I mentioned that extended social programs are one.

Of all the areas, I do not put it as a target.

Mr. MAGNUSON. I hope not.

Mr. MUSKIE. That is not my target.

All I was saying, may I say to the Senator, is that one of the consequences of reducing revenue may be that we have to cut spending. That was my only point and is a very simple one.

I yield to the Senator from Delaware.

Mr. ROTH. Mr. President, I would like to point out what I am trying to accomplish here and emphasize that what I am doing is no different from what this Senate did last Christmas when we extended the tax cut.

I want to go along with the proposal of the Senator from Maine to extend the tax cut, but I am proposing an alternative way of justifying that financially. That is through reduced spending. As I said, there is precedent for this, because we had almost the identical amendment up last Christmas, which was adopted by the Congress, and no point of order was raised at that time.

Just as background, I would like to point one thing out to the Senators. When I initially raised this amendment

with the Parliamentarian, I was told that it was in order and not subject to a parliamentary point of order.

Subsequently, they reversed themselves. That is the reason we find ourselves in the present position. Again, I want to state that it is absolutely no different from what we did just before Christmas, and no one from the Budget Committee or anywhere else made a parliamentary point of order.

I believe the important thing is to look at the letter that the distinguished chairman from the Budget Committee sent around this morning. He said in his letter:

> It is easy to cut taxes, and I want to make it clear that if this amendment is adopted we will have to find additional revenues elsewhere if we are to meet our revenue target.

All I am suggesting is that there is another alternative than increasing Federal tax revenue, and that is to reduce Federal spending.

The Senator from Tennessee pointed out earlier that during the drafting of the legislation that established the Budget Committee, I wanted to take a much stronger position with the first Senate concurrent resolution on the budget. I proposed at that time that if Senators wanted to increase spending in some area or wanted to cut taxes, they would have to offer an offsetting proposal. In other words, if one wanted to extend a tax cut, as the Senator from Maine is doing here, he would have to justify that either by proposing a tax increase somewhere else or, in the alternative, a cut in Federal spending.

Mr. President, I find it most regrettable that the Senate should be in a position that it could not support a tax cut and be able to raise a question about Federal spending. Yet that is what is being argued here. I believe it has to be admitted that the amendment of the Senator from Maine is an amendment in violation of the budget targets, and that I should have the right to offer an amendment to offset the tax cuts with spending cuts. That is all that my amendment does. It is basically the same amendment we passed 6 months ago. It seems to me that we are seriously hamstringing this Senate and the Congress if we have to buy the proposal of the Senator from Maine that in order to give an additional tax cut we cannot make that fiscally sound by proposing a spending cut.

Mr. LONG. Will the Senator yield?

Mr. MUSKIE. I said I would yield to the Senator from New Mexico.

Mr. DOMENICI. I thank the Senator, but I will get the floor on my own shortly.

Mr. MUSKIE. I yield to the Senator from Louisiana.

Mr. LONG. The Senator stated that the Finance Committee bill would cause a decrease of $180 to the average family. That is not the way the technicians on the joint committee staff compute it. The way they compute it is that the Senator's amendment would result in a reduction of $36 in taxes that the average family would pay. Is the Senator aware of that?

Mr. MUSKIE. I am sorry, I cannot hear the Senator.

Mr. LONG. My understanding is that the amendment the Senator is proposing compared to the committee bill would result in a tax reduction of $36 to the average family rather than $180, as the Senator said in his Dear Colleague letter. Is the Senator aware of that?

Mr. MUSKIE. $180 is on an annual basis.

Mr. LONG. The Senator's amendment only continues the $35 per person tax credit for 3 more months. That is all it does. That is the only difference between the Senator's amendment and the committee's amendment. It is that the $35 per head tax credit would extend for 3 more months. Is the Senator aware of that?

Mr. MUSKIE. Yes. That is what is called for.

Mr. LONG. If that is all the Senator is going to do, compared to what the committee amendment would do, which extends it for 12 months, it is only a difference of $36 per family. Is the Senator aware of that? That is, rather than $180 as stated in the "Dear Colleague" letter.

Mr. MUSKIE. The Senator is correct. But the $180 is an annual rate.

Mr. LONG. The point is the Senator is not extending it, except for 3 months, beyond what the Senate committee bill would do anyway. The Senator cannot count the annual tax cut if all he is doing is extending it for 3 months. On a 3-month basis it is not a $180 saving. It is a saving of $36. Is the Senator aware of that?

Mr. MUSKIE. There are two points, really. It is difficult to refer to both of them with precision in a statement of this kind. One, the withholding rate continues for the 3 months at the $180 annual withholding rate. The withholding rate is geared to the annual impact of the tax. The letter says $180 per year. So 3 months is not a year. I would hope the Members would have made that arithmetic. Whether or not the tax cut is extended beyond fiscal year 1977, of course, is a decision that is yet to be made. It is not the intent of the letter to mislead.

Mr. LONG. Here is the calculation of the Joint Committee: Assuming that the amendment of the Senator, insofar as it differs with the committee amendment, were to apply for a full year, the difference would not be $180; it would be $144.

Further——

Mr. MUSKIE. What is 2 percent of $9,000?

Mr. LONG. Two percent of $9,000 is $180, but that is not the average.

Mr. MUSKIE. They can take the higher one; can they not?

Mr. LONG. Not everybody has $9,000 of taxable income, so the taxable income is below $9,000. There are people who have taxable income below $9,000. So $9,000 is not the average.

Mr. MUSKIE. I understand that. I gather that below $9,000 it depends upon the number of children.

Mr. LONG. Yes, of course. If you average the whole thing out——

Mr. MUSKIE. It varies across the line.

Mr. LONG. Exactly. Therefore, the overall average works out to $144, not $180. That is the first error. Now, the second error——

Mr. MUSKIE. Well, may I say to the Senator, the importance of the $180 is that it reflects a percentage of income. If you are going to use an average of $144 as the tax credit, what is the average percent of income that that represents? I am looking at that 2 percent figure as a benefit, as well as the actual dollars. Obviously $144 could be more than 2 percent.

Mr. LONG. Small taxpayers would get more than 2 percent. They might get more. They might get $35 instead of the 2 percent.

But if you look at the average, you come up with $144. That is your first error.

Your second is that you are not extending this thing for 1 year; you are only extending it for 3 months, and at that point, even your amendment terminates it.

In other words, in October of next year the Senator's amendment would terminate the $35 a head tax credit. So if you recognize the second error, which is that the amendment deals with only one quarter instead of dealing with four quarters, that, then, gets you down to $36.

I think the record should reflect that, and I would hope that the Senator's "Dear Colleague" letter would be amended to indicate that he is talking about not $180 a family, but $36 a family.

It might also be well to reflect that what we do here is also subject to an amendment to say that the low-income allowance would be increased; and by doing that, this amendment by the committee would prevent anyone from being any worse off if he was in the low-income brackets.

So the calculations the Senator has made are partly in error, when he seeks to point up the difference between the two bills. It seems to me that that should be made clear.

Mr. MUSKIE. May I make another point?

Mr. LONG. Yes.

Mr. MUSKIE. Incidentally, I have the floor.

Mr. LONG. Yes, you do. Of course you do.

Mr. MUSKIE. I do this not to cut the Senator off, because I will be glad to have him come back, but I have two colleagues on the other side who wanted to speak, and I think they are upset because I have concentrated on yielding on this side. They are members of the committee. Could we return to this colloquy after I yield to them?

Mr. LONG. Surely. Would the Senator like to respond to what I have just said, or do that later?

Mr. MUSKIE. First a point about this letter. The Senator talks about the tax increase for most families. That does not include the impact of it on single individuals. I could not, in a single-page letter, cover all the varieties of situations that taxpayers find themselves in.

This was intended to be an estimate for families, that this is what it would mean on an annual basis, that is all.

Even as to those, I would grant there would be some variations. I do not have a computer brain and I cannot cover them all. But all that was intended here was to suggest the magnitude of the increase for poor families.

Mr. LONG. Well, the point is that the magnitude should be $36, not $180.

Mr. MUSKIE. All right; the colloquy has made that clear. I would assume most Senators could divide a year by four, but that might not be the case.

Mr. LONG. And also reduce $180 to $144; that would help, too.

Mr. MUSKIE. I suspect the $144 includes single individuals.

Mr. LONG. That is correct.

Mr. MUSKIE. Which the Senator refers to as families. I do not think I would accept $144 as an average for families.

Mr. President, I yield in turn to the Senator from New Mexico and the Senator from Idaho, and I apologize to them both for not getting to them earlier. I am truly sorry.

Mr. McCLURE. I thank the Senator for yielding. I do not know exactly how to approach the question of responding to the various points made during the course of the last hour and a half, because I think there are some important budget issues involved in this colloquy, and I hope the Senate does not lose sight of the budget issues as we try to resolve questions of substance within the budget.

I understood the Senator from Minnesota to say no one argues that the Finance Committee has come within the targets.

Well, I think there is an argument. That is one place where I perhaps differ with my distinguished chairman, the Senator from Maine. I do not believe that the first concurrent resolution mandates that we extend the tax cut for an entire year. I think that was an assumption. I think the conference report, when filed, as well as the committee report, when it was filed, indicated that that was one of the assumptions the Budget Committee was making. But whether or not it is extended is not mandated, any more than any of the other assumptions on the appropriations side. It can be argued that it should be, and it should be argued if that is the position of individual Senators. I will not take that position personally, because I think if the recovery comes along by July 1 of next year, we may find that the best antirecession tool to meet the problems of recession and at the same time not exacerbate the problems of inflation may well be behind the package the Finance Committee has come out with—the ending of the personal income tax reduction on July 1, and shifting instead to those forms of tax policies which stimulate capital formation. I submit we may be to that point where we ought to be doing it now. So I cannot argue against doing it next July 1.

But I do believe there is a distinction that ought to be kept in mind between the kind of amendment offered by the Senator from Maine and the kind of amendment offered by the Senator from Delaware, and that is the very heart of why section 306 may apply to the amendment of the Senator from Delaware, as distinguished from the one offered by the Senator from Maine.

I think the Senator from Tennessee raised a question as to whether there was a distinction that could be made. I think clearly there is. The amendment of the Senator from Maine deals with what kind of tax measure we will have; will we have a tax revenue measure that deals with this mass of tax exemptions, tax rates, and tax expenditures that is within the jurisdiction of the Finance Committee, that is dealt with by the Budget Committee report in a single section?

That should be changed. The Senator from Maine wants to change that mix. He wants to substitute one kind of tax package for another kind of tax package.

I would say to my friend the Senator from Arkansas that today is the day to face the question of whether or not we are going to extend for a full year. We should not wait until next July to make that decision, because we are involved in making a fiscal policy for the entire fiscal year of 1977, not just for part of it.

But I also want to say that this section 306 provision that makes it possible to raise a point of order is a limited restriction under the Budget Act. It does not apply to every action that might vary some of the numbers from the budget resolution, but only to those that will force the Budget Committee to make a change in the numbers. The Senate at any time can entertain and can pass, if it desires, an appropriation measure that increases an appropriation beyond that which was contemplated by the budget resolution. The Senate has the power to do that.

Between the first concurrent resolution and the second concurrent resolution that is not a budgetary policy. After the second concurrent resolution it is a budgetary policy, and is subject to a point of order because it is. The Senator from Delaware, in his amendment, seeks to have us vary the mix between spending and taxes, which crosses functional lines and forces the Budget Committee to make a different allocation of resources in a different way, and this is subject to the point of order in a much different way than the amendment of the Senator from Maine.

Mr. ROTH. The Senate did do that last Christmas. There is precedence for it.

Mr. McCLURE. We can do anything we desire if, as a matter of fact, we do not raise a point of order. Just because a point of order was not raised does not mean that it cannot be raised.

Mr. MUSKIE. I wish to make this point.

Mr. McCLURE. Surely.

Mr. MUSKIE. The reason I did not raise the point of order last Christmas is because we were trying to work out a compromise arrangement with Senators on the other side of the aisle, that could accommodate both sides here in the Chamber. It was near the end of the session. That was the reason.

Mr. ROTH. I say what the Senator from Delaware is trying to do now is also work out a compromise.

Mr. MUSKIE. Now we have the scheme and procedure set up in the budget and ought to use those.

Mr. DOMENICI. If the Senator from Idaho will yield for a further response, I call this to the Senator's attention.

When we fixed the resolution last year and a dollar-for-dollar cut, we did not have the first concurrent resolution adopted. We have a concurrent resolution adopted by the Senate now that is at issue. The Senator brought that up affecting next year and before this resolution was adopted. That is the proper time to bring it up, and we would have considered it in due course as part of the first concurrent resolution. If that does not apply now after we have adopted it, then every time we have anything we want to mandate on the Budget Committee because we find that we want something done, then between one and two resolutions we will have the Budget Committee having to adjust the figures that they are mandated to make as targets. That is the real issue here today.

We can breach those targets any time we want here in the Chamber. Our job is to come and argue that we should not. But when we mandate the Budget Committee to make an expenditure change, then we throw the whole budget process out of focus. What does Appropriations do? They sit around and wait anxiously to see if some Senator is going to mandate a change in the target so they will have a different ball game when they come to the Chamber. That is the real issue. The target should be argued if we are breaching them. That is the prerogative of the Senator and the committee. But when we dictate that, we change the budget resolution between budget resolution 1 and 2. That is what section 306 was for. And this is dictating that we change the expenditure figure in concurrent budget resolution No. 1. That is the whole issue, not the validity of the Muskie tax or the validity of Senator LONG's joy in the bill.

The point of order is do we want a budget process. The good Senator from Connecticut would argue that, because the targets are changeable, Senator MUSKIE's substantive change in the law should be treated exactly as the mandate that we cut the expenditure level. They are clearly distinguishable.

I direct this to good Senator RIBICOFF. If an appropriations bill comes to this Chamber that breaches a target, there is no point of order that lies because one can argue that we have breached the target but it is only a target. But if a Senator comes to the Chamber with an appropriations bill that breaches the target by a billion dollars, he says:

> What I am going to do at the same time is order that the Budget Committee and the Finance Committee raise the revenue to take care of that extra billion.

That is what section 306 is for. It says the Senator cannot bring that up then. The Senator cannot force a change by amendment here of the fixed items in the first concurrent resolution. The Senator can change them in the second one when we are all through.

So pass the appropriations bill that breaches the target, but do not dictate that we must change the figures that were targets so that when the second concurrent resolution comes about there is no reconciliation necessary.

I think there is a glaring difference. Senator ROTH's amendment mandates a change in the first concurrent resolution. Senator MUSKIE's amendment does not mandate any change in it. It says if we pass it and do not do any other changing in the Chamber, when we come to the second concurrent resolution we are probably going to be $1 billion more in deficit. I submit that is going to occur right along. The targets were targets.

But this point of order is a serious one because, any time we want the Budget Committee to change the mandated figures in the course of a year, all we have to do is come in the Chamber with this kind of amendment and say:

Change it right now because we are about to change our modus operandi here.

That is what the Senator when he so admirably led the charge to adopt this new budget reform did not want to happen. Let the evolution change it when we come to the second concurrent resolution but do not say:

Hey, we are changing our mind as to taxes here. So, Budget Committee, you go change the figures in that first budget resolution. We are ordering you, directing you to change it in some way.

I think that is the issue, and it is much bigger than the Muskie buster or the Long joy that is here in the Chamber.

They are irrelevant to the point of order and the attempt to change the first concurrent resolution. It just happens that it comes along now.

I thank the Senator.

Mr. ROTH. I shall make a brief comment because I wish to make certain that the Senate understands my amendment. It does not mandate that the targets be changed. It says that Congress, under the budget process, will take these factors into consideration in the second resolution. It is giving instructions toward the second.

Mr. DOMENICI. Yes, and I think that is exactly what 306 says. It says:

You are perfectly within your rights to introduce it, but that if a point of order is raised the best that can occur with your proposal is that it be referred to the Budget Committee for consideration.

I think that is what section 306 says.

Mr. TAFT. Mr. President, I hope that we shall be allowed to vote on measures which seek to call our attention to the function of the Budget Committee in setting targets for spending and receipts. We have established a target deficit for this year, and we hope to avoid actions which will increase to.

The Roth amendment simply requires us either to avoid deeper tax cuts than the bill provides, or to cut spending, or to raise revenues somewhere else in the bill.

We have all been hearing a great deal about the harmful effects of Federal deficits on the national economy. In discussing these deficits, we must keep in mind the state of the economy at the time of the deficit.

Both liberal and conservative economists agree that, in times of recession, a deficit is necessary to stimulate the economy. But they also agree that in times of boom a surplus should be run to keep the economy from overheating and developing an inflation.

What is the problem of running a deficit during a business expansion? The problem is simply that deficits must be financed. When the Government issues bonds to acquire funds, one of two things can happen. First, the Federal Reserve Board, which is in charge of the creation of money and credit in the country, may choose to purchase some of these bonds, or may decide to let the public do all the buying. If the public is to do all the buying, then a portion of the public's savings will go into the purchase of Federal bonds. This means that those savings are not available for the purchase of private bonds, or for the banking system to use to lend to private borrowers. Thus, investment is reduced, and the economy's growth rate slows. It is only through the use of savings for the construction of new mines, farms, factories, roads, and so forth, that the economy can grow, and produce more and better paying jobs for an expanding population. Thus, permanent deficits are a tremendous drag on the economy and severely retard the growth of our standard of living.

Allternatively, the Federal Reserve can seek to increase the amount of credit in the system, by purchasing some of the Government bonds. This, too, has its drawbacks. Extra money is created, and private consumption and investment are not automatically reduced. Total spending in the economy is increased, while the total supply of goods and services has not been changed. This necessitates a price rise. This is the root of an inflation.

The only way to avoid this is to match tax cuts with spending cuts.

I am not particularly sanguine about the prospects for such a reasonable approach. In the long set of hearings on S. 50, the Humphrey-Hawkins bill, conducted by the Joint Economic Committee, the majority seemed committed to spending programs at the expense of, or even in addition to, tax cuts, regardless of deficits. S. 50 has been predicted to create an additional $25 billion to $50 billion per year, depending on how many of its obvious flaws are corrected. Yet there was no mention of how this would be financed. All we heard were muted warnings from Professor Galbraith that we would need wage and price controls if the bill were adopted.

It is time we backed off from this spending approach to all problems.

I believe in a continuation of moderate monetary and fiscal policy to promote low interest rates and a return to a stable expansion of housing, industrial capacity, and employment.

I believe that we need deeper tax cuts to provide renewed incentive for work, for savings, and for investment. The heavy hand of government is destroying incentive and crippling our economic growth.

However, I do not want to substitute one economic crippler for another. We must reduce spending too, to avoid a deeper deficit and more inflation.

The Senator from Delaware is quite right to raise the point that if we support the Budget Committee's version of the tax cut extension, we should be concerned enough about inflation and the first concurrent resolution on the budget to promise either to raise revenues elsewhere in the bill, or, ideally, to restrict spending in some manner.

Mr. MUSKIE. Mr. President, I think we have had enough debate on this. I make my point of order.

Mr. McCLURE. Mr. President, will the Senator yield a few minutes more?

Mr. MUSKIE. I yield.

Mr. McCLURE. I do not wish to prolong the debate. The Senator from New Mexico indicated he wanted to respond to the Senator from Delaware, and I interrupted my remarks so he might do that.

The anomaly is that I like what Senator ROTH is after, and yet I am going to support the point of order because I like the budget process more. I think it is more important. I think in order to protect the budget process itself we must support the point of order and oppose the motion that will be made by the Senator from Delaware, as much as I like the results of what we would do. That is the budget-reconciling process, both in the first concurrent resolution and in the second concurrent resolution, but not in this matter in between.

Similarly, although I support the Senator from Maine on the point of order, I cannot support him on the amendment because, for much the same reason that I have articulated before, I think the Finance Committee has the right to do what they did in the package, and it was not prohibited by the first concurrent resolution. They acted within the latitude, in my judgment, that was given to them under the Budget Act and the first concurrent resolution. The Senator from Maine is right within his rights and is not subject to a point of order in offering the amendment he has made, although I disagree with the amendment and will oppose the amendment.

I thank the Senator for yielding.

Mr. MUSKIE. I thank both colleagues.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield to the Senator from Minnesota.

Mr. MONDALE. Mr. President, I ask unanimous consent that Mr. Brad Furguson be accorded the privilege of the floor during the consideration of this measure.

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

Mr. MUSKIE. Mr. President, I do raise the point of order under section 306 of the Budget Act with respect to the amendment of the Senator from Delaware.

Mr. ROTH. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROTH. Mr. President, is it in order for me to make a motion to recommit the bill to the Committee on the Budget after the ruling?

The PRESIDING OFFICER. After the ruling on the point of order?

Mr. ROTH. Yes.

The PRESIDING OFFICER. It would be in order. The motion to refer is in order any time up to the passage of the bill.

Mr. MUSKIE. Mr. President, I make the point of order.

The PRESIDING OFFICER. The point of order has been made by the Senator from Maine.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I move that H.R. 10612 be referred to the Committee on the Budget with instructions that such committee report the bill back forthwith with an amendment providing that any extension of the general tax credit provided in section 42 of the Internal Revenue Code of 1954 beyond June 30, 1977, be accompanied by a specific reduction in spending limits provided in the first concurrent budget resolution for the fiscal year 1977 equal to any loss in revenue resulting from such extension.

I ask for the yeas and nays.

The PRESIDING OFFICER. In response to the Senator's parliamentary inquiry a moment ago, the Chair advised that the motion to refer would be in order after the point of order has been acted upon. It is not in order at this point, until or subsequent to action on the point of order, under the precedents of the Senate.

Mr. ROTH. I will withhold that.

The PRESIDING OFFICER. The question now is on the point of order, which the Chair sustains under section 306 of the Budget and Impoundment Control Act, Public Law 93-344.

Mr. ROTH. Mr. President, I now move that H.R.10612 be referred.

The PRESIDING OFFICER. The Senator is in order to make that motion now.

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

Mr. MUSKIE. Mr. President, may we hear the motion? I have not heard it.

Mr. ROTH. I will be happy to read it again.

The PRESIDING OFFICER. If the Senator will send the motion to the desk, it will be reported from the desk.

Mr. ROTH. Yes.

The PRESIDING OFFICER. The motion will be stated.

The legislative clerk read as follows:

I move that the bill H.R. 10612 be referred to the Committee on the Budget with instructions that such Committee report the bill back forthwith with an amendment providing that any extension of the general tax credit provided in section 42 of the Internal Revenue Code of 1954 beyond June 30, 1977, be accompanied by a specific reduction in dollar spending limits provided in the First Concurrent Budget Resolution for the fiscal year 1977 equal to any loss in revenue resulting from such extension.

Mr. ROTH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.



The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. This is as to the motion. The Senator from Delaware has moved to refer this matter to the Budget Committee. Does the Chair rule that the Budget Committee is a legislative committee?

The PRESIDING OFFICER. Yes. It is covered under rule XXV of the Senate.

Mr. MAGNUSON. And that, therefore, they can determine legislation on top of what the Finance Committee determines. Is that correct?

The PRESIDING OFFICER. If the Senate chooses to refer it for that purpose.

Mr. LONG. They would report the bill only with the amendment suggested by the Senator from Delaware. Because of the point of order, he is moving to refer to the Budget Committee, with instructions to report forthwith, with the amendment.

The PRESIDING OFFICER. The Senator from Louisiana is correct.

Mr. LONG. He is asking that it be reported back with his amendment and nothing else.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. In a motion to recommit, with instructions to report forthwith, that ordinarily, as I understand it, would imply that it is a ministerial act only of the committee to bring it back immediately.

The PRESIDING OFFICER. If the bill is referred, with these instructions, it would be back before the Senate immediately, with the amendment.

Mr. McCLURE. Mr. President, does not the motion of the Senator from Delaware require the Budget Committee to make certain spending cuts, and does not that require the Budget Committee to hold meetings and to determine where those budget cuts would occur throughout all the functions of the budget? Therefore, is it not true that a motion to recommit and to report back forthwith must be precise on its face and must not require the interposition of the judgment of the committee as to how it is to be carried out?

The PRESIDING OFFICER. Without going into the specific issue raised by the Senator, the Chair reiterates that if the motion to refer is agreed to by the Senate with the instructions attached, the bill would be back before the Senate immediately, with the amendment attached.

Mr. McCLURE. Mr. President, I make the point of order that the motion is out of order. On its face, it requires the Budget Committee to exercise discretion and take actions that are beyond simply reporting it back. The Senate can instruct the committee to take action, but it cannot require the committee to report back forthwith, when it has no opportunity to meet, to hold hearings, to take whatever discretionary action is required. The Senator's motion requires the Budget Committee to spread these cuts throughout the budget. We could not possibly report back forthwith.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. It would not be within the province of the Chair to determine what the committee should do, based on the instructions.

Mr. McCLURE. Can the Chair instruct the Senator as to where those budget cuts would occur, under the Senator's motion?

The PRESIDING OFFICER. No.

Mr. McCLURE. How can the committee comply with the order of the motion?

The PRESIDING OFFICER. If the Senate, in its wisdom, wants to vote favorably on the motion, then it has the prerogative to do that, and the committee would be so instructed.

Mr. McCLURE. But the committee could not possibly follow the mandate if it were ordered. It is an absolute impossibility.

The PRESIDING OFFICER. I suspect that that is one of the considerations that Senators would have to take into consideration in voting on the motion.

Mr. LONG. As I understand it, the amendment would do for the Budget Committee what the chairman of the Budget Committee would like to do to the Finance Committee, to tell them what to do and to make them do it. That is the clean way to do it.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER The Senator will state it.

Mr. DOMENICI. The nature of the budget resolution is a concurrent resolution adopted by both Houses. My inquiry is whether the Senate can mandate this amendment in the manner suggested by the motion.

The PRESIDING OFFICER. The Senate can instruct its Budget Committee by this motion, by majority vote.

Mr. MUSKIE. Mr. President, this is the same as the Senator from Delaware's original amendment. It is a fraud on the budget process. He is trying to do by indirection what he could not do directly because it was subject to a point of order. The objective is the same. It could not possibly work.

There is no way for the Budget Committee to exercise any discretion. After it was reported back and included in the bill, since it had already gone to the Budget Committee theoretically under the motion of the Senator, then it would be a useless piece of legislative language in the bill, because the Budget Committee already, by action of the Senator's motion, would have performed the function by its intent to perform under the language of the bill, if it is included in the bill. It is the strangest merry-go-round of an amendment I ever heard of.

I move to lay the Senator's motion on the table.

Mr. DOLE. 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 of the Senator from Maine. 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. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. GARY HART), the Senator from Indiana (Mr. HARTKE), the Senator from Mississippi (Mr. STENNIS), and the Senator from Utah (Mr. MOSS) are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH) and the Senator from Missouri (Mr. SYMINGTON) are absent because of illness.

Mr. HUGH SCOTT. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nebraska (Mr. HRUSKA), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The result was announced—yeas 46, nays 34, as follows:

[Rollcall Vote No. 302 Leg.]

YEAS—46

| | | |
|---|---|---|
| Biden | Hathaway | Montoya |
| Brooke | Hollings | Muskie |
| Bumpers | Huddleston | Nelson |
| Burdick | Humphrey | Nunn |
| Byrd, Robert C. | Jackson | Pastore |
| Cannon | Javits | Pearson |
| Chiles | Kennedy | Pell |
| Clark | Leahy | Percy |
| Cranston | Mansfield | Randolph |
| Culver | Mathias | Schweiker |
| Domenici | McClure | Stevens |
| Durkin | McGee | Stevenson |
| Eagleton | McGovern | Tunney |
| Glenn | McIntyre | Williams |
| Hart, Philip A. | Metcalf | |
| Haskell | Mondale | |

NAYS—34

| | | |
|---|---|---|
| Allen | Hatfield | Roth |
| Baker | Helms | Scott, Hugh |
| Brock | Inouye | Scott, William L. |
| Byrd, Harry F., Jr. | Johnston | Sparkman |
| Curtis | Laxalt | Stafford |
| Dole | Long | Stone |
| Eastland | Magnuson | Taft |
| Fannin | McClellan | Talmadge |
| Fong | Morgan | Thurmond |
| Garn | Packwood | Weicker |
| Hansen | Proxmire | Young |
| | Ribicoff | |

NOT VOTING—20

| | | |
|---|---|---|
| Abourezk | Case | Hartke |
| Bartlett | Church | Hruska |
| Bayh | Ford | Moss |
| Beall | Goldwater | Stennis |
| Bellmon | Gravel | Symington |
| Bentsen | Griffin | Tower |
| Buckley | Hart, Gary | |

So Mr. MUSKIE's motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I am very hopeful that we can move to an early vote on the measure which is before us, the Muskie-Bellmon amendment, here this afternoon.

I think the distinguished Senator from Maine has outlined, with very compelling reasons the justifications for the amendment from a budget point of view.

I was rather interested during the course of the debate last evening when the chairman of the Budget Committee was called a budget-buster. There is about as much chance of the Senator from Maine being a budget-buster as there is of the chairman of the Finance Committee taking away an oil and gas loophole.

(At this point, Mr. BUMPERS assumed the Chair.)

It just did not seem to me to make a great deal of sense.

But, Mr. President, I would like, for just a few moments, to speak to what I consider to be the real issue before the Senate this afternoon.

I think all of us are very much aware of what is going on here. With the recommendations of the Budget Committee, we are talking about raising the taxes of middle income people by some $1.8 billion.

Every Member of this Senate understands full well what is taking place back in our offices. The phones are ringing off the hook. The phones are ringing off the hook and the special interest groups are crowding the offices of every Member of the U.S. Senate.

Everyone in this body has been visited time and time again during the past week or two. We are being visited today. I am sure we will continue to be visited during the rest of the time we are debating this tax measure.

There is no one who is more concerned about the future of the country than a special interest group that is about to lose its loophole. This is really what we are talking about during the underlying debate and the discussion of the budget process and this amendment.

Very few have been speaking for the average taxpayer, who will pay a good deal more taxes unless the amendment of the distinguished Senator from Maine and the distinguished Senator from Oklahoma is accepted.

I was interested in the amendment of the Senator from Delaware (Mr. ROTH), which provided that if we adopt the amendment of the Senator from Maine, we should also adopt a reduction in Federal spending for next year.

It is rather interesting. They talk about cutting Federal spending, but they never talk about cutting tax spending. Each of us is very much aware of what a reduction in Federal spending means.

It means less in terms of health care, child and maternal care, immunization programs, as we have seen over the past year, less in terms of education, less in programs for our elderly people, less for housing, less for the farmers, less for the small business persons, less for those in the inner cities or in rural poverty.

When we talk about reducing Federal spending, we know the areas where the greatest cuts come from.

I would have been interested to hear the Senator from Delaware talk about reduction in tax spending. But no, he talks about reduction of direct spending. What about tax spending, and the increases in tax loopholes and tax preferences?

I think that an argument based on equity should be made. Who bears the burden of these tax loopholes? It is the low- and middle-income taxpayers whose taxes are too high because others pay too little.

Mr. President, during the period of the past day and a half, we have heard a great deal of talk about how we are to determine whether something is a tax loophole or not a tax loophole.

Some have said that what is a tax loophole for one is a tax lifeline for another.

I hope that in the next few days, as we are trying to evaluate the proposal that has been put forward by Senator NELSON and Senator HOLLINGS, we will apply some rather basic and fundamental tests on these tax expenditures. The first test is whether there really is a justification for a Federal subsidy.

(At this point, Mr. STONE assumed the Chair.)

We can say that there are certain public policy needs in this country which justify the allocation of taxpayers' money in the public policy interest.

Now, if we can meet that particular test, then I think we go onto the second test, whether it is better to implement the subsection through a direct appropriation or through a tax expenditure.

Obviously, there are areas where tax expenditures are desirable and worthwhile, such as cases where we do not want to create a whole new bureaucracy of the Federal Government, and where a tax expenditure is proper and desirable.

Once we justify the need for a tax expenditure, then I think we have a third test, a responsibility to guarantee that the tax expenditure is designed in the fairest and most effective and efficient way.

We may make a decision that we want to put more money into the development of oil and gas well. But doing it through tax shelters, is that the best way, when we are losing about 30 or 40 percent of the revenue going to the middleman in the shelters and to doctors and dentists in Massachusetts, to drill a well in Texas or Oklahoma?

If we make the decision that a tax incentive is needed, can we not find a more efficient way of doing it, such as under an investment credit program, or some other means?

Mr. President, if we consider this budget from a public policy point of view, that we are going to have some expenditures, we can make decisions on tax expenditures and direct expenditures. Then we ask, if we use tax expenditures, what are the best means to do it?

Mr. President, I hope those tests could be applied to the provisions which have been included in the Nelson-Hollings amendment. When those tests are applied, I think we can win a majority of the Members of this particular body.

Mr. President, we have seen what the Finance Committee has done under the question of the tax reform, from the tax equity point of view.

In some of these areas, my phone is ringing off the hook, but it is not from the special interests, it is not from those groups that are talking about tax shelters.

It is from schoolteachers and college professors and other citizens who are going to be heavily impacted by one particular proposal.

In the areas that are considered tax reform by the Senate Finance Committee, there is the item of $200 million raised by eliminating the deduction for offices in homes. Many schoolteachers have benefited from this provision. That is why so many of them have been in touch with my office over the the past few days.

They understood the full implications. Schoolteachers take examinations home and grade them on their dining room table. So they have been allowed these few dollars in terms of a tax deduction. It adds up to something more than $200 million. So they are losing their loopholes.

Then, there is $300 milion from eliminating the deduction for gasoline taxes.

Who uses that loophole, I ask again? It is the average worker, the average housewife. They are the ones who take advantage of this particular program. They are average citizens who itemize this deduction on their tax forms. So they are losing their loophole.

So, that is $200 million from the office-in-the-home deduction and $300 million from the gasoline deduction. On the other hand, the commitee is picking up only $165 million from tax shelter loopholes, and $84 million on the $1.5 billion lost in the DISC loophole for large exporting corporations. So we see the priorities of the Finance Committee. We see who loses this loophole first, the average taxpayers of the Nation, not the wealthy special interests.

So, Mr. President, it seems to me that if we can try and reach some objective test of all of these measures in the Nelson-Hollings amendment, I believe we can conform with the mandate of both the budget resolution and a sensible and responsible tax equity and tax reform policy.

I would hope, Mr. President, that we can vote on the Muskie-Bellmon amendment at the earliest possible time. I feel it is justified. I feel it is warranted from the economic point of view, and is ultimately sound and fair from a tax equity point of view.

I think all of our Members can vote for the Nelson-Hollings approach, and meet the budget recommendations as well. Or they can vote for a number of other tax reform amendments that will also come up, and meet the tax reform target in other ways. The point is, we ought to meet the target, if our budget process is to retain its meaning and vitality.

The PRESIDING OFFICER. The question is on——

Mr. CURTIS. Mr. President, it is my opinion that in addition to the conflict between the two committees, the Committee on the Budget and the Committee on Finance, as to who recommends to the Senate the tax bill, there is something very fundamental involved.

The basis of the controversy today revolves around this question of whether the overall figures, the targets, set forth in the budget resolution, are binding guidelines on the Committee on Finance?

Let us assume for the sake of argument that the Budget Committee is superior in experience, in wisdom, in staff. There is still something else wrong with that notion.

In this country of ours it is the people who have to pay the taxes. They are the ones from which this Senate derives its power.

I do not believe important items of legislation such as a tax bill should be written without regard to the fact that the people are entitled to an orderly procedure and a hearing. There was no hearing in the sense that taxpayers were on notice that their industry or their livelihood would be affected by a tax proposal of the Budget Committee. The Budget Committee, pursuant to the law, furnished the Senate with their calculations as to how they arrived at a limit on expenditures and a level of taxation. Those overall limits are binding upon all the committees of the Senate. But when we accept the premise that the assumptions made by the Budget Committee are binding on the Senate and on the Finance Committee, we are denying due process to the taxpayers of the country.

Mr. President, the assumptions of the Budget Committee, in a real sense, were very brief.

Here in my hand is a tax bill that is the result of 4 long weeks of hearings. Many people asked to come in and they could not be heard. We ran long days. Many people submitted written statements. Other individuals and groups which had a common interest pooled and let one person speak for them.

Mr. President, they were entitled to that.

I, for one, am not going to speak with scorn and contempt toward the taxpayers of the country.

Look at the provisions of this bill. If any segment of industry or any individual wants to know what it provides, or wants to protest what is being done, here is one member of the Senate Finance Committee who will, to the limit of the time available, listen to their story. To label spokespeople as special interests and treat them with scorn is a most unkind thing to do. I think it is a repudiation of all our sacred principles of the right of people to be self-governing.

Are we going to delegate the budget-making process to this huge topheavy bureaucracy of the Congressional Budget Office and after a short consideration they decide what taxes shall be imposed and what shall be reduced? And then are we going to deny to the regular legislative committee the right to hold hearings, or will they hold hearings and say, in essence, to the public, to the taxpayers, "This is a sham. This is window dressing. You can express yourself for or against this tax. Yes, you can make some suggestions as to how to make it more workable. But it doesn't count. This has already been decided. It is in the assumptions of the Budget Committee."

Mr. President, that is not good government.

Mr. President, that is not treating the taxpayers of this country with fairness.

It is so easy to glibly talk about tax expenditures. What is a tax expenditure? Well, here is one thing that it is not: All of a citizen's earnings belong to him and he should be called upon to pay his just share of running the Government. The tax expenditure philosophy is based upon the false notion that all of an individual's income or all of a company's income belongs to the Government, and then the Government should decide how much he gets back or the company gets back.

In arriving at taxable income we have to have certain definitions. What is income? Income is what is taken in less the expenses of earning that income. Some people have to borrow money and pay interest to produce income, or an honest effort to produce income. Yet we spent time yesterday on an amendment that says, "That interest is a tax expenditure. That is giving to a taxpayer something that belongs to us, to us Socialists to scatter around and redistribute, the wealth."

Mr. President, where are we going?

It was apparent when the amendment last evening was tabled that a majority of this Senate was not taking the jurisdiction of the Finance Committee away and giving it to the Committee on the Budget.

Today we are confronted with a clever but oblique attempt to deal with that same question by bringing it in as a tax reduction.

Of course, it is hard for many people to vote against a tax reduction. A third of the Senate will be out campaigning, and it is quite a difficult thing for one of us to be at a meeting and have other people say, "You had a chance to lower my taxes, and you voted against it." So, consequently, the pending amendment to extend this tax cut for 3 more months will gather some votes that have no relation to the fundamental issue involved here.

That is why I say it is an oblique and, yes, an unfair way of raising this issue.

Mr. President, I do not think the Committee on Finance has any super-knowledge. I do not think that we possess any powers or gifts, that we can do a better job than the Budget Committee. But I do submit this: if the Budget Committee intended to bind not only the Senate, but the United States by their assumption as to what taxes should be added and what should be reduced, they should have announced that and held hearings—public hearings—and gone into in detail. They should have asked the people who have to pay. They should have asked knowledgeable accountants and knowledgeable tax lawyers about it.

I do not challenge their competence, but why would they not use their competence to write a tax bill in an orderly fashion, in fairness to the taxpayers of our country? Instead of that, after some discussion, they gather estimates in order to set target figures of overall spending and overall tax revenues.

The Finance Committee does not object to that. We want to live within those estimates; and I believe that is all that Congress intended. I believe that if any frank statement had been made at the time the budget law was being enacted that we were going to make a basic change in how tax legislation is handled here, it is doubtful if such a law would ever have been passed.

Mr. President, this method of trying to gain power for the Budget Committee by holding out an attractive tax cut is not something anyone can be proud of.

I am sure this is an innocent error in this letter, but what does the letter tell Senators? It says there is $180 involved for the average family.

Well, we are only talking about a fourth of a year. One-fourth of $180——

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. TALMADGE. I think it is $108 annually. $108 annually divided by four would be $36.

Mr. CURTIS. That is right. I said $180. But there is only $36 involved.

Well, their margin of error is only 4 to 1. That is all. Only 4 to 1.

Now, it is assumed by some that everyone who has an interest in this tax bill is a wicked special interest. Well, we have got a lot of special interests in Nebraska. Every one of those fine people out there is a special interest to me. I want them to live under just laws. I want them to pay their share of taxes, and no more. They are very, a very special interest to me. If someone is an employee, that is a special interest. I want him to have job opportunities. I want him to live in a society where everything is not destroyed by inflation. Every employee, every farmer, every employer in the State of Nebraska is a very special interest to me, and if someone is employing 10 people or 100 people or 500 people, that is a special interest to me, and I am proud to proclaim it.

If they want to come before a committee of Congress and explain to us how they see a particular tax proposal, how it will benefit or injure their industry, and it has something to do with the level of employment—that is a special interest; a wonderful, fine special interest, and I resent the inferences and the insinuations that every taxpayer in the country is an evil sort of person, that everyone who provides a job or a thousand jobs is some sinister force, and that if a Representative or a Senator talks to them, he is corrupt.

Mr. President, where have we come in this country? Do the people have any rights at all? Can they petition their Government? Can they talk to their Representatives? Do their Senators and Congressmen have an obligation to hold public hearings, disclose what they are going to enact, and hear comments, suggestions, and criticisms from the people?

That is what is at stake here. If we are bound by the assumptions of the Budget Committee on the content of the tax bill, if that is binding on the Senate, if it is binding on the Finance Committee, it is also binding on the people of the country, and they have never had a hearing on the details of the tax before the Budget Committee.

Oh, how I hope we will have a resurgence of true liberalism in this country—a liberalism that believes in people, their rights as citizens, their rights to be heard, their ability and their confidence to do things for themselves, without being directed and regulated all the time by Government.

Here are the reactionary forces of the Senate; and it is shocking what those reactionary forces are trying to do. They are trying to say that they and their experts on the budget, without any budget hearings, devised what was good and best for the country, and that is binding, and the usual process of holding hearings and listening to the people that have to pay is no longer necessary, because the decision was already made.

Mr. LONG. Mr. President, will the Senator yield?

Mr. CURTIS. I am happy to yield to my distinguished friend.

Mr. LONG. Is it not true that the bill, as reported by the Finance Committee, contains provisions to help the working poor and low-income people, with amendments added by the committee to further help the working mothers of little children, that on the whole the bill does more to help low-income people than the bill sent to us by the House which was more or less the basis of the Budget Committee resolution?

Mr. CURTIS. One of the things in the law that is very helpful to those of real low income was never devised by the Budget Committee, but it came from the Finance Committee. Our distinguished chairman was the author of it. I refer to the earned income credit. There are people who make such a small amount of money, yet they earn their own living, and they are called upon to pay payroll taxes, if not income taxes, and the distinguished chairman of this committee devised the earned income credit so they get 10 percent of their earned income up to $400 returned to them.

It practically relieves them of the social security tax. Yet the reactionary forces of this Senate—reactionary forces point their finger at the Finance Committee and at the chairman of this committee and imply that he writes tax bills discriminating against the low income and the poor and somehow it is a bundle of favors for someone who is corrupt, because they are in industry.

This bill contains many sections for the benefit of the poor and the low income. In fact, I would put them in two broad categories, some directly dealing with them as the earned income credit, and the low-income allowance. In addition to that, the committee has striven to try to create more jobs in this country. Someone who wants to ridicule it can say it is a trickle down theory and all this and that. The fact remains it takes a lot of money to get the equipment to put one person to work, a lot of money, and yet every effort along that line is branded as something wrong.

Mr. LONG. Mr. President, will the Senator yield further?

Mr. CURTIS. I yield.

Mr. LONG. Is this not true that economic studies show that on a dollar-for-dollar basis the provisions that we adopted to help business to modernize, build new plants, and expand their operations have actually provided more jobs and helped the workingman more in that respect than these across-the-board tax cuts where we give $35 to everyone or a flat amount of money to everyone on the theory that they will spend it if we put the money in their hands?

Mr. CURTIS. That is correct. The amendment now pending is not $35 for each poor person. It is $35 for everyone.

Mr. LONG. That is right.

Mr. CURTIS. It is $35 for the mover of the amendment, and it is $35 for all the financial giants of the country. What the distinguished chairman has done in his efforts for an earned income credit, for raising the standard deduction, and minimum standard deduction has been geared to that very thing. The Muskie amendment is bait for everyone. But when we apply it to everyone, the fat cats and everyone else, it adds up to $1.7 billion. But do not let anyone be fooled. It is not $1.7 billion for the poor. It is $1.7 billion to get some votes in this Senate.

Mr. LONG. Mr. President, will the Senator yield further?

Mr. CURTIS. I yield.

Mr. LONG. Does it not work out that the whole $1.7 billion in the Muskie amendment goes to people making more than $12,000 a year, with not a penny in there for a poor man?

Mr. CURTIS. That is correct.

Mr. LONG. There is not a penny in there for the low-income family?

Mr. CURTIS. That is correct.

Mr. LONG. There is not a penny there for a workingman whose family has less than average income. All of it is for the middle- and the upper-income people. So, is it not true that the Muskie amendment totally ignores the needs of the poor?

Mr. CURTIS. Yes. We are battling the forces of reaction in the Senate, brought on by those people who would so stifle our economy that no one could get a job.

Mr. LONG. The Muskie amendment is a rich-gets-richer amendment.

Mr. CURTIS. Yes.

Mr. LONG. The poor are left out.

Mr. CURTIS. The one amendment yesterday that the distinguished chairman tabled and this Senate sustained provided that if a person were in business and one of the boys in a certain business he could go ahead and write off losses but if he were on the outside trying to get in he could not. It was based upon that age-old premise that he who has, gets.

I agree with my distinguished chairman.

There is nothing in this $1.7 billion that is specifically designed for the poor or the low-income people. It is an offer for power. It is a bait thrown out here to frighten Senators, to make them think they will be in trouble in not voting for an income tax cut that we cannot afford.

The budget-buster who offered this not only is increasing the national debt and busting the budget, but he is also claiming to do it for the benefit of the poor and needy, and he is not. He is doing it for the upper bracket income people.

He claims there is $108 for the average family. It is $36. Mr. President, black is still black and white is still white.

Mr. LONG. When the Senator speaks of that average keep this in mind: That

is an average arrived at by averaging in the number of poor; and the poor do not get anything out of it.

Mr. CURTIS. That is correct.

Mr. LONG. Yes.

Mr. CURTIS. It will take care of everyone in this Chamber, but when we think of the hundred most poor people back home, it will not touch a one of them.

Mr. President, we have an obligation to finish this long and complicated tax bill, go to conference, finish the conference, and lay it on the President's desk by the first of July.

But the forces of reaction have raided this Chamber and consumed 2 or 3 days trying to force down on the country their notion of a tax bill on which they never had a public hearing, and they never had one taxpayer come in and say:

Mr. Senator, I would like to tell you how this proposed tax bill affects me, people of my income group, my business, or my job.

They just push that off. That is a special interest. If one listens to them he is corrupt, he is evil.

Mr. President, I hope that the Senate will reject this effort on the part of the chairman of the Committee on the Budget to bind the Senate to a procedure whereby, by a few hours or a few minutes' consideration in some social planner's scheme they can write something in a report and make it binding. That is the amount of taxes, and the kind of taxes we will have, instead of following the usual practice of a legislative hearing.

Mr. President, there is another reason why this amendment should be voted down: It exceeds the budget. It adds $1.7 billion to the deficit—$1.7 billion to the national debt.

They can have all the fine theories that the human mind can devise, but the fact remains that this whole budget process was advocated across the country and Congress was urged to adopt it in order to bring the budget under control, to keep expenditures below receipts. Instead of that, we have the chairman of the Budget Committee wanting further tax reduction, wanting to increase the deficit further.

Mr. President, I hope this amendment will be defeated overwhelmingly. We cannot serve the people of this country by adding to the fires of inflation. We cannot serve the people of this country by telling them that amendment is for the poor, but if they make less than $12,000, they cannot get a nickel of it. We cannot serve the people of this country by adding to the national debt. That is what the distinguished Senator from Maine is asking us to do.

Mr. LONG. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. LONG. I say to the distinguished Senator that it is an old and somewhat familiar experience to the Senator from Louisiana to stand here, as one of those on the Finance Committee, pleading with the Senate to be fiscally responsible. We have been doing that down through the years. Long before anybody ever heard of the Budget Committee, we would have Senators offer amendments that had great appeal because they were going to benefit a large number of individuals, sometimes by an across-the-board tax cut or sometimes by some other goodies that we really could not afford; and we would have to try to persuade the Senate that that should not be done, that the country could not afford it, and that it would bankrupt the Nation. We had to do it on tax bills, on social security bills, on unemployment insurance bills.

The only thing that seems to have changed in the 28 years I have been in the Senate is that now when we stand on the floor and plead that the Senate be responsible and not to bust the budget, the man who is offering the amendment is the chairman of the Budget Committee. The chairman of the Budget Committee leads the charge to bankrupt the country.

Mr. CURTIS. That is correct.

Mr. President, I think we should take note of the fact that the people back home are smarter than we think. It is the individuals who have stood for fiscal responsibility who stay here a long time.

I recall the incident of someone—and I raise no point about the man's character, integrity, or intelligence—who was facing a tough fight, and he made a big issue of raising the personal exemption. It would have added to the deficit; it would have added to the debt. Yet that appeal—"Here, I'm going to do this for you"—was carried to his State. But he is not here anymore.

I say that with no reflection on the individual. I say it to illustrate the point that the people back home are smarter than we think. If someone tries to stop inflation and tries to act responsibly in matters of taxes and expenditures and takes his story to the people, they will support him. But if the tax policy, the cuts, and so forth, were determined before there ever was a legislative hearing, the people will be smart enough to find that out, too.

Mr. President, I yield the floor.

Mr. FANNIN. Mr. President, I ask unanimous consent that the pending measure be set aside temporarily, so that I may call up a concurrent resolution that has been cleared on both sides of the aisle.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

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## SENATE CONCURRENT RESOLUTION 123—EXTENSION OF CONTRACT FOR FORT MOHAVE, NEV.

Mr. FANNIN. Mr. President, I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The legislative clerk read as follows:

S. CON. RES. 123

*Resolved by the Senate (the House of Representatives concurring)*, that the execution of a contract of sale between the Department of the Interior and the State of Nevada for the Fort Mohave transfer area, submitted to the Senate on May 7, 1976 pursuant to Public Law 86-433, is hereby approved.

Mr. FANNIN. Mr. President, this concurrent resolution would allow an amendment to a contract of sale between the Department of the Interior and the State of Nevada for the Fort Mohave transfer area. In effect, it grants an extension until June 1, 1977, to consummate the terms of the contract. Public Law 86-433 requires the contract to be presented to Congress for its approval.

Because of the exigencies of time, the committee has not taken formal action on this contract, but the majority and minority staffs have considered this contract. The amendment which we are approving simply extends from 4 to 6 years, a period during which the State must complete the purchase of the lands involved. I am informed that the chairman of the House Committee on Interior and Insular Affairs has written the Secretary, indicating they have no objections to this extension.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

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## TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. LONG. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

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

The PRESIDING OFFICER. Does the Senator yield for that purpose?

Mr. PACKWOOD. Not immediately, no.

Yes, I yield for that purpose.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. PACKWOOD. Mr. President, I have been listening with interest to this debate on the subject of the budget resolution, the budget report, and what the report means as opposed to what the budget resolution says. I am, admittedly, not an expert on the subject of the creation of the Committee on the Budget or what was intended in the statute as it was passed. I debated at length yesterday on the subject of the limitation on accounting losses but did not, to any great extent, enter into the debate on the budget versus finance verus the Senate argument. I have, since yesterday, done some research.

I wonder if the chairman of the Committee on Finance would respond to a few questions? This also involves the Senator from Maine and the colloquy that took place last April, when we were talking about this resolution.

As I recall—and if I am wrong, the chairman will correct me—at the time this budget resolution came on, the Senator from Louisiana was under the very definite impression that it was not likely that the Senate would be willing to sus-

tain what he regarded as substantial budget cuts, as I recall, in medicaid and medicare and possibly social security. Is that correct?

Mr. LONG. I believe so.

Mr. PACKWOOD. The Senator offered at that time an amendment—and he was very frank about it. He said:

Gee, let us be serious; the Senate is not going to make cuts of this money that is going to the poor, the helpless, the blind, and the disabled.

He offered in exchange a $2 billion package which would have instead had the cuts in revenue sharing and, as I recall, in unemployment compensation. Is that correct?

Mr. LONG. I believe so. Of course, the record will speak for itself.

Mr. PACKWOOD. I think that was it.

I am going to be quoting the Senator from Maine a bit on this. At that time, the Senator from Maine, the chairman of the Committee on the Budget, argued against the chairman of the Committee on Finance. The chairman of the Committee on Finance, Mr. LONG, indicated that there was no way that the Senate was going to agree to the cuts that the Budget Committee was suggesting. On the other hand, the Senator from Maine was saying:

There is no way we can prejudge what the Senate will do.

I will quote what he said twice:

Mr. MUSKIE. There is another thing in what the Senator said, and the Senator from Louisiana also said: he said, "I do not think the Senate will do it."

There he was referring to the cuts that the Senator from Louisiana did not think would be made:

If we make a prejudgment on that assumption again we are never going to get anywhere.

Before the vote this morning, what would have been the judgment of most Members of the Senate as to what the vote in the Senate would be on a program involving veterans' benefits?

I will add in parentheses here that we had just voted down this increase in veterans benefits.

I responded:

Mr. PACKWOOD. Normally, it would pass.

Mr. MUSKIE. It would normally pass.

Now, this morning, they did not. I hope that action is properly interpreted by everybody concerned, including veterans.

But the fact is that as we begin to look at these decisions in the context of the overall past patterns of voting, it is not inevitable as to what the new pattern will be.

Note the use of the word "inevitable." It is not inevitable. He also said the same day in another column:

Mr. MUSKIE. How can any Senator take upon himself to presume that he can guarantee one way or another what is going to happen legislatively in this Congress during this legislative session?

The Senator—

Referring to Senator LONG—

The Senator may have that kind of crystal ball, but I do not.

Now, today we are discussing whether or not this amendment is going to extend this tax cut. At 12:15 this afternoon the Senator from Maine said, and again I am quoting:

Mr. MUSKIE. What I said, may I say to the Senator, that in my judgment if the Finance Committee bill is passed as it is, that it is inevitable—

There is the word "inevitable"—

That the tax cuts which were terminated as of July 1, at some point will be extended for another 3 months.

Now, Mr. President, 2 months ago the Senator from Maine was saying it is not inevitable that we are going to increase spending, it is not inevitable we are going to follow the patterns of the past. Today he is saying that it is inevitable we are going to follow the patterns of the past. I am more inclined to agree with him on the former statement.

From what I have seen in 7 years in the Senate now, we have frequently and sometimes wisely—unfortunately in my estimation sometimes unwisely—crisscrossed ourselves, reversed positions, and we will do it again in the future.

Now, I want to come to the part where the Senator from Maine and I had the colloquy about what the Budget Committee meant and what the Finance Committee could do, and it has been quoted over and over, and I want to say to the Senator from Maine I have changed the grammar in two or three places so that it reads correctly. It was my grammar that was changed, and I took out one question and answer that was irrelevant. But here is the dialog, and it only occupies about a column and a half:

Mr. PACKWOOD. I want to congratulate the Senator from Maine and the Senator from Oklahoma in making this budget process work. If it is going to work, we are going to have to exercise some judgment and some discretion, and that is a little bit of what is causing the frustration of the other committees. They have a feeling of (Budget Committee) usurpation, that somehow the Budget Committee is mandating, telling them what to do.

Is what you are saying to Chairman LONG (is) that we do not necessarily have to make these $2 billion savings in the particular areas that he has indicated? If we take $2 billion out of social security . . . that is fine?

Mr. MUSKIE. That is fine.

Mr. PACKWOOD. . . . do I take that to mean it is not necessarily a mandate that we close $2 billion worth of loopholes, but that we could just as well raise the (individual) income tax or the corporate income tax $2 billion? You are just talking about $2 billion additional revenue, and the reference to tax expenditures does not necessarily mean so-called loopholes.

Mr. MUSKIE. That is right. The only mandatory number with respect to revenues is the revenue total that we have included.

We have, however, indicated in the report, as we are required, our view as to whether any revenue should be generated by tax reform. We have done that, so our view is in the report, but it is not mandated.

Mr. PACKWOOD. If (in) the Finance Committee's judgment, at the end of . . . hearings and markups, they found it impossible to close $2 billion of loopholes, and they chose to fit within the mandate of the Budget Commitee by simply reducing the tax reductions from $17 billion to $15 billion and pick up $2 billion that way, (that would be all right?)

Mr. MUSKIE. That is right.

What we ask is a recommended level of Federal revenues of $362.4 billion in revenues, and we arrived at that number by assuming $2 billion possible additional revenues on tax expenditures. By the time the committee acts, the revenue picture changes. We may come up with $362.4 billion in some other fashion.

Mr. PACKWOOD. This process is new. I think it is working well so far. However, I want to lay the groundwork so we all understand as we get to September and pass the final resolution what it is we are committing ourselves to. Are you saying that so long as the Finance Committee is left with the total discretion of where to pick up this money, even if by reducing the tax reduction by $2 billion, or whatever is necessary to get the $362.4 total, the process is working the way it should work?

Mr. MUSKIE. That is right.

Mr. PACKWOOD. We are not necessarily committing ourselves to a $2 billion closing of tax loopholes.

Mr. MUSKIE. That is right.

Mr. PACKWOOD. What we are initially committing ourselves to are revenues of $362.4 billion and maybe next September that figure will be $360 billion, maybe $365 billion. Who knows?

Then we are saying to the Finance Committee, "the collective judgment of the Senate is $362 billion. It is up to you, gentlemen, to determine how we go to that figure."

Mr. MUSKIE. Yes, we, of course, would like to have the Finance Committe look at the Budget Committee report to get whatever insight it chooses to take from the Budget Committee's recommendations and the basis for the Budget Committee's judgment.

But in the last analysis, it is the Finance Committee's judgment, and I think the Senators and the Senate subsequently.

Now, that was all that was said at that time. There was no discussion on the floor about what was the spirit of the Budget Committee resolution, and I used the word "resolution." There was no discussion about whether or not the Finance Committee was morally or ethically bound by the economic presumptions of the report. Nothing was said. I think we all at the time thought that that colloquy between the Senator from Maine and myself nailed down the lid on the coffin of what were the rights of the Budget Committee and the rights of the Finance Committee.

Mr. CURTIS. Mr. President, will the Senator yield right there?

Mr. PACKWOOD. Yes.

Mr. CURTIS. I believe that that did nail it down. I think the distinguished Senator from Oregon rendered a very definite service to the Senate, to both committees, by that colloquy. There could be no other interpretation of it, and I commend him for it.

As has been said here before in the debate, if we are bound by all those assumptions that, in effect, are determining the content of the tax bill, then we write a tax bill without public hearings on it.

Mr. PACKWOOD. I appreciate the comment of my distinguished colleague from Nebraska.

I want to emphasize again the good faith. I know the Senator from Maine was in good faith in those answers. I know I thought I was in good faith in asking the questions. But, more importantly, as the Finance Committee then sat down to consider this tax bill, all the way along we were having debates within the Finance Committee about the merits and demerits of some of these tax provisions we were writing and, quite

frankly, a number of members on the Finance Committee, including some who were on the Budget Committee, said, "We disagree with some of the conclusions the Finance Committee is making of where there should be tax cuts and where there should be additional tax breaks."

Not once—and I checked this just 15 minutes ago—not once during the consideration of this bill in the Finance Committee was the issue ever raised as to whether or not the Finance Committee was bound morally, ethically, or otherwise by the economic presumptions of the Budget Committee report. It was never raised from the outside by anybody on the Budget Committee, never raised inside the Finance Committee by anybody on the Budget Committee. Admitted disagreements with conclusions we were reaching on the susbtance of the conclusions, but no suggestion by anybody until we got almost to the floor of the Senate, that we were not in keeping with not only the law but the spirit of the Budget Committee.

Then, about 10 days ago, maybe 2 weeks ago, the so-called reform package was presented.

And there was a news conference and one of the sponsors of the package referred to it, at least the newspaper says, referred to it as "a real fraud."

Although that person is not a member of the Budget Committee, another member of the Budget Committee was convinced, and I am quoting here, "I can't find any compliance even with the letter of the budget."

My fellow Senators, I think the Finance Committee took umbrage at those comments. Perhaps that has caused some stumbling today because nobody had suggested what we were doing was fraud in the budget process.

We realized there was division over the substance of what we were doing, but not that we were out of compliance with the budget process, not that we were imposing one fraud on the budget process.

What happens now when we get to about 2 or 3 days before the start on this bill?

Here, I am going to move from quoting the RECORD to conjecture.

Those who are advocating the so-called reform package have said time and time again on the floor of the Senate, we have in the past presented these amendments at one time or another. They have always been voted down.

One of the Senators, who is a cosponsor of the reform package, referred to this as a moderate reform package. They were not going way out and suggest the inevitable defeat they always had suggested before.

Though they wanted this reform package—and I put that in quote and unquote because the Finance Committee bill is a reform package—I sense what the so-called reformers needed was a hook. They had to have something else to tie this package onto to garner a few more votes in the hope of getting some of their package passed.

They made some inevitable compromises.

In their LAL compromise yesterday, they left that immense loophope of residential real property, and the junior Senator from Maine (Mr. HATHAWAY) freely admitted it was left in there in the hope of gaining votes, not that it had any merit, but in the hope of gaining votes.

I think other compromises were made in the hopes of getting enough votes to pass a compromise reform package. But I think the reformers were still worried that they could not as yet reach the totals that would give them a majority of critical votes.

So they thought to themselves, "How do we hook this onto the budget process so that we might pick up a few votes of those who would like our package, but would feel they are voting against the new fiscally sound, fiscally responsible budget process?"

They hit upon the idea of trying to initially give the impression—and this is not the Senator from Maine, I want to emphasize—trying to give the impression that the Finance Committee and the Senate were not bound by the first resolution.

I think we have had enough discussion now to realize that we are not bound legally, morally, or ethically.

What happened, and here is where the distinction comes, is that the Finance Committee made slightly different economic presumptions.

First, the budget report was adopted last April. The economic presumptions that went into it were gaining in power in February, probably at the latest by March, and as we remember, the report presumed a higher rate of inflation, a higher rate of unemployment, than is now projected.

So the economic presumptions that went into the report are no longer the presumptions that most people today consider accurate.

We now come to the tax bill on the floor. I hope we are done with the allegations of fraud, hypocrisy, and whatnot.

I think the key question is now, can this Senate, long before the second concurrent resolution is due next September, say it is 2 or 3 months later than when the initial economic presumptions went into the policy report of the Budget Committee and were adopted, can this Senate change its mind?

Can this Senate now say, we think we are moving out of this recession slightly faster than we thought we were moving out, and unemployment is coming down slightly faster than we thought it was going to come down?

Can we now say that in our collective judgment—and I mean the Senate, not the Finance Committee—we would be wiser to terminate that tax cut at the end of June 1977, rather than the end of September 1977?

I think we can say that. I frankly think we should wisely say that.

There may be those who will quarrel, not with should there be an end to the tax cut, there might be those who would want to rearrange figures, in good conscience, and keep this $35 credit, but let some other tax cuts expire.

I can understand that honest difference of opinion because we are forever in a battle in this body, in the Finance Committee, over the economics of consumption as opposed to the economics of investment.

I think for too long we have shorted the investment side, the capital formation side.

We have reached a situation today in the United States, in comparison to every single country in free Western Europe, including all of the common market countries, including Sweden, Norway, Denmark, where every one of those countries taxes a higher percentage of the total gross national product than does the United States. Every one of them.

With the exception of Great Britain, however, every single one of those countries taxes a lower proportion of the part of the gross national product that is capital formation than does the United States.

So, at least in my opinion, we have been gradually a bit further behind in motivation, a bit further behind the international competition, than other businesses from other countries because we have too long leaned on the theory of consumption and not long enough on the theory of capital formation.

But that is an argument that in my mind has nothing to do with the budget figures.

All I am saying in conclusion—and I shall yield the floor—does this Senate, not the Finance Committee, have the right to say that it is now 3 months later than when the economic presumptions behind the report of the Budget Committee were made? Does the Senate have the right to say that we think those economic presumptions have now slightly changed? Does the Senate have the right to say that we think things are getting better more quickly than we thought they would and, consequently, we do not want to have the same exact policy recommendations that were adopted by the Budget Committee and subsequently by the Senate?

We have that right legally, we certainly have that right ethically, and if the Senate chooses to do so, it is not in violation of the law or the spirit of the Budget Committee legislation, or any other legislation that is now on the books in this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, I think the Senator from Oregon put the right question: Can the Senate change its mind?

My answer is the same as his, yes.

But that is a different proposition than has been argued by so many on his side on this issue, that what the Finance Committee proposes is consistent with what the Senate said earlier. That is not consistent.

So if he understands that what we are doing is proposing that the Senate change its mind, of course the Senate can change its mind, and I have said that as vehemently as anybody on the floor, including the Senator from Oregon.

So if the Senate chooses to change its mind and to change the underlying assumptions of the budget resolution,

which is a congressional resolution, that is the Senate's prerogative, of course.

But I just do not like to see the Senate do it under the pretense that it is not changing its mind, that this policy represented by this bill is the same policy as in the first concurrent resolution, because our job is, as the Budget Committee, to point out to the Senate what we think the Senate has done in the budget resolution, and when what is proposed would change that resolution, or prevent its targets, or change its underlying economic assumptions.

That is our responsibility. That is not a law; it is a policy.

If the Senate chooses to say it will obey laws but ignore its own policy, it can do that, too. I have no way, the Budget Committee has no way, of enforcing the policy of the first concurrent resolution, absolutely none. That ought to be clear. I have never once said, may I say to the Senator from Oregon, that supporting the Finance Committee bill represents a violation of law. I have not said that. I have not said it once. I have not implied it.

Let me say something about the economic assumptions in the first concurrent resolution. Some have referred to that as something 3 months old. Let me assure the Senate that it is our function to stay on top of the economic trends and economic developments on a day-by-day basis. We do not take a fix in February and then not look at the economy again until the Finance Committee tax bill is on the floor. We check and recheck the state of the economy against every time we have had to make a decision on the budget.

In April, when we submit it to the Senate, at the time of the conference between the House and Senate conferees, the conference report comes to the Senate. We undertake, as we do with the Senate budget scorekeeping report—a weekly report not required by law—to stay on top of every relevant piece of information bearing upon the budget or on the economy on a continuing basis.

We have a responsibility of advising the Senate of changes.

In the remarks I made yesterday in which I referred to the state of the economy, those were made on the basis of our up-to-date evaluation of the requirements of the economy.

So, of course, I say to the Senator the Senate can change its mind. If the Senate wants to end the tax cuts as of July 1 next year, of course that is the prerogative of the Senate. Clearly, and I emphasize that and underline that, doing so is not violating the law; it is making law. But I will also say that that is a different policy than the one we adopted in the first concurrent resolution. That policy underlies all of the numbers in the first concurrent resolution, not just the revenue number but also the spending number, the deficit number, and the debt number. They are all related, including a lot of the functional spending numbers.

The state of the economy and the extent to which it is stimulated or not stimulated by our revenue policies affects unemployment and, hence, the costs of all the programs to which the unemployed turn for relief, comfort, and support. So the whole thing is interrelated.

I hear those who disagree with me argue that this one number, $362 billion, is all there is to revenue policy in the first concurrent budget resolution. That is simply not to understand the interrelationship of every number in the budget resolution and all of the detailed numbers which will be filled in by those who are following the policy of the first concurrent resolution.

How do we estimate the income security function? It is an entitlement law. The formula spells out what we spend, but the economy may have more to do with the amount of the spending than the formula in the law. So the economic policy that the Congress adopts in the first concurrent resolution has a great deal to do with whether or not our estimates about what unemployment compensation will cost, or our estimates of what food stamps will cost, or our estimates of what veterans benefits will cost depend upon whether or not we implement the economic policy that is described in the report of the Budget Committee.

If we are to conclude out of all of this debate that all there is to budget process is the numbers in the budget resolution, then we reduce the budget process to nothing more than a mathematical exercise that can be handled by computers better than it can be by the Senator from Maine. The numbers in the budget process have to have an underlying economic policy.

I never hear the President of the United States submit his budget without also submitting an economic report which is the basis of his budget. Indeed, his budget message refers to the assumption of his economic report. The two are interrelated.

Yet, it is said on the floor of the Senate, "That ain't so" with respect to the congressional budget process, that the report is just so much rhetoric, that it is meaningless.

I say to the Senator that although we may not be as expert as we ought to be or hope to be in evaluating the economy and its needs, the budget report is our best articulation of the best economic policy that we can recommend to the Senate. It is on the basis of that policy that we produce the specific numbers that the Budget Act requires to be put into the budget resolution.

One cannot responsibly look at those numbers, accept them, support them and defend them, without accepting the underlying economic policy behind them. I do not use the term "responsibly" in denigration.

If one wants to change the numbers, he should change the policy. If he changes policy, then he has to be prepared to accept the consequences in terms of the other numbers. That is all I am trying to say.

I am not trying to impose my will or my interpretation of all this on the Senate. It is evident from the disagreements which have arisen that I have not very clearly articulated what it is that I am trying to say about this budget process. The budget process is the Congress as a whole. It is not the Budget Committee of either the House or the Senate. The only disciplinary force in this process is the Congress as a whole.

The Budget Committee is not a disciplinary body. It is not a law enforcement body. All it is is a tool, an instrument, for keeping constantly before the Senate and the Congress as a whole what we have done so that what we do next, or what the Senate does next, is done in the context of what we have done in the past, with a full appreciation of the consequences of any changes that take place.

That is what it is.

I am fully aware that my amendment is going to cost some tax revenues. I accept that, not because I am willing to accept that decision standing by itself, but because I would offset that loss, as the Congress agreed to offset it in May, by supporting tax reform, or whatever other word if one does not like the word "reform," proposals.

But if the Senate as a whole chooses not to use that method of offsetting, but chooses instead to allow the deficit to increase, or chooses instead to cut some of the direct spending, the direct appropriations, the Senate can certainly change its mind about those things.

When we change our minds, there are two things that we ought constantly to bear in mind. First, let us know what we are doing when we do it. That is primarily our responsibility, because we are supposed to stay on top. But second, use the processes and the procedures of the Budget Act to accomplish the change.

Certainly it is envisioned in the budget process that between the first resolution and the second one, the sovereign bodies of Congress can enact legislation that would change the targets of the first resolution. That is envisioned. That is what the reconcilation process is all about. But I do not think we ought to lean on that reconciliation process to the point where we make the first targets meaningless, because if we develop some sloppy habits with respect to the first targets, those sloppy habits have a way of persisting through the rest of the process. We have seen that. I have seen it in 18 years. We have a way—or had a way that I hope never recurs—of individually voting for big, glamorous spending proposals, because we had rationalized in our minds that somewhere down the line we were going to vote for some cuts or some tax increases, and so we eased our consciences; and yet those things never happened.

Now, we are supposed to bring all those probable or possible consequences to the attention of the Senate.

With respect to my amendment, I know there is a conspiratorial view around here of what those on the other side of any issue are doing, or what they have in mind. I know I have entertained such views myself, and I expect others entertain them about me.

But with respect to the amendment, Senators ask, "Cannot the Senate change its mind?"

I say, "Yes, of course it can."

Back in May we said we were going to extend the tax cuts through fiscal 1977.

Can the Senate change its mind about that? I say, "Yes, of course it can." So I have offered an amendment that makes it possible for the Senate to change its mind. So it seems to me that the Senator from Oregon and I are arguing the same point.

If you want the Senate to change its mind on that point, it is a rather critical point, because it bears upon all the other numbers in the budget resolution—the 17 functional totals and the overall spending total, as well as the revenue total.

Mr. CURTIS. Mr. President, will the Senator yield for a question?

Mr. MUSKIE. In just a second. It is a rather key matter, and since it has been made a key matter, it seems to me it ought to be up front, easy to be decided.

The amendment is very clear and straightforward. The matter is before us; it seems to me we ought to act on it.

If the Senate decides that our policy in the first concurrent resolution was wrong, I will accept that. But my job will be to tell the Senate how that change of mind impacts on the rest of the budget, and I am willing to perform that duty if it falls to me. But if, on the other hand, we reaffirm that policy of the first concurrent resolution, we will have to proceed in the other direction. That is as near as I can state my position.

Several Senators addressed the Chair.

Mr. MUSKIE. The Senator from Nebraska had asked me to yield. I yield to him.

Mr. CURTIS. In the opinion of the distinguished Senator from Maine, what did we adopt when the budget resolution was last before us?

Mr. MUSKIE. We adopted a resolution with a certain number of numbers in it, accompanied by a report, which is specified in the Budget Act.

In that report, we undertook to describe the underlying economic policies and the specific assumptions which the law tells us we must spell out.

That, to me, is as much a part of the budget policy as flesh is a part of the body.

Mr. CURTIS. Was there at any point anything in the debate which showed a congressional intent that the adoption of the resolution was an approval of how we arrived at these figures or, more significantly, at any point was there anything in the debate which informed Senators that a vote for that resolution was a vote for the details in arriving at the overall receipts and expenditures set forth in the resolution?

Mr. HOLLINGS. Does the Senator want me to take that?

Mr. MUSKIE. Just a moment. I want to get some figures out of the committee report to respond to the Senator.

Let me introduce those figures by referring the Senator again to this provision of the Budget Reform Act:

> The report accompanying such concurrent resolution shall include but not be limited to . . . (4) an allocation of the level of Federal revenues recommended in the concurrent resolution among the major sources of such revenues.

In that committee report, at the top of page 7, that allocation is listed:

> Individual income tax, $160.9 billion.
> Corporation income tax, $57.8 billion.
> Social insurance taxes, $106.6 billion.
> Excise taxes, $17.8 billion.
> Estate and gift taxes, $6 billion.
> Customs duties, $4.3 billion.
> Miscellaneous revenues, $7 billion.
> Net increase from tax expenditure legislation, $2 billion.
> Total, $362.4 billion.

So anybody looking at the $362.4 billion, which is all that was on the face of the resolution, if he is at all interested in knowing where it comes from——

Mr. CURTIS. No, no——

Mr. MUSKIE. He has to look at the report, and the report is required by the law.

Mr. CURTIS. It is true the law requires the committee to accompany their resolution with a report which informs the Senate where they got their figures. But my question is this: Was there a clear discussion in the debate that the Finance Committee, in their deliberations, were bound by the figures in the report? I doubt very much if there was. I think if that had been a major issue at that time, there would have been considerable debate on it, and they would have understood each other.

Mr. MUSKIE. Is the Senator saying to me that no provision of law which was not actually debated on the floor of the Senate is binding or effective?

Mr. CURTIS. No, what I am saying——

Mr. MUSKIE. We came to the floor of the Senate with the resolution and the report. Are we mandated to see to it that every word in each document is brought consciously to the attention of every Senator?

Mr. CURTIS. No. What I am saying is that if you were contending then for a major change in senatorial procedure, which is what is involved here, whereby the decisions as to the details of the tax bill, the contents of the tax bill—if the Senators were notified in the debate that they were approving those details.

Mr. MUSKIE. I do not know what the Senator means by a detail. Here we have in the committee report I think less than one page devoted to explaining how the Budget Committee got its revenue totals, and the Senator is telling me that the details in this tax bill were dictated by the Budget Committee or that we are trying to dictate the details of that bill.

Mr. CURTIS. Yes.

Mr. MUSKIE. We are not. Was there anything in what I read to the Senator that was anything more than an allocation of revenues among the major sources? There was not a word of detail, unless the Senator thinks that the total revenue is a mere detail and not a policy.

Mr. CURTIS. No. But the whole subject of debate yesterday was to the effect that the Finance Committee when they stayed within our overall figures of the resolution were in violation. My question is this: Was there anything to show that intent when the resolution was adopted?

Mr. MUSKIE. Yes. The documents reported out by the Budget Committee.

Mr. CURTIS. No. What I am getting at: Did the Senator say to the Senate at large or for the benefit of the chairman of the Finance Committee that the adoption of this resolution means that we gather revenue according to our assumptions set forth in the report?

Mr. MUSKIE. Did I say it myself?

Mr. CURTIS. Did anyone say it in the RECORD?

Mr. MUSKIE. It is said in the report which itself is a part of the RECORD.

Mr. CURTIS. No, it does not say that.

Mr. MUSKIE. It certainly does.

Mr. CURTIS. The report does not say that.

Mr. MUSKIE. Let us get it. Has the Senator read the report?

Mr. CURTIS. Yes, but the report does not say the adoption of this resolution.

Mr. MUSKIE. Then these words will be familiar.

Mr. CURTIS. The report does not say that the adoption of the resolution means that the sources of revenue to reach the overall figure of revenue in the report is binding upon the Senate or the Finance Committee.

Mr. MUSKIE. I just got through saying in a colloquy with our colleague, Senator PACKWOOD, that nothing we do is binding on the Senate.

Mr. CURTIS. Then why did the Senator spend all day yesterday contending that the Finance Committee bill was not in conformity with his resolution when it was?

Mr. MUSKIE. Because it is not.

Mr. CURTIS. Why is it not?

Mr. MUSKIE. There are two different questions.

Mr. CURTIS. Why is it not?

Mr. MUSKIE. I have explained it over and over again to my utter futility.

Mr. CURTIS. I agree with that.

Mr. MUSKIE. Because the Senator does not listen.

Mr. CURTIS. I agree with that. Will the Senator answer it?

Mr. MUSKIE. Because the Senator does not want to believe what I say.

Mr. CURTIS. I love to believe the Senator.

Mr. MUSKIE. He disagrees with what I say. He does not like what I say, because apparently it is a little uncomfortable. I mean we have established a budget process and somehow I see some squirming at the idea. What I am saying may label him as a violator of the budget's virginity.

Mr. CURTIS. No.

Mr. MUSKIE. I am not saying any such thing.

Mr. CURTIS. Anything the Senator says would not make me squirm. He does not vote in Nebraska.

Mr. MUSKIE. I do not know why the Senator keeps pressing me to repeat what I know he has heard me say because the Senator has been in the Chamber. I am not interested in killing time for him. I know that the managers of this bill do not want a vote on this amendment today.

Mr. CURTIS. Oh, if it had not been for the demand of the Committee on the Budget to assert jurisdiction we would have had this bill on its way yesterday.

Mr. MUSKIE. Who has the floor? I am not going to be a part of the Senator's filibuster. I offered an amendment and I am not going to repeat ad infinitum the rationale for my position which I think is clear in the RECORD. If the Senator has

not read yesterday's RECORD, it is there. If he wants to know the rest of it, it is in the report the Budget Committee submitted. I am not going to prolong this discussion simply to help the Senator kill time. I am ready for a vote.

Mr. CURTIS. No.

Mr. MUSKIE. I am ready for a vote on this amendment, and I have an appointment out of the Chamber. If another Senator wishes to pick up this discussion at this point, fine. If I really thought that the Senator were putting questions to which he did not know my answer I would answer him.

Mr. CURTIS. I do not want to kill time. I thought I would get some good answers.

Mr. MUSKIE. The Senator's purpose is one purpose only, that is to get me to help him kill time, and I am not about to do that.

(Mr. HATFIELD assumed the Chair.)

Mr. PACKWOOD. Mr. President, I am curious. Did the Senator from Maine leave the Chamber?

Mr. CURTIS. Yes.

Mr. PACKWOOD. He made the statement that the Budget Committee is on top daily of the economic assumptions upon which the report 3 months ago was made. I see one or two members of the Budget Committee present now. Correct me if I make a misstatement. But I think I am correct that the projections for unemployment are now lower than were the assumed projections for unemployment when we adopted the Budget Committee resolution. I think the projections for the real growth in the gross national product are now higher than when we adopted the Budget Committee resolution. I think the projections for inflation are now lower than when we adopted the Budget Committee resolution.

Therefore, I do not think it is written in stone that we are inevitably going to pass and extend this tax cut beyond next June 30 if those trends continue. I would hate to have this Senate vote today for the Muskie amendment on the irrevocable assumption that if we do not vote for it now we are going to be faced with having to vote for some kind of tax increase or expenditure cut next June, a year from now.

Mr. LONG. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. LONG. I believe the Senator knows how difficult it is to defeat a budget-busting amendment which would propose that everyone get something. I have stood in the Chamber and sometime felt very lonely and abandoned trying to defend the fiscal responsibility of the Senate.

Mr. CURTIS. Everyone wanted something.

Mr. LONG. I was trying to defend fiscal integrity of the country against an amendment where 100 million people would get something.

I recall when Mr. Prouty offered his amendment on the social security bill. I called it the Prouty shoot-the-moon amendment because he was going to give a pension to everyone who was not getting a pension. He had overlooked the fact that his language was sufficiently broad that it failed to limit itself to only American citizens.

So, Charles de Gaulle would have gotten a pension, Mao Tse-tung would have gotten a pension, and everyone in Africa, Asia, Greenland, anywhere in the world and in outer space would have been entitled to draw a pension if there was any way the Treasury could deliver the check to them.

I described that as a Prouty shoot-the-moon amendment. Even though the Senator agreed that the cost would be fantastic after the Senator modified it down so that only American citizens would get the pension, we succeeded in passing that. Everyone who did not get a pension, even though he had no claim to it whatever, would get a pension. That is one of the reasons the budget is out of balance today.

To try to maintain fiscal integrity, we need the support of everyone and particularly we need the support of the Budget Committee to try to hold off budget-busting amendments. It is a sad situation and it puts us in a very difficult position fighting to save this country from bankruptcy when the chairman of the Budget Committee himself offers the biggest budget buster that has been offered here yet. We need, Mr. President, to try to educate the Senate about this and persuade Senators that they should not proceed in this irresponsible fashion.

Again, we do have this problem, and I would like to meet it. Does the Senate Finance Committee have the right to recommend a responsible tax bill inside the budget resolution? Do we have the right morally? Do we have the right legally? Do we have that right? There is no doubt whatever about our legal right. However, I point out that it would not have been subject to a point of order had the Finance Committee recommended a bill that went beyond the $15.3 billion. That would not have exceeded our authority. We could have so recommended, and it would not have been subject to a point of order. I would have hoped, had we done that, that Mr. MUSKIE would have been out here to oppose it, even though a point of order would not lie.

We stayed within the spirit as well as the letter. In good faith, we undertook to protect the fiscal integrity of the Government of the United States, and we recommended a bill and stayed within the $15.3 billion.

So we come to the floor; and apparently the chairman of the Budget Committee, Mr. MUSKIE, does not agree with the way we stayed within the $15.3 billion. How does he want to protect the fiscal integrity of the country? He wants to offer an amendment that busts the budget by $1.5 billion. I submit that that is no way to stay within the $15.3 billion. That is exactly the opposite.

Furthermore, I would welcome a test, an honest straightforward test: Did the Senate Finance Committee, either morally, legally, or otherwise, exceed its authority or fail to do its duty when it recommended the tax bill we have before us, tailored to meet that $15.3 billion budget limitation? I hope we are going to settle it. I thought we had.

We discussed this matter on the floor; and Senator after Senator, including several who serve on the Budget Committee, said yes, they thought the Finance Committee did what it should do, as its conscience gave it the light to see it. I thought it was settled. So we proceeded to go on to the next thing.

I had been asking Senators to hold off on that amendment, to offer a substitute for title I until this matter could be settled. Unfortunately, Mr. President, it was not the prerogative of the Senator from Louisiana. It would not be appropriate for him to offer an amendment to recommit the bill with instructions, because I like it the way it is, the way it came out of committee. To move to recommit something I favor would not be appropriate. People might feel that they should vote for it because the Senator from Louisiana, the chairman of the committee, made the motion. So I was very reluctant to make a motion for which I could not vote, and therefore I did not make the motion. The Senator from Maine did not see fit to do that, either.

Apparently, the Senator has chosen to throw his support behind the most popular budget-busting amendments—or any other popular amendments—he can cast his lot with; and he contends, in view of the fact that he voted on the side of a budget-busting amendment and other amendments that might not bust the budget, that his committee has been sustained; that the Senate will have held that the Budget Committee has a right to dictate every last detail to the other committees with regard to what they should do because the Senate voted for an amendment that is very difficult for anybody to vote against.

It is difficult for a man to run for office and tell his constituents that he voted against cutting their taxes.

So the Senator offers an amendment that is not a fair test at all. It is an amendment of a budget-busting nature. If he were offering an amendment to say that the Finance Committee had not done its duty, that would be different. I do not have any doubt that some of the things we did might be in error, and I cheerfully respect and urge every Senator to do his duty as he sees fit. If Senators think we made a mistake, by all means vote to correct it.

All that the Senator's amendment would do, if agreed to, would be to fuzz up the issue.

I think that if the Senator wants to contend that he has been sustained because he voted on the prevailing side, all he need do is let the clerk call the roll and answer to his name last, after the vote has been tabulated; so he can say, "I voted with the prevailing side, so the Budget Committee was sustained." That way, he can do it consistently and announce that he has been sustained on every point because he voted with the side that cast the largest number of votes.

However, I do not see that it sustains the Budget Committee to say that we will bust the budget because a member of the Budget Committee makes that kind of motion, no more than I see that it sustains the cause of piety for one of us to say that he is supporting his church and his preacher because he is engaged in sin.

Mr. President, the appropriateness of what the Senate committee did was discussed. I shall add to the RECORD again

the discussion between Mr. PACKWOOD and Mr. MUSKIE:

. . . do I take that to mean it is not necessarily a mandate that we close $2 billion worth of loopholes, but that we could just as well raise the income tax or the corporate income tax $2 billion? You are just talking about $2 billion additional revenue, and the reference to tax expenditures does not necessarily mean so-called loopholes.

Mr. MUSKIE. That is right. The only mandatory number with respect to revenues is the revenue total that we have included.

We have, however, indicated in the report, as we are required, our view as to whether any revenue should be generated by tax reform. We have done that, so our view is in the report, but it is not mandated.

Mr. PACKWOOD. If the Finance Committee's judgment at the end of 2 weeks of hearings and markups, they found it impossible to close $2 billion of loopholes, and they chose to fit within the mandate of the Budget Committee by simply reducing the tax reductions from $17 billion to $15 billion and pick up $2 million that way?

Mr. MUSKIE. That is right.

I read further on:

Mr. PACKWOOD. We are not necessarily committing ourselves to a $2 billion closing of tax loopholes—necessarily.

Mr. MUSKIE. That is right.

* * * * *

Mr. PACKWOOD. Then we are saying to the Finance Committee, "The collective judgment of the Senate is $362 billion. It is up to you, gentlemen, to determine how we go to that figure."

Mr. MUSKIE. Yes. We, of course, would like to have the Finance Committee look at the Budget Committee report to get whatever insight it chooses to take from the Budget Committee's recommendations and the basis for the Budget Committee's judgment.

But in the last analysis, it is the Finance Committee's judgment, and I think the Senators and the Senate subsequently.

Mr. President, I think the legislative committee record is as clear as one could hope to make it that the Senator was making clear that the language which he chooses now to regard as a law, this language that appears in a committee report merely explaining how the Budget Committee reached a figure, was purely for the purpose of indicating how the Budget Committee arrived at a figure; and it was never intended for a moment to be a mandate on the Finance Committee.

As a matter of fact, the logic by which they arrived at that particular $17 billion the Senator is thinking about was really about the same logic that was recommended to them by the Finance Committee—just that you would take a particular figure, because that is what it would cost to extend the present tax cut, with the understanding that we could look at the energy bill to see where suggestions had been made that would help conserve energy, and look at other suggestions that would help improve the tax code, and look at suggestions that would do more good for people who need it more, and look at things that would help raise capital; that within that $17 billion tax cut we could shape up the kind of recommendations we wanted; that the Senate would consider that bill, looking at the recommendations of the committee and considering them on their merits.

I understand how a Senator can feel that he does not agree with a committee exercising its jurisdiction as it does. I know that I look at some of the things recommended by the Appropriations Committee; that if I do not see how we will ever find the money to finance all that, I may offer an amendment or support an amendment to try to reduce it.

But I do not call the Committee on Finance together and ask that we conduct a hearing, call in all the witnesses, or even hold an executive session to pass judgment on the discretion of the Committee on Appropriations, the Committee on Foreign Relations, the Committee on Public Works, the Committee on Armed Services, or some other committee, and attempt to tell them that they are violating the laws or the budget or anything else when they exercise their discretion within that which is assigned to them.

Mr. HOLLINGS. Will the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. HOLLINGS. Will the distinguished Senator yield to permit a vote on this amendment this afternoon?

Mr. LONG. In due time, I am willing to vote on the amendment. I am not willing to say at what time——

Mr. HOLLINGS. Will the Senator yield for a unanimous-consent request to vote not later than 4 o'clock?

Mr. LONG. I will not yield for that purpose.

Mr. HOLLINGS. How about 5 o'clock?

Mr. LONG. I appreciate the freedom that is accorded a Senator to express his opinion. The last thing on earth I would do is deny it to someone else. I respect the right of Senators to explain their views.

Mr. HOLLINGS. What about 6 o'clock?

Mr. LONG. I appreciate the right of Senators to explain their views and, as much as I may differ with what someone has to say, I will fight to the bitter end to defend his right to say it. While I defend my own rights and defend that which I believe to be right, I must also defend the rights of others as well, because that is the only way democracy can function.

Mr. HOLLINGS. Will the Senator defend our right to vote?

Mr. LONG. Of course I will defend the Senators' right to vote. Do not worry, I say to the Senator, the time will come. There will be a time, there is not the slightest doubt about it.

I am not going to urge the Senator to hold his breath until that happens, but I assure him that there will be a time. I urge all the Senators to feel confident that they are going to have an opportunity to vote on this matter.

Does the Senator from Alaska desire that I yield to him?

Mr. GRAVEL. No; I would like to have the floor on my own time.

Mr. LONG. I believe we should have some people here today. I did what I could to help muster a crowd for the Senator from Maine (Mr. MUSKIE), and I think others should have the privilege of speaking to more than a sparsely inhabited Chamber. Therefore, 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. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

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## AUTHORIZATION TO PRINT FEDERAL ENERGY ADMINISTRATION ACT

Mr. JAVITS. Mr. President, on behalf of Senator RIBICOFF, I ask unanimous consent that the Federal Energy Administration Extension Act, passed by the Senate on June 16, 1976, be printed, as there are no copies available for the conference markup.

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

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## QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 24 Leg.]

| | | |
|---|---|---|
| Allen | Hatfield | McGee |
| Byrd, Harry F., Jr. | Hollings | McGovern |
| Curtis | Javits | Muskie |
| Fannin | Long | Packwood |
| Haskell | Mansfield | Pell |
| | McClure | |

The PRESIDING OFFICER. (Mr. HATFIELD) A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

Mr. LONG. What motion?

Mr. MANSFIELD. I ask for the yeas and nays. Directing the Sergeant at Arms.

Mr. LONG. The names of the absentees have not been called.

Mr. MANSFIELD. Not all of them. The motion is in order.

The PRESIDING OFFICER. The motion is in order. The motion is not debatable.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. FORD), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Washington (Mr. MAGNUSON), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr.

Moss), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BARTLETT), the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from New Jersey (Mr. CASE), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nebraska (Mr. (HRUSKA), the Senator from Vermont (Mr. STAFFORD), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 73, nays 1, as follows:

[Rollcall Vote No. 303 Leg.]

YEAS—73

| | | |
|---|---|---|
| Allen | Hart, Gary | Morgan |
| Bayh | Hart, Philip A. | Muskie |
| Brock | Haskell | Nelson |
| Brooke | Hatfield | Nunn |
| Bumpers | Hathaway | Packwood |
| Burdick | Helms | Pastore |
| Byrd, | Hollings | Pearson |
| Harry F., Jr. | Huddleston | Pell |
| Byrd, Robert C. | Humphrey | Percy |
| Cannon | Inouye | Proxmire |
| Chiles | Jackson | Randolph |
| Clark | Javits | Ribicoff |
| Cranston | Kennedy | Roth |
| Culver | Laxalt | Schweiker |
| Curtis | Leahy | Scott, Hugh |
| Domenici | Long | Scott, |
| Durkin | Mansfield | William L. |
| Eagleton | Mathias | Sparkman |
| Eastland | McClellan | Stevens |
| Fannin | McClure | Stevenson |
| Fong | McGee | Stone |
| Garn | McGovern | Taft |
| Glenn | McIntyre | Talmadge |
| Gravel | Metcalf | Tunney |
| Hansen | Mondale | Williams |

NAYS—1

Biden

NOT VOTING—26

| | | |
|---|---|---|
| Abourezk | Dole | Moss |
| Baker | Ford | Stafford |
| Bartlett | Goldwater | Stennis |
| Beall | Griffin | Symington |
| Bellmon | Hartke | Thurmond |
| Bentsen | Hruska | Tower |
| Buckley | Johnston | Weicker |
| Case | Magnuson | Young |
| Church | Montoya | |

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The question is on the amendment of the Senator from Maine.

Mr. LONG. Mr. President, now that we have a few Senators here I would like to announce to the Senate how I propose to proceed with this bill.

It was my plan, Mr. President, that we proceed with this bill in an orderly fashion. It is 1,536 pages long. It is a very complicated bill. It is my feeling that we should proceed with this bill in a sequential order. That is how the Senate has usually legislated on these big revenue bills. We would take it section by section and Senators would offer their amendments at the appropriate location in the bill. They would offer the amendments in the sections which deal with the amendments.

This pending amendment deals with a subject matter in title IV, which has to do with the major tax cuts and the extension of the existing temporary tax cut. That is where it ought to be.

If we are going to have these tax cut amendments offered in title I, which is the limitation on artificial losses, and then these miscellaneous amendments offered, we are going to start this foolishness that I have seen happen before, where somebody wants to amend the table of contents as a substitute for the bill, and everybody is trying to get recognition to jump ahead of the other fellow. We will never pass this tax bill. This thing can go on forever and ever and ever. No one will know half the time what we are talking about, because most of these amendments are very complicated. They are very intricate. They require a good deal of study. When one brings up an amendment which has nothing to do whatever with the subject matter we are considering, it is almost impossible to know where you are or what you are doing.

This is not an amendment to state that the Finance Committee has jurisdiction or does not have jurisdiction. This is not an amendment which has to do with whether the Finance Committee should have reported as it did or the Budget Committee should have reported as it did. This is a big tax cut amendment, the like of which I have found almost impossible to defeat. It is no matter whether it was a committee chairman or the most junior Senator of the Senate, no matter where the Senator hails from, whether he be Democrat or Republican, when one offers a big tax cut amendment which almost 70 million taxpayers would participate in, it is almost impossible to defeat the amendment. It does not matter what the relative merits or demerits are, especially in an election year when Senators find it necessary to go out and seek votes among their constituents.

Mr. President, in due course I will move to table the amendment. If the motion to table fails, I am still going to try to prevail upon the Senate to make the sponsor offer it at the point where it appears in the bill.

We have this subject matter covered in the bill in title IV, except that it does not extend the $35 per head tax cut to everybody for the last 3 months of the budget year from July 1977, next year, until October of that year.

I do not think anybody can tell us whether that temporary emergency tax cut feature of that particular amendment will be needed in July of next year. If it is needed in July of next year, that is something the appropriate committees can consider and something upon which we can vote.

I would hope, Mr. President, that the Senator would be willing to conform with the agreement that I thought I had with those who agree with him in the main, with Messrs. KENNEDY and the others who sponsor this series of amendments, which includes this one; that we will take these amendments up in sequence; that we will deal first with title I, then we will deal with title II, then we will deal with title III. Then we will seek a unanimous-consent agreement which will let those who want to offer their alternative package have the opportunity to bring their matters to a vote more in line with how they would like to see those votes fall in sequence.

I thought we had an agreement, but apparently not.

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

Mr. LONG. Those who I thought had agreed with me seem to feel that this was not agreed to, and that Mr. MUSKIE was not bound by it.

Mr. President, I said in advance that I was going to try to have the Senate proceed in an orderly fashion, if I can. I will try hard, because it will save a lot of time if we can do business in that way.

I yield to the Senator.

Mr. PASTORE. As I understand the controversy, the linch pin is whether we go for a tax cut for 12 months or whether we go for 15 months. Is that the serious question?

Mr. LONG. On one item.

Mr. PASTORE. Therefore, it strikes me that would be about the first question we would have to determine. If the majority of this body decides or wishes that it go for 15 months instead of 12 months, it makes a big difference what we do with the rest of the bill. It makes a big difference on how much money we have to raise. It makes a big difference how much money we have to cut.

I think reasonable people ought to get together. We have been haggling with this thing now for 2 days. All we have done is vote to have us brought to the Chamber. That is about all we have accomplished. There has not been one single vote on substance.

I am telling the Senators that we are becoming the laughing stock of this Nation. If reasonable men in this body cannot seem to get together, how in the world are we ever going to get together with the Russians? It is impossible. Impossible.

Here we are, all Americans, all with one objective, and yet we cannot seem to reach a consensus.

I say this: I think Mr. MUSKIE is a reasonable man. I know RUSSELL LONG is a reasonable man. I know Senator CURTIS is a reasonable man. I know everybody here is reasonable when he wants to be.

[Laughter.]

So I say why do we not stop this nonsense? Here it is, 4 o'clock on Friday afternoon. We have been up the hill and down the hill and I am saying all we have done is fallen on our posteriors. That is about all.

I say, if the Senator will permit—I have not reached my crescendo yet [laughter]—I beg you, I beg you, I beg you, get together and let us work this out.

It is a complicated bill. It is as big as the Bible.

[Laughter.]

I say if we cannot get together here, what do we say to our people back home?

The day after tomorrow is Father's Day. Many of us want to get home to our families, too. I think it is a wonderful thing to keep a family together in America. I hope this does not become an institution to break up marriages. As a matter of fact, if you pick up the papers, we are having enough trouble as it is.

So I say to Mr. LONG, I say to Mr. MUSKIE, I say to Mr. CURTIS, I say to everyone, put your heads together, visit with one another, and let us get down to business.

Mr. LONG. Mr. President, I thought we had gotten to work. I thought we had an agreement that we would vote first on the Nelson amendment, which was a substitute for the committee amendment to strike out title I, and then I thought that we would vote on title I, and that after we voted on titles I and II, there were committee amendments, about 10 of them, but there would be substitutes offered, and we would vote on those, and then we would vote on the substitute for title III, or two or three substitutes, then vote on title III, and then we were going to try to get a unanimous-consent agreement to expedite further consideration of those who have this package they wanted to offer.

We were going along fine, I thought, letting the chips fall where they may, and then suddenly the Senator from Maine comes up with this amendment that belongs back in title IV.

The Senator from Rhode Island has handled these big appropriation bills, and he knows that when you get to an item that deals with a certain subject, and someone has an amendment dealing with something later on in the bill, you say, "That belongs later on in the bill; please wait until we get to that section of the bill."

I thought we had an agreement. But those who support Mr. MUSKIE apparently did not include Mr. MUSKIE himself. I hope we can get an agreement including what the Senator has in mind when we get to that point.

Several Senators addressed the Chair.

Mr. LONG. I yield first to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, yesterday I said somewhat the same thing as the distinguished Senator from Rhode Island has said, though not quite as colorfully.

I think what has happened here, I was under the same impression as the chairman, but what became obvious yesterday and today is that there seems to be a clash of wills as to whether the Budget Committee will take its philosophy and force it upon the Finance Committee and the Senate.

I think that is wrong, because I think the Senate should determine that philosophy item by item, and not by the Budget Committee forcing its will on the entire Senate.

I will state, Mr. President, that I would vote for the Muskie amendment if it were submitted at title IV, but I will vote against the amendment as it is now submitted at title I, because we should have an orderly procedure here. I do not know how the vote will go, but there were other Members of this body who would have supported the Muskie proposal if it were submitted at title IV, who will vote against it at this juncture. So I would hope that the Senator from Maine could see his way along the lines suggested by the Senator from Rhode Island, and see fit to withdraw his amendment.

This is the same amendment submitted by the Senator from Minnesota in the Finance Committee, and it was my understanding that the Senator from Minnesota would submit this particular amendment as an amendment to title IV.

Mr. LONG. Mr. President, I was surely expecting the Senator from Minnesota to submit the amendment when we got to title IV. As a matter of fact, this particular subject, that $35 tax cut, was a brainchild of the Senator from Minnesota (Mr. MONDALE) to begin with. I was fully expecting him to submit this amendment when we got to title IV; and I would welcome it in that order.

Frankly, I had serious doubts that it was within my capacity to defeat that amendment. Nevertheless, I thought that would be the general order in which we were going to proceed, and I wish we could.

Several Senators addressed the Chair.

Mr. LONG. I yield to the Senator from California.

Mr. CRANSTON. I have just one simple question. What did the Senator mean when he said he would make a tabling motion in a timely fashion? Timewise, what did he mean?

Mr. LONG. Well, when the spirit moves me.

I yield to the Senator from Maine.

Mr. MUSKIE. You know, Mr. President, I hear all this talk about the big bludgeon that I carry. But here, at the very same time, I am told that I am bound by an agreement to which I was no party, about which I was never consulted by the Senator from Louisiana or the Senator from Connecticut. Does either of them recall ever talking to me about this agreement on the order of taking up amendments? And I am the bludgeon-bearing Senator?

I very carefully did not cosponsor this package of amendments, because I knew that this kind of accusation would be addressed to me. I separated myself from the sponsors of any amendments. I did not cosponsor any of them, because I wanted to preserve my role as chairman of the Budget Committee quite distinctly.

I left for Maine at 5 o'clock the day before yesterday. I was not on the floor. I was not a party to any amendment. When I was in the very northernmost reaches of Maine, I was told that the Senator from Louisiana had said this. He said:

> I just do not think we ought to be voting on these major amendments with the issue all fuzzed up about whether or not the committee, in proposing an amendment, is in violation of the budget law, and I think we ought to get that clear one way or the other. Once that matter has been resolved, then I think we ought to vote on these amendments on their merits.

I had nothing to do with that statement. I did not dictate it. This is the statement of the Senator from Louisiana. I had left assuming that these amendments would be brought up, because I understand the way in which the Senate operates, one by one. Therefore I would have to expect to miss the first few votes because of a commitment in Maine.

Then I get a hurry-up call: "Senator, you have stopped the Senate in midpassage; they cannot get to a vote or do anything until you come back and have a debate with Senator LONG over this budget issue."

So I came back, and the debate started at 3 o'clock yesterday afternoon. I thought it was a debate that gave each side an opportunity, not to convince the others, but to state its position and to state it clearly; and I offered this amendment, which was the key policy question, as an opportunity, the first opportunity for the Senate to change its mind about the policy of the first budget resolution, and resolve this question.

And I am ready to vote. It is here, unencumbered by any extraneous considerations. It is here. This is the heart of the issue between us, the issue which the Senator from Louisiana said on Wednesday had to be resolved before we went on to vote on any other amendment.

Now, he tells me that I am bound by an agreement, or should be bound by an agreement that he reached with the sponsors of the amendments after I left for Maine. I am not bound by any such agreement, and I will not be bludgeoned into being bound by it.

Several Senators addressed the Chair.

Mr. LONG. Mr. President, let me say this: The amendment the Senator is offering does not face that issue at all. If the Senator wishes to move to recommit this bill with instructions to report the bill from the Senate Finance Committee according to instructions on page 6 of that Budget Committee report, and the Senate wants to vote for that, I will be willing to have a vote on it in 10 minutes, with 5 minutes for debate on each side.

But when you offer a very popular amendment, and say that we would resolve the entire issue by voting for that amendment, which I doubt anyone could defeat, giving tax cuts to that many people in an election year—that is the kind of thing you have the Budget Committee for, to join forces with Senators to try to maintain the budget. When you offer an amendment of that sort, where Senators in an election year can hardly go back home and explain why they did not vote to cut taxes, that, Mr. President, is not on the issue at all.

When we had our discussion I said I could not move to recommite the bill; as far as I was concerned, I was happy with the bill we had before us. The Senator could have moved to recommit the bill, but instead, he chose to take this course, that he will insist on a vote on a very popular amendment for tax reductions for a lot of people, and he will vote for something to tax various people that he regards as rich.

He will vote for that type of pattern. Having done that, he will then say his committee has been upheld and the Finance Committee has been repudiated, and his committee is, therefore, under

orders to instruct and mandate the committee just exactly contrary to what he said in the Chamber when he had the budget resolution before him. If the Senator wants to proceed in that fashion to offer and support an amendment he thinks has overwhelming popularity because it costs the Treasury tremendous amounts of money, then he can proceed in that fashion, but he ought to take his turn in line with other Senators.

The Senator has managed bills in the Chamber. He has managed many of them.

Mr. MUSKIE. Will the Senator explain that statement? The Senator says to me I ought to be content to take my turn. Will the Senator tell me what my turn is under the rules of the Senate?

Mr. LONG. There is no rule.

Mr. MUSKIE. What is my turn there?

Mr. LONG. There is no rule that makes him do it. I stated that when I talked to those offering amendments.

Mr. MUSKIE. I already told him they were not speaking for me.

Mr. LONG. Please understand. I am saying what I said. I am not saying what the Senator said. Please let me say what I said. I told Senators who agree with me and disagree with me that I am going to try to the extent that I can to move this bill in an orderly fashion and to move these amendments in sequence because to do otherwise leads us to the chaotic situation that I have seen happen in this Senate on revenue bills and others where no Senator knows what he is talking about and every Senator is trying to grab some sort of advantage in being the first to be recognized or first to have an amendment in, engaging in all sorts of parliamentary tactics, and the Senate would save a great deal of time in the long run to simply proceed orderly, section by section, and offer the amendments to the sections as we go through. If any Senator is not happy by the time we are through offering the amendment at the end of the bill or, if he wishes, he can offer a substitute for the entire bill.

Mr. HASKELL. Mr. President, will the Senator yield.

Mr. LONG. I will yield to the Senator from Colorado. I will afterwards return to the Senator from Maine.

Mr. HASKELL. I mentioned to the distinguished floor manager of the bill my recollection of the meeting that the Senator refers to with the Nelson, et al, amendment. The only decision that I recollect was that the various parts of the Nelson amendment would be taken up as the sections affected appeared in the bill. I am sure that a great many of us have amendments, and I personally would not want to be bound to take things up section by section on other amendments. But my recollection was that it related to the Nelson, et al, amendment, and I mention that to the distinguished floor manager of the bill.

Mr. MUSKIE. I can understand the frustration. As chairman of the committee he brings a bill to the floor. He gets impatient with the rest of the Senate who does not follow his idea and the order in which business ought to proceed. I felt the same frustration as the chairman of the Budget Committee. I have felt it in the last 2 days. I have had my ideas of what the budget resolution states. There are procedures that ought to be followed to change it if we wish to change it.

When I say that, I am accused of trying to bludgeon the rest of the Senate into doing things my way.

The Senator is telling us, his view of the way we ought to do this is to begin with the first title and go through it section by section. That makes sense to an orderly mind. But, unfortunately, the Senate is not an orderly institution.

What we are trying to do, he as well as I, is to press a point of view in which we believe deeply.

I do not think the record of the last 18 years suggests that I am a Senator who engages in frivolous parliamentary games. Indeed, I feel somewhat at a loss because I am not that familiar with the rules or that adept at using them. So I do not think the record shows that I played frivolously in the Chamber or that I like to kill time or that I like disorder.

I have raised this issue for only one reason, whether the Senator believes it or not. If he believes what he has just said, I know he will not believe what I say. I did not offer this amendment as a new tax cut. In my judgment, this policy was adopted by the Senate in May. It is not new. I know the Senator disagrees with me on that point. The Senator has to believe this. I say that not frivolously because I believe it. In believing it, I believe it to be central to the resolution of this tax bill.

I have a memo from the CBO that tells me the economic assumptions behind the revenue figures of the first concurrent resolutions are still valid. There is a policy represented by them. I requested the memorandum because of the colloquy I had earlier with Mr. PACKWOOD.

As I said in that colloquy, when there were fewer Senators in the Chamber, this is not simply one number in the resolution. What we do about revenue affects every other number in the resolution. It affects what we spend for welfare programs, unemployment compensation, and all of the programs on which the poor rely when they are out of work. It affects the pace at which the economy moves. It generates private income, private investment, and so on.

So the revenue issue is a very central one, and central to all the revenue issues in this bill is the question of what we do about the policy that was adopted by the whole Congress last May. That is why I do not expect with another speech, meaning what I said before, to persuade the Senator from Louisiana. With the Senator having said what he has said, I have to make clear in the record that my purpose is straightforward. It is not dilatory. It is not frivolous. And it is not intended simply to frustrate him. It is to put before the Senate in the only way I know what I regard to be the key issue in a timely fashion because I think once we resolve that issue—the Senator may have the votes—as chairman of the Budget Committee, I will accept the decision, because that is my duty. But I think it needs to be resolved. Once we do it we can then proceed in an orderly and more expeditious fashion with the rest of the bill. I think all Senators who were not party to that agreement are not necessarily going to be bound by the agenda that has been laid down, but I think they would try to respect it as best they can, and I will, also.

But if the Senator had not raised this issue on Wednesday evening, I would not be here doing this now. I would have waited in accordance with whatever scheme had been arranged in my absence on the assumption that since I was absent I forfeited some part of my right to control the order of things. But since in my absence I was challenged to meet what the chairman of the Finance Committee said was the key issue to be decided before the other amendments were to be acted upon, then I came back to do my duty, and I have tried to do it.

SEVERAL SENATORS. Vote!

Mr. PACKWOOD. Mr. President, when there were fewer Senators in the Chamber, Senator MUSKIE and I did have a colloquy, and I stated some conclusions which I think were not rebutted, about the policy implications behind the budget report—that is the report, not the resolution—because I think we are now very close to agreement. The question is, shall the Senate change, if that is what we are doing, in accordance with the economic facts which have changed since we adopted the budget resolution, or are we going to willy-nilly chip those assumptions in concrete, and say, "No matter what circumstances may have changed, we are not going to change."?

When the budget resolution was presented to this Senate, the facts of the economic projections in the report were one thing.

Today, they change. The projections on unemployment are that unemployment will be lower than when the budget resolution was before the Senate. The projections are that the real gross national product will be higher than when we considered the budget resolution. The projections are that inflation will be lower than when we considered the budget resolution. In other words, every economic consideration that went into that report—and again I emphasize "report"—is now better.

Mr. KENNEDY. Mr. President, will the Senator yield on that point?

Mr. PACKWOOD. I yield.

Mr. KENNEDY. I heard the Senator make this argument earlier, and I am listening to it again. I am not really sure that it is responsive to the points that the Senator from Maine has made. I do not want to delay the opportunity for an early vote. But as I understand it, at the time of the budget resolution, unemployment was projected at 7 percent by the end of 1976, and the projection is about 6.8 percent at the present time. So not much has changed there.

GNP was estimated at $1,685 billion. Now it is estimated at $1,692 billion. So not much has changed there.

In terms of real GNP, the figure shifts from $1,262 billion to $1,270. The Senator cannot make a great deal out of this change.

However, I listened to the Senator from Oregon talking about how the economic situation is so dramatically different from what the budget resolution was actually based on. I do not believe the case has been made.

What is being proposed by the Senator and the committee, on the other hand, is a $10 billion tax increase for the economy next June. That is what the Finance Committee has recommended, with all the implications that has in terms of shifting from stimulants to restraint in fiscal policy. That could be a cold bath for the economy, which is not what the economy needs.

I, for one, was unconvinced by the earlier explanation. And in reviewing the facts and statistics more closely, I remain unconvinced at the present time as to any possible justification for such a dramatic tax increase as is being suggested by the Finance Committee—$10 billion.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. PACKWOOD. I want to respond, first.

It was not $10 billion. The Budget Committee's projection is that this tax cut terminates October 31. The Finance Committee projects the termination as of June 30. So we are talking about one-quarter and that is $1.8 billion.

Mr. KENNEDY. Could I ask——

Mr. PACKWOOD. No.

The Senator from Massachusetts confirms what I said about the economic projections. I did not use the word "dramatically." I said they are better.

Mr. KENNEDY. I just have a very brief point. They are getting better, because the budget resolution was based on the projections that they would be getting better. The numbers are coming in right on the nose. Nothing is different.

Mr. PACKWOOD. Mr. President——

The PRESIDING OFFICER (Mr. BROCK). The Senator from Oregon has the floor.

Mr. PACKWOOD. I did not say "dramatically." I said they are improved over the assumptions that we were operating under at the time the budget resolution was adopted. They may improve again. They may improve much better than our present projections. They may not. Who knows? But all we are talking about is not a $10 billion difference. We are talking about the difference of the Budget Committee's termination of this tax credit on October 31, as opposed to June 30 by the Finance Committee.

By the way, I hope we have laid to rest the argument that has been made several times, that it is inevitable that we are going to extend this tax credit—inevitable. The Senator from Maine made that comment. Yet, 2 months ago he was saying there is nothing inevitable.

Mr. MUSKIE. Mr. President, will the Senator yield on that point?

Mr. PACKWOOD. I yield.

Mr. MUSKIE. The Senator is quoting me as using the word "inevitable" in a colloquy with me last spring on the budget resolution. Now he has transferred it to something I am alleged to have said here. I did not say "inevitable." I said "highly likely," and I still think it is highly likely.

On the question of the state of the economy, I ask unanimous consent to have printed in the RECORD the testimony by Arthur Okun yesterday before the Joint Economic Committee constituting a midyear review of the economic situation. This is what he has to say about the budget program we adopted:

> If that budget program is implemented, if the strength of private demand lies in the middle of the likely range, and if the Federal Reserve finances a healthy recovery at reasonably stable interest rates (even if that should require more rapid growth of money), I would expect a growth rate of about 6 percent continuing in 1977. That outcome would not be ideal; but neither would it be unacceptable, particularly allowing for the possibility of further adjustment to this fiscal program late this year or early in 1977.

That 6-percent growth rate, I think, is the same growth rate that we projected in the budget resolution of last spring.

I understand that there are other economists who may disagree with Arthur Okun, although I find that economists, even though they vary widely in the medicine they prescribe at any given moment, are pretty much in agreement about the current state of the economy over the past year and a half. So I would be surprised if they differed markedly from that.

In the preceding paragraph Mr. Okun says:

> In my judgment, that criterion of prudence is met by the First Concurrent Resolution for FY 1977, which calls for $413 billion in federal outlays, the extension of the current tax cuts, and additional revenues of $2 billion through tax reform.

So he endorses a continuation of the policy that is asumed in the first concurrent resolution.

I ask unanimous consent to have Mr. Okun's statement printed in the RECORD.

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

STATEMENT BY ARTHUR M. OKUN

This is one year in which most economic forecasters do not have to scrap their January forecasts in June. Indeed, for those of us who were on the bullish end of the range at the start of the year, updating the outlook involves relatively minor alterations rather than the production of a brand new model. Those minor alterations move in a favorable direction—a fractional upward revision in the rate of real growth and a fractional downward revision in the inflation rate.

As always, the economy has presented some interesting puzzles: (1) The inventory turnaround proceeded with unusual rapidity, providing a bonus in the growth of real GNP during the first quarter. But that is a one-time bonus rather than a source of sustained growth. (2) The consumer has continued to display a curious pattern of shop, stop, and shop again. In the past year, there have been two shopping sprees which occurred last spring and this winter, and two pauses, taking place last fall and again this spring. I expect the present pause to be followed by another shop-again interval. (3) Plant and equipment spending and homebuilding have been rather disappointing, offsetting some of the stronger performance of consumer buying and the inventory turnaround. (4) Unemployment has fallen somewhat more sharply than seemed likely. The analysis of this puzzle is complicated by the recent inconsistency of our two sets of data on employment. Reports from households (on which unemployment statistics are based) show much larger job gains than the typically more reliable reports from employers. (5) Interest rates have been remarkably stable and moderate, largely because private demands for money and credit have been unusually weak. (6) Wages have behaved with exceptional moderation, providing the main basis for the slightly improved inflation outlook.

These are the kinds of subtle issues that make life interesting for economists. In the broad perspective that is relevant to policy-making, the main verdict is that the expansion has remained on track and that the range of uncertainty about its vigor has narrowed. On the one hand, it is now much safer to discount the possibility of a jack-in-the-box rebound, such as have followed some very deep recessions in the past. In particular, one can now dismiss as demonstrably wrong the criticisms of 1975 that the Congress was excessively stimulating the economy. On the other side, the recovery has refuted the pessimistic views expressed by some observers that the recession had permanently damaged the vitality of the American economy.

All in all, we are experiencing a very normal and typical recovery out of a business-cycle recession. The key distinguishing feature is that this standard-size recovery follows a double-size recession. Consequently, the level of operation of this economy (as reflected in the unemployment rate, industrial operating rates, and the shortfall of output and real income below prosperity levels) is now similar to that at the troughs of previous post-war recessions rather than at comparable points after one year of recovery. The state of the economy is improving but, having begun at such an abysmal position, we have a long, long way to go to regain prosperity.

FUTURE PROSPECTS

From the first quarter of 1975 to the first quarter of 1976, real GNP advanced 7.1 percent. I expect the growth rate to remain fairly brisk during the remainder of 1976—probably in the 5 to 7 percent range—but not to match the vigor of the first year of recovery. The main reason for anticipating some slowdown is that the shift from massive inventory liquidation to more normal inventory accumulation is largely behind us. The inventory turnaround was a key factor that contributed 2½ percentage points to the 7-plus growth rate over the past year. I do not welcome any slowdown at this point. A maintenance of the pace of the past year would be a desirable, indeed a conservative goal, in my judgment. Yet, to make such an encore a likelihood would require an additional stimulative fiscal and monetary program at the present time.

Taking account of the risks on all sides, I do not recommend such an initiative. For one thing, I can see the possibility—although not the probability—that a sudden revival of plant and equipment spending and multifamily homebuilding late this year could produce excessive growth if it were accompanied by additional fiscal and monetary stimulation. Furthermore, I would agree with the judgment that Chairman Greenspan expressed to you last week: "Our capacity to brake federal outlays or to raise taxes is exceptionally limited." There is an asymmetry in the adjustments that can be realistically implemented during the course of the fiscal year; a shift toward stimulus, if it should become desirable, is more readily accomplished than one toward additional restraint. Hence, it seems prudent to base our current policy planning on a very optimistic assessment of the forthcoming vigor of private demand, counting on our ability to reduce

fiscal restraint subsequently if private demand proves to be less buoyant.

In my judgment, that criterion of prudence is met by the First Concurrent Resolution for FY 1977, which calls for $413 billion in federal outlays, the extension of the current tax cuts, and additional revenues of $2 billion through tax reform. As I calculate the fiscal impact of this program, it involves some $11.6 billion less of restraint than the Administration's January program. Hence, it is more restrictive than the proposal I offered in testimony to the House Committee on the Budget on January 27, when I recommended adding $16 billion to $18 billion of stimulus to the Administration's program. My initial preference still stands, but I can accept the First Concurrent Resolution as a major improvement over the Administration program. It avoids an abrupt fiscal tightening; although it shifts somewhat toward restraint, it can be reasonablly characterized as a "steady-as-you-go" budget in sharp contrast to the Administration proposal. In particular, it heeds Senator Humphrey's wise warnings against "unwise or premature government policies [that would] sap . . . vitality and prevent full recovery."

If that budget program is implemented, if the strength of private demand lies in the middle of the likely range, and if the Federal Reserve finances a health recovery at reasonably stable interest rates (even if that should require more rapid growth of money), I would expect a growth rate of about 6 percent continuing in 1977. That outcome would not be ideal; but neither would it be unacceptable, particularly allowing for the possibility of further adjustment to this fiscal program late this year or early in 1977.

THE INFLATION PROBLEM

Obviously, the reason for moderation in our targets for recovery lies in our serious concern about inflation. An objective professional economist must report that there is a tradeoff. Beyond a doubt, a speedy return to full employment would be followed by an acceleration of inflation. And the political backlash to intensified inflation would produce another fiscal-monetary bloodletting that, in turn, would bring on a new recession.

There are, to be sure, a great many uncertainties about the quantification of the tradeoff. In my judgment, the basic inflation rate today is somewhere between 5 and 6 percent for prices and close to 8 percent for wages. Such inflation rates are uncomfortably high; after so severe a recession, it is disappointing that prices are still rising at a more rapid rate than was experienced in any year between 1952 and 1969.

On the present outlook, I am projecting a continued inflation rate of 5 to 6 percent through 1977. But that reflects my feeling that it is as likely to decelerate as to accelerate rather than any conviction that it will stabilize. Most important, I do not believe that the inflation outlook can be significantly improved by slowing down the recovery. Indeed, whether the growth of real GNP between now and the end of 1977 is as low as 4 percent or as high as 7 percent would have negligible effects on the outlook for inflation.

A careful reading of the data on labor markets and on manufacturing capacity today confirms emphatically that this economy has plenty of room for brisk expansion through the 1977 fiscal year. This country is miles away from excess demand. If wages should accelerate sharply, if industrial prices should be marked up at an accelerating rate, the source must be found in the nature of our wage- and price-making institutions rather than an overheated economy.

Indeed, if those institutions have such a strong inflationary bias that they intensify inflation even with the pervasive slack in today's economy, we ought to determine that fact, face up to it, and deal with it fundamentally. It is hard to say how much the bumpy economic ride of the seventies should be blamed on erratic fiscal-monetary driving and how much on potholes in the road caused by inflationary bias in wages and prices. If potholes are the problem, then going slow is no solution. In that event, we will simply have to repair the road. Meanwhile I would urge you to maintain a steady speed and a steady course and to test the viability of the road.

Mr. PACKWOOD. I am curious whether the Senator from Maine has altered the transcript of the reporter's notes about his comments at 12:15.

Mr. MUSKIE. I did not hear the Senator.

Mr. PACKWOOD. Has the Senator from Maine altered the transcript of the reporter's notes as to his comments about inevitability?

Mr. MUSKIE. I say to the Senator that I have not been in that office in years. My staff may have been in there, because they sometimes go back to clarify some of my bumblings on the floor.

Did I use the word "inevitable"?

Mr. PACKWOOD. Yes.

Mr. MUSKIE. Then, I apologize to the Senator, but I still think he made too much of it.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield to the Senator, because he has been on his feet a long time, seeking recognition.

Mr. MONDALE. One of the things that bothers me about the Finance Committee bill is that there are a whole host of tax reductions, some of them new to the tax law, that are found in this bill and made permanent.

There is, for example, the provision making permanent the investment tax credit at 10 percent, a very liberal level, rising to 12 percent if a corporation adopts an employee stock ownership plan. That costs, I believe, more than $9 billion.

If we look through the index, there are proposals designed to provide a tax credit for recycling material at a cost of several hundred million dollars, and these proposals are made permanent.

We have in here, for the first time, a rebatable investment tax credit. In other words, even though corporations may be making a lot of money, they may not owe taxes due to tax preferences, deductions, and the rest. If so, we will send them a check in the amount of the excess tax credit; because they have had so many loopholes they do not owe anything, and it is only fair to send them some money out of the Treasury. That is permanent.

As a matter of fact, if we look at the total of these tax cuts, by 1981 there is mandated permanently in this bill about $1.3 billion a year in lower taxes for corporations, and more than $10 billion in increased taxes for ordinary people.

For example, we have here, on a permanent basis, a new wrinkle, which puts a cap of 50 percent on the tax rate for unearned income. In other words, no matter how much money you take in that is unearned, your tax rate, under this complicated formula, will rarely exceed 50 percent.

That is permanent. Now, the argument by the Senator from Oregon seems to say that in managing this economy, there is only one thing we can use to slow it down, and that is reducing this modest amount of personal income tax reductions found temporarily in the law. All the things we have done for the wealthy, all the things we have done for the corporations have to be locked up permanently, and it is only the individual tax cut, that amount to $180 for each family, that is subject to being held hostage in this bill. I want to know why we picked on the average income taxpayer.

Mr. PACKWOOD. I yielded for a question, Mr. President.

Mr. MONDALE. That is my question.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. PACKWOOD. The Senator from Minnesota will look in vain in this RECORD to find any statement I have ever made, on this floor or in the Finance Committee, that any tax is locked in permanently. I do not like "permanent" taxes. My voting pattern is to try to put termination dates on all taxes so they have to be reviewed. The distinguished majority leader, the Senator from Montana (Mr. MANSFIELD) had an excellent idea several years ago, when he proposed that all taxes have to terminate after a 3-year period and we have to review them. I thought it was an excellent idea, and I supported it. Just because we have made some taxes "permanent" by taking off the termination date does not mean those taxes are not going to end. Anybody who has served in this body knows that. We have changed taxes, started taxes, altered taxes, finished taxes that allegedly were "permanent."

Mr. MONDALE. Will the Senator yield?

Mr. PACKWOOD. No, I shall not yield.

Mr. MONDALE. I want to know how we singled this particular tax out.

Mr. PACKWOOD. Mr. President, I said I will not yield.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. PACKWOOD. All I hear the opponents say over and over, is that we have made the statement that it is inevitable that it is going to be extended. It is not inevitable. It may not be extended. We may end one of the "permanent" taxes that we have made permanent instead and extend this. There is no guarantee as to what we might do. There is no guarantee as to what the next Congress might do. It may greatly depend upon whether President Ford is elected or Jimmy Carter is elected—pardon me, I make a bow to Governor Reagan. For us to sit here and seriously, seriously think to ourselves that we know what we are going to do next April, May, or June is not only foolish, if I were to make any single bet, I would be willing to bet that what we say today we will do next June, we will not do.

Mr. MONDALE. Will the Senator yield?

Mr. PACKWOOD. For what purpose?

Mr. MONDALE. For a question.

Mr. PACKWOOD. Yes.

Mr. MONDALE. There is one thing we do know: If we pass this Finance Com-

mittee bill and we do nothing else, there is a whole host of tax preferences and loopholes for big corporations and the rich in the amount of billions of dollars that go on forever. But the preferences now in the law—nothing new—the tax credits and deductions for the average family, amounting to $9 billion, are the only things that expire by law next July.

Why? Why have we singled out, out of a whole tax law, the individual and family taxpayers of this country? I will tell you why I think: Because in order to finance the loopholes, we had to take it away from the others.

Mr. PACKWOOD. I yielded for a question, Mr. President.

Mr. MONDALE. That is my question.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. LONG. Will the Senator yield?

Mr. PACKWOOD. Yes, I yield.

Mr. LONG. Is this not true: The bill that we bring to the Senate does more for the poor and the low-income taxpayers than the bill that some of our liberal friends applauded which came from the House of Representatives? We added the earned income credit. Some poor people are not making enough to pay an income tax, so they get something from the Treasury instead.

We have made a low-income allowance by increasing the minimum standard deduction. And even with regard to this benefit to the family that the Senator would like to talk about, it is not $180. I discussed that with Mr. MUSKIE. That just shows how the Budget Committee technicians will have to work many, many years, and probably go back to college and take added courses, before they will ever begin to acquire anything like the expertise of those who advise us on the Senate Committee on Finance. It is not $180 when they get through with their arithmetic. It is $36. Even the $36 is not enjoyed by the really low-income families.

That is far from what we are led to believe we are talking about. We have all sorts of provisions in here to help mothers have day care for their children and to help people insulate their homes and matters of that sort. We improve on the retirement income credit—there are all sorts of things in here to help individuals.

When the Senator talks about $9 billion on the investment tax credit, he is talking about the entire cost of the investment tax credit, all 10 points of it, not just the cost of extending the 3 points that were added in recent law to try to get the economy going.

I ask the Senator, who was it who started the investment tax credit? Who recommended and sent us the investment tax credit?

Mr. PACKWOOD. President Kennedy.

Mr. LONG. It was President Kennedy's administration that did that. I helped put that into law.

Whose administration was it when it became fully effective? Was it not Lyndon Johnson, a Democratic President? Why did he recommend that? Because he thought it would provide a lot of jobs.

Does the Senator know of anything that has been more effective in getting the economy moving or providing jobs for people than the investment tax credit?

Mr. PACKWOOD. I know when we were in the Finance Committee, we had those charts and we had those two bar graphs. Year after year, when the investment credit went up, the jobs went up. When the investment credit went down, jobs went down. I am not an economist, but there seemed to be a direct correlation between investment and jobs.

Mr. LONG. And when the investment tax credit went on, far from the corporations paying less taxes, they paid more and when the investment tax credit went off, far from the corporations paying more taxes, they paid less. So what would appear to be a tax cut for corporations brought more money to the Government and what would appear to be a tax increase for the corporations brought less money to the Government, because it was very effective in stimulating more economic activity, more jobs, and putting more people to work in this country.

Is it not true that every time we put the investment tax credit on, the economy picked up?

Mr. PACKWOOD. It is.

Mr. LONG. And every time we took the investment tax credit off, the economy went down?

Mr. PACKWOOD. That is true.

Mr. BUMPERS. Will the Senator yield?

Mr. ALLEN. Will the Senator yield for a parliamentary inquiry?

Mr. PACKWOOD. I yield to the Senator from Alabama, yes. He has been on his feet for some time.

Mr. ALLEN. Do not the Senate rules provide that no Senator can speak more than twice during a legislative day on a particular subject before the Senate?

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLEN. I think if the Senators would abide by that rule, we would get this issue to a vote.

SEVERAL SENATORS. Vote!

Mr. BUMPERS. My question is that the floor manager, the distinguished chairman of the Senate Committee on Finance, said he was going to move to table the amendment of the Senator from Maine. I would like to know whether or not he can tell us when he is going to do that.

Mr. PACKWOOD. I would like to ask if the Senator from Louisiana wants me to yield. I think he is asking the Senator rather than me.

Mr. LONG. I am not going to do it right this minute. If I were, I would make the motion right this minute.

Mr. BUMPERS. Will the Senator make the motion in the next hour?

Mr. LONG. I have just not decided. I shall make up my mind when the time comes.

Mr. NELSON. Will the Senator yield for a question of the Parliamentarian?

Mr. PACKWOOD. Yes.

Mr. NELSON. The Senator from Alabama called attention to the Senate rule that no Member is entitled to speak more than twice on the same subject on the same day. I raise the point of order that just about everybody but me has already done that. The Senator from Oregon has, the Senator from Louisiana has, the Senator from Maine has. So if that is correct, I intend to object to any further remarks by any of them.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT 1899

Mr. LONG. I send to the desk an amendment and ask that the clerk read it.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment.

Mr. LONG. Mr. President, the clerk has not read the amendment.

The legislative clerk resumed reading the amendment.

Mr. HUMPHREY. Mr. President, a point of order. Is there not an amendment pending?

Mr. LONG. Regular order, Mr. President.

The PRESIDING OFFICER. This is an amendment to the amendment.

Mr. HUMPHREY. Have we acted on the committee amendments?

The PRESIDING OFFICER. This is an amendment to the amendment.

Mr. HUMPHREY. I asked, have we acted on the amendment?

The PRESIDING OFFICER. No, but this is an amendment to the amendment to the language proposed to be struck; therefore, the amendment is in order.

The legislative clerk resumed the reading of the amendment.

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

Mr. LONG. I object.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to read.

The legislative clerk continued to read the amendment.

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

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

The amendment is as follows:

AMENDMENT No. 1899

On page , line , insert the following:

SUBTITLE A—AMENDMENTS OF INTERNAL REVENUE CODE GENERALLY

SEC. 1300. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or re-

peal is expressed in terms of an amendment to, repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 1301. AMENDMENTS OF SUBTITLE A; INCOME TAXES.

(a) IN GENERAL.—

(1) AMENDMENT OF SECTION 2.—Subsection (c) of section 2 (relating to certain married individuals living apart) is amended to read as follows:

"(c) CERTAIN MARRIED INDIVIDUALS LIVING APART.—For purposes of this part, an individual shall be treated as not married at the close of the taxable year if such individual is so treated under the provisions of section 143(b)."

(2) AMENDMENT OF SECTION 11.—Subsection (c) of section 11 (relating to the surtax imposed in corporations) is amended to read as follows:

"(c) SURTAX.—The surtax is equal to 26 percent of the amount by which the taxable income exceeds the surtax exemption for the taxable year."

(3) REPEAL OF SECTION 35.—Section 35 (relating to partially tax-exempt interest received by individuals) is repealed.

(4) AMENDMENT OF SECTION 37.—Section 73(a) (relating to credit for retirement income) is amended by striking out "17 percent, in the case of a taxable year beginning in 1964, or 15 percent, in the case of a taxable year beginning after December 31, 1964," and inserting in lieu thereof "15 percent".

(5) AMENDMENT OF SECTION 39.—Section 39 (relating to certain uses of gasoline, special fuels, and lubrication oil) is amended by striking out subsections (b) and (c) and inserting after subsection (a) the following new subsection:

"(b) EXCEPTION.—Credit shall not be allowed under subsection (a) for any amount payable under section 6421, 6424, or 6427, if a claim for such amount is timely filed and, under section 6421(i), 6424(f), or 6427(f), is payable under such section."

(6) AMENDMENTS OF SECTION 46.—

(A) The second sentence of section 46(a)(3) is amended by striking out "section 408(e)" and inserting in lieu thereof "section 408(f)".

(B) The first sentence of section 46(b)(1) (relating to carryback and carryover of unused investment credit) is amended by striking out ", except that such excess may be a carryback only to a taxable year ending after December 31, 1961".

(C)(i) Section 46(b) (relating to the investment credit) is amended by striking out paragraph (4) (relating to carrybacks of an unused credit to certain taxable years beginning before 1962), and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(ii) Section 46(b)(5)(B), as redesignated by clause (i), is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)", and by striking out "paragraphs (1), (2), and (5)" and inserting in lieu thereof "paragraphs (1), (2), and (4)".

(D) Clause (iii) of section 46(c)(3)(B) (relating to public utility property is amended by striking out "47 U.S.C., sec. 222(a)(5)" and inserting in lieu thereof "47 U.S.C. 222(a)(5)".

(7) AMENDMENTS OF SECTION 48.—

(A) Section 48(a)(2)(B)(vi) (relating to section 38 property used outside the United States) is amended by striking out"; 43 U.S.C., sec. 1331)" and inserting in lieu thereof" (43 U.S.C. 1331))".

(B) Section 48(a)(2)(B)(viii) is amended by striking out "47 U.S.C., sec. 702" and inserting in lieu thereof "47 U.S.C. 702"

(8) AMENDMENT OF SECTION 50A.—The second sentence of section 50A(a)(3) (relating to liability for tax) is amended by striking out "section 408(e)" and inserting in lieu thereof "section 408(f)".

(9) REPEAL OF SECTION 51.—Subchapter A of chapter 1 is amended by striking out part V (relating to tax surcharge).

(10) AMENDMENT OF SECTION 56.—Section 56(c) (relating to tax carryover) is amended by striking out "to which excess may be carried" and inserting in lieu thereof "to which such excess may be carried".

(11) AMENDMENTS OF SECTION 57.—

(A) Section 57(a) (relating to items of tax preference) is amended by striking out paragraph (1) (relating to excess investment interest for taxable years before 1972).

(B) Section 57(a) is amended by striking out the last two sentences and inserting in lieu thereof the following: "Paragraph (3) shall not apply to a corporation other than an electing small business corporation (as defined in section 1371(b)) and a personal holding company (as defined in section 542)."

(C) Section 57 is amended by striking out subsection (b) (relating to rules regarding excess investment interest) and redesignating subsection (c) as subsection (b).

(12) AMENDMENTS OF SECTION 62.—

(A) Section 62 (relating to definition of adjusted gross income) is amended by redesignating paragraph (11), as added by the Act of October 26, 1974 (Public Law 93-483), as paragraph (12).

(B) Section 62(12), as redesignated by subparagraph (A) of this paragraph, is amended by striking out "trade or business to the extent" and inserting in lieu thereof "trade or business, to the extent".

(13) DEFINITION OF ORDINARY INCOME AND ORDINARY LOSS.—Part I of subchapter B of chapter 1 (relating to definitions of gross income, adjusted gross income, and taxable income) is amended by adding at the end thereof the following new sections:

"SEC. 64. ORDINARY INCOME DEFINED.

"For purposes of this subtitle, the term 'ordinary income' includes any gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231(b) and any other gain which, under other provisions of this subtitle, is to be treated as gain from the sale or exchange of property which is not a capital asset nor property described in section 1231(b).

"SEC. 65. ORDINARY LOSS DEFINED.

"For purposes of this subtitle, the term 'ordinary loss' includes any loss from the sale or exchange of property which is not a capital asset and any other loss which, under other provisions of this subtitle, is treated as loss from the sale or exchange of property which is not a capital asset."

(14) AMENDMENTS OF SECTION 72.—

(A) Section 72(d)(1) (relating to employees' annuities) is amended by striking out "(whether or not before January 1, 1954)" and by striking out "(under this paragraph and prior income tax laws)".

(B) Section 72(m)(4)(A) (relating to assignments or pledges) is amended by striking out "an individual retirement amount" and inserting in lieu thereof "an individual retirement account".

(15) REPEAL OF SECTION 76.—Section 76 (relating to mortgages made or obligations issued by joint stock land banks) is repealed.

(16) AMENDMENT OF SECTION 83.—Section 83(b)(2) (relating to election to include the value of restricted property in gross income) is amended by striking out "(or, if later, 30 days after the date of the enactment of the Tax Reform Act of 1969)".

(17) AMENDMENT OF SECTION 101.—Section 101 is amended by striking out subsection (f) (relating to effective date of section).

(18) AMENDMENTS OF SECTION 103.—

(A) Section 103(a) (relating to tax-exempt interest) is amended to read as follows:

"(a) GENERAL RULE.—Gross income does not include interest on the obligations of a State or a possession of the United States, or any political subdivision of any of the foregoing, or of the District of Columbia."

(B) Section 103 is amended by striking out subsection (b) (relating to certain exceptions) and by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(C) Section 103(b)(1) (relating to industrial development bonds), as redesignated by subparagraph (B) of this paragraph, is amended to read as follows:

"(1) SUBSECTION (a) NOT TO APPLY.—Except as otherwise provided in this subsection, any industrial development bond shall be treated as an obligation not described in subsection (a)."

(D) Section 103(b)(6)(G) (relatiing to limitation on loss of tax exemption), as redesignated by subparagraph (B) of this paragraph, is amended by striking out "subsection (a)(1)" and inserting in lieu thereof "subsection (a)".

(E) Section 103(c)(1) (relating to arbitrage bonds), as redesignated by subparagraph (B) of this paragraph, is amended to read as follows:

"(1) SUBSECTION (a) NOT TO APPLY.—Except as provided in this subsection, any arbitrage bond shall be treated as an obligation not described in subsection (a)."

(F) Section 103(c)(2)(A) (relating to definition of arbitrage bonds), as redesignated by subparagraph (B) of this paragraph, is amended by striking out "subsection (a)(1)" and inserting in lieu thereof "subsection (a)".

(G) Section 103(d) (relating to certain cross references), as redesignated by subparagraph (B) of this paragraph, is amended to read as follows:

"(d) CROSS REFERENCES.—

"For provisions relating to the taxable status of—

"(1) Puerto Rican bonds, see section 3 of the Act of March 2, 1917, as amended (48 U.S.C. 745).

"(2) Virgin Islands insular and municipal bonds, see section 1 of the Act of October 27, 1949 (48 U.S.C. 1403).

"(3) Certain obligations issued under title I of the Housing Act of 1949, see section 102(g) of title I of such Act (42 U.S.C. 1452(g))."

(19) AMENDMENTS OF SECTION 104.—

(A) Section 104(a)(4) (relating to exclusion of compensation for injuries or sickness) is amended by striking out "; 60 Stat. 1021".

(B) Section 104(b)(2) is amended to read as follows:

"(2) For exclusion of part of disability retirement pay from the application of subsection (a)(4) of this section, see section 1403 of title 10, United States Code (relating to career compensation laws)."

(20) AMENDMENT OF SECTION 115.—Section 115 (relating to income of States, municipalities, etc.) is amended to read as follows:

"SEC. 115. INCOME OF STATES, MUNICIPALITIES, ETC.

"Gross income does not include—

"(1) income derived from any public utility or the exercise of any essential governmental function and accruing to a State or any political subdivision thereof, or the District of Columbia; or

"(2) income accruing to the government of any possession of the United States, or any political subdivision thereof."

(21) AMENDMENT OF SECTION 116.—Subsection (a) of section 116 (relating to partial exclusion of dividends received by individuals) is amended by striking out "Effective with respect to any taxable year ending after July 31, 1954, gross income" and inserting in lieu thereof "Gross income".

(22) AMENDMENT OF SECTION 124.—Section 124 (relating to cross references to other Acts) is amended to read as follows:

"SEC. 124. CROSS REFERENCES TO OTHER ACTS.

"(a) For exemption of—

"(1) Adjustments of indebtedness under wage earners' plans, see section 679 of the Bankruptcy Act (11 U.S.C. 1079).

"(2) Allowances and expenditures to meet losses sustained by persons serving the United States abroad, due to appreciation of foreign currencies, see section 5943 of title 5, United States Code.

"(3) Amounts credited to the Maritime Administration under section 9(b)(6) of the Merchant Ship Sales Act of 1946, see section 9(c)(1) of that Act (50 U.S.C. App. 1742).

"(4) Benefits under laws administered by the Veterans' Administration, see section 3101 of title 38, United States Code.

"(5) Earnings of ship contractors deposited in special reserve funds, see section 607(d) of the Merchant Marine Act, 1936 (46 U.S.C. 1177).

"(6) Income derived from Federal Reserve banks, including capital stock and surplus, see section 7 of the Federal Reserve Act (12 U.S.C. 531).

"(7) Railroad retirement annuities and pensions, see section 12 of the Railroad Retirement Act of 1935 (45 U.S.C. 2281).

"(8) Railroad unemployment benefits, see section 2(e) of the Railroad Unemployment Insurance Act (45 U.S.C. 352).

"(9) Special pensions of persons on Army and Navy medal of honor roll, see 38 U.S.C. 562(a)-(c).

"(b) For extension of military income-tax-exemption benefits to commissioned officers of Public Health Service in certain circumstances, see section 212 of the Public Health Service Act (42 U.S.C. 213)."

(23) AMENDMENT OF SECTION 143.—Section 143 (relating to determination of marital status) is amended by striking out "this part" each place it appears and inserting in lieu thereof "this part and part V".

(24) AMENDMENT OF SECTION 151.—Section 151(e)(4) (relating to definitions of student and educational institution) is amended to read as follows:

"(4) STUDENT DEFINED.—For purposes of paragraph (1)(B)(ii), the term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

"(A) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii); or

"(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State."

(25) AMENDMENTS OF SECTION 152.—

(A) Section 152(a) (relating to definition of dependent) is amended—

(i) by inserting "or" at the end of paragraph (8),

(ii) by striking out ", or" at the end of paragraph (9) and inserting in lieu thereof a period, and

(iii) by striking out paragraph (10).

(B) Section 152(b)(3) (relating to rules concerning the definition of dependent) is amended to read as follows:

"(3) The term 'dependent' does not include any individual who is not a citizen or national of the United States unless such individual is a resident of the United States or of a country contiguous to the United States. The preceding sentence shall not exclude from the definition of 'dependent' any child of the taxpayer legally adopted by him, if, for the taxable year of the taxpayer the child has as his principal place of abode the home of the taxpayer and is a member of the taxpayer's household, and if the taxpayer is a citizen or national of the United States."

(26) AMENDMENTS OF SECTION 164.—Section 164(d)(2) (relating to apportionment of taxes on real property between the seller and purchaser) is amended by striking out subparagraphs (B) and (C), and by redesignating subparagraph (D) as subparagraph (B).

(27) AMENDMENTS OF SECTION 165.—Section 165 (relating to deduction of losses) is amended by striking out subsection (i) (relating to property confiscated by Cuba), and by redesignating subsection (j) as subsection (i).

(28) AMENDMENTS OF SECTION 167.—

(A) Section 167(d) (relating to agreement as to useful life for depreciation) is amended by striking out "after the date of enactment of this title" and inserting in lieu thereof "after August 16, 1954".

(B) Section 167(e) (relating to change in method of depreciation) is amended to read as follows:

"(e) CHANGE FROM DECLINING BALANCE METHOD.—In the absence of an agreement under subsection (d) containing a provision to the contrary, a taxpayer may at any time elect in accordance with regulations prescribed by the Secretary to change from the method of depreciation described in subsection (b)(2) to the method described in subsection (b)(1)."

(C) Section 167(f)(2) (relating to definition of personal property) is amended by striking out "the date of the enactment of the Revenue Act of 1962" and inserting in lieu thereof "October 16, 1962".

(D) Section 167(1)(4)(A) (relating to election as to increased-capacity property) is amended by striking out "within 180 days after the date of the enactment of this subparagraph" and inserting in lieu thereof "before June 29, 1970,".

(29) AMENDMENTS OF SECTION 170.—

(A)(i) Section 170 (relating to charitable deductions) is amended by striking out subsections (f)(6) and (g) (relating to unlimited charitable deductions allowed for taxable years beginning before January 1, 1975), and by redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively.

(ii) Section 170(b)(1) (relating to percentage limitations on deductions for individuals) is amended by striking out subparagraph (C) (relating to unlimited deductions), and by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively.

(iii) Section 170(b)(1)(A)(vii) is amended by striking out "subparagraph (E)" and inserting in lieu thereof "subparagraph (D)".

(iv) Section 170(b)(1)(B)(ii) is amended by striking out "subparagraph (D)" and inserting in lieu thereof "subparagraph (C)".

(v) Section 170(c) (relating to definition of charitable contribution) is amended by striking out in the last sentence "subsection (h) and inserting in lieu thereof "subsection (g)".

(vi) Section 170(e)(1)(B)(ii) (relating to certain contributions of ordinary income and capital gain property) is amended by striking out "subsection (b)(1)(E)" and inserting in lieu thereof "subsection (b)(1)(D)".

(B) Section 170(d)(1)(A) (relating to carryover of excess charitable contributions) is amended by striking out "(30 percent, in the case of a contribution year beginning before January 1, 1970)".

(C) Section 170(h) (relating to disallowance of deductions in certain cases), as redesignated by subparagraph (A)(i) of this paragraph, is amended by striking out "64 Stat. 966;".

(D) Section 170(i) (relating to cross references), as redesignated by subparagraph (A)(i) of this paragraph, is amended to read as follows:

"(i) OTHER CROSS REFERENCES.—

"(1) For charitable contributions of estates and trusts, see section 642(c).

"(2) For nondeductibility of contributions by common trust funds, see section 584.

"(3) For charitable contributions of partners, see section 702.

"(4) For charitable contributions of nonresident aliens, see section 873.

"(5) For treatment of gifts for benefits of or use in connection with the Naval Academy as gifts to or for the use of the United States, see section 6973 of title 10, United States Code.

"(6) For treatment of gifts accepted by the Secretary of State under the Foreign Service Act of 1946 as gifts to or for the use of the United States, see section 1021(e) of that Act (22 U.S.C. 809(e)).

"(7) For treatment of gifts of money accepted by the Attorney General for credit to the 'Commissary Funds, Federal Prisons' as gifts to or for the use of the United States, see section 2 of the Act of May 15, 1952, as amended by the Act of July 9, 1952 (31 U.S.C. 725s-4)."

(30) AMENDMENTS OF SECTION 172.—

(A)(i) Section 172(b)(1) (relating to years to which loss may be carried) is amended by striking out subparagraph (E) and by redesignating subparagraphs (F) and (G) as subpararaphs (E) and (F), respectively.

(ii) Clause (i) of section 172(b)(1)(A) is amended by striking out "(F), and (G)" and inserting in lieu thereof "and (F)".

(iii) Subparagraph (B) of section 172(b)(1) is amended by striking out ", (D), and (E)" and inserting in lieu thereof "and (D)".

(iv) Section 172(b)(3) is amended by striking out subparagraphs (E) and (F).

(B) Section 172(c) (relating to definition of net operating loss) is amended by striking out "(for any taxable year ending after December 31, 1953)".

(C)(i) Section 172 (relating to net operating loss deduction) is amended by striking out subsections (f), (g), and (i), and by redesignating subsections (h), (j), (k), and (l) as subsections (f), (g), (h), and (i), respectively.

(ii) Section 172(b)(1)(C) (relating to regulated transportation corporations) is amended by striking out "subsection (j)(1)" and "subsection (j)", and inserting in lieu thereof "subsection (g)(1)" and "subsection (g)", respectively.

(ii) Paragraphs (1)(D) and (3)(C)(i) of section 172(b) (relating to net operating loss carryovers and carrybacks) are each amended by striking out "subsection (k)" and inserting in lieu thereof "subsection (h)".

(iv) Section 172(b)(2) (relating to amount of carrybacks and carryovers) is amended by striking out "subsections (i) and (j)" and inserting in lieu thereof "subsections (g)".

(D) Section 172(e) (relating to law applicable to computations) is amended by striking out the last sentence.

(E) Section 172(g)(2) (relating to certain regulated transportation corporations), as redesignated by subparagraph (C) of this paragraph, is amended by striking out paragraph (4).

(31) AMENDMENTS OF SECTIONS 174 AND 175.—Section 174(a)(2)(A)(i) relating to

research and development expenditures) and section 175(d)(1)(A) (relating to soil and water conservation expenditures) are each amended by striking out "the date on which this title is enacted," and inserting in lieu thereof "August 16, 1954,".

(32) AMENDMENT OF SECTION 219.—Section 219 (b)(2)(A)(iv) (disqualifying governmental plan participants from contributing to individual retirement accounts, etc.) is amended by striking out "division" and inserting in lieu thereof "subdivision".

(33) REPEAL OF SECTION 242.—Section 242 (relating to partially tax-exempt interest received by corporations) is repealed.

(34) AMENDMENTS OF SECTION 243.—

(A) Section 243(a)(2) (relating to the dividend received deduction) is amended by inserting after "Small Business Investment Act of 1958" the following: "(15 U.S.C. 661 and following)".

(B) Section 243(b)(2)(A) (relating to dividends received by a member of an affiliated group) is amended by striking out "(except that in the case of a taxable year of a member beginning in 1963 and ending in 1964, if the election is effective for the taxable year of the common parent corporation which includes the last day of such taxable year of such member, such election shall be effective for such taxable year of such member, if such member consents to such election with respect to such taxable year)".

(35) AMENDMENT OF SECTION 247.—Section 247(b)(2) (relating to preferred stock) is amended to read as follows:

"(2) PREFERRED STOCK.—

"(A) IN GENERAL.—The term 'preferred stock' means stock issued before October 1, 1942, which during the whole of the taxable year (or the part of the taxable year after its issue) was stock the dividends in respect of which was cumulative, limited to the same amount, and payable in preference to the payment of dividends on other stock.

"(B) CERTAIN STOCK ISSUED ON OR AFTER OCTOBER 1, 1942.—Stock issued on or after October 1, 1942, shall be deemed for purposes of this paragraph to have been issued before October 1, 1942, if it was issued to refund or replace bonds or debentures issued before October 1, 1942 or to refund or replace other preferred stock (including stock which is preferred stock by reason of this subparagraph or subparagraph (D), but only to the extent that the par or stated value of the new stock does not exceed the par, stated, or face value of the bonds or debentures issued before October 1, 1942, or the other preferred stock, which such new stock is issued to refund or replace.

"(C) DETERMINATION UNDER REGULATIONS.—The determination of whether stock was issued to refund or replace bonds or debentures issued before October 1, 1942, or to refund or replace other preferred stock, shall be made under regulations prescribed by the Secretary.

"(D) ISSUANCE OF STOCK.—For purposes of subparagraph (B), issuance of stock includes issuance either by the same or another corporation in a transaction which is a reorganization (as defined in section 368(a)), a transaction to which section 371 (relating to insolvency reorganizations) applies, or a transaction subject to part VI of subchapter O (relating to exchanges in SEC obedience orders), or the respectively corresponding provisions of the Internal Revenue Code of 1939."

(36) AMENDMENT OF SECTION 248.—Section 248(c) (relating to organizational expenditures) is amended by striking out "the date of enactment of this title" and inserting in lieu thereof "August 16, 1954".

(37) AMENDMENT OF SECTION 265.—Section 265 (2) (relating to tax-exempt interest) is amended by striking out "(other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer)".

(38) AMENDMENT OF SECTION 269.—Section 269 (relating to acquisitions made to evade or avoid income tax) is amended by striking out subsection (c) (relating to presumption in the case of disproportionate purchase price).

(39) AMENDMENT OF SECTION 275.—Section 275(a)(1)(C) (relating to nondeductible taxes) is amended by striking out ", and corresponding provisions of prior revenue laws".

(40) AMENDMENT OF SECTION 278.—Section 278(b) (relating to exceptions to capital expenditures incurred in planting and developing citrus and almond groves) is amended to read as follows:

"(b) EXCEPTION.—Subsection (a) shall not apply to amounts allowable as deductions (without regard to this section), and attributable to a citrus or almond grove (or part thereof) which was replanted after having been lost or damaged (while in the hands of the taxpayer), by reason of freeze, disease, drought, pests or casualty."

(41) AMENDMENTS OF SECTION 281.—

(A) Section 281(d)(1)(A) (relating to definition of terminal railroad corporation) is amended by inserting after "Interstate Commerce Act" the following: "(49 U.S.C. 1 and following)".

(B) Section 281 (relating to terminal railroad corporations and their shareholders) is amended by striking out subsection (e) (relating to taxable years ending before October 23, 1962) and by redesignating subsection (f) as subsection (e).

(42) AMENDMENT OF SECTION 301.—Section 301 (relating to distributions of property) is amended by striking out subsection (e) (relating to certain distributions by personal service corporations).

(43) AMENDMENTS OF SECTION 311.—

(A) Section 311(d)(1) (relating to appreciated property used to redeem stock) is amended by striking out "then again shall be recognized" and inserting in lieu thereof "then a gain shall be recognized".

(B)(i) Section 311(d)(2) (relating to exceptions and limitations) is amended by striking out subparagraph (C) (relating to certain distributions before December 1, 1974) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(ii) The amendments made by clause (i) shall apply with respect to distributions after November 30, 1974.

(C) Section 311(d)(2)(C), as redesignated by subparagraph(B) of this paragraph, is amended by striking out "26 Stat. 209;" and "38 Stat. 730;".

(44) AMENDMENTS OF SECTION 312.—

(A) Section 312(d)(1) (relating to certain distributions of stock and securities) is amended by striking out "this Code" each place it appears and inserting in lieu thereof "this title".

(B) Section 312 (relating to earnings and profits) is amended by striking out subsection (h) (relating to personal service corporations) and by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(C) Subsection (i) of section 312 (relating to distribution of proceeds of certain loans), as redesignated by subparagraph (B) of this paragraph, is amended to read as follows:

"(i) DISTRIBUTION OF PROCEEDS OF LOAN INSURED BY THE UNITED STATES.—If a corporation distributes property with respect to its stock and if, at the time of distribtuion—

"(1) there is outstanding a loan to such corporation which was made, guaranteed, or insured by the United States (or by any agency or instrumentality thereof), and

"(2) the amount of such loan so outstanding exceeds the adjusted basis of the property constituting security for such loan.

then the earnings and profits of the corporation shall be increased by the amount of such excess, and (immediately after the distribution) shall be decreased by the amount of such excess. For purposes of paragraph (2), the adjusted basis of the property at the time of distribution shall be determined without regard to any adjustment under section 1016(a)(2) (relating to adjustment for depreciation, etc.). For purposes of this subsection, a commitment to make, guarantee, or insure a loan shall be treated as the making, guaranteeing, or insuring of a loan."

(D) Section 312(j)(3) (relating to foreign investment companies), as redesignated by subsection (b)(31)(B), is amended to read as follows:

"(3) PARTIAL LIQUIDATIONS AND REDEMPTIONS.—If a foreign investment company (as defined in section 1246) distributes amounts in partial liquidation or in a redemption to which section 302(a) or 303 applies, the part of such distribution which is properly chargeable to earnings and profits shall be an amount which is not in excess of the ratable share of the earnings and profits of the company accumulated after February 28, 1913, attributable to the stock so redeemed."

(45) AMENDMENT OF SECTION 333.—Section 333(a) (relating to election as to recognition of gain in certain liquidations) is amended to read as follows:

"(a) GENERAL RULE.—In the case of property distributed in complete liquidation of a domestic corporation (other than a collapsible corporation to which section 341(a) applies), if—

"(1) the liquidation is made in pursuance of a plan of liquidation, and

"(2) the distribution is in complete cancellation or redemption of all the stock, and the transfer of all the property under the liquidation occurs within some one calendar month,

then in the case of each qualified electing shareholder (as defined in subsection (c)) gain on the shares owned by him at the time of the adoption of the plan of liquidation shall be recognized only to the extent provided in subsections (e) and (f)."

(46) AMENDMENT OF SECTION 334.—Section 334(b)(2)(A) (relating to liquidation of subsidiary) is amended to read as follows:

"(A) the distribution is pursuant to a plan of liquidation adopted not more than 2 years after the date of the transaction described in subparagraph (B) (or, in the case of a series of transactions, the date of the last such transaction); and".

(47) AMENDMENTS OF SECTION 337.—

(A) Section 336(a) (relating to nonrecognition of gain or loss on certain liquidations) is amended to read as follows:

"(a) GENERAL RULE.—If, within the 12-month period beginning on the date on which a corporation adopts a plan of complete liquidation, all of the assets of the corporation are distributed in complete liquidation, less assets retained to meet claims, then no gain or loss shall be recognized to such corporation from the sale or exchange by it of property within such 12-month period."

(B) The first sentence of section 337(d) (relating to certain minority stockholders) is amended by striking out "on or after January 1, 1958".

(48) REPEAL OF SECTION 342.—Section 342 (relating to the liquidation of certain foreign personal holding companies) is repealed.

(49) AMENDMENTS OF SECTION 351.—

(A) Section 351(a) (relating to transfer to corporation controlled by transferor) is amended by striking out "(including, in the case of transfers made on or before June 30, 1967, an investment company)".

(B) Section 351(d) (relating to application of June 30, 1967, date) is amended to read as follows:

"(d) EXCEPTION.—This section shall not apply to a transfer of property to an investment company."

(C) The amendments made by this paragraph shall take effect with respect to transfers of property occurring after the date of the enactment of this Act.

(50) REPEAL OF SECTION 363.—Section 363 (a cross reference to other sections) as repealed.

(51) AMENDMENTS OF SECTION 371.—Section 371(a)(1) (relating to certain reorganization exchanges by corporations) is amended—

(A) by striking out "49 Stat. 922;" and

(B) by striking out "(52 Stat. 883–905; 11 U.S.C., chapter 10) or the corresponding provisions of prior law" and inserting in lieu thereof "(11 U.S.C. 501 and following)".

(52) AMENDMENT OF SECTION 372.—Section 372(a) (relating to basis in connection with bankruptcy proceedings) is amended by striking out "54 Stat. 709;".

(53) REPEAL OF SECTION 373.—Section 373 (relating to nonrecognition of loss in certain railroad reorganizations) is repealed.

(54) AMENDMENT OF SECTION 374.—Section 374(a)(1) (relating to nonrecognition of gain or loss in certain railroad reorganizations) is amended by striking out "49 Stat. 922;".

(55) AMENDMENT OF SECTION 381.—Section 381(c) (relating to items carried over in certain corporate acquisitions) is amended by striking out paragraph (20).

(56) REPEAL OF SECTIONS 391 THROUGH 395.—Subchapter C of chapter 1 (relating to corporate distributions and adjustments) is amended by striking out part VII (relating to effective dates of subchapter C).

(57) AMENDMENTS OF SECTION 401.—

(A) Paragraphs (12) and (13) of section 401(a) (relating to requirements for qualification) are each amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(B) Paragraph (15) of section 401(a) is amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974,".

(C) Paragraph (19) of section 401(a) is amended by striking out "enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(D) The last sentence of section 401(a) is amended to read as follows: "Paragraphs (11), (12), (13), (14), (15), (19), and (20) shall apply only in the case of a plan to which section 411 (relating to minimum vesting standards) applies without regard to subsection (e)(2) of such section."

(58) AMENDMENTS OF SECTION 402.—

(A) Section 402(a)(4) (relating to distributions made to non-resident alien individuals) is amended by striking out "basic salary" each place it appears therein and inserting in lieu thereof "basic pay", and by amending the last sentence in such paragraph to read as follows: "In the case of distributions under the civil service retirement laws, the term 'basic pay' shall have the meaning provided in section 8331(3) of title 5, United States Code."

(B) Section 402 (relating to taxability of beneficiary of employees' trusts) is amended by striking out subsection (d) (relating to certain trust agreements made before October 21, 1942).

(C)(i) So much of the third sentence of section 402(e)(4)(A) (relating to definition of lump sum distributions) as precedes "a distribution of an annuity contract" is amended to read as follows: "Except for purposes of subsection (a)(2) and section 403(a)(2),".

(ii) The amendment made by clause (i) shall apply with respect to distributions or payments made after December 31, 1973, in taxable years beginning after such date.

(59) AMENDMENT OF SECTION 403.—The last two sentences of section 403(a)(4) (relating to taxation of employee annuities) are amended to read as follows: "For purposes of this title, a transfer described in subparagraph (B)(i) shall be treated as a rollover contribution described in section 408(d)(3). Subparagraph (B)(ii) does not apply in the case of a transfer to an employees' trust, or annuity plan if any part of a payment described in subparagraph (A) is attributable to an annuity plan under which the employee was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under the plan.".

(60) AMENDMENT OF SECTION 404.—Section 404 (relating to deduction for contributions to pension plans, etc.) is amended by striking out subsection (d) (relating to carryover of pre-1954 unused deductions).

(61) REPEAL OF SECTION 406.—Section 406 (relating to certain employees of foreign subsidiaries) is repealed.

(62) AMENDMENT OF SECTION 409.—Section 409(b)(3)(C) (relating to tax-free rollovers of individual retirement bonds) is amended by striking out "section 403(d)(3)." and inserting in lieu thereof "section 408(d)(3)."

(C) Paragraph (2) of section 410(c) is amended by striking out "the day before the date of the enactment of this section" and inserting in lieu thereof "September 1, 1974".

(64) AMENDMENTS OF SECTION 411.—

(A) Subsection (a) of section 411 (relating to minimum vesting standards) is amended by striking out "subsection (a)(8)" and inserting in lieu thereof "paragraph (8)".

(B) Subsection (a)(3)(D)(iii) of section 411 is amended—

(i) by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and "the date of the enactment of such Act" and inserting in lieu thereof in both such places "September 2, 1974", and

(ii) by striking out "the date of the enactment of the Act" and inserting in lieu thereof "September 2, 1974,".

(C) The heading for subparagraph (C) of section 411(a)(7) is amended to read as follows:

"(C) Repayment of subparagraph (B) distributions."

(D) Subsections (b)(1)(D)(i) and (e)(1)(C) of section 411 are each amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(E) Subsection (e)(2) of section 411 is amended by striking out "the date before the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 1, 1974".

(65) AMENDMENTS OF SECTION 412.—

(A) Subsection (h) of section 412 (relating to minimum funding standards) is amended by striking out "the day before the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 1, 1974".

(B) Subsection (h)(5) of section 412 is amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(66) AMENDMENTS OF SECTION 414.—

(A) Section 414(f) (relating to multiemployer plans) is amended by striking out "Mulitiemployer " and inserting "Multiemployer" in the caption thereof.

(B) Section 414(1) (relating to mergers and consolidations of plans or transfers of plan assets) is amended by striking out "the date of the enactment of the Employee Retirement Income Security Act of 1974" and inserting in lieu thereof "September 2, 1974".

(67) AMENDMENTS OF SECTION 415.—

(A) Section 415(b)(2)(A) (relating to adjustments for certain forms of benefits) is amended by striking out "and 409(b)(3)(C)" and inserting in lieu thereof "and 409(b)(2)(C)".

(B) Section 415(b)(2)(B) is amended by striking out "(as defined in section 401(a)(11)(H)(iii))" and inserting in lieu thereof "(as defined in section 401(a)(11)(G)(iii))".

(68) AMENDMENTS OF SECTION 453.—

(A) Section 453(c)(3) (relating to adjustment in tax for amounts previously taxed) is amended by striking out "corresponding provisions of the Internal Revenue Code of 1939" and inserting in lieu thereof "corresponding provisions of the Internal Revenue Code of 1954".

(B) Section 453(d)(4)(B) (relating to liquidations to which section 337 applies) is amended by striking out "or section 617(d)(1)" and inserting in lieu thereof ", 617(d)(1)".

(69) AMENDMENT OF SECTION 455.—Section 455(c)(3)(B) (relating to prepaid subscription income) is amended by striking out "for his first taxable year (i) which begins after December 31, 1957, and (ii) in which he receives prepaid subscription income in the trade or business" and inserting in lieu thereof "for his first taxable year in which he receives prepaid subscription income in the trade or business".

(70) AMENDMENT OF SECTION 456.—Section 456(c)(3)(B) (relating to election without consent with respect to treatment of prepaid dues) is amended by striking out "for its first taxable year (i) which begins after December 31, 1960, and (ii)" in inserting in lieu thereof "for its first taxable year".

(71) AMENDMENTS OF SECTION 461.—

(A) Section 461(c) (relating to accrual of real property taxes) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(B) Section 461(c)(2) (relating to elections without consent), as redesignated by subparagraph (A), is amended by striking out "his first taxable year which begins after December 31, 1953, and ends after the date of enactment of this title in which the taxpayer" and inserting in lieu thereof "his first taxable year in which he".

(72) AMENDMENTS OF SECTION 481.—

(A) Section 481(b) (relating to limitation on tax where substantial adjustments are required by a change in accounting method) is amended by striking out paragraphs (4), (5), and (6) (relating to pre-1954 adjustments).

(B) Section 481(b) (1) and (2) are each amended by striking out ", other than the amount of such adjustments to which paragraph (4) or (5) applies," each place it appears.

(73) AMENDMENTS OF SECTION 508.—

(A) Subsections (a) and (b) of section 508 (relating to special rules relating to 501(c)(3) organizations) are each amended by striking out the last sentence therein.

(B) Section 508(e)(2) (relating to special rules for existing private foundations) is amended by striking out subparagraph (A) (relating to taxable years beginning before 1972), by redesignating subparagraphs (B) and (C) as subparagraph (A) and (B), respectively, and by striking out "(B)" in subparagraph (B) (as so redesignated) and inserting in lieu thereof "(A)".

(C) Section 508(d)(2)(A) (relating to disallowance of deductions for certain charitable gifts or bequests) is amended by striking out "(e)(2)(B) and (C)" and inserting in lieu thereof "(e)(2)".

(74) AMENDMENTS OF SECTION 514.—

(A) Section 514(c)(1) (relating to definition of acquisition indebtedness) is amended by striking out the comma at the

end of subparagraph (C) and all that follows, nad inserting in lieu thereof a period.

(B) Section 514 (relating to unrelated debt-financed income) is amended by striking out subsection (f) (relating to definition of business lease), by striking out subsection (g) (relating to definition of business lease indebtedness), and by redesignating subsection (h) as subsection (f).

(C) Section 514(b)(3)(C)(iii) (relating to definition of debt-financed property) is amended to read as follows:

"(iii) shall not apply to property subject to a lease which is a business lease (as defined in this section immediately before the enactment of the Tax Reform Act of 1975)."

(D) Section 514(f) (relating to personal property leased with real property), as redesignated by subparagraph (B) of this paragraph, is amended by striking out "and the term 'premises' include" and inserting in lieu thereof "includes".

(75) AMENDMENTS OF SECTION 534.—

(A) Section 534(b) (relating to mailing notices of deficiency) is amended by striking out the last sentence.

(B) Subsection (e) of section 534 (relating to effective date of section) is repealed.

(76) AMENDMENT OF SECTION 535.—Section 535(b)(1) (relating to adjustments in computing accumulated taxable income) is amended by striking out "(other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 31, 1940)".

(77) AMENDMENTS OF SECTION 537.—

(A) Section 537(b)(2) (relating to definition of excess business holdings redemption needs) is amended by striking out ", with respect to taxable years of the corporation ending after May 26, 1969,".

(B) Section 537(b)(4) (relating to inferences as to prior years) is amended by striking out "or (2)".

(78) AMENDMENTS OF SECTION 542.—

(A) Section 542(a)(2) (relating to definition of personal holding company) is amended by striking out the last sentence.

(B) Section 542(b)(2) (relating to ineligible affiliated group) is amended by striking out ", other than an affiliated group of railroad corporations the common parent of which would be eligible to file a consolidated return under section 141 of the Internal Revenue Code of 1939 prior to its amendment by the Revenue Act of 1942,".

(C) Section 542(c)(2) (relating to financial institutions) is amended by striking out "without regard to subparagraphs (D) and (E) thereof".

(D) Section 542(c)(8) (relating to small business investment companies) is amended by inserting after "Small Business Investment Act of 1958" the following: "(15 U.S.C. 661 and following)".

(79) AMENDMENTS OF SECTION 545.—

(A) Section 545(b)(1) (relating to deductions of taxes in computing undistributed personal holding company income) is amended—

(i) in the first sentence, by striking out "(other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 31, 1940)"; and

(ii) by striking out the last two sentences (relating to deduction of taxes).

(B) Section 545(b) (relating to adjustments in computing undistributed personal holding company income) is amended by striking out paragraph (7) (relating to payment of indebtedness incurred before 1934).

(C) Section 545(c)(2)(A) (relating to corporations to which special adjustment applies) is amended by striking out "the date of enactment of this subsection" and inserting in lieu thereof "February 26, 1964".

(80) AMENDMENT OF SECTION 547.—Section 547 (relating to the deduction of deficiency dividends) is amended by striking out subsection (h) (relating to the effective date).

(81) AMENDMENT OF SECTION 551.—Section 551(c) (relating to foreign personal holding company income tax returns) as redesignated by subsection (b)(2)(G) of this section, is amended by striking out "taxable income, foreign personal holding company," and inserting in lieu thereof "taxable income, foreign personal holding company income,".

(82) AMENDMENT OF SECTION 556.—The first sentence of section 556(b)(1) (relating to deduction of taxes in computing undistributed foreign personal holding company income) is amended by striking out "(other than the excess profits tax imposed by subchapter E of chapter 2 of the Internal Revenue Code of 1939 for taxable years beginning after December 1, 1940)".

(83) AMENDMENT OF SECTION 564.—Section 564 (relating to dividend carryovers) is amended by striking out subsection (c) (relating to carryovers from pre-1964 years).

(84) REPEAL OF SECTION 583.—Section 583 (relating to deduction of dividends paid on certain preferred stock by banks or trust companies) is repealed.

(85) REPEAL OF SECTION 592.—Section 592 (relating to the deduction by mutual savings banks for repayment of certain loans) is repealed.

(86) AMENDMENTS OF SECTION 593.—

(A) Section 593(b)(2) (relating to additions to bad debt reserves for mutual savings banks, etc.) is amended by striking out, in the table in subparagraph (A), the following:

| | | |
|---|---|---|
| "1969 | 60 | percent. |
| 1970 | 57 | percent. |
| 1971 | 54 | percent. |
| 1972 | 51 | percent. |
| 1973 | 49 | percent. |
| 1974 | 47 | percent. |
| 1975 | 45 | percent." |

(B) Section 593(c) (relating to reserves for mutual savings banks) is amended by striking out paragraphs (2), (3), (4), and (5), by redesignating paragraph (6) as paragraph (3), and by inserting immediately after paragraph (1) the following:

"(2) CERTAIN PRE-1963 RESERVES.—notwithstanding the second sentence of paragraph (1), any amount allocated pursuant to paragraph (5) (as in effect immediately before the enactment of the Tax Reform Act of 1975) during a taxable year beginning before January 1, 1976, to the reserve for losses on qualifying real property loans out of the surplus, undivided profits, and bad debt reserves (determined as of December 31, 1962) attributable to the period before the first taxable year beginning after December 31, 1951, shall not be treated as a reserve for bad debts for any purpose other than determining the amount referred to in subsection (b)(1)(B), and for such purpose such amount shall be treated as remaining in such reserve."

(C) Section 593 is amended by striking out subsection (d) (relating to taxable years beginning in 1962 and ending in 1963), and by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(D) Section 593(b)(2)(E)(i) is amended by striking out "subsection (f)" and inserting in lieu thereof "subsection (e)".

(87) REPEAL OF SECTION 601.—Subchapter H of chapter 1 (relating to banking institutions) is amended by striking out part III (relating to special deduction for bank affiliates).

(88) AMENDMENTS OF SECTION 613A.—

(A) Section 613A(b)(1)(C) (relating to exemption for certain domestic gas wells) is amended by striking out "within the meaning of section 613(b)(1)(A)".

(B) Section 613A(c)(6)(i) (relating to limitations on percentage depletion is case of oil and gas wells) is amended by striking out "determined with" and inserting in lieu thereof "determined without".

(89) AMENDMENTS OF SECTION 614.—

(A)(i) Section 614(c) (relating to aggregation of mineral interests in mines) is amended by striking out paragraph (4) (relating to special rule as to exploration deductions prior to aggregation).

(ii) The amendment made by clause (i) shall apply with respect to elections to form aggregations of operating mineral interests made under section 614(c)(1) of the Internal Revenue Code of 1954 for taxable years beginning after December 31, 1975.

(B) The third sentence of section 614(c)(2) (relating to election to treat a single interest as more than one property) is amended to read as follows: "A separate property so formed may, under regulations prescribed by the Secretary, be included as a part of an aggregation in accordance with paragraphs (1) and (3)."

(C) Section 614(c)(3) (relating to manner and scope of election) is amended to read as follows:

"(3) MANNER AND SCOPE OF ELECTION.—The elections provided by paragraphs (1) and (2) shall be made, in accordance with regulations prescribed by the Secretary, not later than the time prescribed for filing the return (including extensions thereof) for the first taxable year—

"(A) in which, in the case of an election under paragraph (1), any expenditure for development or operation in respect of the separate operating mineral interest is made by the taxpayer after the acquisition of such interest, or

"(B) in which, in the case of an election under paragraph (2), expenditures for development or operation of more than one mine in respect of a property are made by the taxpayer after the acquisition of the property. An election made under paragraph (1) or (2) for a taxable year shall be binding upon the taxpayer for such year and all subsequent taxable years, except that the Secretary may consent to a different treatment of any interest with respect to which an election has been made."

(90) REPEAL OF SECTION 615.—Section 617(a)(2)(B) (relating to time and scope of election to deduct certain mining exploration expenditures) is amended by striking out "may not be revoked after the last day of the third month following the month in which the final regulations issued under the authority of this subsection or pubilshed in the Federal Register, unless" and inserting in lieu thereof "may not be revoked unless".

(92) REPEAL OF SECTION 632.—Section 632 (relating to tax in case of sale of oil or gas properties) is repealed.

(93) REPEAL OF SECTION 683.—Section 683 (relating to application in 1954 of part I of subchapter J to estates and trust) is repealed.

(94) AMENDMENT OF SECTION 691.—Section 691(c)(1)(B) (relating to deduction for estate tax) is amended by striking out the last sentence.

(95) AMENDMENT OF SECTION 692.—The heading of section 692 (relating to income taxes of members of Armed Forces who die in a combat zone) is amended by striking out "ON" the first time it appears in the section heading and inserting in lieu thereof "OF".

(96) AMENDMENT OF SECTION 751.—Section 751(c) (relating to unrealized receivables) is amended by striking out "1245(a), or 1250(a)," and inserting in lieu thereof "1245(a), 1250(a),".

(97) REPEAL OF SECTION 771.—Part IV of subchapter K of chapter 1 (relating to effective date in 1954 of subchapter K) is repealed.

(98) AMENDMENTS OF SECTION 802.—

(A) Section 802(a)(1) (relating to tax imposed on life insurance companies) is

amended by striking out "beginning after December 31, 1957,".

(B) Section 802(a)(2) (relating to alternative tax in case of capital gains) is amended by striking out "beginning after December 31, 1961,".

(C) Section 802(a) is amended by striking out paragraph (3) (relating to special rules for 1959 and 1960).

(99) AMENDMENTS OF SECTION 804.—

(A) Section 804(a) is amended by striking out paragraph (6) (relating to certain exceptions).

(B) Section 804(b)(2) (relating to short-term capital gains) is amended by striking out "In the case of a taxable year beginning after December 31, 1958, the" and inserting in lieu thereof "The".

(100) AMENDMENTS OF SECTION 805.—

(A) Section 805(b)(3)(B) (relating to average earnings rate) is amended to read as follows:

"(B) SPECIAL RULE.—For purposes of subparagraph (A), the current earnings rate for any taxable year of any company which, for such year, is an insurance company (but not a life insurance company) shall be determined as if this part applied to such company for such year."

(B) Section 805(b)(4)(B) (relating to basis of assets) is amended by striking out "(determined without regard to fair market value on December 31, 1958".

(C) Section 805(d) (relating to pension plan reserves) is amended to read as follows:

"(d) Pension Plan Reserves.—For purposes of this part, the term 'pension plan reserves' means that portion of the life insurance reserves which is allocable to contracts—

"(1) purchased under contracts entered into with trusts which (as of the time the contracts were entered into) were deemed to be (A) trusts described in section 401(a) and exempt from tax under section 501(a), or (B) trusts exempt from tax under section 165 of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws;

"(2) purchased under contracts entered into under plans which (as of the time the contracts were entered into) were deemed to be plans described in section 403(a), or plans meeting the requirements of section 165(a) (3), (4), (5), and (6) of the Internal Revenue Code of 1939;

"(3) provided for employees of the life insurance company under a plan which, for the taxable year, meets the requirements of sections 401(a) (3), (4), (5), (6), (7), (8), (11), (12), (13), (14), (15), (16), (19), and (20);

"(4) purchased to provide retirement annuities for its employees by an organization which (as of the time the contracts were purchased) was an organization described in section 501(c)(3) which was exempt from tax under section 501(a) or was an organization exempt from tax under section 101(6) of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws, or purchased to provide retirement annuities for employees described in section 403(b)(1)(A)(ii) by an employer which is a State, a political subdivision of a State, or an agency or instrumentality of any one or more of the foregoing; or

"(5) purchased under contracts entered into with trusts which (at the time the contracts were entered into) were individual retirement accounts described in section 408(a) or under contracts entered into with individual retirement annuities described in section 408(b)."

(101) AMENDMENTS OF SECTION 809.—

(A) Section 809(b) (relating to definition of gain and loss from operations) is amended by striking out paragraph (4).

(B)(i) Section 809(d) (relating to life insurance company deductions) is amended by striking out paragraph (11) (relating to mutualization distributions before 1963), and by redesignating paragraph (12) as paragraph (11).

(ii) Section 809(e) is amended by striking out "subsection (d)(12)" and inserting in lieu thereof "subsection (d)(11)".

(C) Section 809 (relating to computation of gain and loss from operations) is amended by striking out subsection (g) (relating to deduction for certain mutualization distributions before 1963).

(102) AMENDMENT OF SECTION 812.—Section 812(b)(1) (relating to years to which operating losses of an insurance company may be carried) is amended to read as follows:

"(1) YEARS TO WHICH LOSS MAY BE CARRIED.—The loss from operations for any taxable year (hereinafter in this section referred to as the 'loss year') shall be—

"(A) an operations loss carryback to each of the 3 taxable years preceding the loss year,

"(B) an operations loss carryover to each of the 5 taxable years following the loss year, and

"(C) subject to subsection (e), if the life insurance company is a new company for the loss year, an operations loss carryover to each of the 3 taxable years following the 5 taxable years described in subparagraph (B)."

(103) AMENDMENTS OF SECTION 817.—Section 817 (relating to rules applicable to certain gains and losses) is amended by striking out subsection (c) (relating to treatment of pre-1959 capital losses) and subsection (e) (relating to certain 1958 reinsurance transactions).

(104) AMENDMENT OF SECTION 818.—Section 818 (relating to life insurance accounting provisions) is amended by striking out subsection (e) (relating to certain rules applicable to taxable years 1957, 1958, and 1959), and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(105) AMENDMENTS OF SECTION 819.—

(A) The first sentence of section 819(a)(2)(A) (relating to definition of minimum figure for foreign life insurance companies) is amended to read as follows: "The minimum figure is the amount determined by multiplying the taxpayer's total insurance liabilities on United States business by a percentage for the taxable year to be determined and proclaimed by the Secretary."

(B) The second sentence of section 819(a)(2)(A) is amended by striking out "under clause (ii)" and inserting in lieu thereof "under the preceding sentence".

(C) Clause (i) of section 819(b)(2)(B) (relating to distributions pursuant to certain mutualizations) is amended to read as follows:

"(i) the minimum figure for 1958 determined under subsection (a)(2)(A) computed by using a percentage of 9 percent in lieu of the percentage determined and proclaimed by the Secretary, or".

(106) AMENDMENTS OF SECTION 820.—

(A) Section 820(c) (relating to optional treatment of certain reinsured policies) is amended by striking out paragraph (6) (relating to reimbursement for 1957 income taxes), and by redesignating paragraph (7) as paragrph (6).

(B) The last sentence of section 820(c) is amended by striking out "(5), and (6) and the rules prescribed under paragraph (7)" and inserting in lieu thereof "and (5) and the rules prescribed under paragaph (6)".

(107) AMENDMENTS OF SECTION 821.—

(A) Section 821(a) (elating to imposition of tax on certain mutual insurance companies) is amended by striking out "beginning after December 31, 1963.".

(B) Section 821(c)(1) (relating to alternative tax for certain small insurance companies) is amended by striking out "In the case of taxable years beginning after December 31, 1963, there is" and inserting in lieu thereof "There is".

(C) Section 821 (relating to tax on certain mutual insurance companies) is amended by striking out subsection (e) (relating to 1962 transitional rules) and by redesignating subsection (f) as subsection (e).

(108) AMENDMENTS OF SECTION 822.—

(A) Section 822(c)(5) (relating to deduction of interest) is amended by striking out "(other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer)".

(B) The last sentence of section 822(d)(2) (relating to amortization of premium and accrual of discount) is amended by striking out "For taxable years beginning after December 31, 1962, no accrual" and inserting in lieu thereof "No accrual".

(109) AMENDMENTS OF SECTION 825.—Section 825(g) (relating to unused loss deduction of certain insurance companies) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(110) AMENDMENT OF SECTION 831.—Section 831(a) (relating to tax on certain insurance companies) is amended by striking out "or the taxable income" and inserting in lieu thereof "on the taxable income."

(111) AMENDMENTS OF SECTION 832.—Paragraphs (1) and (6) of section 832(b) (relating to definitions of insurance company taxable income) are each amended by striking out "Convention" and inserting in lieu thereof "Association".

(112) AMENDMENTS OF SECTION 851.—

(A) Section 851(a)(1) (relating to definition of regulated investment company) is amended by striking out "54 Stat. 789;".

(B) Section 851(b)(1) (relating to regulated investment companies) is amended by striking out "which began after December 31, 1941".

(113) AMENDMENTS OF SECTION 852.—

(A) Subparagraph (C) o fsection 852(b)(3) (relating to method of taxation of regulated investment companies and their shareholders) is amended by striking out the third sentence.

(B)(i) Section 852(b)(3)(D)(iii) is amended by striking out by 75 percent of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a)(1)(A) and by 70 percent (72 percent in the case of a taxable year beginning after December 31, 1969, and before January 1, 1971) of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a) (1)(B) or (2)" and inserting in lieu thereof "by 70 percent of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a)".

(ii) The amendment made by clause (i) shall not be considered to affect the amount of any increase in the basis of stock under the provisions of section 852(b)(3)(D)(iii) of the Internal Revenue Code of 1954 which is based upon amounts subject to tax under section 1201 of such Code in taxable years beginning before January 1, 1975.

(C) Section 852(d) is amended by inserting after "Investment Company Act of 1940" the following: "(15 U.S.C. 80a-1 and following)".

(114) AMENDMENTS OF SECTION 856.—

(A) Section 856(c)(1) (relating to real estate investment trusts) is amendd by striking out "which began after December 31, 1960".

(B) Section 856(c)(6)(D) (relating to deffinition of other terms) is amended by inserting atfer "Investment Company Act of 1940, as amended" the following: "15 U.S.C. 80a-1 and following)".

(115) AMENDMENT OF SECTION 857.—Section 857(b)(3)(C) (relating to the taxation of capital gains in the case of real estate investmnt trusts) is amended by striking out the last sentence.

(116) AMENDMENTS OF SECTION 864.—

(A) Section 864(a) (relating to definitions) is amended to read as follows:

"(a) PRODUCED.—For purposes of this part, the term 'produced' includes created, fabricated, manufactured, extracted, processed, cured, or aged."

(B) Clauses (i) and (iii) of section 864(c)(4)(B) and subparagraph (C) of section 864(c)(5) (relating to effectively connected income) are each amended by striking out "sale" each place it appears and inserting in lieu thereof "sale or exchange".

(C) Section 864(c)(4)(B)(iii) (relating to effectively connected income) is amended by striking out "sold" and inserting in lieu thereof "sold or exchanged".

(117) AMENDMENTS OF SECTION 904.—

(A) Section 904(b)(1) (relating to the limitation on foreign tax credit) is amended to read as follows:

"(1) IN GENERAL.—A taxpayer may elect the limitation provided by subsection (a)(2) for any taxable year. An election under this paragraph for any taxable year shall remain in effect for all subsequent years, except that it may be revoked with the consent of the Secretary with respect to any taxable year."

(B) Section 904(b)(2) (relating to election after revocation) is amended by striking out "Except in a case to which paragraph (1)(B) applies, if" and inserting in lieu thereof "If".

(C) Section 904(d) (relating to carryback and carryover of excess foreign taxes) is amended by striking out "beginning after December 31, 1957,", and by striking out the last sentence (relating to taxable years before 1958).

(D) Section 904(f) (relating to limitation on foreign tax credit) is amended by striking out paragraph (4) (relating to certain 1962 transitional rules) and by redesignating paragraph (5) as paragraph (4).

(118) AMENDMENT OF SECTION 905.—Section 905(b) (relating to proof of foreign tax credits) is amended by striking out the last sentence (relating to the treatment of certain royalty payments).

(119) AMENDMENT OF SECTION 911.—Section 911(c) (relating to earned income from sources without the United States) is amended by striking out paragraph (7) (relating to taxable years ending in 1963, 1964, or 1965).

(120) AMENDMENT OF SECTION 921.—Section 921 (relating to definition of Western Hemisphere Trade Corporation) is amended by striking out the last sentence (relating to taxable years before 1954).

(121) AMENDMENTS OF SECTION 931.—Section 931 (relating to income from sources within possession) is amended by striking out subsection (h) (relating to certain persons taken as prisoners of war while working in a possession), and by redesignating subsection (i) as subsection (h).

(122) AMENDMENT OF SECTION 934.—Section 934(b) (relating to gross income received by a corporation from the Virgin Islands) is amended by striking out the last sentence.

(123) AMENDMENT OF SECTION 951.—Section 951(a)(1) (relating to treatment of subpart F income) is amended by striking out "beginning after December 31, 1962".

(124) REPEAL OF SECTION 972.—Section 972 (relating to consolidation of export trade corporations is repealed.

(125) AMENDMENTS OF SECTION 981.—

(A) Section 981(a) (relating to election with respect to income subject to foreign community property laws) is amended by striking out "beginning after December 31, 1966".

(B) Section 981 is amended by striking out subsection (c) (relating to election for pre-1967 years) and by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(C) Section 981(c) (relating to time for making election), as redesignated by subparagraph (B) of this paragraph, is amended by striking out, "or (c)" each place it appears in paragraphs (1) and (2), and by striking out paragraphs (3) and redesignating paragraph (4) as paragraph (3).

(D) Section 981(d)(2) relating to open years), as redesignated by subparagraph (B) of this paragraph, is amended by striking out "or (c), as the case may be".

(E) Section 981(d)(4) (relating to special rules), as redesignated by subparagraph (B) of this paragraph, is amended by striking out "and in determining under subsection (c)(2) which spouse has the greater income for a taxable year,".

(126) AMENDMENT OF SECTION 1001.—Section 1001(c) (relating to recognition of gain or loss) is amended to read as follows:

"(c) RECOGNITION OF GAIN OR LOSS.—Except as otherwise provided in this subtitle, the entire amount of the gain or loss, determined under this section, on the sale or exchange of property shall be recognized."

(127) AMENDMENTS OF SECTION 1015.—

(A) Subparagraph (A) of section 1015(d)(1) (relating to increased basis for gift tax paid) is amended by striking out "the date of the enactment of the Technical Amendments Act of 1958" and inserting in lieu thereof "September 2, 1958".

(B) Subparagraph (B) of section 1015(d)(1) is amended by striking out "the date of the enactment of the Technical Amendments Act of 1958" and inserting in lieu thereof "September 2, 1958,".

(128) AMENDMENT OF SECTION 1016.—Section 1016(a) (relating to adjustments to basis) is amended by striking out paragraph (19).

(129) AMENDMENT OF SECTION 1018.—Section 1018 (relating to adjustment of capital structure before September 22, 1938) is amended by striking out "54 Stat. 709;".

(130) REPEAL OF SECTION 1020.—Section 1020 (relating to election in respect of depreciation allowed before 1952) is repealed.

(131) REPEAL OF SECTION 1022.—

(A) Section 1022 (relating to the basis of certain foreign personal holding company stock) is repealed.

(B) The repeal made by subparagraph (A) shall apply with respect to stock or securities acquired from a decedent dying after the date of the enactment of this Act.

(132) AMENDMENT OF SECTION 1023.—Section 1023 (containing cross references) is amended by striking out paragraph (4).

(133) AMENDMENTS OF SECTION 1033.—

(A) Section 1033(a) (relating to involuntary conversions) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(B) Section 1033(a)(2) (relating to conversion into money), as redesignated by subparagraph (A) of this paragraph, is amended—

(1) by striking out "WHERE DISPOSITION OCCURRED AFTER 1950" in the paragraph heading,

(ii) by striking out "and the disposition of the converted property (as defined in paragraph (2)) occurred after December 31, 1950," in the text; and

(iii) by adding at the end thereof the following new subparagraph:

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) CONTROL.—The term 'control' means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation.

"(ii) DISPOSITION OF THE CONVERTED PROPERTY.—The term 'disposition of the converted property' means the destruction, theft, seizure, requisition, or condemnation of the converted property, or the sale or exchange of such property under threat or imminence of requisition or condemnation."

(C) Section 1033 (relating to involuntary conversions) is amended by striking out subsection (b) (relating to certain conversions occurring before 1954) and by redesignating subsections (c), (d), (e), (f), (g), and (h), as subsections (b), (c), (d), (e), (f), and (g), respectively.

(D) The first sentence of section 1033(b) (relating to basis of a property acquired through involuntary conversions), as redesignated by subparagraph (C) of this paragraph, is amended by striking out "or (2)" and inserting in lieu thereof "or section 112(f)(2) of the Internal Revenue Code of 1939".

(E) Section 1033(f)(2) (relating to condemnation of real property), as redesignated by subparagraph (C) of this paragraph, is amended to read as follows:

"(2) LIMITATION.—Paragraph (1) shall not apply to the purchase of stock in the acquisition of control of a corporation described in subsection (a)(2)(A)."

(134) AMENDMENTS OF SECTION 1034.—

(A) Section 1034(a) (relating to gain on sale of residence) is amended by striking out "after December 31, 1953,".

(B) Section 1034(b) (relating to definition of adjusted sales price) is amended by striking out paragraph (3) (relating to effective date of subsection (b)).

(C) Section 1034(d) (relating to certain limitations) is amended by striking out "or section 112(n) of the Internal Revenue Code of 1939".

(D) Section 1034(i) (relating to involuntary conversions) is amended to read as follows:

"(i) SPECIAL RULE FOR CONDEMNATION.—In the case of the seizure, requisition, or condemnation of a residence, or the sale or exchange of a residence under threat or imminence thereof, the provisions of this section, in lieu of section 1033 (relating to involuntary conversions), shall be applicable if the taxpayer so elects. If such election is made, such seizure, requisition, or condemnation shall be treated as the sale of the residence. Such election shall be made at such time and in such manner as the Secretary shall prescribe by regulations."

(E) Section 1034(j) (relating to statute of limitations) is amended by striking out "after December 31, 1950,".

(135) AMENDMENT OF SECTION 1037.—Section 1037(b)(1) (relating to certain exchanges of United States obligations) is amended by striking out "section 1232(a)(2)(A)" and inserting in lieu thereof "section 1232(a)(2)(B)".

(136) AMENDMENT OF SECTION 1051.—Section 1051 (relating to property acquired before 1929 during affiliation) is amended by striking out the last two sentences.

(137) AMENDMENTS OF SECTION 1081.—

(A) Subsection (c) of section 1081 (relating to distributions required by the SEC) is amended to read as follows:

"(c) DISTRIBUTION OF STOCK OR SECURITIES ONLY.—If there is distributed, in obedience to an order of the Securities and Exchange Commission, to a shareholder in a corporation which is a registered holding company or a majority-owned subsidiary company, stock or securities (other than stock or securities which are nonexempt property), without the surrender by such shareholder of stock or securities in such corporation, no gain to the distributee from the receipt of the stock or securities so distributed shall be recognized."

(B) Section 1081(f) (relating to conditions for application of section) is amended by striking out "Except in the case of a distribution described in subsection (c)(2), the provisions" and inserting in lieu thereof "The provisions", and by striking out "49 Stat. 820;".

(C) Section 1081(g) (relating to applicability of other provisions) is amended by striking out "if a distribution described in subsection (c)(2), or an" and inserting in lieu thereof "if an", and by striking out the comma after "Commission".

(138) AMENDMENTS OF SECTION 1083.—

(A) Section 1083(a) is amended by striking out "49 Stat. 820;".

(B) Section 1083(b) is amended by striking out "49 Stat. 804;".

(C) Section 1083(e)(4) is amended by striking out "49 Stat. 820;".

(139) REPEAL OF SECTION 1111.—Part IX of subchapter O of chapter 1 (relating to distributions pursuant to orders enforcing the antitrust laws) is repealed.

(140) AMENDMENTS OF SECTION 1201.—

(A) Section 1201(a) (relating to the alternative tax on capital gain) is amended to read as follows:

"(a) CORPORATIONS.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, 821(a) or (c), and 831(a), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) a tax of 30 percent of the net capital gain."

(B) Section 1201(c) (relating to computation of alternative tax) is amended to read as follows:

(c) COMPUTATION OF TAX WHERE CAPITAL GAIN EXCEEDS $50,000.—The tax computed for purposes of subsection (b)(3) shall be the amount by which a tax determined under setcion 1 or 511 on an amount equal to the taxable income (but not less than 50 percent of the net capital gain) for the taxable year exceeds a tax determined under section 1 or 511 on an amount equal to the sum of (A) the amount subject to tax under subsection (b)(1) plus (B) an amount equal to 50 percent of the sum referred to in subsection (b)(2)(A)."

(C)(i) Section 1201 is amended by striking out subsection (d) (relating to the definition of subsection (d) gain) and by redesignating subsection (e) as subsection (d).

(ii) Section 1201(b)(2)(A) (relating to alternative tax on noncorporate taxpayers) is amended by striking out "the amount of the subsection (d) gain" and inserting in lieu thereof "the sum of the long-term capital gains for the taxable year, but not to exceed $50,000 ($25,000 in the case of a married individual filing a separate return)".

(iii) Section 1201(b)(3) is amended by striking out "the amount of the subsection (d) gain" and inserting in lieu thereof "the sum refered to in subparagraph (A)".

(141) AMENDMENTS OF SECTION 1222.—

(A) Paragraph (9) of section 1222 (relating to definition of terms applicable to capital gains and losses) is amended to read as follows:

"(9) CAPITAL GAIN NET INCOME.—The term 'capital gain net income' means the excess of the gains from sales or exchanges of capital assets over the losses from such sales or exchanges."

(B) Paragraph (11) of section 1222 (relating to definition of terms applicable to capital gains and losses) is amended to read as follows:

"(11) NET CAPITAL GAIN.—The term 'net capital gain' means the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year."

(142) AMENDMENT OF SECTION 1233.—Section 1233(c) (relating to certain options to sell) is amended by striking out "the date of enactment of this title" and inserting in lieu thereof "August 16, 1954".

(143) AMENDMENT OF SECTION 1237.—Section 1237 (relating to real property subdivided for sale) is amended by striking out subsection (d) (relating to effective date).

(144) AMENDMENT OF SECTION 1239.—Section 1239 is amended by striking out subsection (c) (relating to effective date).

(145) REPEAL OF SECTION 1240.—Section 1240 (relating to taxability to employee of certain termination payments) is repealed.

(146) AMENDMENT OF SECTION 1245.—Section 1245(b)(7)(B) (relating to transfer to tax-exempt organization where property will be used in unrelated business) is amended by striking out "such organization acquiring such property,".

(147) AMENDMENT OF SECTION 1246.—Section 1246(f) (relating to gain on foreign investment company stock) is amended by striking out "beginning after December 31, 1962".

(148) AMENDMENT OF SECTION 1311.—Paragraphs (2)(A), (2)(B), and (3) of section 1311(b) (relating to mitigation of effect of limitations) are each amended by striking out "Tax Court of the United States" and inserting in lieu thereof "Tax Court".

(149) REPEAL OF SECTION 1315.—Section 1315 (relating to effective date of part II of subchapter Q of chapter 1) is repealed.

(150) REPEAL OF SECTION 1321.—Part III of subchapter Q of chapter 1 (relating to involuntary liquidation of LIFO inventories) is repealed.

(151) REPEAL OF SECTIONS 1331 THROUGH 1317.—

(A) Part IV of subchapter Q of chapter 1 (relating to war loss recoveries) is repealed.

(B) The repeal by subparagraph (A) shall apply with respect to war loss recoveries in taxable years beginning after December 31, 1976.

(152) AMENDMENT OF SECTION 1341.—Section 1341(b)(2) (relating to claim of right) is amended by striking out the last sentence.

(153) REPEAL OF SECTION 1342.—Section 1342 (relating to computation of tax on certain amounts recovered as a result of a patent infringement suit) is repealed.

(154) REPEAL OF SECTION 1346.—Section 1346 (relating to recovery of unconstitutional Federal taxes) is repealed.

(155) AMENDMENTS OF SECTION 1348.—

(A) Paragraphs (1) and (2) of section 1348 (a) (relating to 50-percent maximum rate on earned income) are amended to read as follows:

"(1) the tax imposed by section 1 on the highest amount of taxable income on which the rate of tax is not more than 50 percent,

"(2) 50 percent of the amount by which his earned taxable income exceeds the amount of taxable income specified in paragraph (1) of this subsection, and".

(B) Section 1348(a) is further amended by striking out the last sentence thereof.

(156) AMENDMENTS OF SECTION 1372.—

(A) Section 1372(b)(1) (relating to effect of election under subchapter S) is amended by striking out "(other than the tax imposed by section 1378)" and inserting in lieu thereof "(other than as provided by section 58(d)(2) and by section 1378)".

(B) Section 1372(c) (relating to subchapter S elections by small business corporations) is amended to read as follows:

"(c) WHERE AND HOW MADE.—An election under subsection (a) may be made by a small business corporation for any taxable year at any time during the first month of such taxable year, or at any time during the month preceding such first month. Such election shall be made in such manner as the Secretary shall prescribe by regulations."

(C) Section 1372 is amended by striking out subsection (g) (relating to certain elections for years beginning before 1961).

(157) AMENDMENTS OF SECTION 1374.—

(A) Section 1374(b) (relating to net operating losses of subchapter S corporations) is amended by adding at the end thereof the following new sentence: "The deduction allowed by this subsection shall, for purposes of this chapter, be considered as a deduction attributable to a trade or business carried on by the shareholder."

(B) Subsection (d) of section 1374 (relating to treatment of net operating losses of subchapter S corporations) is repealed.

(158) AMENDMENTS OF SECTION 1375.—

(A) The heading of subsection (b) of section 1375 is amended by striking out "RECEIVED CREDIT NOT ALLOWED" and inserting in lieu thereof "NOT TREATED AS SUCH FOR CERTAIN PURPOSES".

(B) Section 1375(f) (relating to elections as to certain distributions) is amended by striking out paragraph (3).

(159) AMENDMENT OF SECTION 1378.—Section 1378(b) (relating to the taxation of capital gain in the case of electing small business corporations) is amended by striking out the last sentence.

(160) AMENDMENTS OF SECTION 1388.—

(A) Section 1388(c)(2)(B)(i) (relating to patronage dividends) is amended by striking out "the date of the enactment of the Revenue Act of 1962" and inserting in lieu thereof "October 16, 1962".

(B) Section 1388(h)(2)(B)(i) (relating to per-unit retain certificates) is amended by striking out "the date of the enactment of this subsection" and inserting in lieu thereof "November 13, 1966".

(16) AMENDMENTS OF SECTION 1401.—

(A) Section 1401 (a) (relating to rate of tax on self-employment income) is amended to read as follows:

"(a) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to 7.0 percent of the amount of the self-employment income for such taxable year."

(B) Section 1401(b) (relating to rate of tax on self-employment income for hospital insurance) is amended by striking out paragraphs (1) and (2) and by redesignating paragraphs (3), (4), (5), and (6), as paragraphs (1), (2), (3), and (4), respectively.

(162) AMENDMENTS OF SECTION 1402.—

(A) Paragraph (1) of section 1402(b) (relating to definition of self-employment income) is amended to read as follows:

"(1) that part of the net earnings from self-employment which is in excess of (i) an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective for the calendar year in which such taxable year begins, minus (ii) the amount of the wages paid to such individual during such taxable year; or".

(B) Section 1402 is amended by striking out subsection (g) (relating to treatment of self-employment income for years prior to 1962), and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(C) Section 1402(g)(2) (relating to self-employment income of members of certain religious faiths), as redesignated by subparagraph (B) of this paragraph, is amended to read as follows:

"(2) TIME FOR FILING APPLICATION.—For purposes of this subsection, an application must be filed on or before the time prescribed for filing the return (including any extension thereof) for the first taxable year for which the individual has self-employment income (determined without regard to this subsection or subsection (c)(6)), except that an application filed after such date but on or before the last day of the third calendar month following the calendar month in which the taxpayer is first notified in writing by the Secretary that a timely application for an exemption from the tax imposed by this chapter has not been filed by him shall be deemed to be filed timely."

(163) REPEAL OF SECTION 1465.—Section 1465 relating to definition of withholding agent is repealed.

(164) AMENDMENTS OF SECTION 1481.—

(A) Section 1481(a)(1)(A) (relating to mitigation of effect of renegotiation of Government contracts) is amended by striking out "within the meaning of the Federal renegotiation act applicable to such transac-

tion" and inserting in lieu thereof "within the meaning of the Renegotiation Act of 1951, as amended (50 U.S.C. App. 1211 and following)."

(B) Section 1481(a)(1) (relating to renegotiation) is amended by striking out subparagraph (D).

(C) Subparagraphs (B) and (C) of section 1481(a)(1) are each amended by striking out "applicable Federal renegotiation act" and inserting in lieu thereof "Renegotiation Act of 1951, as amended".

(165) AMENDMENT OF SECTION 1551.—Section 1551(a) (relating to disallowance of surtax exemption) is amended by striking out "determined under subsection (d)" and inserting in lieu thereof "determined under subsection (c)".

(166) AMENDMENT OF SECTION 1552.—The first sentence of section 1552(a) (relating to earnings and profits of an affiliated group) is amended by striking out "beginning after December 31, 1953, and ending after the date of the enactment of this title,".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENTS CONFORMING TO REPEAL OF SECTIONS 35 AND 242.—

(A) Secstion 36 is amended by striking out "32, 33, and 35" and inserting is lieu thereof "32 and 33".

(B) Section 37(a) is amended by striking out ", section 33 (relating to foreign tax credit), and section 35 (relating to partially tax-exempt interest)" and inserting in lieu thereof "and section 33 (relating to foreign tax credit)".

(C) Section 41(b)(2) is amended by striking out "section 35 (relating to partially tax-exempt interest),".

(D) Section 46(a)(3) is amended by striking out subparagraph (B), by inserting "and" at the end of subparagraph (A), and by redesignating subparagraph (C) as subparagraph (B).

(E) Section 50A(a)(3) is amended by striking out subparagraph (B) and redesignating subparagraphs (C), (D), and (E), as subparagraphs (B), (C), and (D), respectively.

(F)(i) The heading of paragraph (1) of section 171(a) is amended to read "(1) TAXABLE BONDS.—".

(ii) The heading of paragraph (2) of section 171(a) is amended to read "(2) TAX-EXEMPT BONDS.—".

(iii) Section 171(a) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(iv) Section 171(b)(1)(B)(ii) is amended by striking out "subsection (c)(1)(B)" and inserting in lieu thereof "subsection (a)(1)".

(v) So much of section 171(c) as precedes paragraph (2) is amended to read as follows:

"(c) ELECTION AS TO TAXABLE BONDS.—

"(1) ELIGIBILITY TO ELECT; BONDS WITH RESPECT TO WHICH ELECTION PERMITTED.—In the case of bonds the interest on which is not excludable from gross income, this section shall apply only if the taxpayer has so elected."

(G) Section 172(d)(5) is amended by striking out "under section 242 (relating to partially tax-exempt interest) or".

(H)(i) Section 551 is amended by striking out subsection (c), and by redesignating subsetctions (d), (e), (f), and (g), as subsections (c), (d), (e), and (f), respectively.

(ii) Sections 1016(a)(13) is amended by striking out "section 551(f)" and inserting in lieu thereof "section 551(e)".

(I) Section 584(c)(2) is amended to read as follows:

"(2) DIVIDENDS RECEIVED.—The proportionate share of each participant in the amount of dividends received by the common trust fund and to which section 116 applies shall be considered for purposes of such section as having been received by such participant."

(J)(i) Section 642(a) is amended by striking out paragraph (1), and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(ii) Section 41(d) is amended by striking out "section 462(a)(3)" and inserting in lieu thereof "section 642(a)(2)".

(iii) Section 901(g)(3) is amended by striking out "section 642(a)(2)" and inserting in lieu thereof "section 642(a)(1)".

(K)(i) Section 702(a) is amended by striking out paragraph (7) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

(ii) Section 702(b) is amended by striking out "paragraphs (1) through (8)" and inserting in lieu thereof "paragraphs (1) through (7)".

(iii) Section 704(b) is amended by striking out "section 702(a)(9)" and inserting in lieu thereof "section 702(a)(8)".

(iv) Section 1402(a) is amended by striking out "702(a)(9)" each place it appears and inserting in lieu thereof "702(a)(8)".

(L)(i) Section 804(a) is amended by striking out paragraph (3), and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(ii) Section 243(b)(3)(C)(iii), as redesignated by paragraph (19)(A) of this subsection, is amended by striking out "sections 804(a)(4)" and inserting in lieu thereof "sections 804(a)(3)".

(iii) Section 804(a)(2) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)", and by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (3)".

(iv) Section 809(d)(10) is amended by striking out "section 804(a)(4)" and writing in lieu thereof "section 804(a)(3)".

(v) Section 1561(a)(3) is amended by striking out "sections 804(a)(4)" and inserting in lieu thereof "sections 804(a)(3)".

(vi) Section 1564(a)(1)(C) is amended by striking out "sections 804(a)(4)" and inserting in lieu thereof "section 804(a)(3)".

(M) Section 804(a)(2)(A) is amended by striking out clause (ii), by inserting "and" at the end of clause (i), and by redesignating clause (iii) as clause (ii).

(N)(i) Section 809(d)(8)(A) is amended by striking out clause (ii), by inserting "and" at the end of clause (i), and by redesignating clause (iii) as clause (ii).

(ii) Section 809(d)(8)(B) is amended by striking out "subparagraph (A)(iii)" and inserting in lieu thereof "subparagraph (A)(ii)".

(O) Sections 804(a)(1), 804(a)(2), 809(a)(1), 809(b)(1)(A), and 809(b)(2)(A) are each amended by striking out ", partially tax-exempt interest,".

(P) Section 809(e) is amended by striking out paragraph (6), and by redesignating paragraph (7) as paragraph (6).

(Q) Section 815(b)(2)(A)(iii) is amended by striking out "the deduction for partially tax-exempt interest provided by section 242 (as modified by section 804(a)(3))," and by striking out the comma after "809(d)(8)(B))".

(R) Section 822(c)(2) is amended by striking out "partially tax-exempt interest and".

(S) Section 822(c)(6)(A) is amended by striking out "or to the deduction provided in section 242 for partially tax-exempt interest".

(T) Section 822(c)(7) is amended by striking out "partially tax-exempt interest and to".

(U) Section 822(d)(2) is amended by striking out ", the deduction provided in subsection (c)(1), and the deduction allowed by section 242 (relating to partially tax-exempt interest)" and inserting in lieu thereof "and the deduction provided in subsection (c)(1)".

(V) Section 832(c)(5)(A) is amended by striking out "or to the deductions provided in section 242 for partially tax-exempt interest".

(W) Section 832(c)(12) is amended by striking out "partially tax-exempt interest and to".

(X) Sections 852(b)(1) and 857(b)(1) are each amended by striking out the last sentence.

(Y) Section 1244(c)(1)(E) is amended by striking out "sections 172, 242, 243" and inserting in lieu thereof "sections 172, 243".

(Z) Section 1402(a)(2) is amended by striking out "(other than interest described in section 35)".

(AA) Section 1503(b)(3) is amended by striking out subparagraph (C).

(BB) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 35.

(CC) The table of sections for part VIII of subchapter B of chapter 1 is amended by striking out the item relating to section 242.

(2) AMENDMENT CONFORMING TO REPEAL OF SECTION 51.—The table of parts for subchapter A of chapter 1 is amended by striking out the item relating to part V.

(3) AMENDMENTS CONFORMING TO AMENDMENTS OF SECTION 57.—

(A) Section 48(d)(4)(D) is amended by striking out "section 57(c)(2)" and inserting in lieu thereof "section 57(b)(2)".

(B) Section 703(b) is amended by striking out "section 57(c)" and inserting in lieu thereof "section 57(b)".

(4) AMENDMENTS CONFORMING TO ADDITIONS OF SECTIONS 64 AND 65.—

(A) Paragraphs (1)(C), (5)(A), (6)(D), and (12) of section 341(e) are each amended by striking out "gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231(b)" each place it appears and inserting in lieu thereof "ordinary income".

(B) Section 483(f)(3) is amended by striking out "no part of any gain on such" and inserting in lieu thereof "all of the gain, if any, on such" and by striking out "gain from the sale or exchange of a capital asset or property described in section 1231" and inserting in lieu thereof "ordinary income".

(C) Section 707(b)(2) is amended by striking out "as gain from the sale or exchange of property other than a capital asset" and inserting in lieu thereof "as ordinary income".

(D) Paragraphs (1) and (2) of section 735(a) are each amended by striking out "gain or loss from the sale or exchange of property other than a capital asset" and inserting in lieu thereof "as ordinary income or as ordinary loss, as the case may be".

(E) Section 1234(d)(2) is amended by striking out "other than gain from the sale or exchange of a capital asset" and inserting in lieu thereof "ordinary income".

(F) Section 1236(b) is amended by striking out "loss from the sale or exchange of property which is not a capital asset" and inserting in lieu thereof "ordinary loss".

(G) Sections 1242 and 1243 are each amended by striking out "a loss from the sale or exchange of property which is not a capital asset" each place it appears and inserting in lieu thereof "an ordinary loss".

(H) Section 1244 is amended by striking out "a loss from the sale or exchange of an asset which is not a capital asset" each place it appears and inserting in lieu thereof "an ordinary loss".

(I) Section 1248(f)(3)(B) is amended by striking out "gain from the sale of an asset which is not a capital asset" and inserting "ordinary income".

(J) The following provisions are each amended by striking out "gain from the sale or exchange or property which is not a capital asset" each place it appears and inserting in lieu thereof "ordinary income": sections 341(a), 871(a)(1)(C) (i) and (ii), 881(a)(3)(A) and (B), 996(d)(1) and (2), 1037(b)(1)

(A), 1232(a)(2) (A) and (B), 1232(c), 1246 (a), and 1385(c)(2)(C).

(K) The following provisions are each amended by striking out "gain from the sale of property which is not a capital asset" and inserting in lieu thereof "ordinary income": sections 306(a)(1)(A), 306(a)(1)(B), and 306(f).

(L) The following provisions are each amended by striking out "gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231" each place it appears and inserting in lieu thereof "ordinary income": sections 80(c)(1), 163(d) (3) and (5), 613(a), 617 (d)(1), 995(b)(1)(C), 1238, 1239(a), 1245 (a)(1), 1249(a), 1250 (a), (f), and (g), 1251 (b)(3)(B), (c)(1), and (c)(2), and 1252(a)(1).

(M) The table of sections for part I of subchapter B of chapter 1 is amended by adding at the end thereof the following new items:

*"Sec. 64. Ordinary income defined.*

*"Sec. 65. Ordinary loss defined."*

(5) AMENDMENT CONFORMING TO REPEAL OF SECTION 76.—The table of sections for part II of subchapter B of chapter 1 is amended by striking out the item relating to section 76.

(6) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 103.—Section 6049(b)(2)(A) is amended by striking out "section 103 (a)(1) or (3)" and inserting in lieu thereof "section 103(a)".

(7) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 143.—

(A)(i) Part V of subchapter B of chapter 1 is amended by striking out section 153 (relating to determination of marital status) and by redesignating section 154 as section 153.

(ii) The table of sections for part V of subchapter B of chapter 1 is amended by striking out the items relating to sections 153 and 154 and inserting in lieu thereof the following:

*"Sec. 153. Cross references."*

(B) Section 152(a)(9) is amended by striking out "section 153" and inserting in lieu thereof "section 143".

(C) Section 153, as redesignated by subparagraph (A) of this paragraph, is amended by adding at the end thereof the following new paragraph:

"(5) For determination of marital status, see section 143."

(8) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 151.—

(A) The following provisions are each amended by striking out "educational institution (as defined in section 151(e)(4))" each place it appears and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii)": sections 117 (a)(1)(A) and (b)(1), 152(d), 170(g)(1)(B) (as redesignated by subsection (a)(29)(A)(i) of this section), and 403(b)(1)(A)(ii).

(B) Section 103(c)(3)(A), as redesignated by subsection (a)(18) of this section, is amended by striking out "educational institution (within the meaning of section 151(e)(4))" and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(iii)".

(C) Section 163(b)1 is amended by striking out "educational institution as defined in section 151(e)(4)) and which is provided for a student of such institution" and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii)) and which is provided for a student of such organization".

(D)(i) Subparagraphs (A), (B), and (C) of section 415(c)(4) are each amended by striking out "educational institution" each place it appears and inserting in lieu thereof "educational organization".

(ii) Subparagraph (D)(ii) of section 415 (c)(4) is amended to read as follows:

"(ii) For purposes of this paragraph the term 'educational organization' means an educational organization described in section 170(b)(1)(A)(ii)."

(iii) Section 415(c)(4) is amended by striking out "EDUCATIONAL INSTITUTIONS" from the paragraph heading and inserting in lieu thereof "EDUCATIONAL ORGANZATIONS".

(E) Section 508(c)(2)(A) is amended to read as follows:

"(A) educational organizations described in section 170(b)(1)(A)(ii), and".

(F) Section 512(b)(15)(B), as redesignated by section 1351(b)(8)(A) of this Act, is amended by striking out "educational institution (as defined in section 151(e)(4))" and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii)".

(G) Section 1303(d) is amended by striking out "educational institution (as defined in section 151(e)(4))" each place it appears and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii)".

(H) Sections 4941(d)(2)(G)(ii) and 4945 (g)(1) each are amended by striking out "educational institution described in section 151(e)(4)" and inserting in lieu thereof "educational organization described in section 170(b)(1)(A)(ii)".

(9) Amendments conforming to the amendments of section 152.—Section 2(b)(3)(B) is amended by striking out clause (ii), by adding "or" at the end of clause (i), and by redesignating clause (iii) as clause (ii).

(10) Amendments conforming to the repeal of section 342.—

(A) Section 551(f), as redesignated by paragraph (1)(H) of this subsection, is amended by striking out paragraph (3).

(B) The table of subparts for part II of subchapter C of chapter 1 is amended by striking out the item relating to subpart C and inserting in lieu thereof:

*"Subpart C. Collapsible corporations."*

(C) The table of sections for subpart C of part II of subchapter C of chapter I is amended by striking out the item relating to section 342.

(D) The heading of subpart C of part II of subchapter C of chapter 1 is amended to read as follows:

"Subpart C—Collapsible Corporations"

(11) Amendment conforming to the repeal of section 363.—The table of sections for subpart C of part III of subchapter C of chapter 1 is amended by striking out the item relating to section 363.

(12) Amendments conforming to the repeal of section 373.—

(A) Section 372(b)(1) is amended by striking out "373(b) or".

(B) Section 374(b) is amended to read as follows:

"(b) Basis.—

"(1) Railroad corporations.—If the property of a railroad corporation, as defined in section 77(m) of the Bankruptcy Act (11 U.S.C. 205(m), was acquired after December 31, 1938, in pursuance of an order of the court having jurisdiction of such corporation—

"(A) in a receivership proceeding, or

"(B) in a proceeding under section 77 of the Bankruptcy Act,

and the acquiring corporation is a railroad corporation (as defined in section 77(m) of the Bankruptcy Act) organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, the basis shall be the same as it would be in the hands of the railroad corporation whose property was so acquired, increased in the amount of gain recognized under subsection (a)(2) to the transfer on such transfer.

"(2) PROPERTY ACQUIRED BY STREET, SUBURBAN, OR INTERURBAN ELECTRIC RAILWAY CORPORATION.—If the property of any street, suburban, or interurban electric railway corporation engaged as a common carrier in the transportation of persons or property in interstate commerce was acquired after December 31, 1934, in pursuance of an order of the court having jurisdiction of such corporation in a proceeding under section 77 of the Bankruptcy Act (11 U.S.C. 501 and following), and the acquiring corporation is a street, suburban, or interurban electric railway engaged as a common carrier in the transportation of persons or property in interstate commerce, organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, then, notwithstanding the provisions of section 270 of the Bankruptcy Act (11 U.S.C. 670), the basis shall be the same as it would be in the hands of the corporation whose property was so acquired."

(C) Section 1232(b)(2) is amended by striking out "section 371, 373, or 374" and inserting in lieu thereof "section 371 or 374".

(D) The table of sections for part IV of subchapter C of chapter 1 is amended by striking out the item relating to section 373.

(13) AMENDMENT CONFORMING TO REPEAL OF SECTIONS 391 THROUGH 395.—The table of parts for subchapter C of chapter 1 is amended by striking out the item relating to part VII.

(14) AMENDMENT CONFORMING TO REPEAL OF SECTION 406.—The table of sections for part I of subchapter D of chapter 1 is amended by striking out the item relating to section 406.

(15) AMENDMENT CONFORMING TO THE AMENDMENTS OF SECTION 481.—Section 381 (c) is amended by striking out paragraph (21).

(16) AMENDMENT CONFORMING TO THE AMENDMENTS OF SECTION 545.—Section 381 (c)(15) is amended by striking out "subsections (b)(7) and (c)" and inserting in lieu thereof "subsection (c)".

(17) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 583.—The table of sections for part I of subchapter H of chapter 1 is amended by striking out the item relating to section 583.

(18) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 592.—The table of sections for part II of subchapter H of chapter 1 is amended by striking out the item relating to section 592.

(19) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 601.—

(A) Section 535(b) is amended by striking out paragraph (8).

(B)(i) Section 545(b) is amended by striking out paragraph (6), and by redesignating paragraph (8) as paragraph (6).

(ii) Section 545(b)(2) is amended by striking out "paragraph (8)" and inserting in lieu thereof "paragraph (6)".

(iii) Section 545(c)(5) is amended by striking out "subsection (b)(8)" and inserting in lieu thereof "subsection (b)(6)".

(C) The table of parts for subchapter H of chapter 1 is amended by striking out the item relating to part III.

(20) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 615.—

(A)(i) Section 243(b)(3)(C) is amended—

(I) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

"(ii) $400,000 limitation for certain expenditures under section 617(h)(1),", and

(II) by redesignating clauses (iv) and (v) as clauses (iii) and (iv), respectively.

(ii) Section 1564(b)(2)(C) is amended by striking out "section 243(b)(3)(C)(v)" and inserting in lieu thereof "243(b)(3)(C)(iv)".

(B) Section 81(c)(10) is amended to read as follows:

"(10) TREATMENT OF CERTAIN MINING DEVELOPMENT AND EXPLORATION EXPENSES OF DISTRIBUTOR OR TRANSFEROR CORPORATION.—The acquiring corporation shall be entitled to de-

duct, as if it were the distributor or transferor corporation, expenses deferred under section 616 (relating to certain development expenditures) if the distributor or transferor corporation has so elected. For the purpose of applying the limitation provided in section 617(h), if, for any taxable year, the distributor or transferor corporation was allowed a deduction under section 617(a), the acquiring corporation shall be deemed to have been allowed such deduction."

(C) Section 617(h)(1) is amended by striking out "and section 615(a) and the amounts which are or have been treated as deferred expenses under section 615(b)" and inserting in lieu thereof "and subsection (a) of section 615 (as in effect before the enactment of the Tax Reform Act of 1975)".

(D) Section 617(h)(3) is amended to read as follows:

"(3) APPLICATION OF PARAGRAPH (2)(B).—Paragraph (2)(B) shall apply with respect to all amounts deducted before the latest such transfer from the individual or corporation to the taxpayer. Paragraph (2)(B) shall apply only if—

"(A) the taxpayer acquired any mineral property from the individual or corporation under circumstances which make paragraph (7), (8), (11), (15), (17), (20), or (22) of section 113(a) of the Internal Revenue Code of 1939 apply to such transfer; or

"(B) the taxpayer acquired any mineral property from the individual or corporation under circumstances which make section 334(b), 362 (a) and (b), 372(a), 374(b)(1), 1051, or 1082 apply to such transfer."

(E) Section 617 is amended by adding at the end thereof the following new subsection:

"(i) CERTAIN PRE-1970 EXPLORATION EXPENDITURES.—If—

"(1) the taxpayer receives mineral property in a transaction as a result of which the basis of such property in the hands of the transferee is determined by reference to the basis in the hands of the transferor.

"(2) an election made by the transferor under subsection (e) of section 615(e) (as in effect before the enactment of the Tax Reform Act of 1975) applied with respect to expenditures which were made by him and which were properly chargeable to such property, and

"(3) the taxpayer has made or makes an election under subsection (a),

then in the application of this section with respect to the transferee, the amounts allowed as deductions under such section 615 to the transferor, which (but for the transferor's election) would be reflected in the adjusted basis of such property in the hands of the transferee, shall be treated as expenditures allowed as deductions under subsection (a) to the transferor."

(F) Section 703(b) is amended by striking out "under section 615 (relating to pre-1970 exploration expenditures),".

(G) Section 1016(a) is amended by striking out paragraph (10).

(H) The table of sections for part I of subchapter I of chapter 1 is amended by striking out the item relating to section 615.

(21) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 632.—

(A) The table of sections for part III of subchapter I of chapter 1 is amended by striking out the item relating to section 632.

(B) Section 5(b) is amended by striking out paragraph (1).

(22) AMENDMENT CONFORMING TO REPEAL OF SECTION 683.—The table of sections for subpart F of part I of subchapter J of chapter 1 is amended by striking out the item relating to section 683.

(23) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 771.—The table of parts for subchapter K of chapter 1 is amended by striking out the item relating to part IV.

(24) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 802.—Section 815(c)(3)(B) is amended by striking out "(determined without regard to section 602(a)(3))".

(25) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 812.—Section 844(b)(2) is amended by striking out "section 812(b)(1)(A)(iii)" and inserting in lieu thereof "section 812(b)(1)(C)".

(26) AMENDMENT CONFORMING TO THE AMENDMENTS OF SECTION 864.—

(A) Paragraphs (5) and (6) of section 861(a) (relating to items treated as income from within United States) are each amended by striking out in the heading "SALE" and inserting in lieu thereof "SALE OR EXCHANGE", and by striking out "sale" in the text and inserting in lieu thereof "sale or exchange".

(B) Section 861(e)(1) (relating to income from certain aircraft and vessels) is amended by striking out "sale or other disposition" and inserting in lieu thereof "sale, exchange, or other disposition".

(C) Paragraphs (5) and (6) of section 862(a) (relating to items treated as income from without the United States) and paragraphs (2) and (3) of section 863(b) (relating to sources of income) are each amended by striking out "sale" and inserting in lieu thereof "sale or exchange".

(D) Paragraph (2) of section 863(b) (relating to sources of income) is amended by striking out "sold" each place it appears and inserting in lieu thereof "sold or exchanged".

(27) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 972.—

(A) Section 970(b)(1) (relating to inclusion of certain previously excluded amounts of subpart F income) is amended by striking out "application of section 972" and inserting in lieu thereof "treatment (under section 972 as in effect before the date of the enactment of the Tax Reform Act of 1975 of two or more controlled foreign corporations which are export trade corporations as a single controlled foreign corporation".

(B) The table of sections for subpart G of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 972.

(28) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION 1001.—

(A) Subsection (c) of section 331 is amended to read as follows:

"(c) CROSS REFERENCE.—

"For general rule for determination of the amount of gain or loss recognized, see section 1001."

(B)(i) Section 1002 (relating to recognition of gain or loss) is repealed.

(ii) The table of sections for part I of subchapter O of chapter 1 is amended by striking out the item relating to section 1002.

(29) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1020.—

(A) The third sentence of subsection (a) of section 1016 is amended by striking out "under section 1020" and inserting in lieu thereof "under section 1020 (as in effect before the date of the enactment of the Tax Reform Act of 1975)".

(B) The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1020.

(30) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1022.—

(A) Section 1016(a) is amended—

(i) by striking out paragraph (21), and

(ii) by redesignating paragraphs (20) and (22), as paragraphs (19) and (20), respectively.

(B) The amendment made by subparagraph (A)(i) shall apply with respect to stock or securities acquired from a decedent dying after the date of the enactment of this Act.

(C) The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1022.

(31) AMENDMENTS CONFORMING TO AMENDMENTS OF SECTION 1033.—

(A) Section 1250(d)(4)(B) is amended by striking out "1033(a)(3)(A)" and inserting in lieu thereof "1033(a)(2)(A)".

(B) Section 1250(d)(4) (C) and (D) are each amended by striking "1033(a)(3)" and inserting in lieu thereof "1033(a)(2)".

(C) Section 6212(c)(2)(B) is amended by striking out "1033(a)(3) (C) and (D)" and inserting in lieu thereof "1033(a)(2) (C) and (D)".

(D) Section 6504(4) is amended by striking out "1033(a)(3) (C) and (D)" and inserting in lieu thereof "1033(a)(2) (C) and (D)".

(E) Sections 1071(b) and 1250(d)(4)(D) are each amended by striking out "1033(c)" and inserting in lieu thereof "1033(b)".

(32) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1111.—

(A) Section 301 is amended by striking out subsection (f), and by redesignating subsection (g) as subsection (e).

(B)(i) Section 312 is amended by striking out subsection (k), and by redesignating subsections (l) and (m) as subsection (j) and (k), respectively.

(ii) Section 1246(g) is amended by striking out "312(l)" and inserting in lieu thereof "312(j)".

(iii) Sections 964(a) and 1248(c)(1) are each amended by striking out "312(m)(3)" and inserting in lieu thereof "312(k)(3)".

(C) Section 535(b) is amended by striking out paragraphs (9) and (10).

(D) Section 543(a)(1) is amended by inserting "and" at the end of subparagraph (A), and by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) interest on amounts set aside in a reserve fund under section 511 or 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1161 or 1177)."

(E) Sections 545(b) is amended by striking out paragraphs (10) and (11).

(F) Section 553(a)(1) is amended to read as follows:

"(1) DIVIDENDS, ETC.—Dividends, interest, royalties, and annuities."

(G) Section 556(b) is amended by striking out paragraphs (7) and (8).

(H) Section 561(b) is amended to read as follows:

"(b) SPECIAL RULES APPLICABLE.—In determining the deduction for dividends paid, the rules provided in section 562 (relating to rules applicable in determining dividends eligible for dividends paid deduction) and section 563 (relating to dividends paid after the close of the taxable year) shall be applicable."

(I) The table of parts for subchapter O of chapter 1 is amended by striking out the item relating to part IX.

(33) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 1222.—

(A) Section 57(a)(9)(A) is amended by striking out "the amount by which the net long-term capital gain exceeds the net short-term capital loss" and inserting in lieu thereof "the net capital gain".

(B) So much of the first sentence of section 75(a)(9)(B) as precedes "by a fraction" is amended to read as follows: "In the case of a corporation having a net capital gain for the taxable year, an amount equal to the product obtained by multiplying the net capital gain".

(C) Section 163(d)(1)(C) is amended by striking out "the amount by which the net long-term capital gain exceeds the net short-term capital loss" and inserting in lieu thereof "the net capital gain".

(D) Section 527(b)(2) is amended by striking out "net section 1201 gain" and inserting in lieu thereof "net capital gain".

(E) Sections 535(b)(6) and 545(b)(5) are each amended—

(1) by striking out from the paragraph heading "LONG-TERM" and inserting in lieu thereof "NET".

(2) by striking out from the text "the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year" each place it appears and inserting in lieu thereof "the net capital gain for the taxable year", and

(3) by striking out from the text "such excess" each place it appears and inserting in lieu thereof "such net capital gain".

(F) Section 802(a)(2) is amended—

(i) by striking out "the net long-term capital gain of any life insurance company exceeds the net short-term capital loss" and inserting in lieu thereof "any life insurance company has a net capital gain", and

(ii) by striking out "such excess" each place it appears and inserting in lieu thereof "such net capital gain".

(G) Section 804(a)(2) is amended by striking out "by which the net long-term capital gain exceeds the net short-term capital loss" and inserting in lieu thereof "of the net capital gain".

(H) Sections 809(b)(1)(B) and 809(b)(2)(B) are each amended by striking out "by which the net long-term capital gain exceeds the net short-term capital loss" and inserting in lieu thereof "of the net capital gain".

(I) Section 815(b)(2)(A)(ii) is amended by striking out "by which the net long-term capital gain exceeds the net short-term capital loss" and inserting in lieu thereof "of the net capital gain".

(J)(i) Section 852(b)(2)(A) is amended by striking out "the excess, if any, of the net long-term capital gain over the net short-term capital loss" and inserting in lieu thereof "the amount of the net capital gain, if any".

(ii) Section 852(b)(3)(A) is amended to read as follows:

"(A) IMPOSITION OF TAX.—There is hereby imposed for each taxable year in the case of every regulated investment company a tax, determined as provided in section 1201(a), on the excess, if any, of the net capital gain over the deduction for dividends paid (as defined in section 561) determined with reference to capital gain dividends only."

(iii) The second sentence of section 852(b)(3)(C) is amended by striking out "excess of the net long-term capital gain over the net short-term capital loss" each place it appears and inserting in lieu thereof "net capital gain".

(K)(i) Section 857(b)(2)(A) is amended by striking out "the excess, if any, of the net long-term capital gain over the net short-term capital loss" and inserting in lieu thereof "the amount of the net capital gain, if any".

(ii) Section 857(b)(3)(A) is amended to read as follows:

"(A) IMPOSITION OF TAX.—There is hereby imposed for each taxable year in the case of every real estate investment trust a tax, determined as provided in section 1201(a), on the excess, if any, of the net capital gain over the deduction for dividends paid (as defined in section 561) determined with refeernce to capital gain dividends only."

(ii) The second sentence of section 857(b)(3)(C) is amended by striking out "excess of the net long-term capital gain over the net short-term capital loss" each place it appears and inserting in lieu thereof "net capital gain".

(L) Section 1201(b) is amended by striking out "net section 1201 gain" each place it appears and inserting in lieu thereof "net capital gain".

(M) The first sentence of section 1202 is amended to read as follows: "If for any taxable year, a taxpayer other than a corporation has a net capital gain, 50 percent of the amount of the net capital gain shall be a deduction from gross income."

(N) Sections 381(c)(3)(B), 381(c)(3)(C), 852(d), 4940(c)(1), and 4940(c)(4) are each amended by striking out "net capital gain" and inserting in lieu thereof "capital gain net income".

(O) Section 1212(a)(1) is amended by striking out "net capital gain" each place it appears and inserting in lieu thereof "capital gain net income", and by striking out "net capital gains" and inserting in lieu thereof "capital gain net income".

(P) Section 1247(a)(1)(B) is amended by striking out "the excess (determined as if such corporation were a domestic corporation) of the net long-term capital gain over the net short-term capital loss" and inserting in lieu thereof "the amount (determined as if such corporation were a domestic corporation) of the net capital gain".

(Q)(i) Section 1375(a)(1) is amended by striking out "the excess of the corporation's net long-term capital gain over its short-term capital loss" and inserting in lieu thereof "the corporation's net capital gain".

(ii) The second sentence of section 1375(a)(1) is amended by striking out "such excess" and inserting in lieu thereof "such net capital gain".

(iii) Section 1375(a)(3) is amended by striking out "the excess of an electing small business corporation's net long-term capital gain over its net short-term capital loss" and inserting in lieu thereof "an electing small business corporation's net capital gain".

(R) The following provisions are each amended by striking out "the excess of the net long-term capital gain over the net short-term capital loss" and inserting in lieu thereof "the net capital gain": Section 1247(a)(2)(A)(i), 1247(a)(2)(C), 1247(d)(1) and (2), 1378(a)(1), 1378(b)(1), and 1378(c)(3).

(34) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1240.—The table of sections of part IV of subchapter P of chapter 1 is amended by striking out the item relating to section 1240.

(35) AMERICAN CONFORMING TO REPEAL OF SECTION 1315.—The table of sections for part II of subchapter Q of chapter 1 is amended by striking out the item relating to section 1315.

(36) AMENDMENTS CONFORMING TO REPEAL OF SECTION 1321.—

(A) Section 472 is amended by striking out subsection (f).

(B) Section 6422 is amended by striking out paragraph (2), and by redesignating paragraphs (3) through (13) as paragraphs (2) through (12), respectively.

(C) Section 6504 is amended by striking out paragraph (1).

(D) Section 6515 is amended by striking out paragraph (1).

(E) The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part III.

(37) AMENDMENTS CONFORMING TO THE REPEAL OF SECTIONS 1331 THROUGH 1337.—

(A) The third sentence of section 901(a) is amended by striking out "under section 1333 (relating to war loss recoveries) or".

(B) Section 6212(c)(2) is amended by striking out subparagraph (D).

(C) Section 6504 is amended by striking out paragraph (6).

(D) Section 6515 is amended by striking out paragraph (2), and by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (1), (2), (3), (4), and (5), respectively.

(E) The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to Part IV.

(38) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 1342.—The table of sections for part V of subchapter Q of chapter 1 is amended by striking out the item relating to section 1342.

(39) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1346.—

(A) The table of sections for part VI of subchapter Q of chapter 1 is amended by striking out the item relating to section 1346.

(B) Section 6504 is amended by striking out paragraph (7).

(40) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 1372.—Section 58(d)(2) is amended by striking out ", notwithstanding the provisions of section 1371(b)(1),".

(41) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 7465.—The table of sections for subchapter C of chapter 3 is amended by striking out the item relating to section 1465.

(c) AMENDMENTS TO PROVISIONS REFERRING TO TERRITORIES.—

(1) Section 37(f) is amended by striking out "a Territory,".

(2) Sections 105(e)(2), 273, and 454(b)(2) are each amended by striking out ", a Territory,".

(3) Section 117(b)(2)(A)(iv) is amended by striking out "a territory,".

(4) Section 162(a) is amended by striking out "Territory,".

(5) Section 273 is amended by striking out "Territory,".

(6) Section 581 is amended by striking out ", of any State, or of any Territory" and inserting in lieu thereof "or of any State", and by striking out ", Territorial,".

(7) Section 801(b)(3) is amended by striking out "or Territorial".

(8) Section 861(a)(1) is amended by striking out ", any Territory, any political subdivision of a Territory,".

(9) Paragraphs (6) and (7) of section 1014(b) are each amended by striking out "Territory,".

(10) Section 1221(5) is amended by striking out "or Territory,".

(d) EFFECTIVE DATE.—Except as otherwise expressly provided in this section, the amendments made by this section shall apply with respect to taxable years beginning after December 31, 1976.

SEC. 1302. AMENDMENTS OF SUBTITLE B; ESTATE AND GIFT TAXES.

(a) IN GENERAL.—

(1) AMENDMENT OF SECTION 2001.—Section 2001 (relating to the rate of the estate tax) is amended by striking out "dying after the date of enactment of this title".

(2) AMENDMENTS OF SECTION 2012.—

(A) Section 2012(b) (relating to credit for gift tax) is amended—

(i) by striking out "(b) In applying," and inserting in lieu thereof "(b) VALUATION REDUCTIONS.—In applying,", and

(ii) by striking out in paragraphs (2) and (3) "deduction)—then" and inserting in lieu thereof "deduction), then".

(B) Section 2012(c) (relating to gift by spouse to third party) is amended by striking out "(c) Where the decedent" and inserting in lieu thereof "(c) WHERE GIFT CONSIDERED MADE ONE-HALF BY SPOUSE.—Where the decedent".

(C) Section 2012(d)(1) (relating to computation of amount of gift tax) is amended by striking out "(d)(1) For purposes of" and inserting in lieu thereof the following:

"(d) COMPUTATION OF AMOUNT OF GIFT TAX PAID.—

"(1) AMOUNT OF TAX.—For purposes of".

(D) Section 2012(d)(2) (relating to credit for gift tax) is amended by striking out "(2) For purposes" and inserting in lieu thereof: "(2) AMOUNT OF GIFT.—For purposes".

(3) AMENDMENTS OF SECTION 2013.—

(A) Section 2013(b) (relating to computation of credit for tax on prior transfers) is amended by striking out ", or the corresponding provisions of prior laws," and by striking out ", or corresponding provisions of prior laws,".

(B) Section 2013(d)(3) is amended by striking out ", or the corresponding provision of prior law,".

(4) AMENDMENT OF SECTION 2038.—Section 2038 (relating to revocable transfers) is amended by striking out subsection (c) (relating to effect of disability in certain cases).

(5) AMENDMENTS OF SECTION 2055.—

(A) Section 2055(b) (relating to powers of appointment) is amended to read as follows:

"(b) POWERS OF APPOINTMENT.—Property includibile in the decedent's gross estate under section 2041 (relating to powers of appointment) received by a donee described in this section shall, for purposes of this section, be considered a bequest of such decedent."

(B) Section 2055(f) (relating to cross references) is amended to read as follows:

"(f) CROSS REFERENCES.—

"(1) For option as to time for valuation for purpose of deduction under this section, see section 2032.

(2) For exemption of gifts and bequests to or for the benefit of Library of Congress, see section 5 of the Act of March 3, 1925, as amended (2 U.S.C. 161).

"(3) For treatment of gifts and bequests for the benefit of the Office of Naval Records and History as gifts or bequests to or for the use of the United States, see section 7222 of title 10, United States Code.

"(4) For treatment of gifts and bequests to and for the benefit of National Park Foundation as gifts or bequests to or for the use of the United States, see section 8 of the Act of December 18, 1967 (16 U.S.C. 191).

"(5) For treatment of gifts, devices, or bequests accepted by the Secretary of State under the Foreign Service Act of 1946 as gifts, devises, or bequests to or for the use of the United States, see section 1021(e) of that Act (22 U.S.C. 809(e)).

"(6) For treatment of gifts or bequests of money accepted by the Attorney General for credit to 'Commissiary Funds, Federal Prisons' as gifts or bequests to or for the use of the United States, see section 2 of the Act of May 15, 1952, as amended by the Act of July 9, 1952 (31 U.S.C. 725s–4).

"(7) For payment of tax on gifts and bequests of United States obligations to the United States, see section 24 of the Second Liberty Bond Act (31 U.S.C. 757e).

"(8) For treatment of gifts and bequests for benefit of the Naval Academy as gifts or bequests to or for the use of the United States, see section 6973 of title 10, United States Code.

"(9) For treatment of gifts and bequests for benefit of the Naval Academy Museum as gifts or bequests to or for the use of the United States, see section 6974 of title 10, United States Code.

"(10) For exemption of gifts and bequests received by National Archives Trust Fund Board, see section 2308 of title 44, United States Code."

(6) AMENDMENT OF SECTION 2101.—Section 2101(b) (relating to property held by alien property custodian) is amended by striking out "60 Stat. 926;".

(7) AMENDMENTS OF SECTION 2106—

(A) Section 2106(a)(2)(F) (relating to cross references concerning the charitable deduction for estate tax purposes) is amended to read as follows:

"(F) CROSS REFERENCES.—

"(1) For option as to time for valuation for purposes of deduction under this section, see section 2032.

"(2) For exemption of certain bequests for the benefit of the United States and for rules of construction for certain bequests, see section 2055(f)."

(B) Section 2106 (relating to taxable estate of nonresidents) is amended by striking out subsection (c) (relating to treatment of United States bonds).

(8) AMENDMENTS OF SECTIONS 2107 AND 2108.—Section 2107(a) (relating to estate tax on expatriates) and section 2108(a) (relating to application of pre-1967 estate tax provisions) are each amended by striking out "the date of enactment of this section" and inserting in lieu thereof "November 13, 1966."

(9) AMENDMENT RELATING TO SECTION 2201.—

(A) Section 6(b)(1) of the Act of January 2, 1975 (Public Law 93–597; 88 Stat. 1950) is amended by striking out "Section 2210" and inserting in lieu thereof "Section 2201".

(B) The amendment made by subsection (A) is effective July 1, 1973.

(10) REPEAL OF SECTION 2202.—Section 2202 (relating to missionaries in foreign service) is repealed.

(11) AMENDMENT OF SECTION 2204.—The last sentence of section 2204(b) (relating to the discharge from personal liability of a fiduciary other than the executor) is amended by striking out "has not been" and inserting in lieu thereof "has been".

(12) AMENDMENT OF SECTION 2501.—Section 2501(a)(1) (relating to imposition of gift tax) is amended to read as follows:

"(1) GENERAL RULE.—A tax, computed as provided in section 2502, is hereby imposed for each calendar quarter on the transfer of property by gift during such calendar quarter by any individual, resident or nonresident."

(13) AMENDMENT OF SECTION 2522.—Subsection (d) of section 2522 (relating to cross references) is amended to read as follows:

"(d) CROSS REFERENCE.—

"For exemption of certain gifts to or for the benefit of the United States and for rules of construction with respect to certain gifts, see section 2055(f)."

(14) AMENDMENTS TO SECTIONS REFERRING TO TERRITORIES.—

(A) The following provisions are each amended by striking out "Territory,": sections 2055(a)(1), 2056(c)(2)(B), and 2106(a)(2)(A)(i).

(B) The following provisions are each amended by striking out "or Territory": sections 2011(a), 2011(e), and 2053(d).

(C) Section 2016 is amended by striking out "Territory or".

(D) Sections 2522(a)(1) and 2522(b)(1) are each amended by striking out "Territory,".

(E) Section 2523(f)(1) is amended by striking out "Territory, or".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENT CONFORMING TO REPEAL OF SECTION 2202.—The table of sections for subchapter C of chapter 11 is amended by striking out the item relating to section 2202.

(2) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 2055.—

(A) Section 6503 is amended by striking out subsection (e), and by redesignating subsections (f), (g), (h), and (i) as subsections (e), (f), (g), and (h), respectively.

(B) Section 6167(h)(2) is amended by striking out "section 6503(f)" and inserting in lieu thereof "section 6503(e)".

(c) EFFECTIVE DATES.

(1) ESTATE TAX AMENDMENTS.—The amendments made by paragraphs (1) through (10), and paragraphs (14) (A), (B), and (C), of subsection (a), and by subsection (b) shall apply in the case of estates of decedents dying after the date of the enactment of this Act, and the amendment made by paragraph (11) of subsection (a) shall apply in the case of estates of decedents dying after December 31, 1975.

(2) GIFT TAX AMENDMENTS.—The amendments made by paragraphs (12), (13), and (14) (D) and (E) of subsection (a) shall apply with respect to gifts made after December 31, 1976.

SEC. 1303. AMENDMENTS OF SUBTITLE C; EMPLOYMENT TAXES

(a) IN GENERAL.—

(1) AMENDMENTS OF SECTION 3101 AND 3111.—

(A) Section 3101(a) (relating to rate of tax on employees for old-age, survivors, and disability insurance) and section 3111(a) (relating to rate of tax on employers for such insurance) are each amended by striking out paragraphs (1), (2), (3), and (4), and by redesignating paragraphs (5) and (6) as paragraphs (1) and (2), respectively.

(B) Section 3101(b) (relating to rate of tax on employees for hospital insurance) and section 3111(b) (relating to rate of tax on employers for such insurance) are each amended by striking out paragraphs (1) and (2), and by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (1), (2), (3), and (4), respectively.

(2) REPEAL OF SECTION 3113.—Section 3113 (relating to application of social security tax on District of Columbia credit unions) is repealed.

(3) AMENDMENTS OF SECTION 3121.—

(A) Section 3121(b), relating to employment, is amended—

(i) by striking out "performed after 1936 and prior to 1955 which was employment for purposes of subchapter A of chapter 9 of the Internal Revenue Code of 1939 under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1954" and inserting in lieu thereof ", of whatever nature, performed", and

(ii) by striking out ", in the case of service performed after 1954,".

(B) Section 3121(b)(1) is amended by striking out "65 Stat. 119;".

(C) Section 3121(b)(6)(B)(v) is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(D) Section 3121(g)(3) (relating to agricultural labor) is amended by striking out "46 Stat. 1550, § 3;".

(E) Section 3121(k)(1) (relating to exemption of certain organizations) is amended by striking out subparagraphs (F) and (H) and by redesignating subparagraph (G) as subparagraph (F).

(F) Section 3121(1)(2) (relating to employees of foreign subsidiaries) is amended by striking out ", but in no case prior to January 1, 1955".

(G) Section 321(m)(1) (relating to service in the uniformed services) is amended by striking out "after December 1956".

(4) AMENDMENTS OF SECTION 3122.—The last sentence of section 3122 (relating to Federal service) is amended by striking out "Secretary" each place it appears and inserting in lieu thereof "Secretary of Transportation".

(5) AMENDMENT OF SECTION 3125.—Section 3125(c) (relating to returns in the case of Governmental employees in the District of Columbia) is amended by striking out "Commissioners of the District of Columbia or such agents as they may designate" and by inserting in lieu thereof "Mayor of the District of Columbia or such agents as he may designate".

(6) AMENDMENT OF SECTION 3201.—Section 3201 (relating to rate of tax on railroad employees) is amended—

(A) by striking out "of the Internal Revenue Code of 1954" each place it appears;

(B) by striking out "of such Code";

(C) by striking out "after September 30, 1973, as is" and inserting in lieu thereof "as is"; and

(D) by striking out "any month after September 30, 1973" and inserting in lieu therof "any month".

(7) AMENDMENTS OF SECTION 3202.—

(A) The second sentence of section 3202(a) (relating to reduction of tax by railroad employer) is amended—

(i) by striking out "after September 30, 1973," each place it appears;

(ii) by striking out "after September 30, 1973 and the aggregate" and inserting in lieu thereof "and the aggregate";

(iii) by striking out "of the Internal Revenue Code of 1954" each place it appears; and

(iv) by inserting a comma immediately after "for any month" each place it appears.

(B) Section 3202(b) (relating to indemnification of employer) is amended by striking out "made".

(8) AMENDMENTS OF SECTION 3211.—Section 3211(a) (relating to rate of tax on railroad employee representatives) is amended—

(A) by striking out "3111(a), 3111(b)" and inserting in lieu thereof "3111(a), and 3111 (b)";

(B) by striking out "of the Internal Revenue Code of 1954" each place it appears;

(C) by striking out "rendered by him after September 30, 1973," and inserting in lieu thereof "rendered by him"; and

(D) by striking out "after September 30, 1973".

(9) AMENDMENTS OF SECTION 3221.—

(A) The first sentence of section 3221(a) (relating to rate of tax on railroad employers) is amended—

(i) by striking out "after September 30, 1973," each place it appears;

(ii) by striking out "after September 30, 1973; except that" and inserting in lieu thereof ", except that";

(iii) by striking out "after September 30, 1973 of the aggregate" and inserting in lieu thereof "of the aggregate";

(iv) by striking out "of the Internal Revenue Code of 1954" each place it appears; and

(v) by inserting a comma immediately before "the tax imposed".

(B) Section 3221(b) (relating to rate of tax on railroad employers) is amended to read as follows:

"(b) The rate of tax imposed by subsection (a) shall be increased by the rate of tax imposed with respect to wages by section 3111(a) plus the rate imposed by section 3111(b)."

(C) Section 3221(c) (relating to additional railroad retirement tax) is amended—

(i) by striking out "(1) at the rate of 2 cents for the period beginning November 1, 1966, and ending March 31, 1970, and (2) commencing April 1, 1970," and

(ii) by striking out "commencing with the quarter beginning April 1, 1970".

(10) AMENDMENTS OF SECTION 3231.—

(A) Section 3231(a) (relating to definition of employer) is amended by striking out "44 Stat. 577;".

(B) Section 3231(b) (relating to definition of employee) is amended by striking out "50 Stat. 312;".

(C) Section 3231(c) (relating to definition of employee representative) is amended by striking out "44 Stat. 577;".

(D) Section 3231(d)(7) (relating to definition of services) is amended by striking out "50 Stat. 308;".

(11) AMENDMENTS OF SECTION 3301.—Section 3301 (relating to Federal unemployment tax rate) is amended—

(A) by striking out "the calendar year 1970 and each calendar year thereafter" and inserting in lieu thereof "each calendar year", and

(B) by striking out the last sentence.

(12) AMENDMENTS OF SECTION 3302.—

(A) Section 3302(a) (relating to credits against tax) is amended by striking out "(10-month period in the case of October 31, 1972)".

(B) Section 3302(b) (relating to additional credit) is amended—

(i) by striking out "(10-month period in the case of October 31, 1972)", and

(ii) by striking out "12 or 10-month period, as the case may be," and inserting in lieu thereof "12-month period".

(C)(i) Section 3302(c) (relating to limitation on credits against unemployment tax) is amended by striking out paragraph (2) and the unnumbered paragraph immediately following such paragraph (2) (relating to advances made to a State unemployment account before September 13, 1960), and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(ii) Section 3302(c)(2) (relating to advances made to a State unemployment account after September 12, 1960), as redesignated by clause (i) of this subparagraph, is amended by striking out "on or after the date of the enactment of the Employment Security Act of 1960", and by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraph (1)".

(iii) Section 3302(c)(3) (relating to reductions with respect to certain agreements under the Trade Act of 1974), as redesignated by clause (i) of this subparagraph, is amended by striking out "paragraphs (1), (2), and (3)" and inserting in lieu thereof "paragraphs (1) and (2)".

(iv) Section 3302(d)(3) (relating to effect of repayment of advances) is amended by striking out "or (3)".

(v) Section 3302(d) (4), (5), and (6), (relating to special rules) are each amended by striking out "subsection (c)(3)" each place it appears and inserting in lieu thereof "subsection (c)(2)".

(vi) Section 3302(d)(7) (relating to determination and certification of percentages) is amended by striking out "subsection (c)(3)(B) or (C)" and inserting in lieu thereof "subsection (c)(2)(B) or (C)".

(D) Section 3302(d) (relating to special rules for credits against the unemployment tax) is amended by striking out paragraph (8) (a cross reference).

(13) AMENDMENTS TO SECTION 3303.—Section 3303(b) (relating to certification with respect to additional credit allowance) is amended—

(A) by striking out "(10-month period in the case of October 31, 1972)" each place it appears.

(B) by striking out "12 or 10-month period, as the case may be," each place it appears in paragraphs (1) and (2), and inserting in lieu thereof "12-month period", and

(C) by striking out "12 or 10-month period, as the case may be," in paragraph (3) and inserting in lieu thereof "12-month period.".

(14) AMENDMENTS TO SECTION 3304.—

(A) Section 3304(a)(3) (relating to requirements) is amended by striking out "49 Stat. 640; 52 Stat. 1104, 1105;".

(B) Section 3304(c) (relating to certification) is amended by striking out "10-month period in the case of October 31, 1972)".

(15) AMENDMENTS TO SECTION 3305.—

(A) Section 3305(g) (relating to vessels operated by general agents of the United States) is amended by striking out "on or after July 1, 1953,".

(B) Section 3305(h) (relating to certain contributions to States) is amended by striking out "on or after July 1, 1953, and".

(C) Section 3305(j) (relating to denial of credits in certain cases) is amended by striking out "after December 31, 1971,".

(16) AMENDMENTS OF SECTION 3306.—

(A) Section 3306(c)(9) (relating to the exclusion of service performed by certain employees and employee representatives from the definition of employment) is amended by striking out "52 Stat. 1094, 1095;".

(B) Section 306(c)(18) (relating to the exclusion of certain service performed by nonresident aliens from the definition of employment) is amended by inserting after the "Immigration and Nationality Act, as amended" the following: "(8 U.S.C. 1101(a)(15)(F) or (J)".

(C) Section 3306(f) (relating to the definition of an unemployment fund) is amended by striking out "49 Stat. 640, 52 Stat. 1104, 1105;".

(D) Section 3306(n) (relating to vessels operated by general agents of the United States) is amended by striking out "on or after July 1, 1953,".

(17) AMENDMENT OF SECTION 3402.—Section 3402(1)(3)(B) (relating to marital status) is amended by striking out "section 2(b)" and inserting in lieu thereof "section 2(a)".

(b) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 3113.—The table of sections for subchapter B of chapter 21 is amended by striking out the item relating to section 3113.

(c) AMENDMENTS TO PROVISIONS REFERRING TO TERRITORIES.—Sections 3401(c) and 3404 are each amended by striking out "Territory," each place it appears.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to wages paid after December 31, 1976, except that the amendments made to chapter 22 of the Internal Revenue Code of 1954 shall apply with respect to compensation paid for services rendered after December 31, 1976.

SEC. 1304. AMENDMENTS OF SUBTITLE D; MISCELLANEOUS EXCISE TAXES.

(a) IN GENERAL.—

(1) AMENDMENTS OF CHAPTER 31.—

(A) So much of chapter 31 (relating to retailers excise taxes) as precedes section 4041 is amended to read as follows:

CHAPTER 31—SPECIAL FUELS

*"Sec. 4041. Imposition of tax."*

(B) Section 4041(g) (relating to exemptions from fuel taxes) is amended to read as follows:

"(g) OTHER EXEMPTIONS.—Under regulations prescribed by the Secretary, no tax shall be imposed after this section—

"(1) on any liquid sold for use or used as supplies for vessels or aircraft (within the meaning of section 4221(d)(3));

"(2) with respect to the sale of any liquid for the exclusive use of any State, any political subdivision of a State, or the District of Columbia, or with respect to the use by any of the foregoing of any liquid as a fuel;

"(3) upon the sale of any liquid for export, or for shipment to a possession of the United States, and in due course so exported or shipped; and

"(4) with respect to the sale of any liquid to a nonprofit educational organization for its exclusive use, or with respect to the use by a nonprofit educational organization of any liquid as a fuel.

For purposes of paragraph (4), the term 'nonprofit educational organization' means an educational organization described in section 170(b)(1)(A)(ii) which is exempt from income tax under section 501(a). The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on."

(C) Section 4041 (relating to tax on fuels) is amended by adding at the end thereof the following new subsection:

"(1) SALES BY UNITED STATES, ETC.—The taxes imposed by this section shall apply with respect to liquids sold at retail by the United States, or by any agency or instrumentality of the United States, unless sales by such agency or instrumentality are by statute specifically exempted from such taxes."

(D) Chapter 31 is amended by striking out section 4042 (a cross reference) and subchapter F (special provisions applicable to retailers taxes).

(2) AMENDMENTS OF SECTION 4216.—

(A) Section 4216 (relating to definition of price) is amended by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(B) Paragraphs (3), (4), and (5) of section 4216(b) (relating to constructive sales price) are each amended by striking out "subsections (a) and (f)" each place it appears and inserting in lieu thereof "subsections (a) and (e)".

(3) AMENDMENT OF SECTION 4217.—Section 4217(d) (relating to lease treated as sale) is amended by striking out paragraph (4) (relating to certain 1958 transitional rules).

(4) REPEAL OF SECTION 4226.—Section 4226 (relating to floor-stock taxes imposed before 1967) is repealed.

(5) AMENDMENT OF SECTION 4227.—Section 4227 (relating to cross references) is amended to read as follows:

"SEC. 4227. CROSS REFERENCE.

"For credit for taxes on tires and inner tubes, see section 6416(c)."

(6) AMENDMENT OF SECTION 4253.—Section 4253 (relating to exemptions from the tax on communications services) is amended by adding at the end thereof the following new subsections:

"(i) STATE AND LOCAL GOVERNMENTAL EXEMPTION.—Under regulations prescribed by the Secretary, no tax shall be imposed under section 4251 upon any payment received for services or facilities furnished to the government of any State, or any political subdivision thereof, or the District of Columbia.

"(j) EXEMPTION FOR NONPROFIT EDUCATIONAL ORGANIZATIONS.—Under regulations prescribed by the Secretary, no tax shall be imposed under section 4251 on any amount paid by a nonprofit educational organization for services or facilities furnished to such organization. For purposes of this subsection, the term 'nonprofit educational organization' means an educational organization described in section 170(b)(1)(A)(ii) which is exempt from income tax under section 501(a). The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on."

(7) AMENDMENT OF SECTION 4261.—

(A) Subsections (a) and (b) of section 4261 (relating to tax on transportation of persons by air) are each amended by striking out "which begins after June 30, 1970,".

(B) Section 4261(c) is amended by striking out "and begins after June 30, 1970".

(8) AMENDMENT OF SECTION 4217—Section 4271(a) (relating to tax on transportation of property by air) is amended by striking out "which begins after June 30, 1970,".

(9) REPEAL OF SECTION 4292.—Section 4292 (relating to State and local governmental exemption from the tax on communications services is repealed.

(10) REPEAL OF SECTION 4294.—Section 4294 (relating to exemption of nonprofit educational organizations from the tax on communications services) is repealed.

(11) REPEAL OF SECTION 4295.—Section 4295 (a cross reference) is repealed.

(12) AMENDMENT OF CHAPTER 24.—Chapter 34 (relating to documentary stamp taxes) is amended to read as follows:

"CHAPTER 34—POLICIES ISSUED BY FOREIGN INSURERS

"Sec. 4371. Imposition of tax.
"Sec. 4372. Definitions.
"Sec. 4373. Exemptions.
"Sec. 4374. Liability for tax.

"SEC. 4371. IMPOSITION OF TAX.

"There is hereby imposed, on each policy of insurance, indemnity bond, annuity contract, or policy of reinsurance issued by any foreign insurer or reinsurer, a tax at the following rates:

"(1) CASUALTY INSURANCE AND INDEMNITY BONDS.—4 cents on each dollar, or fractional part thereof, of the premium paid on the policy of casualty insurance or the indemnity bond, if issued to or for, or in the name of, an insured as defined in section 4372(d);

"(2) LIFE INSURANCE, SICKNESS AND ACCIDENT POLICIES, AND ANNUITY CONTRACTS.—1 cent on each dollar, or fractional part thereof, of the premium paid on the policy of life, sickness, or accident insurance, or annuity contract, unless the insurer is subject to tax under section 819; and

"(3) REINSURANCE.—1 cent on each dollar, or fractional part thereof, of the premium paid on the policy of reinsurance covering any of the contracts taxable under paragraph (1) or (2).

"SEC. 4372. DEFINITIONS.

"(a) FOREIGN INSURER OR REINSURER.—For purposes of section 4371, the term 'foreign insurer or reinsurer' means an insurer or reinsurer who is a nonresident alien individual, or a foreign partnership, or a foreign corporation. The term includes a nonresident alien individual, foreign partnership, or foreign corporation which shall become bound by an obligation of the nature of an indemnity bond. The term does not include a foreign government, or municipal or other corporation exercising the taxing power.

"(b) POLICY OF CASUALTY INSURANCE.—For purposes of section 4371(1), the term 'policy of casualty insurance' means any policy (other than life) or other instrument by whatever name called whereby a contract of insurance is made, continued, or renewed.

"(c) INDEMNITY BOND.—For purposes of this chapter, the term 'indemnity bond' means any instrument by whatever name called whereby an obligation of the nature of an indemnity, fidelity, or surety bond is made, continued, or renewed. The term includes any bond for indemnifying any person who shall have become bound or engaged as surety, and any bond for the due execution or performance of any contract, obligation, or requirement, or the duties of any office or position, and to account for money received by virtue thereof, where a premium is charged for the execution of such bond.

"(d) INSURED.—For purposes of section 4371(1), the term 'insured' means—

"(1) a domestic corporation or partnership, or an individual resident of the United States, against, or with respect to, hazards, risks, losses, or liabilities wholly or partly within the United States, or

"(2) a foreign corporation, foreign partnership, or nonresident individual, engaged in a trade or business within the United States, against, or with respect to, hazards, risks, losses, or liabilities within the United States.

"(e) POLICY OF LIFE, SICKNESS, OR ACCIDENT INSURANCE, OR ANNUITY CONTRACT.—For purposes of section 4371(2), the term 'policy of life, sickness, or accident insurance, or annuity contract' means any policy or other instrument by whatever name called whereby a contract of insurance or an annuity contract is made, continued, or renewed with respect to the life or hazards to the person of a citizen or resident of the United States.

"(f) POLICY OF REINSURANCE.—For purposes of section 4371(3), the term 'policy of reinsurance' means any policy or other instrument by whatever name called whereby a contract of reinsurance is made, continued, or renewed against, or with respect to, any of the hazards, risks, losses, or liabilities covered by contracts taxable under paragraph (1) or (2) of section 4371.

"SEC. 4373. EXEMPTIONS.

"The tax imposed by section 4371 shall not apply to—

"(1) DOMESTIC AGENT.—Any policy, indemnity bond, or annuity contract signed or countersigned by an officer or agent of the insurer in a State, or in the District of Columbia, within which such insurer is authorized to do business; or

"(2) INDEMNITY BOND.—Any indemnity bond required to be filed by any person to secure payment of any pension, allowance, allotment, relief, or insurance by the United States, or to secure a duplicate for, or the payment of, any bond, note, certificate of indebtedness, war-saving certificate, warrant, or check, issued by the United States.

"SEC. 4374. LIABILITY FOR TAX.

"The tax imposed by this chapter shall be paid, on the basis of a return, by any person who makes, signs, issues, or sells any of the documents and instruments subject to the tax, or for whose use or benefit the same are made, signed, issued, or sold. The United States or any agency or instrumentality thereof shall not be liable for the tax."

(13) AMENDMENTS OF SECTION 4493.—

(A) Section 4493(b)(1) (relating to certain persons engaged in foreign air commerce) is amended by striking out "beginning on or after July 1, 1970".

(B) Section 4493(b)(2) is amended by striking out the last sentence.

(14) AMENDMENT OF CHAPTER 37.—So much of chapter 37 as precedes section 4501 (relating to tax on sugar) is amended to read as follows:

"CHAPTER 37—SUGAR

"Sec. 4501. Imposition of tax.
"Sec. 4502. Definitions.
"Sec. 4503. Exemptions for sugar manufactured for home consumption."

(15) REPEAL OF SECTIONS 4591 THROUGH 4597.—Chapter 38 (relating to import taxes on oleomargarine) is repealed.

(16) REPEAL OF SECTIONS 4801 THROUGH 4806.—Subchapter B of chapter 39 (relating to tax on white phosphorus matches) is repealed.

(17) REPEAL OF SECTIONS 4811 THROUGH 4826.—Subchapter C of chapter 39 (relating to tax on adulterated butter) is repealed.

(18) REPEAL OF SECTIONS 4881 THROUGH 4886.—Subchapter E of chapter 39 (relating to tax on circulation other than of national banks) is repealed.

(19) AMENDMENT OF SECTION 4901.—Section 4901 (relating to payment of occupational taxes) is amended by striking out subsection (c).

(20) AMENDMENT OF SECTION 4905.—Section 4905(a) (relating to liability for occupational taxes in case of death or change of location) is amended by striking out "wife" and inserting in lieu thereof "spouse".

(21) REPEAL OF SECTIONS 4911 THROUGH 4931.—

(A) Chapter 41 (relating to interest equalization tax) is repealed.

(B) The repeal made by subparagraph (A) shall apply with respect to acquisitions of stock and debt obligations made after June 30, 1974.

(22) AMENDMENTS OF SECTION 4942.—Section 4942(e)(3) (relating to minimum investment return with respect to private foundations) is amended—

(A) by striking out the first sentence, and

(B) by striking out in the second sentence "The applicable percentage for any taxable year beginning after 1970" and inserting in lieu thereof "For purposes of paragraph (1)(B), the applicable percentage for any taxable year".

(23) AMENDMENTS OF SECTION 4973.—

(A) So much of section 4973(a) (relating to tax on excess contributions) as follows "of any individual," in paragraph (3) thereof is amended to read as follows:

"there is imposed for each taxable year a tax in an amount equal to 6 percent of the amount of the excess contributions to such individual's accounts, annuities, or bonds (determined as of the close of the taxable year). The amount of such tax for any taxable year shall not exceed 6 percent of the value of the account, annuity, or bond (determined as of the close of the taxable year). In the case of an endowment contract described in section 408(b), the tax imposed by this section does not apply to any amount allocable to life, health, accident, or other insurance under such contract. The tax im-

posed by this subsection shall be paid by such individual."

(B) Section 4973(c) is amended by striking out "subsection (a)(3)" and inserting in lieu thereof "subsection (a)(2)".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENTS CONFORMING TO AMENDMENT OF CHAPTER 31.—

(A) Section 6416(a)(1) is amended by striking out ("retailers taxes)" and inserting in lieu thereof "(special fuels)".

(B) Section 6416(e) is amended by striking out "subchapter E of".

(2) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 4216.—Section 6416(b)(1) is amended by striking out "section 4216(f)(2) and (3)" and inserting in lieu thereof "section 4216(e)(2) and (3)".

(3) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 4226.—The table of sections for subchapter G of chapter 32 is amended by striking out the item relating to section 4226.

(4) AMENDMENT CONFORMING TO THE REPEAL OF SECTIONS 4292, 4294, AND 4295.—The table of sections for subchapter E of chapter 33 is amended by striking out the items relating to sections 4292, 4294, and 4295.

(5) AMENDMENTS CONFORMING TO THE AMENDMENT OF CHAPTER 34.—

(A) Section 7270 is amended by striking out "the affixing of stamps on insurance policies, etc." and inserting in lieu thereof "liability for tax on policies issued by foreign insurers".

(B) Section 6808 is amended by striking out paragraph (4).

(6) AMENDMENTS CONFORMING TO THE AMENDMENT OF CHAPTER 37.—

(A) Section 7240 is amended by striking out "subchapter A of".

(B) Section 7655(a) is amended—

(i) by striking out "Subchapter A of chapter 37" in paragraph (5) and inserting in lieu thereof "Chapter 37", and

(ii) by redesignating paragraph (5) as paragraph (3).

(7) AMENDMENTS CONFORMING TO REPEAL OF SECTIONS 4591 THROUGH 4597.—

(A) Section 6808 is amended by striking out paragraph (7).

(B)(i) Section 7234 (relating to violations of laws concerning oleomargarine or adulterated butter operations) is repealed.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7234.

(C)(i) Section 7265 (relating to other offenses concerning oleomargarine or adulterated butter operations) is repealed.

(ii) The table of sections for subchapter B of chapter 75 is amended by striking out the item relating to section 7265.

(D) Section 7609(a) is amended by striking out paragraph (1).

(E) The table of chapters for subtitle D is amended by striking out the item relating to chapter 38.

(8) AMENDMENTS CONFORMING TO REPEAL OF SECTIONS 4801 THROUGH 4806.—

(A) Section 4905(b) is amended to read as follows:

"(b) REGISTRATION.—

"For registration in case of wagering, see section 4412."

(B) Section 6808 is amended by striking out paragraph (12).

(C) Section 7012 is amended by striking out subsection (e).

(D)(i) Section 7239 (relating to violations of laws concerning white phosphorus matches) is repealed.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7239.

(E)(i) Sections 7267 and 7274 (relating to offenses and penalties concerning white phosphorus matches) are each repealed.

(ii) The table of sections for subchapter B of chapter 75 is amended by striking out the items relating to sections 7267 and 7274.

(F) Section 7272(b) is amended by striking out "4804(d),".

(G) Section 7303 is amended by striking out paragraph (6).

(H)(i) Part II of subchapter C of chapter 75 (relating to provisions common to forfeitures) is amended by striking out section 7328 (relating to confiscation of white phosphorus matches), and by redesignating section 7329 (relating to cross references) as section 7328.

(ii) The table of sections for part II of subchapter C of chapter 75 is amended by striking out the last two items and inserting in lieu thereof the following:

"Sec. 7328. Cross references."

(9) AMENDMENTS CONFORMING TO REPEAL OF SECTIONS 4811 THROUGH 4826.—

(A) Section 6808 (relating to cross references) is amended by striking out paragraph (10).

(B)(i) Section 7235 (relating to violations of laws concerning adulterated butter and process or renovated butter) is repealed.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7235.

(C)(i) Section 7264 (relating to offenses concerning renovated or adulterated butter) is repealed.

(ii) The table of sections for subchapter B of chapter 75 is amended by striking out the item relating to section 7264.

(D) Section 7303 is amended by striking out paragraphs (3), (4), and (5), and by redesignating paragraphs (7) and (8) and paragraphs (2) and (3), respectively.

(E) Section 7609(a) is amended by striking out paragraph (2), and by redesignating paragraphs (5) and (6) as paragraphs (1) and (2), respectively.

(10) AMENDMENTS CONFORMING TO THE REPEAL OF SECTIONS 4911 THROUGH 4931.—

(A)(i)(I) Section 263 is amended by striking out subsections (a)(3) and (d) (relating to the allowance of deductions for payment of interest equalization tax), and by redesignating subsections (e) and (f) as subsections (d) and (e) respectively.

(II) Section 263(d), as redesignated by clause (i)(I) of this subparagraph, is amended by striking out "subsection (f)" and inserting in lieu thereof "subsection (e)".

(ii) Section 6011 (relating to requirement of return, statement, or list) is amended by striking out subsection (d) (relating to interest equalization tax returns, etc.), and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

(iii)(I) Section 6076 (relating to time for filing interest equalization tax returns) is repealed.

(II) The table of sections for part V of subchapter A of chapter 61 is amended by striking out the item relating to section 6076.

(iv) Section 6611 (relating to interest on overpayments) is amended by striking out subsection (h) (relating to overpayments of interest equalization tax) and by redesignating subsection (i) as subsection (h).

(v) Section 6651 (relating to failure to file tax return or to pay tax) is amended by striking out subsection (e) (relating to certain interest equalization tax returns).

(vi)(I) Section 6680 (relating to failure to file interest equalization tax returns) is repealed.

(II) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6680.

(vii) The amendments made by this subparagraph shall apply with respect to acquisions of stock or debt obligations made after June 30, 1974, except that the repeal of paragraph (2) of section 6011(d) under clause (ii) shall apply with respect to loans and commitments made after such date.

(B) Section 861(a)(1)(G) (relating to income from sources within the United States) is amended—

(i) by striking out "4912(c)" and inserting in lieu thereof "subsection (c) of section 4912 (as in effect before July 1, 1974)"; and

(ii) by striking out "4912(c)(2)" and inserting in lieu thereof "subsection (c)(2) of such section".

(C) The second sentence of section 1232(b)(2) (relating to the definition of the issue price of bonds and other evidences of indebtedness) is amended by striking out "section 4911" and inserting in lieu thereof "section 4911, as in effect before July 1, 1974,".

(D) Section 6103(a)(2) (relating to publicity of returns) is amended by striking out "chapter 41" and inserting in lieu thereof "chapter 41 (as in effect before July 1, 1974)".

(E)(i) Section 6681 (relating to false equalization tax certificates) is repealed.

(ii) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6681.

(iii) The amendments made by this subparagraph shall apply with respect to actions occurring after June 30, 1974.

(F)(i) Section 6689 (relating to failure by certain foreign issuers and obligors to comply with United States investment equalization tax requirements) is repealed.

(ii) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6689.

(iii) The amendments made by this subparagraph shall apply with respect to stock or debt obligations issued after June 30, 1974.

(G)(i) Section 7241 (relating to penalty for fraudulent equalization tax certificates) is repealed.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7241.

(iii) The amendments made by this subparagraph shall apply with respect to statements and certficates executed after June 30, 1974.

(H) The table of chapters for subtitle D is amended by striking out the item relating to chapter 41.

(c) AMENDMENTS TO PROVISIONS REFERRING TO TERRITORIES.—

(1) Section 4102 is amended by striking out "or Territory".

(2) Section 4482(c)(1) is amended by striking out ", a Territory of the United States,".

(d) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

SEC. 1305. AMENDMENTS OF SUBTITLE E; ALCOHOL, TOBACCO, AND CERTAIN OTHER EXCISE TAXES.

(a) IN GENERAL.—

(1) AMENDMENT OF SECTION 5005.—Section 5005(c)(2) (relating to transfers in bond of distilled spirits) is amended by striking out the last two sentences and inserting in lieu thereof the following: "Such relief from liability shall be effective from the time of removal from the transferor's bonded premises, or from the time of divestment of interest, whichever is later."

(2) AMENDMENTS OF SECTION 5008.—

(A) Section 5008(b)(1) (relating to abatement, remission, refund, and allowance for loss of destruction of distilled spirits) is amended by inserting immediately after "the tax imposed by this chapter" the following: "or by section 7652".

(B) Section 5008(b)(2) is amended by striking out "the taxes imposed under section 5001(a)(1)" and all that follows and inserting in lieu thereof the following: "the taxes imposed under section 5001(a)(1), under subpart B of this part, or under section 7652 on the spirits so destroyed, to the

proprietor of the distilled spirits plant who withdrew the distilled spirits on payment or determination of tax."

(C) Subsections (c)(1) and (d)(1) of section 5008 are each amended by inserting immediately after "under section 5001(a)(1)" the following: "or under section 7652".

(D) Section 5008(d)(1) is amended by striking out ", on or after July 1, 1959,".

(3) AMENDMENT OF SECTION 5009.—Section 5009(b)(3) amended by striking out "46 Stat. 694;".

(4) AMENDMENT OF SECTION 5025.—Section 5025(j) (relating to stabilization of distilled spirits) is amended by striking out "the bottling of distilled spirits," and inserting in lieu thereof "the bottling of distilled spirits, or preparatory to exportation.".

(5) AMENDMENT OF SECTION 5054.—Section 5054 (relating to determination and collection of tax on beer) is amended by striking out subsection (c) (relating to stamps or other devices as evidence of payment of tax) and by redesignating subsection (d) as subsection (c).

(6) AMENDMENTS OF SECTION 5061.—

(A) Section 5061(a) (relating to collections of alcohol taxes) is amended by striking out the last sentence.

(B) Section 5061(b) (relating to methods of collection) is amended to read as follows:

"(b) EXCEPTIONS.—Notwithstanding the provisions of subsection (a), any taxes imposed on, or amounts to be paid or collected in respect of, distilled spirits, wines, rectified distilled spirits and wines, and beer under—

"(1) section 5001(a) (5), (6), or (7),
"(2) section 5006(c) or (d),
"(3) section 5026(a)(2),
"(4) section 5041(d),
"(5) section 5043(a)(3),
"(6) section 5054(a)(3) or (4), or
"(7) section 5505(a),

shall be immediately due and payable at the time provided by such provisions (or if no specific time for payment is provided, at the time the event referred to in such provision occurs). Such taxes and amounts shall be assessed and collected by the Secretary on the basis of the information available to him in the same manner as taxes payable by return but with respect to which no return has been filed."

(C) Section 5061(c) (relating to applicability of other provisions of law) is amended to read as follows:

"(c) IMPORT DUTIES.—The internal revenue taxes imposed by this part shall be in addition to any import duties unless such duties are specifically designated as being in lieu of internal revenue tax."

(7) AMENDMENT OF SECTION 5113.—Section 5113(f)(1) (relating to retail dealers in liquors) is amended by striking out "wines or beer" and inserting in lieu thereof "distilled spirits, wines, or beer".

(8) AMENDMENTS OF SECTION 5117.—Section 5117 (relating to prohibited purchases by dealers) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) LIMITED RETAIL DEALERS.—A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors."

(9) AMENDMENT OF SECTION 5121.—Section 5121(c) (relating to limited retail dealers) is amended to read as follows:

"(c) LIMITED RETAIL DEALERS.—Every limited retail dealer shall pay a special tax of $4.50 for each calendar month in which sales are made as such dealer; except that the special tax shall be $2.20 for each calendar month in which only sales of beer or wine are made."

(10) AMENDMENT OF SECTION 5122.—Section 5122(c) (relating to definition of limited retail dealer) is amended by striking out "beer or wine" each place it appears and inserting in lieu thereof "distilled spirits, wine, or beer".

(11) AMENDMENT OF SECTION 5131.—Section 5131(a) (relating to eligibility for drawback) is amended by striking out "produced in a domestic registerd distillery or industrial alcohol plant and withdrawn from bond, or using distilled spirits withdrawn from the bonded premises of a distilled spirits plant,".

(12) AMENDMENT OF SECTION 5142.—Section 5142(c) (relating to payment of occupational taxes) is amended to read as follows:

"(c) HOW PAID.—

"(1) PAYMENT BY RETURN.—The special taxes imposed by this part shall be paid on the basis of a return under such regulations as the Secretary shall prescribe.

(2) STAMP DENOTING PAYMENT OF TAX.—After receiving a properly executed return and remittance of any special tax imposed by this subpart, the Secretary shall issue to the taxpayer an appropriate stamp as a receipt denoting payment of the tax. This paragraph shall not apply in the case of a return covering liability for a past period."

(13) AMENDMENT OF SECTION 5171.—Section 5171(b) (relating to permits for operation of businesses as distillers, etc.) is amended—

(A) in paragraph (1), by striking out "49 Stat. 978;", and

(B) by striking out paragraph (3) (relating to continuance of business after June 30, 1959, pending aplication for permit).

(14) AMENDMENTS OF SECTION 5174.—Section 5174(a)(2)(A) (relating to withdrawal bonds for distilled spirits) is amended by striking out "such spirits" and inserting in lieu thereof "distilled spirits from bond".

(15) AMENDMENT OF SECTION 5232.—Section 5232(a) (relating to transfer of imported distilled spirits) is amended by striking out "and the importer" and inserting in lieu thereof "and the importer, or the person bringing such distilled spirits into the United States,".

(16) AMENDMENT OF SECTION 5233.—Section 5233(b)(4) (relating to bottling requirements) is amended by striking out "49 Stat. 977;".

(17) AMENDMENT OF SECTION 5234.—The first sentence of section 5234(a)(2) (relating to the mingling of distilled spirits) is amended by striking out "8 years" and inserting in lieu thereof "20 years".

(18) AMENDMENT OF SECTION 5314.—Section 5314(a)(2) (relating to application of certain provisions to Puerto Rico) is amended by striking out "section 5001(a)(4)" and inserting in lieu thereof "section 5001(a)(10)".

(19) REPEAL OF SECTION 5315.—Section 5315 (relating to the status of certain distilled spirits on July 1, 1959) is repealed.

(20) AMENDMENTS OF SECTION 5368.—

(A) The heading of section 5368 is amended to read as follows:

"SEC. 5368. GAUGING AND MARKING."

(B) Section 5368(b) (relating to removal of wines) is amended to read as follows:

"(b) MARKING.—Wines shall be removed in such containers (including vessels, vehicles, and pipelines) bearing such marks and labels, evidencing compliance with this chapter, as the Secretary may by regulations prescribe."

(21) AMENDMENT OF SECTION 5392.—Section 5392(f) (defining own production) is amended by striking out "49 Stat. 990;".

(22) AMENDMENT OF SECTION 5601.—Section 5601(b) (relating to presumptions in the case of criminal penalties) is amended to read as follows:

"(b) PRESUMPTION.—Whenever on trial for violation of subsection (a)(4) the defendant is shown to have been at the site or place where, and at the time, the business of a distiller or rectifier was so engaged in or carried on, such presence of the defendant shall be deemed sufficient evidence to authorize conviction, unless the defendant explains such presence to the satisfaction of the jury or of the court when tried without jury)."

(23) AMENDMENTS OF SECTION 5685.—

(A) Section 5685(a) (relating to penalty for possession of devices for emitting gas, smoke, etc.) is amended by striking out "section 5848" and inserting in lieu thereof "section 5845".

B) Section 5685(c) (relating to forfeiture of firearms, devices, etc.) is amended by striking out "section 5862" and inserting in lieu thereof "section 5872".

(C) Section 5685(d) (relating to the definition of machine gun) is amended to read as follows:

"(d) DEFINITION OF MACHINE GUN.—As used in this section, the term 'machine gun' means a machinegun as defined in section 5845b)."

(24) AMENDMENT OF SECTION 5701.— Section 5701(e) (relating to imported tobacco products, etc.) is amended by striking out "such articles" and inserting in lieu thereof "such articles, unless such import duties are imposed in lieu of internal revenue tax".

(25) AMENDMENTS OF SECTION 5703.—

(A) Section 5703(a)(2) (relating to transfer of liability for tobacco taxes) is amended by adding at the end thereof the following new sentence: "All provisions of this chapter applicable to tobacco products and cigarette papers and tubes in bond shall be applicable to such articles returned to bond upon withdrawal from the market or returned to bond after pervious removal for a tax-exempt purpose."

(B) The second sentence of section 5703(b) (relating to method of payment of tobacco taxes) is amended by striking out ", except that the taxes shall continue to be paid by stamp until the Secretary or his delegate provides, by regulations, for the payment of the taxes on the basis of a return".

(C) Section 5703 is amended by striking out subsection (c) (relating to stamps to evidence tobacco taxes) and by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(26) AMENDMENTS OF SECTION 5704.—Subsections (c) and (d) of section 5704 (relating to exemptions from tobacco taxes) are each amended by inserting immediately after "to a manufacturer of tobacco products or cigarette papers and tubes" the following: "or to the proprietor of an export warehouse".

(27) AMENDMENT OF SECTION 5712.—Section 5712 (relating to application for permit) is amended by striking out the last sentence.

(28) AMENDMENTS OF SECTION 5723.—

(A) The heading of section 5723 is amended by striking out "NOTICES, AND STAMPS" and inserting in lieu thereof "AND NOTICES".

(B) Section 5723(b) (relating to marks, and so forth, on packages) is amended to read as follows:

"(b) MARKS, LABELS, AND NOTICES.—Every package of tobacco products or cigarette papers or tubes shall, before removal, bear the marks, labels, and notices, if any, that the Secretary by regulation prescribes."

(b) CONFORMING AND CLERICAL AMENDMENTS—

(1) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 5054.—

(A) Section 5676 (relating to beer stamp penalties) is repealed.

(B) The table of sections for part III of subchapter J of chapter 51 is amended by striking out the item rlating to section 5676.

(2) AMENDMENTS CONFORMING TO THE AMENDMENTS OF SECTION 5061.—

(A) Section 5007(b)(1) is amended by striking out the second sentence.

(B) Section 5026(b) is amended by striking out "Except as provided in subsection (a)(2), the taxes" and inserting in lieu thereof "The taxes".

(C) Section 5043(b) is amended by striking out "Except as provided in subsection (a)(3), the taxes" and inserting in lieu thereof "The taxes".

(D) Section 5662 is amended by striking out "stamp," and each place it appears.

(E)(i) Section 5689 (relating to penalty and forfeiture for tampering with a stamp machine) is repealed.

(ii) The table of sections for part IV of subchapter J of chapter 51 is amended by striking out the item relating to section 5689.

(iii) Section 5061 is amended by striking out subsection (d).

(3) AMENDMENTS CONFORMING TO AMENDMENT OF SECTION 5142.—

(A)(i) Section 5104 (relating to method of payment of tax on stills) is repealed.

(ii) The table of sections for subpart C of part II of subchapter A of chapter 51 is amended by striking out the item relating to section 5104.

(B) Section 5111(a) is amended by striking out the second sentence.

(C) Section 5121(a) is amended by striking out the second sentence.

(D)(i) Section 5144 (relating to supply of stamps) is repealed.

(ii) The table of sections for subpart G of part II of subchapter A of chapter 51 is amended by striking out the item relating to section 5144.

(E) Section 5148(3) is amended by striking out "penalties" and inserting in lieu thereof "penalties, authority for assessments,".

(4) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 5315. The table of sections for part III of subchapter E of chapter 51 is amended by striking out the item relating to section 5315.

(5) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 5368.—The item relating to section 5368 in the table of sections for part II of subchapter F of chapter 51 is amended to read as follows:

"Sec. 5368. Gauging and marking."

(6) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION 5601.—

(A) Section 5105(b)(2) is amended by striking out ", 5601(b)(1),".

(B) Section 5177(b)(2) is amended by striking out "5601(b)(2)," and inserting in lieu thereof "5601(b),".

(C) Section 5179(b)(1) is amended by striking out ", 5601(b)(1),".

(D) Section 5222(d) is amended by striking out "5601(b)(3), 5601(b)(4),".

(E) Section 5505(1) is amended by striking out "5601(b)(1),".

(7) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION 5723.—

(A) Paragraphs (2) and (3) of section 5751(a) are each amended by striking out "notices, and stamps" and inserting in lieu thereof "and notices".

(B)(i) Section 5752 is amended to read as follows:

"SEC. 5752. RESTRICTIONS RELATING TO MARKS, LABELS, NOTICES, AND PACKAGES.

"No person shall, with intent to defraud the United States, destroy, obliterate, or detach any mark, label, or notice prescribed or authorized, by this chapter or regulations thereunder, to appear on, or be affixed to, any package of tobacco products or cigarette papers or tubes, before such package is emptied."

(ii) Section 5762(a) is amended by striking out paragraphs (6), (7), (8), (9), (10), and (11) and inserting in lieu thereof the following:

"(6) DESTROYING, OBLITERATING, OR DETACHING MARKS, LABELS, OR NOTICES BEFORE PACKAGES ARE EMPTIED.—Violates any provision of section 5752;".

(iii) The item relating to section 5752 in the table of sections for subchapter E of chapter 57 is amended to read as follows:

"Sec. 5752. Restrictions relating to marks, labels, notices, and packages."

(C)(i) Section 5763(a)(2) is amended by striking out "notices, and stamps" and inserting in lieu thereof "and notices".

(ii) Section 5763(b) is amended by striking out "internal revenue stamps,".

(D) The item relating to section 5723 in the table of sections for subchapter C of chapter 52 is amended to read as follows:

"Sec. 5723. Packages, marks, labels, and notices."

(c) AMENDMENTS TO PROVISIONS REFERRING TO TERRITORIES.—

(1) Section 5114(b) is amended by striking out "or Territory" each place it appears and by striking out "Territories,".

(2) Section 5214(a)(2) is amended by striking out "or Territory" each place it appears..

(3) Section 5272(b) is amended by striking out "and Territories".

(4) Section 5362(c)(9) is amended by striking out "and Territories".

(5) Section 5551(b)(2) is amended by striking out "Territory, or".

(6) Section 5685(a) is amended by striking out "Territory or".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

SEC. 1306. AMENDMENTS OF SUBTITLE F; PROCEDURE AND ADMINISTRATION.

(a) IN GENERAL.—

(1) AMENDMENTS OF SECTION 6013.—

(A) Section 6013(b)(2)(C) (relating to petition to the Tax Court) is amended by striking out "of the United States".

(B) The heading of section 6013(d) is amended to read as follows:

"(d) SPECIAL RULES.—".

(C) Section 6013(d)(1) (relating to joint return after death of one spouse) is amended by striking out "and" at the end of subparagraph (A) and inserting in lieu thereof "or", and by striking out "and" at the end of the subparagraph (B).

(2) AMENDMENT OF SECTION 6015.—Section 6015 (relating to declaration of estimated tax by individuals) is amended by striking out subsection (j) (relating to an effective date provision).

(3) AMENDMENT OF SECTION 6037.—Section 6037 (relating to returns of subchapter S corporations) is amended by striking out "section 1371(a)(2)" and inserting in lieu thereof "section 1371(b)".

(4) AMENDMENT OF SECTION 6046.—Section 6046(e) (relating to information as to organization of foreign corporation) is amended to read as follows:

"(e) LIMITATION.—No information shall be required to be furnished under this section with respect to any foreign corporation unless such information was required to be furnished under regulations which have been in effect for at least 90 days before the date on which the United States citizen, resident, or person becomes liable to file a return required under subsection (a)."

(5) AMENDMENT OF SECTION 6051.—Section 6051(a) (relating to information required to be furnished to employees) is amended by striking out "and" where it appears at the end of paragraph (6).

(6) AMENDMENT OF SECTION 6065.—Section 6065 (relating to verification of returns) is amended by striking out subsection (b) (relating to verification by oath), and by striking out in subsection (a) the following: "(a) PENALTIES OF PERJURY.—".

(7) AMENDMENTS OF SECTION 6403.—

(A) Section 6103(a)(2) (relating to publicity of tax returns) is amended by striking out ", subchapter B of chapter 37".

(B) The amendment made by subparagraph (A) shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act, except that it shall not apply to returns made with respect to taxes imposed by subchapter B of chapter 37 to the Internal Revenue Code of 1954 before the first day of such month.

(8) REPEAL OF SECTION 6105.—Section 6105 (relating to compilation of data for certain excess profits tax cases) is repealed.

(9) AMENDMENT OF SECTION 6110.—Section 6110 (relating to cross references) is amended to read as follows:

"SEC. 6110. CROSS REFERENCE.

"For inspection of records, returns, etc., concerning gasoline or lubricating oils, see section 4102."

(10) AMENDMENT OF SECTION 6152.—Section 6152(a)(1) (relating to installment payments by corporations) is amended to read as follows:

"(1) CORPORATIONS.—A corporation subject to the taxes imposed by chapter 1 may elect to pay the unpaid amount of such taxes in two equal installments."

(11) AMENDMENTS OF SECTION 6154.—

(A) Section 6154(c)(1)(B) (relating to definition of estimated tax) is amended—

(i) by adding "and" after the comma at the end of clause (i), and

(ii) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

"(ii) in the case of a taxable year beginning before January 1, 1977, the amount of the corporation's temporary estimated tax exemption for such year."

(B) 6154(c)(2)(A)(ii) (relating to temporary estimated tax payments) is amended by striking out "clauses (ii) and (iii)" and inserting in lieu thereof "clause (ii)".

(C) Section 6154(c)(2)(B) (relating to estimated tax) is amended by striking out the following:

| | |
|---|---|
| "1968, 1969, 1970, 1971, and 1972 | 100 percent |
| 1973 | 80 percent |
| 1974 | 60 percent". |

(D) Section 6154(c) (relating to estimated tax) is amended by striking out paragraph (3) (relating to transitional exemption for taxable years beginning before 1972).

(12) AMENDMENTS OF SECTION 6157.—

(A) Section 6157 (relating to payment of Federal unemployment tax) is amended by striking out subsection (c) (relating to special rules for 1970 and 1971), and by redesignating subsection (d) as subsection (c).

(B) Section 6157(a) is amended by striking out "subsections (c) and (d)" and inserting in lieu thereof "subsection (c)".

(13) REPEAL OF SECTION 6162.—Section 6162 (relating to payment of tax on gain on liquidation of certain personal holding companies) is repealed.

(14) AMENDMENTS OF SECTION 6166.—

(A) So much of section 6166(i) (relating to extension of time for payment of estate tax) as precedes paragraph (2) is amended to read as follows:

"(i) TREATMENT OF DEFICIENCY.—

"(1) IN GENERAL.—If a deficiency in the tax imposed by section 2001 is assessed, and the estate qualifies under paragraph (1) or (2) of subsection (a), the executor may elect to pay the deficiency in installments. This subsection shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax."

(B) Section 6166(i) is amended by striking

out paragraph (4) (relating to a taxable year ending before 1960).

(15) AMENDMENT OF SECTION 6205.—Section 6205(a)(4) (relating to District of Columbia as employer) is amended by striking out "Commissioners of the District of Columbia and each agent designed by them" and inserting in lieu thereof "Mayor of the District of Columbia and each agent designated by him".

(16) AMENDMENT OF SECTION 6207.—Section 6207 (relating to cross references) is amended by striking out paragraph (7).

(17) AMENDMENT TO SECTION 6213.—Section 6213(a) (relating to time for filing petition with the Tax Court) is amended by striking out "States of the Union and the District of Columbia" and inserting in lieu thereof "United States".

(18) AMENDMENT OF SECTION 6215.—Section 6215(b)(5) (a cross reference) is amended by striking out "60 Stat. 48;".

(19) AMENDMENT OF SECTION 6302.—Section 6302(b) (relating to collection of certain excise taxes) is amended by striking out "sections 4501(a) or 4511 of chapter 37, or sections 4701 or 4721 of chapter 39" and inserting in lieu thereof "section 4501(a) of chapter 37".

(20) REPEAL OF SECTION 6304.—Section 6304 (relating to a cross reference) is repealed.

(21) AMENDMENT OF SECTION 6313.—Section 6313 (relating to fractional parts of a cent) is amended by striking out "not payable by stamp".

(22) AMENDMENTS OF SECTION 6326.—

(A) Paragraph (2) of section 6326 (cross references) is amended by striking out "52 Stat. 851;".

(B) Paragraph (3) of section 6326 is amended by striking out "52 Stat. 867;".

(C) Paragraph (4) of section 6326 is amended by striking out "52 Stat. 867–877;".

(D) Paragraph (5) of section 6326 is amended by striking out "52 Stat. 938;".

(23) AMENDMENT OF SECTION 6365.—Section 6365(b) (relating to definition of governor) is amended by striking out "Commissioner of the District of Columbia" and inserting in lieu thereof "Mayor of the District of Columbia".

(24) AMENDMENT OF SECTION 6412.—Section 6412(a) (relating to floor stock refunds) is amended by redesignating paragraphs (2) and (4) as paragraphs (1) and (2), respectively.

(25) AMENDMENTS OF SECTION 6413.—

(A) Section 6413(a)(4) (relating to District of Columbia as employer) is amended by striking out "Commissioners of the District of Columbia and each agent designated by them" and inserting in lieu thereof "Mayor of the District of Columbia and each agent designated by him".

(B)(i) Section 6413(c)(1) (relating to refunds of certain employment taxes) is amended to read as follows:

"(1) IN GENERAL.—If by reason of an employee receiving wages from more than one employer during a calendar year the wages received by him during such year exceeded the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year, the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101 or section 3201, or by both such sections, and deducted from the employee's wages (whether or not paid to the Secretary), which exceeds the tax with resepct to the amount of such wages received in such year which is equal to such contribution and benefit base. The term 'wages' as used in this paragraph shall, for purposes of this paragraph, include 'compensation' as defined in section 3231(e)."

(ii) So much of section 6413(c)(2)(A) (relating to Federal employees) as follows "and the term 'wages' includes" is amended to read as follows: "for purposes of this subsection the amount, not to exceed an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year with respect to which such contribution and benefit base is effective, determined by each such head or agent as constituting wages paid to an employee."

(iii) The amendments made by clauses (i) and (ii) shall apply with respect to remuneration paid after December 31, 1976.

(C) Section 6413(c)(2)(F) (relating to government employees in the District of Columbia) is amended by striking out "Commissioners of the District of Columbia and each agent designated by them" and inserting in lieu thereof "Mayor of the District of Columbia and each agent designated by him".

(D) Section 6413(c)(3) (relating to special refunds) is amended by striking out "after 1967".

(26) AMENDMENTS OF SECTION 6416.—

(A) Section 6416(a)(3) (relating to special rules for refund of overpayment of tax) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B), respectively.

(B)(i) Section 6416(b)(2) (relating to overpayments of certain excise taxes) is amended by striking out subparagraphs (G), (H), (I), and (J), and by redesignating subparagraphs (F), (K), (L), (M), (R), and (S) as subparagraphs (E), (F), (G), (H), (I), and (J), respectively.

(ii) The repeals made by clause (i) shall apply with respect to the use or resale for use of liquids after December 31, 1976.

(27) REPEAL OF SECTION 6417.—Section 6417 (relating to coconut and palm oil) is repealed.

(28) AMENDMENTS OF SECTION 6420.—

(A) Section 6420(b) (relating to time for filing refund claims on gasoline) is amended to read as follows:

"(b) TIME FOR FILING CLAIMS; PERIOD COVERED.—Not more than one claim may be filed under this section by any person with respect to gasoline used during his taxable year, and no claim shall be allowed under this section with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A."

(B) Section 6420(e)(1) (relating to applications of other laws) is amended by striking out "apply in in respect" and inserting in lieu thereof "apply in respect".

(C)(i) Section 6420 is amended by striking out subsection (g) (relating to effective date and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(ii) Section 6420(a) is amended by striking out "subsection (h)" and inserting in lieu thereof "subsection (g)".

(D) Section 6420(g) (relating to income tax credit in lieu of gas tax refund), as redesignated by subparagraph (C)(i) of this paragraph, is amended by striking out "with respect to gasoline used after June 30, 1965." and "for gasoline used after June 30, 1965".

(29) AMENDMENTS OF SECTION 6421.—

(A)(i) Subsections (a) and (e)(3) of section 6421 (relating to nonhighway use of gasoline) are each amended by striking out "after June 30, 1970,".

(ii) The amendments made by clause (i) shall only apply with respect to gasoline used as a fuel after June 30, 1970.

(B) Section 6421(c) (relating to nonhighway use of gasoline) is amended to read as follows:

"(c) TIME FOR FILING CLAIMS; PERIOD COVERED.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not more than one claim may be filed under subsection (a), and not more than one claim may be filed under subsection (b), by any person with respect to gasoline used during his taxable year; and no claim shall be allowed under this paragraph with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

"(2) EXCEPTION.—If $1,000 or more is payable under this section to any person with respect to gasoline used during any of the first three quarters of his taxable year, a claim may be filed under this section by such person with respect to gasoline used during such quarter. No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed."

(C) Section 6421(h) (relating to effective dates) is amended by striking out "after June 30, 1956, and".

(D) Section 6421(i) (relating to income tax credit in lieu of refund) is amended—

(i) by striking out, in paragraph (1), "with respect to gasoline used after June 30, 1965.",

(ii) by striking out, in paragraph (2), "subsection (c)(3)(B)" and inserting in lieu thereof "subsection (c)(2)", and

(iii) by striking out, in paragraph (3), "for gasoline used after June 30, 1965".

(30) AMENDMENTS OF SECTION 6422.—

(A) Paragraph (9) of section 6422 (cross references), as redesignated by section 1301 (b)(35)(B), is amended by striking out "60 Stat. 48;".

(B) Paragraph (11) of section 6422, as so redesignated, is amended by striking out "47 Stat. 1516;".

(31) AMENDMENTS OF SECTION 6423.—

(A) Section 6423(b) (relating to filing of refund claim in case of alcohol and tobacco taxes) is amended to read as follows:

"(b) FILING OF CLAIMS.—No credit or refund of any amount to which subsection (a) applies shall be allowed or made unless a claim therefor has been filed by the person who paid the amount claimed, and unless such claim is filed within the time prescribed by law and in accordance with regulations prescribed by the Secretary. All evidence relied upon in support of such claim shall be clearly set forth and submitted with the claim."

(B) Section 6423 is amended by striking out subsection (c) (relating to suits barred from allowance on April 30, 1958) and by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(C) Section 6423(c) (relating to application of section), as redesignated by subparagraph (B) of this paragraph, is amended by adding "and" at the end of paragraph (1), by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out paragraph (3).

(32) AMENDMENTS OF SECTION 6424.—

(A) The last sentence of section 6423(b)(1) (relating to refund claims with respect to lubricating oil) is amended by striking out ", except that a person's first taxable year beginning after December 31, 1965, shall include the period after December 31, 1965, and before the beginning of such first taxable year".

(B) Section 6424 (relating to lubricating oil not used in highway motor vehicles) is amended by striking out subsection (f) (relating to effective date of section), and by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(33) AMENDMENTS OF SECTION 6427.—

(A) Subsections (a), (b), and (c) of section 6427 (relating to fuels not used for taxable purposes) are each amended by striking out ", after June 30, 1970,".

(B) The amendments made by subpara-

graph (A) shall apply only with respect to fuel used or resold after June 30, 1970.

(34) AMENDMENTS OF SECTION 6504.—

(A) Section 6504 (relating to cross references) is amended by striking out paragraphs (13) and (14) and inserting in lieu thereof:

"(13) Assessments to recover excessive amounts paid under section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), 6424 (relating to lubricating oil not used in highway motor vehicles), or 6427 (relating to fuels not used for taxable purposes) and assessments of civil penalties under section 6675 for excessive claims under section 6420, 6421, 6424, or 6427, see section 6206."

(B) Section 6504, as amended by this Act, is further amended by redesignating paragraphs (2), (3), (4), (5), (9), (10), (11), (12), (13), and (15) as paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), and (10), respectively.

(35) AMENDMENTS OF SECTION 6511.—

(A) Section 6511(d)(2)(A)(ii) (relating to net operating loss carryback) is amended by striking out "September 1, 1959, or" and by striking out ", whichever is the later".

(B) Section 6511(d)(5) is amended by striking out "the later of the following dates: (A)", and by striking out ", or (B) December 31, 1965".

(36) AMENDMENT OF SECTION 6601.—Section 6601(h) (relating to interest on estimated tax payments) is amended by striking out "(or section 59 of the Internal Revenue Code of 1939)".

(37) AMENDMENT OF SECTION 6654.—Section 6654 (relating to payment of estimated income tax) is amended by striking out subsection (h) (relating to applicability of section).

(38) AMENDMENT OF SECTION 6802.—Section 6802(2) (relating to supply and distribution of stamps) is amended by striking out the semicolon at the end and inserting in lieu thereof a period.

(39) AMENDMENT OF SECTION 6803.—Section 6803 (relating to accounting and safeguarding) is amended to read as follows:

"SEC. 6803. ACCOUNTING AND SAFEGUARDING.

"(a) BOND.—In cases coming within the provisions of paragraph (2) of section 6802, the Secretary may require a bond, with sufficient sureties, in a sum to be fixed by the Secretary, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of and for the payment monthly for all quantities or amounts sold or not remaining on hand.

"(b) REGULATIONS.—The Secretary may from time to time make such regulations as he may find necessary to insure the safekeeping or prevent the illegal use of all adhesive stamps referred to in paragraph (2) of section 6802."

(40) AMENDMENT OF SECTION 6863.—Section 6863(b)(3) (relating to stay of sale of seized property pending Tax Court decision) is amended by striking out subparagraph (C) (relating to effective date).

(41) AMENDMENT OF SECTION 7012.—Section 7012 (relating to cross references), as amended by section 1304(b)(8)(C) of this Act, is amended to read as follows:

"SEC. 7012. CROSS REFERENCES.

"(1) For provisions relating to registration in connection with firearms, see sections 5802, 5841, and 5861.

"(2) For special rules with respect to registration by persons engaged in receiving wagers, see section 4412.

"(3) For provisions relating to registration in relation to the production or importation of gasoline, see section 4101.

"(4) For provisions relating to registration in relation to the manufacture or production of lubricating oils, see section 4101.

"(5) For penalty for failure to register, see section 7272.

"(6) For other penalties for failure to register with respect to wagering, see section 7262."

(42) AMENDMENT OF SECTION 7103.—Section 7103 (relating to cross references regarding bonds) is amended by striking out subsection (d).

(43) AMENDMENTS OF SECTION 7271.—Section 7271 (relating to penalties for offenses concerning stamps) is amended by striking out paragraph (2), and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(44) AMENDMENT OF SECTION 7272.—Section 7272(b) (relating to cross references) is amended by striking out "4722, 4753,".

(45) AMENDMENTS OF SECTION 7326.—Section 7326 (relating to disposal of forfeited property) is amended—

(A) by striking out "section 5862(b)" and inserting in lieu thereof "section 5872(b)", and

(B) by redesignating subsection (c) as subsection (b).

(46) AMENDMENTS OF SECTION 7422.—Section 7422(c) (relating to suits against collection officers) is amended by striking out "instituted after June 15, 1942,", and by striking out "where the petition to the Tax Court was filed after such date".

(47) AMENDMENTS OF SECTION 7427.—

(A) Paragraph (1) of section 7427 (cross references) is amended by striking out "52 Stat. 851;".

(B) Paragraph (2) of section 7427 is amended by striking out "52 Stat. 867;".

(C) Paragraph (3) of section 7427 is amended by striking out "52 Stat. 876–877;".

(D) Paragraph (4) of section 7427 is amended by striking out "52 Stat. 938;".

(48) AMENDMENT OF SECTION 7488.—

(A) Subsection (a)(6) of section 7488 (relating to annuities to widows and dependent children of tax court judges) is amended—

(i) by striking out "The term 'widow' means a surviving wife of" and inserting in lieu thereof "The term 'surviving spouse' means a surviving spouse of"; and

(ii) by striking out "the mother of issue" and inserting in lieu thereof "a parent of issue".

(B) Section 7448(h) is amended—

(i) by striking out "surviving widow or widower" and inserting in lieu thereof "surviving spouse";

(ii) by striking out "such widow" each place it appears and inserting in lieu thereof "such surviving spouse";

(iii) by striking out "a widow" each place it appears and inserting in lieu thereof "a surviving spouse";

(iv) by striking out "widow's" each place it appears and inserting in lieu thereof "surviving spouse's"; and

(v) by striking out "surviving her" and inserting in lieu thereof "surviving such spouse".

(C) Sections 7448 (h) and (o) are each amended by striking out "she" and inserting in lieu thereof "such spouse".

(D) Section 7448(o) is amended by striking out "her" and inserting in lieu thereof "such spouse's".

(E) Sections 7448 (d), (j), (m), (n), (o), and (q) are each amended by striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse".

(F) The section heading for section 7448 is amended by striking out "WIDOWS" and inserting in lieu thereof "SURVIVING SPOUSES".

(49) AMENDMENTS OF SECTION 7471.—

(A) Subsection (a) of section 7471 (relating to Tax Court employees) is amended by striking out "is authorized in accordance with the civil service laws to appoint, and in accordance with the Classification Act of 1949 (63 Stat. 954; 5 U.S.C. chapter 21), as amended, to fix the compensation of," and inserting in lieu thereof "is authorized to appoint, in accordance with the provisions of title 5, United States Code, governing appointment in the competitive service, and to fix the basic pay of, in accordance with chapter 51 and subchapter III of chapter 53 of such title.".

(B) Subsection (b) of section 7471 is amended by striking out "as provided in the Travel Expense Act of 1949 (63 Stat. 166; 5 U.S.C. chapter 16)." and inserting in lieu thereof "as provided in chapter 57 of title 5, United States Code."

(50) AMENDMENT OF SECTION 7476.—Section 7476(a) (relating to declaratory judgments) is amended by striking out so much thereof as follows paragraph (2)(B) and inserting in lieu thereof the following:

"upon the filing of an appropriate pleading, the Tax Court may make a declaration with respect to such initial qualification or continuing qualification. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such."

(51) AMENDMENT OF SECTION 7502.—Section 7502(b) (relating to timely mailing treated as timely filing and paying) is amended by striking out "United States Post Office" and inserting in lieu thereof "United States Postal Service".

(52) AMENDMENTS OF SECTION 7507.—Paragraphs (2) and (3) of section 7507(c) (relating to insolvent banks) are each amended by striking out "after May 28, 1938,".

(53) AMENDMENTS OF SECTION 7508.—

(A) The heading of section 7508 (relating to time for performing certain acts) is amended by striking out "BY REASON OF WAR" and inserting in lieu thereof "BY REASON OF SERVICE IN COMBAT ZONE".

(B) Section 7508(a) (relating to time to be disregarded) is amended by striking out "States of the Union and the District of Columbia" each place it appears and inserting in lieu thereof "United States".

(54) AMENDMENTS OF SECTION 7509.—Section 7509 (relating to expenditures incurred by the Post Office Department) is amended—

(A) in the section heading, by striking out "POST OFFICE DEPARTMENT" and inserting in lieu thereof "UNITED STATES POSTAL SERVICE";

(B) by striking out "Post Office Department" each place it appears and inserting in lieu thereof "United States Postal Service";

(C) by striking out "such Department" and inserting in lieu thereof "such Service"; and

(D) by striking out ", together with the receipts required to be deposited under section 6803(a),".

(55) AMENDMENT OF SECTION 7621.—Section 7621(b) (relating to boundaries of internal revenue districts) is amended to read as follows:

"(b) BOUNDARIES.—For the purpose mentioned in subsection (a), the President may subdivide any State or the District of Columbia, or may unite into one district two or more States."

(56) REPEAL OF SECTION 7641.—Subchapter C of chapter 78 (relating to supervision of operations of certain manufacturers) is repealed.

(57) AMENDMENTS OF SECTION 7652.—Section 7652(b)(3) (relating to disposition of internal revenue collections) is amended—

(A) by striking out subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(B) by striking out "approved emergency relief purposes and essential public projects as provided in subparagraph (B)" and inserting in lieu thereof "emergency relief purposes and essential public projects, with the prior approval of the President or his designated representative", and

(C) by striking out ", including payments under subparagraph (B),".

(58) AMENDMENT OF SECTION 7653.—Section 7653(d) (a cross reference) is amended by striking out "c. 512, 64 Stat. 392, section 30;".

(59) AMENDMENTS OF SECTION 7701.—

(A) Section 7701(a)(11) (relating to definition of Secretary) is amended to read as follows:

"(11) SECRETARY OF THE TREASURY AND SECRETARY.—

"(A) SECRETARY OF THE TREASURY.—The term 'Secretary of the Treasury' means the Secretary of the Treasury, personally, and shall not include any delegate of his.

"(B) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury or his delegate."

(B) Section 7701(a)(12)(A) (relating to definition of Secretary or his delegate) is amended to read as follows:

"(A) IN GENERAL.—The term 'or his delegate'—

"(i) when used with reference to the Secretary of the Treasury, means any officer, employee, or agency of the Treasury Department duly authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context; and

"(ii) when used with reference to any other official of the United States, shall be similarly construed."

(60) AMENDMENT OF SECTION 7803.—Section 7803 (relating to other personnel) is amended by redesignating subsection (d) as subsection (c).

(61) AMENDMENT OF SECTION 7809.—Section 7809(a) (relating to deposit of collections) is amended by striking out "4735, 4762,".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 6105.—The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6105.

(2) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 6110.—The item relating to section 6110 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6110. Cross reference."

(3) AMENDMENTS CONFORMING TO AMENDMENTS OF SECTION 6154.—

(A) Paragraph (1)(B) of section 6655(e) is amended:

(i) by adding "and" at the end of clause (i), and

(ii) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

"(ii) in the case of a taxable year beginning before January 1, 1977, the amount of the corporation's temporary estimated tax exemption for such year."

(B) Paragraph (2)(B) of section 6655(e) is amended by striking out "clauses (ii) and (iii)" and inserting in lieu thereof "clause (ii)".

(C) (i) Section 6655(e) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(ii) Section 243(b)(3)(C)(iv), as redesignated by section 1301(a)(19)(A) of this Act, is amended by striking out "sections 6154(c)(2) and (3)" and inserting in lieu thereof "section 6154(c)(2)", and by striking out "sections 6655(e)(2) and (3)" and inserting in lieu thereof "section 6655(e)(2)".

(4) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 6162.—The table of sections for subchapter B of chapter 62 is amended by striking out the item relating to section 6162.

(5) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 6304.—The table of sections for subchapter A of chapter 64 is amended by striking out the item relating to section 6304.

(6) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION 6416.—

(A) Subparagraph (A) of section 6420(c)(3) is amended to read as follows:

"(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm of which he is the owner, tenant, or operator; except that if such use is by any person other than the owner, tenant, or operator such farm, then for purposes of this subparagraph, in applying subsection (a) to this subparagraph, the owner, tenant, or operator of the farm on which gasoline or a liquid taxable under section 4041 is used shall be treated as the user and the ultimate purchaser of such gasoline or liquid;".

(B) The amendments made by subparagraph (A) shall apply with respect to the use of liquids after December 31, 1976.

(7) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 6417.—The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6417.

(8) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 6420.—Section 39(a)(1) is amended by striking out "section 6420(h)" and inserting in lieu thereof "section 6420(g)".

(9) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 6424.—Section 39(a)(3) is amended by striking out "section 6424(g)" and inserting in lieu thereof "section 6424(f)".

(10) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 7448.—The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 76 is amended to read as follows:

*"Sec. 7448. Annuities of surviving spouses and dependent children."*

(11) AMENDMENT CONFORMING TO AMENDMENT OF SEDTION 7509.—The item relating to section 7509 in the table of sections for chapter 77 is amended to read as follows:

*"Sec. 7508. Time for performing certain acts postponed by reason of service in combat zone."*

(12) AMENDMENT CONFORMING TO AMENDMENT OF SECTION 7509.—The item relating to seciton 7509 in the table of sections for chapter 77 is amended to read as follows:

*"Sec. 7509. Expenditures incurred by the United States Postal Service."*

(13) AMENDMENT CONFORMING TO REPEAL OF SECTION 7641.—The table of subchapters for chapter 78 is amended by striking out the item relating to subchapter C.

(14) AMENDMENTS CONFORMING TO AMENDMENTS OF SECTION 7701.—

(A) The Internal Revenue Code of 1954, as amended by this Act, is amended by striking out "Secretary or his delegate" each place it appears and inserting in lieu thereof "Secretary".

(B) The following provisions are each amended by striking out "Secretary" each place it appears and inserting in lieu thereof "Secretary of the Treasury": sections 405(b), 1037(a), 4293, 4483(b), 4975(e)(2), 5551, 6057(f)(1), 6103(d), 6802(1)(B), 7801(b), 7802(a), 9006(a), 9006(b), 9006(c), and 9007(d).

(C) The following provisions are each amended by striking out "to the Secretary" each place it appears and inserting in lieu thereof "to the Secretary of the Treasury": sections 3121(b)(12)(B), 3303(b), 3304(a)(3), 3304(c), 3305(j), 3306(c)(12)(B), 9905(a), 9007(b), 9010(b), and 9012(e)(3).

(D) Section 31(b)(1) is amended by striking out "(or his delegate)".

(E) The last sentence of section 3304(c) is amended by striking out "the Secretary shall" and inserting in lieu thereof "the Secretary of Labor shall".

(F) Section 3310(d)(2) is amended by striking out "the Secretary's action" each place it appears and inserting in lieu thereof "the Secretary of Labor's action".

(G) Section 3221(a) and 3221(c) are each amended by striking out "of the Treasury" each place it appears.

(H) Section 3310(e) is amended by striking out "of the Secretary" and inserting in lieu thereof "of the Secretary of Labor".

(I) Section 4412(c) is amended by striking out "he or his delegate" and inserting in lieu thereof "the Secretary".

(J) Section 5845(f) is amended by striking out "of the Treasury or his delegate".

(K) Section 6047(c)(2) is amended by striking out "to the Secretary (or to such person as the Secretary" and inserting in lieu thereof "to the Secretary of the Treasury (or to such person as the Secretary of the Treasury".

(L) Section 6402(b) is amended by striking out "(or his delegate)".

(M) Section 7458 is amended by striking out "nor his delegate".

(N) Section 7514 is amended by striking out "functions of the Secretary" and inserting in lieu thereof "functions of the Secretary of the Treasury".

(c) AMENDMENTS TO SECTIONS REFERRING TO TERRITORIES.—

(1) Section 6871(a) is amended by striking out "or Territory".

(2) Section 7622(b) is amended by striking out ", Territory,".

(3) Section 7701(a)(4) is amended by striking out "or Territory".

(d) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as otherwise expressly provided in this section, the amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

(2) AMENDMENTS RELATING TO INCOME TAX.—The amendments made by this section, when relating to a tax imposed by chapter 1 or chapter 2 of the Internal Revenue Code of 1954, shall take effect with respect to taxable years beginning after December 31, 1976.

SEC. 1307. AMENDMENTS OF SUBTITLE G; THE JOINT COMMITTEE ON INTERNAL REVENUE TAXATION.

(a) IN GENERAL.—

(1) AMENDMENT OF SECTION 8001.—Section 8001 (relating to creation of the Joint Committee) is amended by striking out "Joint Committee on Internal Revenue Taxation" and inserting in lieu thereof "Joint Committee on Taxation".

(2) AMENDMENT OF SECTION 8004.—Section 8004 (relating to compensation of staff) is amended by striking out "compensation of a clerk" and inserting in lieu thereof "compensation of the Chief of Staff of the Joint Committee".

(3) AMENDMENT OF SECTION 8021.—Section 8021(d) (relating to authority to make expenditures) is amended to read as follows:

"(d) TO MAKE EXPENDITURES.—The Joint Committee, or any subcommittee thereof, is authorized to make such expenditures as it deems advisable."

(4) AMENDMENT OF SECTION 8023.—Section 8023(c) (relating to reorganization plans) is amended to read as follows:

"(c) APPLICATIONS OF SUBSECTIONS (a) AND (b).—Subsections (a) and (b) shall be applied in accordance with their provisions without regard to any reorganization plan becoming effective on, before, or after the date of the enactment of this subsection."

(5) All references in any other statute, or in any rule, regulation, or order, to the Joint Committee on Internal Revenue Taxation shall be considered to be made to the Joint Committee on Taxation.

(b) AMENDMENTS CONFORMING TO THE AMENDMENT OF SECTION 8001.—

(1) So much of section 6103(d)(2) (relating to inspection of returns) as precedes "and to inspect returns" is amended to read as follows:

"(2) JOINT COMMITTEE ON TAXATION.—The

Joint Committee on Taxation shall have the same right to obtain data".

(2) Section 6405(a) is amended by striking out "Internal Revenue".

(3) The heading of subtitle G is amended by striking out "Internal Revenue".

(4) The table of subtitles for the Internal Revenue Code of 1954 is amended by striking out the item relating to subtitle G and inserting in lieu thereof the following:

*"Subtitle G. The Joint Committee on Taxation."*

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

SUBTITLE B—AMENDMENTS OF CODE PROVISIONS WITH LIMITED CURRENT APPLICATION: REPEALS AND SAVINGS PROVISIONS

SEC. 1351. PROVISIONS OF SUBTITLE A.

(a) REFERENCES TO INTERNAL REVENUE CODE.—Except as otherwise expressly provided, whenever in this section a reference is made to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

(b) AMENDMENT.—

(1) AMENDMENT OF SECTION 72.—

(A) REPEAL.—Section 72 (relating to annuities) is amended by striking out subsection (i) (relating to joint and survivor annuities where first annuitant died in 1951, 1952, or 1953).

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), if the provisions of section 72(i) applied to amounts received in taxable years beginning before January 1, 1977, under an annuity contract, then amounts received under such contract on or after such date shall be treated as if such provisions were not repealed.

(2) AMENDMENTS OF SECTION 108.—

(A) REPEAL.—Section 108 (relating to income from discharge of indebtedness), is amended by striking out subsection (b) (relating to certain railroad corporations) and by striking out of subsection (a) the following: "(a) SPECIAL RULE EXCLUSION.—".

(B) SAVINGS PROVISION.—If any discharge, cancellation, or modification of indebtedness of a railroad corporation occurs in a taxable year beginning after December 31, 1976, pursuant to an order of a court in a proceeding referred to in section 108(b) (A) or (B) which commenced before January 1, 1960, then, notwithstanding the amendments made by subparagraph (A), the provisions of subsection (b) of section 108 shall be considered as not repealed with respect to such discharge, cancellation, or modification of indebtedness.

(3) AMENDMENTS OF SECTION 164.—

(A) REPEAL.—Section 164 (relating to taxes) is amended by striking out subsection (f) (relating to payments for municipal services in atomic energy communities) and by redesignating subsection (g) as subsection (f).

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), any amount paid or accrued in a taxable year beginning after December 31, 1976, to the Atomic Energy Commission or its successors for municipal-type services shall be allowed as a deduction under section 164 if such amount would have been deductible by reason of section 164(f) (as in effect for a taxable year ending on December 31, 1976) and if the amount is paid or accrued with respect to real property in a community (within the meaning of section 21 b. of the Atomic Energy Community Act of 1955 (42 U.S.C. 2304(b))) in which the Commission on December 31, 1976, was rendering municipal-type services for which it received compensation from the owners of property within such community.

(4) REPEAL OF SECTION 168.—

(A) REPEAL.—Section 168 (relating to amortization of emergency facilities) is repealed.

(B) SAVINGS PROVISION.—Notwithstanding the repeal made by subparagraph (A), if a certificate was issued before January 1, 1960, with respect to an emergency facility which is or has been placed in service before the date of the enactment of this Act, the provisions of section 168 shall not, with respect to such facility, be considered repealed. The benefit of deductions by reason of the preceding sentence shall be allowed to estates and trusts in the same manner as in the case of an individual. The allowable deduction shall be apportioned between the income beneficiaries and the fiduciary in accordance with regulations prescribed under section 642(f).

(5) AMENDMENT OF SECTION 171.—

(A) REPEAL.—

(i) Section 171(b)(1)(B) (relating to amount of bond premium) is amended by striking out clause (iii) (relating to certain bonds acquired before 1958).

(ii) Section 171(b)(1)(B)(i) is amended by striking out "clause (ii) or (iii) applies," and inserting in lieu thereof "clause (ii) applies, or", and by inserting "and" at the end thereof.

(iii) Section 171(b)(1)(B)(ii) is amended by striking out ", or" and inserting ", and" in lieu thereof.

(iv) The second sentence in section 171 (b)(2) is amended by striking out "or (iii)".

(B) SAVINGS PROVISION.—Notwithstanding the amendments made by subparagraph (A), in the case of a bond the interest on which is not excludable from gross income—

(i) which was issued after January 22, 1951, with a call date not more than 3 years after the date of such issue, and

(ii) which was acquired by the taxpayer after January 22, 1954, and before January 1, 1958,

the bond premium for a taxable year beginning after December 31, 1975, shall not be determined under section 171(b)(1)(B)(i) but shall be determined with reference to the amount payable on maturity, and if the bond is called before its maturity, the bond premium for the year in which the bond is called shall be determined in accordance with the provisions of section 171(b)(2).

(6) AMENDMENT OF SECTION 333.—

(A) REPEAL.—Section 333 (relating to election as to recognition of gain in certain liquidations) is amended by striking out subsection (g) (relating to the liquidation of certain personal holding companies).

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), if any corporation meets all the requirements of section 333(g)(2)(B), as in effect before its repeal by this Act, the liquidation of such corporation shall be treated as if paragraphs (2), (3), and (4) of section 333(g) had not been repealed.

(7) AMENDMENT OF SECTION 453.—

(A) REPEAL.—Section 453(b)(2) (relating to limitation on use of installment sales method) is amended to read as follows:

"(2) LIMITATION.—Paragraph (1) shall apply only if in the taxable year of the sale or other disposition—

"(A) there are no payments, or

"(B) the payments (exclusive of evidences of indebtedness of the purchaser) do not exceed 30 percent of the selling price."

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), in the case of installment payments received during taxable years beginning after December 31, 1976, on account of a sale or other disposition made during a taxable year beginning before January 1, 1954, subsection (b)(1) of section 453 (relating to sales of realty and casual sales of personality) shall apply only if the income was (by reason of section 44(b) of the Internal Revenue Code of 1939) returnable on the basis and in the manner prescribed in section 44(a) of such Code.

(8) AMENDMENTS OF SECTION 512.—

(A) REPEAL.—Section 512(b) (relating to unrelated business taxable income) is amended by striking out paragraphs (13) and (14) and by redesignating paragraphs (15), (16), and (17) as paragraphs (13), (14), and (15), respectively.

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A) income received in a taxable year beginning after December 31, 1975, shall be excluded from gross income in determining unrelated business taxable income, if such income would have been excluded by paragraph (13) or (14) of section 512(b) if received in a taxable year beginning before such date. Any deductions directly connected with income excluded under the preceding sentence in determining unrelated business taxable income shall also be excluded for such purpose.

(9) AMENDMENT OF SECTION 545.—

(A) REPEAL.—Section 545(b) (relating to adjustments in computing undistributed personal holding company income) is amended by striking out paragraph (9) (relating to deductions on account of certain liens in favor of the United States).

(B) SAVINGS PROVISIONS.—Notwithstanding subparagraph (A), if any amount was deducted under paragraph (9) of section 545 (b) in a taxable year beginning before January 1, 1978, on account of a lien which is satisfied or released in a taxable year beginning on or after such date, the amount so deducted shall be included in income, for purposes of section 545, as provided in the second sentence of such paragraph. Shareholders of any corporation which has amounts included in its income by reason of the preceding sentence may elect to compute the income tax on dividends attributable to amounts so included as provided in the third sentence of such paragraph.

(10) AMENDMENTS OF SECTION 691.—

(A) REPEAL.—Section 691 (relating to income in respect to decedents) is amended by striking out subsection (e) (relating to certain installment obligations transmitted at death) and by redesignating subsection (f) as subsection (e).

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), any election made under section 691(e) to have subsection (a)(4) of such section apply in the case of an installment obligation shall continue to be effective with respect to taxable years beginning after December 31, 1976. Section 691(c) shall not apply in respect of any amount included in gross income by reason of the preceding sentence. The liability under bond filed under section 44(d) of the Internal Revenue Code of 1939 (or corresponding provisions of prior law) in respect of which such an election applies is hereby released with respect to taxable years to which such election applies.

(11) AMENDMENTS OF SECTION 817.—

(A) REPEAL.—Section 817 is amended by striking out subsection (d) (relating to certain gains occurring before 1959).

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), if any gain in a taxable year beginning after December 31, 1976, from any sale or other disposition of property prior to January 1, 1959, would be excluded or not taken into account for purposes of part 1 of subchapter L of chapter 1 if subsection (d) of section 817 of such Code were still in effect for such taxable year, such gain shall be excluded for purposes of such part.

(12) REPEAL OF SECTION 1347.—

(A) REPEAL.—Section 1347 (relating to certain claims filed against the United States before January 1, 1958) is repealed.

(B) SAVINGS PROVISION.—Notwithstanding subparagraph (A), if amounts received in a taxable year beginning after December 31, 1976, would have been subject to the provisions of section 1347 if received in a taxable

year beginning before such date, the tax imposed by section 1 attributable to such receipt shall be computed as if section 1347 had not been repealed.

(13) REPEAL OF SECTION 1347.—

(A) REPEAL.—Subchapter A of chapter 4 (relating to recovery of excessive profits on certain Government contracts) is repealed.

(B) SAVINGS PROVISION.—If the amount of profit required to be paid into the Treasury under section 2382 or 7300 of title 10, United States Code, is not voluntarily paid, the Secretary of the Treasury or his delegate shall collect the same under the methods employed to collect taxes under subtitle A. All provisions of law (including penalties) applicable with respect to such taxes and not inconsistent with section 2382 or 7300 of title 10 of such Code, shall apply with respect to the assessment, collection, or payment of excess profits to the Treasury as provided in the preceding sentence, and to refunds by the Treasury of overpayments of excess profits into the Treasury.

(14) AMENDMENT OF SECTION 1481.—

(A) REPEAL.—Section 1481 (relating to mitigation of effect of renegotiation of government contracts) is amended by striking out subsection (d) (relating to renegotiation for years prior to 1954).

(B) SAVINGS PROVISION.—If, during a taxable year beginning after December 31, 1976, a recovery of excessive profits through renegotiation which relates to profits of a taxable year subject to the Internal Revenue Code of 1939, the adjustments in respect to such renegotiation shall be made under section 3806 of such Code.

(c) CONFORMING AND CLERICAL AMENDMENTS.—

(1) AMENDMENT CONFORMING TO THE AMENDMENT OF SECTION 108.—Section 1017 is amended by striking out "section 108(a)" each time it appears therein and inserting in lieu thereof "section 108".

(2) AMENDMENTS CONFORMING TO REPEAL OF SECTION 168.—

(A) Section 1238 is amended by striking out "(relating to amortization deduction of emergency facilities)" and inserting in lieu thereof "(as in effect before its repeal by this Act)".

(B) Sections 642(f) and 1082(a)(2)(B) are each amended by striking out "168,".

(C) Sections 1245(a)(2) and 1250(b)(3) are each amended by striking out "168," each place it appears and inserting in lieu thereof "168 (as in effect before its repeal by this Act),".

(D) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 168.

(3) AMENDMENTS CONFORMING TO THE REPEAL OF SECTION 1347.—

(A) Section 5(b) is amended by striking out paragraph (5) and by redesignating paragraphs (2), (3), and (4), as paragraphs (1), (2), and (3), respectively.

(B) The table of sections for part VI of subchapter Q of chapter 1 is amended by striking out the item relating to section 1347.

(C) The heading of part VI of subchapter Q of chapter 1 is amended to read as follows: "PART VI—MAXIMUM RATE ON EARNED INCOME."

(D) The table of parts for subchapter Q of chapter 1 is amended by striking out the item relating to part VI and inserting in lieu thereof the following:

"Part VI. Maximum rate on earned income."

(4) AMENDMENT CONFORMING TO THE REPEAL OF SECTION 1471.—The table of subchapters for chapter 4 is amended by striking out the item relating to subchapter A.

(d) EFFECTIVE DATE.—Except as otherwise expressly provided, the amendments made by this section shall apply with respect to taxable years beginning after December 31, 1976.

SEC. 1352. PROVISIONS OF SUBCHAPTER D OF CHAPTER 39; COTTON FUTURES.

(a) SHORT TITLE.—This section may be cited as the "United States Cotton Futures Act".

(b) REPEAL OF TAX ON COTTON FUTURES.—Subchapter D of chapter 39 (relating to tax on cotton futures) is repealed.

(c) DEFINITIONS.—For purposes of this section—

(1) COTTON FUTURES CONTRACT.—The term "cotton futures contract" means any contract of sale of cotton for future delivery made at, on, or in any exchange, board of trade, or similar institution or place of business which has been designated a "contact market" by the Secretary pursuant to the Commodity Exchange Act and the term "contract of sale" as so used shall be held to include sales, agreements of sale, and agreements to sell.

(2) FUTURE DELIVERY.—The term "future delivery" shall not include any cash sale of cotton for deferred shipment or delivery.

(3) PERSON.—The term "person" includes an individual, trust, estate, partnership, association, company, or corporation.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture of the United States.

(5) STANDARDS.—The term "standards" means the official cotton standards of the United States established by the Secretary pursuant to the United States Cotton Standards Act, as amended.

(d) BONA FIDE SPOT MARKETS AND COMMERCIAL DIFFERENCES.—

(1) DEFINITION.—For purposes of this section, the only markets which shall be considered bona fide spot markets shall be those which the Secretary shall, from time to time, after investigation, determine and designate to be such, and of which he shall give public notice.

(2) DETERMINATION.—In determining, pursuant to the provisions of this section, what markets are bona fide spot markets, the Secretary is directed to consider only markets in which spot cotton is sold in such a volume and under such conditions as customarily to reflect accurately the value of middling cotton and the differences between the prices or values of middling cotton and of other grades of cotton for which standards shall have been established by the Secretary; except that if there are not sufficient places, in the markets of which are made bona fide sales of spot cotton of grades for which standards are established by the Secretary, to enable him to designate at least five spot markets in accordance with subsection (f)(3), he shall, from data as to spot sales collected by him, make rules and regulations for determining the actual commercial differences in the value of spot cotton of the grades established by him as reflected by bona fide sales of spot cotton, of the same or different grades, in the market selected and designated by him, from time to time, for that purpose, and in that event differences in value of cotton of various grades involved in contracts made pursuant to subsection (f)(1) and (2) shall be determined in compliance with such rules and regulations. It shall be the duty of any person engaged in the business of dealing in cotton, when requested by the Secretary or any agent acting under his instructions, to answer correctly to the best of his knowledge, under oath or otherwise, all questions touching his knowledge of the number of bales, the classification, the price or bona fide price offered, and other terms of purchase or sale, of any cotton involved in any transaction participated in by him, or to produce all books, letters, papers, or documents in his possession or under his control relating to such matter.

(3) WITHHOLDING INFORMATION.—Any person engaged in the business of dealing in cotton who shall, within a reasonable time prescribed by the Secretary or any agent acting under his instructions, willfully fail or refuse to answer questions or to produce books, letters, papers, or documents, as required under paragraph (2) of this subsection, or who shall willfully give any answer that is false or misleading, shall, upon conviction thereof, be fined not more than $500.

(e) FORM AND VALIDITY OF COTTON FUTURES CONTRACTS.—Each cotton futures contract shall be a basis grade contract, or a tendered grade contract, or a specific grade contract as specified in subsections (f), (g), or (h) and shall be in writing plainly stating, or evidenced by written memorandum showing, the terms of such contract, including the quantity of the cotton involved and the names and addresses of the seller and buyer in such contract, and shall be signed by the party to be charged, or by his agent in his behalf. No cotton futures contract which does not conform to such requirements shall be enforceable by, or on behalf of, any party to such contract or his privies.

(f) BASIS GRADE CONTRACTS.—

(1) CONDITIONS.—Each basis grade cotton futures contract shall comply with each of the following conditions:

(A) CONFORMITY WITH REGULATIONS.—Conform to the regulations made pursuant to this section.

(B) SPECIFICATION OF GRADE, PRICE, AND DATES OF SALE AND SETTLEMENT.—Specify the basis grade for the cotton involved in the contract, which shall be one of the grades for which standards are established by the Secretary, except grades prohibited from being delivered on a contract made under this subsection by subparagraph (E), the price per pound at which the cotton of such basis grade is contracted to be bought or sold, the date when the purchase or sale was made, and the month or months in which the contract is to be fulfilled or settled; except that middling shall be deemed the basis grade incorporated into the contract if no other basis grade be specified either in the contract or in the memorandum evidencing the same.

(C) PROVISION FOR DELIVERY OF STANDARD GRADES ONLY.—Provide that the cotton dealt with therein or delivered thereunder shall be of or within the grades for which standards are established by the Secretary except grades prohibited from being delivered on a contract made under this subsection by subparagraph (E) and no other grade or grades.

(D) PROVISION FOR SETTLEMENT ON BASIS OF ACTUAL COMMERCIAL DIFFERENCES.—Provide that in case cotton of grade other than the basis grade be tendered or delivered in settlement of such contract, the differences above or below the contract price which the receiver shall pay for such grades other than the basis grade shall be the actual commercial differences, determined as hereinafter provided:

(E) PROHIBITION OF DELIVERY OF INFERIOR COTTON.—Provide that cotton that, because of the presence of extraneous matter of any character, or irregularities or defects, is reduced in value below that of low middling, or cotton that is below the grade of low middling, or, if tinged, cotton that is below the grade of strict middling, or, if yellow stained, cotton that is below the grade of good middling, the grades mentioned being of the official cotton standards of the United States, or cotton that is less than seven-eights of an inch in length of staple, or cotton of perished staple or of immature staple, or cotton that is "gin cut" or reginned, or cotton that is "repacked" or "false packed" or "mixed packed" or "water packed", shall not be delivered on, under, or in settlement of such contract.

(F) PROVISIONS FOR TENDER IN FULL, NOTICE OF DELIVERY DATE, AND CERTIFICATE OF GRADE.—Provide that all tenders of cotton under such contract shall be the full number of bales involved therein, except that such variations

of the number of bales may be permitted as is necessary to bring the total weight of the cotton tendered within the provisions of the contract as to weight; that, on the fifth business day prior to delivery, the person making the tender shall give to the person receiving the same written notice of the date of delivery, and that, on or prior to the date so fixed for delivery, and in advance of final settlement of the contract, the person making the tender shall furnish to the person receiving the same a written notice or certificate stating the grade of each individual bale to be delivered and, by means of marks or numbers, identifying each bale with its grade.

(G) PROVISION FOR TENDER AND SETTLEMENT IN ACCORDANCE WITH GOVERNMENT CLASSIFICATION.—Provide that all tenders of cotton and settlements therefor under such contract shall be in accordance with the classification thereof made under the regulations of the Secretary by such officer or officers of the Government as shall be designated for the purpose, and the costs of such classification shall be fixed, assessed, collected, and paid as provided in such regulations. The Secretary is authorized to prescribe regulations for carrying out the purposes of this subparagraph and the certificates of the officers of the Government as to the classification of any cotton for the purposes of this subparagraph shall be accepted in the courts of the United States in all suits between the parties to such contract, or their privies, as prima facie evidence of the true classification of the cotton involved.

(2) INCORPORATION OF CONDITIONS IN CONTRACTS.—The provisions of paragraph (1) (C), (D), (E), (F), and (G) shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandums evidencing the same, at or prior to the time the same is signed, the phrase "Subject to United States Cotton Futures Act, subsection (f)."

(3) DELIVERY ALLOWANCES.—For the purpose of this subsection, the differences above or below the contract price which the receiver shall pay for cotton of grades above or below the basic grade in the settlement of a contract of sale for the future delivery of cotton shall be determined by the actual commercial differences in value thereof upon the sixth business day prior to the day fixed, in accordance with paragraph (1)(F), for the delivery of cotton on the contract, established by the sale of spot cotton in the spot markets of not less than five places designated for the purpose from time to time by the Secretary, as such values were established by the sales of spot cotton, in such designated five or more markets. For purposes of this paragraph, such values in the such spot markets shall be based upon the standards for grades of cotton established by the Secretary. Whenever the value of one grade is to be determined from the sale or sales of spot cotton of another grade or grades, such value shall be fixed in accordance with rules and regulations which shall be prescribed for the purpose by the Secretary.

(g) TENDERED GRADE CONTRACTS.—

(1) CONDITIONS.—Each tendered grade cotton future contract shall comply with each of the following conditions:

(A) COMPLIANCE WITH SUBSECTION (f).—Comply with all the terms and conditions of subsection (f) not inconsistent with this subsection; and

(B) PROVISIONS FOR CONTINGENT SPECIFIC PERFORMANCE.—Provide that, in case cotton of grade or grades other than the basis grade specified in the contract shall be tendered in performance of the contract, the parties to such contract may agree, at the time of the tender, as to the price of the grade or grades so tendered, and that if they shall not then agree as to such price, then, and in that event, the buyer of said contract shall have the right to demand the specific fulfillment of such contract by the actual delivery of cotton of the basis grade named therein and at the price specified for such basis grade in said contract.

(2) INCORPORATION OF CONDITIONS IN CONTRACT.—Contracts made in compliance with this subsection shall be known as "subsection (g) Contracts". The provisions of this subsection shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandum evidencing the same, at or prior to the time the same is signed, the phrase "Subject to United States Cotton Futures Act, subsection (g)".

(3) APPLICATION OF SUBSECTION.—Nothing in this subsection shall be so construed as to authorize any contract in which, or in the settlement of or in respect to which, any device or arrangement whatever is resorted to, or any agreement is made, for the determination or adjustment of the price of the grade or grades tendered other than the basis grade specified in the contract by any "fixed difference" system, or by arbitration, or by any other method not provided for by this section.

(h) SPECIFIC GRADE CONTRACTS.—

(1) CONDITIONS.—Each specific grade cotton futures contract shall comply with each of the following conditions:

(A) CONFORMITY WITH RULES AND REGULATIONS.—Conform to the rules and regulations made pursuant to this section.

(B) SPECIFICATION OF GRADE, PRICE, DATES OF SALE AND DELIVERY.—Specify the grade, type, sample, or description of the cotton involved in the contract, the price per pound at which such cotton is contracted to be bought or sold, the date of the purchase or sale, and the time when shipment or delivery of such cotton is to be made.

(C) PROHIBITION OF DELIVERY OF OTHER THAN SPECIFIED GRADE.—Provide that cotton of or within the grade or of the type, or according to the sample or description, specified in the contract shall be delivered thereunder, and that no cotton which does not conform to the type, sample, or description, or which is not of or within the grade specified in the contract shall be tendered or delivered thereunder.

(D) PROVISION FOR SPECIFIC PERFORMANCE.—Provide that the delivery of cotton under the contract shall not be effected by means of "set-off" or "ring" settlement, but only by the actual transfer of the specified cotton mentioned in the contract.

(2) INCORPORATION OF CONDITIONS IN CONTRACT.—The provisions of paragraph (1)(A), (C), and (D) shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the document or memorandum evidencing the same, at or prior to the time the same is entered into, the words "subject to United States Cotton Futures Act, subsection (h)".

(3) APPLICATION OF SUBSECTION.—This subsection shall not be construed to apply to any contract of sale made in compliance with subsection (f) or (g).

(i) LIABILITY OF PRINCIPLE FOR ACTS OF AGENT.—When construing and enforcing the provisions of this section, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation, as well as that of the person.

(j) REGULATIONS.—The Secretary is authorized to make such regulations with the force and effect of law as he determines may be necessary to carry out the provisions of this section and the powers vested in him by this section.

(k) VIOLATIONS.—Any person who knowingly violates any regulation made in pursuance of this section, shall, upon conviction thereof, be fined not less than $100 nor more than $500, for each violation thereof, in the discretion of the court, and, in case of natural persons, may, in addition be punished by imprisonment for not less than 30 days nor more than 90 days, for each violation, in the discretion of the court, except that this subsection shall not apply to violations subject to subsection (d)(3).

(l) APPLICABILITY TO CONTRACTS PRIOR TO EFFECTIVE DATE.—The provisions of this section shall not apply to any cotton futures contract entered into prior to the effective date of this section or to any act or failure to act by any person prior to such effective date and all such prior contracts, acts or failure to act shall continue to be governed by the applicable provisions of the Internal Revenue Code of 1954 as in effect prior to the enactment of this section. All designations of bona fide spot markets and all rules and regulations issued by the Secretary pursuant to the applicable provisions of the Internal Revenue Code of 1954 which were in effect on the effective date of this section, shall remain fully effective as designations and regulations under this section until superseded, amended, or terminated by the Secretary.

(m) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(n) CONFORMING AND CLERICAL AMENDMENTS.—

(1) Section 6808 (relating to cross references) is amended by striking out paragraph (2), and by redesignating paragraphs (3), (6), and (11) as paragraphs (1), (2), and (3), respectively.

(2)(A) Section 7233 (relating to failure to pay tax on cotton futures) is repealed.

(B) The table of sections for part II of subchapter A of chapter 75 is amended by striking out the item relating to section 7233.

(3)(A) Section 7263 (relating to penalties concerning cotton futures) is repealed.

(B) The table of sections for subchapter B of chapter 75 is amended by striking out the item relating to section 7263.

(4)(A) Subchapter E of chapter 76 (relating to miscellaneous provisions regarding cotton futures contracts) is repealed.

(B) The table of subchapters for chapter 76 is amended by striking out the items relating to subchapter E.

(5) Chapter 39 (relating to regulatory taxes) is amended by striking out the chapter heading and the table of subchapters.

(6) The table of chapters for subtitle D is amended by striking out the item relating to chapter 39.

(o) EFFECTIVE DATE.—The provisions of this section shall take effect on the 90th day after the date of the enactment of this Act.

Mr. LONG. Mr. President, let me explain that I want Senators to know what is in this amendment because, to me, this is an amendment that has been needed for a very long time.

This is an amendment to repeal seldom used, obsolete provisions in the code.

I felt that we would be subject to being accused of making these many changes in the code with scant consideration and, for that reason, I asked that the clerk read it.

But in view of the fact that, apparently, we are not going to vote on it today Senators can study this in the RECORD over the weekend and I hope we will vote on it in due course.

Sometimes we make oversights in doing these things, but this is a great deal of surplus language. Some of it is surplus and some needs modifying to make it more effectively what it should be. A

lot of it is used very seldom and we believe not needed in the Code.

I think one of the constructive changes we can make in this so-called tax reform bill is to repeal a very large number of amendments in the law that are very seldom used.

I hope Senators will read them, look at them, and study the committee report over the weekend so that we can vote on this amendment, because I believe every Senator ought to vote for it. I do not, for the life of me, see why anyone should vote against it.

But if we make an error, then, shortly, someone will ask, "Well, why did they repeal some sections," which he might have wanted to use.

If we do make a mistake, and I do not believe we will, they might call us to task. I hope Senators will study these sections and see if they find out anything about them that should be retained.

Mr. HANSEN. If the distinguished chairman of the Finance Committee will yield, I have a few questions I would like to ask him. I will try not to take too long. Does the chairman have the floor?

Mr. LONG. Yes. I yield.

Mr. HANSEN. First, when this tax bill was laid down, in one of the initial challenges some persons who came forward with the amendment which in substance stated that the Finance Committee were guilty of violating the spirit and the principle of the law in the Budget Act. There was a lot of discussion on this amendment, as the Senator knows.

As I have reviewed the actual statements that were made in the Chamber, I find an inclination, at least that is the way I view it, by some of those advocates of this amendment to retreat from their earlier position. They now seem to be saying it is really not a violation of the Budget Act so much as it is a facing of a very real and important issue.

Of course, the distinguished chairman has never argued against the importance of this issue. I would ask the chairman of the Finance Committee, as I recall the distinguished Senator from Minnesota criticized the actions of the Finance Committee by saying that the only provisions in the committee bill which were permitted to expire were those provisions which helped poor people.

I will ask the chairman, under the committee bill, is it not true the individual tax cuts will expire July 1, whereas, under the amendment that has been proposed, the tax cut would expire October 1?

Mr. LONG. Yes, that is correct.

Mr. HANSEN. I would ask the chairman, is it not a fact that a tax cut can be sold pretty easily? Everybody likes a tax cut.

Mr. LONG. Mr. President, my experience has been that when the House votes a big tax cut measure the committee usually wants to add something to it. Everybody likes to vote for tax cuts. This Senator has found it difficult, as the chairman, to try to resist the natural inclination of people to do something the public would like to have, or his constituents would like to have, to vote them a tax cut.

So the tendency has been for the Finance Committee to add further tax reductions in the committee to the point that this Senator feels very concerned about it. Then when we reach the floor we have seen billions of dollars of additional tax cuts added as a result of the suggestions of individual Senators. Many times we have gone to conference with bills that were absolute monstrosities, having reduced revenue so much that we were almost ashamed to meet with the House in conference in view of the fact that the House had tried to be somewhat responsible in containing their zeal to reduce taxes.

The Senator is very much familiar with that problem, because he has struggled year after year to try to resist it.

We have a situation here where the Finance Committee has constrained its desire for tax cuts to stay within the budget resolution. We have been hoping that others would do the same thing.

Mr. HANSEN. I will ask my friend if it is not a fact that we have indeed stayed within the broad lines that were laid down and agreed upon by the Senate? I would say to my good friend from Louisiana if we are really trying to do something, if we are trying to face up to our responsibilities as responsible individuals representing the people of this country, it seems to me that title II is the section that first should be addressed by those who want to make a tax cut.

Mr. President, I would say that title II covers the broad area of amendments related to tax shelters, recapture of depreciation on real property, limitations on deductions for expenses, and so forth. There are many of these.

All I can gather from what has been proposed by the several persons who offer this amendment is to say in a very general way, "We are going to tax the rich people. We are going to take away from those who have a lot of it so we can help you poor people out by extending a tax cut from July 1 to October 1."

That is about what they are saying. They do not say one word, as I read it, where they propose to make any specific changes in this law. Is this the way that my chairman understands that issue?

Mr. LONG. That is the way I understand it, and I agree with the Senator.

Mr. HANSEN. I would hope that people might understand. I think there is a small degree, and I am being charitable, a small degree of demagoguery in this amendment which is before the Senate. I do not use that term lightly. I do not pick it up just on the spur of the moment, but that is precisely what I think it is.

It is a great thing to get up in the Chamber of the Senate and say, "We are going to help everybody by reducing taxes." Yet most people know, most people in this country at long last are beginning to understand. Jerry Brown, the Governor of California, has indicated, and the distinguished Governor of Massachusetts has stated:

> We have been making a lot of promises for the last 30 or 40 years and our delivery has not started to equal what those promises have been.

People are getting fed up with this kind of rhetoric, this kind of promise-making, this kind of pie-in-the-sky deal that we engage in so frequently by saying, "We are going to help you, we are going to reduce your taxes," when people at long last are coming to understand that inflation is the most serious problem in this country.

The distinguished Senator from Minnesota earlier today spoke of inflation. He said that if we do not extend the tax cut, an additional 3 months the poor will be bitten even more severely by inflation. Those were not his exact words, but I challenged him because it seemed to me that what he was saying flew in the face of the facts The facts are that this Government does not add to the fires of inflation by adding more taxes on or by cutting back on spending. It is precisely the opposite.

Mr. LONG. The Senator is right.

Mr. President, I believe some of us have learned, and I know I have learned by experience, that there are oftentimes good arguments on both sides. Those who make the flaming, rafter ringing speeches which appeal in labor halls and appeal to low-income people oftentimes are in error.

When the Senator from Louisiana came to this Senate, he had been here a while when President Eisenhower became President. President Eisenhower sent up a bill to get the country moving, and it provided for accelerated depreciation for businesses to give them more latitude in the way they claimed their depreciation deductions.

The Senator at the time was not all impressed by that. He felt with the country's economy in the doldrums, it would be more effective if we would just spread money among the rank and file of consumers by an across-the-board tax cut or so much per capita, something of that sort.

Now, we found that the President's bill would stimulate the economy, that it had a far more stimulative effect, dollar for dollar, than anybody had dreamed it would have.

Then later, when President Nixon was President, we urged the President to repeal the investment tax credit, because we thought that benefited the well-to-do, and that the economy was overheating anyway.

That was a part of the so-called tax reform bill. And this is interesting: In that bill, we reduced taxes $9 billion by raising the personal exemptions, and that tended to spread money in the hands of taxpayers generally, at all levels, and that bill was pitched so that the lower the person's relative income level, the more of the benefit he got.

Then we proceeded to raise taxes on business. We repealed the investment tax credit. We tightened up on depreciation, and by the time we got through with it, we had raised about $7 billion by taxing business and about $9 billion was spread among the rank and file by these individual tax cuts.

Now, here is the amazing thing about that: On balance, that was a $2 billion tax cut. It should have stimulated the economy, and made us more prosperous; but instead, by August the economy had gone into such an awful downward tailspin that President Nixon was compelled

to go on nationwide television and explain that the Nation was in distress, that hundreds of thousands of additional workers had lost their jobs, and that we would simply have to reinstate the investment tax credit if we wanted to get the country moving, because businessmen had changed their plans, they had quit placing new orders, those companies manufacturing the new machines had shut down, and those workers were laid off; so that as far as any fiscal thing that could be done to move the economy was concerned, the $2 billion net tax cut did not accomplish anything to offset the enormously depressing effect it had on business to repeal the investment tax credit.

We put the investment tax credit back on, and the country pulled right on up of the slump it was in. That, plus the more reasonable guidelines, which again are paralled to accelerated depreciation, the so-called ADR——

Mr. HANSEN. Yes.

Mr. LONG. Or the guidelines on depreciation.

Mr. HANSEN. Accelerated depreciation rates; ADR.

Mr. LONG. Yes; it is referred to as ADR. The so-called ADR, together with the investment tax credit being restored, as well as the Federal Reserve making money more freely available for lending, simply brought the economy right back up again, and the country got back on its way back into prosperity.

We have seen what can be done to provide jobs for people. Now, there is a difference between taxing a corporation and taxing the rich. The Senator knows as well as I do that about two-thirds of those taxes you put on corporations are passed on through to the consumer in the price of the product, anyway; so while it looks like you are taxing the shareholders of the corporation, in the last analysis you are taxing the people who consume the product, when you put the taxes on the corporations. Furthermore, if you do not let the corporations make enough money so that they can afford to expand and put people to work and produce more, we have found that hurts the working man, because he loses his job.

Mr. HANSEN. Mr. President, on that point right there, I think it is a fact that today one out of every six wage earners works for government, either for the Federal Government, for the State government, or for a municipal or local government of one kind or another.

What I understand the Finance Committee did, after holding hearings, listening to witnesses, and having testimony from competent experts in practically every field we could think about, was get the distillation of the very best views of the most knowledgeable counsel concerning the way we could change the tax laws of this country so as to encourage jobs in private industry.

People know today that you do not increase either goods or services when you have a make-work job by government. That is not the way you fight inflation. You fight inflation when you create jobs that increase productivity. When a workingman is performing productive services he pays taxes.

The production of goods and services is what we need in this country, in order better to fight inflation.

We are talking about the price of everything going up and up and up, and if we keep on the course that seems to me to be indicated by the amendment that has been the focal point of this jurisdictional argument here: First, the Budget Committee comes up with a budget-busting proposal to add a $1.7 billion outlay by extending the tax cut; second, not one word is said about how to raise the revenue necessary to offset this revenue loss.

I would ask my chairman whether this bill and all of its provisions, including title IV, which deals, in due time, with the extension of individual income tax reductions, is not structured so as to give the impetus and the encouragement to those kinds of activities which will enhance real jobs, so that Americans will know that they are doing something which is worthwhile, which is productive, which will make more Americans taxpayers rather than tax consumers. Am I right about that?

Mr. LONG. Yes, the Senator is right.

Mr. HANSEN. Mr. President, I do not mean to infringe upon the chairman's time, as I have been doing, but it does seem to me that so far, in the last 2 days, we have heard more than enough about how great it would be to extend tax cuts for some people. I must say, the proponents of this approach seem to want to focus attention on only the nice, glittering, shining part of the problem, and never look at all at the tough part of the problem. The Finance Committee gave serious consideration for the last several months to the entire proposition, including the hard part of increase in jobs.

The committee labored day after day in a responsible fashion, so as to come up with a tax bill that, first, conforms with requirements of the budget guidelines and, second, provides true tax reform and assures more jobs for Americans. And now we are faced with what began as a parliamentary maneuver to see if a red herring could not be dragged across in front of the Members of this body by saying, "Well, let us first decide whether we are going to extend that tax cut from July 1 to October 1, and then we will talk about how we are going to pay for it later."

I would be inclined to give much more sympathetic consideration to that proposal if there were one iota of evidence that they had given any thought at all to how they were going to raise the money. All they have said is, "We are going to tax the wealthy."

Well, that is a very interesting cliche, but it is lacking in specific proposals. I submit, Mr. President, that after some several decades of promising more than we have been able to deliver, there is no doubt at all why the American public is pretty well fed up with the doubletalk that too often is heard from Washington. The generalities of rhetoric is much easier to support than specific proposals. What the American people demand and deserve is specifics, nor rhetoric. The proponents of the amendment before the Senate is severely lacking in specifics. Accordingly, it should be rejected.

Mr. GRAVEL. Mr. President, will the Senator yield on that point,

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield.

Mr. LONG. I yield to the Senator from Alaska.

Mr. GRAVEL. I am happy to obtain the floor and happy to yield to our colleague.

Mr. LONG. I will yield to the Senator from Virginia.

Mr. GRAVEL. Would the Senator rather have the floor in his own right?

Mr. HARRY F. BYRD, JR. I will be very brief.

Mr. GRAVEL. I am happy to yield to our colleague.

Mr. HARRY F. BYRD, JR. I thank the Senator.

I planned to discuss the amendment offered by the Senator from Maine, but it is a bit late at this point. So I will withhold that until next week.

Before the Senate adjourns this evening, I wish to commend the able chairman of the Finance Committee and express approval of the procedure which he is taking in trying to handle this very difficult piece of tax legislation.

The chairman of the committee feels that the tax bill should be gone through item by item, discussed, amended if the Senate desires to amend, and voted on as each section occurs in the bill.

It seems to me that is the logical and appropriate way if the Senate is going to be able to handle this very complicated and huge change in the tax structure.

The only other thing I shall comment on tonight is this: There has been a great deal of discussion as to the investment tax credit. I speak as one who was opposed to the enactment of that legislation when it was enacted some years ago. Yet as the evidence came before the Senate indicating its success in creating additional job opportunities, I have had a change of viewpoint.

I shall go back to October 1966, when President Johnson proposed that the investment tax credit be repealed. Bearing in mind now I had been opposed to its enactment, I had some hesitancy in voting its repeal as the President recommended. At that time we did not have 15-minute rollcalls. The rollcalls would stretch out 30 or 40 minutes, sometimes longer, and I delayed until throughout the rollcall before making a decision. I remember so well walking down the center aisle, after the rollcall had been going on for some 30 or 40 minutes, with the distinguished late Senator from New York, Senator Robert Kennedy, and I said as we were walking down the aisle to go up to the desk to vote:

> Bob, I can't decide how to vote on this thing. I have always been opposed to it. But I am about to come around to the view that we ought to leave it on.

He said:

> Well, I can't decide how to vote on it either. I have always favored it, but I am a little inclined to vote to take it off.

So both of us went down to the desk, neither of us decided on the matter until we actually got to the desk to cast the vote. I voted against repealing; he incidentally voted to repeal.

Incidentally, after Congress acted in October 1966, to repeal it, President

Johnson in January or February of the next year asked that it be restored and Congress did restore it.

Then the Finance Committee at the request of the next administration repealed the investment credit in 1969. I voted against its repeal because I thought once the investment tax credit is in the law we should not easily change it.

Over the years, Congress has done both. It has been sort of a yo-yo proposition. But the facts seem to substantiate that the investment tax credit has been helpful in our economic growth, and in developing additional job opportunities.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. HARRY F. BYRD, JR. I yield.

Mr. LONG. The Senator knows that economics, even with the benefit of these new computers, is an inexact science. A lot of it is opinion, and a lot of it is such that one cannot really tell why something happens the way it does. We are learning more how to put the pieces together, but still a lot of it is subject to difference of opinion, and sometimes even the ablest people cannot tell why certain things happen.

The record shows that every time we have put the investment tax credit on the corporate tax collections went up sharply and every time we took it off they went down sharply, in short order.

They should have reacted the other way because to put the investment tax credit into effect is a tax cut for corporations, and it should have caused the corporations to pay less income tax rather than more. Likewise, when we repeal the investment tax credit we have given them a big tax increase and that should have caused the corporate tax collections to go up rather than down. So, with a repeated experience of putting it on and taking it off, invariably when the investment tax credit went on instead of losing money in corporate tax collections alone we have made a lot of money and then when the investment tax credit was repealed, every time, instead of gaining money we lose money in corporate income tax collections.

If that happened in corporate income tax collections, it is fairly clear that the same thing would have been reflecting itself in amount of additional tax individuals were paying because they were working at these jobs for these corporations.

So, while the economists cannot find how to crank into a computer, I can only conclude that that is similar to so many things in medical science, human behavior, and other things about which the scientists cannot tell us the answer. Only the good Lord knows.

But the evidence is there to lead one to think that perhaps the investment tax credit is not costing us anything, not $3 billion, not $9 billion, not one red copper cent, but making us money because the evidence is there to see what happens when we repeal it. That is comparable to when someone discovered back in the days before we had all these scientific instruments that medical science has now that natives in a certain area would eat quinine and that would keep them from having malaria. That is the old-fashioned way of finding the cure for a disease. Sailors at sea would learn to drink citrus juice and they would not have scurvy. We could not tell why it worked out that way, but it just did. Vitamin deficiencies perhaps could be cured in areas that did not have enough sunlight by the people eating codfish oil. People did not know why, but it just happened that way. They could not analyze what vitamins were and what enzymes were and how all these things worked. All they knew was if they did this it seems to work out that way. That is as nowadays where we have people say if we smoke too much we are very subject to having lung cancer.

I submit that we have a record to look at which indicates that the investment tax credit may not be costing you a penny but, quite the contrary, it may be that it is making money for you.

The Senator, I am sure, can understand that if you put the tax too high—for example, if you put a 100-percent tax on, you might not collect anything, because people would be so discouraged that they would not make the investment. If you put the tax at a much more reasonable level, you might make more money, because people would invest their money in commercial activities. The same might be the case with reference to the investment tax credit, and the record seems to indicate that.

Mr. HARRY F. BYRD, JR. The record seems to indicate that, and it seems to indicate that the Senator from Virginia was wrong in his original view in opposition to it.

I was opposed to it in the original instance because I thought it was an unjustified bonus or benefit to one segment of the economy—namely, business. I am not antibusiness; most people consider me probusiness. But I thought it was an unjustified bonus or benefit to business. However, we have had enough experience now, by taking the thing off three times and putting it back every time we took it off, because the evidence indicates it has been helpful to the economy and helpful to the creation of business.

It was not put on originally at the request of a liberal Democratic President for the purpose of helping any business. It was not put back, after being repealed, at the request of another Democratic President, President Johnson, for the purpose of helping big business. It was not put back after it was taken off, at President Nixon's request, for the purpose of helping big business. It was done because the evidence sems to indicate that it has been helpful to the economy as a whole and has been helpful to create job opportunities. As I see it, that is the reason why the Finance Committee has gone along with this proposal in this bill—I cannot say unanimously, but I think by a rather overwhelming position within the committee.

Mr. LONG. Mr. President, we have had a conversation to suggest that this 10 percent investment tax credit is a handout to the rich. I wonder if a Senator making that speech is really sincere about that, really means that, because the experience has been that it has helped everybody. It has helped to make the country prosperous. It has provided jobs. It has made us more efficient as a nation. It has helped us to hold onto our export market for products by being more competitive. It has helped to bring about lower prices, because as you make your factories more efficient, you can produce at a cheaper cost.

When something benefits everybody, we really should not complain too much that it would appear to be directed to the benefit of the corporations. I believe the Senator agrees, as I do, that, in the last analysis, corporations do not pay taxes, anyway. Either their shareholders wind up paying it or the consumer of the product winds up paying it. A corporation is a fictitious being, standing between the shareholders and the public.

Mr. HARRY F. BYRD, JR. Another thing is that many of the shareholders are people of modest economic means who are investing their small savings in a particular company, with the opportunity to get back some reasonable return on their investment. A corporation is not just a cold giant of a few individuals but the shareholders in this country. In many of these companies the shareholders far exceed the number of employees. I do not know in how many companies that is true, but I know there are a great many companies in which the shareholders exceed the number of employees.

Mr. LONG. Yes, they invest their money, and they are entitled to expect a return. They are entitled to insist that the company is run well; and if it is run well, they are entitled to make a fair return. If they could not make a fair profit compared to what other investments would make for them, there is no reason why they should invest their money in those corporations, and that would mean that a lot of people would be out of work.

Mr. HARRY F. BYRD, JR. I served 4 years as chairman of Virginia's Advisory Board on Industrial Development. My interest in that was to create additional job opportunities for the people of Virginia. I want to keep the young people in Virginia, but you cannot do that unless there are jobs for them. I spent a great deal of time encouraging industry to come into Virginia, so that we would have adequate jobs for all people. This particular proposal tends in that direction.

Mr. GRAVEL. Mr. President, I wish to add my views concerning the colloquy that took place earlier between the Senator from Maine (Mr. MUSKIE) and the Senator from Oregon (Mr. PACKWOOD).

Both of them were using language with which I disagree in depicting the situation which exists in the Senate and in the entire Congress.

I think that the budget approach we have put into law, the committee we brought into being, and the whole process are working. I disagree with the statement that when the Senate votes now, it votes to change its mind.

I also disagree with the statement that when the Senate votes now to implement the policy that it chooses to implement, it is being sloppy in the work it is doing. We have to take an overview of the process that is involved.

As I recall the way it all started, the Budget Committee solicited from the various committees bail park estimates of their annual expectation with reference to revenues, expenditures, and the like. We in the Finance Committee did that. We submitted that in a proper, timely fashion in general terms, because we did not know at the beginning of the year what we know at the middle of the year or will know at the end of the year. We submitted that in a timely fashion to the Budget Committee.

The Budget Committee, similarly, took these very generalized approaches, expectations, estimates—call them what you will—and they concocted this very general potion. They were able to establish outside figures for revenues and outside figures for expectations, and they backed up these outside figures with a very schematic outline of policy laid down in their report. It was their judgment, gleaned from all the views that came in from all the committees. That is the first step in this process.

The second step in this process is that, as the legislative year unfolds various items of legislation go to the various substantive committees. So what takes place is a perfecting process.

Now we move to the particular; and the particular responsibility of the Finance Committee was to handle a tax reform package that we brought forward.

So the committee held 18 days of hearings, in which we acquired information and wisdom which we in the Finance Committee did not previously have. The Budget Committee did not have this information, obviously, and will not have, because it is not their job to deal in the particulars; whereas, it is the job of the Finance Committee to deal with this matter.

So now we come to the floor, after a great deal of effort, a great deal of examination of the work the House committee has done. We come with what information we picked up ourselves in hearings, and this is the product we have before us. Obviously, the Senate, itself, now can work its will based upon the recommendations of the committee.

I hope that the Budget Committee and the leadership in the committee would not feel threatened, would not feel assaulted. They are going to get another crack at what legislative work has been accomplished at a point in time.

We are going to come up with another resolution in the fall of the year which will be the product of this perfecting process that started at the beginning of the legislative year and will end at the end of the legislative year. This will have provided some process of discipline.

The primary discipline involved is not so much the specific recommendations of the Committee on the Budget. The primary disciplines are the outside parameters that are given to Congress. The Committee on Finance has lived within the parameters given to it. But we have seen fit, in the process of hearings, to alter some of the approaches in arriving at what those figures will be.

Now, those individuals who feel that the Committee on Finance will not perform or make the provisions they would have liked to have made are now going to have their chance in an amendment before the Senate to put forth their views. I might say that I disagree with a good many of those views, because I do not think that they come at the problem with the same degree of knowledge that we in the committee have come at the problem. I can give some examples.

Placed on our desk is the Tax Reform Act of 1976, which is a compendium of papers on Federal tax reform. But the signers of this, the people who present this to us, the group of Senators who are going to be offering amendments that are represented in this compendium of papers, feel that this is the type of reform they want to have. And they are entitled to have that view. I might say that if they had the benefit of the hearings and the amount of testimony and the discussions that our committee has had, they might not feel that these papers, in their glib fashion, address themselves to the real problem facing this country.

Before I go into a few examples, I would like to really pinpoint for the record what this document is before us. It is not a document that attempts equity. What we have before us is a political document. It is a political document because it represents the best judgment of all the political animals who serve in this body as to what they think should occur with respect to the process of revenue that we use in this country.

Understand very well that if we want equity—and I hope that some day we can arrive at equity in the method that we raise revenue in this country—I have in this document a study of a single tax. The only way we can guarantee that we have equity in the method that we collect revenue is to make sure that we have no deductions and no exclusions and that we collect the tax equally on everybody. That, in my mind, would be equity.

But in the absence of that, let us recognize that we use our system of revenue, one, to effect social policy and to effect economic policy. We may disagree as to how we do that, but I think that is the basis of the dialog that will take place here, in the ensuing week.

I shall leave my examples for Monday, when I think it will be more timely to go into detail as to where, I think, this kind of hurried document, which may sound glib in its theory, in its application could be very deleterious to the economy and to the interest of American citizens.

In that light, Mr. President, I yield the floor.

CONTINUATION OF TAX CUT ESSENTIAL TO SUSTAINED ECONOMIC RECOVERY

Mr. HUMPHREY. Mr. President, as chairman of the Joint Economic Committee I wish to offer a few observations.

Mr. President, it amazes me that the public in general and Members of this body in particular can have such very short memories. We read one or two stories in the press informing us that we have had a few months of fairly vigorous economic recovery, and we forget that we are still in the process of emerging from the deepest recession in 40 years. We forget that the unemployment rate is still 7.3 percent—higher than the peak rate reached in three of the past four recessions. We forget that the strong growth of the first quarter of this year is not expected to continue. That growth came from sharp accumulation of inventories—inevitably a temporary factor.

If we could just keep these basic facts about the economic situation in mind, there would be no doubt in anyone's mind about the necessity for extending present tax rates throughout the entire 1977 fiscal year. All the evidence and all the testimony the Joint Economic Committee has received points to a slowdown in the rate of recovery from this point on. These estimates assume the tax cut is continued indefinitely. Were we actually to be faced with the expiration of that tax cut and a reversion to higher tax rates, the economy would grow weaker still. That is not a risk we can afford to take. This Senate presents a sorry image to the citizens of this country when we sit here in Washington and play games with the economy and take risks with the recovery. I recommend that we cut out the fun and games and make it clear to the American people that current tax rates will be extended and that Congress is capable of pursuing a rational and coordinated budget policy.

I do not ask you to take the word of HUBERT HUMPHREY on the economic situation and outlook. I am no expert. But I have facts and figures and expert opinion which I wish to bring to your attention at this time.

First let me remind you of how far we still have to go to achieve full economic recovery. At the end of 1 year of recovery from the 1954 recession the unemployment rate had been reduced to 4.1 percent; after the 1958 recession to 5.1 percent; after the 1960–61 recession to 5.5 percent; and after the 1971 recession to 5.7 percent. What is the unemployment rate today, after 1 full year of recovery from the 1974–75 recession? As you know it is 7.3 percent—far above past experience. At the end of next year it is still expected to be above 6 percent. That is to say, 2½ years after the recovery began the unemployment rate will still be higher then it was after only 1 year of recovery from any of the past four recessions.

Furthermore, these estimates assume the tax cut is extended.

Let me cite four recent estimates of economic growth and the unemployment rate for next year. The growth rates are computed from the fourth quarter of this year to the fourth quarter of next year. University of Michigan forecast: real GNP growth rate: 2.8 percent; unemployment rate in the fourth quarter of next year: 7 percent. Wharton Econometrics forecast: growth rate: 4.9 percent; unemployment rate 6.1 percent; Data Resources forecast: growth rate 5.1 percent; unemployment rate 6 percent; U.S. Trust forecast: growth rate 4.9 percent, unemployment rate 6.5 percent.

None of these forecasts predict that the recovery will come to a halt. It will

continue. But it will not continue as strongly as is necessary to bring unemployment down to a reasonably normal level. Surely we are sophisticated enough to distinguish between a strong recovery and one which is likely to become progressively weaker. Surely we will do what is necessary to achieve a strong rather than a weak recovery.

I do not wish you to think that my sources are biased. Let me cite testimony by Alan Greenspan, Chairman of the Council of Economic Advisers before the Joint Economic Committee just last week. Naturally Mr. Greenspan takes some satisfaction in the strong growth of the economy so far this year. He told us that it had somewhat exceeded his expectations. However, this is what he says about the future:

> We should not expect the rise in output over the next several quarters to match the pace of the past nine months . . . we anticipate continued strength in consumer outlays, but obviously not at the first quarter pace . . . the recovery in residential construction has been just slightly slower than anticipated.

We are looking at an economy which will continue to need support throughout the new budget year; a society which will still be suffering from greatly excessive unemployment and substantial idle plant capacity. Congress has attracted much favorable attention for its success to date in making the new budget process work. Let us live up to those favorable expectations and continue to provide for a responsible fiscal policy. Extension of the tax cut for a full year is certainly part of that responsible policy.

DISC PROVIDES JOBS IN NEW YORK STATE AS IN MANY OTHER STATES

Mr. JAVITS. Mr. President, I have been a strong supporter of the Domestic International Sales Corporation tax deferral provisions since their enactment in 1971. This provision of the tax law has been an important element in the promotion of domestic manufacturing jobs that are export oriented. I have long felt that this was a more promising strategy for increasing domestic employment than erecting tariff and other protectionist barriers, or trying to limit the ability of U.S. corporations to operate in foreign markets. DISC increases American exports by placing American exporters on a competitive footing with foreign corporations through tax incentives, and does not constrict world trade as do higher tariffs, quotas, or other barriers to trade.

However, I have been concerned for some time by the size of the tax revenues lost as a result of DISC deferral. The President's budget message for 1977 estimated that the tax expenditures attributable to DISC were $1,130 million for 1975, $1,360 million for 1976, and $1,560 million for 1977. Such large tax expenditures are difficult to justify at a time of great strain on the Federal budget, and the enormous needs of the American people in a time of high unemployment and great social needs. The question to be asked with regard to DISC is what amount of incentive is necessary to influence corporate decisions to produce for foreign markets from the United States rather than overseas, and yet not give away tax dollars for exports that would have been made in any case. Clearly it is important to limit the tax expenditures in order to maximize the benefit the country receives in new jobs created.

Therefore, I have been pleased that the Senate Finance Committee moved in the right direction by rewriting the DISC provision so as to reduce the tax loss while continuing to provide sufficient incentive to U.S. companies to export. The Finance Committee provision would permit U.S. corporations with export related earning in excess of $100,000 to be allowed DISC benefits only on earnings in excess of 60 percent of base period receipts in the best 3 out of 4 years from 1973 to 1976. This base period would move forward one year for each year beginning in 1979. This provision would reduce the revenue loss attributable to DISC by close to $500 million per year, a significant reduction. I am closely studying tax reform proposals to further DISC benefits and reduce the revenue loss.

New York State companies have seen that it is in their enlightened self-interest to recognize that the magnitude of the tax expenditure for DISC has caused it to become a popular target for tax reform, and that it is better to put DISC on a firm foundation for a number of years by treating seriously the issue of tax loss than to fight for DISC in its present form. I think that is a wise view of the matter.

The Associated Industries of New York, a trade association representing over 2,800 individual companies in New York, has provided me with some interesting examples of how DISC has created jobs in New York. I also note that the Associated Industries finds the Senate version of the DISC proposals a satisfactory method of retaining the incentive for job creation. Mr. President, I ask unanimous consent that the statement on DISC by the Associated Industries be printed in the RECORD.

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

ASSOCIATED INDUSTRIES OF NEW YORK FINDS DISC AN IMPORTANT STIMULUS FOR JOBS

Since its first year of effective operation in 1972, the federal Domestic International Sales Corporation (DISC) tax deferral provisions have stimulated increases in U.S. exports far beyond the expectations of those who had advocated enactment in 1971.

Forty-one percent ($21.9 billion) of all U.S. exports in fiscal year 1973 (the most recent year for U.S. Treasury Department actual figures) were DISC related. Based on experience, the Treasury believes that about $5.2 billion in additional exports were attributable to DISC in 1975, adding to the U.S. gross national product (GNP) an amount in the range of $10 to $15 billion.

The 1974 annual report on DISC by the U.S. Treasury states that DISC exports in 1974 resulted in an estimated 230,000 jobs. Treasury Secretary William Simon estimates that in 1976 additional DISC exports will rise to $9 billion, which would produce 300,000 more jobs.

Currently the Tax Reform Act of 1975 under consideration in Congress proposes modification to the DISC legislation to reduce the direct revenue loss to the Treasury. There is strong and growing support among many major job-producing industries for the Senate Finance Committee version of DISC legislation, which, like the House version, gives incentives for incremental increases in exports over a base period. The Senate version is estimated to reduce the apparent revenue loss to the Treasury by $470 million.

To better understand the favorable impact of DISC on the New York State economy, a survey by Arthur Andersen & Co. was conducted in October, 1975, of major multinational firms operating in New York State. Forty manufacturing firms and thirteen non-manufacturing firms responded. Party-four of the fifty-three respondents are headquartered in New York State and all have substantial operating units here. Collectively, the forty manufacturing firms employ over 300,000 persons in New York State, representing 18% of their U.S. employment.

For these multinational corporations sales outside the U.S. accounted for 44 percent of their 1974 global revenues and 53 percent of earnings came from foreign sources. Total sales from their New York based operating units were $9.6 billion. In 1974 their total exports of goods and services amounted to $11 billion, equivalent to 11 percent of all shipments abroad by U.S. companies.

Exports by these companies from New York based facilities were 1.4 billion, or 14 percent of their total company shipments. The respondents estimated that—taking into account both export related jobs and the research, technical, marketing and administrative jobs required to support international operations—approximately 48,000 New York jobs (15 percent of their New York employment) were dependent on international activities.

In addition, official Labor Department statistics indicate that for every 100 persons engaged in producing goods and services for export, there are an additional 87 indirect jobs generated in the economy. In summary, an estimated 90,000 jobs are dependent upon the international activities of the New York headquarters and operating units of companies participating in the survey.

The data from the survey covers but a few of the many firms headquartered in or doing business in New York State. The figures, nevertheless, clearly illustrate the economic interest of New York in the international business of those firms surveyed.

As the above figure indicate, DISC has been beneficial to the economy of New York State. New York firms engaged in export production have been able to maintain a relatively high level of employment. The Rochester Industrial Management Council stated in November, 1975, that export production has been one of the major factors in keeping Rochester manufacturing employment generally on the upswing. Although the over-the-year factory employment was down, the situation would be much worse wlhout export-related jobs and the particular push DISC provides.

Carrier Corporation states that out of a total employment of about 7,000 at its Syracuse facilities, more than 1400 employees—one out of five—hold their job because of Carrier's exports.

Eastman Kodak Company of Rochester has 50,000 employees in New York of which 11,000 are jobs related to the manufacture of exports products. Kodak stated that in two recent situations, DICS was a significant and, in one case, the key factor in their decision to build up manufacturing of specific products in the Rochester area rather than outside the U.S. Those two instances involved about 2,000 New York jobs at Kodak alone. In addition, outside suppliers of needed parts, etc., provided jobs which further benefited the U.S. and local economy. The U.S. balance of payments was favorably affected, and the net effect of these two decisions actually will increase Kodak's tax payments

for a five-year period to the U.S. Treasury by about $70 million. Obviously, New York State will benefit substantially as well.

General Electric has approximately 50,000 employees in New York State, 8,000 of whom are in export-related jobs. General Electric points out a further benefit of DISC—suddenly critical to New York State and the nation in a period of recession—is its value a source of capital funds. Overseas customers are rather slow about paying their bills, and so receivables on General Electric's international business are now running at a rate 2.5 times as long as its domestic receivables. This means G.E. requires some $220 million more working capital for every billion dollars of exports than it needs for equivalent domestic sales. This is a great drain on working capital. If it were not for the funds generated by DISC tax deferral, General Electric would have to cut back its export business.

The Hoffman Division of Clarkson Industries, Inc., which is located in Syracuse, reports than in 1974, of total sales of approximately $15 million, DISC sales accounted for $1.7 million. It is anticipated that this amount will increase by 30% in the next three years.

Hoffman comments: "It is our feeling that DISC, for the first time, permits us to compete equitably with our foreign competition and that abandoning this would be a very real disservice to the nation's export program. The machinery that we manufacture is readily obtainable from a number of sources abroad and the pricing is very competitive. The tax benefits of DISC make export more advantageous than foreign manufacture."

The Stauffer Chemical and Associated Company, which has one of its plants in Skaneateles Falls just outside of Syracuse, reports its pre-DISC export volume in 1971 was $49.1 million. In 1974 it was $159 million. Before DISC, it had 837 export-related jobs. In 1974, it had 1,557.

Small business is just as important as large business. The Eraser Company, Inc., of Syracuse, provides a classic example of a small company carrying out the spirit and intent of the DISC legislation. The company's DISC sales amount to about $300,000 to $400,000 a year. DISC has been instrumental in creating six new jobs. It has given the company an opportunity to advertise and promote sales abroad to an extent not possible before. For example, the company is currently spending $30,000 to have its catalog printed in six foreign languages and to participate in foreign exhibitions. The company says it would be at a competitive disadvantage with overseas companies without the DISC program.

There also have been many other instances where the effect of DISC proved crucial or was so well understood by corporate managements that questions of U.S. versus non-U.S. manufacture were not even studied since it was clear that DISC was an overriding factor. Also, in an expanding business which requires considerable initial capital investment, maintaining present jobs in the U.S. today means increasing American jobs in future years. Consequently, the effects of DISC are longer range than might at first be evident.

DISC was not proposed in 1971 as a short-term remedy for a temporary problem. It was intended instead as a long-term incentive to assist American business in coping with the many direct and indirect subsidies that were deeply imbedded in the laws of foreign countries for the purpose of encouraging their domestic production for export markets.

Critics of DISC allege that it simply rewards those who would be exporting anyway. More appropriately, it can be argued that companies would expand their markets abroad, with or without DISC, but DISC is the factor which encourages supplying those markets from U.S. sources rather than foreign sources.

This fact is clearly recognized by foreign countries. A complaint against DISC by foreign countries is now pending before the General Agreement on Tariffs and Trade (GATT), and hearings were held in March 1976. Congressman Joseph E. Karth of Minnesota attented the GATT hearings in Geneva and testified before the U.S. Senate Finance Committee that the European Economic Community (EEC) representatives argued that the DISC tax incentive has encouraged U.S. businesses to manufacture products in U.S. plants for export to EEC countries instead of building the plants there and thus creating jobs in the EEC countries.

In short, DISC has a well-proven track record as an inexpensive way to encourage companies to supply markets abroad from U.S. plants rather than from foreign sources.

LIMITING ARTIFICIAL ACCOUNTING LOSSES—AN URGENTLY NEEDED MOVE TOWARD TAX EQUITY

Mr. HUMPHREY. Mr. President, it is tax time again, and the words "equity" and "reform" are on everybody's lips. This year, with the new budget process, Congress has a special responsibility and the tools to seek tax solutions consistent with broader economic goals.

While the efforts of the House Ways and Means Committee and the Senate Finance Committee are in the spirit of reform, there are differences between the two tax bills reported respectively from those bodies for our consideration. Minor disagreements are to be expected as a natural result of legislative democracy.

Never one to demur from taking sides, I have an opinion. And frankly I was disappointed that the Senate Finance Committee eliminated some needed changes in our tax structure. As it stands, the bill attains only half the budgetary objectives of closing $2 billion of loopholes.

A major reason for that shortfall was the Finance Committee decision to reject the House-passed provision of the Tax Reform bill which added a new section on Limitation of Artificial Accounting Losses (LAL). These new tax accounting rules, supported by the administration since 1973, would raise $423 million this tax year, $271 million next year, and $313 million in 1978. In contrast, the tax shelter provisions which remain in the Finance Committee bill would add only $75 million of revenue. The direction is right but the degree of commitment needed is lacking.

What is at stake is a very real form of justice: The prevention of special investment breaks to those wealthy individuals most able to invest in the first place. Any free market economist, from Adam Smith on down through history, will tell you private money will seek out its own best use without government intrusions in the investment mechanism.

LAL is an overdue concept. It does not end accelerated depreciation for certain capital expenditures, but it does stop people from carrying forward losses and applying them, in future years, against income from any sources. LAL would still permit applying the losses against related income, which is the only way the bneefit is not an out-and-out tax gift to those most fortunate amongst us.

In deleting LAL provisions in real estate, farm operations, oil and gas, movies, equipment leasing, and sports franchising, the Finance Committee report contends it would add to the complexity of our tax laws. Apparently rich taxpayers are perfectly willing to move the pencil the extra foot under today's laws to take advantage of artificial accounting losses. If LAL were adopted and those same individuals wanted tax benefits, they would not find them so readily available. If it takes a bit of added complexity for the wealthy in order to add a significant measure of equity to our tax system, then I will opt, in this case, for the complexity.

## ROUTINE MORNING BUSINESS

(The following routine morning business was transacted today.)

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## ACTION ANNUAL REPORT—MESSAGE FROM THE PRESIDENT—JOINT REFERRAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the President of the United States received by the Senate yesterday, transmitting the annual report of the ACTION Agency for fiscal year 1975, which was referred to the Committee on Labor and Public Welfare, also be referred to the Committee on Foreign Relations.

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

## MESSAGE FROM THE HOUSE

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 10:32 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 and joint resolution:

H.R. 10268. An act to amend title 38 of the United States Code in order to clarify the purposes for which the Administrator of Veterans' Affairs may release the names and/or addresses of present and former members of the Armed Forces and their dependents.

H.J. Res. 726. Joint resolution to authorize and request the President to establish a "National Bicentennial Highway Safety Year".

The enrolled bill and joint resolution were subsequently signed by the President pro tempore.

At 1:45 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, an-

nounced that the House has passed without amendment the bill (S. 3475) relating to the display of certain historical documents within the U.S. Capitol Building during the calendar year 1976.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 13380) to amend the Central, Western, and South Pacific Fisheries Development Act to extend the appropriation authorization through fiscal year 1979, and for other purposes.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 13965) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. NATCHER, Mr. GIAIMO, Mr. STOKES, Mr. MCKAY, Mr. BURLISON of Missouri, Mr. ALEXANDER, Mrs. BURKE of California, Mr. CHARLES WILSON of Texas, Mr. MAHON, Mr. YOUNG of Florida, Mr. KEMP, Mr. BURGENER, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 9019) to amend title XIII of the Public Health Service Act to revise and extend the program for the establishment and expansion of health maintenance organizations; asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ROGERS, Mr. SATTERFIELD, Mr. PREYER, Mr. SYMINGTON, Mr. CARTER, and Mr. BROYHILL were appointed managers of the conference on the part of the House.

The message further announced that the House has agreed to the following concurrent resolutions in which it requests the concurrence of the Senate:

H. Con. Res. 623. A concurrent resolution providing for the printing of a booklet entitled "Duties of the Speaker"; and

H. Con. Res. 624. A concurrent resolution providing for the printing of a walking tour map of the area surrounding the United States Capitol.

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At 4:30 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the bill (H.R. 14262) making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes, in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 2529. An act to amend chapter 37 of title 38, United States Code, to increase the maximum Veterans' Administration's guaranty for mobile home loans from 30 to 50 percent, to make permanent the direct loan revolving fund, to extend entitlement under chapter 37 to those veterans who served exclusively between World War II and the Korean conflict, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore.

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At 5:33 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House disagrees to the amendments of the Senate to the bill (H.R. 12169) to amend the Federal Energy Administration Act of 1974 to provide for authorizations of appropriations to the Federal Energy Administration, to extend the duration of authorities under such act, and for other purposes; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; that Mr. STAGGERS, Mr. DINGELL, Mr. WIRTH, Mr. SHARP, Mr. BRODHEAD, Mr. ECKHARDT, Mr. OTTINGER, Mr. KRUEGER, Mr. MOFFETT, Mr. MAGUIRE, Mr. DEVINE, Mr. BROWN of Ohio, Mr. MOORHEAD of California, Mr. BROYHILL, and Mr. HEINZ were appointed managers of the conference on the part of the House for titles I, II, IV, and V of the Senate amendments; and that Mr. REUSS, Mr. ASHLEY, Mr. MOORHEAD of Pennsylvania, and Mr. BROWN of Michigan were appointed managers of the conference on the part of the House for titles III and IV of the Senate amendments.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 12838) to amend and extend the National Foundation on the Arts and Humanities Act of 1965, to provide for the improvement of museum services, to establish a challenge grant program, and for other purposes; asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PERKINS, Mr. BRADEMAS, Mrs. MINK, Mr. MEEDS, Mrs. CHISHOLM, Mr. LEHMAN, Mr. CORNELL, Mr. BEARD of Rhode Island, Mr. ZEFERETTI, Mr. MILLER of California, Mr. HALL, Mr. QUIE, Mr. BELL, Mr. PEYSER, Mr. JEFFORDS, and Mr. PRESSLER were appointed managers of the conference on the part of the House.

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## COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General transmitting a secret report entitled "Progress and Outlook for U.S. Security Assistance to the Republic of Korea" (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE FEDERAL ENERGY ADMINISTRATION

A letter from the Administrator of Federal Energy transmitting, pursuant to law, a report concerning imports of crude oil and other petroleum products for the period January through March 1976 (with an accompanying report); to the Committee on Interior and Insular Affairs.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Problems in Developing the Advanced Logistics System" (with an accompanying report); to the Committee on Government Operations.

TRANSFER OF FUNDS BY THE DEPARTMENT OF DEFENSE

A letter from the Assistant Secretary of Defense advising, pursuant to law, of transfers of amounts appropriated to the Department of Defense; to the Committee on Appropriations.

REPORT OF THE SECRETARY OF COMMERCE

A letter from the Secretary of Commerce transmitting, pursuant to law, a report on foreign direct investment in the United States (with an accompanying report); to the Committee on Commerce.

PUBLISHED REGULATIONS OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Two letters from the Director, Office of Regulatory Review, of the Department of Health, Education, and Welfare transmitting, pursuant to law, copies of published regulations relating to educational programs (with accompanying papers); to the Committee on Labor and Public Welfare.

PROPOSED AMENDMENTS TO BUDGET REQUESTS FOR FOREIGN ASSISTANCE—(S. DOC. NO. 94–220)

A letter from the President of the United States transmitting proposed amendments to the requests for appropriations for fiscal year 1977 in the amount of $190 million for foreign assistance (with accompanying papers); to the Committee on Appropriations, and ordered to be printed.

PROPOSED LEGISLATION BY THE SECRETARY OF COMMERCE

A letter from the Secretary of Commerce transmitting a draft of proposed legislation to amend the Act of August 10, 1956 (with accompanying papers); to the Committee on Commerce, the Committee on Armed Services, and the Committee on Post Office and Civil Service, jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Secretary of Commerce, relative to amending the act of August 10, 1956, as amended; section 716 of title 10, United States Code; section 1006 of title 37, United States Code; and sections 8501(1)(B) and 8521(a)(1) of title 5, United States Code, be referred jointly to the Committee on Commerce, the Committee on Armed Services, and the Committee on Post Office and Civil Service.

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

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## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RANDOLPH (for Mr. BUCKLEY), from the Committee on Public Works, without amendment, and with a preamble:

S.J. Res. 201. A joint resolution to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to undertake dredging operations for Operation Sail (Rept. No. 94–962).

By Mr. RANDOLPH (for Mr. BUCKLEY), from the Committee on Public Works:

S. Res. 473. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S.J. Res. 201. Referred to the Committee on the Budget.

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## HOUSE CONCURRENT RESOLUTIONS REFERRED

The following House Concurrent resolutions were referred to the Committee on Rules and Administration:

H. Con. Res. 623. A concurrent resolution providing for the printing of a booklet entitled "Duties of the Speaker"; and

H. Con. Res. 624. A concurrent resolution providing for the printing of a walking tour map of the area surrounding the U.S. Capitol.

## HOUSE BILL REFERRED

The bill (H.R. 14262) making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes, was read twice by title and referred to the Committee on Appropriations.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. McINTYRE (for himself and Mr. DURKIN):

S. 3589. A bill to designate the Federal office building located in Manchester, N.H., as the "Norris Cotton Building." Referred to the Committee on Public Works.

By Mr. PHILIP A. HART:

S. 3590. A bill for the relief of Dae Ho Park and Maria Park. Referred to the Committee on the Judiciary.

By Mr. ALLEN:

S. 3591. A bill to supplement retirement benefits for State and local law enforcement officers and firefighters. Referred to the Committee on Post Office and Civil Service.

By Mr. JAVITS (for himself, Mr. CRANSTON, and Mr. BROOKE):

S. 3592. A bill to provide for comprehensive maternal and child health care practices. Referred to the Committee on Labor and Public Welfare.

S. 3593. A bill to establish a national health insurance system of maternal and child health care. Referred to the Committee on Finance.

By Mr. SPARKMAN (by request):

S.J. Res. 204. A joint resolution to authorize the President to implement an agreement with the Government of the Republic of Turkey relative to defense cooperation pursuant to article III of the North Atlantic treaty in order to resist armed attack in the North Atlantic treaty area. Referred to the Committee on Foreign Relations.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McINTYRE (for himself and Mr. DURKIN):

S. 3589. A bill to designate the Federal office building located in Manchester, N.H., as the "Norris Cotton Building." Referred to the Committee on Public Works.

Mr. McINTYRE. Mr. President, I send to the desk for appropriate reference a bill to name the new Federal office building in Manchester, the "Norris Cotton Building."

I need not detail my good friend and former colleague's considerable accomplishments. Though he retired from this Chamber 2 years ago, most of us are still aware of his sterling performance in a variety of responsibilities. As the ranking minority member of the Commerce Committee, he played a crucial role in legislation dealing with aviation, transportation, consumer protection, and space age communications. As the ranking Republican on the powerful Appropriations Committee, he concentrated his efforts in the areas of labor, health, education, and welfare and considered those efforts the most gratifying of his long career.

The deep humanitarian concern behind those particular efforts has been recognized in a lasting monument. A few miles from his hometown of Lebanon stands the Norris Cotton Cancer Research Center, one of the most important institutes of its kind in the world and one that will attest to Norris Cotton's leadership in the battle against disease long after all of us are gone from this Chamber.

But the center, like the Robert Frost Contemporary American Award presented to him last year, recognize only individual characteristics of the whole public man—the first his humanity, the second his ethics and his patriotism. But placing Norris Cotton's name on the new Federal building in Manchester, N.H., will salute and memorialize all that he gave to this country in 28 years of service, and this, in my judgment, would be the most appropriate tribute of all.

By Mr. ALLEN:

S. 3591. A bill to supplement retirement benefits for State and local law enforcement officers and firefighters. Referred to the Committee on Post Office and Civil Service.

POLICE AND FIREFIGHTER PENSION SUPPLEMENT

Mr. ALLEN. Mr. President, I am introducing today a bill which would supplement State and local pension benefits received by law enforcement officers and firefighters.

As Senators know, State and local policemen and firefighters are frequently called upon by the nature of their jobs to risk their lives for the public good. Often these officers place their lives in danger to enforce Federal law. Almost invariably, State and local police and fire officials give their full cooperation to Federal officials in helping enforce Federal law and in helping to resolve problems which are, strictly speaking, the sole responsibility of the Federal Government.

Mr. President, my bill would recognize the large contribution of time, dedication, and service rendered to the Federal Government by these State and local officers who now receive no compensation whatsoever from the Federal Government and who are in many instances undercompensated by the State and local governments which they serve. Moreover, in many more instances, State and local pension plans for retired firemen and police officers are clearly inadequate and fall far short of a retirement program reflecting the actual risks taken and services rendered by officers and firemen. In view of the Federal component of their service, I believe that Congress ought to enact legislation which would permit the Federal Government to accept its responsibility toward these officers by supplementing their retirement benefits.

Mr. President, my bill calls for a supplement of 25 percent of the amount being received by a retired officer under a State or local pension plan. I believe that contribution is modest when considered against the substantial services received by the Federal Government from these State and local employees. Accordingly, I urge that this bill be given prompt consideration in committee and be reported to the Senate in the very near future so that action may be taken by the Senate during this Congress.

This legislation is long overdue, and I urge Senators to give their support to me in my efforts in securing Senate action without delay.

By Mr. JAVITS (for himself, Mr. CRANSTON, and Mr. BROOKE):

S. 3592. A bill to provide for comprehensive maternal and child health care practices. Referred to the Committee on Labor and Public Welfare.

S. 3593. A bill to establish a national health insurance system of maternal and child health care. Referred to the Committee on Finance.

NATIONAL HEALTH INSURANCE FOR MOTHERS AND CHILDREN ACT AND COMPREHENSIVE MATERNAL AND CHILD HEALTH PRACTICE ACT

Mr. JAVITS. Mr. President, with Senators CRANSTON and BROOKE as cosponsors, I introduce two bills, the National Health Insurance for Mothers and Children Act, which I send to the desk for appropriate reference, and the Comprehensive Maternal and Child Health Practice Act, which I send to the desk for appropriate reference, and I ask unanimous consent that the full text of both bills be printed in the RECORD at the conclusion of my remarks.

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

Mr. JAVITS. Mr. President, I am very pleased that my distinguished colleagues Senators CRANSTON and BROOKE are joining me in cosponsoring this important legislation.

Senator CRANSTON has long been a dedicated leader in seeking better health care for all Americans, both as a key member of the Health Subcommittee of the Committee on Labor and Public Welfare, where we have productively collaborated on health legislation for many years, and as chairman of the Health and Hospitals Subcommittee of the Veterans' Affairs Committee. Senator BROOKE, as the ranking minority member of the Senate Appropriations Labor-HEW Subcommittee, has long been aware of and worked to meet the need to assure a strong financial and organizational base for cost-effective, high-quality health care.

Mr. President, I believe that the time has come to take another step toward a major national goal: a comprehensive health program for all our citizens. Medicare and medicaid have provided health care coverage for our elderly citizens and for many poor citizens. Now is the time to provide for children and mothers.

Accordingly, I introduce two bills. The first would establish a system of national health insurance for mothers and children, and the other would at the same time foster and develop the organizational framework for delivering com-

prehensive maternal and child health care.

I believe that such legislation represents the next logical step along the road to national health coverage.

Mr. President, while I continue to support the enactment into law of the Health Security Health Act (S. 3), it makes enormously good sense both in human terms and as national policy to begin on the road to universal national health insurance with comprehensive health care for mothers and children.

It is imperative to safeguard their health by providing accessible, comprehensive health services. At the same time, both the financial and organizational provisions of this legislation allow us to set into motion and to evaluate health systems with cost controls and a rational delivery system in which continuous, high quality health care may be provided.

While we provide the means of increasing access of mothers and children to health care that emphasizes the prevention of disease and the promotion of health, we shall have the opportunity to prove out my conviction that universal national health insurance is not only feasible but desirable and will foster important improvements in the quality and cost-effectiveness of the total health care system. The two bills work in tandem to do so.

The two measures I introduce today build upon, modify, strengthen, and integrate bills to the same effect introduced separately by Representatives JAMES H. SCHEUER and ANDREW MAGUIRE.

Healthy mothers and healthy children represent the fruits of truly preventive health services that are rendered at a crucial time during the human life cycle. Therefore, the children and mothers of our Nation cannot wait for the promise of national health insurance—a promise which has been on the legislative agenda for a long period of time. I believe the time is now for the Congress to be the effective advocate for the health and well being of the mothers and children. It is time to invest together in our Nation's health future. The major provisions of the National Health Insurance for Mothers and Children Act include:

Comprehensive ambulatory—including home health, rehabilitative, social and mental health services—and hospital care for children from birth up to the age of 18 with incentives for preventive children's health services included in the benefit package.

All appropriate prenatal and post-partum health care for women, up to 12 weeks after childbirth.

Support services—transportation, outreach, dependent care—for special populations or those persons determined to have a high risk of infant and maternal morbidity.

Only such limited cost sharing and special reimbursement incentives that would stimulate the development and acceptance by both provider and patient of maternal and child health group practices.

Payments for health professionals on the basis of specified and negotiated fee schedules, periodically adjusted according to such economic index or indices determined to be appropriate.

Payment for institutions according to budgets agreed to in advance—prospective budgeting.

Specific standards for health institutions and health professionals qualified for reimbursement under the maternal and child health programs.

Second consultation for certain surgical procedures.

Financing through payroll taxes and general revenues.

The major provisions of the Comprehensive Maternal and Child Health Practice Act include:

First. A program designed to foster the development of group practices for the delivery of maternal and child health care.

Second. Grants, contracts and loan guarantees—$93,500,000 authorized—for the initial planning and operational costs of group practices consisting of pediatricians, family practitioners, obstetricians/gynecologists and other health professionals—such as nurse practitioners and nurse midwives—who deliver maternal and child health services.

Third. Medical malpractice reinsurance for claims brought against a comprehensive maternal and child health practice.

Fourth. The sum of $30 million authorized for health professions educational programs related to providing health care through comprehensive maternal and child health group practice.

Fifth. Special consideration for assignment of national Health Service Corps personnel to those practicing in comprehensive maternal and child health practices.

S. 3592

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Comprehensive Maternal and Child Health Practice Act".

PART A—ASSISTANCE FOR COMPREHENSIVE MATERIAL AND CHILD HEALTH PRACTICE

FINDINGS AND DECLARATION OF PURPOSE

SEC. 1. (a) The Congress hereby finds and declares that improving the provision and the delivery of health care to mothers and children is of critical importance and of the highest national priority and that present programs of health services do not provide for such continuing, efficient, and comprehensive health care, and lead to an unnecessary duplication of facilities, equipment, and personnel.

(b) It is the purpose of this title to provide financial and technical assistance through loans, grants, supplementary financing and otherwise to health service institutions and organizations which will stimulate and enable such institutions and organizations to plan, develop, and implement comprehensive material and child health practice.

SEC. 2. (a) For purposes of this title, the term "comprehensive maternal and child health practice" means a legal entity which is organized and operated in the following manner:

(1) Except for an entity which will provide medical services for special populations—

(A) the entity shall provide medical services by at least five health professionals licensed to practice medicine or osteopathy;

(B) of the health professionals providing services for the entity, at least one-half or three, whichever is greater, shall be health professionals engaged in family practice or general pediatrics practice;

(C) the principal source of professional practice income for a majority of the health professionals shall be required to be derived from covered professional services provided through their relationship to the entity; and

(D) the entity providing medical services to a special population shall provide medical services through at least three health professionals who are licensed to practice medicine or osteopathy and two of whom are engaged in family practice or general pediatric practice.

(2) The entity shall offer a comprehensive range of pediatric obstetrical services reasonably expected to meet the majority of the medical needs of the women and children which it serves. These services shall include covered professional services (including consultant and referral services by a physician), medically necessary emergency health services, diagnostic laboratory services, and preventive health and health education services.

(3) The entity shall offer each of its patients a readily identifiable individual who shall either be a physician or other licensed or certified health professional and who shall be primarily responsible for continuity in the care provided the patient by the entity.

(4) The members of the entity shall share equipment, facilities, and professional, technical, and administrative personnel.

(5) The entity shall—

(A) maintain a unitary record system,

(B) provide for a system of assurance of the quality of medical care delivery through the entity,

(C) meet applicable standards of accreditation of the American Group Practice Association or the Council on Ambulatory Care of the Joint Commission on the Accreditation of Hospitals, and

(D) operate under a unitary administrative structure which includes billing services and opportunities for patients to register and resolve grievances regarding billing or the quality of medical care through the entity.

(6) The entity shall maintain an information program for the residents of its medical service area which fully discloses—

(A) the covered professional services offered through the entity, and

(B) the method by which patients of the entity may resolve grievances respecting billing for covered professional services or the quality of the covered professional services.

(7) The entity shall to the extent feasible use such additional professional personnel (including "physician extenders"), allied health professions personnel and other health personnel (as specified in regulations of the Secretary) as are available and appropriate for the effective and efficient delivery of the services to patients.

PRIORITIES FOR GRANTS AND CONTRACTS

SEC. 3. In providing any assistance under this title the Secretary shall give a priority to grants and contracts which will establish an entity that will provide "covered professional services" through a prepaid payment schedule.

GRANTS AND CONTRACTS FOR FEASIBILITY SURVEYS

SEC. 4. (a) The Secretary may make grants to public and nonprofit private entities and enter into contracts with public and private entities for projects for surveys for other activities to determine the feasibility of—

(1) developing and operating comprehensive material and child health practices, or

(2) expanding significantly the operation of existing comprehensive maternal and child health practices.

(b) An application for a grant or contract under subsection (a) shall contain assurances satisfactory to the Secretary that, in conducting surveys or other activities with the assistance of a grant or contract under such subsection the applicant will cooperate with the health systems agency (defined under section 1512 of the Public Health Service Act) whose health service area (defined in section 1511 of the Public Health Service Act) covers (in whole or in part) the area for which the survey or other activity will be conducted.

(c) Of the sums appropriated for any fiscal year under section 9 for grants and contracts under this section, not less than 20 percent shall be set aside and obligated each fiscal year for projects to determine the feasibility of developing and operating or expanding the operation of comprehensive maternal and child health practices which the Secretary determines may reasonably be expected to have after their development or expansion not less than two-thirds of their patients drawn from residents of special populations.

GRANTS, CONTRACTS, AND LOAN GUARANTEES FOR PLANNING AND FOR INITIAL DEVELOPMENT COSTS

SEC. 5. (a) The Secretary may—

(1) make grants to public and nonprofit private entities and enter into contracts with public and private entities for planning projects for—

(A) the establishment of comprehensive maternal and child health practices, or

(B) the significant expansion of comprehensive maternal and child health practices; and

(2) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to private entities for planning projects for the establishment of comprehensive maternal and child health practices or for the significant expansion of comprehensive maternal and child health practices.

(b) The Secretary may—

(1) make grants to public and nonprofit private entities and enter into contracts with public and private entities for projects for the initial development of comprehensive maternal and child health; and

(2) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to any private entity for projects for the initial development of comprehensive maternal and child health practices.

(c) In considering applications for grants, contracts, or loan guarantees under subsection (a) or (b)—

(1) the Secretary may not approve such an application unless it contains or is supported by assurances satisfactory to the Secretary that, at the time the comprehensive maternal and child health practice for which such application is submitted first becomes operational after its development or expansion, it will cooperate in the conduct of the studies authorized by part D; and

(2) the Secretary shall in addition to the priority established under section 3 give priority to an application which contains or is supported by assurances satisfactory to the Secretary that, at the time the comprehensive maternal and child health practice for which such application is submitted first becomes operational after its development or expansion, it will serve a special population.

(d)(1) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under subsection (a) or (b) may not exceed such limitations as may be specified in appropriation Acts.

(2) Loan guarantees under subsection (a) or (b) may be made through the fiscal year ending September 30, 1980.

(3) The aggregate amount of principal of loans guaranteed under subsection (a) or (b) for any project may not exceed $1,000,000.

LOANS AND LOAN GUARANTEES FOR INITIAL OPERATIONS COSTS

SEC. 6. (a) The Secretary may—

(1) make loans to comprehensive maternal and child health practices to assist them in meeting the amount by which their operating costs in the period of the first 36 months of their operation exceed their revenues in that period;

(2) make loans to comprehensive maternal and child health practices to assist them in meeting the amount by which their operating costs, which the Secretary determines are attributable to significant expansion in patients served and which are incurred in the period of the first 36 months of their operation after such expansion, exceed their revenues in that period which the Secretary determines are attributable to such expansion; and

(3) guarantee to non-Federal lenders payment to the principal of and the interest on loans made to any private comprehensive medical practice for the amounts referred to in paragraph (1) or (2).

(b) In considering applications for loans or loan guarantees under subsection (a), the Secretary shall give priority to an application which contains or is supported by assurances satisfactory to the Secretary that the comprehensive maternal and child health practice for which the application is submitted will serve a special population.

(c)(1) The cumulative total of the principal of the loans outstanding at any time which have been directly made or with respect to which guarantees have been issued under subsection (a) may not exceed such limitations as may be specified in appropriation Acts.

(2) Loans under subsection (a) shall be made from the fund established under section 8.

(3) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under subsection (a) may not exceed such limitations as may be specified in appropriation Acts.

(4) Loans and loan guarantees under subsection (a) may be made through the fiscal year ending September 30, 1980.

ADMINISTRATION OF PART A

SEC. 7. (a) No grant, contract, loan, or loan guarantee may be made under this part unless an application therefor has been submitted to and approval by the Secretary.

(b) Payments under grants and contracts under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the secretary finds necessary.

GENERAL PROVISIONS RELATING TO LOAN GUARANTEES AND LOANS

SEC. 8. (a)(1) The Secretary may not approve an application for a loan guarantee under this part unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this part.

(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this part the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this part (including terms and conditions imposed under subparagraph (D)) may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(C) Any loan guarantee made by the Secretary under this part shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

(D) Guarantees of loans under this part shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this part will be achieved.

(b)(1) The Secretary may not approve an application for a loan under this part unless—

(A) the Secretary is reasonably satisfied that the applicant therefor will be able to make payments of principal and interest thereon when due, and

(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

(2) Any loan made under this part shall—

(A) have such security,

(B) have such maturity date,

(C) be repayable in such installments,

(D) bear interest at a rate comparable to the current rate of interest prevailing, on the date the loan is made, with respect to loans guaranteed under this part, and

(E) be subject to such other terms and conditions (including provisions for recovery in case of default), as the Secretary determines to be necessary to carry out the purposes of this part while adequately protecting the financial interests of the United States.

(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reason of the failure of a borrower to make payments of principal of and interest on a loan made under this part, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

(c)(1) The Secretary may from time to time, but with due regard to the financial interests of the United States, sell loans made by him under this part.

(2) The Secretary may agree, prior to his sale of any such loan, to guarantee to the purchaser (and any successor in interest of the purchaser) compliance by the borrower with the terms and conditions of such loan. Any such agreement shall contain such terms and conditions as the Secretary considers necessary to protect the financial interests of the United States or as otherwise appropriate. Any such agreement may (A) provide that the Secretary shall act as agent of any such purchaser for the purpose of collecting from the borrower to which such loan was made and paying over to such purchaser, any payments of principal and interest payable by such organization under such loan; and (B) provide for the repurchase by the Secretary of any such loan on terms and conditions as may be specified in the agreement. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to

be paid under any guarantee under this paragraph.

(3) After any loan under this part to a public comprehensive maternal and child health practice has been sold and guaranteed under this subsection, interest paid on such loan which is received by the purchaser thereof (or his successor in interest) shall be included in the gross income of the purchaser of the loan (or his successor in interest) for the purpose of chapter 1 of the Internal Revenue Code of 1954.

(4) Amounts received by the Secretary as proceeds from the sale of loans under this subsection shall be deposited in the loan fund established under subsection (e).

(d) There is established in the Treasury a loan guarantee fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to discharge his responsibilities under loan guarantees issued by him under this part. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund. To the extent authorized in appropriation Acts, there shall also be deposited in the fund amounts received by the Secretary in connection with loan guarantees under this part and other property or assets derived by him from his operations respecting such loan guarantees, including any money derived from the sale of assets.

(e) There is established in the Treasury a loan fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to make loans under this part. There shall also be deposited in the fund amounts received by the Secretary as interest payments and repayment of principal on loans made under this part and other property or assets derived by him from his operations respecting such loans, from the sale of loans under subsection (c) of this section, or from the sale of assets.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. (a) For payments under grants and contracts under sections 4(a)(1), 5(a)(1)(A), and 5(b) there are authorized to be appropriated $5,500,000 for the fiscal year ending September 30, 1978, $6,000,000 for the fiscal year ending September 30, 1979, and $7,000,000 for the fiscal year ending September 30, 1980.

(b) For payments under grants and contracts under sections 4(a)(2) and 5(a)(1)(B) there are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1978, $25,000,000 for the fiscal year ending September 30, 1979, and $30,000,000 for the fiscal year ending September 30, 1980.

PART B—MEDICAL MALPRACTICE REINSURANCE PROGRAM FOR COMPREHENSIVE MATERNAL AND CHILD HEALTH EXPENSES

GENERAL AUTHORITY

SEC. 10. (a) The Secretary may, through an identifiable administrative unit within the Department of Health, Education, and Welfare, take such action as may be necessary to make available, in accordance with this part and subject to such regulations as the Secretary may prescribe, to insurance companies and other insurers and pools of insurance companies and other insurers reinsurance against the part of claims brought by any of their insureds which are comprehensive maternal and child health practices and arising out of medical malpractice which exceed $100,000.

(b) Reinsurance under subsection (a) shall be made available pursant to contract, agreement, or any other arrangement, in consideration of such payment of a premium fee, or other charge as the Secretary finds necessary to cover anticipated claims and other costs of providing such reinsurance.

PAYMENT OF CLAIMS

SEC. 11. The Secretary shall establish the general method or methods by which proved and approved claims which are covered by reinsurance made available under this part may be adjusted and paid for.

USE OF EXISTING FACILITIES AND SERVICES

SEC. 12. In carrying out his responsibilities under this part, the Secretary may use—

(1) insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations, as fiscal agents of the United States; and

(2) officers and employees of any executive agency (as defined in section 105 of title 5, United States Code) as the Secretary and the head of such agency may from time to time agree upon, on a reimbursement or other basis.

RECOVERY OF PREMIUMS

SEC. 13. (a) The Secretary, in a suit brought in the appropriate United States district court, shall be entitled to recover from any insurer the amount of any unpaid premiums lawfully payable by such insurer to the Secretary.

(b) No action or proceeding shall be brought for the recovery of any premium due to the Secretary for reinsurance, or for the recovery of any premium paid to the Secretary in excess of the amount due to him, unless such action or proceeding shall have been brought within five years after the right accrued for which the claim is made, except that, where the insurer has made or filed with the Secretary a false or fraudulent annual statement, or other document with the intent to evade, in whole or in part, the payment of premiums, the claim shall not be deemed to have accrued until its discovery by the Secretary.

REPORTS AND AUDITS

SEC. 14. (a) As a condition to the receipt of reinsurance under this part, each insurer and pool of insurers which is reinsured under this part shall file with the Secretary—

(1) a copy of each annual statement (and any amendments to it) filed with the insurance authority of the State in which reinsurance under this part is effective; and

(2) information respecting—

(A) actual claims asserted by patients (or their legal representatives) against comprehensive maternal and child health practices which are insureds of the insurers,

(2) reports of adverse medical incidents filed by such insureds, and

(B) reports of adverse medical incidents filed by such insureds, and

(C) any other matter pertaining to medical malpractice insurance as the Board may determine is necessary for the effective administration of the reinsurance in this part.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purposes of investigation, audit, and examination to any books, documents, papers, and records of any insurer or pool reinsured under this part that are pertinent to reinsurance provided under this part. Such audit shall be conducted to the maximum extent feasible in coperation with State insurance authorities.

PART C—EDUCATION AND TRAINING

AUTHORITY FOR GRANTS AND CONTRACTS

SEC. 20. (a) The Secretary may, upon application and upon such conditions as the Secretary may prescribe, make grants to and enter into contracts with public and nonprofit private entities for the following projects:

(1) Projects to promote the teaching of students in health professional schools respecting alternative methods of delivering medical care.

(2) Projects to promote the training within comprehensive maternal and child health practices of students of health professional schools and individuals in residency training programs in family medicine and general pediatrics. Priorities shall be given to projects involving comprehensive maternal and child health practices serving medically underserved populations.

(3) Projects to promote and establish programs under which comprehensive maternal and child health practices serving special populations are provided support services by health professional schools, including telephone and other telecommunication consultations and visits by the faculties of such schools.

(4) Projects to promote programs for the training of individuals (including physicians) in the management of comprehensive maternal and child health practices and to provide consultation and technical assistance to comprehensive maternal and child health practices to assist them in the management of their practices.

(b) For payments under grants and contracts under this section, there are authorized to be appropriated $7,500,000 for the fiscal year ending September 30, 1978, $10,000,000 for the fiscal year ending September 30, 1979, and $12,500,000 for the fiscal year ending September 30, 1980.

NATIONAL HEALTH SERVICE CORPS

SEC. 21. (a) In the administration of the National Health Service Corps program (under section 329 of the Public Health Service Act) the Secretary shall give special consideration to applications for assignment of National Health Service Corps personnel to practice in comprehensive maternal and child health practices (as defined in section 2 of this Act).

(b) In the case of any individual—

(1) who has received a degree of doctor of medicine or doctor of osteopathy;

(2) who obtained (A) one or more loans from a loan fund established under part C of title VII of the Public Health Service Act, or (B) any other educational loan for his costs at a school of medicine or osteopathy; and

(3) who enters into an agreement with the Secretary to practice his profession (as a member of the National Heath Service Corps or otherwise) for a period of at least two years in a comprehensive maternal and child health practice (as defined in section 2, providing covered professional services through a fee payment schedule to a special population, the Secretary shall make payments in accordance with subsection (b), for and on behalf of that individual, on the principal of and interest on any loan of his described in paragraph (2) of this subsection which is outstanding on the date he begins the practice specified in the agreement described in paragraph (3) of this subsection.

(c) The payments described in subsection (a) shall be made by the Secretary as follows: Upon completion by the individual for whom the payments are to be made of each year of the practice specified in the agreement he entered into with the Secretary under subsection (a), the Secretary shall pay 12.5 percent of the principal of, and the interest on, each loan of such individual described in subsection (a) which is outstanding on the date he began such practice, except that if such practice was in a comprehensive maternal and child health practice serving special populations the payment shall be 25 percent of such principal and interest.

(d) Notwithstanding the requirement of completion of practice specified in subsection (b), the Secretary shall, on or before the due date thereof, pay any loan or loan installment which may fall due within the period of practice for which the borrower may receive payments under this section, upon the declaration of such borrower, at such times and in such manner as the Sec-

retary may prescribe (and supported by such other evidence as the Secretary may reasonably require), that the borrower is then engaged as described by subsection (a), and that he will continue to be so engaged for the period required (in the absence of this subsection) to entitle him to have made the payments provided by this section for such period; except that not more than 85 percent of the principal of any such loan shall be paid pursuant to this subsection.

(e) A borrower who fails to fulfill an agreement with the Secretary entered into under subsection (a) shall be liable to reimburse the Secretary for any payments made pursuant to subsection (b) or (c) in consideration of such agreement.

SPECIAL POPULATION

SEC. 22. (a) For the purposes of this Act the term "special population" means individuals—

(1) who reside in a health manpower shortage area, as determined by the Secretary, or

(2) who, because of poverty, discrimination, or cultural barriers, are determined by the Secretary to suffer a higher risk of infant and maternal morbidity and mortality than other individuals.

(b) For the purposes of subsection (a), the term "health manpower shortage area" means—

(1) an area in an urban or rural area (which need not conform to the geographic boundaries of a political subdivision and which is a rational area for the delivery of health care) which the Secretary determines has a health manpower shortage, or

(2) a population group which the Secretary determines has such a shortage.

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S. 3593

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This Act with the table of contents may be cited as the "National Health Insurance for Mothers and Children Act.".

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Sec. 601. Penalties.
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FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) the mothers and children of this Nation are the foundation of its future strength, productivity, and prosperity;

(2) adequate health care for mothers and children is essential to safeguard this precious resource; and

(3) adequate medical care for pregnant women and children has the greatest potential for improving the health status of the general population.

(b) The purpose of this Act is—

(1) to establish a system of national health insurance and health care benefits for children and pregnant women residing in the United States;

(2) to increase the access of such individuals to health care, to enhance its quality, and to emphasize the prevention of disease as well as the treatment of illness; and

(3) to improve the efficiency and the use of resources and to restrain the increasing costs of maternal and child health care, while providing fair and reasonable compensation to those who furnish it.

FREE CHOICE BY PATIENT AND PRACTITIONER

SEC. 3. The administration of this Act shall not interfere with the freedom of any physician to choose to whom health care will be provided by the physician or any patient to choose the physician from whom they will receive health care.

OBSERVANCE OF RELIGIOUS BELIEFS

SEC. 4. Nothing in this Act shall be construed to authorize the Secretary or the Board (or any of their agents of employees) to compel any person to undergo any medical screening, examination, diagnosis, or treatment, or to accept any other health care services provided under this Act for any purpose; and the participation by any individual in health care provided under this Act shall be wholly voluntary.

TITLE I—GENERAL PROVISIONS AND ADMINISTRATION

PART A—GENERAL PROVISIONS

DEFINITIONS

SEC. 101. For the purposes of this Act, the term—

(1) "Secretary" means the Secretary of Health, Education, and Welfare;

(2) "Board" means the Maternal and Child Health Board established by section 111;

(3) "child" means an individual from the time of birth to the age of eighteen years;

(4) "woman" means a female during pregnancy and during the twelve weeks immediately following her pregnancy;

(5) "Council" means the National Maternal and Child Health Council established by section 121;

(6) "covered service" means a health care service or item described in title II for which payment may be made in accordance with title III of this Act; and

(7) "alien lawfully admitted for permanent residence" includes an alien permanently residing in the United States under color of law and an alien who is lawfully present in the United States as a result of the application of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act; and

(8) "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territory of the Virgin Islands, Guam, and American Samoa.

ELIGIBILITY FOR BENEFITS

SEC. 102. (a) Every individual—

(1) who is a citizen of the United States or an alien lawfully admitted for permanent residence, and

(2) who is a child or who is pregnant,

shall be eligible to have payment made for health care services received by such individual in accordance wtih the provisions of this Act.

(b) Any female individual who is described in subsection (a)(1) shall be eligible to have payment for health care services received by such individual in order to determine whether or not such individual is pregnant, in accordance with the provisions of this Act.

PART B—ADMINISTRATION

ESTABLISHMENT OF THE MATERNAL AND CHILD HEALTH BOARD

SEC. 111. (a) There is hereby established in the Department a Maternal and Child Health Board to be composed of five members to be appointed by the President, by and with the consent of the Senate. During his term of membership on the Board, no member shall engage in any other business, vocation, or employment. Not more than two members of the Board shall be members of the same political party.

(b) Each member of the Board shall hold office for a term of five years except that—

(1) a member appointed to fill a vacancy occurring during the term for which his predecessor was appointed shall be appointed for the remainder of that term, and

(2) the terms of office of the members first appointed shall expire, as designated by the President at the time of their appointment, at the end of one, three, and five years, respectively, after the date of enactment of this Act.

A member who has served for two consecutive five-year terms shall not be eligible for reappointment until two years after he has ceased to serve.

(c) The President shall designate one of the members of the Board as Chairman of the Board.

DUTIES OF THE BOARD

SEC. 112. (a) In addition to the specific duties given the Board under this Act, the Board shall—

(1) except as specifically provided under this Act, have the duty of administering titles II and III of this Act (relating to nature and scope of benefits and administration and method of payment of benefits under this Act), and

(2) have the general duty of continuously studying the operation of this Act and of the most effective methods of providing comprehensive personal health services to mothers and children in the United States, and of making recommendations on legislation and matters of administrative policy with respect thereto.

(b) The Board shall make an annual report to the Congress on the administration of the functions with which it is charged. The report shall include, for periods prior to the effective date of health benefits, an evaluation by the Board of the progress in preparing for the initiation of benefits under this Act, and for periods thereafter, an evaluation of the operation of the Act, of the adequacy and quality of services furnished under it, of the adequacy of compensation to the providers of services, of the costs of the services and the effectiveness of measures to control such costs, of its coordination with the National Council on Health Planning and Development established under the Public Health Service Act and of detailed comments respecting disapproval of any Maternal and Child Health Council recommendations.

(c) The Secretary shall make available to the Board all information available to him from sources within the Department or from other sources, pertaining to the functions and duties of the Board.

EXECUTIVE DIRECTOR, EMPLOYMENT OF STAFF, AND DELEGATION OF AUTHORITY

SEC. 113. (a) There is hereby established the position of Executive Director of the Maternal and Child Health Board. The Executive Director shall be appointed by the Board with the approval of the Secretary and shall perform such duties in the administration of this Act as the Board assigns.

(b)(1) The Board is authorized to employ such individuals, in accordance with the provisions of title 5, United States Code, as may be necessary to carry out its functions under this Act.

(2) To the extent it deems it consistent with the purposes of this Act and its duties under this Act, the Board may employ such hearing examiners as it determines to be necessary to promote the resolution of disputes over—

(1) an individual's eligibility for covered benefits under section 102;

(2) the qualifications of institutions, under section 202;

(3) the appropriateness of a fee payment schedule, prospective rate schedule, wholesale cost schedule, of dispensing fee schedule established under title III;

(4) the reasonableness of payments for special population benefits, under section 333; or

(5) violation of an agreement required under section 307 or the requirements of title III under section 307.

(c) The Board is authorized to delegate to the Executive Director, to any other officer or employee of the Board, or, with the approval of the Secretary, to any other officer or employee of the Department, any of its functions or duties under this Act, other than the issuance of regulations.

REGULATIONS OF AND SUBPOENAS BY THE BOARD

SEC. 114. (a) The Board shall prescribe such regulations as may be necessary to carry out its duties under this Act.

(b)(1) For the purpose of any hearing, investigation, or other proceeding authorized under this Act, the Board may issue subpoenas requiring persons any place in the United States to attend and testify as witnesses at the designated place of such hearing, investigation, or other proceeding, and to produce any evidence that relates to any matter under investigation or in question before the Board. Subpoenas of the Board shall be served by anyone authorized by it by delivering a copy thereof to the person named therein, or by mailing a copy by registered mail or by certified mail addressed to such individual at his last dwelling place or principal place of business. A certified return by the individual so serving the subpoena setting forth the manner of service, or, in the case of service by registered mail or by certified mail, the return post office receipt therefor signed by the person so served, shall be proof of service. Witnesses so subpoenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

(2) In case of contumacy by, or refusal to obey a subpoena duly served upon, any person, any district court of the United States for the judicial district in which such person charged with contumacy or refusal to obey is found or resides or transacts business, upon application by the Board, shall have jurisdiction to issue an order requiring such person to appear and give testimony, or to appear and produce evidence, or both; any failure to obey such order of the court may be punished by such court as contempt thereof.

FUNDS FOR THE EVALUATION OF THE MATERNAL AND CHILD HEALTH CARE PROGRAM

SEC. 115. (a) The Secretary shall allocate to the Office of Research and Statistics of the Social Security Administration an amount equal to one-tenth of 1 per centum of the total amount of payments made under this Act for the purpose of evaluating the operation of this Act and the impact of such operation on existing private health insurance programs.

(b) Not less often than annually, such Office shall report to the Secretary, to the Board, and to the Congress on the operation of this Act and shall include in such report any recommendations for changes in the operation of this Act.

PART C—ADVISORY COUNCIL

ESTABLISHMENT OF NATIONAL MATERNAL AND CHILD HEALTH COUNCIL

SEC. 121. (a) There is hereby established a National Maternal and Child Health Council, which shall consist of the Chairman of the Board, who shall serve as Chairman of the Council, and ten members, not otherwise in the employ of the United States, appointed by the Secretary, on recommendation of the Board, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, as follows:

(1) not less than six individuals who—

(A) are not engaged in and have no financial interest in the furnishing of any health services,

(B) as a result of their training, experience or attainments are exceptionally well qualified, as representatives of consumers of maternal and child health care services,

(C) as a result of their training, experience or attainments are exceptionally well qualified and familiar with the health care needs of mothers and children, and

(D) as a result of their training, experience or attainments are exceptionally well qualified and experienced in dealing with problems associated with the obtaining of maternal and child health care services; and

(2) not more than four individuals who—

(A) as a result of their training, experience or attainments are exceptionally well qualified in fields related to medical, hospital, or other health activities, or

(B) as a result of their training, experience or attainments are exceptionally well qualified and representative of organizations or associations of professional health personnel.

(b) Each member of the Council shall serve for a term of five years, except that—

(1) any member appointed to fill a vacancy occurring during the term for which his predecessor was appointed shall be appointed for the remainder of that term; and

(2) the terms of members first appointed shall expire, as designated by the Secretary at the time of their appointment, two at the end of the first year, two at the end of the second year, two at the end of third year, two at the end of the fourth year, and two at the end of the fifth year after the date of enactment of this Act.

DUTIES OF COUNCIL

SEC. 122. (a) The Council shall—

(1) advise the Board on matters of general policy in the administration of this Act, in the formulations of regulations, and in the performance of the Board's functions and duties,

(2) study the operation of this Act and the use of maternal and child health care services under it, and

(3) recommend to the Board such changes in the administration of the provisions of the Act as it deems desirable.

(b) The Council shall make an annual report to the Board on the performance of its functions, including any recommendations it may have with respect thereto, and shall promptly transmit such report to Congress.

(c) The Council shall meet as frequently as the Board deems necessary, but not less than four times each year. Upon request of six or more members, it is the duty of the Chairman to call a meeting of the Council.

APPOINTMENT OF STAFF AND COMPENSATION

SEC. 123. (a) The Council is authorized to appoint such professional or technical consultants as may be necessary to carry out its duties.

(b) The Board shall provide such secretarial, clerical, and other assistance as the

Council may require to carry out its duties under this Act.

(c) Members of the Council and technical or professional consultants, while serving or traveling on business of the Council, shall receive compensation at rates fixed by the Board, but not in excess of the equivalent of the daily rate paid under GS-18 of the general schedule under section 5332 of title 5, United States Code; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in Government service employed intermittently.

TITLE II—NATURE AND SCOPE OF BENEFITS

PART A—DEFINITIONS AND QUALIFICATIONS OF INSTITUTIONS

DEFINITION, GENERAL TERMS AND SERVICES

SEC. 201. For the purpose of this title and title III, the term—

(1) "physician" means a doctor of medicine, osteopathy, dentistry, optometry, or podiatry who is legally authorized to practice his or her profession in the State in which he or she performs such functions;

(2) "physician extender" means a physician assistant, dental auxiliary, nurse practitioner, or nurse midwife under the supervision of a physician whether or not performed in the office of such physician or at a place at which he or she is present if the individual may legally perform the services in the State in which the services are performed;

(3) "professional services" means medical services provided by a physician or physician extender and includes materials and supplies commonly furnished, without separate charge, by a physician or physician extender as an incident to the provision of such services;

(4) "preventive children's health services" means professional services the frequency and content of which are determined by the Board, after consultation with the Council, to be ordinarily necessary to maintain the health of a child and to prevent common illnesses, and may include medical and dental evaluations, immunizations, screening for vision and hearing defects, and appropriate health education;

(5) "inpatient services" means—

(A) bed and board;

(B) such nursing, medical, rehabilitative, and other services as are ordinarily furnished by a qualified hospital for the care and treatment of inpatients;

(C) such mental health services, including psychiatric and psychological services, only as are authorized pursuant to regulations established by the Board for the health of the child;

(D) drugs, biologicals, blood and blood products, supplies, appliances, and equipment for use in a hospital for the care and treatment of inpatients; and

(E) such other diagnostic and therapeutic items and services ordinarily furnished by a qualified hospital, or by others by arrangement with such hospital, to inpatients.

(6) "home health services" means nursing services and homemaking services, as defined by the Board;

(7) "diagnostic services" means tests for the purpose of providing information for the diagnosis, prevention, or treatment of any injury, disability, or disease or for the assessment of the health of an individual;

(8) "emergency medical care" means medical care for patients with a severe, life-threatening, or potentially disabling condition which requires medical intervention within minutes or hours after the onset of such condition; and

(9) "support services" means services described in section 233.

STANDARDS FOR QUALIFIED INSTITUTIONS

SEC. 202. For the purposes of this title and title III, the term—

(1) "qualified hospital" means a hospital which, as determined in accordance with section 203—

(A) provides diagnostic and therapeutic services to patients for a variety of medical conditions;

(B) maintains clinical records on all its patients;

(C) has published bylaws in effect with respect to the qualifications, rights, and responsibilities of its staff of physicians;

(D) shall not discriminate on any arbitrary ground unrelated to professional qualification in the granting or maintaining of medical staff privileges;

(E) requires that every patient must be under the direct and personal care of a single physician;

(F) provides twenty-four-hour nursing service rendered or supervised by a registered professional nurse, and has a licensed practical nurse or registered professional nurse on duty at all times;

(G) has a pharmaceutical and drug therapeutics committee which establishes policies for the selection, acquisition, and use of drugs;

(H) has in effect a hospital utilization review plan which meets the requirements of title XVIII of the Social Security Act;

(I) meets all applicable requirements of the laws of the State and of the locality in which it is situated; and

(J) meets such other requirements as the Board finds necessary in the interest of the health and safety of the individuals who are furnished services in such institution.

(2) "qualified pediatric unit" means a unit in a qualified hospital which, as determined in accordance with section 203—

(A) is a separate unit in the hospital for the exclusive use of children;

(B) contains at least twelve beds;

(C) has an annual occupancy rate of at least 70 per centum;

(D) has no restrictions on visiting hours for parents and guardians except as medically required; and

(E) has a reasonable and adequate arrangement for overnight accommodation of the parent, guardian, or adult friend of a patient under the age of seven years.

(3) "qualified obstetrical unit" means a unit in a qualified hospital which, as determined in accordance within section 203—

(A) is a separate unit in the hospital for the exclusive use of obstetrical patients;

(B) has an average of at least—

(i) 500 deliveries annually if located in a rural area (as defined by the Board), or

(ii) 1,500 deliveries annually if not located in a rural area.

The Board may waive the required number of deliveries specified in subparagraph (B) (i) if it finds it in the best interest of the medical care of pregnant women in the area.

(4) "qualified nursing home" means an institution which, as determined in accordance with section 203—

(A) provides skilled nursing and related services to inpatients who are not being treated primarily for mental illness;

(B) has written policies, established and periodically reviewed by a group including at least one physician and at least one registered nurse, governing its furnishing of health services, including the dispensing and administering of drugs;

(C) has a full-time physician or full-time registered nurse supervising its furnishing of medical services;

(D) requires that every patient must be under the direct and personal care of a single physician;

(E) has a physician available to furnish emergency medical care;

(F) maintains clinical records on all its patients;

(G) has in effect a utilization review plan which meets the requirements of title XVIII of the Social Security Act;

(H) meets all applicable requirements of the laws of the State and of the locality in which it is situated;

(I) provides for examination of a patient by a physician within twenty-four hours of the time of his admission to it;

(J) provides for admission of a patient only after a certification by a physician that the patient requires care in such a facility;

(K) has a separate unit in the nursing home for the exclusive use of children; and

(L) meets such other requirements as the Board finds necessary in the interest of the health and safety of the individuals who are furnished services in such institution.

(5) "qualified home health agency" means an institution which, as determined in accordance with section 203—

(A) is a public or nonprofit organization, or subdivision thereof;

(B) provides skilled nursing, homemaker, home health, and other medical and social services to assure patients' health and welfare in their homes;

(C) has written policies, established and periodically reviewed by a group including at least one physician and at least one registered nurse, governing its furnishing of services;

(D) has a full-time physician or full-time registered nurse supervising its furnishing of home health services;

(E) maintains clinical records on all its patients;

(F) meets all applicable requirements of the laws of the States and of the localities in which it furnishes services; and

(G) meets such other requirements as the Board finds necessary in the interest of the health and safety of the individuals who are furnished services in such institution.

(6) "qualified pathology laboratory" means a facility for the biological, microbiological, serological, chemical, immuno-hematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body, which meets all applicable requirements of the laws of the State and of the locality in which it is situated.

DETERMINATION OF QUALIFIED INSTITUTIONS

SEC. 203. (a) In determining the qualifications of an institution under section 202, the Board shall consult, pursuant to this section, with appropriate State agencies, recognized national listing or accrediting bodies, and health systems agencies (established pursuant to title XV of the Public Health Service Act).

(b)(1) The Board shall delegate, to the extent that the Board finds it appropriate, to a State health agency or other appropriate State agency (hereinafter in this subsection referred to as the "State health agency"), the function of determining whether or not an institution meets any or all of the qualifications of section 202.

(2) If the Board finds that accreditation of an institution by the Joint Commission on Accreditation of Hospitals, the American Osteopathic Association, or any other national accrediting body provides reasonable assurance that any or all of the qualifications of section 202 are met, it may, to the extent it deems it appropriate, treat such institution or agency as meeting the qualification or qualifications with respect to which the Board made such finding.

(3) The Board may agree with the State health agency for such agency to survey—

(A) on a selective sample basis, or

(B) when the Board finds that a survey is appropriate because of substantial allegations of the existence of a significant defi-

ciency or deficiencies, which, if found to be present, would adversely affect the health, welfare, or safety of patients,

any institution whose qualifications under section 202 are reviewed under subsection (b)(2) or section 303(a)(2)(A), and which has made an agreement with the Board pursuant to section 321(b)(3).

(4) No later than sixty days after the completion, pursuant to paragraph (1) or (3), of a survey by a State health agency of the qualifications of an institution under this Act, the Board shall publish the findings of each such survey in a readily available manner.

(c) The Board shall pay the State health agency for the reasonable cost of performing functions authorized under subsection (b).

PART B—CHILDREN'S BENEFITS

COVERED PROFESSIONAL SERVICES

SEC. 211. (a) Except as provided in subsection (b), covered professional services shall include—

(1) preventive children's health services, and

(2) professional services for the diagnosis, treatment, or rehabilitation of a child following injury, disability, or disease.

(b) For the purposes of this section, covered professional services do not include—

(1) orthodontic services for children except for handicapping malocclusion;

(2) professional dental services for children under the age of four years;

(3) major surgery on a child not performed by a surgeon eligible or certified by a surgical specialty board;

(4) a tonsillectomy or adenoidectomy performed on a child without a second consultation by an independent physician as to the necessity for such surgery;

(5) any diagnostic or therapeutic procedure performed on a child without a second consultation by an independent physician as to the necessity for such diagnostic or therapeutic procedure, where the Board determines a second consultation respecting such procedure is appropriate or necessary for the health and welfare of the child; and

(6) psychiatric services except as provided under section 216 or except such inpatient psychiatric services as authorized pursuant to regulations established by the Board for the health and welfare of the child.

COVERED INPATIENT HOSPITAL SERVICES

SEC. 212. (a) Except as provided in subsections (b) and (c), covered inpatient hospital services shall include—

(1) inpatient services for a child of any age in any qualified hospital where a physician certifies, in accordance with regulations established by the Board, that the child requires emergency medical care;

(2) inpatient services for a child under the age of twelve years in a qualified pediatric unit; and

(3) inpatient services for a child of twelve years or older in a qualified hospital.

(b) For the purposes of this section, covered services do not include the services of a private duty nurse or attendant.

COVERED NURSING HOME SERVICES

SEC. 213. (a) Except as provided in subsection (b), covered nursing home services shall include inpatient services for a child in any qualified nursing home.

(b) Covered nursing home services under this section are limited to 120 days of inpatient services annually, but not more than 60 consecutive days in any one quarter.

COVERED HOME HEALTH SERVICES

SEC. 214. (a) Except as provided in subsection (b), covered home health care services shall include home health care services furnished by a qualified home health agency, where a physician certifies, in accordance with regulations established by the Board, that such services are necessary for the health and welfare of a child.

(b) Covered home health care services under this section are limited to 120 days of home health care services annually, except it may be waived when the limitation will result in the physician certifying that such limitation will require institutionalization of the child in accordance with regulations established by the Board.

COVERED DIAGNOSTIC SERVICES

SEC. 215. Covered diagnostic services shall include diagnostic services performed by a qualified pathology laboratory for a child who is not an inpatient in a hospital or in a nursing home.

COVERED REHABILITATIVE, SOCIAL, AND MENTAL HEALTH SERVICES

SEC. 216. (a) Except as provided in subsection (b), covered rehabilitative, social and mental health services shall include—

(1) rehabilitative services, including physical therapy and speech therapy,

(2) social services, and

(3) mental health services, including psychiatric and psychological services,

furnished to a child who is not an inpatient in a hospital or nursing home, if furnished in a facility described in subsection (c), where a physician certifies, in accordance with regulations established by the Board, that such services are necessary for the health and welfare of a child.

(b) Covered rehabilitative, social, and mental health services under this section are limited as follows:

(1) rehabilitative services are limited to 60 visits, as defined by the Board, annually, and

(2) social and mental health services are limited to 60 visits, as defined by the Board, annually.

(c) A service described in subsection (a) is a covered service when furnished in a facility which—

(1) is run by a nonprofit or public organization, or subdivision thereof, and

(2) meets the applicable requirements of laws of the State and of the locality in which it is located.

COVERED DRUGS AND BIOLOGICALS

SEC. 217. (a) Covered drugs and biologicals shall include any drug or biological dispensed for use by a child who is not an inpatient in a hospital or nursing home, if—

(1) such drug or biological is required, by section 503(b) of the Federal Food, Drug, and Cosmetic Act, to be dispensed only upon prescription of a physician; and

(2) such drug or biological is prescribed to be taken by such child for a period of longer than ten therapeutic days.

(b) Covered drugs and biologicals shall also include insulin dispensed for use by a child who is not an inpatient in a hospital or nursing home.

COVERED DEVICES, APPLIANCES, AND EQUIPMENT

SEC. 218. (a) Except as provided in subsection (b), covered devices, appliances, and equipment shall include—

(1) the dispensing of such devices for the correction of the vision or hearing of a child, and

(2) the dispensing such other medical devices, appliances, and equipment for the treatment or rehabilitation of a child following injury, disability, or disease,

as a physician certifies, in accordance with regulations established by the Board, to be necessary for the health and welfare for such child.

(b) The Board may, by regulation, exclude from covered devices, appliances, and equipment under subsection (a) the dispensing of such devices, appliances, and equipment as the Board determines to be ineffective, unreliable, unvalidated or not cost-justified in the prevention, treatment or rehabilitation of child injury, disability, or disease.

PART C—MATERNITY BENEFITS

COVERED PROFESSIONAL SERVICES

SEC. 221. Covered professional services shall include professional services—

(1) for the diagnosis and treatment of pregnancy, and

(2) for the diagnosis and treatment of any injury, disability, or disease during pregnancy, and

(3) for the diagnosis and treatment of any injury, disability, or disease related to pregnancy during the period of twelve weeks immediately following the pregnancy.

COVERED INPATIENT HOSPITAL SERVICES

SEC. 222. (a) Except as provided in subsection (b), covered inpatient hospital services shall include—

(1) inpatient services for a woman during pregnancy in any qualified hospital where a physician certifies, in accordance with regulations established by the Board, that the woman requires emergency medical care;

(2) inpatient services in a qualified hospital for a woman during the period of twelve weeks immediately following her pregnancy where a physician certifies, in accordance with regulations established by the Board, that the woman requires emergency medical care for the diagnosis or treatment of any injury, disability, or disease related to pregnancy; and

(3) inpatient services for a woman during pregnancy in any qualified obstetrical unit.

(b) For the purposes of this section, covered inpatient hospital services do not include the services of a private duty nurse or attendant.

COVERED DIAGNOSTIC SERVICES

SEC. 223. (a) Covered diagnostic services shall include diagnostic services performed by a qualified pathology laboratory—

(1) for a woman during pregnancy, and

(2) for a woman during the period of twelve weeks immediately following the pregnancy,

if such a woman is not an inpatient in a hospital or in a nursing home.

(b) Covered diagnostic services shall include diagnostic services performed by a qualified pathology laboratory to determine whether or not a woman is pregnant.

COVERED DRUGS AND BIOLOGICALS

SEC. 224. Covered drugs and biologicals shall include any drug or biological dispensed for use by a woman during pregnancy or during the period of twelve weeks immediately following her pregnancy, if such woman is not an inpatient in a hospital or nursing home, and if—

(1) such drug or biological is required, by section 503(b) of the Federal Food, Drug, and Cosmetic Act, to be dispensed only upon prescription of a physician, and such drug or biological is prescribed to be taken by such woman for a period of longer than ten therapeutic days, or

(2) such drug is insulin.

COVERED DEVICES, APPLIANCES, AND EQUIPMENT

SEC. 225. (a) Except as provided in subsection (b), covered devices, appliances, and equipment shall include the dispensing of such devices, appliances, and equipment as a physician may certify, in accordance with regulations established by the Board, as required for the treatment of a woman for any condition related to pregnancy during pregnancy or during the period of twelve weeks immediately following her pregnancy.

(b) The Board may, by regulation, exclude from covered devices, appliances, and equipment under subsection (a) the dispensing of such devices, appliances, and equipment as the Board determines to be ineffective, unreliable, unvalidated, or not cost-justified in

the treatment of a condition related to pregnancy.

PART D—SPECIAL POPULATION BENEFITS

PURPOSE

SEC. 231. The purpose of this part is to furnish additional covered support services to individuals residing in inaccessible areas or who are otherwise unlikely to use the other services covered under this Act in order to promote the appropriate use of services under this Act by all individuals, regardless of race, income, health status, or location of residency.

SPECIAL POPULATION

SEC. 232. (a) The Board to the maximum extent feasible shall arrange for the furnishing of the covered support services, described in section 233, to individuals—

(1) who reside in a health manpower shortage area, as determined by the Board, or

(2) who, because of poverty, discrimination, or cultural barriers, are determined by the Board to suffer a higher risk of infant and maternal morbidity and mortality than other individuals.

(b) For the purposes of subsection (a), the term "health manpower shortage area" means—

(1) an area in an urban or rural area (which need not conform to the geographic boundaries of a political subdivision and which is a rational area for the delivery of health care) which the Board determines has a health manpower shortage, or

(2) a population group which the Board determines has such a shortage.

COVERED SUPPORT SERVICES

SEC. 233. (a) Covered support services shall include, with respect to an individual described in section 232(a)—

(1) transportation of such individual (and, if such individual is a child, the parent or guardian of such child) to and from a person furnishing covered services to such individual under this Act;

(2) care of a dependent while such individual is being furnished covered services under this Act;

(3) social outreach assistance to inform such individual about and to assist such individuals in receiving covered services furnished under this Act; and

(4) such similar services provided on behalf of such individual as the Board determines as necessary and appropriate to the purposes of this part,

if such services are provided by a person described in subsection (b).

(b) A support service described in subsection (a) is a covered service when furnished—

(1) under the supervision of a qualified institution, or

(2) by or under the supervision of a public or private nonprofit organization determined by the Board to have the organizational and financial capability to furnish such service on a dependable and fiscally responsible basis.

TITLE III—ADMINISTRATION AND METHOD OF PAYMENT OF BENEFITS

PART A—ADMINISTRATION AND GENERAL PROVISIONS

DEFINITIONS

SEC. 301. For the purposes of this title, the term—

(1) "carrier" means a voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the carrier, including a health benefit plan duly sponsored or underwritten by an employee organization;

(2) "fee payment area" means an area designated by the Secretary, pursuant to section 1152(a) of the Social Security Act (42 U.S.C. 1320c-1), as appropriate with respect to the establishment of Professional Standards Review Organizations;

(3) "fee payment schedule" means a schedule, approved in accordance with section 312, of the amount of payments for the provision under this Act of various covered professional services;

(4) "covered institutional services" means—

(A) covered inpatient hospital services,

(B) covered nursing home services,

(C) covered home health care services,

(D) covered rehabilitative, social, and mental health services, and

(E) covered diagnostic services;

(5) "qualified institution" means—

(A) a qualified hospital,

(B) a qualified nursing home,

(C) a qualified home health agency,

(D) a facility described in section 216(a)(3), and

(E) a qualified pathology laboratory;

(6) "prospective rate schedule" means a schedule, approved in accordance with section 322, of the amount of payments for the provisions under this Act of various covered institutional services; and

(7) "person" includes a qualified institution.

DELEGATION OF SECRETARY'S AUTHORITY

SEC. 302. To the extent he deems it consistent with the purposes of this Act, the Secretary may delegate his authority for the administration of the system of payments or eligibility for benefits provided for in this title to the Administrator of the Social Security Administration.

USE OF CARRIERS FOR ADMINISTRATION OF BENEFITS

SEC. 303. (a) In order to provide for the administration of the benefits under this Act with maximum efficiency and convenience for individuals eligible for benefits under this Act and for persons furnishing services to such individuals, the Secretary is authorized, after consultation with the Board, to enter into contracts with carriers as defined in section 301(i) to perform some or all of the following functions (or, to the extent provided in such contracts, will secure performance thereof by other organizations)—

(1)(A) determine the amounts of payments required to be made under this Act;

(B) receive, disburse, and account for funds in making such payments;

(C) assist persons furnishing services under this Act in establishing and maintaining fiscal records necessary for purposes of this Act; and

(D) make such audits of the records of persons furnishing services as may be necessary to assure that proper payments are made under this Act;

(2)(A) determine compliance with the qualifications of section 202, and

(B) assist persons who furnish services for which payment may be made under this Act, in the development of procedures relating to utilization practices, make studies of the effectiveness of such procedures and methods for their improvement, assist in the application of safeguards against unnecessary utilization of services furnished by persons to individuals eligible for benefits under this Act, and provide procedures for and assist in arranging where necessary, the establishment of groups outside hospitals (meeting the requirements of section 1861(k)(2) of the Social Security Act) to make reviews of utilization;

(3) serve as a channel of communication of information relating to the administration of this Act; and

(4) otherwise assist, in such manner as the contract may provide, in discharging administrative duties necessary to carry out the purposes of this Act.

(b)(1) Contracts with carriers under subsection (a) may be entered into without regard to section 3709 of the Revised Statutes or any other provision of law requiring competitive bidding.

(2) No such contract shall be entered into with any carrier unless the Secretary finds that during the year 1976 at least 3 percent of the total dollar value of health insurance outstanding in the United States was written or underwritten by such carrier.

(3) No such contract shall be entered into with any carrier unless the Secretary finds that such carrier will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as he finds pertinent.

(c) Each such contract shall provide that—

(1) where the carrier has agreed to make payments under this Act—

(A) the carrier shall establish and maintain procedures by which a person furnishing services covered under this Act will be granted an opportunity for a fair hearing by the carrier, in any case where the amount in controversy is $100 or more—

(i) when requests for payment for such services under this Act are denied or are not acted upon with reasonable promptness, or

(ii) when the amount of such payments is in controversy;

(B) the carrier shall use such standard forms and procedures for requests for payment as the Board may prescribe to minimize administrative work of physicians and others furnishing services covered under this Act;

(C) the Secretary shall advance funds to the carrier for the making of payments under this Act; and

(2) the carrier shall furnish to the Secretary such timely information and reports as he may find necessary in performing his functions under this Act; and

(3) the carrier shall maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under paragraph (2) and otherwise to carry out the purposes of this Act; and shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary or appropriate.

(c)(1) Except as provided in paragraph (2), each contract shall be for a term of at least two years and may be made automatically renewable from term to term in the absence of notice by either party of its intention not to renew the contract at the end of the current term.

(2) Each contract may be terminated—

(A) by the carrier at such time and upon such notice to the Secretary, to the Board, to the public, and to persons furnishing services under this Act, as the Secretary establishes by regulation, and

(B) by the Secretary at any time, after such reasonable notice to the carrier, the Board, the public, and to persons furnishing services under this Act and after such opportunity for a hearing to the carrier as the Secretary establishes by regulation, if the Secretary finds that—

(i) the carrier has failed substantially to carry out the contract, or

(ii) the carrier is carrying out all or some of the duties provided for in the contract in a manner inconsistent with the effective and efficient administration of this Act.

(d)(1) Any contract with a carrier under this section may require such carrier or any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to

the United States in such amount as the Secretary may deem appropriate.

(2) No individual designated pursuant to a contract under this section as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payments certified by him under this section.

(3) No individual designated pursuant to a contract under this section as a disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this section if it was based upon a voucher signed by an individual designated pursuant to a contract under this section as a certifying officer.

(4) No such carrier shall be liable to the United States for any payments referred to in paragraph (2) or (3).

LIMITATION ON PAYMENTS

SEC. 304. (a) Payment for a covered service furnished under this Act may be made only—

(1) to the person furnishing such service,

(2) to the employer of such person, if such person has an agreement to turn over such payments to his employer, or

(3) to the facility in which such service was provided, if there is an agreement between such person and facility under which the facility receives payments for such person's services.

(b) No payment may be made for covered institutional services furnished by a person prior to the Board's determination that such person is a qualified institution.

COPAYMENT FOR CERTAIN COVERED SERVICES

SEC. 305. (a) The Secretary shall pay 100 per centum of the full payment amount if—

(1) such covered service is other than one of the following:

(a) a home health service:

(B) a covered device, equipment, or appliance, described in section 218 or 225, or

(C) a covered professional service, other than preventive children's health services, furnished to a child; or

(2) such covered service is furnished under a fee schedule described in section 312 (a)(2) (relating to capitation methods); or

(3) the individual to whom such covered service is furnished (or, if the individual is a child, the parent or guardian of such child)—

(A) has an income below the poverty level, as determined by the Board, or

(B) is eligible in the State in which he resides for any benefits under title XIX of the Social Security Act (relating to medicaid).

(b) Except as provided in subsection (a), the Secretary shall pay 90 per centum of the full payment amount.

(c) For the purposes of this section, the term "full payment amount" means the amount specified in a schedule established pursuant to this title as representing full payment for the furnishing of any covered service.

SIMPLIFIED REQUEST FOR PAYMENT PROCEDURES

SEC. 306. The Secretary and the Board shall provide, to the extent consistent with the efficient administration of this Act, for the consolidation and standardization of simple forms and procedures which a physician, physician extender, or qualified institution must complete in order to request and receive payment for furnishing covered professional and institutional services under this Act.

PROHIBITION OF AND CONDITIONS FOR PAYMENTS

SEC. 307. (a) If the Board determines, after a hearing held in accordance with subchapter II of chapter 5 of title 5, United States Code (Administrative Procedure Act), that a person furnishing covered services under this Act has—

(1) substantially or consistently violated the terms of an agreement required under the provisions of this title, or

(2) has substantially or consistently violated requirements for such person under this title,

the Board may prohibit, for such period, not to exceed one year, as it may deem appropriate, the making of any payments under this Act with respect to the furnishing of covered services by such person after the determination by the Board.

(b) If the Board determines, after a hearing held in accordance with subchapter II of chapter 5 of title 5, United States Code (Administrative Procedure Act), that a person furnishing covered services under this Act has violated an agreement containing the provisions of section 311(c)(2), 311(d)(1)(A), 311(d)(2), 321(b)(2), 321(c)(2), 332(c)(2), or 332(d)(1), the Board may require, as a condition for such person having payments made under this Act for services furnished after the date of such determination, that such person provide an appropriate arrangement for the refunding of those fees and charges which were collected in violation of the applicable provisions of such sections.

PART B—PAYMENT FOR COVERED PROFESSIONAL SERVICES

GENERAL PROVISIONS

SEC. 311. (a) Payments shall be made by the Secretary for the furnishing of covered professional services in accordance with part A and this part.

(b)(1) In accordance with procedures established by the Secretary, after consultation with the Board, any person intending to request payment for its furnishing of covered professional services under this Act shall notify the Secretary of such intention at least thirty days prior to submittal of the first request for payment for such person.

(2) The Board shall make available, in such manner and form and at such times as the Board may consider appropriate, to the public the name, address, and telephone number of each person who has filed, pursuant to paragraph (1), notice of his intent to request payment for the furnishing of covered professional services under this Act.

(c) Any person furnishing covered professional services who intends to request payment under this Act for furnishing such services shall—

(1) display, in a manner prescribed by the Board, public notice of its participation in the program under this Act; and

(2) inform each patient (of if the patient is a child, the parent or guardian of such patient), prior to the furnishing of such services, the amount of any copayment the patient (or parent or guardian of such patient) must make for such services.

(d)(1) No payment shall be made pursuant to this Act to a person furnishing a covered professional service unless that person agrees—

(A) except as provided in section 313, to accept the amount specified in the appropriate fee payment schedule, established in accordance with section 312, as full payment for such services, and

(B) to provide such information, as the Secretary may require by regulation, to verify the service or services furnished.

(2) No payment shall be made pursuant to a fee payment schedule described in section 312(a)(2) (relating to capitation payments) unless the person receiving payment pursuant to such schedule furnishes in an appropriate manner, determined by the Board, all services covered under such schedule, or has arranged, in an appropriate manner, determined by the Board, for the furnishing of all such services as it is not qualified to furnish.

(e)(1) Timely payment under this Act based on a fee payment schedule described in section 312(a)(1) (relating to fee for service) shall be made in accordance with this Act after the furnishing of the service covered in such schedule.

(2) Timely payment under this Act based on a fee payment schedule described in section 312(a)(2) (relating to capitation fees) shall be made in such a manner, to be determined by the Board, as to reflect the timing of normal furnishing of services to individuals receiving the care described in such section under this Act.

APPROVAL OF FEE PAYMENT SCHEDULES

SEC. 312. (a) In accordance with this section, the Board shall approve for each fee payment area a schedule of the amount of payments to be made under this Act for the furnishing of various covered professional services, and shall include—

(1) a fee payment schedule for the furnishing of individual services, and

(2) a fee payment schedule for the payment—

(A) of a single amount for the furnishing of prepaid pediatric care (as defined in subsection (f)(1)) for a period of not less than one year, as specified by the Board, and

(B) of a single amount for the furnishing of prepaid maternity care (as defined in subsection (f)(2)).

(b) For the purposes of this section, the Board shall designate for each fee payment board (hereinafter in this section referred to as the "fee payment board") which shall be—

(1) a nonprofit organization (or component thereof),

(2) composed of individuals furnishing covered professional services in such area, and

(3) open for membership to all individuals furnishing such professional services in such area.

(c) Each fee payment board shall submit to the Board a proposed fee payment schedule no later than 18 months after the date of enactment of this Act. Each such board may submit to the Board a proposed revision of such schedule once every year and at such other times as the Board, after consultation with the Secretary, may deem appropriate to the administration of this Act.

(d)(1) The Board shall approve a proposed fee payment schedule or a proposed revision thereof if it finds that such schedule or revision, except as provided in paragraph (2), reflects the prevailing fee for service or services in the fee payment area as of December 31, 1974, as adjusted according to such economic index or indices as the Board determines to be appropriate.

(2) A fee schedule described in subsection (a)(2) (relating to capitation payments) may provide for the payment of an amount, not to exceed by more than 10 per centum the amount otherwise payable under this subsection, in addition to the amount otherwise payable under this subsection.

(3) Where a fee payment schedule has not been proposed for a fee payment area, or where the Board does not approve a proposed schedule, the Board shall approve as a fee payment schedule for such area—

(A) a schedule which reflects an approved schedule for an area similar in economic characteristics to the area involved, or

(B) where the Board determines that an area of similar economic characteristics does

not exist, a schedule which, except as provided in paragraph (2) of this subsection, reflects the prevailing fee for service or services in the fee payment area as of December 31, 1974, as adjusted according to such economic index or indices as the Board determines to be appropriate.

(4) No later than one month before approval of a proposed schedule, and within one month after approval of a schedule, the Board shall publish notice of such schedule in the fee payment area covered by such schedule.

(e) Persons adversely affected by the Board's approval or disapproval of a fee payment schedule under this section may seek review of such approval or disapproval under the procedures provided in subchapter II of chapter 5 of title 5, United States Code (Administrative Procedure Act).

(f) As used in this section, the term—

(1) "prepaid pediatric care" means covered professional services under section 211 including—

(A) preventive children's health services, and

(B) such other health services as may be determined by the Board as appropriate for the diagnosis and treatment of common pediatric conditions; and

(C) evidence of arrangements for the referral for diagnosis or treatment of other than common pediatric conditions, pursuant to regulations established by the Board.

(2) "prepaid maternity care" means covered professional services under section 221 including—

(A) such professional services as the Board determines are ordinary and appropriate in a normal maternity case, and

(B) evidence of arrangements for the referral for diagnosis or treatment of other than normal maternity care, pursuant to regulations established by the Board.

DEMONSTRATION METHODS OF PAYMENT

SEC. 313. (a) In lieu of payment pursuant to section 312, a fee payment board may propose and the Board may approve, on an experimental or demonstration basis for a period not to exceed two years, a method of payment for covered professional services furnished under this Act, if the Board determines that the total amount of payments under such method will not exceed the total amount of payments which would otherwise be made under this applicable fee payment schedule.

(b) The Board shall report to Congress on the results of any experiments or demonstrations under subsection (a), and include in such report such recommendations for changes in the methods of payment under this Act as the Board determines are appropriate.

PART C—PAYMENT FOR COVERED INSTITUTIONAL SERVICES

GENERAL PROVISIONS

SEC. 321. (a) Payments shall be made on a timely basis and in accordance with part A and this part by the Secretary for covered institutional services.

(b) No payment shall be made under this Act to a qualified institution furnishing covered institutional services unless such institution—

(1) has submitted and has had approved by the Board a prospective rate schedule, in accordance with section 322;

(2) agrees to accept the amount specified in such schedule as full payment for such services; and

(3) agrees to provide such information, as the Secretary may require by regulation, to verify its qualifications as a qualified institution and to verify the services furnished under this Act.

(c) Any qualified institution which has had a prospective rate schedule, for its furnishing of covered institutional services, approved pursuant to section 322, and which intends to request payment under this Act for furnishing such services shall—

(1) display, in a manner prescribed by the Board, public notice of its particpation in the program under this Act, and

(2) inform each patient (or if a patient is a child, the parent or guardian of such patient), prior to the furnishing of such services, the amount of any copayment the patient (or parent or guardian of such patient) must make for such services.

APPROVAL OF PROSPECTIVE RATE SCHEDULES

SEC. 322. (a)(1) The Board, after consultation with the Secretary, qualifies institutions, carriers, and other interested parties and organizations, shall establish one or more methods (hereinafter in this section referred to as "methods"), which satisfy the criteria of subsection (b), for the establishment of a prospective rate schedule for the payment of qualified institutions furnishing covered institutional services under this Act.

(2) The Board may modify or eliminate a method or methods established under paragraph (1) where it determines, after consultation with qualified institutions which have submitted to the Board a proposed prospective rate schedule based on such method, and with the Secretary, carriers, and other interested parties and organizations, that—

(A) such method or methods are inconsistent with the provisions of subsection (b), or

(B) are inconsistent with the efficient administration or purposes of this Act.

(3) Any modification or elimination of a method or methods pursuant to paragraph (2) shall take effect, with respect to a qualified institution which has submitted to the Board a proposed prospective rate schedule based on such method, no earlier than six months after the Board has notified such institution of such modification or elimination of such method or methods.

(b) Any method established by the Board pursuant to subsection (a) for payment of qualified institutions for furnishing covered institutional services shall provide—

(1) for the establishment of rates of payments for such services in advance of the time when such services are furnished and without regard to costs actually incurred in furnishing such services;

(2) for the revision of such rates no more frequently than once every year, unless the Board determines that more frequent adjustments are appropriate due to significant unforseeable events, including—

(A) natural disasters and catastrophes,

(B) epidemics,

(C) major economic dislocations not under the control of the institution furnishing such services, and

(D) significant changes in patient mix not under the control of the institution furnishing such services;

(3) financial incentives for improved efficiency in the furnishing of such services by sharing savings with qualified institutions that perform at lower than anticipated costs;

(4) incentives for retrospectively validated improved quality in the furnishing of covered services;

(5) for a reasonable return on investment based on a rate of return on investment of comparable risk and computed at the time such prospective rate schedule is established; and

(6) for payment of such portion of the operation and administration (including the financing of capital improvements), of such qualified institution's program as is necessary for the furnishing of such services, and, if subject to review by a health systems agency under section 1513(a)(1)(A) of the Public Health Services Act, as has been approved by such agency.

(c) Each person who intends to request payment for the furnishing of covered institutional services pursuant to this Act—

(1) shall submit to the Board a proposed prospective rate schedule for the furnishing of such services based on a method established by the Board pursuant to this section, and

(2) may submit to the Board, after such schedule has become effective, a proposed revision of such schedule—

(A) once every year,

(B) when the Board modifies or eliminates a method, pursuant to subsection (a)(2), upon which such schedule has been based, and

(C) at such other times as the Board, after consultation with the Secretary, determines is consistent with subsection (b)(2) and is appropriate for the administration of this Act.

(d)(1) Unless the Board, no later than sixty days after the date of the submittal of a proposed prospective rate schedule or a proposed revision thereof, finds that such schedule or revision is inconsistent with a method established by the Board, such schedule or revision thereof shall become effective sixty days after the date of such submittal.

(2) No later than ten days after the date a proposed rate schedule or a revision thereof is submitted to the Board, the person submitting the proposal shall publish such proposed schedule or revision in such region affected by the proposal and in such a manner as the Board may determine is appropriate to carry out the purposes of this Act.

(e) Persons adversely affected by the Board's approval or disapproval of a prospective rate schedule or revision thereof under this section may seek review of such approval or disapproval under the procedures provided in subchapter II of chapter 5 of title 5, United States Code (Administrative Procedure Act).

PART D—PAYMENT FOR DRUGS, DEVICES, AND SPECIAL POPULATION BENEFITS

DEFINITIONS

SEC. 331. As used in this part, the term—

(1) "dispenser" means any person who has notified the Secretary, pursuant to section 332(b)(1), of his intention to request payment under this Act for the dispensing of covered drugs and devices; and

(2) "covered drugs and devices" means covered drugs and biologicals, and covered devices, appliances, and equipment.

PAYMENT FOR COVERED DRUGS AND DEVICES

SEC. 332. (a) Payments shall be made by the Secretary for the dispensing of covered drugs and devices in accordance with part A and this part.

(b)(1) In accordance with procedures established by the Secretary, after consultation with the Board, any person intending to request payment for its dispensing of covered drugs and devices under this Act shall notify the Secretary of such intention at least thirty days prior to submittal of the first request for payment for such person.

(2) The Board shall make available, in such manner and at such times as the Board

may consider appropriate, to the public the name, address, and telephone number of each dispenser.

(c) Each dispenser shall—

(1) display, in a manner prescribed by the Board, public notice of its participation in the program under this Act; and

(2) inform each patient (or if the patient is a child, the parent or guardian of such patient), prior to the dispensing of such drugs or devices, the amount of any copayment the patient (or the parent or guardian of such patient) must make for such drugs or devices.

(d) No payment shall be made pursuant to this Act to a dispenser unless that person agrees—

(1) to accept the amount specified in accordance with subsection (e), as full payment for the dispensing of such drug or device, and

(2) to provide such information, as the Secretary may require by regulation, to verify the drug or device dispensed.

(e) The amount of payment made under this Act for the dispensing of a covered drug or device shall be the sum of—

(1) the wholesale cost of such drug or device, as determined under the schedule adopted pursuant to subsection (f), and

(2) a fee for the dispensing of such drug or device (hereinafter in this section referred to as a "dispensing fee"), as determined under the schedule adopted pursuant to subsection (g).

(f) (1) The Board shall determine and publish, no less often than annually, a schedule of the wholesale cost of covered drugs and devices commonly dispensed under this Act, and shall establish by regulation procedures for determination of the wholesale cost of covered drugs and devices not commonly dispensed under this Act.

(2) The Board may provide in such schedule for variations in the wholesale cost to reflect differences in costs to a dispenser as a result of differences in size of the dispenser and differences in the regional location of the dispenser.

(g) (1) A dispenser requesting payment under this part shall submit to the Board, in a form prescribed by the Board, a proposed schedule of dispensing fees.

(2) Such schedule may be revised once every year and at such other times as the Board, after consultation with the Secretary, determines is consistent with the administration of this Act.

(3) The Board shall approve such proposed schedule or proposed revision thereof unless, no later than sixty days after the submittal of such proposed schedule or of a proposed revision thereof, it finds that the dispensing fees in such schedule or revision are not in excess of a percentage of the schedule of wholesale costs (determined pursuant to subsection (f) sufficient to compensate the dispenser for the reasonable costs of dispensing such drug or device.

(4) No dispensing fee shall be approved under this section if the dispenser is a physician, unless the Board determines that there is no dispenser (other than a physician) in the community in which such physician requests to dispense covered drugs or devices.

PAYMENT FOR SPECIAL POPULATION BENEFITS

SEC. 333. (a) Payments shall be made by the Secretary for the furnishing of covered support services in accordance with part A and this section.

(b) The Board shall establish mechanisms to reimburse to persons described in section 233(b) for the furnishing of covered support services in such reasonable amounts as the Board determines are necessary and appropriate for the efficient furnishing of such services.

TITLE IV—COMPREHENSIVE MATERIAL AND CHILD HEALTH PRACTICE

PART A—ASSISTANCE FOR COMPREHENSIVE MATERNAL AND CHILD HEALTH PRACTICE

FINDINGS AND DECLARATION OF PURPOSE

SEC. 401. (a) The Congress hereby finds and declares that improving the provision and the delivery of health care to mothers and children is of critical importance and of the highest national priority and that present programs of health services do not provide for such continuing, efficient, and comprehensive health care, and lead to an unnecessary duplication of facilities, equipment, and personnel.

(b) It is the purpose of this title to provide financial and technical assistance through loans, grants, supplementary financing and otherwise to health service institutions and organizations which will stimulate and enable such institutions and organizations to plan, develop, and implement comprehensive maternal and child health practice.

SEC. 402. (a) For purposes of this title, the term "comprehensive maternal and child health practice" means a legal entity which is organized and operated in the following manner:

(1) Except for an entity which will provide medical services for special populations (as defined in section 232)—

(A) the entity shall provide medical services by at least five health professionals licensed to practice medicine or osteopathy.

(B) of the health professionals providing services for the entity, at least one-half or three, whichever is greater, shall be health professionals engaged in family practice or general pediatrics practice;

(C) the principal source of professional practice income for a majority of the health professionals shall be required to be derived from covered professional services provided through their relationship to the entity; and

(D) the entity providing medical services to a special population shall provide medical services through at least three health professionals who are licensed to practice medicine or osteopathy and two of whom are engaged in family practice or general pediatric practice.

(2) The entity shall offer a comprehensive range of pediatric obstetrical services reasonably expected to meet the majority of the medical needs of the women and children which it serves. These services shall include covered professional services (including consultant and referral services by a physician), medically necessary emergency health services, diagnostic laboratory services, and preventive health and health education services.

(3) The entity shall offer each of its patients a readily identifiable individual who shall either be a physician or other licensed or certified health professional and who shall be primarily responsible for continuity in the care provided the patient by the entity.

(4) The members of the entity shall share equipment, facilities, and professional, technical, and administrative personnel.

(5) The entity shall—

(A) maintain a unitary record system,

(B) provide for a system of assurance of the quality of medical care delivery through the entity,

(C) meet applicable standards of accreditation of the American Group Practice Association or the Council on Ambulatory Care of the Joint Commission on the Accreditation of Hospitals, and

(D) operate under a unitary administrative structure which includes billing services and opportunities for patients to register and resolve grievances regarding billing or the quality of medical care through the entity.

(6) The entity shall maintain an information program for the residents of its medical service area which fully discloses—

(A) the covered professional services offered through the entity, and

(B) the method by which patients of the entity may resolve grievances respecting billing for covered professional services or the quality of the covered professional services.

(7) The entity shall to the extent feasible use such additional professional personnel (including physician extenders'), allied health professions personnel and other health personnel (as specified in regulations of the Secretary) as are available and appropriate for the effective and efficient delivery of the services to patients.

PRIORITIES FOR GRANTS AND CONTRACTS

SEC. 403. In providing any assistance under this title the Secretary shall give a priority to grants and contracts which will establish an entity that will provide 'covered professional services' through a fee payment schedule defined under section 312(a)(2).

GRANTS AND CONTRACTS FOR FEASIBILITY SURVEYS

SEC. 404. (a) The Secretary may make grants to public and nonprofit private entities and enter into contracts with public and private entities for projects for surveys or other activities to determine the feasibility of—

(1) developing and operating comprehensive maternal and child health practices, or

(2) expanding significantly the operation of existing comprehensive maternal and child health practices.

(b) An application for a grant or contract under subsection (a) shall contain assurances satisfactory to the Board that, in conducting surveys or other activities with the assistance of a grant or contract under such subsection the applicant will cooperate with the health systems agency (defined under section 1512 of the Public Health Service Act) whose health service area (defined in section 1511 of the Public Health Service Act) covers (in whole or in part) the area for which the survey or other activity will be conducted.

(c) Of the sums appropriated for any fiscal year under section 409 for grants and contracts under this section, not less than 20 percent shall be set aside and obligated each fiscal year for projects to determine the feasibility of developing and operating or expanding the operation of comprehensive maternal and child health practices which the Board determines may reasonably be expected to have their development or expansion not less than two-thirds of their patients drawn from residents of special populations, defined in section 232.

GRANTS, CONTRACTS, AND LOAN GUARANTEES FOR PLANNING AND FOR INITIAL DEVELOPMENT COSTS

(1) make grants to public and nonprofit private entities and enter into contracts with public and private entities for planning projects for—

(A) the establishment of comprehensive maternal and child health practices, or

(B) the significant expansion of compre-

hensive maternal and child health practices; and

(2) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to private entities for planning projects for the establishment of comprehensive maternal and child health practices or for the significant expansion of comprehensive maternal and child health practices.

(b) The Secretary may—

(1) make grants to public and nonprofit private entities and enter into contracts with public and private entities for projects for the initial development of comprehensive maternal and child health practices; and

(2) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to any private entity for projects for the initial development of comprehensive maternal and child health practices.

(c) In considering applications for grants, contracts, or loan guarantees under subsection (a) or (b)—

(1) the Secretary may not approve such an application unless it contains or is supported by assurances satisfactory to the Secretary that, at the time the comprehensive material and child health practice for which such application is submitted first becomes operational after its development or expansion, it will cooperate in the conduct of the studies authorized by part D; and

(2) the Secretary shall in addition to the priority established under section 403 give priority to an application which contains or is supported by assurances satisfactory to the Secretary that, at the time the comprehensive maternal and child health practice for which such application is submitted first becomes operational after its development or expansion, it will serve a special population.

(d)(1) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under subsection (a) or (b) may not exceed such limitations as may be specified in appropriation Acts.

(2) Loan guarantees under subsection (a) or (b) may be made through the fiscal year ending September 30, 1980.

(3) The aggregate amount of principal of loans guaranteed under subsection (a) or (b) for any project may not exceed $1,000,000.

LOANS AND LOAN GUARANTEES FOR INITIAL OPERATIONS COSTS

SEC. 406. (a) The Secretary may—

(1) make loans to comprehensive maternal and child health practices to assist them in meeting the amount by which their operating costs in the period of the first thirty-six months of their operation exceed their revenues in that period;

(2) make loans to comprehensive maternal and child health practices to assist them in meeting the amount by which their operating costs, which the Secretary determines are attributable to significant expansion in patients served and which are incurred in the period of the first thirty-six months of their operation after such expansion, exceed their revenues in that period which the Secretary determines are attributable to such expansion; and

(3) guarantee to non-Federal lenders payment to the principal of and the interest on loans made to any private comprehensive medical practice for the amounts referred to in paragraph (1) or (2).

(b) In considering applications for loans or loan guarantees under subsection (a), the Secretary shall give special consideration to an application which contains or is supported by assurances satisfactory to the Secretary that the comprehensive maternal and child health practice for which the application is submitted will serve a special population.

(c)(1) The cumulative total of the principal of the loans outstanding at any time which have been directly made or with respect to which guarantees have been issued under subsection (a) may not exceed such limitations as may be specified in appropriation Acts.

(2) Loans under subsection (a) shall be made from the fund established under section 408.

(3) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under subsection (a) may not exceed such limitations as may be specified in appropriation Acts.

(4) Loans and loan guarantees under subsection (a) may be made through the fiscal year ending September 30, 1980.

ADMINISTRATION OF PART A

SEC. 407. (a) No grant, contract, loan, or loan guarantee may be made under this part unless an application therefor has been submitted to and approval by the Secretary.

(b) Payments under grants and contacts under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

GENERAL PROVISIONS RELATING TO LOAN GUARANTEES AND LOANS

SEC. 408. (a)(1) The Secretary may not approve an application for a loan guarantee under this part unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this part.

(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this part the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this part (including terms and conditions imposed under subparagraph (D)) may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(C) Any loan guarantee made by the Secretary under this part shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

(D) Guarantees of loans under this part shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this part will be achieved.

(b)(1) The Secretary may not approve an application for a loan under this part unless—

(A) the Secretary is reasonably satisfied that the applicant therefor will be able to make payments of principal and interest thereon when due, and

(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

(2) Any loan made under this part shall—

(A) have such security,

(B) have such maturity date,

(C) be repayable in such installments,

(D) bear interest at a rate comparable to the current rate of interest prevailing on the date the loan is made, with respect to loans guaranteed under this part, and

(E) be subject to such other terms and conditions (including provisions for recovery in case of default), as the Secretary determines to be necessary to carry out the purposes of this part while adequately protecting the financial interests of the United States.

(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reason of the failure of a borrower to make payments of principal of and interest on a loan made under this part, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

(c)(1) The Secretary may from time to time, but with due regard to the financial interests of the United States, sell loans made by him under this part.

(2) The Secretary may agree, prior to his sale of any such loan, to guarantee to the purchaser (and any successor in interest of the purchaser) compliance by the borrower with the terms and conditions of such loan. Any such agreement shall contain such terms and conditions as the Secretary considers necessary to protect the financial interests of the United States or as otherwise appropriate. Any such agreement may (A) provide that the Secretary shall act as agent of any such purchaser for the purpose of collecting from the borrower to which such loan was made and paying over to such purchaser, any payments of principal and interest payable by such organization under such loan; and (B) provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this paragraph.

(3) After any loan under this part to a public comprehensive maternal and child health practice has been sold and guaranteed under this subsection, interest paid on such loan which is received by the purchaser thereof (or his successor in interest) shall be included in the gross income of the purchaser of the loan (or his successor in interest) for the purpose of chapter 1 of the Internal Revenue Code of 1954.

(4) Amounts received by the Secretary as proceeds from the sale of loans under this subsection shall be deposited in the loan fund established under subsection (e).

(d) There is established in the Treasury a loan guarantee fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to discharge his responsibilities under loan guarantees issued by him under this part. There are authorized to be necessary to provide the sums required for the fund. To the extent authorized in appropriation Acts, there shall also be deposited in the fund amounts received by the Secretary in connection with loan guarantees under this part and other property or assets derived by him from his operations respecting such loan guarantees, including any money derived from the sale of assets.

(e) There is established in the Treasury a loan fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to make loans under this part. There shall also be deposited in the fund amounts received by the Secretary as interest payments and repayment of principal on loans made under this part and other property or assets derived by him from his operations respecting such loans, from the sale of loans under subsection (c) of this section, or from the sale of assets.

AUTHORIZATION OF APPROPRIATIONS

SEC. 409. (a) For payments under grants and contracts under sections 404(a)(1), 405(a)(1)(A), and 405(b) there are authorized to be appropriated $5,500,000 for the fiscal year ending September 30, 1978, $6,000,000 for the fiscal year ending September 30, 1979, and $7,000,000 for the fiscal year ending September 30, 1980.

(b) For payments under grants and contracts under sections 404(a)(2) and 405(a)(1)(B) there are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1978, $25,000,000 for the fiscal year ending September 30, 1979, and $30,000,000 for the fiscal year ending September 30, 1980.

PART B—MEDICAL MALPRACTICE REINSURANCE PROGRAM FOR COMPREHENSIVE MATERNAL AND CHILD HEALTH EXPENSES

GENERAL AUTHORITY

SEC. 410. (a) The Secretary may, through an identifiable administrative unit within the Department of Health, Education, and Welfare, take such action as may be necessary to make available, in accordance with this part and subject to such regulations as the Secretary may prescribe, to insurance companies and other insurers and pools of insurance companies and other insurers reinsurance against the part of claims brought by any of their insureds which are comprehensive maternal and child health practices and arising out of medical malpractice which exceed $100,000.

(b) Reinsurance under subsection (a) shall be made available pursuant to contract, agreement, or any other arrangement, in consideration of such payment of a premium fee, or other charge as the Secretary finds necessary to cover anticipated claims and other costs of providing such reinsurance.

PAYMENT OF CLAIMS

SEC. 411. The Secretary shall establish the general method or methods by which proved and approved claims which are covered by reinsurance made available under this part may be adjusted and paid for.

USE OF EXISTING FACILITIES AND SERVICES

SEC. 412. In carrying out his responsibilities under this part, the Secretary may use—

(1) insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations, as fiscal agents of the United States; and

(2) officers and employees of any executive agency (as defined in section 105 of title 5, United States Code) as the Secretary and the head of any such agency may from time to time agree upon, on a reimbursement or other basis.

RECOVERY OF PREMIUMS

SEC. 413. (a) The Secretary, in a suit brought in the appropriate United States district court, shall be entitled to recover from any insurer the amount of any unpaid premiums lawfully payable by such insurer to the Secretary.

(b) No action or proceeding shall be brought for the recovery of any premium due to the Secretary for reinsurance, or for the recovery of any premium paid to the Secretary in excess of the amount due to him, unless such action or proceeding shall have been brought within five years after the right accrued for which the claim is made, except that, where the insurer has made or filed with the Secretary a false or fraudulent annual statement, or other document with the intent to evade, in whole or in part, the payment of premiums, the claim shall not be deemed to have accrued until its discovery by the Secretary.

REPORTS AND AUDITS

SEC. 414. (a) As a condition to the receipt of reinsurance under this part, each insurer and pool of insurers which is reinsured under this part shall file with the Secretary—

(1) a copy of each annual statement (and any amendments to it) filed with the insurance authority of the State in which reinsurance under this part is effective; and

(2) information respecting—

(A) actual claims asserted by patients (or their legal representatives) against comprehensive maternal and child health practices which are insureds of the insurers,

(B) reports of adverse medical incidents filed by such insureds, and

(C) any other matter pertaining to medical malpractice insurance as the Board may determine is necessary for the effective administration of the reinsurance authorized in this part.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purposes of investigation, audit, and examination to any books, documents, papers, and records of any insurer or pool reinsured under this part that are pertinent to reinsurance provided under this part. Such audit shall be conducted to the maximum extent feasible in cooperation with State insurance authorities.

PART C—EDUCATION AND TRAINING

AUTHORITY FOR GRANTS AND CONTRACTS

SEC. 420. (a) The Secretary may, upon application and upon such conditions as the Secretary may prescribe, make grants to and enter into contracts with public and nonprofit private entities for the following projects:

(1) Projects to promote the teaching of students in health professional schools respecting alternative methods of delivering medical care.

(2) Projects to promote the training within comprehensive maternal and child health practices of students of health professional schools and individuals in residency training programs in family medicine and general pediatrics. Priorities shall be given to projects involving comprehensive maternal and child health practices serving medically underserved populations.

(3) Projects to promote and establish programs under which comprehensive maternal and child health practices serving special populations are provided support services by health professional schools, including telephone and other telecommunication consultations and visits by the faculties of such schools.

(4) Projects to promote programs for the training of individuals (including physicians) in the management of comprehensive maternal and child health practices and to provide consultation and technical assistance to comprehensive maternal and child health practices to assist them in the management of their practices.

(b) For payments under grants and contracts under this section, there are authorized to be appropriated $7,500,000 for the fiscal year ending September 30, 1978, $10,000,000 for the fiscal year ending September 30, 1979, and $12,500,000 for the fiscal year September 30, 1980.

NATIONAL HEALTH SERVICE CORPS

SEC. 421. (a) In the administration of the National Health Service Corps program (under section 329 of the Public Health Service Act) the Secretary shall give special consideration to applications for assignment of National Health Service Corps personnel to practice in comprehensive maternal and child health practices (as defined in section 402 of this title).

(b) In the case of any individual—

(1) who has received a degree of doctor of medicine or doctor of osteopathy;

(2) who obtained (A) one or more loans from a loan fund established under part C of title VII of the Public Health Service Act, or (B) any other educational loan for his costs at a school of medicine or osteopathy; and

(3) who enters into an agreement with the Secretary to practice his profession (as a member of the National Health Service Corps or otherwise) for a period of at least two years in a comprehensive maternal and child health pratcice (as defined in section 402, providing covered professional services through a fee payment schedule defined under section 312(a)(2) to a special population, the Secretary shall make payments in accordance with subsection (b), for and on behalf of that individual, on the principal of and interest on any loan of his described in paragraph (2) of this subsection which is outstanding on the date he begins the practice specified in the agreement described in paragraph (3) of this subsection.

(c) The payments described in subsection (a) shall be made by the Secretary as follows: Upon completion by the individual for whom the payments are to be made of each year of the practice specified in the agreement he entered into with the Secretary under subsection (a), the Secretary shall pay 12.5 per centum of the principal of, and the interest on, each loan of such individual described in subsection (a) which is outstanding on the date he began such practice, except that if such practice was in a comprehensive maternal and child health practice serving special populations the payment shall be 25 per centum of such principal and interest.

(d) Notwithstanding the requirement of completion of practice specified in subsection (b), the Secretary shall, on or before the due date thereof, pay any loan or loan installment which may fall due within the

period of practice for which the borrower may receive payment under this section, upon the declaration of such borrower, at such times and in such manner as the Secretary may prescribe (and supported by such other evidence as the Secretary may reasonably require), that the borrower is then engaged as described by subsection (a), and that he will continue to be so engaged for the period required (in the absence of this subsection) to entitle him to have made the payments provided by this section for such period; except that not more than 85 per centum of the principal of any such loan shall be paid pursuant to this subsection.

(e) A borrower who fails to fulfill an agreement with the Secretary entered into under subsection (a) shall be liable to reimburse the Secretary for any payments made pursuant to subsection (b) or (c) in consideration of such agreement.

TITLE V—FINANCING THE NATIONAL HEALTH INSURANCE FOR MOTHERS AND CHILDREN PROGRAM

PART A—FUNDS FOR SUPPORT OF THE NATIONAL HEALTH FOR MOTHERS AND CHILDREN PROGRAM

AUTHORIZATION OF APPROPRIATIONS

SEC. 501. (a) In order to assure prompt payment for the administrative and other expenses incurred during the early months of the program established by this Act, and in order to provide a contingency reserve, there is authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, to remain available through a period of three years beginning with the date of enactment of this Act such sums as may be necessary for repayable advances (without interest) to the Trust Fund created by section 411.

(b) There are hereby authorized to be appropriated to the Trust Fund created by section 411 in each fiscal year such funds, in addition to funds deposited in such fund pursuant to section 412, as may be required by the Secretary to carry out the purposes of this Act.

PAYROLL AND SELF-EMPLOYMENT TAXES

SEC. 502. (a) Section 3101 of the Internal Revenue Code of 1954 (relating to social security and medicare taxes on employees) is amended by adding at the end thereof the following new subsection:

"(c) NATIONAL HEALTH INSURANCE FOR MOTHERS AND CHILDREN.—In addition to the taxes imposed by the preceding subsections, there is hereby imposed on the income of every individual a tax equal to 0.10 percent of the wages (as defined in section 3121(a) except that the limitation on the amount of wages subject the tax shall not apply) received by him with respect to employment (as defined in section 3121(r)).".

(b) Section 3111 of such Code (relating to social security and medicare taxes on employers) is amended by adding at the end thereof the following new subsection:

"(c) MATERNAL AND CHILD HEALTH CARE.—In addition to the taxes imposed by the preceding subsections, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 0.10 percent of the wages (as defined in section 3121(a) except that the limitation on the amount of wages subject the tax shall not apply) paid by him with respect to employment (as defined in section 3121(r)).".

(c) Section 3121 of such Code (containing definitions applicable to social security payroll taxes) is amended by adding at the end thereof the following new subsection:

"(r) EMPLOYMENT FOR PURPOSES OF MATERNAL AND CHILD HEALTH CARE TAX.—For the purposes of sections 3101(c) and 3111(c), the term 'employment' has the meaning set forth in subsection (b) of this section except that—

"(1) the exclusions contained in the following paragraphs of subsection (b) shall not be applied—

"(A) paragraph (1) (relating to foreign agricultural workers);

"(B) paragraphs (5) and (6) (relating to employment by the United States or its instrumentalities) other than paragraph (6)(C)(iii) through (v) (relating to certain minor employments);

"(C) paragraph (7) (relating to employment by States and their political subdivisions and instrumentalities) other than paragraph (7)(C)(i) through (iv) (relating to certain minor employments by the District of Columbia);

"(D) paragraph (8) (relating to employment by charitable and similar organizations);

"(E) paragraph (9) (relating to employment covered by the railroad retirement system); and

"(F) paragraph (17) (relating to employment by subversive organizations); and

"(2) subsection (m) of this section (including services by members of the uniformed services in the term 'employment') shall not be applied.".

(d) Section 1401 of such Code (imposing social security addition to the taxes imposed by the preceding subsections, and medicare taxes on self-employed individuals) is amened by adding at the end thereof the following new subsection:

"(c) MATERNAL AND CHILD HEALTH CARE.—In there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to 0.10 percent of the amount of the self-employment income for such taxable year.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 503. Section 218 of the Social Security Act (42 U.S.C. 418) (relating to agreements for the coverage of services performed in the employ of States and their political subdivisions and instrumentalities) is amended—

(1) by inserting in subsection (e)(1)(A) "subsections (a) and (b) of" immediately before "sections 3101 and 3111";

(2) by inserting in subsection (e)(2)(B) "subsections (a) and (b) of" immediately before "section 3111"; and

(3) by adding at the end of subsection (e) the following new paragraph:

"(3) Notwithstanding the provisions of any agreement entered into under this section, no State shall be under any obligation to pay to the Secretary of the Treasury, with respect to service covered under the agreement and performed on or after the effective date of section 402(d) of the Maternal and Child Health Care Act, amounts equivalent to the taxes which would be imposed by sections 3101(c) and 3111(c) of the Internal Revenue Code of 1954 if such service constituted employment as defined in section 3121(b) or section 3121(r) of such Code.".

PART B—MATERNAL AND CHILD HEALTH TRUST FUND

CREATION OF THE TRUST FUND

SEC. 511. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the Maternal and Child Health Trust Fund (hereinafter in this part referred to as the "Trust Fund").

(b) The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 412(c), and such amounts as may be appropriated to or deposited in such fund as provided in this part.

FUNDING OF TRUST FUND

SEC. 512. (a) There are hereby appropriated to the Trust Fund for the fiscal year ending September 30, 1976, and for each fiscal year threafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

(1) the taxes imposed by section 3101(c) and 3111(c) of the Internal Revenue Code of 1954 with respect to wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Code on and after the effective date of section 402(a) of the Maternal and Child Health Care Act, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such sections to such wages, which wages shall be certified by the Secretary of Health, Education, and Welfare in accordance with such reports; and

(2) the taxes imposed by section 1401(c) of the Internal Revenue Code of 1954 with respect to self-employment income reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of such Code on and after the effective date of section 402(d) of the Maternal and Child Health Care Act, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such section to such self-employment income, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of records of self-employment established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.

(b) The amounts appropriated by subsection (a) shall be transferred from time to time from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in subsection (a), paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such subsection.

(c) The Managing Trustee of the Trust Fund is authorized to accept on behalf of the United States, and deposit into the Trust Fund, money, gifts, and bequests made unconditionally to the Trust Fund or to the Department of Health, Education, and Welfare, or any part or officer thereof, for the benefit of such Fund or any activity financed through such Fund.

MANAGEMENT OF TRUST FUND

SEC. 513. (a) With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees of the Trust Fund (hereinafter in this part referred to as the "Board of Trustees") composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio.

(b) The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (in this part being referred to as the "Managing Trustee"). The Commissioner of the Social Security shall serve as the Secretary of the Board of Trustees.

(c) The Board of Trustees shall meet not less frequently than once each calendar year.

(d) It shall be the duty of the Board of Trustees to—

(1) hold the Trust Fund;

(2) submit to the Congress not later than the first day of April of each year a report, to be printed as a House document of the session of the Congress to which the report is made, on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next two fiscal years, which report shall include—

(A) a statement of the assets of, and the disbursements made from, the Trust Fund during the preceding fiscal year;

(B) an estimate of the expected income to, and disbursements to be made from, the Trust Fund during the current fiscal year and each of the next two fiscal years; and

(C) a statement of the actuarial status of the Trust Fund; and

(3) report immediately to the Congress whenever the Board of Trustees is of the opinion that the amount of the Trust Fund is unduly small; and

(4) review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed.

INVESTMENT OF FUNDS FOR THE TRUST FUND

SEC. 514. (a) It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals.

(b)(1) Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(2) For such purpose such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

(c)(1) The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Fund.

(2) Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield.

(d) The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

(e) Any obligations acquired by the Trust Fund (except public-debt obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

(f) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

ADJUSTMENT OF TRUST FUND FOR OVERPAYMENTS AND UNDERPAYMENTS

SEC. 515. (a)(1) The Managing Trustee shall pay from time to time from the Trust Fund into the Treasury the amount estimated by him as taxes imposed under section 3101(c) of the Internal Revenue Code of 1954 which are subject to refund under section 6413(c) of such Code with respect to wages paid on or after January 1 of the year following the date of enactment of this Act.

(2) Such taxes shall be determined on the basis of the records of wages established and maintained by the Secretary in accordance with the wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, and the Secretary shall furnish the Managing Trustee such information as may be required by the Managing Trustee for such purpose.

DATES, AND TECHNICAL AMENDMENTS

(3) The payments by the Managing Trustee shall be covered into the Treasury as repayments to the account for refunding internal revenue collections.

(b) Repayments made under subsection (a) shall not be available for expenditures but shall be carried to the surplus fund of the Treasury. If it subsequently appears that the estimates under such paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Managing Trustee in future payments.

PAYMENT OF SERVICES AND ADMINISTRATIVE EXPENSES

SEC. 516. The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Secretary certifies are necessary to make the payments provided for by title III of this Act and to make payments for administrative and research expenses incurred under this Act.

TITLE VI—PENALTIES, EFFECTIVE DATES, AND TECHNICAL AMENDMENTS

PENALTIES

SEC. 601. (a) Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact—

(A) in any request for payment under this Act,

(B) for use in determining eligibility for any benefit under this Act,

(C) for use in determining the qualifications of an institution, under section 202, to have payments made under this Act for such institution's furnishing of services, or

(2) knowingly and with fraudulent intent conceals or fails to disclose a material fact—

(A) in any request for payment under this Act,

(B) for use in determining eligibility for any benefit under this Act,

(C) for use in determining the qualifications of an institution, under section 202, in order to have payments made under this Act for such institution's furnishing of services; or

(3) having made application to, and received, any such benefit or payment for the use and benefit of another, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person,

shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(b) Whoever furnishes or dispenses a covered service to an individual for which payment may be made under this Act and who solicits, offers, or receives any—

(1) kickback or bribe in connection with the furnishing or dispensing of such service or the making or receipt of such payment, or

(2) rebate of any fee or charge for referring any such individual to another person for the furnishing or dispensing of such service,

shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

EFFECTIVE DATES

SEC. 602. (a) Except as provided in subsections (b), (c), (d), and (e), the provisions of this Act shall take effect on the date of enactment of this Act.

(b) Sections 402(a), 402(b), 402(d), and 412(a) (relating to collection of maternal and child health care taxes) shall take effect on January 1 of the year following the date of enactment of this Act.

(c) Part B of title II (relating to children's benefits) shall take effect on the following dates for children of the following ages on those dates—

(1) two years after the date of enactment of this Act for children below the age of seven years;

(2) three years after the date of enactment of this Act for children below the age of thirteen years; and

(3) four years after the date of enactment of this Act for all children eligible under this Act.

(d) Part C of title II (relating to maternity benefits) shall take effect two years after the date of enactment of this Act.

(e) Part D of title II (relating to special population benefits) shall take effect on the effective date, specified in subsection (c) or (d) of this section, for the furnishing of covered services to which covered support services under such part are related.

CONFORMING AMENDMENTS

SEC. 603. (a) Title V of the Social Security Act is amended by adding at the end thereof the following new section:

"PAYMENTS FOR SERVICES UNDER NATIONAL HEALTH INSURANCE FOR MOTHERS AND CHILDREN ACT

"SEC. 517. No payment may be made under this title for the furnishing of services which would be eligible for payment as a covered service under the Maternal and Child Health Care Act.".

(b) Section 1862 of the Social Security Act (42 U.S.C. 1392y) is amended by adding immediately after subsection (d) the following new subsection:

"(e) No payment may be made under this title for the furnishing of services which would be eligible for payment as a covered service under the Maternal and Child Health Care Act.".

(c) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"PAYMENTS FOR SERVICES UNDER THE NATIONAL HEALTH INSURANCE FOR MOTHERS AND CHILDREN ACT

"SEC. 1911. No payment may be made under this title for the furnishing of services which would be eligible for payment as a covered service under the Maternal and Child Health Care Act.".

Mr. CRANSTON. Mr. President, I am delighted to join with my colleagues, the distinguished Senator from New York (Mr. JAVITS) in cosponsoring two important legislative initiatives. These are the National Health Insurance for Mothers and Children Act, and the comprehensive Maternal and Child Health Practice Act.

I am delighted that the distinguished Senator from Massachusetts (Mr. BROOKE) is also a cosponsor.

Senator JAVITS has a distinguished record as a leader in the field of health. As ranking minority member of the Committee on Labor and Public Welfare, his judgment and experience have been a tremendous resource to the committee. I do not believe there has been any legislation introduced which has not benefited from his attention. His sponsorship of the legislation we are introducing today is an indication of its importance and potential for improving the quality of health care for all Americans.

NATIONAL HEALTH INSURANCE FOR MOTHERS AND CHILDREN ACT

This legislation, Mr. President, would provide for:

Comprehensive ambulatory—including home health, rehabilitative, social and

mental health services—and hospital care for children from birth up to the age of 18 with incentives for preventive children's health services included in the benefit package.

These services would be phased in over a period 5 years after enactment of the legislation. Maternity benefits and benefits for children up to the age of 7 years would begin 2 months after enactment; benefits for children aged between 7 and 13 years would begin 40 months after enactment, and benefits for children aged 12 through 18 years would begin 5 years after enactment.

In addition, the bill would provide all appropriate prenatal and postpartum health care for women, up to 12 weeks after childbirth.

Benefits would cover support services such as transportation, outreach, and dependent care for special populations or those individuals who have a high risk of infant or mental morbidity.

The bill would include appropriate cost sharing and reimbursement incentives which would stimulate the development and acceptance by the medical community and patients of maternal and child health group practices. This provision is specifically complementary to the provisions of the proposed "Comprehensive Maternal and Child Health Practice Act," also being introduced today.

In addition the bill would provide for:

Payments for health professionals on the basis of specified and negotiated fee schedules, periodically adjusted according to economic index or indices determined to be appropriate.

Payment for institutions according to budgets agreed to in advance—prospective budgeting.

Specific standards for health institutions and health professionals qualified for reimbursements under the maternal and child care programs.

Second consultation for certain surgical procedures.

The program would be financed through payroll taxes and general revenues.

The major provisions of the Comprehensive Maternal and Child Health Practice Act include:

First. A program designed to foster the development of group practices for the delivery of maternal and child health care.

Second. Grants, contracts and loan guarantees for the initial planning and operational costs of group practices consisting of pediatricians, family practitioners, obstetricians/gynecologists and other health professionals—such as nurse practitioners and nurse midwives—who deliver maternal and child health services.

Third. Medical malpractice reinsurance for claims brought against a comprehensive maternal and child health practice.

Fourth. Support for health professions educational programs related to providing health care through comprehensive maternal and child health group practices.

Fifth. Special consideration for assignment of National Health Service personnel to those practicing in comprehensive maternal and child health practices.

The legislation we are introducing today, Mr. President, is a step toward achieving the objectives of all of the health legislation I have sponsored since I have been in the Senate: To make comprehensive cost-effective, compassionate, and accessible health care available to all those Americans who need it.

By focusing on the health needs of children, we are taking an important step in achieving that kind of health care for all Americans. We know that young, poor mothers do not get adequate prenatal care. Their children all too often begin life handicapped with numerous personal and financial costs. America has an unforgiveably high perinatal mortality rate and that rate is even higher among medically underserved population groups. If Americans begin their lives with good health care, there is strong evidence to support the belief that their adult years will be relatively free of serious illnesses.

These two bills we are introducing today one by assuring the accessibility of health care for young Americans, the other by building up our capacity to provide these services, are complementary to each other. Today, they are designed to assure that our young people will be assured of preventive comprehensive health services in a cost effective manner. They can truly be viewed as an investment in the future of America.

I want to make it clear, Mr. President, that in joining in these measures with Senator JAVITS—and I know he feels this way too—I am not in any way abandoning my support for the achievement of comprehensive national health insurance for all our citizens as represented by my being an original cosponsor of S. 3 ever since it was first introduced in the 92d Congress.

We must not abandon, and we must achieve, national health insurance for all those among us who so desperately need it. I see no way that an approach such as the one Senator JAVITS and I are offering, which will cover only very young Americans, can impede the ongoing effort to provide insurance for those who are older. This measure unlike proposals for catastrophic insurance—does not represent even a half-step toward insurance for anyone who is now beyond the age of 13. For them it constitutes no step at all. Thus enactment of the Javits-Cranston bill would not reduce the pressure one bit for an insurance program for Americans who are already more than 13 years old.

Many individuals believe that comprehensive national health insurance will be extremely difficult to obtain in a single stroke. That certainly seems to be the case for the immediate future, in any event. Without doubt it is true for this session of Congress. While we continue to set our goal, Mr. President, on comprehensive health insurance for all our citizens, I believe we have to take decisive action now to begin the journey down the road toward universal coverage. We would serve no-one's interest by failing to take this major step proposed by Senator JAVITS and by me toward making a major improvement in the health of Americans.

It is important to note that the House Subcommittee on Health and the Environment of the Interstate and Foreign Commerce Committee held hearings earlier this week on a similar measure sponsored by Congressman SCHEUER, and many others including my colleague from California, YVONNE BRATHWAITE BURKE.

I recognize fully that as we move ahead with consideration of this legislation, we must at the same time try to deal with the health care needs of the near poor—those individuals who are too young to qualify for medicare and whose incomes or other financial resources place them above the medicaid eligibility line. For these individuals, the costs of health care present insurmountable barriers to seeking it.

I am fully committed to improving the accessibility and availability of health care for these individuals and believe that many programs now in place have made a positive step in that direction. Among these programs have been my efforts to expand the scope of health care available to eligible veterans through the Veterans' Administration medical system; the development of legislation encouraging the establishment of health maintenance organizations with an emphasis on serving underserved population groups; the development of legislation to encourage the establishment of neighborhood health centers, migrant health centers, whose services are provided to those population groups which historically have found health care inaccessible either because of financial or geographic barriers.

I have also cosponsored legislation recently reported from the Committee on Labor and Public Welfare extending and improving the authorities for the support of health professional training which has as one of its major objectives improving the accessibility and availability of care in underserved areas, as well as expanding the Nation's ability to provide primary health care and preventive health care.

I recognize that while these legislative steps have helped a considerable segment of the population whose access to comprehensive health care is limited, an important segment still remains who face obstacles in obtaining quality health care. I have attempted to overcome these obstacles for one element of this group—those individuals between the ages of 60 and 65 who are retired or who are dependents of spouses who are receiving social security payments or are medicare beneficiaries, by my sponsorship in three succeeding Congresses of legislation permitting them to buy in to medicare. I am hopeful that this legislation will become law when the next major amendments are made to title XVIII—medicare—of the Social Security Act.

I see all this legislation, including the legislation introduced today, as part of the Federal responsibility to make this country No. 1 in health care in the world and to guarantee that all levels of necessary health care are available for all members of our society.

By Mr. SPARKMAN (by request):

Senate Joint Resolution 204. A joint resolution to authorize the President to implement an agreement with the Government of the Republic of Turkey relative to defense cooperation pursuant to article III of the North Atlantic Treaty in order to resist armed attack in the North Atlantic Treaty area. Referred to the Committee on Foreign Relations.

Mr. SPARKMAN. Mr. President, by request I introduce for appropriate reference a joint resolution to authorize the President to implement an agreement with the Government of the Republic of Turkey relative to defense cooperation pursuant to article III of the North Atlantic Treaty in Order to Resist Armed Attack in the North Atlantic Treaty Area.

The joint resolution was requested by the President's message of June 16, which was printed in the CONGRESSIONAL RECORD on page S9589, and I am introducing it in order that there may be specific legislation to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this joint resolution, as well as any suggested amendments to it, when it is considered by the Committee on Foreign Relations.

I ask unanimous consent that the joint resolution and a section-by-section analysis be printed in the RECORD at this point, together with the text of the agreement with Turkey.

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

S.J. RES. 204

Whereas on March 26, 1976, there was signed an Agreement Between the Governments of the United States of America and of the Republic of Turkey Relative to Defense Cooperation Pursuant to Article 3 of the North Atlantic Treaty (which agreement, together with a related exchange of notes dated April 7 and 13, 1976, are hereinafter referred to collectively as "the agreement"); and

Whereas the agreement provides that its entry into force is conditioned upon a further exchange of notes indicating the approval of both parties in accordance with their respective legal procedures; and

Whereas the said agreement provides for certain undertakings by the United States as part of its obligations under the said agreement; and

Whereas the entry into force of the agreement will restore to the United States the use of facilities which are important to the security of the United States and the defense of the North Atlantic Treaty Area; and

Whereas the President has requested the Congress to approve the agreement and to authorize the appropriation of funds necessary to its execution so that the agreement may enter into force: Now, therefore, be it

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress approves the agreement and the President is authorized to implement the provisions thereof.

SEC. 2. (a) There are authorized to be appropriated the amounts required by the said agreement for the purpose of carrying out the programs and activities as are provided for therein.

(b) Foreign assistance and military sales programs and activities carried out with funds made available pursuant to subsection (a) of this section shall be conducted in accordance with provisions of law generally applicable to foreign assistance and military sales programs of the United States: *Provided,* That section 620(x) of the Foreign Assistance Act of 1961 shall not apply with respect to such programs and activities: *And provided further,* That the President is authorized, notwithstanding that section, to furnish to the Government of Turkey those defense articles and defense services with respect to which funds were obligated or reserved under chapter 2 of part II of the Foreign Assistance Act of 1961 on or before February 5, 1975.

(c) This resolution satisfies the requirement of section 36(b) of the Foreign Military Sales Act and section 7307 of title 10 of the United States Code with respect to the transfer pursuant to the agreement of naval vessels and other defense articles and defense services which are referred to in the United States note dated April 7, 1976.

(d) The costs of Department of Defense programs and activities to be carried out with Department of Defense funds made available pursuant to subsection (a) of this subsection include: operational, maintenance and other costs in connection with the use of installations in Turkey by the United States pursuant to article XIII of the agreement; training (on-the-job and locally) of Turkish personnel assigned or to be assigned to the installations pursuant to article VI of the agreement; costs of implementation of communications joint use plans pursuant to article XVI of the agreement; and costs of providing access by Turkey to the United States Defense Communications Satellite System pursuant to numbered paragraph 3 of the United States note dated April 7, 1976.

SEC. 3. The authorities contained in this resolution shall become effective only upon the entry into force of the agreement and shall continue in effect only for so long as that agreement remains in force.

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SECTION-BY-SECTION ANALYSIS OF THE JOINT RESOLUTION TO AUTHORIZE THE PRESIDENT TO ENTER INTO AND CARRY OUT A DEFENSE COOPERATION AGREEMENT WITH TURKEY

I. INTRODUCTION

The proposed joint resolution implements the Defense Cooperation Agreement signed on behalf of the United States and Turkish Governments on March 26, 1976 and a related exchange of notes dated April 7 and 13, 1976, by authorizing the appropriation of funds necessary to carry out obligations undertaken by the United States therein and by providing that certain provisions of law will not operate to prohibit or impede the carrying out of those obligations.

The new Defense Cooperation Agreement with Turkey supersedes a 1969 Agreement, the operation of which was suspended by Turkey in July 1975. The 1969 Agreement had provided generally for support of the Turkish defense effort, subject to Congressional action, and entered into force on the day it was signed, without prior review by Congress. The Agreement was implemented by the inclusion of funds for Turkey in annual security assistance programs. By contrast, the present Agreement specifies the level of security assistance to be provided over the next four years, and has been negotiated with the understanding that it will not enter into force until it is approved by Congress through enactment of the proposed joint resolution.

II. PROVISIONS OF THE RESOLUTION

*Preamble*

The preamble describes the background for the resolution by reciting the signature of the Agreement, its provision for entry into force, the existence of the United States undertakings therein, the importance of the United States military activities and facilities in Turkey, and the President's request for Congressional approval of the Agreement.

Section 1. Approval.

Section 1 expresses approval of the Agreement by Congress and authorizes the President to implement its provisions. This section provides the legal basis for the United States to enter into the exchange of notes necessary to bring the Agreement into force and constitutes authority for carrying out the undertakings of the United States under the Agreement.

Section 2(a). Authorization.

Section 2 authorizes the appropriation of funds necessary to carry out the programs and activities provided for in the Agreement. This Agreement provides for defense support to Turkey over a four year period of not less than $200 million for grant military assistance and military training, including $75 million for fiscal year 1977; sufficient funds for credits or guarantees of loans totaling not less than $800 million to finance Turkish procurement of defense articles and defense services; and necessary amounts for other programs and activities, which include training of local personnel, cooperation in the implementation of communications plans and providing Turkish access to the United States Defense Satellite Communications System. The appropriations under this authorization will be requested on an annual basis. Any successive program of defense support developed in accordance with Article XIX(3) of the Agreement will require enactment of additional authorizing legislation.

Section 2(b). Application of Other Laws.

Section 2(b) provides that provisions of United States law generally applicable to security assistance shall apply to foreign assistance and military sales programs and activities carried out in implementation of the Agreement. This provision ensures that section 1 of the resolution will not be construed as authority to waive the legal requirements for foreign military sales, training and grant assistance. Thus, the conditions of eligibility, purposes for which articles and services can be used, transfer restrictions, Congressional review procedures, statutory definitions, and other terms governing United States security assistance programs shall apply, and assistance and sales to Turkey will be carried out within the framework of the Foreign Assistance Act of 1961 and the Foreign Military Sales Act. This provision is consistent with the terms of the Agreement.

The first proviso in section 2(b) states that section 620(x) of the Foreign Assistance Act of 1961 shall not apply to security assistance programs in implementation of the Agreement. Section 620(x) prohibits U.S. military assistance and sales to Turkey until "the President determines and certifies to the Congress that the Government of Turkey is in compliance with the Foreign Assistance Act of 1961, the Foreign Military Sales Act, and any agreement entered into under such Acts, and that substantial progress toward agreement has been made regarding military forces in Cyprus. . . ." Such a condition aimed specifically at Turkey would not be consistent with the provisions of the Agreement and the proposed resolution.

In the same spirit, it was understood in

connection with the negotiation of the new Agreement that authorization would be sought to complete, after its entry into force, deliveries of grant defense articles and services valued at approximately $85 million which were suspended as a result of the enactment of section 620(x). The second proviso accordingly authorizes such deliveries with respect to articles and services for which funds were obligated or reserved prior to February 5, 1975. The resumption of such deliveries is consistent with and would complement the new Agreement in renewing defense cooperation with Turkey, which is essential to United States security interests, and thereby enhancing the ability of the United States to play a constructive role in encouraging a Cyprus settlement.

Section 2(c). Notice to Congress.

Section 2(c) specifies that the Congressional review procedures under section 36(b) of the Foreign Military Sales Act and the Congressional review and approval requirements of 10 U.S.C. 7307 shall not apply to the defense articles and defense services referred to in the exchange of notes dated April 7 and 13, 1976 which is a part of the Agreement. The exchange of notes identifies certain defense articles, including naval vessels, which the United States is prepared to sell to Turkey in accordance with the standards and procedures set out in the Foreign Military Sales Act. If Congress, in connection with this resolution, approves that list of defense articles there would appear to be no need for a second review when the sales are made.

Section 2(d). Department of Defense Costs.

Section 2(d) makes clear that the authorized activities and programs of the Department of Defense, to be financed from the appropriations of the Department of Defense, include operation and maintenance of installations, training of Turkish personnel at the facilities, implementation of communications joint use plans, and providing access to the U.S. Defense Communications Satellite System. These Department of Defense functions will be carried out within the general framework of laws applicable to the activities of the Department of Defense and are not to be regarded as subject to the provisions of the foreign assistance and military sales legislation.

Sec. 3. Effective Date.

Section 3 provides that the authorities in the resolution shall be effective concurrently with the period that the Agreement is in force and will lapse upon termination of the Agreement.

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[No. 76/7381-1—United States of America]

DEPARTMENT OF STATE

To all to whom these presents shall come, Greeting:

Certify That the attached is a true copy of the United States original in English of the agreement between the Governments of the United States of America and the Republic of Turkey relative to defense cooperation pursuant to Article 111 of the North Atlantic Treaty in order to resist armed attack in the North Atlantic Area, was signed at Washington on March 26, 1976, with related notes, and is deposited in the Archives of the Government of the United States of America.

In testimony whereof, I, Henry A. Kissinger, Secretary of State, has hereto caused the seal of the Department of State to be affixed and my name subscribed by the Authentication Officer of the said Department, at the city of Washington, in the District of Columbia, this eighteenth day of May, 1976.

HENRY A. KISSINGER,
*Secretary of State.*

By FRANCIS J. FILLIUS, *Authentication Officer, Department of State.*

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AGREEMENT BETWEEN THE GOVERNMENTS OF THE UNITED STATES OF AMERICA AND OF THE REPUBLIC OF TURKEY RELATIVE TO DEFENSE COOPERATION PURSUANT TO ARTICLE III OF THE NORTH ATLANTIC TREATY IN ORDER TO RESIST ARMED ATTACK IN THE NORTH ATLANTIC TREATY AREA

PREMABLE

The Government of the United States of America and the Government of the Republic of Turkey,

In conformity with the aims and principles of the United Nations Charter, and

Reaffirming their determination in exercising their inherent rights of individual and collective self-defense, as envisaged in Article 51 thereof.

Recognizing that cooperation in the field of defense is based on full respect for the sovereignty of the parties,

Expressing their desire to maintain the security and independence of their respective countries, as well as world peace,

Expressing their willingness to continue their bilateral defense cooperation so long as both parties are bound by the North Atlantic Treaty,

Acting on the basis of their continuing friendship, and in recognition of their obligations with regard to the security and defense of the North Atlantic Treaty area, and pursuant to Article III of the North Atlantic Treaty,

Have entered into the following Agreement:

ARTICLE I

The defense cooperation between the parties as set forth in this Agreement is based on the recognition of and full respect for the sovereignty of each.

ARTICLE II

1. The extent of the defense cooperation envisaged in this Agreement shall be limited to obligations arising out of the North Atlantic Treaty.

2. The installations shall not be used for, nor shall the activities serve, purposes other than those authorized by the Government of the Republic of Turkey.

ARTICLE III

1. Pursuant to Article III of the North Atlantic Treaty and in accordance with the provisions of this Agreement, the Government of the Republic of Turkey authorizes the Government of the United States of America to participate in the defense measures to be carried out on the following installations:

Intelligence gathering installations.

Mutually agreed sites of communication systems and networks.

Kargaburun Station.

Incirlik Installation.

2. The United States organizations and facilities outside these installations, approved by the Government of the Republic of Turkey, providing command and control, administrative, logistics and general support shall be subject to the provisions of the Agreement.

ARTICLE IV

1. The installations referred to in Article III, paragraph 1 of this Agreement shall be Turkish Armed Forces installations.

The installation commander shall be Turkish. The Turkish flag shall be flown at the installations.

2. The activities and technical operations of the installations shall be conducted in accordance with mutually worked-out programs consistent with the purposes of the installations as approved by the Government of the Republic of Turkey.

3. Family housing units and the related support and social welfare activities on the installations shall be separated to the extent possible from the areas where technical operations of the installations are being carried out.

ARTICLE V

1. The installation commander shall be responsible for:

Supervision in order to ensure that the technical operations and activities of the installations shall be carried out in accordance with the principles mentioned in Article IV, paragraph 2 of this Agreement.

Security and administration of the installations.

Maintaining order at the installations.

Full command and support requirements of the Turkish personnel at the installations, with the exception of those Turkish civilian personnel in the employ of the United States Government.

Relations with local Turkish authorities.

2. In the exercise of this authority, the installation commander may issue appropriate directives applicable to the installation as a whole.

3. The Government of the United States of America will assign at each installation a United States detachment commander as the "United States Senior Officer" to function as the single point of contact with the installation commander. The United States flag may by flown at the headquarters of the United States Senior Officer.

4. The United States Senior Officer shall be responsible for the direction and control of the United States national element, its equipment and its support, health and social welfare facilities; and for management of the premises exclusively utilized by the United States national element at the installation. In the exercise of his responsibilities regarding United States equipment, the United States senior officer shall respect the joint use arrangements envisaged in Article III of this Agreement.

5. The working relationship and procedures for consultation between the installation commander and the United States Senior Officer shall be mutually agreed by the Parties, taking into account the particularities of each installation.

ARTICLE VI

1. Agreed technical operations and related maintenance services and activities of the authorized installations shall be carried out jointly by Turkish and United States personnel. For this purpose, Turkish personnel shall be assigned by the Turkish authorities up to a level of fifty percent of the total strength required for such operations, services and activities.

2. The manning tables of the installations shall be consistent with the purpose and mission of the installations which have been approved by the Government of the Republic of Turkey. The distribution of manpower spaces for assignment by each party shall be determined jointly, by taking into account to the extent possible standard documents specifying current technical specialty and skill requirements. Turkish personnel above fifty percent of such manning requirements may

be assigned to specific installations by mutual agreement between the parties.

3. In the event that the Government of the Republic of Turkey elects not to man fully at the fifty percent level mentioned in paragraph 1 of this Article, United States personnel may be assigned by the appropriate United States authorities in order to fill any vacancies thus created, without prejudice to the Turkish basic right of participation. Any contemplated subsequent change in manning by Turkish personnel shall be communicated to the appropriate United States authorities one year in advance.

4. In furtherance of the Turkish participation objective referred to in this Article, needed training related to the technical activities of the installations, including training in the United States, shall be provided by the Government of the United States of America, to Turkish personnel assigned or to be assigned to the installations, in accordance with mutually agreed programs. Consistent with Article XIX of this Agreement, the training costs shall be borne by the Government of the United States of America.

ARTICLE VII

1. The purpose, mission, location, installation plan and the joint use arrangements of each installation authorized by the Government of the Republic of Turkey shall be further detailed by mutual agreement. These agreements shall also include authorized quantities of arms and ammunition, the authorized numbers of major items of equipment and the authorized strengths of the U.S. force and civilian component. Any increase in such authorized quantities, numbers and strengths shall be subject to prior approval by the appropriate Turkish authorities.

2. The appropriate authorities of the Government of the United States of America shall provide to the appropriate authorities of the Government of the Republic of Turkey quarterly reports on the changes occurring within the limits of the authorizations mentioned in paragraph 1 of this article, including the Turkish civilian personnel employed by the United States at the installations.

3. Construction of new buildings and other property incorporated in the soil at the installations and facilities, and demolition, removal, alteration or modernization which change the basic structure of such property, shall be subject to prior approval by the appropriate Turkish authorities.

4. Replacement of major items of equipment identified pursuant to paragraph 1 which upgrades or increases through modernization operational capability, and the introduction of new major items of equipment, shall be subject to prior approval by the appropriate Turkish authorities.

5. Any other kind of construction, alteration, modernization, maintenance and repair, except those routinely accomplished within local in-country maintenance capability, shall be subject to prior notification to the appropriate Turkish authorities.

ARTICLE VIII

1. Equipment for the United States force, and reasonable quantities of provisions, supplies and other goods for the exclusive use of the United States force, its members, civilian component and dependents, may be imported into and exported from Turkey in accordance with the provisions of the "Agreement Between the Parties of the North Atlantic Treaty Regarding the Status of Their Forces" dated June 19, 1951, and the provisions of the subsequent paragraphs of this Article.

2. The importation into and transfer within Turkey of arms and ammunition shall be subject to prior approval by the appropriate Turkish authorities, and shall be accomplished with safeguards and protections as mutually agreed. Special procedures shall be established for the customs control of arms and ammunition. As for procedures regarding customs control of equipment and material of classified nature, they shall be established through appropriate consultations between the parties.

3. The importation into Turkey of major items of equipment shall be subject to prior notification to the appropriate Turkish authorities.

4. So long as operations at an installation continue under this Agreement, arms and ammunition, and major items of equipment needed for the operation of the installation will not be removed from Turkey without prior consultation between the appropriate authorities of the parties, and no removal will be effected which would prejudice the mission of the North Atlantic Treaty Organization.

5. The appropriate Turkish authorities shall be notified by manifest of the importation, exportation and in-country movement of equipment, provisions, supplies and other goods.

ARTICLE IX

The procedures regarding admittance to the installations shall be mutually agreed by the appropriate authorities of the parties.

ARTICLE X

All intelligence information including raw data produced by the installations shall be shared fully by the two Governments in accordance with mutually agreed procedures. Appropriate United States and Turkish authorities will develop a mutual intelligence requirements program which shall form the basis of the functional assignment of intelligence technical operations and responsibilities.

ARTICLE XI

The activities of the installations authorized by this Agreement should be coordinated in such a manner as to avoid interference between such activities and the activities of other local military and civilian installations, and to avoid damage to life and property. Should any interference arise between the installations and other local military and civilian installations, the United States and Turkish authorities shall cooperate in order to take practicable measures to eliminate such interference.

ARTICLE XII

1. State-owned land areas, including all improvements, utilities, easements and rights of way already allocated by the Government of the Republic of Turkey to the United States of America on the effective date of this Agreement shall continue to be available for the purposes of this Agreement without costs to or claims against the United States of America, without prejudice to the ownership of the Government of the Republic of Turkey of such land areas, improvements, utilities, easements and rights of way.

2. The provisions of paragraph 1 of this Article shall not relieve the Government of the United States of America from any obligation it might have with regard to the settlement of claims of private landowners for any expropriated property rights, and are without prejudice to the terms of existing non-intergovernmental lease contracts under which certain facilities are provided to the United States of America for the purposes of this Agreement.

3. All non-removable property, including property incorporated in the soil, constructed or installed by or on behalf of the United States on the land areas allocated by the Government of the Republic of Turkey for the purposes of this Agreement shall from the date of its construction or installation, become the property of the Government of the Republic of Turkey. The provisions of this paragraph are without prejudice to the right of the United States and its personnel to use such property, according to the joint use arrangements to be mutually agreed pursuant to Article VII, paragraph 1.

4. In case of termination of this Agreement, or when the activity of any installation is terminated, the property mentioned in paragraph 3 of this Article shall be transferred to the Government of the Republic of Turkey. Buildings so transferred shall include basic utility systems and other fixtures permanently installed in or affixed to the building. The appropriate authorities of the parties shall mutually determine whether there exists any residual value of such property. If so, the United States will be compensated for the residual value in an amount to be determined by mutual agreement between the appropriate authorities of the Government of the United States of America and the authorities of the Government of the Republic of Turkey taking into account past practices between the two Governments regarding residual value.

5. The Government of the Republic of Turkey shall have the right of priority to acquire, in accordance with arrangements to be agreed upon, any equipment, materials and supplies imported into or acquired in Turkey by or on behalf of the United States for the purposes of this Agreement, in the event such equipment, materials and supplies are to be disposed of by the Government of the United States of America.

ARTICLE XIII

1. Except as provided in paragraphs 2 and 3 of this Article, the costs of operation and maintenance and the costs of mutually agreed construction, modernization, alteration and repairs at the installations shall be met by the United States to further the purposes set forth in paragraph 1 of Article XIX of this Agreement.

2. Each party shall pay its own personnel costs.

3. The maintenance and repair costs of the premises exclusively utilized by Turkish personnel, such as living quarters, dining halls and social welfare premises, shall be met by the Government of the Republic of Turkey. The costs of any required additional construction, alteration, change and subsequent improvements to be made at those premises shall be met by the Government of the Republic of Turkey.

4. The costs of mutually agreed extension of local utilities provided by the Government of the Republic of Turkey to the perimeter of the installation areas shall be met by the Government of the United States of America.

ARTICLE XIV

Materials, equipment, supplies, services and civilian labor required by the Government of the United States of America for the purpose of this Agreement shall be procured in Turkey to the maximum practicable extent. In the implementation of this principle the parties shall consult each other.

ARTICLE XV

The force and civilian component of the United States of America and their dependents assigned or stationed in the territory of the Republic of Turkey for the purposes of this Agreement shall be subject to the

"Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces" dated June 19, 1951.

ARTICLE XVI

A joint use plan for the communications system in Turkey (Troposcatter and Line-of-Sight) shall be agreed upon by the Parties.

ARTICLE XVII

The deployment into or from Turkey and operations of rotational squadrons and related support units authorized to be stationed on the territory of the Republic of Turkey in accordance with given NATO defense plans, and their activities on Turkish territory shall be carried out in accordance with mutually agreed arrangements.

ARTICLE XVIII

The provisions of the Montreux Convention are reserved.

ARTICLE XIX

1. In the interest of further developing Turkish defense preparedness and enhancing the mutual security cooperation of both Governments under Article III of the North Atlantic Treaty, the Government of the United States of America shall supply, or finance the procurement by the Government of the Republic of Trukey of, defense articles, services and military technical training in accordance with mutually agreed programs as provided in the subsequent paragraphs of this Article. The defense support to be provided to the Republic of Turkey shall be effectuated in accordance with contractual obligations and with the general practices applicable to all other recipient countries.

2. The Government of the United States of America shall furnish defense support consisting of grants, credits and loan guaranties of $1,000,000,000 during the first four years this Agreement shall remain in effect. This amount shall be distributed evenly over this period in accordance with annual plans to be developed by the appropriate authorities of the two Governments. Unless otherwise mutually agreed, it is understood that the amount made available in each of these first four years may vary by up to 25 percent of the equal annual tranches of $250,000,000 provided that the total aggregate amount herein provided for shall be made available prior to the end of such four year period. For the first year the grant portion will be $75,000,000, and the total amount of the grant portion for the four year period will be not less than $200,000,000. Credits and guaranteed loans herein provided for shall be at interest rates comparable to the rates offered to other NATO countries for similar FMS credits and guaranteed loans. In furtherance of the objectives set forth in paragraph 1 of this Article, the Government of the United States is also prepared to make cash sales under its Foreign Military Sales Program of defense articles and services including spare parts, components and technical data for the operation and maintenance of defense articles furnished to the Government of Turkey by the United States Government, of types, quantities, and on terms to be mutually agreed, during the period for which this Agreement shall remain in force.

3. At least one year prior to the completion of the term of this Agreement and of the defense support program envisaged in paragraph 2 of this Article, or of any other programs which are subsequently agreed upon consistent with Article XXI, paragraph, 1, and pursuant to this paragraph, the parties shall consult to develop defense support programs as required for subsequent periods in accordance with their respective legal procedures. In the event such consultations fail to produce agreement on any such subsequent program or such program does not enter into force, upon completion of the term of the then-current program, the Government of the Republic of Turkey may elect not to extend the validity of this Agreement, in which case the provisions of paragraph 6 of Article XXI shall apply for the purposes of withdrawal and liquidation.

ARTICLE XX

1. In order to assure that the implementation of defense cooperation under this Agreement shall be consistent with the letter and spirit of this Agreement the appropriate authorities of the two Governments shall consult promptly to mutually resolve any differences which may arise concerning interpretation and implementation of this Agreement.

2. Any differences not so resolved within 30 days shall be referred for settlement to the Governments of the parties.

3. In the event that any difference referred for settlement to the governments of the parties is not resolved within a period of two months, either party may serve notice of 30 days to suspend the specific activity in dispute, pending resolution of the difference thereon. In such instances the parties shall, to the extent practicable, assure that this suspension does not affect activities which are not in dispute.

ARTICLE XXI

1. This Agreement shall come into effect on the date of an exchange of notes indicating the approval by both parties of the Agreement in accordance with their respective legal procedures. The Agreement shall remain in force for four years from its entry into force, and shall be extended for subsequent four-year periods, unless either party elects not to extend the validity of the Agreement pursuant to Article XIX, paragraph 3 thereof.

2. The parties shall consult at any time during the term of this Agreement, on the initiative of either, to consider its possible amendment.

3. Either party may terminate this Agreement upon notice in writing of one year.

4. In the event either party, during the four years this Agreement shall remain in force and during such subsequent periods as the parties may develop defense support programs pursuant to Article XIX, paragraph 3, concludes that the other party is not complying with or is unable to comply with the provisions of this Agreement, that party may issue a call for consultations between the two Governments. In the event agreement is not reached within a period of three months, either party may terminate this Agreement upon notice in writing of thirty days.

5. In the event of termination of non-extension of this Agreement, the provision of defense support under Article XIX shall be terminated on the effective date of termination or non-extension. In such event deliveries of defense services and articles with respect to which sales contracts have been entered into, or for which funds have been obligated, prior to that date shall not be interrupted.

6. In the event of termination or non-extension of this Agreement, the Government of the United States of America shall complete the process of its withdrawal and liquidation within one year after the effective date of termination or non-extension during which period this Agreement shall be considered to remain in force for the purposes of an orderly withdrawal and liquidation.

ARTICLE XXII

Done at Washington, in duplicate, in the English and Turkish languages, each of which shall be of equal authenticity, this 26th day of March, 1976.

For the Government of the United States of America: Henry A. Kissinger.

For the Government of the Republic of Turkey: ——— ———.

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DEPARTMENT OF STATE,
*Washington, D.C., April 7, 1976.*

His Excellency IHSAN SABRI CAGLAYANGIL,
*Minister of Foreign Affairs,*
*Republic of Turkey.*

EXCELLENCY: I have the honor to refer to the Defense Cooperation Agreement, signed March 26, 1976, by the Government of the Republic of Turkey and the Government of the United States of America, and to confirm that during the first four years the aforesaid Agreement is in force, the United States Government is prepared to do the following:

1. The United States Government will offer for sale to the Government of the Republic of Turkey, at the lowest prices consistent with applicable United States law, the following materiel from available stocks of the United States Department of Defense: 12 F-100F aircraft; 20 T-37 aircraft; 36 UH-1B and 36 UH-1H helicopters; 3 Gearing class destroyers; 2 Guppy III submarines; and a submarine rescue ship. Delivery of the above-described defense articles will be effected as expeditiously as practicable. The United States Government will also, on an expeditious basis, explore the possibility of providing a modern naval vessel to the Republic of Turkey, by sale from the available stocks of the Department of Defense at the lowest price consistent with applicable United States law.

2. The United States Government will also offer for sale to the Government of Turkey, at the lowest prices consistent with applicable United States law, 14 F-4E aircraft from available stocks of the Department of Defense. Four of these F-4E aircraft shall be delivered during each of three successive four month periods immediately following the entry into force of the aforesaid agreement, and the remaining two aircraft shall be delivered during the following three months. During this fifteen month period, the United States Government will offer for sale to the Government of Turkey, at a favorable price consistent with applicable United States law, F-4 aircraft from new procurement, with deliveries scheduled to be at a rate of four each month, beginning at the end of the 18-month period immediately following the entry into force of the aforesaid agreement.

3. The United States Government will provide, without cost to the Government of the Republic of Turkey, access to the United States Defense Satellite Communications System commencing in 1978, for communications between Turkey and Western Europe, including required ground terminal and related equipment. The number of circuits and items of equipment to be provided, and technical implementing arrangements shall be the subject of further agreement between the Governments.

4. The two Governments shall consult regarding mutual cooperation in the improvement and modernization of the Turkish defense communications system in furtherance of the purposes of the aforesaid Agreement and the North Atlantic Treaty.

It is understood that the above-mentioned undertakings of my Government are to be carried out consistent with the purposes set

forth in the first paragraph of Article XIX of the aforesaid Defense Cooperation Agreement, are not exclusive of additional arrangements which may be made by the parties pursuant to that Article, and are to be carried out in accordance with, and subject to, the provisions of that Agreement and with contractual obligations and the general practices applicable to all other recipient countries.

If the foregoing is acceptable to the Government of the Republic of Turkey, I have the honor to propose that this note, together with your Excellency's note in reply indicating such agreement, shall constitute an agreement between our two Governments and shall enter into and remain in force concurrently with the aforesaid Defense Cooperation Agreement.

HENRY A. KISSINGER.

Department of State, Washington, April 7, 1976.

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Hon. HENRY A. KISSINGER,
*Secretary of State,*
*Washington, D.C.*

MY DEAR SECRETARY: I have the honor to refer to your note, dated April 7, 1976, regarding the Defense Cooperation Agreement, signed on March 26, 1976 by the Government of the Republic of Turkey and the Government of the United States of America, which note provides as follows:

"Excellency:

"I have the honor to refer to the Defense Cooperation Agreement, signed March 26, 1976 by the Government of the Republic of Turkey and the Government of the United States of America, and to confirm that during the first four years the aforesaid Agreement is in force, the United States Government is prepared to do the following:

"1. The United States Government will offer for sale to the Government of the Republic of Turkey, at the lowest prices consistent with applicable United States law, the following materiel from available stocks of the United States Department of Defense: 12 F-100F aircraft; 20 T-37 aircraft; 36 UH-1B and 36 UH-1H helicopters; 3 Gearing class destroyers; 2 Guppy III submarines; and a submarine rescue ship. Delivery of the above-described defense articles will be effected as expeditiously as practicable. The United States Government will also, on an expeditious basis, explore the possibility of providing a modern naval vessel to the Republic of Turkey, by sale from the available stocks of the Department of Defense at the lowest price consistent with applicable United States.

"2. The United States Government will also offer for sale to the Government of Turkey, at the lowest prices consistent with applicable United States law, 14 F-4E aircraft from available stocks of the Department of Defense. Four of these F-4E aircraft shall be delivered during each of three successive four month periods immediately following the entry into force of the aforesaid agreement, and the remaining two aircraft shall be delivered during the following three months. During this fifteen month period the United States Government will offer for sale to the Government of Turkey at a favorable price consistent with applicable United States law F-4 aircraft from new procurement, with deliveries scheduled to be at a rate of four each month, beginning at the end of the 18-month period immediately following the entry into force of the aforesaid agreement.

"3. The United States Government will provide, without cost to the Government of the Republic of Turkey, access to the United States Defense Satellite Communications System commencing in 1978, for communications between Turkey and Western Europe including required ground terminal and related equipment. The number of circuits and items of equipment to be provided, and technical implementing arrangements shall be the subject of further agreement between the Governments.

"4. The two Governments shall consult regarding mutual cooperation in the improvement and modernization of the Turkish defense communications system in furtherance of the purposes of the aforesaid Agreement and the North Atlantic Treaty.

"It is understood that the above-mentioned undertakings of my Government are to be carried out consistent with the purposes set forth in the first paragraph of Article XIX of the aforesaid Defense Cooperation Agreement, are not exclusive of additional arrangements which may be made by the parties pursuant to that Article, and are to be carried out in accordance with, and subject to, the provisions of that Agreement and with contractual obligations and the general practices applicable to all other recipient countries.

"If the foregoing is acceptable to the Government of the Republic of Turkey, I have the honor to propose that this note, together with your Excellency's note in reply indicating such agreement, shall constitute an agreement between our two Governments and shall enter into and remain in force concurrently with the aforesaid Defense Cooperation Agreement."

I have the honor to confirm that the foregoing note is acceptable to the Government of the Republic of Turkey and, therefore, that note and this reply shall constitute an agreement between our two Governments which shall enter into and remain in force concurrently with the aforesaid Defense Cooperation Agreement.

Ankara, April 13, 1976.

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## ADDITIONAL COSPONSORS

S. 3074

At the request of Mr. EASTLAND, the Senator from Florida (Mr. STONE) was added as a cosponsor of S. 3074, to amend the Immigration and Nationality Act.

S. 3182

At the request of Mr. TAFT, the Senator from Oregon (Mr. HATFIELD) and the Senator from Utah (Mr. Garn) were added as cosponsors of S. 3182, a bill to amend the Occupational Safety and Health Act of 1970.

AMENDMENT NO. 1829

At the request of Mr. INOUYE, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of Amendment No. 1829, intended to be proposed to H.R. 10216, a bill to reform the tax laws of the United States.

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## SENATE RESOLUTION 472—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE PRINTING OF "PROGRESS IN THE PREVENTION AND CONTROL OF AIR POLLUTION IN 1975"

(Referred to the Committee on Rules and Administration.)

Mr. RANDOLPH submitted the following resolution:

S. RES. 472

*Resolved,* That the annual report of the Administrator of the Environmental Protection Agency to the Congress of the United States (in accordance with section 313 of Public Law 91-604, the Clean Air Act, as amended) entitled, "Progress in the Prevention and Control of Air Pollution in 1975," be printed, with illustration, as a Senate document.

SEC. 2. There shall be printed five hundred additional copies of such document for the use of the Committee on Public Works.

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## SENATE RESOLUTION 473—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF SENATE JOINT RESOLUTION 201

(Referred to the Committee on the Budget.)

Mr. RANDOLPH (for Mr. BUCKLEY), from the Committee on Public Works, reported the following original resolution:

S. RES. 473

*Resolved,* That pursuant to section 402(c) of the Congressional Budget and Impoundment Control Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S.J. Res. 201. Such waiver is necessary because S.J. Res. 201, "Operation Sail", was reported to the Senate on June 18, 1976. The reporting of this measure was necessary because of an emergency that developed in New York Harbor after the May 15 deadline for reporting authorizing legislation.

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## AMENDMENTS SUBMITTED FOR PRINTING

### ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AUTHORIZATIONS—S. 3105

AMENDMENT NO. 1888

(Ordered to be printed and to lie on the table.)

Mr. McINTYRE. Mr. President, today I am submitting an amendment to the bill, S. 3105, to authorize appropriations to the Energy Research and Development Administration, that would provide a 20-percent set-aside for small business and individual inventors of ERDA's research and development money for solar energy.

Senators NELSON, HATHAWAY, MANSFIELD, KENNEDY, BROOKE, PELL, HUMPHREY, DURKIN, CASE, LEAHY, ABOUREZK, LAXALT, SCHWEIKER, MCGOVERN, JAVITS, CRANSTON, STAFFORD, BAYH, PACKWOOD, RIBICOFF, BAKER, BEALL, MORGAN, GARY HART, PASTORE, TUNNEY, CULVER, and MUSKIE are joining with me as cosponsors of this legislation.

On January 19, 1976, I introduced the Energy Research and Development Free Enterprise Act, S. 2845, which has been cosponsored by Senators HATHAWAY, NELSON, ABOUREZK, JAVITS, BROOKE, PELL, BUMPERS, HATFIELD, KENNEDY, HUMPHREY, GARY HART, HASKELL, MOSS, BAKER, CRANSTON, PHILIP A. HART, MCGOVERN, SPARKMAN, LEAHY, STAFFORD, NUNN, SCHWEIKER, and my colleague from New Hampshire, JOHN DURKIN. An identical

measure in the House of Representatives has over 25 cosponsors.

Section 203 of S. 2845, provides that the Energy Research and Development Administration shall provide a 50-percent set-aside for small business in its solar programs and a 20-percent set-aside in its total energy research and development budget.

When I introduced that legislation in January, I noted that "since World War II, the Federal Government has awarded over $270 billion in R. & D. money."

According to the National Science Foundation, big business received about 90 percent of Federal R. & D. funds between 1957 and 1972. Have we ever stopped to think of the political, economic and social consequences of doling out hundreds of billions of dollars to giant corporations? Have we ever considered the effects of these policies on our free enterprise system and our small business community?

Mr. President, I have said many times that we need to reduce concentration and increase competition in the energy industries. In 1972, I introduced the first bill in over 30 years to force divestiture of the big oil barons. We have seen support for measures like this continue to grow. In early 1974, I suggested before an audience of oil jobbers and marketers that we consider setting up a domestic development bank for energy and natural resources to help small businesses participate in the Nation's energy R. & D. effort.

Today, I am proposing a positive program designed to reverse the historical pattern of cartelization and monopolization, merely by unleashing the enormous productive power of our free enterprise system.

In the emerging solar energy industry over 70 percent of Federal R. & D. funds to profitmaking corporations was awarded during the last 2 years to companies ranking among the 200 largest in the Nation. Less than 6 percent went to small firms. Yet, small business is primarily responsible for most of the technological developments in the industry.

The Energy Research and Development Free Enterprise Act of 1976 would assure that small business participate in the Nation's R. & D. effort.

Small businesses and individual inventors would receive a minimum of 20 percent of ERDA funding dollars—50 percent in the solar energy program. With this set-aside, ERDA would retain the flexibility to determine the best level of small business participation in each of its programs and prevent big business from getting more than its fair share. Let it be emphasized that 20 percent is a minimum figure.

I also noted when I introduced that legislation that the solar energy program is well suited to small business participation because of its potential for diverse and decentralized applications. Guaranteeing a certain amount of funds for small business, I said, would do three things. First, it would generate the entry of new firms; and second, increase competition; and third, stimulate the development of mass production techniques.

This past weekend, when I attended the annual convention of the Solar Energy Industries Association here in Washington, I saw that the solar energy industry has just about reached a takeoff point in development. Many of the companies which are working for the development of solar energy are small companies, badly in need of Government help, be it in the form of tax credits, low interest loans, or research and development money.

There is no doubt that there is a huge market for solar energy in this country. A recent statement by the President of the Solar Energy Industries Association, which I ask unanimous consent be inserted in the RECORD at the end of my remarks, shows that we have a potential to save over 1 million barrels of oil per day in the next 15 years if we embark on a rapid solar energy development course.

But to reach this goal we will need to produce, install, and mantain solar water heaters on 65 percent of the new residential construction of the next 15 years, 30 percent of existing residential construction, and 11.3 percent of the nonresidential buildings in the country. It will mean that 42 percent of the new residential construction in the country will need solar heating in 15 years, and 3.5 percent of existing residences will have to be so equipped. Office space will need solar heating. Air conditioning will take off much more slowly, but 210,000 solar home air conditioners are a possibility by the beginning of the 1990's.

Clearly, small business will have a role to play in this development and it will need money to increase solar efficiencies at the same time it works on solar electricity and other new forms of energy.

Today, I am not proposing that we require that ERDA spend 50 percent of its budget on solar energy, though some figures show that ERDA may have gone above the level already.

Instead, I am submitting an amendment that will provide a floor for ERDA. We should insure that a certain amount of money goes to small business and individual inventors through a set-aside rather than leaving it up to the Energy Research and Development Administration to decide how to spend the money we authorize.

When the Interior Subcommittee on Energy Research and Water Resource began its work on this bill, S. 3105, last March, I submitted a statement urging that the committee implement several of the provisions of S. 2845, cosponsored by four members of the Interior Committee.

My statement before the Interior Subcommittee was drawn on my experience cochairing hearings through the Select Committee on Small Business with Senators NELSON and HATHAWAY on energy research and development and small business, concentrating on solar energy development.

I outlined the major findings of the committee. The committee, for instance, found that ERDA should structure its policies and award research, development and demonstration contracts in a manner and to companies that will best serve the goal of increasing and maintaining a free competitive climate and avoiding excessive concentration in any of the emerging solar energy industries. Secondarily, we found that ERDA and other agencies should work to make sure that retrofitting of buildings, especially residences, with solar equipment should be undertaken with all due speed in all practical cases.

In my statement, I further outlined the budget cuts made by the Energy Research and Development Administration in its solar energy division budget proposal, and the still larger cuts made by the Office of Management and Budget before the budget was submitted to Congress. I am pleased to note that the Interior Committee and the House of Representatives have not accepted these budget cuts and have increased the budgets for solar energy and other research programs.

However, I would like to stress that the Senate can add strength to these budgets by mandating that at least 20 percent of the increased funds we are authorizing should be spent on small business contracts.

Some will say this is not necessary. For instance, when debate began in the House on bill H.R. 13350, on May 19, several Congressmen introduced an amendment to the bill that would provide a 20-percent set-aside for small business in solar energy research.

But, instead of voting on that amendment, the House voted on a substitute amendment that dramatically raised the solar energy research budget, but left out the small business set-aside.

While I think that increased research moneys are necessary, I do believe that we should make sure that a set percentage of that money goes to small business. Spending 50 percent of a small budget with small business is fine, but what happens when the budget gets large? Does small business get the same dollar amount and see its percentage shrink? If we authorize over $300 million for solar energy should not the dollar amount going to small business increase drastically over this year's dollar amount? A 20-percent set-aside is the only way that I know of to make sure that ERDA spends the proper dollar amount with small business. We cannot see all the money go to big businesses.

I was pleased to note that the Interior Committee in its report accompanying the bill stated that congressional committees should have information to oversee the contracts that ERDA makes, including its grants to small business. But I believe that small business setasides are the only way to make sure that small business receives a continuing share of the ERDA funds that are available for research.

This year, for instance, the committee reports ERDA's findings that it made a total of $196,058,000 in prime contracts to small business firms, and that in the solar energy division this amount was substantially higher. In the figures provided to Representative GEORGE BROWN that substantially higher figure was 80 percent. But as I noted above, what happens next year? Will small business get 80 percent of over $300 million? I do not think so, unless we tell ERDA to make sure it will.

I ask unanimous consent that the text of my amendment be printed in the RECORD at this point, together with the paper presented by Sheldon H. Butt, president of the Solar Energy Industries Association.

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

AMENDMENT NO. 1888

On page 20, line 23, insert the following:

SEC. 206. (a) Notwithstanding any other provision of law, at least 20 per centum of the total amount of funds made available pursuant to this title for energy programs in the area of solar energy technology shall be available exclusively to small business concerns and individual inventors.

(b) For purposes of this subsection (a)—

(1) the term "small business concern" has the meaning given it by the Administrator of the Small Business Administration under—

(A) section 3 of the Small Business Act (Public Law 85-536; 72 Stat. 384); or

(B) section 103(5) of the Small Business Investment Act of 1958 (Public Law 85-699; 72 Stat. 690); and

(2) the term "individual inventor" means any individual who is under no obligation to transfer to any other person or any government or governmental agency any interest in any invention, discovery, or other property with respect to which such individual seeks any contract or other assistance in any energy program in the area of solar energy technology.

SOLAR HEATING AND COOLING, A DEVELOPING MARKET, PRESENTED TO THE SOLAR ENERGY INDUSTRIES ASSOCIATION

Second Annual Meeting, Washington, D.C., June 12, 1976, Presented by S. H. Butt, President, S.E.I.A.

Solar heating of building space and domestic hot water are available technologies now economically viable for many applications. Commercially produced hardware is being sold in the commercial market by an increasing number of manufacturers, both small and large. Solar air-conditioning is technically feasible and equipment is commercially available. However, solar air-conditioning is not economically viable in other than a very few and somewhat specialized applications. The engineering development work needed to reduce cost is underway and we may reasonably predict significant cost improvement in a very few years. Coupled with the inevitability of continuing increases in the market prices for conventional energy, the economic feasibility of solar air-conditioning is only a matter of time—a few years.

It is the purpose of this paper to project market development and market growth for these solar applications over the next fifteen years.

The applications involved—space heating, heating domestic hot water and air-conditioning for residential, commercial and industrial applications—presently account for somewhat over 20% of the total energy consumption in the United States. It is expected that solar energy can capture a substantial share of these markets in the next ten or fifteen years and thereby make an important contribution to resolving our Nation's energy problems. This is particularly true since oil and natural gas, the two particularly scarce energy resources, are the principal fuels used in these applications. Much of the electrical energy which is also used in these applications is presently generated by burning oil or natural gas. It is anticipated that, within fifteen years, solar energy can replace 1,000,000 barrels of crude oil per day (or its equivalent). This will represent 15% to 20% of our continuing energy imports (primarily foreign oil) otherwise required, even after credit is taken for planned accelerated development of other "new" and existing conventional energy resources and for the probable effect of accelerated conservation efforts.

BASIS FOR PROJECTIONS

Our projections are based upon our belief that Congress, the Federal Government and State and local Governments will undertake comprehensive and aggressive programs designed to support accelerated utilization of the solar resource. These programs and their justification have been discussed in other papers at this meeting. At present, current Congressional action leads us to expect that the initial key elements of an aggressive and comprehensive Federal program will be enacted in the near future. If they are not, and should we be disappointed, industry development will proceed substantially more slowly. Ultimately, solar heating applications will reach and exceed the 1,000,000 barrels per day of crude oil equivalent but at a much later date.

One of the important characteristics of solar systems is that, once purchased, they "fix" the cost of the energy they produce at a level equal to the carrying cost of the capital investment required. Thus, they represent a form of "inflation insurance." Therefore, it is important to note that these projections are based upon the expectation that general inflation will average 5 percent per year and further, that escalation in electric energy prices will be 2½ percent per year higher than the general rate of inflation and that escalation in heating oil and natural gas prices will be 5 percent per year greater than the general inflation rate.

Most economists anticipate that inflation will average 5 percent to 6 percent per year. Inflation in this range appears to be "institutionalized" within our economic structure. There is little, if any, honest expectation that inflation rates will be lower. There is significant danger that they might be higher in the event of future worldwide food crises or in the event that the O.P.E.C. nations elect to become less restrained and more predatory in their crude oil pricing policies.

The 2½ percent higher escalation rate projected for electric energy costs is based upon the expectation that primary fuel costs, after allowing for inflation, will continue to increase and upon the reality that new generating capacity costs a great deal more than existing capacity. As new capacity is added to the mix, the average cost of all existing capacity included in the utility rate base increases and rates correspondingly increase.

Projected escalation in fuel oil prices is based on the expectation that, first of all, the O.P.E.C. nations will raise prices to keep up with worldwide inflation (which is higher elsewhere than in the United States) and that the prices of domestically produced crude oil will continue to increase, eventually reaching the "world price" level. This will increase the average price paid by U.S. refineries for crude oil.

RESIDENTIAL SOLAR WATER HEATERS

Solar water heaters will become a major market factor most rapidly. There are several reasons. Hot water requirements are year-round and thus, the user's investment in a solar water heater achieves maximum utilization. Solar water heater installations are small as compared to space heating installations. The task of finding a suitable place to install the collector in a retrofit water heater installation is relatively simple. Furthermore, a normal solar hot water heater installation consists of the collector system and its associated controls and other hardware, and a solar hot water storage tank placed in series with a conventional hot water heater. To make a retrofit installation, it is only necessary to make a modest change in the plumbing so that the solar hot water storage tank is placed in the line ahead of the existng conventional water heater. A solar hot water heater, which can be conveniently added to existing structures as a retrofit installation, commands a large market potential. During the earlier years of solar market development, while the total number of solar installations is still modest and long term operating experience is lacking, the fact that the user's investment in a solar water heater is small as compared to a solar space heating investment, will lead many users to limit their risk by investing only in a water heater.

The currently proposed Federal incentive legislation offers a larger tax credit for water heaters than for space heating since it provides a 40% tax credit for the first $1,000 invested by the homeowner and 25% for the next $6,400. The tax credit for a water heater costing $1,200 is $450 or 37.5% of the total cost, while the tax credit on a $6,000 residential space heating system is $1,650 or 27.5% of the total cost.

The table which follows details our projection of residential solar water heater sales in new construction and for retrofit:

RESIDENTIAL SOLAR WATER HEATERS

| Year | New construction: Market penetration (percent) | New construction: Solar water heaters, (thousands of units)[1] | Retrofit: Market penetration (percent): Year | Retrofit: Market penetration (percent): Cumulative | Retrofit: Solar water heaters, (thousands of units)[1] | Total (thousands of units) |
|---|---|---|---|---|---|---|
| 1 | 0.5 | 9 | 0.03 | 0.03 | 21 | 30 |
| 2 | 2.0 | 36 | .10 | .13 | 72 | 98 |
| 3 | 3.5 | 64 | .25 | .38 | 183 | 247 |
| 4 | 5.5 | 102 | .60 | .98 | 444 | 546 |
| 5 | 8.0 | 152 | 1.00 | 1.98 | 750 | 902 |
| 6 | 11.0 | 211 | 1.32 | 3.3 | 1,003 | 1,214 |
| 7 | 15.0 | 291 | 1.70 | 5.0 | 1,309 | 1,600 |
| 8 | 20.0 | 392 | 2.0 | 7.0 | 1,560 | 1,952 |
| 9 | 25.0 | 495 | 2.3 | 9.3 | 1,817 | 2,312 |
| 10 | 30.0 | 600 | 2.7 | 12.0 | 2,160 | 2,760 |
| 11 | 36.0 | 727 | 3.1 | 15.1 | 2,511 | 3,238 |
| 12 | 44.0 | 898 | 3.4 | 18.5 | 2,788 | 3,686 |
| 13 | 52.0 | 1,071 | 3.65 | 22.15 | 3,030 | 4,101 |
| 14 | 59.0 | 1,227 | 3.85 | 26.0 | 3,234 | 4,461 |
| 15 | 65.0 | 1,365 | 4.00 | 30.0 | 3,400 | 4,765 |

[1] 1 unit equals the water heater for one dwelling unit. An installation to provide hot water for 10 units in a multiple family apartment is counted as 10 units.

As in the case of subsequent tables, "Year 1" is the first full year after the Government programs which have been called for by S.E.I.A. have been enacted and implemented. If this is accomplished in 1976, "Year 1" is 1977.

The next table converts unit sales of residential solar water heaters into dollar sales, expressed in 1976 dollars (without further inflation), and also shows the barrels of crude oil or its equivalent which will be saved through their use. Since fuel savings depend upon the cumulative number of units installed, the cumulative total installed is given:

RESIDENTIAL SOLAR WATER HEATERS

| Year | Solar water heaters installed (thousands of units) | | Dollar value (1976 dollars) of units installed in the year (millions) | Barrels of crude oil (or equivalent) saved | |
|---|---|---|---|---|---|
| | Year | Cumulative | | Per year | Per day |
| 5 | 902 | 1,833 | $795 | 6,844,000 | 18,750 |
| 10 | 2,760 | 11,671 | 2,165 | 44,530,000 | 122,000 |
| 15 | 4,765 | 31,922 | 3,500 | 121,180,000 | 332,000 |

NONRESIDENTIAL SOLAR WATER HEATERS

Although residential applications are the major potential markets for solar water heaters, substantial market potential exists in nonresidential applications, including:

Schools

Hospitals

Office Buildings

Laundries

Car Washes

Other businesses using hot water

Initial significant penetration of this market is expected to be somewhat slower than in the case of residential water heaters. One reason is the very diverse nature of the market and the fact that many of the individual applications are highly specialized. In the long run, market penetration is expected to be substantial since in the present regulatory climate, many areas of energy consumption by "business" are more subject to curtailment and reduced allocation of scarce fuels during periods of shortage than are residential users. For example, regulatory bodies may well consider that energy required for heating domestic hot water for use in office buildings or energy required for heating hot water used in car washes is relatively nonessential. Our market projection for solar water heating for nonresidential applications follows:

NONRESIDENTIAL SOLAR WATER HEATERS

| Year | Energy consumption, $10^{15}$ Btu/year | Market penetration (percent) | | Square feet of standard solar collectors installed (thousands) |
|---|---|---|---|---|
| | | Year | Cumulative | |
| 1 | 0.61 | 0.0005 | 0.0005 | 7.6 |
| 2 | .63 | .001 | .0015 | 16.0 |
| 3 | .65 | .003 | .0045 | 48.8 |
| 4 | .67 | .01 | .0145 | 167.5 |
| 5 | .69 | .03 | .0445 | 517.5 |
| 6 | .71 | .08 | .12 | 1,420 |
| 7 | .73 | .16 | .28 | 2,920 |
| 8 | .75 | .32 | .59 | 6,000 |
| 9 | .77 | .6 | 1.18 | 11,550 |
| 10 | .80 | 1.0 | 2.13 | 20,000 |
| 11 | .82 | 1.4 | 3.48 | 28,700 |
| 12 | .84 | 1.7 | 5.10 | 35,700 |
| 13 | .87 | 2.0 | 6.92 | 43,500 |
| 14 | .90 | 2.3 | 9.00 | 51,700 |
| 15 | .92 | 2.5 | 11.3 | 57,500 |

In turn, we have converted unit sales (expressed as the square feet of "standard" solar collectors used in the system) into dollar sales for complete systems, and we have also tabulated the crude oil or its equivalent replaced by solar energy. This tabulation follows:

NONRESIDENTIAL SOLAR WATER HEATERS

| Year | Square feet of standard solar collectors installed (thousands) | | Dollar value (1976 dollars) of units installed in the year (millions) | Barrels of crude oil (or equivalent saved | |
|---|---|---|---|---|---|
| | Year | Cumulative | | Per year | Per day |
| 5 | 517.5 | 757.4 | $8 | 58,400 | 160 |
| 10 | 20,000 | 42,600 | 250 | 3,285,000 | 9,000 |
| 15 | 57,500 | 259,800 | 635 | 20,075,000 | 55,000 |

RESIDENTIAL SOLAR SPACE HEATING

We expect that the solar space heating market will develop more slowly than the solar water heater market. However, as time goes on and as conventional energy costs rise and as the public becomes more familiar with solar applications, space heating will begin to catch up with water heating. Because of the larger size of solar space heating installations, market prospects for retrofit solar space heating in residences will never be as good as prospects for retrofit solar water heaters. The integration of residential solar space heating with existing heating facilities in retrofit more often presents technical difficulties than do retrofit solar water heaters.

In most cases, solar space heating will be combined with solar domestic hot water heating—there will be few solar systems which are intended for heating only and do not also generate hot water. To simplify presentation of our projections, the dollar figures and crude oil saving figures presented represent only the additional sales value attributable to solar space heating itself and the additional crude oil savings resulting from solar space heating. The information presented is additive to the solar water heater projections. For example, we project 30,000 residential solar space heating installations in the fifth year in new construction and 152,000 solar water heaters in new residential construction. This means that there will be 30,000 installations made which perform the functions of both space heating and water heating and 122,000 which are water heaters only. Our projections follow:

RESIDENTIAL SOLAR SPACE HEATING

| Year | New construction | | Retrofit | | | Total (thousands of units |
|---|---|---|---|---|---|---|
| | Market penetration (percent) | Solar space heaters (thousands of units)[1] | Market penetration (percent) | | Solar space heaters (thousands of units)[1] | |
| | | | Year | Cumulative | | |
| 1 | 0.1 | 2 | 0.0006 | 0.0006 | 0.4 | 2.4 |
| 2 | .2 | 4 | .0012 | .002 | .9 | 4.9 |
| 3 | .4 | 7 | .0024 | .004 | 1.8 | 8.8 |
| 4 | .8 | 15 | .005 | .009 | 3.7 | 18.7 |
| 5 | 1.6 | 30 | .01 | .019 | 7.5 | 37.5 |
| 6 | 3.2 | 61 | .02 | .039 | 15.2 | 76.2 |
| 7 | 6.0 | 116 | .04 | .078 | 30.8 | 147.4 |
| 8 | 11.0 | 216 | .09 | .17 | 70.2 | 286.2 |
| 9 | 18.0 | 356 | .2 | .37 | 158.0 | 514.0 |
| 10 | 24.0 | 480 | .4 | .76 | 320.0 | 800.0 |
| 11 | 30.0 | 606 | .7 | 1.45 | 567.0 | 1,173.0 |
| 12 | 35.0 | 714 | 1.2 | 2.63 | 984.0 | 1,698.0 |
| 13 | 38.0 | 783 | 2.0 | 4.60 | 1,660.0 | 2,443.0 |
| 14 | 40.0 | 832 | 2.8 | 7.35 | 2,352.0 | 3,184.0 |
| 15 | 42.0 | 882 | 3.5 | 10.76 | 2,975.0 | 3,857.0 |

[1] 1 unit equals the water heater for 1 dwelling unit. An installation to provide hot water for 10 units in a multiple family apartment is counted as 10 units.

The following table converts unit sales into dollar sales and into barrels of crude oil or its equivalent saved:

RESIDENTIAL SOLAR SPACE HEATING

| Year | Solar space heaters installed (thousands of units) | | Dollar value (1976 dollars) of units installed in the year (millions) | Barrels of crude oil (or equivalent) saved | |
|---|---|---|---|---|---|
| | Year | Cumulative | | Per year | Per day |
| 5 | 7.5 | 14.3 | 120 | 912,500 | 2,500 |
| 10 | 320 | 608.5 | 2,300 | 25,550,000 | 70,000 |
| 15 | 2,975 | 9,147 | 10,800 | 173,375,000 | 475,000 |

NONRESIDENT SOLAR SPACE HEATING

As in the case of nonresidential water heating, nonresidential solar space heating will lag behind residential space heating. In part, this is the result of the complexity of the market. In many cases, the air-conditioning load in nonresidential structures is larger and more important than the heating load. In many such instances, space heating will come along with air-conditioning. In the longer term, good penetration of this market is expected and again, particularly because of the greater vulnerability of many segments of this market to curtailment and allocation of conventional energy resources. Our projection for nonresidential space heating follows:

NONRESIDENTIAL SOLAR SPACE HEATING

| Year | Energy consumption, $10^{15}$ Btu/Year | Market penetration (percent) | | Square feet of standard solar collectors installed (thousands) |
|---|---|---|---|---|
| | | Year | Cumulative | |
| 1 | 4.28 | 0.0002 | 0.0002 | 29 |
| 3 | 4.37 | .0004 | .0006 | 60 |
| 3 | 4.45 | .0008 | .0014 | 123 |
| 4 | 4.54 | .002 | .0034 | 311 |
| 5 | 4.63 | .005 | .0083 | 793 |
| 6 | 4.73 | .015 | .023 | 2,430 |
| 7 | 4.82 | .035 | .058 | 5,778 |
| 8 | 4.92 | .07 | .13 | 11,796 |
| 9 | 5.01 | .12 | .24 | 20,591 |
| 10 | 5.11 | .20 | .44 | 35,004 |

NONRESIDENTIAL SOLAR SPACE HEATING—Continued

| Year | Energy consumption, $10^{15}$ Btu/Year | Market penetration (percent) | | Square feet of standard solar collectors installed (thousands) |
|---|---|---|---|---|
| | | Year | Cumulative | |
| 11 | 5.22 | .35 | .78 | 62,575 |
| 12 | 5.32 | .6 | 1.37 | 109,326 |
| 13 | 5.43 | .9 | 2.24 | 167,380 |
| 14 | 5.54 | 1.3 | 3.49 | 246,669 |
| 15 | 5.65 | 1.7 | 5.13 | 328,971 |

Note: The following table converts square footage of "standard" collector into dollar volume of the complete solar systems in 1976 dollars (excluding inflation) and to barrels of crude oil or equivalent saved per day:

| Year | Solar space heating installed (thousands of square feet of standard collectors) | | Dollar volume (1976 dollars) of units installed in the year (millions) | Barrels of crude oil (or equivalent) saved | |
|---|---|---|---|---|---|
| | Year | Cumulative | | Per year | Per day |
| 5 | 800 | 1,300 | 16 | 73,000 | 200 |
| 10 | 35,000 | 77,000 | 600 | 4,380,000 | 12,000 |
| 15 | 330,000 | 992,000 | 5,000 | 54,750,000 | 150,000 |

SOLAR AIR-CONDITIONING

Air-conditioning, for both residential and nonresidential application, will be the slowest developing solar application. Although technically suitable solar air-conditioning equipment is now available, it is cost-effective only in a very limited range of applications. Additional engineering development is required to reduce cost and increase efficiency so as to broaden potential market base. Of course, the rising cost of conventional energy sources will also contribute to eventually making solar air-conditioning broadly cost-effective.

Residential air-conditioning applications will grow more slowly than nonresidential. This presents a contrast to the water heating and space heating market in which residential applications are expected to grow the most rapidly. The "cooling season" for commercial buildings, such as stores and office buildings, is longer than the residential cooling season. Thus, in these important markets, the solar equipment will be better utilized than in residential applications. In the southern part of the country, air-conditioning of stores and office buildings is very nearly a year-round load. The majority of nonresidential air-conditioning systems are chilled water systems in which the "product" of the air-conditioning machinery is chilled water. These systems lend themselves to retrofit with a solar unit in which the collectors and solar heat driven chiller supplement the existing conventional equipment. In some cases, only the solar collection system must be added since a substantial number of heat actuated chillers are now in use. Finally, the typical solar driven, heat actuated chiller requires the use of a cooling tower. Cooling towers are now widely used for heat rejection in commercial air-conditioning installations but are not generally used in residential installatons. The operating complexity imposed by the cooling tower is not a material deterrent to the use of solar air-conditioning in nonresidential applications. It is a meaningful deterrent in the case of the residential applications, particularly so in single-family residences.

Our projection for residential solar air-conditioning installations follow. As in the case of residential space heating and residential water heating, the figures are additive to those for space heating and water heating. For example, in the tenth year in which we project 30,000 residential solar air-conditioning installations, 800,000 solar space heaters and 2,760,000 residential solar water heaters, this means 30,000 residential systems with solar air-conditioning, space heating and water heating; 770,000 with space heating and water heating and 1,960,000 water heaters alone. Our projections follow:

RESIDENTIAL SOLAR AIR-CONDITIONING

| Year | Solar air-conditioner installed (thousands) [1] | Market penetration (percent) |
|---|---|---|
| 1 | 0.01 | 0.0006 |
| 2 | 0.02 | 0.0011 |
| 3 | 0.04 | 0.0022 |
| 4 | 0.08 | 0.0043 |
| 5 | 0.20 | 0.011 |
| 6 | 0.77 | 0.04 |
| 7 | 2.9 | 0.15 |
| 8 | 7.8 | 0.4 |
| 9 | 15.8 | 0.8 |
| 10 | 30.0 | 1.5 |
| 11 | 50.5 | 2.5 |
| 12 | 81.6 | 4.0 |
| 13 | 124.0 | 6.0 |
| 14 | 166.0 | 8.0 |
| 15 | 210.0 | 10.0 |

[1] One unit equals the water heater for one dwelling unit. An installation to provide hot water for 10 units in a multiple family apartment is counted as 10 units.

The next table converts installed units to dollar sales in constant 1976 dollars (without inflation) and savings in barrels of crude oil or its equivalent per year and per day:

RESIDENTIAL SOLAR AIR-CONDITIONING

| Year | Solar air conditioners installed (thousands) | | Dollar volume (1976 dollars) of units installed in the year (millions) | Barrels of crude oil (or equivalent) saved | |
|---|---|---|---|---|---|
| | Year | Cumulative | | Per year | Per day |
| 5 | 0.2 | 0.35 | 0.9 | 767 | 2.1 |
| 10 | 300.0 | 57.6 | 60.0 | 94,900 | 260.0 |
| 15 | 210.0 | 690 | 675.0 | 1,423,500 | 3,900.0 |

As discussed previously, nonresidential solar air-conditioning will grow much more rapidly than residential. In this one particular case, the totals are generally not additive to the totals for space heating and water heating. Our projection follows:

NONRESIDENTIAL SOLAR AIR-CONDITIONING

| Year | Energy consumption, $10^{15}$ Btu/Year | Market penetration (percent) | | Square feet of standard" solar collectors installed (thousands) |
|---|---|---|---|---|
| | | Year | Cumulative | |
| 1 | 1.63 | 0.00003 | 0.00003 | 5 |
| 2 | 1.68 | .00006 | .00009 | 10 |
| 3 | 1.73 | .00011 | .00019 | 20 |
| 4 | 1.78 | .00021 | .00040 | 40 |
| 5 | 1.83 | .0005 | .00089 | 100 |
| 6 | 1.89 | .0015 | .0024 | 300 |
| 7 | 2.02 | .005 | .0072 | 1,060 |
| 8 | 2.08 | .012 | .019 | 2,600 |
| 9 | 2.15 | .03 | .048 | 6,800 |
| 10 | 2.21 | .06 | .11 | 14,000 |
| 11 | 2.28 | .11 | .21 | 26,000 |
| 12 | 2.34 | .20 | .41 | 49,000 |
| 13 | 2.41 | .35 | .75 | 88,500 |
| 14 | 2.49 | .6 | 1.32 | 157,000 |
| 15 | 2.56 | .9 | 2.19 | 240,000 |

The following table converts these projections into dollar volume in 1976 dollars (without inflation) and to barrels of crude oil or its equivalent saved per year and per day:

NONRESIDENTIAL SOLAR AIR-CONDITIONING

| Year | Square feet of "Standard" solar collectors installed (thousands) | | Dollar value (1976 dollars) of units installed in the year (millions) | Barrels of crude oil (or equivalent) saved | |
|---|---|---|---|---|---|
| | Year | Cumulative | | Per year | Per day |
| 5 | 100 | 175 | 2.1 | 3,650 | 10 |
| 10 | 14,000 | 25,000 | 260 | 438,000 | 1,200 |
| 15 | 240,000 | 585,000 | 3,900 | 10,950,000 | 30,000 |

SUMMARY OF PROJECTIONS

Our next table summarizes dollar volume of solar units in all heating and cooling applications:

*Summary—Solar heating and cooling, millions of 1976 dollars (without inflation)*

| | 5 years | 10 years | 15 years |
|---|---|---|---|
| Water heaters: | | | |
| New residential | 120 | 435 | 950 |
| Retrofit residential | 675 | 1,730 | 2,550 |
| Nonresidential | 8 | 250 | 635 |
| Space heating: | | | |
| New residential | 90 | 1,200 | 1,900 |
| Retrofit residential | 30 | 1,100 | 8,900 |
| Nonresidential | 16 | 600 | 5,000 |
| Air-conditioning: | | | |
| Residential | .9 | 60 | 675 |
| Nonresidential | 2.1 | 260 | 3,900 |
| Total | 942 | 5,635 | 24,510 |

Similarly, the final table summarizes crude oil savings in barrels per day:

*Summary—Solar heating and cooling, barrels of crude (or equivalent), saved per day*

| | 5 years | 10 years | 15 years |
|---|---|---|---|
| Water heaters: | | | |
| New residential | 3,750 | 25,000 | 80,000 |
| Retrofit residential | 15,000 | 97,000 | 252,000 |
| Nonresidential | 160 | 9,000 | 55,000 |
| Space heating: | | | |
| New residential | 2,000 | 50,000 | 175,000 |
| Retrofit residential | 500 | 20,000 | 300,000 |
| Nonresidential | 200 | 12,000 | 150,000 |
| Air-conditioning: | | | |
| Residential | 15 | 2,500 | 30,000 |
| Nonresidential | 10 | 1,200 | 30,000 |
| Total | 21,635 | 216,700 | 1,072,000 |

It should be noted that these projections are predicated upon the development and implementation of a comprehensive and aggressive Government program designed to stimulate the growth rate of solar applications. Without the Government programs which the Solar Energy Industries Association has recommended, growth rate would be slower, although ultimately the same level of market penetration, sales and crude oil savings would be reached.

It should also be noted that the projections do not include other applications in which solar thermal energy can be used directly. One substantial additional potential market is industrial process steam. Another significant but smaller potential market for direct use of solar thermal energy is in agricultural crop drying.

Finally, it should be noted that the projections do not include any projection for the dollar volume of solar-photovoltaic or solar-thermal electric markets or the oil (or equivalent) which can be saved. They do not include potential oil (or equivalent) savings to be derived from the use of "biomass" as a fuel to fire conventional fuel-fired equipment used for the generation of electric energy or for other purposes. They do not include fuel savings which may be derived from the use of wind energy to generate electric energy or the direct use of wind energy for other applications, such as pumping irrigation water.

Many of these other applications appear to have substantial potential, particularly so during the latter part of the fifteen year span covered by these projections. At the present time, solar-photovoltaics, wind energy conversion and biomass conversion appear to offer the greatest potential within the fifteen year period.

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## TAX REFORM ACT OF 1976—H.R. 10612

AMENDMENT NO. 1889

(Ordered to be printed and to lie on the table.)

Mr. PEARSON. Mr. President, I rise to submit an amendment which provides for the application of the limitation on artificial accounting losses—LAL—to oil and gas activities, but only upon the complete deregulation from Federal control of the price structure of oil and gas.

The House bill provides for the immediate application of LAL to oil and gas wells which are not exploratory in nature. The Committee amendment rejects the LAL approach and applies the "at risk" limitation to oil and gas activities. This amendment follows the House approach by applying LAL to oil and gas activities. My amendment would apply LAL to all wells, exploratory as well as developmental, effective at such time as the prices for oil and gas are completely free from Federal restrictions.

Mr. President, I strongly oppose the immediate application of LAL to oil and gas activities. The administration has changed its position since its 1973 proposal applying LAL to oil and gas. The oil and gas situation has changed markedly since that time. The United States has witnessed a sharp decline in domestic sources of oil and gas. We have also experienced painful dislocations caused by our dependence on foreign sources for oil. At the same time, energy exploration and development activities have been severely hampered by the repeal of percentage depletion, the limitations on the foreign tax credit and the continuation of price controls. This is not the time to create more uncertainty or eliminate those incentives which influence potential investors in oil and gas ventures. Potential investors in a business which is inherently very risky can certainly be expected to turn to other investments if we continue to make oil investment less attractive.

However, I believe that LAL should apply to oil and gas activities upon the decontrol of oil and gas prices.

Regulation of crude oil prices is scheduled to be completely removed over a 40-month period in accordance with the provisions of the Energy Policy and Conservation Act which the President signed into law last December. However, Congress has taken no steps to remove the controls on the price of natural gas. It is only at the time of such complete decontrol that oil and gas prices will be free to fluctuate according to supply and demand and the industry will be able to compete efficiently with other capital-intensive industries for their fair share of investment funds. Thus, LAL should not apply to oil and gas activities until such time to assure that such activities are not placed at a competitive disadvantage with other industries.

AMENDMENT NO. 1890

(Ordered to be printed and to lie on the table.)

Mr. MONTOYA. Mr. President, I am today submitting an amendment which is aimed at equalizing the tax treatment for Civil Service and other Federal retirement plans with the tax treatment presently given to those receiving social security and railroad retirement benefits. Originally introduced as S. 2870, this amendment contains technical changes designed to reduce the cost while still excluding from taxation the amount received from Federal retirement plans up to the amount of the maximum social security retirement benefit applicable for that year.

Benefits received by retired workers from social security are free of taxation. The same is true of benefits now received by retired railroad workers and their widows. This provision protects the small incomes of most retired workers in this Nation and is an important part of our largest retirement program.

However, benefits received by retired civil servants are taxed, following the final payment of dollars which have been previously contributed by the worker and taxed at the time of earning. Obviously, providing workers in different retirement groups with different tax treatment is a gross and unfair inequity in our present system.

Probably no group in our Nation has been hit harder by inflation than retired men and women who are dependent on pensions for the bulk of their retirement income. Most pensions are still set at levels which do not reflect the inflationary impact of the last few years. Even though both social security recipients and civil service and military retirees have received increases in pension levels, there is little doubt that many elderly Americans are still living below the poverty level. For most retired civil servants the plans which they had made for retirement income have been severely altered by the economic disasters of the last few years.

All older citizens on fixed incomes are having trouble. The items for which the aged normally spend the largest part of their income—food, housing, fuel, and medical care—have been the items which have the highest rates of inflation. In this situation the true cost-of-living index for senior citizens is not realistically represented in the cost-of-living index used for urban working families. For that reason elderly retired workers are falling behind in the race with inflation. Many Americans have been able to adjust incomes in order to account for inflation. Those who are living on fixed retirement incomes are not able to make this kind of adjustment.

When we compound this problem with an inequitable tax treatment for one segment of our retired population, we create bitterness and resentment. In too many cases that is happening to men and women who have spent a lifetime working as servants of the public.

The amendment which I propose to add to the tax reform bill will relieve retired Federal employees of the cause for that resentment. It would allow to these Federal retirees an exemption from taxation on that portion of their income which is equal to the exclusion from taxation given to social security beneficiaries.

Approximately half of all Federal retirees would be unaffected by this legislation because their total income is so low that they are not required to pay any tax now. However, for those who are now required to pay taxes, this legislation will mean a small but vitally important tax saving.

An example will illustrate the inequity which this bill addresses:

| | |
|---|---|
| A husband and wife each receive social security benefits of $300 per month (annual) | $7,200 |
| They receive additional income from other sources | 3,500 |
| Total annual income is | 10,700 |
| Federal tax owed is | 0 |
| However: | |
| A husband and wife receive retirement benefits from civil service totaling (annual) | 7,200 |
| Their additional income from other sources is the same | 3,500 |
| Total annual income is the same | 10,700 |
| But Federal tax owed would be about | 1,104 |

Congress recognized the obvious problem which the above examples illustrate. The retirement income credit was introduced to correct the situation. However, we have not acted to adjust the amount of income credit allowed so that it would continue to be in line with social security and railroad retirement benefits. The last time these figures were readjusted was in 1962. During the ensuing 14 years inflation has cut deeply into the value of that retirement income credit, making it much less valuable. At the same time, social security benefits have more than doubled. It is time we came up with a sensible and more permanent solution.

My proposed amendment would avoid the necessity of having to readjust ceilings every few years. It applies only to those 65 years or older and allows Federal retirees receiving partial social security to take the difference between that and the maximum as their exclusion. This would maintain a fair and even-handed tax approach to all retired workers.

The Library of Congress Economics Division is doing an analysis of this amendment. Their estimate of the cost of providing this tax exclusion to all retired Federal workers would be around $500 million. However, the 65 years old age provision would substantially lower this figure. Their analysis points out that most econometric models would produce a recoupment of 25 to 50 percent after feedback effects are taken into consideration.

Based on data for 1974, total payments to Federal retirees is about $11.9 billion annually. The average benefit was $5,080. For civil service retirees this constitutes 70 percent of the total income for annuitants, and 49 percent for survivors.

Mr. President, I urge my colleagues to take this opportunity to provide this very minor but important tax reform in this year's bill. I believe strongly that we should take action to correct what has become a very painful inequity in our tax system.

I ask unanimous consent that the amendment be printed in the RECORD.

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

AMENDMENT NO. 1890

At the appropriate place, insert the following new section:

SEC. —. PARTIAL EXCLUSION OF UNITED STATES RETIREMENT BENEFITS FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as section 125 and by adding after section 123 the following new section:

"SEC. 124. PARTIAL EXCLUSION OF UNITED STATES RETIREMENT BENEFITS.

"(a) GENERAL RULE.—Gross income does not include amounts received by an individual for the taxable year as a pension, annuity, or other benefit under a retirement system maintained by the United States or any agency thereof which would be included in gross income but for this section, to the extent that such amounts do not exceed the maximum social security benefit for that year, as determined under subsection (c).

"(b) LIMITATIONS.—

"(1) Reduction for old-age insurance benefits.—The amount which an individual is allowed to exclude from gross income under subsection (a) shall be reduced by the amount of any old-age insurance benefit received or entitled to be received by such individual under title II of the Social Security Act for such taxable year.

"(2) 65 OR OLDER.—No individual shall be allowed to exclude any amount from gross income under subsection (a) unless such individual has attained the age of 65, on or prior to the last day of such taxable year.

"(c) MAXIMUM SOCIAL SECURITY BENEFIT.—For purposes of this section, the maximum Social Security benefit for a calendar year is the sum of—

"(1) the maximum amount of the old-age insurance benefit which could be paid for the calendar year under title II of the Social Security Act to any individual who attained age 65 in, and first became entitled to benefits for, the first month of such calendar year, and

"(2) the maximum amount of the earnings (as defined by section 203 (f) (5) of the Social Security Act) which could be received in such calendar year by an individual who is entitled to old-age insurance benefits under title II of such Act, and who has not attained age 72, without a reduction in such benefits for any month of such calendar year.

In the case of a taxpayer whose taxable year is other than the calendar year, the amount determined under this subsection shall be determined in accordance with regulations prescribed by the Secretary."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for part III of subchapter B of chapter 1 is amended by striking out the last item and inserting in lieu thereof the following:

"SEC. 124. PARTIAL EXCLUSION OF UNITED STATES RETIREMENT BENEFITS.

"SEC. 125. CROSS REFERENCES TO OTHER ACTS."

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1975.

AMENDMENT NO. 1891

(Ordered to be printed and to lie on the table.)

Mr. SPARKMAN. Mr. President, the amendment which I have sent to the desk would restore to the committee's bill some of the present incentives in our tax laws which encourage the construction of multifamily housing. I should like to emphasize the word some, because this amendment does not touch upon several of the changes recommended by the committee which would have the effect of cutting back on the tax incentives for housing. I believe as do all Members that there is a need to seek a reasonable degree of equity in the administration and application of our tax laws. However, I do not believe that this so-called equity should be achieved at the expense of meeting our Nation's housing needs.

The amendments I have submitted seek to assure that we retain adequate incentives for the construction of needed rental housing, while at the same time going along with other proposed changes by the committee which attempt to assure that no one, with a substantial real income, escapes some reasonable degree of taxation on that income.

Thus, my amendments do not seek to reverse the proposed increase in the minimum tax from 10 to 15 percent, nor do they oppose the proposed substantial reduction in the amount of tax preference items that can be excluded from application of the minimum tax.

Furthermore, I propose no change in the committee's recommendation tightening up the amount of income that is eligible for the 50-percent maximum tax on earned income, through eliminating the $30,000 exclusion in the amount of tax preferences deducted from total earned income. I believe that these three provisions will help assure that a much greater percentage of those, who make use of tax incentives for residential housing construction, pay some reasonable degree of their real income in taxes, especially the very high income.

On the other hand, my amendments would eliminate, or moderate, those proposals of the committee which threaten the basic structure of the present tax incentives for housing. Furthermore, they would maintain a clear distinction between investment in residential real estate, for which the Nation has set a high priority, and investment in nonresidential real estate. This distinction, I believe, is crucial if we, as a nation, are going to continue to seek to meet the national goal of a decent home for every American family.

Probably the biggest weakness of the real estate-related proposals of the committee is its treatment of all real estate as the same, thereby ignoring the much higher priority the Congress has always placed on residential construction. This distinction was recognized by the Senate in December of 1969 when, at the urging of the senior Senator from Texas and me, it voted to continue greater tax incentives for residential investment than for nonresidential. It has been recognized time and time again, when we have passed housing legislation aimed at encouraging the construction of new homes and apartments for all our citizens. Mr. President, I believe that we should continue this distinction and maintain a significantly higher level of tax incentives for investment in residential property than in nonresidential.

The first part of my amendment would maintain the present provisions of law with respect to the recapture, at time of sale, of excess accelerated depreciation for taxation at ordinary income tax rates. As the Senate knows, present law provides for full recapture insofar as nonresidential property is concerned, while allowing for a phase-out of recapture over a 16 year 8 month period for regular apartment projects and over a 10-year period for certain low- and moderate-income projects. We established these present provisions in 1969, and I see no reason to eliminate them today as the committee's bill would.

The second part of my amendment would eliminate as a tax preference item, subject to the minimum tax, construction interest paid with respect to the construction of housing. While I find it hard to understand, how someone's out-of-pocket expenses for interest paid on a construction loan can be looked upon as a tax preference under any circumstance, I firmly believe that it should not be so treated in so far as the construction of housing is concerned. The committee bill would not only tax the construction interest paid in connection with multifamily housing, but also that paid in connection with the construction of single-family homes for sale. This is totally uncalled for.

Housing construction loans are hard enough to get in any case and carry interest rates frequently beyond the capacity of the ordinary builder, to add the additional burden of a 15-percent tax on top of interest rates that have sometimes gone as high as 18 or 19 percent recently. Mr. President, we need to encourage housing construction, not deter it by taxing money paid as interest.

The third part of my amendment would exempt low- and moderate-income housing, on which construction commenced prior to January 1, 1982, from the committee's proposal to treat

as a tax preference, subject to the minimum tax, a limited partner's share of the mortgage interest paid by the partnership in connection with the ownership of an apartment project. For all other rental housing and those low and moderate income projects on which construction started after 1981, a limited partner would have 50 percent or $25,000, whichever is greater, of his share of the mortgage interest expenses exempted from treatment as a tax preference item.

The ability to treat mortgage interest payments as a deduction, is often an important factor in determining the yield of a limited partner's investment in a rental housing project. To arbitrarily treat that deduction as a tax preference, subject to a 15 percent tax, could deter many potential investors from investing in new rental projects. This is especially true for low- and moderate-income projects, which frequently have a very low and controlled rate of return for their owners and carry high risks, because of the income level which they serve.

Recognizing the greater risk inherent in low- and moderate-income projects, I propose, as does the Department of Housing and Urban Development, to completely exempt, from treatment as a tax preference, the limited partner's share of mortgage interest paid in connection with projects started over the next 5 years. That time period should provide adequate time, to get moving once again, the almost completely halted federally assisted low- and moderate-income housing programs. We can then reexamine at the end of that period, whether it is necesary to maintain this differential for low- and moderate-income projects.

With respect to all other rental projects, my proposed partial exemption of a limited partner's share of the mortgage interest payment should maintain a reasonable extra incentive for continued investment in housing, while at the same time protecting against undue use of mortgage interest payments to escape taxation on other income, especially for those in the high-income brackets. I believe that it is essential that some distinction be continued to be maintained between investment in residential property and investment in noresidential property.

As you know, I have been chairman of the Housing Subcommittee since its inception, except for 2 years in which the other party was in the majority. During that almost 30-year period, my subcommittee, the Senate and the Congress as a whole have repeatedly acted favorably upon legislation to make a reality out of the national goal, contained in the 1949 Housing Act, of a decent home and a suitable living environment for every American family. That goal established adequate housing as one of the highest priorities of our Nation and its Government. The Senate recognized the high priority placed on housing, when, in conjunction with the 1969 Tax Reform Act, it voted by an almost three-to-one margin to retain a higher level of incentives in the tax laws for housing than for other types of real property.

At the time that the 1969 Tax Reform Act was passed, multifamily housing constituted approximately 42 to 45 percent of the housing units started each month. Because of the incentives retained in the tax laws, this ratio continued through the early part of 1974. However, in May 1974, the Treasury announced its proposal to impose LAL on investors in real estate, including rental housing. Subsequent to this announcement, multifamily housing starts began to fall drastically, both in total numbers and as a percentage of total housing units started. While there were certainly other problems that caused a sharp decline in housing construction activity in 1974, I feel that the threat that LAL posed to potential investors in multifamily housing had a significant part to play in this drop, which saw multifamily units decline to approximately 21 or 22 percent, on a monthly basis, of total housing units started—exhibit A.

At the same time that multifamily housing starts have been declining from an average monthly level of approximately a million units a year, on a seasonally adjusted annual basis, in 1972 and early 1973 to an average of 300,000 units so far this year—exhibit B—the Nation's need for new housing units, especially for rental units, has been at the highest level in history.

Annual household formations for the rest of this decade will average approximately 1.4 million a year. Housing units lost from our stock have been averaging around 700,000 units a year since 1970. Yet last year, we only produced 1.17 million units, and this year we will be lucky to produce much more than 1.5 million units.

Many of those seeking housing today are those born during the post-World War II baby boom. They would like to be able to establish a home of their own and yet are being confronted with an increasing shortage of rental units that they can afford. Multifamily vacancy rates have dropped sharply in the past 6 months to 5.5 percent nationwide. The situation is even tighter in areas like Washington, D.C., where it is almost impossible to find an apartment unit. All indications are that the situation will get worse before it gets better, and it may not get much better if the Congress removes the present much-needed incentives in the tax laws for investment in multifamily housing.

These incentives are very important to a reasonable level of rental housing construction. Housing has always been a capital-short area, and rental housing builders have always had to rely to a significant extent on attracting outside equity capital in order to produce rental housing at levels needed to serve the American people. Because there are many other more attractive and less risky investment areas, rental housing must at least be competitive with the rates of return that these other areas can provide. For better or for worse, the tax incentives of the present law have been looked to for providing a major part of the return needed to stay competitive. If these incentives were to be cut back as sharply as proposed in the committee bill, it would be necessary to increase potential rents substantially. This is just not possible today, with still outrageously high mortgage interest rates and other high cost levels because of the inflation of recent years.

I understand that one of the arguments against maintaining essentially the same level of tax incentives for rental housing is that there is a need to increase revenues and that the cutbacks in these incentives, contained in the bill, provide a substantial portion of the projected revenue increase from the bill. I, too, am for increasing revenues, but I believe that doing so at the expense of multifamily housing construction is not the best way in which to do it.

Aside from all the arguments about the need for housing, there are some pretty sound economic arguments in favor of encouraging a reasonably high level of multifamily construction. The Nation has not yet recovered from the severe economic recession of the preceding 2 years and the slowest part of that recovery has been in multifamily housing construction. Construction in this area is still only about one-half of what it was in early 1974 and only 30 percent of what it was in 1972 and the first half of 1973.

Even if these proposed changes did not result in any significant decrease in present production levels, I believe that I can safely say that they will, on the other hand, result in no substantial increases in present construction levels. That would not only be disastrous to the housing aspirations and needs of the American people, but also to the hundreds of thousands of construction workers still unemployed, with an unemployment rate of about 15 percent. It would also be very harmful to the economy in general, which could still greatly benefit from the shot in the arm that a substantial increase in multifamily construction would bring.

For every rental unit constructed in this country, approximately one job is created and for every dollar spent on construction of an apartment unit, approximately $2.50 of other economic activity is generated. If we could just double the average starts-level of 300,000 units achieved so far this year, we could put another 300,000 people back to work, with all the resultant benefits to the economy through increased tax revenues and decreased Government expenditures for unemployment compensation and other welfare-type benefits.

Three hundred thousand additional rental units would produce $2.4 billion of increased Federal tax revenues and $250 million in additional State and local taxes. And yet, all this would be achieved at a production level of 600,000 multifamily units which would still be approximately 40 percent below the level of 3 years ago. I believe there would be a much greater revenue gain from the increased regular tax revenues which would flow from this increased production, than any punitive gain that might be achieved by failing to adopt my amendments.

The report of the Finance Committee on page 17 states as follows:

We need to increase investment in the U.S. economy to improve our standard of living and to achieve energy, environmental

and other goals; and under these circumstances, the committee believes a permanent extension of 10-percent investment credit is appropriate.

I do not object to continuing the investment tax credit and even increasing it permanently to 10 percent. It has generally proven to be a beneficial use of the tax laws to encourage investment in new plant and equipment and thereby provide a healthier economy than might otherwise have been possible. But do you realize that while we are encouraging major segments of our business community with the investment tax credit, giving them a substantial tax benefit, we are providing little or no benefit for the housing industry. It is an industry which does not rely very much on the type of plant and equipment for which the investment tax credit was designed, and, yet, it is about the single largest industry in the Nation, representing about 3½ percent of GNP.

I agree with the language I have quoted from the Finance Committee Report that we need to increase investment in the U.S. economy. But I also believe that that effort should be an equitable one and should be structured to provide tax incentives, other than the investment tax credit, for those productive areas of the economy which cannot make any major use of the investment tax credit. The present incentives in the tax laws are the investment tax credit for the housing industry. They are as needed for the health of our economy, as that credit is for most other industries.

I have also heard the argument made that the present system of tax incentives for rental housing construction is not the most efficient; that it encourages investment by those who do not have much concern about properly maintaining the projects in which they invest, resulting in poor upkeep, early foreclosures and premature deterioration of good housing. I agree that there are some who invest in rental housing and some who produce it who do not do a good job. Is that not true for many other areas, in both our economy and our society?

Figures have been cited to indicate a distressingly high foreclosure rate in the FHA 236 Program for the lower income and much of the blame for this has been laid at the door of the present system of tax incentives which encourage syndication of the equity in these projects. As chairman of the Housing Subcommittee, I, too, have been deeply disturbed about the difficulties experienced in many 236 projects, but we must realize that these projects have gone through troublesome times in recent years on account of sharply escalating utility, tax and other costs.

As many of you remember, the 1974 Housing and Community Development Act contained a Senate provision to provide extra assistance to these projects to deal with increased utility and tax costs. HUD has still to implement that program voluntarily, having been forced by a long series of court decisions which have gone against it, to implement it on a piecemeal basis. I believe that inflation and the failure to use all means available are as much or more responsible for the troubles experienced under 236, as are the tax laws.

In fact, a review of those 236 projects, which HUD has had to take back, indicates that nonprofit sponsors have had a default rate three times as high as have limited dividend sponsors. As of the end of March 1976, 216 of 868 nonprofit sponsors' projects have been returned to HUD for a rate of 24.8 percent. On the other hand, for limited dividend sponsors the rate has been 8.3 percent with 255 out of 3,054 projects returned to HUD. This latter percentage, of course, is nothing to brag about, but when compared to the experience of nonprofit sponsors, it would seem to indicate that the tax laws are not the principal problem.

Mr. President, I urge the adoption of my amendment as a reaffirmation of this body's, and the Nation's, commitment to meeting our people's housing needs. I believe that these amendments strike an equitable balance between assuring that no one escapes a reasonable degree of taxation and continuing to encourage necessary rental housing construction. I further believe that the adoption of my amendments will provide a much greater increase in tax revenues from increased construction activity, than could possibly be lost from failing to cut back on housing investment as sharply as proposed in the committee bill. Finally, the adoption of these amendments will recognize the higher priority that housing has over other areas of investment and especially over other areas of real estate investment.

I ask unanimous consent that the exhibits to which I have referred be printed at this point in the RECORD.

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

EXHIBIT A

TOTAL PRIVATE HOUSING STARTS AT SEASONALLY ADJUSTED ANNUAL RATES, BY TYPE OF UNIT MONTHLY, 1970–74

| Year and month | Number of units (thousands) | | | Percent distribution | | |
|---|---|---|---|---|---|---|
| | Total | Single family | Multi-family | Total | Single family | Multi-family |
| 1970: | | | | | | |
| January | 1,109 | 612 | 497 | 100 | 55.2 | 44.8 |
| February | 1,322 | 739 | 583 | 100 | 55.9 | 44.1 |
| March | 1,364 | 726 | 638 | 100 | 54.9 | 45.1 |
| April | 1,230 | 712 | 518 | 100 | 57.9 | 42.1 |
| May | 1,280 | 742 | 538 | 100 | 58.0 | 42.0 |
| June | 1,396 | 816 | 580 | 100 | 58.5 | 41.5 |
| July | 1,506 | 813 | 693 | 100 | 54.0 | 46.0 |
| August | 1,401 | 828 | 573 | 100 | 59.1 | 40.9 |
| September | 1,531 | 872 | 659 | 100 | 57.0 | 43.0 |
| October | 1,589 | 883 | 706 | 100 | 55.6 | 44.4 |
| November | 1,621 | 904 | 717 | 100 | 55.8 | 44.2 |
| December | 1,943 | 1,155 | 788 | 100 | 59.4 | 40.6 |
| 1971 (e): | | | | | | |
| January | 1,828 | 1,004 | 824 | 100 | 54.9 | 45.1 |
| February | 1,741 | 1,009 | 732 | 100 | 58.0 | 42.0 |
| March | 1,910 | 1,078 | 832 | 100 | 56.4 | 43.6 |
| April | 1,986 | 1,134 | 852 | 100 | 57.1 | 42.9 |
| May | 2,049 | 1,151 | 898 | 100 | 56.2 | 43.8 |
| June | 2,026 | 1,159 | 867 | 100 | 57.2 | 42.8 |
| July | 2,083 | 1,148 | 935 | 100 | 55.1 | 44.9 |
| August | 2,158 | 1,174 | 984 | 100 | 54.4 | 45.6 |
| September | 2,041 | 1,155 | 886 | 100 | 56.6 | 43.4 |
| October | 2,128 | 1,212 | 916 | 100 | 57.0 | 43.4 |
| November | 2,182 | 1,225 | 957 | 100 | 56.1 | 43.9 |
| December | 1,295 | 1,302 | 993 | 100 | 56.7 | 43.3 |
| 1972: | | | | | | |
| January | 2,494 | 1,409 | 1,085 | 100 | 56.5 | 43.5 |
| February | 2,390 | 1,249 | 1,141 | 100 | 64.8 | 47.7 |
| March | 2,334 | 1,320 | 1,014 | 100 | 56.6 | 43.4 |
| April | 2,249 | 1,239 | 1,010 | 100 | 55.1 | 44.9 |
| May | 2,221 | 1,275 | 946 | 100 | 57.4 | 42.6 |
| June | 2,254 | 1,273 | 981 | 100 | 56.5 | 43.5 |
| July | 2,252 | 1,290 | 962 | 100 | 57.3 | 42.7 |
| August | 2,382 | 1,345 | 1,037 | 100 | 56.5 | 43.5 |
| September | 2,481 | 1,399 | 1,082 | 100 | 56.4 | 43.6 |
| October | 2,485 | 1,341 | 1,144 | 100 | 54.0 | 46.0 |
| November | 2,421 | 1,332 | 1,089 | 100 | 55.0 | 45.0 |
| December | 2,366 | 1,259 | 1,107 | 100 | 53.2 | 46.8 |
| 1973: | | | | | | |
| January | 2,481 | 1,431 | 1,050 | 100 | 57.7 | 42.3 |
| February | 2,289 | 1,341 | 948 | 100 | 58.6 | 41.4 |
| March | 2,365 | 1,237 | 1,128 | 100 | 52.3 | 47.7 |
| April | 2,084 | 1,216 | 868 | 100 | 58.4 | 41.7 |
| May | 2,266 | 1,220 | 1,046 | 100 | 53.8 | 46.2 |
| June | 2,067 | 1,106 | 961 | 100 | 53.5 | 46.5 |
| July | 2,123 | 1,178 | 945 | 100 | 55.5 | 44.5 |
| August | 2,051 | 1,106 | 945 | 100 | 53.9 | 46.1 |
| September | 1,874 | 1,019 | 855 | 100 | 54.4 | 45.6 |
| October | 1,677 | 970 | 707 | 100 | 57.8 | 42.2 |
| November | 1,724 | 960 | 764 | 100 | 55.7 | 44.3 |
| December | 1,526 | 824 | 702 | 100 | 54.0 | 46.0 |
| 1974: | | | | | | |
| January | 1,453 | 811 | 642 | 100 | 55.8 | 44.2 |
| February | 1,784 | 1,032 | 752 | 100 | 57.9 | 42.2 |
| March | 1,553 | 967 | 586 | 100 | 62.3 | 37.7 |
| April | 1,571 | 983 | 588 | 100 | 62.6 | 37.4 |
| May | 1,415 | 900 | 515 | 100 | 63.6 | 36.4 |
| June | 1,526 | 984 | 542 | 100 | 64.5 | 35.5 |
| July | 1,290 | 903 | 387 | 100 | 70.0 | 30.0 |
| August | 1,145 | 813 | 332 | 100 | 71.0 | 29.0 |
| September | 1,180 | 872 | 308 | 100 | 73.9 | 26.1 |
| October | 1,100 | 793 | 307 | 100 | 72.1 | 27.9 |
| November | 1,028 | 812 | 216 | 100 | 79.0 | 21.0 |
| December | 940 | 719 | 221 | 100 | 76.5 | 23.5 |
| 1975: | | | | | | |
| January | 1,005 | 748 | 257 | 100 | 74.4 | 25.6 |
| February | 953 | 722 | 231 | 100 | 75.8 | 24.2 |
| March | 986 | 763 | 223 | 100 | 77.4 | 22.6 |
| April | 982 | 774 | 208 | 100 | 78.8 | 21.2 |
| May | 1,085 | 853 | 232 | 400 | 78.6 | 21.4 |
| June | 1,080 | 874 | 206 | 100 | 80.9 | 19.1 |
| July | 1,207 | 916 | 291 | 100 | 75.9 | 24.1 |
| August | 1,264 | 979 | 285 | 100 | 77.5 | 22.6 |
| September | 1,304 | 966 | 338 | 100 | 74.1 | 25.9 |
| October | 1,431 | 1,093 | 335 | 100 | 76.4 | 23.4 |
| November | 1,381 | 1,048 | 333 | 100 | 75.9 | 24.1 |
| December | 1,283 | 962 | 321 | 100 | 75.0 | 25.0 |
| 1976: | | | | | | |
| January | 1,236 | 957 | 279 | 100 | 77.4 | 22.6 |
| February | 1,547 | 1,295 | 252 | 100 | 83.7 | 16.3 |
| March | 1,417 | 1,110 | 307 | 100 | 78.3 | 21.7 |
| April | 1,381 | 1,063 | 318 | 100 | 77.0 | 23.0 |
| May | 1,415 | 1,057 | 358 | 100 | 74.7 | 25.3 |

Source: Bureau of the Census, U.S. Department of Commerce, (a) "Construction Reports, Housing Starts 1959 to 1971," series C20 supplement, pp. 21–22, table 3, (b–e) "Construction Reports, Housing Starts," series C20, the following issues: January 1968, C20–68–1, p. 7, table 5, February 1968, C20–68–2, p. 7, table 5, January 1972, C20–72–1, p. 7, table 5; January 1974, C20–74–1, p. 7, table 5; data compilation and analysis by NAHB Economics Department.

EXHIBIT B

PRESENT LAW

Under present law any gain realized on the sale of real property is taxed at capital gains rates, except to the extent that the gain is attributable to the prior taking of accelerated depreciation in excess of straight-line. This excess depreciation is recaptured for taxation at ordinary income tax rates, depending upon the type of property, as follows:

1. For low and moderate income residential rental projects, the recapture is phased-out at the rate of 1% a month after the property has been held for 20 months, so that there is no recapture after 10 years.

2. For all other residential rental projects, the recapture is phased-out at the rate of 1% a month after the property has been held for 100 months, so that there is no recapture after 16 years and 8 months.

3. For all other real estate there is full recapture, regardless of the length of time the property is held.

There is a 10% minimum tax applied to certain items of tax preference to the extent that the total of these items for the taxable year exceeds the sum of $30,000 and the amount of income taxes that the taxpayer is otherwise required to pay. One of the items of tax preference is the excess of accelerated depreciation over straight-line depreciation taking during that taxable year.

Mortgage interest and real estate taxes, with respect to all real estate whether paid during or after the construction period, are fully deductible for income tax purposes, regardless of whether the property is held for sale in the normal course of a trade or business or for rental. This deduction is available to an individual with respect to property owned in his own name or with respect to his share in the ownership of property owned by a limited partnership.

There is a maximum tax of 50% on earned income. However, the amount of earned income eligible for the 50% rate is reduced by the amount by which the total of that individual's preferences for the year exceeds $30,000.

HOUSE-PASSED TAX BILL

Would apply LAL to all real estate holdings. Under LAL, losses, incurred from the excess of accelerated depreciation over straightline and the payment of interest and taxes during the construction period, would only be allowed for tax purposes to offset real estate related income. Losses and income from all real estate related activities would be aggregated. Any amount not permitted to be used to offset income in the year incurred would be carried over to future years for use when sufficient real estate related income was available.

LAL would apply to nonresidential projects started after December 31, 1975; to residential rental projects started after December 31, 1977, if before January 1, 1977, the building site has been acquired or optioned and a firm commitment for permanent mortgage financing obtained, otherwise to projects started after December 31, 1976; to low and moderate income residential rental projects started after December 31, 1980, but projects started before that date must have had a binding commitment for subsidy entered into before January 1, 1979, to be exempt from LAL.

Mimimum tax would be increased to 14% and would apply to the total of tax preference items in excess of $20,000, with the $20,000 exemption phasing-out dollar for dollar over $20,000 so that after $40,000 there would be no exemption.

Added as a tax preference item subject to the minimum tax would be interest and taxes paid during the construction period to the extent under LAL they have been allowed to offset income for tax purposes.

The present phase-out over 16 years and 8 months of the recapture provisions applicable to nonsubsidized residential projects would be eliminated and the phase-out for subsidized projects would be lengthened from 10 years to 16 years and 8 months.

SENATE FINANCE COMMITTEE BILL

No LAL.

Full recapture would apply to residential rental real estate, except for low and moderate income projects disposed of before 1982 to which the present 16 year 8 month phase-out rule for nonsubsidized projects would apply for depreciation taken after December 31, 1975.

Minimum tax would be increased to 15%, with the first $5,000 of preference income or an amount equal to taxes paid for a year, whichever is higher, exempt from the minimum tax.

Construction period interest and a limited partner's share of the excess investment interest attributable to real estate project as a result of mortgage interest payments would be added as tax preference items for minimum tax purposes; but for low and moderate income projects there would be an exemption for construction period interest paid prior to January 1, 1982, and for one-half of a limited partner's share of mortgage interest paid prior to that date.

Income eligible for the 50% maximum tax would be reduced by an amount equal to the total of all tax preference items, without the present $30,000 exemption.

NAHB PROPOSAL

Exempt low and moderate income residential rental projects on which construction commences prior to January 1, 1982 from application under minimum tax of new preference items for (1) construction period interest and (2) a limited partner's share of the excess investment interest attributable to the project as a result of mortgage interest payments.

For all other residential rental projects and low and moderate income on which construction starts after December 31, 1981, exclude from application under minimum tax of tax preference items for (1) construction period interest and (2) 50% or $25,000, whichever is higher of limited partner's share of the mortgage interest paid by the partnership with respect to the project.

Exclude from inclusion as construction period interest, and therefore as a tax preference item subject to the minimum tax, interest paid with respect to real property held primarily for sale to customers in the ordinary course of trade or business, as defined in Section 1221(1) of the IRC.

Maintain present recapture rules for residential property.

Leave intact other changes to minimum and maximum tax proposed by Finance Committee.

AMENDMENT NO. 1893

(Ordered to be printed and to lie on the table.)

Mr. NELSON (for himself, Mr. HOLLINGS, Mr. MATHIAS, Mr. BROOKE, Mr. CLARK, Mr. GARY HART, Mr. PHILIP A. HART, Mr. HARTKE, Mr. HASKELL, Mr. HATHAWAY, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. KENNEDY, Mr. MONDALE, and Mr. PROXMIRE submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10612) to reform the tax laws of the United States.

AMENDMENT NO. 1900

(Ordered to be printed and to lie on the table.)

Mr. JAVITS submitted an amendment intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENT NO. 1901

(Ordered to be printed and to lie on the table.)

Mr. JAVITS (for himself and Mr. RIBICOFF) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10612), supra.

AMENDMENT NO. 1902

(Ordered to be printed and to lie on the table.)

Mr. TAFT. Mr. President, I am today submitting for printing an amendment to the Tax Reform Act, H.R. 10612.

The goal of this amendment is to prevent inflation from pushing people into higher tax brackets, even when they experience no increase in real income.

The amendment provides for an annual adjustment for inflation to the personal exemption, the standard deduction, and the tax brackets which are the income levels at which taxpayers move up from one rate of tax to another. "Adjustment years" running from July 1 to June 30 would be the basis of calculating year-to-year changes in the Consumer Price Index. By August of any year, the IRS would have available the data on the average CPI for the 2 prior adjustment years. The percent increase in the index would be calculated, and used to adjust the tax and withholding tables in ample time for the beginning of the next calendar year, when the adjustment would take hold.

The first adjustment year would run from July 1, 1975 to June 30, 1976, and the second from July 1, 1976 to June 30, 1977. During the summer of 1977, the IRS would receive data on the CPI for 1976–77, compare it to the CPI for 1975–76, and alter the tax and withholding tables in time for use in calendar year 1978. Therefore, this amendment would have no impact whatsoever on the budget for fiscal year 1977.

It is imperative that this amendment be adopted now, well in advance of next year's first concurrent resolution on the budget. If estimates of tax revenues generated by inflation's impact on the tax brackets are included in the first resolution next year, it will be too late to consider an amendment of this type. We owe it to the Budget Committee, the Congressional Budget Office, and the Treasury, to provide a reasonable amount of time to alter their budget estimates, which will be in the planning stages by the end of this year.

The amounts involved in the inflation penalty are not large, and may be offset by deliberate taxing policy. On the other hand, the injustices created by the stealth and randomness of this penalty are large. Since we can easily avoid them by means of this simple procedure, we should do so.

Taxes as a percent of income have risen fairly steadily since 1950 for a typical worker. From a 1950 level of roughly 4 or 5 percent, the share of income going to Washington has risen to 9 or 10 percent. There was a temporary bulge during the Vietnam surcharge, and there has been a drop during major tax cuts. But after each tax cut, the ratio resumes its upward trend.

This happens automatically because of the higher tax bracket people reach because of either higher real income or inflation. In the 1950's and 1960's there was growth in the ratio for both reasons, roughly equally. Lately, this has been

due primarily to inflation, except in years of actual tax cuts.

It is shocking to see the increase in real taxes paid from year to year by millions of typical workers even in years of stagnant or declining real income. I have seen this destabilizing trait of the Tax Code mentioned in the press, but I did not realize the extent of the problem until I saw these figures lined up in the accompanying charts.

We must not permit this destabilizing behavior of the tax system to continue. It was one of the causes—of many—of the recent recession, and is a gross injustice to working people on fixed or slowly rising incomes. There is simply no reason whatsoever why a worker who barely receives a cost-of-living increase should see his after-tax real income fall because of an inflation penalty in the tax system.

The inflation penalty I am talking about is not the inflation of old real taxes. For example, if a tax payment goes from $100 to $106 in a year of 6 percent inflation, no real tax increase occurs. The inflation penalty I refer to drives taxes, say, from $100 to $110 in a year of 6 percent inflation. This extra increase, the extra 4 percent, is the increase that this amendment would attack. It is an increase amounting at present to about $5 billion per year, and nearly $50 per average blue collar tax return, in unscheduled, unplanned, unlegislated taxes.

This inflation penalty does not just strike at wage earners. But such workers and low income groups are hit the hardest. In addition, it is surely one of the basic causes for inflationary wage demands, since a worker must receive a wage increase in excess of the cost-of-living increase simply to maintain the real value of his take-home pay.

The rich have a marginal tax rate above which they cannot go. This reduces their inflation penalty, at least in percentage terms. The rich may—and do—make more frequent use of tax shelters as their average and marginal tax rates rise. Such escape valves are too expensive and risky for the middle class. The rich also find their percentage penalty reduced because of the lower importance—as a percent of income—of the reduced real value of the personal exemption in their case, as opposed to a lower income worker. The rich also itemize deductions, which rise with inflation and help to offset the penalty.

The middle class has few tax shelters of any kind, and has always a higher tax bracket to be pushed into.

The low-income wage earner is hardest hit in percentage terms because of the rapid escalation of tax rates—as a percent of the rate—in the lower brackets, because of the narrowness of the brackets, and because of the high percent of his real income represented by the eroded real value of the personal exemption.

It should be the duty of the Congress to set the tax rates where they belong for the given level and distribution of real income of the society. By permitting them to strike in a random fashion for years between tax cuts, we are abrogating our responsibility, or admitting that the rates were not really set according to any meaningful—or very important—plan in the first place.

These rates, which we are about to confirm in this bill, are, supposedly, where they ought to be with respect to the real income of the taxpayer. All this amendment does is to announce that Congress, not inflation, determines these rates, and that inflation shall not be permitted to drag these rates away from the real income levels to which we have attached them.

I am particularly disturbed by the prospect of hidden, unlegislated tax increases in the neighborhood of $5 billion a year which this inflation is producing. Are we so sure of this economic recovery that we wish to rely on positive congressional action each year to prevent a tax increase?

I believe the income tax should be made inflation neutral. I believe the Congress should handle all real tax changes in a deliberate fashion after research and debate. The current Tax Code, coupled with inflation, changes taxes by stealth, and without our attention. This amendment goes most of the way toward stabilizing the income tax burden. It would permit the Congress to conduct its discussions of fiscal and budget policy under the new budget process, and with the condition of the economy in mind, with no perverse and unexpected behavior on the part of tax receipts undoing the decisions.

This amendment should be adopted for the sake of fairness, openness in Government, economic stability, and rational policymaking.

Mr. President, I ask that the accompanying tables and the amendment be printed in the RECORD at this point.

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

AMENDMENT NO. 1902

At the appropriate place, insert the following:

SEC. . ADJUSTMENT OF CERTAIN FEATURES OF THE INDIVIDUAL INCOME TAX TO MAKE IT INFLATION NEUTRAL.

(a) RATES OF TAX.—Section 1 (relating to tax imposed) is amended by adding at the end thereof the following new subsection:

"(e) INFLATION ADJUSTMENT.—

"(1) CHANGES IN AMOUNT.—Before the beginning of each calendar year, as soon as the necessary data become available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report to the Secretary or his delegate the ratio which the price index for the most recently ended adjustment year bears to the price index for the adjustment year preceding the most recently ended adjustment year. Each dollar amount listed in the tables under subsections (a), (b), (c), and (d) of this section shall be multiplied by such ratio and, as multiplied, shall be the amount in effect for taxable years beginning during the calendar year following the adjustment year for which such report is made.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) PRICE INDEX.—The term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

"(B) ADJUSTMENT YEAR.—The term 'adjustment year' means the twelve month period beginning on the first day of July of 1975 and of each subsequent calendar year.

(b) STANDARD DEDUCTION.—Section 141 (relating to standard deduction) is amended by adding at the end thereof the following new subsection:

"(f) INFLATION ADJUSTMENT.—

"(1) CHANGES IN AMOUNT.—Before the beginning of each calendar year, as soon as the necessary data become available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report to the Secretary or his delegate the ratio which the price index for the most recently ended adjustment year bears to the price index for the adjustment year preceding the most recently ended adjustment year. Each dollar amount listed in the tables under subsections (b) and (c) of this section shall be multiplied by such ratio and, as multiplied, shall be the amount in effect for taxable years beginning during the calendar year following the adjustment year for which such report is made.

"(2) DEFINITIONS.—For purposes of paragraph (1), the terms 'price index' and 'adjustment years' have the same meaning as in section 1 (e).".

(c) PERSONAL EXEMPTIONS.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by adding at the end thereof the following new subsection:

"(f) INFLATION ADJUSTMENT.—

"(1) CHANGES IN AMOUNT.—Before the beginning of each calendar year, as soon as the necessary data becomes available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report to the Secretary or his delegate the ratio which the price index for the most recently ended adjustment year bears to the price index for the adjustment year preceding the most recently ended adjustment year. Each dollar amount in subsections (b), (c), (d), and (e) of this section shall be multiplied by such ratio and, as multiplied, shall be the amount in effect for taxable year beginning during the calendar year following the adjustment year for which such report is made.

"(2) DEFINITIONS.—For purposes of paragraph (1), the terms 'price index' and 'adjustment year' have the same meaning as in section 1 (e).".

(d) ADJUSTMENT OF WITHHOLDING AND FILING REQUIREMENTS.—Before the beginning of each calendar year for which amounts are adjusted under sections 1 (e), 141 (f), and 151 (f) of the Internal Revenue Code of 1954 (relating to inflation adjustment), the Secretary of the Treasury shall—

(1) prescribe a new table under section 3402 (b) of the Internal Revenue Code of 1954 (relating to percentage method of withholding) to reflect the appropriate amounts to be taken into account with respect to each withholding exemption for such taxable years, and

(2) adjust the dollar amounts set forth in section 6012 (a) of the Internal Revenue Code of 1954 (relating to persons required to make returns of income generally) necessary to reflect the adjustments made under sections 1 (e), 141 (f), and 151 (f) and in effect for such taxable years. The table so prescribed, and the amounts so adjusted, shall apply for taxable years beginning during such calendar year in lieu of the table set forth in section 302 (b) of such Code (a) of such Code.

(e) EFFECTIVE DATE.—The amendments and the amounts set forth in section 6012 made by this section apply to taxable years beginning after December 31, 1977.

| Year | Income [1] (nearest dollar) | Tax [2] Without surcharge or credit | Tax [2] With surcharge or credit | Tax/income Without surcharge or credit | Tax/income With surcharge or credit |
|---|---|---|---|---|---|
| **CONSTRUCTION WORKERS** | | | | | |
| 1950 | $3,623 | $150 | | 4.14 | |
| 1951 | 4,158 | 277 | | 6.66 | |
| 1952 | 4,309 | 331 | | 7.68 | |
| 1953 | 4,493 | 361 | | 8.03 | |
| 1954 [3] | 4,623 | 353 | | 7.64 | |
| 1955 | 4,727 | 371 | | 7.85 | |
| 1956 | 5,012 | 422 | | 8.42 | |
| 1957 | 5,214 | 459 | | 8.80 | |
| 1958 | 5,397 | 491 | | 9.10 | |
| 1959 | 5,637 | 535 | | 9.49 | |
| 1960 | 5,878 | 578 | | 9.83 | |
| 1961 | 6,140 | 625 | | 10.18 | |
| 1962 | 6,365 | 666 | | 10.46 | |
| 1963 | 6,614 | 711 | | 10.75 | |
| 1964 [4] | 6,867 | 838 | | 9.29 | |
| 1965 | 7,196 | 634 | | 8.81 | |
| 1966 | 7,606 | 705 | | 9.27 | |
| 1967 | 8,057 | 782 | | 9.70 | |
| 1968 [5] | 8,553 | 867 | $954 | 10.14 | 11.15 |
| 1969 [6] | 9,440 | 1,018 | 1,120 | 10.78 | 11.85 |
| 1970 | 10,163 | 1,126 | | 11.08 | |
| 1971 | 11,007 | 1,109 | | 10.08 | |
| 1972 | 11,571 | 1,159 | | 10.02 | |
| 1973 | 12,256 | 1,288 | | 10.51 | |
| 1974 | 12,952 | 1,382 | | 10.67 | |
| 1975 [7] | 13,798 | 1,506 | 1,386 | 10.91 | 10.04 |
| **STEEL WORKERS** | | | | | |
| 1950 | 3,533 | 134 | | 3.79 | |
| 1951 | 4,041 | 249 | | 6.16 | |
| 1952 | 4,160 | 301 | | 7.24 | |
| 1953 | 4,591 | 381 | | 8.30 | |
| 1954 [3] | 4,364 | 308 | | 7.06 | |
| 1955 | 5,034 | 426 | | 8.46 | |
| 1956 | 5,349 | 483 | | 9.03 | |
| 1957 | 5,490 | 508 | | 9.25 | |
| 1958 | 5,616 | 531 | | 9.46 | |
| 1959 | 6,381 | 669 | | 10.48 | |
| 1960 | 6,039 | 607 | | 10.05 | |
| 1961 | 6,392 | 671 | | 10.50 | |
| 1962 | 6,625 | 712 | | 10.75 | |
| 1963 | 6,919 | 765 | | 11.06 | |
| 1964 [4] | 7,198 | 696 | | 9.67 | |
| 1965 | 7,327 | 657 | | 8.97 | |
| 1966 | 7,526 | 691 | | 9.18 | |
| 1967 | 7,463 | 680 | | 9.11 | |
| 1968 [5] | 8,016 | 775 | 852 | 9.67 | 10.63 |
| 1969 [6] | 8,634 | 880 | 968 | 10.19 | 11.21 |
| 1970 | 8,653 | 868 | | 10.03 | |
| 1971 | 9,316 | 888 | | 9.53 | |
| 1972 | 10,767 | 1,029 | | 9.56 | |
| 1973 | 11,818 | 1,199 | | 10.15 | |
| 1974 | 13,455 | 1,480 | | 11.00 | |
| 1975 [7] | 14,203 | 1,589 | 1,469 | 11.19 | 10.34 |

| Year | Income [1] (nearest dollar) | Tax [2] Without surcharge or credit | Tax [2] With surcharge or credit | Tax/income Without surcharge or credit | Tax/income With surcharge or credit |
|---|---|---|---|---|---|
| **ELECTRICAL EQUIPMENT AND SUPPLIES WORKERS** | | | | | |
| 1950 | 3,086 | 64 | | 2.07 | |
| 1951 | 3,342 | 121 | | 3.62 | |
| 1952 | 3,535 | 171 | | 4.84 | |
| 1953 | 3,691 | 201 | | 5.45 | |
| 1954 [3] | 3,704 | 191 | | 5.16 | |
| 1955 | 3,894 | 221 | | 5.68 | |
| 1956 | 4,137 | 265 | | 6.41 | |
| 1957 | 4,254 | 286 | | 6.72 | |
| 1958 | 4,365 | 306 | | 7.01 | |
| 1959 | 4,633 | 354 | | 7.64 | |
| 1960 | 4,718 | 371 | | 7.86 | |
| 1961 | 4,912 | 407 | | 8.29 | |
| 1962 | 5,067 | 432 | | 8.53 | |
| 1963 | 5,155 | 448 | | 8.69 | |
| 1964 [4] | 5,286 | 375 | | 7.09 | |
| 1965 | 5,501 | 378 | | 6.87 | |
| 1966 | 5,677 | 403 | | 7.10 | |
| 1967 | 5,790 | 420 | | 7.25 | |
| 1968 [5] | 6,140 | 471 | 471 | 7.67 | 7.67 |
| 1969 [6] | 6,492 | 525 | 525 | 8.09 | 8.09 |
| 1970 | 6,788 | 552 | | 8.13 | |
| 1971 | 7,220 | 531 | | 7.35 | |
| 1972 | 7,750 | 531 | | 6.90 | |
| 1973 | 8,172 | 599 | | 7.33 | |
| 1974 | 8,630 | 682 | | 7.90 | |
| 1975 [7] | 9,407 | 720 | 600 | 7.65 | 6.38 |
| **AUTO WORKERS** | | | | | |
| 1950 | 3,892 | 189 | | 4.86 | |
| 1951 | 4,012 | 249 | | 6.21 | |
| 1952 | 4,413 | 351 | | 7.95 | |
| 1953 | 4,674 | 401 | | 8.58 | |
| 1954 [3] | 4,748 | 371 | | 7.81 | |
| 1955 | 5,192 | 455 | | 8.76 | |
| 1956 | 5,035 | 426 | | 8.46 | |
| 1957 | 5,232 | 462 | | 8.83 | |
| 1958 | 5,264 | 468 | | 8.89 | |
| 1959 | 5,792 | 563 | | 9.72 | |
| 1960 | 5,991 | 598 | | 9.98 | |
| 1961 | 5,964 | 594 | | 9.96 | |
| 1962 | 6,639 | 715 | | 10.77 | |
| 1963 | 6,899 | 761 | | 11.03 | |
| 1964 [4] | 7,178 | 692 | | 9.64 | |
| 1965 | 7,677 | 717 | | 9.34 | |
| 1966 | 7,656 | 713 | | 9.31 | |
| 1967 | 7,532 | 692 | | 9.19 | |
| 1968 [5] | 8,741 | 899 | 989 | 10.29 | 11.32 |
| 1969 [6] | 8,869 | 920 | 1,012 | 10.37 | 11.41 |
| 1970 | 8,844 | 894 | | 10.11 | |
| 1971 | 10,112 | 961 | | 9.50 | |
| 1972 | 11,448 | 1,139 | | 9.95 | |
| 1973 | 12,351 | 1,324 | | 10.72 | |
| 1974 | 12,456 | 1,302 | | 10.45 | |
| 1975 [7] | 13,659 | 1,487 | 1,367 | 10.89 | 10.00 |

[1] Average annual income.
[2] Married, filing jointly, 2 children.
[3] Tax revision of 1954. Tax rates changed. Exemption unchanged at $600. Standard deduction at 10 percent.
[4] Tax rate of 1963 lowered tax rates in 2 following years. Lowest rate fell from 20 percent to 15 percent, then to 14 percent.
[5] Vietnam war surcharge, 10 percent of tax where tax was greater than $735.
[6] 1970 exemption rose to $625; 1971 exemption rose to $675; standard deduction to 13 percent; 1972 exemption rose to $750; standard deduction to 15 percent.
[7] Tax cut of 1975. Standard deduction to 16 percent. 30 percent credit for exemption.

| Year | Percent changes in— CPI | Income | Tax | Real income | Real tax | Marginal tax rate (percent) | Year |
|---|---|---|---|---|---|---|---|
| **CONSTRUCTION WORKERS** | | | | | | | |
| | | | | | | 19 | 1970 |
| 1970–71 | 4.3 | 8.2 | −1.5 | 3.8 | −5.6 | 19 | 1971 |
| 1971–72 | 3.3 | 5.1 | 4.5 | 1.8 | 1.2 | 19 | 1972 |
| 1972–73 | 6.2 | 5.9 | 11.1 | −.3 | 4.6 | 19 | 1973 |
| 1973–74 | 11.0 | 5.7 | 7.3 | −4.8 | −3.3 | 22 | 1974 |
| 1974–75 [1] | 9.1 | 6.5 | 9.0 | −2.4 | −.1 | 22 | 1975 |
| 1974–75 [2] | 9.1 | 6.5 | .3 | −2.4 | −8.0 | 22 | 1975 |
| 1950–75 [2] | 123.6 | 280.8 | 824 | 70.4 | 313.2 | | |
| **STEEL WORKERS** | | | | | | | |
| | | | | | | 19 | 1970 |
| 1970–71 | 4.3 | 7.7 | 2.3 | 3.2 | −1.9 | 19 | 1971 |
| 1971–72 | 3.3 | 15.6 | 15.9 | 11.9 | 12.2 | 19 | 1972 |
| 1972–73 | 6.2 | 9.8 | 16.5 | 3.3 | 9.7 | 19 | 1973 |
| 1973–74 | 11.0 | 13.8 | 23.4 | 2.6 | 11.2 | 22 | 1974 |
| 1974–75 [1] | 9.1 | 5.6 | 7.4 | −3.3 | −1.7 | 22 | 1975 |
| 1974–75 [2] | 9.1 | 5.6 | −.7 | −3.3 | −9.0 | 22 | 1975 |
| 1950–75 [2] | 123.6 | 302.0 | 996.3 | 79.8 | 390.0 | | |

| Year | Percent changes in— CPI | Income | Tax | Real income | Real tax | Marginal tax rate (percent) | Year |
|---|---|---|---|---|---|---|---|
| **ELECTRICAL EQUIPMENT AND SUPPLIES WORKERS** | | | | | | | |
| | | | | | | 17 | 1970 |
| 1970–71 | 4.3 | 6.4 | −3.8 | 2.0 | −7.8 | 17 | 1971 |
| 1971–72 | 3.3 | 7.3 | 0 | 3.9 | −3.2 | 17 | 1972 |
| 1972–73 | 6.2 | 5.4 | 12.8 | −.7 | 6.2 | 17 | 1973 |
| 1973–74 | 11.0 | 5.6 | 13.9 | −4.8 | 2.6 | 19 | 1974 |
| 1974–75 [1] | 9.1 | 9.0 | 5.6 | −.1 | −3.3 | 19 | 1975 |
| 1974–75 [2] | 9.1 | 9.0 | −12.0 | −.1 | −19.0 | 19 | 1975 |
| 1950–75 [2] | 123.6 | 204.8 | 837.5 | 36.4 | 319.3 | | |
| **AUTO WORKERS** | | | | | | | |
| | | | | | | 19 | 1970 |
| 1970–71 | 4.3 | 14.3 | 7.9 | 9.6 | 3.5 | 19 | 1971 |
| 1971–72 | 3.3 | 13.2 | 18.5 | 9.6 | 14.7 | 19 | 1972 |
| 1972–73 | 6.2 | 7.9 | 16.2 | 1.6 | 9.4 | 19 | 1973 |
| 1973–74 | 11.0 | .8 | −1.7 | −9.1 | −11.4 | 19 | 1974 |
| 1974–75 [1] | 9.1 | 9.7 | 14.2 | .5 | 4.6 | 22 | 1975 |
| 1974–75 [2] | 9.1 | 9.7 | 5.0 | .5 | −3.8 | 22 | 1975 |
| 1950–75 [2] | 123.6 | 251.0 | 623.3 | 57.0 | 223.5 | | |

[1] Excluding $30 credit.
[2] Including $30 credit. Except for the $30 credit per exemption, taxes would have risen faster (or fallen less) than income, 1974–75. If the credit is not renewed, and at a higher level, the effect of inflation on the tax structure will undo last year's drop in taxes as a percent of income and cause the ratio to rebound sharply, as taxes rise far more rapidly than income.

ACTUAL VERSUS INFLATION NEUTRAL TAX (ASSUMING INFLATION ADJUSTMENTS HAD BEEN IN EFFECT BEGINNING WITH 1973)

| | Actual tax A | Inflation neutral tax B | C | Savings from adjustment A–B | A–C | Cumulative inflation penalty under current code |
|---|---|---|---|---|---|---|
| **CONSTRUCTION WORKER** | | | | | | |
| 1972 | $1,159 | $1,159 | | 0 | | |
| 1973 | 1,288 | 1,225 | | $63 | | $63 |
| 1974 | 1,382 | 1,255 | | 127 | | 190 |
| 1975 [1] | 1,506 | [2] 1,315 | [3] $1,288 | 191 | $218 | [2] 381 [3] $408 |
| **STEEL WORKER** | | | | | | |
| 1972 | $1,029 | $1,029 | | 0 | | |
| 1973 | 1,199 | 1,154 | | $45 | | $45 |
| 1974 | 1,480 | 1,336 | | 144 | | 189 |
| 1975 [1] | 1,589 | [2] 1,380 | [3] $1,353 | 209 | $236 | [2] 398 [3] $433 |
| **ELECTRICAL EQUIPMENT AND SUPPLIES WORKER** | | | | | | |
| 1972 | $531 | $531 | | 0 | | |
| 1973 | 599 | 575 | | $24 | | $24 |
| 1974 | 682 | 518 | | 164 | | 188 |
| 1975 [1] | 720 | [2] 626 | [3] $610 | 94 | $110 | [2] 282 [3] $298 |
| **AUTO WORKER** | | | | | | |
| 1972 | $1,139 | $1,139 | | 0 | | |
| 1973 | 1,324 | 1,241 | | $83 | | $83 |
| 1974 | 1,302 | 1,174 | | 128 | | 211 |
| 1975 [1] | 1,487 | [2] 1,292 | [3] $1,266 | 195 | $221 | [2] 406 [3] $432 |

[1] Excluding $30 credit, which has no impact on differences between actual and inflation-neutral taxes.

[2] Assumes 15 percent standard deduction consistent with earlier years.

[3] Assumes actual 16 percent standard deduction.

## TREASURY-POSTAL SERVICE-EXECUTIVE OFFICE OF THE PRESIDENT, AND CERTAIN INDEPENDENT AGENCIES APPROPRIATIONS, 1977—H.R. 14261

AMENDMENT NO. 1892

(Ordered to be printed and to lie on the table.)

Mr. GLENN submitted an amendment intended to be proposed by him to the bill (H.R. 14261) making appropriations for the Treasury Department, U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1977, and for other purposes.

## POSTAL REORGANIZATION ACT AMENDMENTS OF 1976—H.R. 8603

AMENDMENTS NOS. 1894 THROUGH 1898

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS. Mr. President, the Senate Post Office and Civil Service Committee has ordered reported H.R. 8603. When this measure comes to the Senate for consideration I intend to offer an amendment in the nature of a substitute. Therefore I ask unanimous consent that my dissenting views and my amendments be printed in the RECORD.

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

AMENDMENT NO. 1894

Strike out all after the enacting clause and insert in lieu thereof the following: That this Act may be cited as the "Postal Reorganization Act Amendments of 1976".

FINANCIAL MATTERS

SEC. 2. Section 2401 of title 39, United States Code, is amended by adding at the end thereof the following new subsections:

"(d)(1) There is authorized to be appropriated to the Postal Service for the fiscal year ending September 30, 1977, the amount of $1,000,000,000.

"(2) The Postal Service, in requesting amounts to be appropriated under this subsection, shall present to the appropriate committees of the Congress a statement containing a description of the operations of the Postal Service together with any other information which any such committee considers necessary to determine the amount of funds to be appropriated for the operation of the Postal Service.

"(e) During the fiscal year ending September 30, 1977, or, if funds are not appropriated pursuant to the authorization provided in subsection (d)(1) of this section before the beginning of such fiscal year, during the portion of such fiscal year beginning with the day on which any funds are so appropriated, the Postal Service shall not—

"(1) have in effect any permanent or temporary rate of postage or fee for postal services exceeding the rates and fees in effect on the date of enactment of the Postal Reorganization Act Amendments of 1976, unless that excess is provided for under section 3626 of this title;

"(2) close any post office where 35 or more families regularly receive their mail and which was providing service on July 1, 1976; or

"(3) close any post office where fewer than 35 families receive their mail and which was providing service on July 1, 1976, unless the Postal Service receives the written consent of at least 60 percent of the regular patrons of such office who are at least 18 years of age.

"(f) During the fiscal year ending on September 30, 1977, or if funds are not appropriated pursuant to the authorization provided in subsection (d)(1) of this section before the beginning of such fiscal year, during the portion of such fiscal year beginning with the day on which any funds are so appropriated, the Postal Service shall provide door delivery or curbline delivery to all permanent residential addresses (other than apartment building addresses) to which service is begun on or after the date of enactment of the Postal Reorganization Act Amendments of 1976.

"(g) The rates and fees established under chapter 36 of this title for zone-rated mail matter formerly entered under former chapter 67 of this title shall not be more than 10 percent less than the rates and fees for such mail matter would be if the funds authorized under this section were not appropriated.".

SEC. 3. (a)(1) Section 2401(a) of title 39, United States Code, is amended to read as follows:

"(a) All revenues and fees collected by the Postal Service shall be deposited in the general fund of the Treasury of the United States.".

(2) Section 2003(b)(1) of such title is amended to read as follows:

"(1) amounts appropriated pursuant to the authorization made by section 2401(b) of this title;".

(3) Section 2003(b)(3) of such title is amended by inserting immediately after "Postal Service" the following: "inaddition to amounts appropriated pursuant to the authorization made by section 2401(b) of this title".

(4) Section 4 (b) of the Postal Reorganization Act (Public Law 91-375; 84 Stat. 774) is amended by striking out "Postal Service" and inserting in lieu thereof "United States, and shall be deposited in the general fund of the Treasury of the United States in accordance with section 2401(a) of title 39, United States Code, as added by the Postal Reorganization Act Amendments of 1976.".

(b)(1) Section 2401(b) of title 39, United States Code, is amended to read as follows:

"(b) There are authorized to be appropriated to the Postal Service such sums as may be necessary as reimbursement to the Postal Service for public service costs incurred by it in providing a maximum degree of effective and regular postal service nationwide, in communities where post offices may not be deemed self-sustaining, as elsewhere.".

(c)(1) Section 3621 of title 39, United States Code, is amended by striking out "income" and inserting in lieu thereof "revenue".

(2) Section 3625(d) of such title is amended by striking out "income" and inserting in lieu thereof "revenue".

(d) The amendments made by this subsection shall take effect on October 1, 1977.

Sec. 4. (a) The last sentence of section 2005(a) of title 5, United States Code, is amended to read as follows: "The net increase in the amount of obligations outstanding for the purpose of capital improvements shall not exceed $1,500,000,000 in any one year and the aggregate amount of obligations outstanding issued for the purpose of paying the operating expenses of the Postal Service shall not exceed $500,000,000 at any one time.".

(b) The amendment made by subsection (a) applies to obligations issued after October 1, 1977. If the amount of obligations issued prior to such date exceeds any limitation imposed by such amendment on or after such date, the Postal Service shall not incur any new obligations until such time as the amount owing on such prior obligations is less than such limitation.

ORGANIZATIONAL MATTERS

SEC. 5. (a) Section 102 of title 39, United States Code, is amended to read as follows:

"§ 102. Definitions

"As used in this title 'Postal Service' means the United States Postal Service established by section 201 of this title.".

(b) Section 201 of such title is amended by striking out ", as an independent establishment of" and inserting in lieu thereof "within".

(c) Section 202 of such title is repealed and the item relating to such section in the table of sections for chapter 2 of such title is amended to read as follows:

"202. Repealed.".

(d)(1) Sections 203 through 205 of such title are amended to read as follows:

"§ 203. Postmaster General

"The head of the Postal Service is the Postmaster General. The Postmaster General shall be appointed by the President by and with the advice and consent of the Senate. The Postmaster General shall receive compensation at the rate provided for level I of the Executive Schedule under section 5312 of title 5.

"§ 204. Deputy Postmaster General

"The Deputy Postmaster General of the Postal Service shall be appointed by the President by and with the advice and consent of the Senate. The Deputy Postmaster General shall perform such duties as the Postmaster General may require. The Deputy Postmaster General shall receive compensation at the rate provided for level II of the Executive Schedule under section 5313 of title 5.

"§ 205. Senior Assistant Postmasters General; Assistant Postmasters General; General Counsel; Judicial Officer

"There shall be within the Postal Service 3 Senior Assistant Postmasters General, 8 Assistant Postmasters General, a General Counsel, and Judicial Officer. The Senior Assistant Postmasters General, the Assistant Postmasters General, the General Counsel, and the Judicial Officer shall be appointed by and shall serve at the pleasure of, the Postmaster General. The Judicial Officer shall perform such quasi-judicial duties, not inconsistent with chapter 36 of this title, as the Postmaster General may designate. The Judicial Officer shall be the agency for the purposes of the requirements of chapter 5 of title 5, to the extent that functions are delegated to him by the Postmaster General. The Senior Assistant Postmasters General shall receive compensation at the rate provided for level III of the Executive Schedule under section 5314 of title 5. The Assistant Postmasters General, the General Counsel, and the Judicial Officer shall receive compensation at the rate provided for level IV of the Executive Schedule under section 5315 of title 5.".

(2) The items relating to sections 203 through 205 of such title are amended to read as follows:

"203. Postmaster General.
"204. Deputy Postmaster General.
"205. Senior Assistant Postmasters General; Assistant Postmasters General; Counsel; Judicial Officer.".

(c) Section 402 of such title is amended to read as follows:

"§ 402. Delegation of authority

"The Postmaster General may delegate to any officer or employee of the Postal Service the responsibility for the performance of such functions as may be vested by law in him or in any other officer or employee of the Postal Service.".

(f) Section 2402 of such title is amended to read as follows:

"§ 2402. Annual report

"The Postmaster General shall transmit an annual report to the President and the Congress concerning the operation of the Postal Service under this title.".

SEC. 6. (a)(1) Section 3603 of such title is amended to read as follows:

"§ 3603. Duties and powers

"(a) The Commission shall have the duty to make final decisions for changes in postal rates and fees and in mail classification matters and to render advisory opinions on postal services and complaints in accordance with the policies and procedures of this title.

"(b) The Postal Rate Commission shall promulgate rules and regulations and establish procedures, subject to chapters 5 and 7 of title 5, and take any other action they deem necessary and proper to carry out their functions and obligations to the Government of the United States and the people as prescribed under this chapter. Such rules, regulations, procedures, and actions shall not be subject to any change or supervision by the Postal Service ".

(2) The item relating to such section in the table of sections for chapter 36 of such title is amended to read as follows:

"3603. Duties and powers.".

(b)(1) The first sentence of section 3621 of such title is amended by striking out "Governors" and inserting in lieu thereof "the Postal Rate Commission".

(2) Section 3622(a) of such title is amended—

(A) by striking out "to submit a recommended decision on changes" and inserting in lieu thereof "to decide on changes"; and

(B) by striking out "may submit such suggestions for rate adjustments as it deems suitable" and inserting in lieu thereof "may make such rate adjustments as it deems suitable".

(3) Section 3622(b) of such title is amended by striking out "the Commission shall make a recommended decision" and inserting in lieu thereof "the Commission shall make a decision".

(4) Section 3623(b) of such title is amended by striking out "recommended".

(5) Section 3623(c) is amended by striking out "recommended".

(6)(A) Section 3601 of title 39, United States Code, is amended to read as follows:

"§3601. Establishment

"(a) The Postal Rate Commission is an independent establishment of the executive branch of the Government of the United States. The Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen on the basis of their professional qualifications and may be removed by the President only for cause. Not more than 3 of the Commissioners may be adherents of the same political party.

"(b) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under section 3602 of this title.

"(c) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.

"(d) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.".

(B) The provisions of section 3601(e) of title 39, United States Code, as amended by paragraph (a) of this section, shall not apply with respect to any Commissioner of the Postal Rate Commission holding office on the date of the enactment of this Act, except that such provisions shall apply to any appointment of such a Commissioner occurring after the date of the enactment of this Act.

(7) Section 3625 of such title is repealed and the item relating to such section in the table of sections for chapter 36 of such title is amended to read as follows:

"3625. Repealed.".

(8) Section 3628 of such title is amended—

(A) by striking out "decision of the Governors to approve, allow under protest, or modify the recommended";

(B) by striking out "and the Governors"; and

(C) by striking out "or Governors".

(9) The caption of section 3624 of such title and the item relating to such section in the analysis of chapter 36 of such title are each amended by striking out "recommended decisions" and inserting in lieu thereof "Decisions".

(c) The third sentence of section 3662 of such title is amended by striking out "recommended".

SEC. 7. (a)(1) Section 1001(b) of title 39, United States Code, is amended by striking out "202, 204," and inserting in lieu thereof "203, 204, 205,".

(2) Section 1001(d) of such title is amended by striking out "of the Board of".

(b) Section 1002 (a) is amended by striking out "a Governor or" and inserting in lieu thereof "a".

(c)(1) Section 1005 (a)(3) of such title is amended by striking out "202, 204," and inserting in lieu thereof "203, 204, 205,".

(2) Section 1005 (d) of such title is amended by striking out "(other than the Governors)".

SEC. 8. (a) Section 5312 of title 5, United States Code, is amended by inserting immediately after paragraph (13), the following new paragraph:

"(14) Postmaster General.".

(b) Section 5313 of such title is amended by inserting immediately after paragraph (22) the following new paragraph:

"(23) Deputy Postmaster General.".

(c) Section 5314 of such title is amended by inserting immediately after paragraph (63) the following new paragraph:

"(64) Senior Assistant Postmasters General (3).".

(d) Section 5315 of such title is amended by inserting immediately after paragraph (107) the following new paragraphs:

"(108) Assistant Postmasters General (8).

"(109) General Counsel of the United States Postal Service.

"(110) Judicial Officer of the United States Postal Service.".

RATE MATTERS

SEC. 9. (a) Section 3624 of title 39, United States Code, is amended by redesignating subsection (c) as subsection (d) and by inserting immediately after subsection (b) the following new subsection:

"(c)(1) Except as provided by paragraph (2) of this subsection, in any case in which the Postal Service makes a request under section 3622 of this title for a decision by the Commission on changes in a rate or rates of postage or in a fee or fees for postal services the Commission shall transmit its decision to the Postal Service under subsection (d) of this section no later than 10 months after receiving any such request from the Postal Service.

"(2) In any case in which the Commission determines that the Postal Service has unreasonably delayed consideration of a request made by the Postal Service under section 3622 by failing to respond within a reasonable time to any lawful order of the Commission, the Commission may extend the 10-month period described in paragraph (1) of this subsection by one day for each day of such delay.".

(b) The amendment made by subsection (a) shall not apply to any action or proceeding with respect to the decision of the Postal Rate Commission relating to proposed changes in rates of postage, and in fees for postal services, requested on September 18, 1975, by the United States Postal Service in a request which bears or which at any time has been included under Postal Rate Commission Docket Number R76-1.

SEC. 10. (a) Section 3641 of title 39, United States Code, is amended to read as follows:

"§ 3641. Temporary changes in rates and classes.

"(a) In any case in which the Postal Rate Commission fails to transmit a decision on a change in rates of postage or in fees for postal services to the Postal Service in accordance with section 3624(c) of this title, the Postal Service may establish temporary

changes in rates of postage and in fees for postal services. Such temporary changes may take effect upon such date as the Postal Service may determine, except that such temporary changes may take effect only after 10 days' notice in the Federal Register.

"(b) Any temporary rate or fee established by the Postal Service under subsection (a) of this section shall be in accordance with the policies of this title and shall not exceed such amount as may be necessary for sufficient revenues to assure that the total estimated revenue including appropriations, of the Postal Service shall, to the extent practicable, be equal to the total estimated costs of the Postal Service.

"(c) The Postal Service may not establish any temporary rate for a class of mail or any temporary fee for a postal service which is more than the permanent rate or fee requested for such class or postal service by the Postal Service under section 3622 of this title.

"(d) Any temporary change in rates of postage or in fees for postal service made by the Postal Service under this section shall remain in effect no longer than 150 days after the date upon which the Commission transmits its decision to the Postal Service under section 3624(d) of this title, unless such temporary change is terminated by the Postal Service before the expiration of such period.

"(c) If the Postal Rate Commission does not transmit to the Postal Service within 90 days after the Postal Service has submitted, or within 30 days after the Postal Service has resubmitted, to the Commission a request for a decision on a change in the mail classification schedule (after such schedule is established under section 3623 of this title), the Postal Service, upon 10 days' notice in the Federal Register, may place into effect temporary changes in the mail classification schedule in accordance with proposed changes under consideration by the Commission. Any temporary change shall be effective for a period ending not later than 30 days after the Commission has transmitted its decision to the Postal Service.

"(f) If, under section 3628 of this title, a court orders a matter returned to the Commission for further consideration, the Postal Service, with the consent of the Commission, may place into effect temporary changes in rates of postage, and fees for postal services, or in the mail classification schedule.".

(b)(1) The amendment made by subsection (a) of this section shall not apply to any action or proceeding with respect to the decision of the Postal Rate Commission relating to proposed changes in rates of postage and in fees for postal services requested on September 18, 1975, by the United States Postal Service in a request which bears or which at any time has been included under Postal Rate Commission Docket Number R76-1.

(2) The provisions of section 3641 of title 39, United States Code, as such provisions were in effect on the day before the date of the enactment of this Act, shall apply to any temporary rate or fee established by the Postal Service pursuant to its request to the Postal Rate Commission, dated September 18, 1975, for a decision, bearing Docket Number R76-1.

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AMENDMENT No. 1895

On page 33, line 16, strike out "Postal Service" and insert in lieu thereof "Congress".

On page 33, beginning with line 18, strike out all through page 34, line 2, and insert in lieu thereof the following: "facilities, supplies, compensation, and employee benefits".

On page 34, line 15, strike out "recommended".

On page 34, line 18, strike out "recommended".

On page 34, line 18, strike out "Governors" and insert in lieu thereof "Postal Service".

On page 35, line 3, insert after "subsection (a)" the following: "with respect to the 10 month requirement to transmit a decision".

On page 35, line 15, strike out "recommended".

On page 35, line 16, strike out "Governors" and insert in lieu thereof "Postal Service".

On page 36, lines 16 and 17, strike out "recommended".

On page 36, line 17, strike out "Governors" and insert in lieu thereof "Postal Service".

On page 36, line 19, strike out "Governors" and insert in lieu thereof "Postal Service".

On page 36, line 21, strike out "Governors" and insert in lieu thereof "Postal Service".

On page 36, line 23, strike out "recommended".

On page 37, lines 6 and 7, strike out "recomended".

On page 37, line 7, strike out "Governors" and insert in lieu thereof "Postal Service".

On page 37, beginning with line 14, strike out all through page 38, line 3.

At the appropriate place, insert the following new sections:

SEC. . (a) Section 102 of title 39, United States Code, is amended to read as follows:

"§ 102. Definitions

"As used in this title 'Postal Service' means the United States Postal Service established by section 201 of this title.".

(b) Section 201 of such title is amended by striking out ", as an independent establishment of" and inserting in lieu thereof "within".

(c) Section 202 of such title is repealed and the item relating to such section in the table of sections for chapter 2 of such title is amended to read as follows:

"202. Repealed.".

(d)(1) Sections 203 through 205 of such title are amended to read as follows:

"§ 203. Postmaster General

"The head of the Postal Service is the Postmaster General. The Postmaster General shall be appointed by the President by and with the advice and consent of the Senate. The Postmaster General shall receive compensation at the rate provided for level I of the Executive Schedule under section 5312 of title 5.

"§ 204. Deputy Postmaster General

"The Deputy Postmaster General of the Postal Service shall be appointed by the President by and with the advice and consent of the Senate. The Deputy Postmaster General shall perform such duties as the Postmaster General may require. The Deputy Postmaster General shall receive compensation at the rate provided for level II of the Executive Schedule under section 5313 of title 5.

"§ 205. Senior Assistant Postmasters General; Assistant Postmasters General; General Counsel; Judicial Officer

"There shall be within the Postal Service 3 Senior Assistant Postmaster General, 8 Assistant Postmasters General, a General Counsel, and a Judicial Officer. The Senior Assistant Postmasters General, the Assistant Postmasters General, the General Counsel, and the Judicial Office shall be appointed by, and shall serve at the pleasure of, the Postmaster General. The Judicial Officer shall perform such quasi-judicial duties, not inconsistent with chapter 36 of this title, as the Postmaster General may designate. The Judicial Officer shall be the agency for the purposes of the requirements of chapter 5 of title 5, to the extent that functions are delegated to him by the Postmaster General. The Senior Assistant Postmasters General shall receive compensation at the rate provided for level III of the Executive Schedule under section 5314 of title 5. The Assistant Postmasters General, the General Counsel, and the Judicial Officer shall receive compensation at the rate provided for level IV of the Executive Schedule under section 5315 of title 5.".

(2) The items relating to sections 203 through 205 of such title are amended to read as follows:

"203. Postmaster General.
"204. Deputy Postmaster General.
"205. Senior Assistant Postmasters General; Assistant Postmasters General; General Counsel; Judicial Officer.".

(e) Section 402 of such title is amended to read as follows:

"§ 402. Delegation of authority

"The Postmaster General may delegate to any officer or employee of the Postal Service the responsibility for the performance of such functions as may be vested by law in him or in any other officer or employee of the Postal Service.".

(f) Section 2402 of such title is amended to read as follows:

"§ 2402. Annual report.

"The Postmaster General shall transmit an annual report to the President and the Congress concerning the operation of the Postal Service under this title.".

SEC. (a)(1) Section 3603 of such title is amended to read as follows:

"§ 3603. Duties and powers.

"(a) The Commission shall have the duty to make final decisions for changes in postal rates and fees and in mail classification matters and to render advisory opinions on postal services and complaints in accordance with the policies and procedures of this title.

"(b) The Postal Rate Commission shall promulgate rules and regulations and establish procedures, subject to chapters 5 and 7 of title 5, and take any other action they deem necessary and proper to carry out their functions and obligations to the Government of the United States and the people as prescribed under this chapter. Such rules, regulations, procedures, and actions shall not be subject to any change or supervision by the Postal Service.".

(2) The item relating to such section in the table of sections for chapter 36 of such title is amended to read as follows:

"§ 3603. Duties and powers.".

(b)(1) The first sentence of section 3621 of such title is amended by striking out "Governors" and inserting in lieu thereof "the Postal Rate Commission".

(2) Section 3622(a) of such title is amended—

(A) by striking out "to submit a recommended decision on changes" and inserting in lieu thereof "to decide on changes"; and

(B) by striking out "may submit such suggestions for rate adjustments as it deems suitable" and inserting in lieu thereof "may make such rate adjustments as it deems suitable".

(3) Section 3622(b) of such title is amended by striking out "the Commission shall make a recommended decision" and inserting in lieu thereof "the Commission shall make a decision".

(4) Section 3623(b) of such title is amended by striking out "recommended".

(5) Section 3623(c) is amended by striking out "recommended".

(6) Section 3624 of such title is amended by striking out "Governors" and inserting in lieu thereof "Postal Service" in subsection (d), as redesignated by section 5(a) of this Act, and by striking out "recommended" in both places where it appears in subsection (d), as redesignated by section 5(a) of this Act.

(7) Section 3625 of such title is repealed and the item relating to such section in the

table of sections for chapter 36 of such title is amended to read as follows:

"3625. Repealed.

(8) Section 3628 of such title is amended—

(A) by striking out "decision of the Governors to approve, allow under protest, or modify their recommended";

(B) by striking out "and the Governors", and

(C) by striking out "or Governors".

(9) The caption of section 3624 of such title and the item relating to such section in the analysis of chapter 36 of such title are each amended by striking out "Recommended decisions" and inserting in lieu thereof "Decisions".

(c) The third sentence of section 3662 of such title is amended by striking out "recommended".

SEC. . (a) (1) Section 1001(b) of title 39, United States Code, is amended by striking out "202, 204," and inserting in lieu thereof "203, 204, 205,".

(2) Section 1001(d) of such title is amended by striking out "of the Board or".

(b) Section 1002(a) is amended by striking out "a Governor or" and inserting in lieu thereof "a".

(c) (1) Section 1005(a) (3) of such title is amended by striking out "202, 204", and inserting in lieu thereof "203, 204, 205".

(2) Section 1005(d) of such title is amended by striking out "(other than the Governors)".

SEC. . (a) Section 5312 of title 5, United States Code, is amended by inserting immediately after paragraph (13), the following new paragraph:

"(14) Postmaster General.".

(b) Section 5313 of such title is amended by inserting immediately after paragraph (22) the following new paragraph:

"(23) Deputy Postmaster General.".

(c) Section 5314 of such title is amended by inserting immediately after paragraph (63) the following new paragraph:

"(64) Senior Assistant Postmasters General (3).".

(d) Section 5315 of such title is amended by inserting immediately after paragraph (107) the following new paragraphs:

"(108) Assistant Postmasters General (8).

"(109) General Counsel of the United States Postal Service.

"(110) Judicial Officer of the United States Postal Service.".

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AMENDMENT NO. 1896

At the appropriate place, insert the following new sections:

SEC. . (a) Section 202 of title 39, United States Code, is amended—

(1) by striking out the first two sentences of subsection (a) thereof and inserting in lieu thereof the following: "There is established a Board of Governors composed of 9 Governors who shall be appointed by the President, by and with the advice and consent of the Senate, not more than 5 of whom may be adherents of the same political party."; and

(2) by striking out subsections (c) and (d) thereof.

(b) (1) Sections 203 through 205 of such title are amended to read as follows:

"§ 203. Postmaster General

"The head of the Postal Service is the Postmaster General. The Postmaster General shall be appointed by the President by and with the advice and consent of the Senate. The Postmaster General shall receive compensation at the rate provided for level I of the Executive Schedule under section 5312 of title 5.

"§ 204. Deputy Postmaster General

"The Deputy Postmaster General of the Postal Service shall be appointed by the President by and with the advice and consent of the Senate. The Deputy Postmaster General shall perform such duties as the Postmaster General may require. The Deputy Postmaster General shall receive compensation at the rate provided for level II of the Executive Schedule under section 5313 of title 5.

"§ 204A. Senior Assistant Postmasters General; Assistant Postmasters General; General Counsel; Judicial Officer

"There shall be within the Postal Service 3 Senior Assistant Postmasters General, 8 Assistant Postmasters General, a General Counsel, and a Judicial Officer. The Senior Assistant Postmasters General, the Assistant Postmasters General, the General Counsel, and the Judicial Officer shall be appointed by, and shall serve at the pleasure of, the Postmaster General. The Judicial Officer shall perform such quasi-judicial duties, not inconsistent with chapter 36 of this title, as the Postmaster General may designate. The Judicial Officer shall be the agency for the purposes of the requirements of chapter 5 of title 5, to the extent that functions are delegated to him by the Postmaster General. The Senior Assistant Postmasters General shall receive compensation at the rate provided for level III of the Executive Schedule under section 5314 of title 5. The Assistant Postmasters General, the General Counsel, and the Judicial Officer shall receive compensation at the rate provided for level IV of the Executive Schedule under section 5315 of title 5.".

(2) The items relating to sections 203 through 205 of such title are amended to read as follows:

"203. Postmaster General.

"204. Deputy Postmaster General.

"204A. Senior Assistant Postmasters General; Assistant Postmasters General; General Counsel; Judicial Officer.".

(c) Section 205(c) of such title is amended to read as follows:

"(c) The Board shall act upon majority vote of those who are present and any 6 members shall constitute a quorum for the transaction of business by the Board, except as otherwise provided in this title.".

(d) (1) Section 1001(b) of such title is amended by striking out "202, 204," and inserting in lieu thereof "203, 204, 205,".

(2) Section 1005(a) (3) of such title is amended by striking out "202, 204," and inserting in lieu thereof "203, 204, 205,".

SEC. .(a) Section 5312 of title 5, United States Code, is amended by inserting immediately after paragraph (13), the following new paragraph:

"(14) Postmaster General.".

(b) Section 5313 of such title is amended by inserting immediately after paragraph (22) the following new paragraph:

"(23) Deputy Postmaster General.".

(c) Section 5314 of such title is amended by inserting immediately after paragraph (63) the following new paragraph:

"(64 Senior Assistant Postmasters General (3).".

(d) Section 5315 of such title is amended by inserting immediately after paragraph (107) the following new paragraphs:

"(108) Assistant Postmasters General (8).

"(109) General Counsel of the United States Postal Service.

"(110) Judicial Officer of the United States Postal Service.".

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AMENDMENT NO. 1897

On page 27, beginning with line 8, strike out all through page 31, line 8 and insert in lieu thereof the following:

Sec. 2. Section 2401 of title 39, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) (1) There is authorized to be appropriated to the Postal Service for the fiscal year ending September 30, 1977, the amount of $1,000,000,000.

"(2) The Postal Service, in requesting amounts to be appropriated under this subsection, shall present to the appropriate committees of the Congress a statement containing a description of the operations of the Postal Service together with any other information which any such committee considers necessary to determine the amount of funds to be appropriated for the operation of the Postal Service.

"(e) During the fiscal year ending September 30, 1977, or, if funds are not appropriated pursuant to the authorization provided in subsection (d) (1) of this section before the beginning of such fiscal year, during the portion of such fiscal year beginning with the day on which any funds are so appropriated, the Postal Service shall not—

"(1) have in effect any permanent or temporary rate of postage or fee for postal services exceeding the rates and fees in effect on the date of enactment of the Postal Reorganization Act Amendments of 1976, unless that excess is provided for under section 3626 of this title;

"(2) close any post office where 35 or more families regularly receive their mail and which was providing service on July 1, 1976; or

"(3) close any post office where fewer than 35 families receive their mail and which was providing service on July 1, 1976, unless the Postal Service receives the written consent of at least 60 percent of the regular patrons of such office who are at least 18 years of age.

"(f) During the fiscal year ending September 30, 1977, or, if funds are not appropriated pursuant to the authorization provided in subsection (d) (1) of this section before the beginning of such fiscal year, during the portion of such fiscal year beginning with the day on which any funds are so appropriated, the Postal Service shall provide door delivery or curbline delivery to all permanent residential addresses (other than apartment building addresses) to which service is begun on or after the date of enactment of the Postal Reorganization Act Amendments of 1976.

"(g) The rates and fees established under chapter 36 of this title for zone-rated mail formerly entered under former chapter 67 of this title shall not be more than 10 percent less than the rates and fees for such mail matter would be if the funds authorized under this section were not appropriated."

SEC. 3. (a) (1) Section 2401(a) of title 39, United States Code, is amended to read as follows:

"(a) All revenues and fees collected by the Postal Service shall be deposited in the general fund of the Treasury of the United States.".

(2) Section 2003(b) (1) of such title is amended to read as follows:

"(1) amounts appropriated pursuant to the authorization made by section 2401(b) of this title;".

(3) Section 2003(b) (3) of such title is amended by inserting immediately after "Postal Service" the following: "in addition to amounts appropriated pursuant to the authorization made by section 2401(b) of this title".

(4) Section 4(b) of the Postal Reorganization Act (Public Law 91-375; 84 Stat. 774) is amended by striking out "Postal Service" and inserting in lieu thereof "United States, and shall be deposited in the general fund of the Treasury of the United States in accordance with section 2401(a) of title 39, United States Code, as added by the Postal Reorganization Act Amendments of 1976.".

(b) (1) Section 2401(b) of title 39, United States Code, is amended to read as follows:

"(b) There are authorized to be appropri-

ated to the Postal Service such sums as may be necessary as reimbursement to the Postal Service for public service costs incurred by it in providing a maximum degree of effective and regular postal service nationwide, in communities where post offices may not be deemed self-sustaining, as elsewhere.".

(c)(1) Section 3621 of title 39, United States Code, is amended by striking out "income" and inserting in lieu thereof "revenue".

(2) Section 3625(d) of such title is amended by striking out "income" and inserting in lieu thereof "revenue".

(d) The amendments made by this subsection shall take effect on October 1, 1977.

On page 31, line 9, strike out "Sec. 3." and insert in lieu thereof "Sec. 4.".

On page 32, line 15, strike out "Sec. 4." and insert in lieu thereof "Sec. 5.".

On page 35, line 11, strike out "Sec. 6." and insert in lieu thereof "Sec. 7.".

On page 38, beginning with line 4, strike out all through page 41, line 25.

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AMENDMENT No. 1898

At the appropriate place, insert the following new section:

SEC. . (a) The last sentence of section 2005 (a) of title 5, United States Code, is amended to read as follows: "The net increase in the amount of obligations outstanding for the purpose of capital improvements shall not exceed $1,500,000,000 in any one year and the aggregate amount of obligations outstanding issued for the purpose of paying the operating expenses of the Postal Service shall not exceed $500,000,000 at any one time.".

(b) The amendment made by subsection (a) applies to obligations issued after October 1, 1977. If the amount of obligations issued prior to such date exceed any limitation imposed by such amendment on or after such date, the Postal Service shall not incur any new obligations until such time as the amount owing on such prior obligations is less than such limitation.

The basic difference that I have with the leadership over H.R. 8603 is the leadership's disowning of our oversight responsibility by passing it to a Blue Ribbon Commission. We agree on the $1 billion that is needed to keep the Postal Service solvent. We agree that the Rate Commission procedures should be accelerated; we agree that there should be a moratorium on raising rates and/or a cut in service during the period of oversight. But we disagree as to who should do the oversight. I feel the Senate Post Office and Civil Service Committee has avoided and evaded this responsibility too long. Assigning the task to a so-called Blue Ribbon Commission to report by February 15 of next year is nothing more than a political cop-out. Rather than solving problems, this creates an additional problem of struggling with yet another study report of the Postal Service. The General Accounting Office has rendered no less than 138 studies of the Postal Service—only two requested by the Senate Post Office Committee. It was a Blue Ribbon Commission (Kappel Commission) that gave us this mess. It is a Blue Ribbon Commission (Board of Governors) that has nurtured it into bankruptcy; and I cannot in conscience commence the task with yet another Blue Ribbon Commission.

In August of 1970, the Congress in abolishing the Post Office Department made clear its intent that the Postal Service be removed from politics and that it operate as a private corporation. The public appointment of a Board of Governors and the $1 milion public service subsidy prevent the concept from being totally private. But if there were any doubt that a private concept was intended, Congress removed this by making it a crime to recommend the appointment of a postmaster. Pursuing this intent, the Postal Service for a long period forbade any contact by their employees with Members of Congress. And the general feeling on the Senate Post Office and Civil Service Committee was that contact should be kept to a minimum, that the new institution should be given a chance without Congressional interference.

This has resulted in the Postal Service operating with little or no Congressional oversight for 6 years. In 1971, there was no oversight hearings with the Postmaster General. None in '72. But as complaints mounted, the Committee commenced oversight hearings in March of 1973. After two mornings, these hearings were adjourned to luncheon sessions with the Postmaster General. These proved fruitless and before long were abandoned. There was a postal oversight hearing in Ogden, Utah one day in 1974 but none that year with the Postmaster General. There was an oversight hearing in Casper, Wyoming on June 25, 1975 but none that year with the Postmaster General.

Postmaster General Bailar testified on S. 2844 (which is now H.R. 8603) on January 27 and January 28 of 1976 but when it became known that the Senate Post Office Committee was finally to have hearings, the Committee was so deluged with postal problems waiting in line to be heard that the only way to finalize the work on this bill was to hold hearings during the April recess when everyone was out of town. So lack of oversight while well-intended initially has now after 6 years become critical. Letters of complaint stream in. Extravagance in top offices is reported. Reports of mismanagement mount. Undelivered and broken packages pile high and the cost of service goes up, up while service itself goes down, down.

As the Postal Service appears to be going out of business, United Parcel Service, its private competitor, seems to thrive. Taking a cue from this, many now recommend that the express statute be repealed so that first class mail can be delivered by private enterprise. The Administration, while resisting profligate financing for New York City, encourages the borrowing of more and more millions each year for operating expenses. As a result, the Postal Service valued at $3 billion when it started in 1970 is now near bankruptcy. We all agree that an infusion of $1 billion is necessary now. But because of our policy of benign neglect, no proposal can pass the Senate without a recognition of the need for oversight. This is the issue at hand.

The Post Office and Civil Service Committee Chairman and the ranking minority member recommended that this oversight responsibility be palmed off on a Blue Ribbon Commission. But after 6 years, we should have learned by now that the public's demand for service can no longer be ignored by the Congress. Only the Congress as the people's representatives can determine the amount of public service subsidy. Only a constant oversight by Congress can make the Service sound and responsive. My hope was that by now we would be giving out awards for success rather than billions for failure. But the only way to study these failures, the only way to prevent them in the future, the only way for a constant input by the public is to bring the Postmaster General back in communication with the Congress and the President and for us to resume budgetary authorizations. We can't continue to do as we have been doing—giving out a billion a year—without oversight and the economies proposed from time to time by the Postal Service can only receive the support of the people when sanctioned by the Congress.

This is not to say that the advances made in the past 6 years should be junked or politics resumed. The Postmaster General should be appointed by the President and confirmed by the Senate. But the Service should be maintained as presently constituted rather than a new Department. Collective bargaining would remain, the Rate Commission procedures would be expedited, and Congress would stay out of the business of appointing Postmasters. While the House bill seeks the annual authorization of the postal budget commencing October 1, 1976, realistically this cannot be done until October 1, 1977. During the intervening period, a moratorium should be declared on rate increases and cuts in services unless Congress determines otherwise. The Board of Governors would be abolished and the decisions of the Postmaster General would be under Congressional review. Many of the present difficulties could have been avoided by a Congress and Postmaster General working together.

Many say the Postmaster General is doing an outstanding job, that he inherited a mess, that faulty decisions of his predecessor, plus inflation, plus the slowness of the Rate Commission are the reasons for failure. Others say that as part of the previous postal administration, he must take the responsibility for his inheritance. We don't know. But this involves a key finding and, of course, it is obvious that an impartial objective review cannot be made with the Postmaster General as one of the investigators. Nothing more emphasizes the predisposition of the Committee leadership for a partial review than their insistence that the Postmaster General and the head of the Rate Commission be a part of the reviewing team.

It is clear that the President has failed to grasp the problem. The President did not provide any money in his budget for the Postal Service. He has adamantly maintained that the Postal Service can borrow to take care of its needs and really doesn't think this bill is necessary. Trying to discuss the financial needs, the Postmaster General called the White House and then testified in exasperation on March 29, 1976 that he had called 6 times leaving word but his calls were not returned.

Finally, the President and the Postmaster General made contact. Now we are told that the cement that glued together the agreement by the President to go along with H.R. 8603 was the appointment of a Blue Ribbon Commission. To me, this indicates a lack of appreciation for the many problems. If we stabilize the Postal Service with $1 billion plus a moratorium on rates and services, the President cannot object.

If we start immediately to work on oversight, working with the Postmaster General, making the necessary adjustments and giving the necessary approvals between now and October 1, 1977, the President cannot object. To insist that the job be done by a Blue Ribbon Commission reporting in February of next year is to insist that the chaos continue unattended and that all we are interested in really is getting past the November General Election. The House has sent us a bill calling for the appointment of the Postmaster General and the resumption of the authorization process. They did this after a year and a half of hearings and a very thorough debate. Now, we are informed that if no bill passes, the only alternative is to raise rates within 90 days and terminate Saturday deliveries. I cannot see the President by an act of veto raising rates and terminating Saturday deliveries just before November. And I cannot see the Congress given a clear mandate from the people to go to work on the Postal Service finessing this until February with a Blue Ribbon Commission.

Accordingly, I will propose my substitute again on the floor which was defeated in Committee by a vote of 6–2 with one Member favoring the amendment but could not stay for the vote. The 7 points of my proposal include:

1. Annual Authorization—Beginning in FY '78 the Postal Service would be required to come before the Congress each year for authorization and appropriation of its total budget.

2. Transitional Subsidy—There would be a $1 billion authorization for fiscal year '77 to prevent a disruption of postal operations while Congress resumes oversight and reviews the needs of the Postal Service.

3. Moratorium on Increased Rates and Decreased Service—A moratorium would be imposed on increasing rates and on the closing of Post Offices which serve 35 or more families as well as guaranteeing door-to-door or curb line delivery. This moratorium would be in effect until FY '78 when the Congress begins the annual authorization process for the Postal Service.

4. Presidential Appointment of Postmaster General—The Postmaster General would be appointed by the President and confirmed by the Senate. The Postal Service requires positive attention and guidance from as well as accountability to the Executive Branch.

5. Abolish Board of Governors—The Board of Governors simply has not done the job. Also it should be the responsibility of the Congress, publicly accountable representatives, to guide and direct the Postal Service.

6. Expedite Rate-Making—There would be a requirement that all rate decisions from the Postal Rate Commission shall be determined within ten months. The delays of the Commission have been of major significance in contributing to postal losses.

7. Limit Borrowing Authority—The ability of the Postal Service to borrow funds to offset operating expenses would be limited to $500 million at any one time. This provision will provide the Postal Service with a buffer should a cash flow problem arise during the annual authorization and appropriations process.

## NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

John J. Smith, of Delaware, to be U.S. marshal for the district of Delaware for the term of 4 years, vice Edward J. Michaels, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Friday, June 25, 1976, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

## NOTICE OF HEARINGS ON GRAIN EXPORT POLICY MANAGEMENT

Mr. HUMPHREY. Mr. President, many Americans have been disturbed by the executive branch's management, or lack of management, of grain export policies over the past 4 years.

Since the historic sale of grain to the Soviet Union in 1972, the Comptroller General has had a team of investigators reviewing policy developments and executive actions with respect to U.S. agricultural exports, and has reported to the Congress on a number of occasions.

I wish to announce that the General Accounting Office will report again on a newer phase of its review—specifically, the manner in which the executive branch dealt with last year's sales to the U.S.S.R.

The GAO investigators will outline preliminary findings, in advance of a final report which they expect to complete by this fall, to the Subcommittee on Foreign Agricultural Policy, which I chair, and the Subcommittee on Agricultural Production, Marketing and Stabilization of Prices, which is chaired by the Senator from Kentucky (Mr. HUDDLESTON).

The hearing will be at 10 a.m. Thursday, June 24, in room 322, Russell Senate Office Building, hearing room of the Senate Committee on Agriculture and Forestry.

GAO has directed its latest study at USDA's role in gathering export sales information, with emphasis on last year's 14-million-ton sale to the U.S.S.R., and related export policy issues.

It is possible that the hearing may produce recommendations from GAO on proposed legislation which may be useful in the committee's consideration of a 1977 farm bill.

The GAO investigators have interviewed a wide range of USDA officials, grain export company executives and others. They are expected to discuss last year's 5-year grain sales agreement between the United States and Russia, the capability of the United States to forecast grain supply and demand around the world, executive branch authority under the Export Administration Act, differing approaches used by other nations to deal with export policy, and suggested alternative policies for coping with shortage or surplus situations in farm export commodities.

## ADDITIONAL STATEMENTS

### HUMAN RIGHTS IN CHILE

Mr. TUNNEY. Mr. President, reports flowing out of Chile during the recent conference of ministers of the Organization of American States indicated a widespread concern among OAS members over the abuse of human rights in Chile. A recently released report by the Human Rights Commission of the OAS only fueled the fires of this concern by its lengthy and detailed accounts of what appears to be a systematic program by the Pinochet regime of denial of fundamental rights.

Personally, I have been shocked by recent revelations in the press that picture the repression as extensive, ongoing, and almost barbaric in form. The very fact that a Member of Congress, Representative TOM HARKIN of Iowa, and a staff person accompanying him on a factfinding mission to Chile should be flagrantly lied to by the highest authorities in the Chilean Government about the existence of a certain "torture center" which they then discovered on their own and from which they were subsequently removed by Chilean guards with force is abhorrent to me. The picture of a Chilean ship, which has been used to extract forced confessions from demoralized political prisoners, taking part in this country's upcoming Bicentennial "sail in" in New York, is alien to everything I think this country should represent. And the report that at least one of two Americans killed in the Chilean coup may have been coldbloodedly murdered on the orders of the commander of the Chilean security police because he "knew too much" while a representative of our own intelligence services stood by and listened to his order is an outrage.

This is not to say that Chile is the only government violating human rights in the world—or even the Western Hemisphere. Nor is it only right-wing governments that violate human rights. I have been and will continue to be one of the strongest supporters of the human rights provisions of the Helsinki Accords and one of the harshest critics of the failure of the Eastern bloc to implement those agreements. But I believe that we in this country must feel a particularly responsibility for and concern over what is happening today in Chile, both because Chile is a close neighbor in this hemisphere and because, virtually alone among Latin American states, Chile for many decades shared our own standards of democratic government.

I applaud the actions of the American delegation to the OAS conference in support of the report of the OAS Human rights Commission. But expressions once a year at OAS ministerial meetings are not enough. I hope and pray that our Government will continue to utilize every opportunity and apply all reasonable pressures in the coming months to encourage a drastic change in the repugnant, repressive policies of the Chilean Government.

Mr. President, I ask unanimous consent that an editorial in the Los Angeles Times of Wednesday, June 9, 1976, on this subject be printed in the RECORD.

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

NO TOLERANCE FOR TORTURE

Secretary of State Kissinger, who in the past has shown a regrettable insensitivity to human-rights issues in totalitarian countries, warned Chile's military rulers Tuesday that relations with the United States will be impaired until the regime halts its wholesale violations of basic human rights.

The warning, delivered both privately and in a speech to a meeting of the Organization of American States, appeared to signal a welcome, long-overdue change in Washington's previously tolerant posture toward a regime that has used political torture and murder as instruments of state policy.

Whether the message delivered by Kissinger produces the reforms that Chilean President Augusto Pinochet reportedly promised in private conversation with the visiting American official depends on whether the Administration is prepared to exert the necessary political and economic leverage.

The enunciation of the new U.S. policy stance coincided with a devastating report by the Human Rights Commission of the OAS on its investigation into scores of torture and murder of political prisoners in Chile.

In his speech to the OAS, the secretary of state correctly observed that other nations in the Americas, including Cuba, are also guilty of injustice. He proposed a strengthening generally of the OAS machinery for

dealing with violations of human rights in the hemisphere.

But the focus of this OAS session was on Chile. And Kissinger is said to have warned that failure to curb human-rights violations would result in Chile's international isolation—and the end of any prospect for increased U.S. economic assistance to help lift the country out of its current depression.

Given the Administration's past record of indifference to the excesses of the right-wing regime, there is bound to be skepticism as to whether Washington is really prepared to exert meaningful leverage on the generals. We hope such skepticism proves groundless.

There is no question that U.S. economic pressures can have a positive effect. Just a little arm-twisting by Treasury Secretary William Simon during a visit last month produced the release of several hundred political prisoners. Now, in response to Kissinger's blunt warning, Pinochet reportedly has promised that Chile's constitution will be amended soon to expand human rights.

Washington must leave the military regime in no doubt that unless genuine reforms are forthcoming, the United States will do nothing to facilitate Chilean access to the foreign credits and investments it so badly needs.

## LEAVE YOUR TEARS IN MOSCOW

Mr. WEICKER. Mr. President, 36 years ago this week the Soviet Union, in violation of international law and agreement, attacked the small nation of Lithuania, thus paving the way for the beginning, a year later, of one of the most persistent efforts at persecution, terror, and mass relocation known to history. The now famous Gulag labor camps of Siberia became the burying grounds for hundred of thousands of Lithuanian citizens, who, like their neighbors from Latvia and Estonia, had committed the grievous sin of living in peace near the warm-water ports of the Baltic Sea.

Mr. President, I ask unanimous consent that this brief passage from "Leave Your Tears in Moscow," by Barbara Armonas, a long-time hostage in Soviet labor camps, now living in America, be printed in the RECORD.

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

About four o'clock in the morning . . . I heard a knock on my door . . . I opened the door and froze with fear . . . There was a whole detachment of soldiers, about thirty altogether, all with heavy weapons. In the yard, a machine gun had been set up. The officer pushed me aside, went into the house, and demanded my passport . . . He took a letter from his pocket and read in a monotonous voice that the state had decided to deport me from Lithuania to other Soviet states . . . I had only a half hour to prepare myself for the deportation journey. Awakened by the noice, my son started to cry . . . I was told that I could take no suitcases, but must pack everything into a potato sack . . .

When the half hour was up, my son, myself, and our belongings were put into a buggy and escorted under heavy guard to the neighboring village . . . Some twenty-five families had been collected . . . Each family sat on their sacks in a group. No one talked.

Some two hundred families had been collected and put into trucks, each guarded by four Russian soldiers with guns. These trucks were nearly all American Lend-Lease equipment . . . At first, I thought all Lithuanians were being deported . . . The village of Aukstuoliai was left completely empty . . .

At the railroad station, we were put into cattle cars, about forty to sixty people to a car. The train stood in the station at Panevezys for two full days. We were given no food . . . Our transport consisted of sixty cars, so it can be estimated that it contained about 2,400 persons . . . The feelings of human beings herded into cattle cars are impossible to describe. No one knew where we were going or what could be expected . . . In one car, a woman with two small children whose husband was in prison, went mad, jumped from the moving train, and was killed . . . The biggest problem in our car was an 83 year-old paralyzed lady . . .

After about fifteen days, we stopped in a station about 160 miles from Irkutsk, the largest city in Siberia . . . We were ordered to get out . . . We stood there for about four hours in a cold rain mixed with snow. The children cried all the time . . . It was clear to everyone that we had been sent here to die.

## A TRIBUTE BY THE CHILDREN OF AUSTRIA

Mr. HUMPHREY. Mr. President, many gifts have been presented to this country on the occasion of our Bicentennial. I would like to bring to the attention of the Senate an unusual tribute to the United States from the children of Austria: an exhibit of 76 paintings on the theme "How Do I See the USA?"

Recently I had the honor of hosting, along with Dr. Arno Halusa, the Ambassador of Austria to the United States of America, a reception marking the presentation of this exhibit to the American Revolution Bicentennial Administration. After exhibition in the Washington area in May, the paintings have gone on national tour.

The background of this exhibit is most interesting. It is the result of a suggestion by Dr. Rudolph Kirschshlager of Austria that some way be found to express Austria's gratitude to the United States on its Bicentennial, for its help in the years following World War II.

A leading child welfare organization, SOS-Kinderdorf International, Vienna, responded by sponsoring a painting contest for Austrian youth, inviting them to give their impression of the United States. Over 5,000 entries were received and the 76 best were selected by the noted artist Friedensreich Hundertwasser for the official exhibit.

Commenting on the exhibit, Kurt Waldheim, Secretary-General of the United Nations, has said:

The United Nations has always attached high priority to the health and welfare of children throughout the world. In 1946 the United Nations Children's Fund (UNICEF) was established to assist in this purpose. However, the work of private organizations such as SOS-Kinderdorf International is vital if we are to succeed in this endeavor. For only through global action and with the support of everybody can we hope to improve the conditions under which the children of our planet live. In using the occasion of the American Bicentennial to create a greater awareness of the need to assist so many children all over the world, SOS-Kinderdorf International is making its own significant contribution. I also wish to congratulate the children whose talent has created the remarkable paintings and drawings displayed at this exhibition.

I personally add my congratulations to SOS-Kinderdorf International for arranging this fine exhibit. Moreover, I offer special tribute to Hermann Gmeiner, the founder and president of the organization which provides a warm, homelike environment for 10,000 children in 55 countries. Truly, Mr. Gmeiner has placed his life "at the service of the child" and he has taken the occasion of our Bicentennial to remind us all of the beauty and candor of children, as expressed through their paintings.

## JOY OF PUBLIC SERVICE?

Mr. McGEE. Mr. President, as we know to be the rule rather than the exception, the wheel that squeaks the loudest gets the grease. This applies very aptly—although it is more than a squeak—to what have become the voices of "anti-Washington."

Fueled by several recent episodes in this Capital City, most editorialists seem bent on convincing the still doubtful that, in fact, the Nation is fed up with its Government, that problems and mistakes are the rule rather than the exception.

Although one of the purposes of my statement today is to note an editorial exception to what has been the rule of press commentary on what we might call: "Washington—Good or Bad?", it is the men in Government who should be defending our system, albeit there are warts within. We should be more than a squeaky voice.

Phil McAuley, once nominated for a Pulitizer Prize, is the editor of the Casper Star-Tribune in Casper, Wyo. In an exceptional editorial of late, he has found that guilt by association is "not very funny." I have yet to read an editorial that so well puts certain recent problems in perspective, and preceding a few more of my own remarks on the subject, I ask unanimous consent that his editorial: "Joy of Public Service?" be printed in the RECORD at this point.

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

JOY OF PUBLIC SERVICE?

Comedians, professional and amateur variety, are having a grand time with the spate of revelations involving the alleged sexual capers of those elected to high national offices. One comedian reportedly said that women are doing to the Congressmen what Congress has been doing to the people of the United States for years.

It's not very funny.

The revelations, and it is too early to pass judgment in several instances, could have a disastrous effect on incumbents of both parties who are planning to seek re-election and to those now in office. Good, decent public servants, men and women, are being daubed by the same tar brush and the jibes are not too funny to them. Some have expressed deep concern to this newspaper, and understandably weary to the demands made upon them in public service, that is really not that rewarding to begin with, are having serious doubts about seeking re-election or even election.

The revelations are not limited to those seeking or now in national office but extends to state level posts and even into the courthouses in Wyoming.

When the electorate gets disgusted or confused, they act in a predictable fashion. They turn the rascals out. But all elected, incumbents who were planning to seek re-election,

and those planning to seek public office for the first time, may be turned away by it all and simply shrug that it is not worth it.

A case in point is Rep. Edness Kimball Wilkins (D-Natrona).

Asked by the Casper Star-Tribune if she planned to seek re-election, she said she is still undecided "because of all these developments." She was, of course, referring to the payroll sex scandals in which Rep. Wayne Hays (D-Ohio) and Rep. John Young (D-Texas), and the latest Rep. Allan T. Howe, Utah Democrat who is not charged for "payroll sex" but for being arrested for soliciting sex acts from streetwalking prostitutes.

Such developments disturb Rep. Wilkins, a veteran of four years in the State Senate and 16 years in the Wyoming House.

She added that the disclosures tarnish her feelings of the "joy of public service." Rep. Wilkins emphasized that in all her years of public service in the legislature, there has never been the merest suggestion of ever being offered a bribe. She added that she never even heard any rumor of any scandal in the Wyoming legislature, and that included the merest suggestion of anything involving sexual misconduct Rep. Wilkins qualified her remarks by noting that perhaps her lack of any knowledge of such goings-on in Wyoming could result from women being an "unknown quantity," in the Equality State, and are not approached on such matters. But, she emphasized, it may also really be that certain people one does not approach on such matters since they display integrity.

She believes, as do many of the office holders, that the revelations will definitely affect all public officials.

And it's just the beginning, she fears.

One disclosure brings out another, she explained.

Rep. Wilkins believes that the "people's faith in their public officials is being shaken.

There are few that will disagree with Rep. Wilkins and other office holders who expressed similar views. It remains that there are still many public officials good and true. They should be judged on their own merits, and we fervently hope that in Wyoming, a sparsely populated state and still manageable and in control of its own affairs and destiny, and where those seeking or in public office are known and scrutinized by the voters, fair play and judgment will continue to prevail.

Mr. McGEE. Mr. President, I do not remember Congress ever leading in the polls of public opinion or popularity. I hasten to add, however, it was not founded nor designed to do so.

Charges against the overall system of things, ridiculous or not, should be answered. And those in Government, the Congress or whatever you want to include, or those seeking entry, ought to defend their actions or words which tend to fuel the fire of this anti-Government movement.

Congress was never intended to produce saints and heroes, although great leadership has come from within our ranks.

How then do we rationally explain this mood of negativism? We—elected officials—should do it by pointing out that it comes from levels of personal discouragement and impatience due to an imperfect system.

Our problems are complex with no easy solutions and problems exist naturally in trying to serve a diverse society in which every citizen has a right to be recognized.

There is that segment which becomes hypocritical—wanting on the one hand to disassociate with the present system, on the other, asking the Government for help. The Government is caught in the middle: it does too much, it does too little; it acts too slowly, it acts too quickly.

I do not believe there is a one of us here who opposes change, improvement, reform. But history has shown that change comes about from strong, constructive and popular movements—not divisiveness.

We have and always will have an imperfect system, but the "joy of public service" is seeing how it does succeed. The fright is considering the alternative.

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## THE NEED FOR A NATIONAL MEALS-ON-WHEELS PROGRAM

Mr. HUMPHREY. Mr. President, yesterday Senator GEORGE MCGOVERN, chairman of the Senate Select Committee on Nutrition and Human Needs, held hearings on the nutritional problems of the elderly. These hearings focused on the need to assist our homebound and often malnourished older citizens. I am pleased to join Senator MCGOVERN in sponsoring legislation—the national meals-on-wheels program—which would assist these needy Americans.

The quality of the lives of our elderly citizens—who must survive on a fixed income and often suffer from ill-health, mental depression, and loneliness—should be of the utmost concern to all Americans. The current administration has done little to help these people. It has adopted policies leading to excessive inflation, higher food prices, and more expensive health care.

The proposed national meals-on-wheels program would launch a major effort to significantly better the lives of the homebound elderly, both nutritionally and emotionally.

While three other Federal programs aim to supplementing the diet of the needy, none were designed to specifically assist the homebound. These are elderly citizens who are restricted to bed and/or home or who require someone, or special aid, to get around. It is estimated that there are at least 3 million elderly in this category.

The food stamp program and title XX of the Social Security Act were designed to meet general nutritional needs. Because of the various circumstances unique to the circumstances of the elderly, their needs cannot be met with such broad-based efforts.

The title VII program of the Older Americans Act provides the elderly a hot meal, supplying one third of the daily requirements, and various supportive services each weekday in a congregate setting. While this program has been successful, only 13 percent of these meals were delivered to the homebound.

A survey conducted by the Senate Select Committee on Nutrition and Human Needs showed that only 1 percent of those eligible were receiving title VII meals at home. The survey additionally indicated that the average project area has a very large homebound population whose needs cannot be met by the current title VII program.

Without a program for these citizens, our society is encouraging the elderly to seek refuge in institutions such as nursing homes. Recent studies indicate that anywhere from 10 to 40 percent of the institutionalized elderly do not really require this type of care. Programs such as title VII and the proposed Meals-On-Wheels project would provide a more effective and cheaper remedy. Committee staff indicated that if this legislation were enacted, Federal expenditures for nursing homes could be reduced by approximately $300 million during the first year.

The lack of a nutritious diet for our elderly citizens is often the major obstacle preventing them from living full and productive lives. Passage of this legislation would not only remove this obstacle but also make the most efficient use of our Federal assistance dollars.

Mr. President, I ask unanimous consent that my statement submitted to the Select Committee on Nutrition and Human Needs be printed in the RECORD.

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

STATEMENT OF SENATOR HUBERT H. HUMPHREY

I am pleased that hearings are being held on the nutritional problems of the elderly and that Senator McGovern has proposed legislation providing for a national Meals-On-Wheels Program. I welcome the opportunity to comment on this.

Throughout my legislative career, I have been concerned with the quality of the lives of our elderly citizens and supported many legislative efforts responding to their needs. Every citizen requires a nutritious and balanced diet as a prerequisite for a healthy and productive life, but the elderly are especially vulnerable when denied such a diet. Additionally, many of our older citizens must literally survive by stretching out a fixed income, by overcoming health problems, and by coping with mental depression and loneliness.

The current Administration has done little to help Americans overcome these problems. Instead, it has adopted policies leading to excessive inflation, higher food prices, and more expensive health care.

We must make every effort to assure that our federal health and food assistance programs are as beneficial as possible in bettering the lives of all our citizens, including the elderly.

One such effort is the Title VII Program of the Older Americans Act, which provides the elderly a hot meal—supplying one third of the daily requirements—and various supportive services each weekday in a congregate setting. The implementation of Title VII has successfully provided many Americans with not only better food, but the opportunity for friendship. Because of this, the health and emotional status of many of our citizens has been significantly bettered.

The Title VII Program served about 240,000 meals per weekday in 1975. The Senate Select Committee on Nutrition and Human Needs recently conducted a survey of Title VII project directors, which revealed that only 13 percent of such meals were being delivered to the homebound elderly. More than 15 percent of the projects had no program for the homebound at all. Nationwide, there are at least three million homebound who could benefit from such a program. This estimate includes those people over 60 who are not institutionalized but who have chronic mobility limitations such that they are confined to the bed and/or house, or require another person, or special aid, to get around.

Currently, 14.3 percent of Title VII project budgets are being spent on local Meals-On-Wheels programs. The committee survey indicated that the average project area has a very large homebound population whose needs cannot be met by the current Title VII program. Where Meals-On-Wheels programs do exist, they are begun at the initiative of the community and staffed mostly by volunteers. While these have been successful, adequate need has been demonstrated for a separately funded national program, which would also require that national standards regarding nutritional levels and elegibility would be met.

In addition to assisting the poorest and least able of the elderly, such a program would serve as a means of coordinating this and other community social services and informing each recipient of other available services.

There are, currently, two federal programs which offer some potential for meeting these needs: Food Stamps and Title XX of the Social Security Act. Neither, however, has been successful.

The Food Stamp program is designed to meet the general nutritional needs of America's needy. But the needs of the homebound elderly, because of various characteristics unique to their circumstances, cannot be met by such a broad-based effort.

Title XX provides a large amount of money for general social services. It was originally hoped that Meals-On-Wheels programs could benefit from this support. Unfortunately, home-delivered meals have consistently been denied priority in the allocation of Title XX funds and the ill-advised means test has discouraged many of those who might have been reached.

Obviously, these programs were not designed to specifically brighten the lives of the needy but homebound elderly. Only 1 percent of those eligible—30,000—are benefiting from the Title VIII Program. Without a program for these citizens, our society is encouraging the elderly to seek refuge in institutions such as nursing homes. In this way, we are often forcing people to give up their homes, their involvement in the community, and pay high prices for an institution to sustain their lives.

Recent studies have indicated that anywhere from 10 to 40 percent of the institutionalized elderly do not really require this type of care. Instead, various types of community social services, such as the Title VIII and proposed Meals-On-Wheels Program, would provide a more effective and cheaper remedy.

In the past year alone, government costs for nursing homes have increased by one third, totaling $5.2 billion. The committee staff has estimated that a Meals-On-Wheels Program could provide the necessary services at one tenth the cost. Additionally, if the proposed legislation were enacted and the $80 million appropriated and spent to serve 125,000–175,000 Meals-On-Wheels per day, nursing home expenditures would be reduced by approximately $300 million during the first year.

The proposed Meals-On-Wheels Program, which I am pleased to join in sponsoring, would specifically provide separate authority for home-delivered meals to the homebound elderly. Program participants would be required to provide at least one-third of the Recommended Dietary Allowance (RDA) for five or more days per week. Weekend meals could be supplied by providing a supplemental snack, cold meal, or special adult formula. These meals would be required to provide at least 25 percent of the RDAs.

The program would additionally establish an information and referral system for the homebound to ensure that they receive adequate services from appropriate agencies or available services. Where possible, volunteers or already existing Meals-On-Wheels projects would be utilized under this program.

An additional section of this bill calls for a demonstration program to study the feasibility of the NASA Meals System for the Elderly. This meal system delivers or mails to the homebound packages of complete, shelf-stable meals on a weekly basis. All that is required to prepare these meals is a hot plate for boiling water. This pilot project is primarily intended to reach those elderly who are outside of the currently available delivery system. Authorizations requested for the national Meals-On-Wheels Program are $80 million for fiscal year 1977 and $100 million for fiscal year 1978.

I sincerely hope that Congress acts quickly to establish a national Meals-On-Wheels Program, which would not only better the lives of our homebound elderly but also make the most efficient use of our federal assistance dollars.

## TRAGEDY IN LEBANON

Mr. KENNEDY. Mr. President, the tragic events in Lebanon on Wednesday remind us of the senseless nature of political violence and terrorism. It feeds on itself and inevitably spreads to consume the innocent and all within its reach.

It reminds us as well of the courage of our foreign service officers, who, as in the case of Ambassador Francis Meloy, Jr., and his economic attaché, Robert Waring, serve the Nation so well.

Ambassador Meloy went to Lebanon only a few months ago after serving as ambassador at the time of the earthquake in Guatemala. His determined efforts and long hours of work helped to insure the rapid and coordinated relief to the victims of that disaster.

Then he was asked to accept the post in Lebanon and, despite full knowledge of the personal risks involved, he went, he served, and now he has been killed. He joins the list of Americans who have died in the service of their country.

I rise to express my own sorrow at his death and the deaths of Mr. Waring and of Zohair Moghrabi, the Ambassador's driver.

## STUDY ON VICE PRESIDENTIAL SELECTION

Mr. BROCK. Mr. President, this past week the Institute of Politics, Kennedy School of Government at Harvard University issued a document entitled "Report of the Study Group on Vice Presidential Selection." The report made some very useful recommendations for improving the "paradoxical" situation we now have of exposing Presidential candidates to more and more scrutiny while, on the other hand, leaving the Vice Presidential selection to its normal haphazard process.

While I am pleased that one of the recommendations included background checks for potential Vice Presidential candidates—a proposal I first introduced 3 years ago and recently introduced again—there are also many, many more recommendations that I would like to draw to the attention of my colleagues in the Senate. Therefore, I ask unanimous consent that the study be printed in the RECORD. I also ask unanimous consent that the appendix to the study, which gives a more detailed description and analysis of the background investigation proposal, be printed in the RECORD also.

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

REPORT OF THE STUDY GROUP ON VICE PRESIDENTAL SELECTION

I. INTRODUCTION

As the 1976 election approaches, a paradoxical feature of American Presidential politics deserves our attention. On the one hand, we select our Presidential nominees by a process of exposure and deliberation that grows ever more tortuous and grueling. On the other hand, we continue to leave the designation of the Vice-Presidential contender largely to the personal judgment of the nominee, a judgment often exercised rapidly and in confusion in the small hours of the morning after the endorsement of the party convention.

Although this "system" of Vice-Presidential selection has not served the nation badly, it has been too prone to error. Two facts stand out:

First, the Vice-Presidency today is a major avenue to the Presidency itself. Of the 38 American Presidents, 13 (more than a third) were Vice Presidents first. Of the 13 Presidents in this century, six were first Vice President, and they have been President for 34 of 76 years (45 per cent). The odds are now about one to two that the Vice President will one day become President.

Second, recent events in both parties—specifically the resignation of Senator Eagleton from the Democratic ticket in 1972 and the resignation of Vice President Agnew from office in 1973—suggest that present selection practices contain an inherent and unacceptable degree of risk.

The present method of handpicking running mates after nomination has not always been the norm in the United States. The original system gave the office to the candidate who ran second in the Presidential contest. Each Presidential elector cast two ballots; the runner-up became Vice-President. This system brought some excellent men to the Vice-Presidency—Adams, Jefferson, and Burr. However, the top two contenders tended to be political rivals before—and after—the election. In 1804, the 12th Amendment changed the system by providing for separate balloting for President and Vice President. As political parties gained strength (especially after 1831, when nomination by party conventions replaced selection by Congressional caucuses), Vice Presidents became genuine running mates. Although this system has tended to produce Vice-Presidential nominees who are personally and ideologically compatible with the head of the ticket, it has also caused an emphasis on balancing and short-run electoral calculations, rather than on the Presidential qualities of the Vice President.

Between 1972 and 1974 an intense and thorough exploration of alternative methods of Vice-Presidential selection took place. At this time, members of the press, television, academia, and the parties discussed in detail the merits and limitations of such proposals as separate primaries (or even separate elections) for Vice-Presidential candidates; announcement of possible Vice-Presidential choices by Presidential contenders early in their campaign for nomination; selection of Vice-Presidential nominees by the party conventions themselves; selection by the conventions (or by "miniconventions" established by them) from lists submitted by Presidential contenders or by the nominee; rearrangement of the convention's order of business to allow more time for deliberation about the Vice-Presidential choice; abolition of the Vice-Presidency itself; and more.

For a time, alternative approaches to Vice-

Presidential selection received sustained and careful consideration. Hearings and discussions were conducted by the Democratic Party's Commission on Vice-Presidential Selection, chaired by Senator Humphrey, and by Subcommittee 2 of the Rule 29 Committee of the Republican National Committee. Unfortunately, interest in the question has gradually subsided, and the momentum for change appears to have been lost.

Democratic National Chairman Robert Strauss recently explained to reporters that:

"We have a very poor system for choosing our Vice-Presidents. I regret we didn't do something about it. We're not going to do a damn thing to avoid it (another Eagleton affair) except a wing and a prayer."

Similarly, Kent B. McGough, Chairman of the Rules Committee of the Republican National Committee, said:

"We've received a large number of letters indicating concern that changes in the selection process be made. And we intend to discuss it fully. But it's going to be very difficult to make any changes for this year. Maybe 1980."

We do not believe that this state of affairs is inevitable. We take the view that rational discussion and exploration of alternatives should be continued, and that increased public attention to methods of Vice-Presidential selection is itself a necessary first step toward improvement. This report does not attempt a thorough evaluation of the pros and cons of the wide range of proposals that have been endorsed in one quarter or another. Instead, having considered these proposals in some detail and having interviewed many experts and key actors, we set forth and defend those proposals that we think most worthy of adoption, in hopes of influencing the way the Vice-Presidential nominees are selected in 1976 and of improving the process further before 1980. We explicitly avoid, at this stage, suggestions involving constitutional amendment, change in the electoral system, or a redefinition of the responsibilities of a Vice President.

Our general objective is to suggest a set of procedures more likely than the present ones to assure selection of Vice Presidents competent to assume the Presidency itself. Our point of departure is not that the present approach has worked poorly on the whole, but rather that it is inherently risky. We grant that no Presidential nominee would knowingly choose a running mate unfit to hold the highest office. However, we are skeptical that the present system is adequately self-correcting or that we can simply trust future Presidential nominees to exercise "exquisite care" in choosing running mates in the absence of procedural reform.

The key fact, we think, is that under present arrangements, information about prospective running mates has been, and is likely to continue to be, far too limited. By "information" we mean both factual details about the background, activities, and pronouncements of contenders, and political evaluations from the perspective of major elements of party and public. The premise of our recommendations is that the volume of factual and political information about potential Vice Presidents, and the opportunities available to public, media, candidates, and parties to deliberate upon this information, should be increased. Attaining this goal calls for procedural and institutional change which goes beyond the Presidential nominees' own exquisite care. In short, we believe that the selection of Vice Presidents should receive a higher priority and should be more open and responsive to the public. Such change will tend to counter the waning public confidence in the political process and to affirm the belief of the American people in their governmental leadership.

The recommendations advanced in this report are complementary and mutually reinforcing, dependent upon various sets of participants in the process fulfilling key roles on a largely voluntary basis by assuming responsibilities which we believe are both sensible and feasible. We have attempted to define the process as an integrated whole. No single mechanism can be designed or imposed to rationalize the process of Vice-Presidential selection by itself. No single organization or set of actors can complete the task. We do not believe that radical changes are desirable or workable; our analysis has led us to the conclusion that many proposals which look attractive in the abstract upon close perusal add significant liabilities to the process. We feel strongly, for instance, that the predominant role of the Presidential candidate in the selection of a running mate should be protected.

We address, therefore, the practical roles which the parties, the candidates themselves, and the media can usefully and quickly play. Our recommendations recognize the inherently pluralistic and democratic character of the process, and we believe their nondramatic nature makes them more rather than less compelling.

II. STANDARDS FOR SELECTION

President Ford said in May that ". . . It is traditional in America that the two parties try to balance a ticket for President and Vice President as to geography, as to philosophy, as to personality," and he also stated the need for "some personal compatibility, a comfortable relationship" in his running mate. In March, Jimmy Carter included compatibility and balancing in listing criteria for selecting his Vice-Presidential nominee, and claimed the first and most important requirement "is who would be the best person to lead this country if something should happen to me."

We suspect that most Americans would agree to both of two simple propositions: 1) that the primary standard in selecting a Vice President should be competence to be President; and 2) that the standard more often employed in selection is some form of political balancing—geographical, religious, ideological, etc. Some would argue that because the first duty of a politician is to get elected, competence in a Vice-Presidential nominee is bound to be considered only within constraints imposed by shortterm electoral reality; and that the running mate is above all a political instrument selected with the purpose of countering or avoiding potential deficiencies in the ticket.

We believe that neither of these propositions is as straightforward as it appears at first glance; nor do we find competence and electoral utility as incompatable as as sometimes suggested. We recognize that strong short-term political needs—for regional balance, to heal party divisions, to prevent the Presidential nominee from being upstaged, and the like—may detract from competence as the main criterion. However, the selection of a running mate with the purpose of maximizing the popular vote, securing key blocs in the electoral college and creating a sense of representation and legitimacy among various population elements—therefore enabling an administration to govern effectively, is a valuable aspect of the political process. We doubt, moreover, that close inspection of recent cases of Vice-Presidential selection would support the contention that "balancing" was determinative of the choice, and that considerations of competence were set aside.

*Recommendation*

1. Competence in Vice-Presidential selection should be the primary standard and balancing can be a secondary factor—the two are neither naturally exclusive nor naturally contradictory.

The universe of prominent American politicians is, like the American population it represents, large and heterogeneous. It is implausible that the dictates of short-term political balance are so compelling, and the available set of high-quality political figures so limited, that a Presidential nominee need be forced to sacrifice competency to campaign victory in a possible successor. Moreover, the way in which a Presidential nominee responds in naming a running mate will depend in large part on how the question is posed by the public, the media, and the parties. If these participants insist on a concentration on competence, on extensive information, and on careful deliberation by themselves and by the candidate—and if they take procedural steps to secure this approach—the political utility of a concern with the Presidential qualifications of Vice-Presidential nominees is bound to increase.

III. PARTIES

The political parties are capable of an essential role they are not now filling in the reform of Vice-Presidential selection procedures. A set of simple and practical changes in the nominating process could be made by the parties which would strengthen the chances of informed and responsible choice. By undertaking modest but useful reforms, the national parties can not only improve Vice-Presidential selection, but also strengthen their own relevance and influence in a period unhappily marked by party decline.

As it is now, both parties treat Vice-Presidential selection as a low-priority matter, an afterthought unworthy of serious preparation. Both parties have considered ways to improve selection methods since the 1972 conventions, but neither has actually changed its procedures. Their attitude now seems to be either that time has run out for 1976, or that the need for change has subsided—even though, as Senator Humphrey said in 1973, ". . . the interests of the people of the United States require reform in this field by both parties before the 1976 conventions."

Two options for party change that we considered carefully but rejected are proposals for an open convention, where the convention chooses the nominee by itself, and a "partially open" convention, with the decision made by the convention from a short list of preferred choices provided by the nominee. Both of these proposals mean an increased role for the convention delegates and a decreased role for the Presidential candidate. Neither assures reduced risks of faulty selection. A selection by open convention does not mean that more care is spent in selection. Yet there is a better chance that his method would choose a Vice President incompatible with the Presidential nominee, and would increase party factionalism rather than serve as a means of party unity. A "partially open" convention avoids incompatibility, but limits the flexibility of the nominee, invites party factionalism, and denies the convention full freedom of choice. This is clearly the worst of both worlds.

Another device for selecting the Vice-Presidential nominee that has received attention is for a "mini-convention", constituted by the National Committee membership, to be held perhaps two weeks after the national convention adjourns. The Democrats used this method in 1972 to designate Sargent Shriver after the resignation of Senator Eagleton from the ticket, and there are advantages to it. Delaying the choice provides plenty of time for consultation, background checks, and priority deliberation. On balance, however, we are more persuaded by the disadvantages of a mini-convention approach. The choice has less legitimacy if it is ratified by a smaller representative group; the function of the Vice-Presidential nomination at the convention as a conciliatory and rallying point for the various factions is diluted; and the ticket's chances might be hurt by a delayed beginning and a decreased media impact for the campaign itself.

The recommendations we are making re-

quire action by both parties at the 1976 conventions. They involve 1) changes that can be made in time to affect this year's choices, and 2) changes to be mandated this year to take effect in 1980.* In the first category, we propose procedural changes to take effect at the 1976 conventions in the form of amendments to the temporary rules of the convention: adoption of general resolutions stating the importance of Vice-Presidential selection and the necessity of change; amendments to the convention rules rearranging the convention schedule to provide more time for selection; and formation of an advisory group to contribute formally to the consultative process. In the second category, we propose changes which would be mandated for 1980 by resolutions adopted at the 1976 conventions: the rearrangement of the convention schedule and the establishment of a formal advisory committee, again, and, in addition, the adoption of a resolution urging specific action for Presidential candidates before the next convention.

*Recommendations*

2. The conventions of both the Democratic and Republican Parties should adopt resolutions which state the importance of Vice-Presidential selection, encourage the candidates and parties to give the process the time and care needed for responsible selection, and affirm an intention to improve the selection process.

3. The parties should rearrange the convention schedule, placing Credentials and Rules Committees' reports in the first session, Presidential nomination in the second, consideration of the Platform in the third, and Vice-Presidential nomination in the final session.

The purpose of this change is to increase the time between the nomination of the Presidential nominee and the selection of a Vice-Presidential choice. More time would allow the nominees and their staffs to put more care and deliberation into the final choice, with opportunity for more thorough and extensive consultation.

Arguments against rearrangement of the convention schedule focus on movement of the platform debates to the day following the Presidential nomination. Some assert that the conciliatory function of the platform decisions may be impaired if they occur after the Presidential nomination, and that the platform might reflect the nominee more than the broad-based party, conceivably making it more difficult for some factions to support. On the other hand, equally plausible is the argument that the first instinct of a successful candidate upon receiving the nomination is to move toward unifying the party. By this logic the platform would become an instrument of conciliation rather than of division, an effect which frequently occurs when platform issues become a pre-nomination test of strength. Furthermore, it might well be advantageous for the platform to be approved after the nomination because it would better reflect the nominee's position and thus be taken more seriously. The public tends to be skeptical of all platforms; rearrangement might give the platform greater credibility.

It is also argued that this schedule change would be anti-climatic, increasing the difficulty of retaining an interested television audience. We do not feel that this argument is strong enough to outweigh the advantages of a shift in schedule. Indeed, since the major thrust of our recommendations is to place more emphasis upon Vice-Presidential selection, one concomitant of rearranging the convention schedule could be the building of suspense by the national media around the Vice-Presidential nomination.

4. The parties should each establish a formal party consultative mechanism, an advisory committee, to assist the party and the Presidential candidate in the selection of the Vice-Presidential candidate.

The purposes of an advisory mechanism are to insure that there is preparation and deliberation on the subject of Vice-Presidential choice before the convention, to widen the process of consultation that the nominee employs, and to provide information and advice on potential Vice-Presidential candidates to the nominee. A consultative process conducted by a party advisory committee can strengthen the party role while retaining the Presidential nominee's dominance in selection. Such a committee would be formed and begin meeting with appropriate staff and resources before the convention. It would compile a list of possible Vice-Presidential candidates, and conduct research into backgrounds and issue positions. After nomination of the Presidential candidate, the group would be available immediately to meet with the nominee and to share the results of its work. Its advice would in no way be binding, but the participation of a formal consultative group would increase discussion of Vice-Presidential possibilities among representatives of major party elements.

5. The party advisory committees should request a list of preferred Vice-Presidential running mates from serious contenders for the Presidential nomination.

By combining the lists from several prospective nominees, the advisory committee would generate an extensive group of potential Vice-Presidential candidates, drawn from all segments of the party. The breadth of preconvention consideration undertaken by the advisory committee might pay special dividends should the advance planning of the eventual nominee prove to be inadequate or mooted by events at the convention itself. This recommendation also encourages the Presidential candidates to begin serious staff work on Vice-Presidential selection before the conventions. To make it effective, the parties should encourage their candidates to produce a meaningful list and to make their final choice from it.

IV. PRESIDENTIAL CANDIDATES

Traditionally, the Presidential nominees make the actual designation of a Vice-Presidential nominee. The nominees are the crucial factor in the selection process; their choices may be brilliant or potentially disastrous, not only for the political chances of the ticket, but for the country. The Presidential candidates should therefore take the initiative for procedural change, especially if effective action is to take place in the short time before the 1976 conventions. The candidates are in the best position to give the process the priority and care that it deserves, and should be held accountable for the choice of a Vice-Presidental candidate.

In urging special responsibilities in Vice-Presidential selection on the Presidential candidate, along with recommendations affecting other participants in the process, we seek to strengthen and protect their role rather than to diminish it. If their responsibility is to remain a commanding one, however, it should be carried out with a greater commitment of time and effort than has generally characterized past behavior, beginning well before nomination rather than immediately following it.

*Recommendations*

6. The Presidential candidates should have their staffs begin work on Vice-Presidential selection as early as possible in their campaigns and no later than the final round of primaries: developing lists of potential candidates, conducting background research, and consulting broadly for suggestions.

7. The candidates should discuss publicly the criteria to be used in the selection of a running mate, and are urged to emphasize competence to be President as the primary factor.

8. The candidates should make public a list of serious preferences for the Vice-Presidency before the convention, in order to facilitate media and public examination; and they are encouraged to initiate direct contact and staff liaison with potential running mates.

The greatest weakness in the present system is the fact that whereas the Presidential candidates go through months of exposure and arduous campaign work before coming to the convention, the Vice-Presidential candidate is often unknown, both to the public and to the nominee. When the Vice-Presidential candidate happens to be chosen from the ranks of candidates actively contesting the primaries, there is much less of a problem, but this cannot be guaranteed. This recommendation is an attempt to correct this weakness in the system without challenging the nominee's prerogative to make the choice.

There are disadvantages to making up preferential lists prior to the convention. Such a list is likely to involve tactical inconveniences for the candidate, and to promote political balancing of an opportunistic sort as names are included from various constituencies simply in order to garner electoral support, not because they are likely to be chosen. Listmaking before the convention can also limit flexibility by committing the candidate to certain choices before the events of the convention unfold. But we feel these difficulties do not compete with the benefits of opening up the process to the public and the media.

9. The candidates should help develop party reform of Vice-Presidential selection, be ready to support a party consultative process, and recommend a change in the convention schedule.

V. BACKGROUND CHECKS

The question of background checks on prospective Vice-Presidential candidates is characterized by uncertainty and controversy. Many believe that they would not be worth the risks involved, including possible violation of privacy, abuse of confidential information, lack of credibility, and misrepresentation.

The study group believes that a thorough examination of a Vice-Presidential candidate's personal and political background, now lacking, is a desirable component of the overall process. Informal research and exposure by the press, advance investigation by the Presidential candidate's staff, and the considerations of a party advisory committee prior to the convention are all essential functions. But by themselves they do not insure adequate efficiency and objectivity. The media may do a spotty job, or may be unable to commit enough resources to insure thorough coverage of the candidate eventually selected. As a practical matter the Presidential candidate's staff may not have adequate time or freedom to penetrate deeply enough in its investigation. A party consultative committee is likely at some point to encounter doubts about how much potentially unflattering material it wants to gather on leaders from within its own ranks. These difficulties lead us to conclude that something more is needed.

The F.B.I. undertakes background investigations on a continuing basis to provide information regarding Presidential appointments, and prior to the granting of clearances to permit access by public officials to classified information. The F.B.I. conducted

*Under party rules the process for change—for 1976 and for 1980—begins in the Rules Committees of their National Committees, which meet before the conventions and make recommendations on the rules. In the Democratic Party, these recommendations are made directly to the Convention. In the Republican Party, they are made to the National Committee, then to the Convention Rules Committee, which then presents recommendations to the Convention.

background investigations for the two Congressional Committees responsible under the XXV Amendment for recommending to the House and Senate the nominations of Gerald Ford and Nelson Rockefeller to the Vice-Presidency. In these cases, controls were set up to assure the confidentiality of the information gathered, which proved effective. It may be that under the existing statutory authority a system could be established for an F.B.I. background investigation of potential Vice-Presidential candidates, similar to those completed for hundreds of appointed public officials. Such information checks would not involve screening, ranking or judgments of the candidates on the part of the F.B.I. The results of the investigations could be made available under careful controls to the Presidential nominee only. There are various ways to design a workable system, assuming adequate lead-time, the willingness of the prospective Presidential candidates to provide lists of preferred running mates, the permission of the prospective Vice-Presidential candidates themselves to be investigated, and the cooperation of the President and/or the Attorney General. Thus, immediately after nomination, the Presidential nominee could be provided with useful material to help in selection.

Yet there are a number of legitimate questions about such an arrangement: Isn't this too much of a "political" burden to be placed on the F.B.I.? Should the F.B.I. be invited into the electoral process? Is there a danger that too much might be expected of the F.B.I. check in terms of "clearing" a potential candidate? Why shouldn't Presidential candidates likewise be checked out? What real guarantees are there against abuse of confidential information? These questions are valid, and any process of background checks must be accomplished with a maximum of understanding, support, and credibility. Otherwise the cost will be greater than the benefit, and we would be better off without it. It is this belief that leads us to the conclusion that a systematic check for Vice-Presidential candidates should not be undertaken by administrative action and loose agreement among the interested parties, but only by way of the legislative process. This would assure adequate deliberation—solicitation of views through public hearings, careful analysis by Committee staff, open debate in both houses of Congress, and the chance for Presidential approval of a new statute.

*Recommendation*

10. The House and Senate bipartisan leadership should set as a high priority consideration of legislation authorizing appropriate background investigations to be conducted by the F.B.I. on prospective Vice-Presidential candidates, under timely and fair arrangements and with effective controls against violations of privacy and misuse of sensitive information.*

VI. MEDIA

If the Vice-Presidential selection process is awkward, fragile, and perilous, to what extent can the media, in its various roles as reporter, investigator, and opinion leader, improve this unsatisfactory situation?

In reporting and analyzing the words and actions of Vice-Presidential candidates, the press in recent years has done a creditable job. Often it has been a story in search of a reader, overshadowed by the excitement of the Presidential race. There also has been a remarkable amount of attention paid to Vice-Presidential selection reform. Understandably, much of this coverage has surfaced in the aftermath of crisis. A number of stories and at least one television documentary analyzing the hazards of the current selection procedures appeared in the days following the resignation of Senator Thomas Eagleton as Democratic Vice-Presidential candidate in 1972 and the resignation of Vice President Agnew in 1973, but such coverage tends to be after the fact and to die out.

In 1976, coverage of national candidates has been the most comprehensive ever. With a mindboggling 30 Presidential primaries and more than 20 candidates with a potential national constituency, more reporters have been assigned, more television specials aired, and more money spent by news organizations in following the races than ever before. That professional and financial commitment will continue through the fall. But coverage of the campaign itself—the politics and personalities—is not enough. The press should earmark a substantial slice of its resources toward calling attention to the inequities and foibles of the present selection system and toward covering prospective Vice-Presidential candidates. The candidates and the political parties have the major responsibility and power to effect the desired changes. But columnists and editorial writers should recommend reforms, and call on the candidates themselves to support the improvements.

As a practical matter, many of the needed reforms will take time to carry out. The urgency of the ongoing campaigns and the uncertainty of the outcome leaves the unfortunate possibility that, once again, the selection of running mates will be a last-minute decision. In that event, it will be more crucial than ever for reporters to dig deeply into the backgrounds and public records of the candidates, acting as a supplement to a highly imperfect selection procedure. To the extent that potential contenders for the second slot can be identified and examined in advance, the process will be improved.

*Recommendations*

11. The press should remind the public of the past failings of the Vice-Presidential selection process and encourage candidates and parties to make changes.

12. The media should persistently question candidates about their plans and preparation for selecting running mates, encouraging sufficient advance work and discussion of the standards on which their choice of a running mate will be based.

13. On the assumption that the Vice-Presidential candidates may again result from a helter-skelter eleventh hour selection process, the press should commit reporters, time, and funds to extensive coverage and investigation of potential running mates before the convention, including interviews plus in-depth reporting on issues and backgrounds.

14. The networks ought to prepare now for a "special" or series of programs on "The Vice-Presidential Candidates, 1976".

15. The media should plan comprehensive coverage of the Vice-Presidential nominees after the conventions.

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BACKGROUND CHECKS OF POSSIBLE VICE PRESIDENTIAL NOMINEES

This paper preliminarily reviews the major considerations in conducting a background investigation of possible Vice-Presidential candidates and outlines proposals for consideration by the study group.

PRO-CON

Virtually everyone admits that the Presidential candidates should have more information about the potential running mates then has been available in the past. The choice of Thomas Eagleton in 1972 and of Spiro Agnew in 1968 are illustrations of the need for more information.

However, there are strong arguments that background checks by the FBI are an invasion of privacy. Furthermore, any screening process or information gathering effort by a political party will be criticized as an attempt at "backroom" influence of the selection process.

MAJOR CONSIDERATIONS

Who should conduct the background checks and political screening?

The FBI is the only organization equipped to do an extensive personal background investigation. Outside the government, investigative journalists, such as Jack Anderson, will conduct inquiries without much encouragement.

Political screening of a Vice-Presidential prospect's public record could be done by the Presidential candidates or by the party organizations. The press and various interest groups will also have a major role in publicizing the record of leading Vice-Presidential contenders.

What should be checked?

An FBI check, if authorized, would probably be in the nature of a "full field investigation," not as massively detailed as the checks of Gerald Ford and Nelson Rockefeller when they were Vice-Presidential nominees.

Aside from an FBI check of personal information, there should be a review of the public record of the potential Vice-Presidents. Positions taken throughout his political career should be documented. Material on Congressional service is relatively easy to collect, compared with information about a person's record at the state or local level.

When should the checks be made?

The information should be collected prior to the nominating conventions. Sanford Ungar's recent book, *The FBI*, indicates that it normally takes fifteen days to investigate a Presidential appointment. The background check on Nelson Rockefeller used 350 agents and took a total of 1,400 interviews. A pre-nomination investigation of several possible candidates would not be as extensive, but it would require a week or two at least.

A comprehensive review of the political record of possible nominees would take longer, whether done by the staff of a Presidential candidate or by a political party committee.

ACTION BY THE STUDY GROUP

I submit two proposals for consideration by the study group: 1) an FBI check mechanism and 2) a research process by the party organizations.

(1) *FBI Check.* Any study group recommendation for FBI background checks depends upon further study by us of existing practices and authorities. If statutory authorization is *not* required for an investigation, the President could ask the FBI to conduct a "top secret" security clearance for potential Vice-Presidential choices in the following manner:

Presidential candidates with a reasonable chance of getting the nomination would be allowed to submit to the FBI up to 10 possibilities for Vice-President.

The Presidential candidates should inform their choices of the pending background check and give them a chance to decline being investigated.

The results of the FBI check would be available only to the winner of the nomination. Unused data would be destroyed.

(This concept is similar to the bill introduced in 1973 by Senator William Brock. The bill has not been introduced in the current Congress, nor has any bill pertaining to FBI checks of Vice-Presidential candidates.)

(2) *Research on Candidates by the Party Organizations.* One would hope that Presidential candidates would direct campaign staffers to scrutinize the public records of possible Vice-Presidential nominees, but it is unlikely that the candidates have the money or the time to accomplish this project adequately, particularly when the pre-convention campaigns are closely contested.

Instead of just relying upon Presidential

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* One version of legislation seeking to accomplish these goals is S. 2741, originally introduced in the 93rd Congress, on November 26, 1973, by Senator William Brock (R-Tenn.).

candidates to do research about their choices for running-mate, the party organizations should help do the job of screening in a formal role.

In 1973 the Humphrey Commission proposed that the Democratic National Committee establish an Advisory Committee on the Vice-Presidential nomination. The Advisory Committee of 7–10 members could be selected after consultation with all Presidential candidates in the party. The Committee would collect information from public records about all potential Vice-Presidential nominees. Its work would not in any way be binding, the Committee should make no recommendations whatsoever, and it should submit its information to the nominee at the convention.

These two proposals, the FBI checks and the candidate research by the party, are examples of specific actions that the study group must produce, if we are to have any impact on reforming the Vice-Presidential selection process.

## CALL FOR ACTION ON THE GENOCIDE CONVENTION—A BICENTENNIAL REAFFIRMATION

Mr. PROXMIRE. Mr. President, on July 2, 1976, a monumental piece of human rights legislation will be 200 years young. The Declaration of Independence proclaims the right to life for all human beings.

Throughout history, some have brutally ignored its hopeful message. The most ugly cases of man's inhumanity to man have been witnessed in recent decades, with systematic attempts at mass extermination of whole peoples, races, ethnic, and religious groups.

The Genocide Convention, signed by over 80 nations, displays outrage over these morally reprehensible acts.

The Senate continues to delay in consideration and ratification of this critical piece of human rights legislation. Moral decency demands our acceptance of the principles of this treaty. Do Auschwitz and Dachau seem that unconsciously far behind us, never to be repeated again? I ask you to recall the post-civil war slaughter in Biafra. Where is our national conscience? Would we have the world believe we have stooped to the rank of a second rate power in the moral sense?

It is out of a genuine sense of our moral duty that I will upon my colleagues in the Senate to make a Bicentennial reaffirmation to the most fundamental of all human rights, the right to life, by speedy ratification of the Genocide Convention.

Such action will be a strong sign to the world of the moral dynamism of this Nation, two centuries after its birth. Let it signal a general spiritual and moral renewal in our hearts and minds during this important year.

## RESPONSIVE GOVERNMENT AND THE PUBLIC MOOD

Mr. HUMPHREY. Mr. President, much has been made in political speeches of the issue of so-called big government.

But although the phrase "big government" comes readily to our lips, few of us know specifically what is meant by it. And when that happens, the possibility of productive debate or informed discussion becomes remote.

Recently I had the privilege to address the annual convention of the Associated Press Broadcasters in Minneapolis on this subject, and my remarks may be of some use to those who are similarly troubled by vague language in this critical campaign year.

Mr. President, I ask unanimous consent that the text of my remarks to the Associated Press Broadcasters be printed in the RECORD.

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

REMARKS OF SENATOR HUBERT H. HUMPHREY

Today I want to talk to you about a highly important but very poorly defined issue. And I want to focus on the role of the media in reporting this issue.

The issue is "Big Government." It has been continually reported that this issue is a matter of widespread public concern. But the real problem is that the words have no precise meaning, no actual definition in the public mind.

In fact, "Big Government" is one of those expressions which conveys a feeling more than a meaning. And to the extent that it does so, it confuses the public understanding of the issues.

The press has a special responsibility toward the English language. It has to keep it precise.

And there is a good reason for that: when our language is unclear, our thoughts become unclear, and barriers are erected across the path of responsible action addressed to the real issues.

Let me give you an example. In the 1950's, there was a feeling that the Soviets posed some sort of nameless but genuine threat to our way of life. Because of that feeling, there arose words and phrases like "subversive" and "un-American."

Those expressions gained great popularity and developed a force of their own in the public mind. But the trouble was that no one had a clear idea what the words were intended to mean. And the more they were used, the more that sensible communication was abused, the more confused the public became.

That condition persisted until an intelligent and courageous man named Edward R. Murrow stood up and said that things had gone far enough—that our words had lost their sense, that there were not "communists" and "subversives" under every window sill.

Nor was that the last time that America suffered from meaningless language. Anyone who listened to the news during the past decade remembers the so-called "protective reaction" strikes in the Vietnam war, or the social polarization with opposing groups calling each other "hippies" or "fascists." No one can forget how we agonized over the "permissiveness" of our society—whatever that meant—or how Ron Ziegler became the butt of many a newsroom joke by saying that one of Mr. Nixon's statements had been "rendered inoperative."

This year is no different. There is another feeling abroad in the land which troubles the American people. It is the feeling that after Vietnam, after Watergate, and particularly after the terrible mismanagement of the economy and the drastic decline in family income, there is something fundamentally wrong with our government.

Although none of those things has any necessary relation to the size of government, the expression which has arisen to convey that feeling is "Big Government."

But what do we really mean when we use the expression? Do we actually know what we're talking about? Does the term "Big Government" mean the same thing to any two reporters—or any two candidates, or any two citizens?

I don't think so. And our confusion becomes evident when we try to define the expression.

If we use it to mean that the actual number of Federal employees has grown beyond acceptable bounds, then we simply are wrong.

The number of persons employed by the Federal government is scarcely larger than it was in the 1950's. And our population has grown a good deal since then.

Apparently that is not what we mean when we talk about "Big Government."

Maybe what we mean is that the Federal government is taking more of our wealth than ever before.

But that simply isn't so. The numbers are larger, to be sure—but so is our economy. In fact, the Federal budget is almost exactly the same percentage of our Gross National Product as it was when Mr. Eisenhower was President.

Admittedly, public welfare spending has increased over the past ten years. But it has risen at a total cost of only six percent of our Gross National Product over the decade—a very modest price tag for the remarkable social gains we made in that period. Moreover, the increase in budgeting for social programs began to drop sometime ago.

Or maybe what we mean when we talk about "Big Government" is that there are unwanted and wasteful Federal programs which ought to be eliminated. Well, here we may be on solid ground.

Yes, Congress is taking serious action to provide for in-depth evaluations of all Federal programs—reforming or terminating programs where necessary. But poll after poll has shown that, although the American people are unhappy about "Big Government," very often when specific programs are mentioned, the public is wholeheartedly in support of them.

Last November, the Joint Economic Committee held hearings to find out how the American people felt about their government and their economy.

A number of professional pollsters testified, and their evidence was unanimous: Americans overwhelmingly favor a Federal job program, a system of national care and health insurance, and increased aid to the elderly, additional aid to the handicapped and to education.

And although some Presidential candidates may tell you that the public is disenchanted with big government and its social welfare programs, the people say otherwise. The pollsters told us that, of those people who favor cuts in government spending, the vast majority want the cuts in defense spending, foreign military aid and the space program—none of which is associated in the public mind with "Big Government."

So here we have a surprising and puzzling contradiction in the minds of the American people: They are overwhelmingly in favor of those government programs which directly touch their lives and those of the people around them—and yet they are unhappy with "Big Government."

In other words, they disapprove of the *whole*, but they approve of the sum of its parts.

How did we get in this situation? How did this contradiction arise?

I think it came about for three reasons. First, the public *is* disappointed and disillusioned—and for good reason.

There is the disillusionment caused by the tragic war in Vietnam. This was compounded by the shameful and frightening abuse of political power and the corruption of the political system known as Watergate.

Then the exposé of scandal and conflict of interest in Congress—all further exacer-

bated and intensified by corporate pay-offs and crime. These things alone could have destroyed government and public confidence in it.

But add to this the inflation and recession of the last 3 years.

American workers have taken a 5½ percent cut in the real value of their take-home pay, forcing their purchasing power back to 1965 levels and wiping out any progress which they had hoped to make. At the same time, they were watching their friends and family being pushed into unemployment.

As a result, and with no one else to blame, they have justifiably accused the government—and government has proven unwilling or unable to act. When that happens, resentment builds.

Second, people don't perceive a difference among the various levels and kinds of government.

When they are unhappy with their property tax, or angry because they have to wait in a long line for license plates, or mad at their school system for one reason or another, they blame "Big Government."

The fact that the federal government may have little or nothing to do with their legitimate complaints does not keep them from criticizing it—because it all seems to be part of the same machinery, the same conglomerate of telephones, typewriters and paperwork.

All too readily, we overlook the fact that the only real growth in the size of government has taken place at the state and local level.

Third and finally, this is an election year. And some politicians, knowing that Watergate is still on our minds, have sensed resentment in our people, and would like to exploit it. So they have launched a campaign to condemn the workings and impugn the motives of so-called "Big Government."

The press picked up that indictment of the system—and in doing so they made "Big Government" a big issue. There is nothing wrong with that. That is what the free press is supposed to do—to get the story to the public and promote their understanding of the issues.

But I want to suggest that in covering that story, the press has not been careful to restrict the use of this catch-all term "Big Government," or to find out what it might mean in context.

And I find that rather strange. Because if a candidate had made a specific allegation that, say, the Department of Agriculture wasn't doing its job, the press would never have carried that allegation by itself.

It would have asked precisely *how*, and if possible who and where, and why they were not doing the job. The press would have sought out the facts behind the allegation and decided whether or not the charge was justified. It would have assembled figures, conducted interviews, and made objective decisions based on hard evidence. And the results would have become part of the story.

Yet, when candidates charge that *all* of government is at fault—that "Big Government" has become a monster and made life intolerable—too many members of the press have made virtually *no* effort to verify the charge or to get the facts straight.

Of course, much of that is understandable. The press has limited research facilities, and most print and electronic journalists work under severe deadline pressures.

In those conditions, it is not surprising that a story of limited length simply cannot afford the space for a detailed discussion of the effectiveness of the federal government.

But that need not mean that we neglect the issue.

So, I think the news men and women—who are, after all, members of America's most influential educational institutions, the press—should force the candidates to tell them what they *mean* when they talk about "Big Government," and what they intend to do about it.

When they say they will do away with "Big Government," they should be asked how they intend to get us a *little* government which conceivably can serve the needs of 215 million people in the most complex society on earth?

And when they say that we have a bloated bureaucracy, then we should ask them where it is located, how it is bloated, exactly who should be removed from office, and how they expect to get the job done with less than current payrolls? And what plans do they have for government employees who suddenly would find themselves without jobs?

And when they say that "Big Government" must be replaced by state and local government, then they should be asked how the State of Nebraska is supposed to map out and implement a national plan to restore health to our economy? Or how the City of Cincinnati is supposed to set national standards for clean air and water? Or how Westchester County, New York, is supposed to regulate our giant corporations and ensure the safety of our consumers? Or how Greater Los Angeles is supposed to develop the taxing power to reach vast concentrations of wealth which extend over state—and even national—borders?

And when we are through asking those questions, we should ask them how state and local government is supposed to do all these things without becoming the dreadful "Big Government" which we were trying to avoid in the first place?

Or how State and local government—which already are stretched to the limits—are supposed to take on those responsibilities without massive increases in the tax rate?

When the press asks those questions—and the public has the chance to see what the "Big Government" argument is all about—then at least we will know what we mean by the words we use.

And we may find that there really is something terribly wrong with "Big Government," and that serious, drastic changes ought to be made.

Certainly, we need not defend blindly everything that government has done in the past 40 years.

I don't know anyone who denies that mistakes have been made or that expectations have exceeded government's ability to deliver results.

Furthermore, in the last 15 years, government by the expressed will of the elected representatives has taken comprehensive action in a number of critically important areas:

consumer protection, in drugs, fabrics, automobiles and toys;

medical research and health care;

space sciences and engineering;

nutrition;

occupational safety;

environmental protection.

All of these actions by government are a response to public demand and a new sense of awareness by the citizen electorate.

And there is a special obligation on those of us who believe in strong, positive government to understand and correct the shortcomings as they become evident.

I have no doubt whatsoever that those needed improvements can be made. And some very basic changes have been made. For example:

The War Powers Act, placing limitations on the exercise of Presidential powers to commit American armed forces to combat without the approval of Congress.

The creation of an oversight committee by the Senate to supervise, monitor and maintain effective legislative controls over the activities of intelligence agencies—foreign and domestic.

The development of a new relationship between Congress and the Executive in the area of foreign policy, including a sharing of responsibility in the formulation of foreign policy objectives and giving Congress greater oversight on the execution of policy.

The Budget Control Act, in which Congress carefully assesses all of its programs, estimating costs and outlays and disciplining itself to adherence to budget priorities and targets.

The "Open Meeting" Act, the so-called "sunshine law," which requires all committee meetings to be open to the public unless by roll call vote the members place themselves on record for a closed session.

Legislation is now on the Senate calendar requiring all Federal programs to be re-examined from a zero point if they are to be continued—a complete and exhaustive review that will necessitate re-enactment of authorization and appropriation if the programs are to continue.

And finally, the creation of a modern, computerized legislative information system.

But the American people want a government which is substantial and active enough to provide them the services they pay for, and strong enough to assure their rights as citizens and protect their needs as consumers.

It would be a very grave error to assume that Americans have permanently washed their hands of a strong and active national government. What they are seeking is a government that demonstrates a new competence, a new sense of fairness and a new concern for individuals.

When Americans again encounter that kind of responsiveness, I predict that the people's trust and confidence in government will again become a dominant fact of our political life.

Most critics of government have overlooked the continuing faith that Americans place in our constitutional system. Despite the failures and disappointments of recent years, there has been no popular outcry for wholesale constitutional reform or for junking our political system or institutional structures.

The underpinnings of American democracy are sound. The people have not abandoned hope. And they understand clearly that our society could never survive without an active and strong central government.

Such a government is not beyond our reach or capability. But it will require a much closer and effective relationship between all levels of government, and a new concept of the Presidency.

Our political system is a federal system, with a delineation of powers and responsibilities between the government in Washington and the State governments. There must be communication—a working partnership—particularly at the Executive level where Budget policy recommendations, administration and program implementation are centered.

Therefore, I propose:

A system of Regional Councils, consisting of representatives of State government and Federal agencies under the chairmanship of a Presidential appointee, designed to coordinate and evaluate on a continuing basis all Federal-State cooperative programs.

A Federal Council—a super cabinet—which would consist of the President and the Governors, meeting several times each year to consult on the adequacy and efficiency of government programs. Such a council would bring the Governors into the Federal budget process, and actively seek their advice and their priorities.

What the people are demanding today, and what it is the duty of elected leaders to provide, is a government that works, one that is competent, one that is fair, and one that cares about the problems of individual citizens.

This will require imagination and perse-

verance. But, above all, it will require the leadership of a President who believes that government can again be a vital force for justice and opportunity in America—a true steward and guardian of the public interest.

Working with Congress and with our state and local governments, such a President—if he really cares—can gradually turn our national government around, away from petty efforts at political empire-building, and toward government's only legitimate function: Serving the people.

## THE 10TH ANNUAL OREGON MUZZLE-LOADING CHAMPIONSHIPS

Mr. HATFIELD. Mr. President, Tex Shively, a constituent of mine whom I have known for several years, has been active in Oregon in promoting muzzle-loading rifle competition. In fact, as Governor of Oregon I was pleased to fire the first shot at the first Oregon State Muzzle-Loading Championships and Festival of Black Powder Sports in 1966. This year's event, which took place near Salem, Oreg. earlier this month, marks the 10th renewal of this competition.

I take this opportunity to acknowledge Tex's long association with rifle sports in the State of Oregon and emphasize that gun control legislation should not be enacted that would infringe upon the rights of sportsmen like Tex Shively to engage in recreational activities such as flintlock rifle competition. It is my understanding that legislation recently reported out of the House Judiciary Committee seeks only to control small concealable handguns, and specifically states that in no way is this legislation designed to affect the use of antique firearms, curios, or relics.

Mr. President, I ask unanimous consent that an article that appeared in the Oregon Statesman on June 11, 1976, concerning the 10th Annual Oregon Muzzle-Loading Championships, be printed in the RECORD.

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

OREGON CHAMPIONSHIPS—MUZZLE-LOADERS GATHER FOR 10TH BICENTENNIAL EVENT DRAWS CROWDS TO FOUR CORNERS AREA

(By John Furey)

*Staff Sports Writer*

Tex Shivey, 65, stands his .54-caliber flintlock rifle on end. He begins a ritual he's known since the age of 10, back in Pensacola, Fla., while hunting with his granddad.

He cleans away the black fowler, using a wet patch, then inserts a metal ball. He pushes the silver metal gently down the Mississippi Rifle Barrel with a short starter. The powder is next. That goes in the touch hole. Taking careful aim, Shively squeezes the double-set trigger with a 1½-pound pull. Crack!

"Nine o'clock in the white," calls his nearest companion.

Shively disagrees, assessing it at 10 o'clock. But that's all part of the action at the 1976 Oregon State Muzzle Loading Championships and Festival of Blackpowder Sports, currently taking place a few miles outside of Salem.

"We expect between 100–125 shooters here during the next three days," said Shively, a Salem farrier (horseshoer).

The official bicentennial event, a four-day affair, today goes into its second day of competition at the Four Corners Rod and Gun Club.

Shively is a promoter and active participant of this event, which began in 1966, when Senator Mark Hatfield fired the first shot.

Thursday's opening honors went to State Treasurer Jim Redden, Deputy Attorney General Jim Durham and Marion County Sheriff James Heenan.

The club can be reached by turning south of State Street onto 74th Avenue SE, about 4 miles east of Interstate 5.

Competition begins at 8 a.m. each day, lasting until the final match at 4 p.m., and will finish with the last relay at 2 p.m. Sunday.

The competitors are allowed to shoot any time with flintlocks, muskets and light rifles. There are also contests in knife and tomahawk throwing, using cross-stick paper targets and strings cutting.

For non-shooters there is competition for best costumes worn by men, women, boys and girls. There are plenty of individuals battling for this prize, donning Confederate and Yankee outfits and various displays of buckskin.

Thursday's opening-day ceremonies included a flag raising by the Boy Scouts and gun salute by a blackpowder firing squad.

Individuals are competing for various prizes, such as the all-around trophy, presented by G.I. Stores; and the Zales Buffalo trophy. There also is a pistol kit for the person competing in the most matches and getting the least points.

"It's getting back to the original type of weapons that were used by our forefathers to win this country," said Art Dean, chief range officer.

## PROBLEMS OF ALCOHOLISM AND DRUG ABUSE AMONG OLDER AMERICANS

Mr. HATHAWAY. Mr. President, the Subcommittee on Alcoholism and Narcotics and the Subcommittee on Aging of the Committee on Labor and Public Welfare jointly held hearings last week on the problems of alcoholism and drug abuse among older Americans. It appeared from the testimony of witnesses that the elderly are prone to an array of abuses of prescription and nonprescription drugs, which can result in misery, disability and unnecessary deaths among our senior citizens.

The aged suffer more from disabling conditions that limit their access to medical and pharmaceutical services and result all too often in accidents, overdoses, and other inappropriate use of prescription and over the counter drugs. Another contributing factor is the financial deprivation suffered by our elderly, many of whom live in demeaning circumstances and are the major victims of inflation, particularly with regard to rising health care costs.

Drugs consume a rising proportion of the limited incomes of the elderly. Even while the elderly use more than twice the prescription drugs used by the average American, the costs of outpatient drugs are not covered under medicare, and consequently many elderly people inadvertantly misuse drugs in efforts at self-medication.

I would like to share with my colleagues a report that was made by Donald E. Adamson, a pharmacist from Norway, Maine. The pharmacist is in a good position to comment on the dispensing and patterns of use of drugs, because he relates to the consumer daily and develops an understanding of his needs. This report, I believe, demonstrates the knowledge and insight that can be brought to bear by the drug retailers themselves on this problem.

Mr. President, I ask unanimous consent that Mr. Adamson's report be printed in the RECORD.

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

REPORT BY DONALD E. ADAMSON

The senior citizens of Maine are probably no different physiologically or pathologically than senior citizens from other parts of the United States. The elderly in Maine are at a disadvantage though because of the sparsely populated areas, requiring in many cases a great distance to travel for medical services. Not unlike many elderly people in the United States, Maine's elderly lack the financial ability to obtain proper medical care. The elderly in Maine have a great sense of pride and are reluctant to ask for help and go on welfare (Medicaid). This creates the problem which I observe quite frequently in my community pharmacy, the self-diagnosis and self-prescribing of over the counter medication by the patient.

Greatly influenced by the advertising media, friends, and by money-saving ideas the elderly are in many instances wasting money and abusing their bodies in an effort to eliminate a visit to their physician. There are probably many problems created by the elderly self-medicating with over the counter drugs, but I would like to bring to your atention the four main problems as I observe them every day.

I. PRESCRIPTION DRUGS AND OVER THE COUNTER DRUGS INTERRACTIONS

Many elderly patients are taking medications on orders of their physicians, but fail to inform the physicians of over the counter medications they are taking. Some problems this creates:

A. Patients taking medication for high blood pressure which achieves its action by dilating the blood vessels—self medicate with cold and cough preparations which cause vaso-constriction—thus we have an antagonistic effect.

B. Many drugs are absorbed in the acid media of the stomach or the alkaline media of the intestine, but there are over the counter drugs which can alter the pH at these absorption sites, thereby altering the amount of drug absorbed and eventually affecting the action of the prescription medication.

C. Many tranquilizers and sedatives prescribed by the physician can be enhanced by the antihistamines found in most cold and allergy preparations available over the counter.

D. For some reason most elderly people are overly concerned about their bowel movements. Consequently they consume much more laxatives than the younger person. This causes the potential of a medication passing through the specific area of absorption too rapidly to be absorbed sufficiently or to an extent great enough to accomplish the desired action.

II. PATHOLOGICAL CONDITIONS AND OVER THE COUNTER DRUG INTERRACTION

Many senior citizens are suffering from one or more pathological condition which can greatly affect the action of a given medication. Also, a medication can affect a pathological condition even when that drug is not intended for that condition. Examples of problems in this area are:

A. People with Glaucoma treating themselves with over the counter cold medications, which can increase the ophthalmic pressure.

B. Diabetics using corn and callous removers or treating themselves for various in-

fections, since any infection can be extremely dangerous to a diabetic.

C. Patients with high blood pressure and on low sodium diets taking efferescent antacids which have a high sodium content.

D. Patients on anticoagulant medication for certain heart and circulatory problems self medicating with lots of aspirin. Asprin can greatly influence the pro thrombin time, thus giving a false reading.

III. PHYSIOLOGICAL STATES AND OVER THE COUNTER MEDICATION

Since many of the physiological functions of the body decrease in efficacy with an increase in age, many of the over the counter medications should be taken in a smaller dose.

A. People with impaired circulation will be more sensitive to over the counter drugs used for sleep and mild tranquillizing effect.

B. Elderly patients with impaired vision have trouble reading the labels and directions or have difficulty recognizing the right pill they should be taking.

C. Many drugs are excreted by the kidneys and can build up to toxic levels in the body of patients with decreased kidney function.

D. Elderly patients with stomach problems can find these problems aggravated by iron containing vitamins which are so commonly advertised and purchased. Iron containing vitamins can also cause constipation in some patients.

E. Many over the counter medications can affect the readings of certain diabetic test. This has the potential of being dangerous to a brittle or borderline diabetic.

IV. OVER THE COUNTER MEDICATION INTERACTION WITH OVER THE COUNTER MEDICATION

Many patients are taking more than one over the counter medication and these drugs have the ability to potentiate or antagonize the affect of each other.

A. Cough and cold preparations, allergy medication, and mild tranquilizers and sedatives have the potential of an additive affect with each other.

B. Some of the common antacids contain aspirin or aspirin like compounds which the patient is unaware of. These combined with aspirin taken for pain could cause an additive or toxic affect.

C. I've seen patients taking medication for diarrhea and constipation at the same time.

The local pharmacist by keeping patient profiles on patients' conditions and medications can help prevent many of these problems. The local pharmacist has the knowledge to catch these potential problems and the knowledge to inform the patient on the proper treatment or alternatives. The problem is that people don't usually buy all their medication from the same pharmacy, and many non drug stores such as grocery stores, gas stations, and department stores sell over the counter drugs. A lot of people in Maine send away for their medication to pharmacies away from their homes. There are many people in Maine that send to AARP in Washington for their medications, which prevents the local pharmacist from knowing what medication the patient is taking. Many people also go to more than one physician and more than one pharmacy; so, we have multi-physician, multi-pharmacy, and multi-medication, and multi interaction. Any method of curtailing this and letting the local pharmacist use his knowledge would be a great help and benefit for the elderly.

The senior citizens of Maine with their old yankee tradition and pride, those qualities which help make our country great, by not going on welfare or medicaid are denying themselves good medical care.

I have been at many patient care committee meetings at nursing homes when the physician would like to run some test on a patient and lab work or X-rays, but decided not to because it would put a burden on the patient or his family financially. But if it were a medicaid patient, the tests would be done. I feel it is a sin of this country when the welfare or medicaid patient gets better health care than the man or woman who worked all their lives and saved a little have to forgo the necessities because the cost is too steep.

Rich or Poor but don't be in between.

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THE SPECIAL DRUG PROBLEMS OF THE ELDERLYS COSTS, CONFUSION AND PHYSIOLOGIC CHANGE

There is a growing awareness of the special drug problems of the elderly. These problems involve the pharmacokinetics of drugs, how they influence and are influenced by the physiology of aging and the multiplicity of drugs needed to treat the increasing illnesses and disorders common to the aging process. Other problems include a generally reduced income coupled with the increased expense of medicines for chronic conditions, the desire to stretch the income by self-medication and confusion or misunderstanding about the proper use of the drugs being taken.

PHARMACOKINETICS

All the pharmacokinetic parameters are altered in the elderly. Gastrointestinal absorption, both active and passive, is significantly decreased. Related to this is a lengthened gastric emptying time, decreased intestinal motility and fewer absorbing cells.

Distribution patterns change. Cardiac output slowly decreases, a smaller amount of the blood circulates to the liver and kidneys (the organs most involved with metabolism and excretion), and plasma albumin levels decrease, possibly altering drug binding. The proportion of body fat increases, which may result in decreased intensity or increased duration of effect of highly lipid soluble drugs stored in fat, then slowly released back into the circulation.

Metabolism generally slows. Liver microsomal enzymes decrease, so drugs metabolized here may have a prolonged effect, depending on whether they are metabolized to an active or inactive metabolite in their conversion to a readily excretable form.

Excretion slows. The glomerular tubular mass, glomerular filtration rate, renal plasma flow and tubular excretory capacity all decreased with age. Indeed, the 90-year-old kidney filters about 60 percent of the volume of the 20-year-old one.

Two other broad categories of change involve receptor sites and homeostasis. The response of aging organs and tissues to a drug may alter because of a different pattern of responding cells or fewer such cells. Changes in tissue structure, whether by cross linking, presence of fibrous tissue or atherosclerotic plaques can reduce the effects of drugs acting on adjacent or underlying tissue. Homeostatic mechanisms which tend to limit drug effects in younger persons may be lost, causing an exaggerated response.

CARDIOVASCULAR DRUGS

Antihypertensives: The greater incidence of coronary insufficiency, arteriosclerosis and renal impairment require extra precautions in the use of antihypertensives in older patients. Arteriosclerosis-included hypertension may not respond adequately even to large doses. However, underlying homeostatic mechanisms stabilizing the blood pressure may be upset, resulting in hypotension, reduced cardiac output and cerebral and coronary insufficiency. Reduced glomerular filtration may lead to uremia and azotemia.

Rauwolfia products cause twice the rate of aggravation or precipitation of mental depression in the old as in the young, and a Parkinsonian syndrome may be induced. Atrial slowing caused by vagal stimulation in the person taking both rauwolfia and digitalis may deceive the physician into reducing the digitalis dosage, leading to loss of digitalization. *Hydralazine*, by increasing cardiac rate and output, may cause coronary insufficiency. Its long term use does not prevent cardiovascular deterioration.

Digitalis: Elderly patients are more susceptible to digitalis intoxication. Excretion is considerably prolonged, the vagus is particularly sensitive to the drug, and digitalization may induce bracycardia and then partial or complete heart block. Diuretic therapy or laxative abuse may cause hypokalemia, increasing the heart's susceptibility to digitalis. Digitoxicity may be less apparent, manifesting itself as anorexia, muddy or hazy vision with halos about bright objects and cardiac arrhythmias.

PSYCHOACTIVE DRUGS

From 25 to 60 percent of those over 65 suffer from mild to severe psychiatric illness, primarily depression. The overuse of drugs by symptom-oriented physicians has been blamed as one of the major causes of depression.

The central nervous system (CNS) is the system most sensitive to alterations in drug activity with age. It may be marginally operational, subject to unusual or paradoxic drug reactions and endangered by cerebral hypoxia from hypotension, vascular disease and reduced cerebral vascular flow. There is a greater variability in the patient's kinetics and there is more likelihood of drug interaction. But the primary reason is the loss of neurons, the rate of loss varying in the different areas of the brain. This unequal loss results in an imbalance among the various cerebral centers and hence different patterns of drug action. For example, amphetamines have a lessened stimulant and an increased anorectic effect. Barbiturates may exhibit CNS-stimulant effects.

Phenothiazines present particular problems. Cholinergic blockade may aggravate constipation and cause xerostomia, possibly leading to parotid infections. Extrapyramidal symptoms occur in half the patients over 60 years, usually within the first ten weeks of therapy, and may persist long after the drug is stopped. Orthostatic hypotension often occurs in hypertensive patients, in turn leading to dizziness, falls and hip fractures. Overdosage leads to immobility and stasis phenomena such as peripheral venous thrombi.

Tricyclic antidepressants may cause greater susceptibility to disorientation, delirium, psychosis, E.E.G. and E.K.G. abnormalities, hypotension and parasympathetic reactions such as xerostomia, blurred vision and difficulties with urination.

Hypnotics are metabolized and excreted more slowly, which may lead to their accumulation and all the problems of overdosage, as well as a reversal of normal day-night rhythms. Cerebral anoxia can result from impaired respiration, cardiac failure and lowered blood pressure. Even moderate doses of barbiturates may intensify Parkinsonian rigidity.

ANALGESICS

Phenylbutazone and indomethacin are usually of little value in the aged arthritic. What relief there is, is usually of short duration and side effects and toxicity are common. Peptic ulcers are often induced or reactivated.

Narcotics are only slowly metabolized and poorly tolerated. The more potent ones readily induce confusion, sphincer relaxation and dehydration, and all may cause constipation, urinary retention and a depressed cough reflex that can lead to plugged bronchi and atalectasis.

Salicylates are taken in increasing quantities as one ages. They are a common cause of acute gastroduodenal ulceration and bleeding. Of persons taking moderate daily doses of aspirin, 70 percent lose about 5 ml. of blood daily. This leads to iron deficiency among a population generally unable to afford an iron-rich diet. Different salts and

dosage forms have differing and lesser incidences of bleeding. Intoxication can cause a shock-like state resembling impending myocardial infarction, acute alcohol intoxication, gastric carcinoma or diabetic ketoacidosis

Phenacetin has been implicated as a cause of renal damage from chronic use. A great many people in this age group constantly employ analgesics containing phenacetin.

ANTIBIOTICS

Most problems with antibiotics in the elderly can be traced to altered kinetics. Broad spectrum antibiotics are often inadequately absorbed, altering intestinal bacterial flora and causing severe gastrointestinal upset. Once in the circulation, high and prolonged serum levels can be expected. Overdosage may be relatively harmless with penicillin, but not with the aminoglycosides. The more precise formulas and nomograms for calculating proper dosage of antibiotics, such as kanamycin and gentamicin, include age as a factor.

DIABETES

Diabetes mellitus is frequently found in the elderly. Glucose tolerance deteriorates with age, and there is some indication of an accelerated decline after 80 years. Normally the aged pancreas can meet normal requirements of carbohydrate metabolism, but it suffers a functional deficit in strong and rapid stress. Several explanations have been advanced:

The pancreas becomes less responsive to insulin;

Potency of newly secreted insulin may be reduced since secretion of newly synthesized insulin is progressively delayed during aging, and

An anti-insulin factor is present in older people. This may explain the lessened metabolic efficacy of insulin in senile diabetics and the qualitatively different response of old and young diabetics to insulin administration.

There are only very minor age-related alterations in the response to oral hypoglycemics in maturity-onset diabetes.

One study of elderly chronically ill outpatients found that 60 percent made drug errors, averaging 2.6 errors per patient, and that five percent of the patients accounted for 25 percent of the errors. These mistakes involved missed or inaccurate doses or wrong administration times. The errors were attributed to forgetfulness, fatigue, illness, inability to pay for the medicine and ignorance about the proper use of the medicine—coupled with inadequate counseling and labeling. The aged are also prone to take medicine only when they think they need it, leading to both over- and underutilization.

Autotherapy, spurred by advertising and motivated by the desire to economize on physicians and prescription drugs, can interfere with prescribed therapy or delay needed therapy.

Because of these problems, drug therapy should be kept as simple as possible and should require minimal adjustment in the patient's life-style. Pharmacist and physician should collaborate to keep drug costs minimal and carefully explain to the patient the use of a drug and the need to adhere to directions for its use.

Pharmacists should maintain and monitor drug profiles and refill records for proper long-term utilization. The should serve as active advisors on the safe use and non-use of O.T.C. drugs rather than be simply links in a distribution system.

For those interested in more detail, these general references may be checked for the original work:

1. Donald A. Holloway, "Drug Problems in the Geriatric Patient," *Drug Intelligence and Clinical Pharmacy* (8:632–642 November 1974).

2. *Drugs and the Elderly*, Ethel Percy Andrus Gerontology Center, University of Southern California, 1973.

3. A. Douglas Bender, "Pharmacodynamic Principles of Drug Therapy in the Aged," *Journal of the American Gerontological Society* (22:296–303, July 1974).

4. Wulf Grubin, "Progressive Deterioration of Glucose Tolerance in the Aged," *Journal of the American Gerontological Society* (22:31–37, January 1975).

## MINNESOTA INDUSTRY A LEADER IN ENERGY CONSERVATION

Mr. HUMPHREY. Mr. President I take great pride in the fact that the State of Minnesota has been a front-runner and established itself a leader in energy conservation. Not only were we the first State to ban decorative gas lamps and establish standards for solar devices, but we also included structural insulation standards in our building code well over a year ago.

In this regard, Mr. President, I mention a Minneapolis-based division of Litton Industries, Litton Microwave Cooking Products. This company has shown itself a leader in the private sector business communty in its energy conservation policies. This firm has implemented energy saving product labeling, and has adopted an energy conservation program in line with requirements of the National Energy Policy and Conservation Act.

In 1970, when the company began to produce microwave ovens, the whole industry sold only 40,000 units. By 1976, however, projected annual industry sales will exceed 1 million ovens. Minneapolis, by the way, is now the world's largest producer of microwave ovens.

Certainly, the company is in this business because they could earn a reasonable profit. But, simultaneously, it provides a useful, convenient, and safe product which conserves energy—it consumes as little as one-fourth to one-half the energy of conventional ranges. Litton Microwave Cooking Products has also provided gainful employment for an increasing number of Minnesotans, growing from 250 employees in 1970 to 1,800 employees in 1976.

Mr. William George, the 33-year-old president of the firm, estimates that half the homes in the United States will have microwave ovens or ranges installed by 1985. That will mean a yearly nationwide savings of $1.1 billion in lower energy costs and a saving of 32.3 billion kilowatt-hours of electricity.

The company's labeling program includes labeling of all the microwave ovens it manufactures with annual electricity consumption rates and costs, including comparative figures on the cost of conventional electric ranges. The company has also committed itself to further reduction in the energy consumption of its ovens and ranges of 20 percent by 1980—the first cooking appliance company to do so. And Mr. George has stated that his company can do this without passing on any additional costs to the consumer.

Still having an interest in a small family business, as many of my colleagues know, I am delighted to learn of a company that promotes energy conservation measures and offers quality and service to its customers. I hope that other firms, small and large alike, will follow the example of this company and help to make our goal of energy independence a reality instead of a pipedream.

## PART XVI: DESEGREGATION IN THE CITIES—TRENDS IN SCHOOL SEGREGATION IN THE 1970's

Mr. BROOKE. Mr. President, until last month, no Federal statistics had been released showing trends in racial segregation since 1972. In response to requests from Senator JAVITS and me, the Department of Health, Education, and Welfare prepared tabulations on segregation trends between 1970 and 1974. For the first time the tabulations provide detailed statistics not only on the segregation of blacks but also on the segregation of Latinos.

This new study does not include all schools in the country, but is limited to those districts which have provided HEW with enrollment statistics each year from 1970 to the 1974–75 school year. These districts contain more than nine-tenths of the Nation's black students and about three-fourths of those with Spanish surnames. The districts studied for calculations of current segregation contained 31,800 schools in 1974 and enrolled 6.1 million black children and 1.9 million Latino students. The trends reported for segregation may tend to overestimate segregation levels for the total minority group population since the data excludes a number of small districts which may have lower levels of racial separation. Since the data does include the same districts throughout the period, however the basic trends for most children are evident. The statistics are particularly useful in understanding trends in large systems.

The statistics show that the gap between the South and the North continues to widen. The South which was the most segregated region of the country through the 1960's is now the most integrated, by a large margin. More than 44 percent of Southern blacks were in predominantly white English-speaking schools by 1974. In the most segregated regions, the Midwest and the Northeast, the figure was only 19 percent. The Northeast is the only region of the country where segregation became more extreme during the 1970's but there was no significant positive change except in the Southern and border States.

The regional differences are even more dramatic when one examines cases of extreme segregation. In the Midwest 45 percent of all black children are in 99 to 100 percent minority schools. Such schools contain about a third of black students in the Northeast and a fourth in the West. In the South, however, where virtually all black students were in such schools in the late 1950's, only one in seven remained in 1974. Similarly, proportionate concentration of black students in schools with more than 90-percent minority enrollment is more than twice as high in the Northeast and Midwest than in the South.

The statistics show clearly that the desegregation enforcement effort in the South has had a major and lasting impact, making the region that was far the most segregated into the pioneer of educational integration. Much of the change in the Southern and border States during the 1970's is the direct result of busing plans.

The data from the North and West, however, show that there has been very little impact so far from desegregation enforcement. In spite of the intense controversy only a very small fraction of children outside the South have been affected by desegregation plans. During the 1970–74 period the average level of segregation across the North and West remained unchanged. Very modest declines in the West and Midwest were offset by larger increases in segregation in the Northeast. Although trends in segregation of black children have often received careful attention in the past, much less notice has been taken of segregation the Nation's second minority, the Latinos. The new HEW data show that Latino children are highly segregated. While segregation of blacks declined a few percent from 1970 to 1974 as a result of desegregation efforts in the South, segregation of Latino children increased. By 1974, Spanish-surname children in the HEW sample were more likely to be in predominantly minority schools than blacks. The proportion of Latino children in minority dominated schools was stable or rising in every region of the country.

Half of the Latino children were enrolled in schools where 70 percent or more of the children came from minority groups. Hispanic children were still less likely than blacks to be in schools with 90 to 100 percent minority students, but this trend was developing in some regions. Most striking was the rapid increase from 12 to 21 percent of Latino children in intensely segregated schools in the Midwest during this 4-year period.

The trends in Latino segregation and the very rapid growth of the Nation's Latino population pose difficult new issues of school policy. The Supreme Court's 1973 decision, Keyes against School District No. 1, Denver, Colo., ordered the desegregation of Denver's Hispano community and the issue will be raised in many Western communities where Mexican Americans are the largest minority group. The statistics suggest that American educators may not face merely the specter of division into two societies, but the crystallization of a rigid and deepening three-way division. We need much closer examination of the implications of this development for Latino children and for American society.

Mr. President, I ask unanimous consent that the tabulations I have referred to be printed in the RECORD.

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

TABLE 1.—*Proportion of black children in predominantly minority public schools, 1970–74*

(Percent)

| | 1970 | 1972 | 1974 |
|---|---|---|---|
| National | 70.6 | 67.6 | 66.8 |
| South | 62.1 | 56.2 | 55.5 |
| Border and D.C. | 78.5 | 75.1 | 71.9 |
| Northeast | 78.7 | 79.6 | 81.0 |
| Midwest | 83.2 | 81.5 | 80.6 |
| West | 74.3 | 73.6 | 73.4 |

SOURCE.—HEW Office for Civil Rights, May 1976.

NOTE.—The statistics in this table are based on enrollment reports from districts estimated to contain approximately 92 percent of the nation's black students in 1972–73.

TABLE 2.—*Proportion of black children in intensely segregated schools (90 to 100 percent minority enrollment)*

(Percent)

| | 1970 | 1972 | 1974 |
|---|---|---|---|
| South | 34.2 | 25.7 | 23.4 |
| Border and D.C. | 63.9 | 61.8 | 58.4 |
| West | 50.5 | 46.9 | 45.1 |
| Northeast | 52.5 | 54.6 | 57.8 |
| Midwest | 64.4 | 62.9 | 62.2 |
| National | 46.4 | 42.0 | 40.5 |

SOURCE.—HEW Office for Civil Rights, May 1976.

NOTE.—The statistics in this table are based on enrollment reports from districts which contained an estimated 92 percent of the nation's black enrollment according to universe projections based on 1972–73 enrollment reports.

TABLE 3.—*Percentage of Latino children in predominantly minority schools, 1970–74*

[*Percent*]

| | 1970 | 1972 | 1974 |
|---|---|---|---|
| National | 64.2 | 65.2 | 67.4 |
| Northeast | 84.2 | 83.1 | 84.2 |
| South | 72.6 | 72.3 | 72.8 |
| Midwest | 52.6 | 53.4 | 57.1 |
| West | 48.5 | 51.4 | 56.3 |

SOURCE.—HEW Office for Civil Rights, May 1976.

NOTE.—The statistics in this and the following tables are based on enrollment figures from districts estimated to contain 74 percent of the nation's Latino students at the time of HEW's last universe projections, covering the 1972–73 school year. The data covers an estimated 87 percent of Latino enrollment in the Northeast, 82 percent in the South, 66 percent in the West, and 62 percent in the Midwest.

TABLE 4.—*Proportion of Latino children in intensely segregated schools (90 to 100 percent minority enrollment)*

[*Percent*]

| | 1970 | 1972 | 1974 |
|---|---|---|---|
| National | 29.0 | 29.2 | 30.0 |
| Northeast | 50.0 | 50.5 | 53.8 |
| Midwest | 11.7 | 15.0 | 20.9 |
| West | 14.6 | 14.2 | 15.7 |
| South | 36.1 | 35.5 | 34.1 |

TABLE 5.—*1974 enrollment of Latino children in schools with 70 percent or more minority children*

[*Percent*]

| | 1974 |
|---|---|
| National | 50.0 |
| Northeast | 71.7 |
| South | 56.8 |
| Midwest | 40.8 |
| West | 34.9 |

SOURCE.—HEW Office for Civil Rights, May 1976.

## LOOKING AHEAD IN RURAL DEVELOPMENT

Mr. HUMPHREY. Mr. President, I wish to share with this body my remarks at a conference on rural development at the Southwest State University in Marshall, Minn. These sessions, entitled "Conversations in the Countryside" have been devoted over a number of years to dealing with various aspects of life in rural America.

At these sessions, the program organizers deal with all aspects of rural development and rural life. In my remarks, I attempted to point out some of the important trends which have been taking place in rural America. Will population growth continue in the rural areas and in particular in the southern and western "sun belt"?

I emphasized that we need to look for ways of improving the rural development program and the 1972 legislation. Our academicians need to be encouraged to suggest new approaches and innovations.

Above all, we need to better coordinate and manage the programs which we already have in existence.

I spoke also concerning the need to develop a full employment approach which includes our rural communities. There are many areas such as reforestation, road construction, railroad building, drainage, and conservation programs which would provide employment for millions of Americans. A shelf list of public service jobs should be developed to provide employment in rural America. These jobs would represent investment in our future and in the lives of our people.

I commended the organization for not only being concerned with transportation and employment in the rural areas but also bringing to southwest Minnesota a finer appreciation and understanding of the arts. We need to make certain that our rural citizens also have an opportunity to be exposed to music and theater and improved educational opportunities.

These are some of the main ingredients of a balanced rural development program which is not being fostered by our Federal Government today. Mr. President, I ask unanimous consent that the test of my remarks be printed in the RECORD.

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

REMARKS OF SENATOR HUBERT H. HUMPHREY

I wish to commend the organizers of these sessions for focusing attention on economic development in rural America. Your earlier sessions have examined some problems of major significance.

These meetings offer the opportunity to develop new approaches and above all encourage a new commitment to a sound rural development effort.

Recently, people have started to note the resurgence of our rural areas. And our newspapers have reported the population movement from urban to rural areas.

There has been a great deal of interest in the rapid population growth of the "Sunbelt"—the southern and southwest areas of the country. But again, we need to know more about the basic causes.

We need to know whether these trends are likely to continue. And we also need to develop goals and targets for rural development—drawing on the experience of the 1972 Rural Development Act.

Will this new growth bring greater opportunity and a better life for our rural citizens? Are we likely to have a balanced rural development, or will many areas of our country remain depressed and without hope for the future?

It does appear that in many cases, those migrating from the cities are trying to escape the smog, congestion and pressure in favor of a more healthy rural environment.

The earlier tidal wave of rural people migrating to the cities after World War II was mostly family farmers forced off the land. These people were responding to the opportunity of employment in factories and mills. But this migration caused problems for our cities and helped create social disruption.

Today it appears that the tide has turned. Between 1970 and 1973, the non-metropolitan population grew by 4.3 percent, while metropolitan areas increased by only 2.8 percent.

The young men and women who were forced to leave their rural homes because of the lack of job opportunities are now coming back. So are the retired people, who have learned that their fixed incomes will stretch much farther in the rural setting.

In Minnesota, the metropolitan areas lost 80,000 people in the last few years, while the rural areas gained 92,000 people. This is a major turnabout, considering that 86 percent of the state's population growth from 1950 to 1970 was in the urban areas.

However, to have a balanced policy encouraging growth and vitality in our rural areas we need a firm commitment to increasing employment opportunities.

At present we have a national unemployment level of well over 7 percent. And if you include those people who have given up looking for work and the part-time employees, you are looking at a 10 or 11 percentage level.

We do not have very good statistics on unemployed people in rural areas. This results from both a lack of coverage, and faulty definitions of unemployment.

Many of our small farmers or family members supplement their earning with nonfarm employment.

I am presently pressing the case for S. 50, the Humphrey-Hawkins Full Employment and Balanced Growth Act, to reduce the waste represented by welfare, unemployment, food stamps and taxes never paid.

We are told by the Administration medicine men that this bill would lead to raging inflation. But we should recall that the level of unemployment was only around three and one half percent and inflation just over 4 percent when the Democrats left office in 1969—in contrast to both high unemployment and high inflation over the last seven years.

The facts of history are that when we are fully using our industrial and agricultural capacity, then jobs and incomes increase, production goes up, and inflation is moderated.

Our people want hope, not a handout. But the Administration continues to operate with no economic policy and no sense of urgency and compassion for millions of unemployed Americans. The White House and its Wall Street economic brain trust are content to let nature take its course, and nuts to the hindmost.

But when we talk about reversing the present course by establishing a comprehensive full employment and balanced growth policy, we must remember that there is a special need to stimulate employment opportunities in the rural areas. There we need to develop a shelf list of public service jobs whereby we can begin to put our people back to work. There still are roads to be built and improved, railroad beds to be rebuilt, shelterbelts to be replanted, canals and rivers to be dredged and forests to be replanted.

These programs not only mean jobs for people and hope for the future. They mean investments in conserving our resources which will have a payoff in the future.

It's a very "in" thing these days to say that the WPA, PWA and CCC programs of the depression were boondoggles—failures.

But those programs put people to work, and the fruits of their labors continue to dot the landscape of America with public buildings, schools and roads, parks and recreation areas.

I have always maintained that you can judge society by how it treats its resources and people—particularly those most vulnerable, the very young and the elderly. This is an important part of the job ahead of us in rural development, along with providing greatly expanded job opportunities.

Obviously, in pursuing a full employment policy for our rural and urban areas, we will have to rely on the private sector to provide most of the jobs. This means encouraging industry and keeping agriculture prosperous.

But to do this we need to give our farmers a fair chance at a profit, not a roller-coaster which constantly squeezes small producers out of business.

Commissioner Wefald recently projected that each $100 million in farm exports can lead to as many as 5,000 additional jobs. There is a critical need for imaginative and comprehensive food and agriculture policies which can have a major impact on employment levels.

It is interesting to note that, while incomes of rural families have historically been lower than that of urban dwellers, the trend seems to be changing.

The median income for urban families in 1969 was $10,196, representing a 5.2 percent annual growth rate over the last decade.

For farm families, the annual rate of increase over the decade amounted to 8.2 percent—with the average income reaching $7,082 in 1969. Rural non-farm incomes increased by 5.1 percent on an annual basis, and reached $8,231 by the end of the decade.

If this trend continues, our rural areas should continue to grow since some living costs there are significantly lower.

But, we also need to be concerned with the quality of life in our rural communities. People want good housing, a decent education for their children, and sound, reasonably priced health care which is accessible.

Health care is one area in which our rural areas are particularly deficient. As the Congress tries to find a formula for national health insurance, we should make a special effort to extend the coverage of medical facilities in rural America.

With our rural population scattered over about 98 percent of the land and with a density of only about 19 persons per square mile, the delivery of effective medical services at a reasonable cost poses a major challenge to innovative health planning.

As of December 1972, the ratio of active physicians per 100,000 people was more than twice as high in urban as in rural areas. Rural residents also have considerably less access to specialist care and to doctors with a hospital-based practice.

What this means is that 86 percent of the doctors serve 74 percent of the population, and rural Americans take what is left.

Education is another matter of key concern to our rural population.

We know that, in general, the level of income that a man or woman earns, and the employment opportunities that are available to them, are directly related to the level and the quality and scope of their education.

When the 1970 census was taken, the median years of school completed by all persons aged 25 and over was 12.1 years, but for residents of predominately rural counties, it was 10.5 years.

The quality of life also involves music, theater, and the dance, and other opportunities for cultural enhancement. Our rural citizens need these opportunities as much as urban people.

I am happy to hear that the Countryside Council has provided a grant to the Southwest Minnesota Arts and Humanities Council to serve the needs of 19 counties.

We need to make every effort to improve the quality of life, whether it be in terms of improved housing, better health care, further educational opportunities or expanded offerings in the arts.

However, as we look at the needs of rural America, it is not enough to state goals of government policy. We must go on to examine the capabilities and commitment of federal agencies to carry out these goals, to make good on promises, to actually deliver services that rural citizens have a right to expect.

One case in point is the Farmers Home Administration of the Department of Agriculture. The FmHA has been the major arm of the federal government in carrying out rural development activities.

This agency has been given responsibility for a wide variety of programs such as housing, water, waste disposals, conservation, rural fire protection, industrial and business development and community facilities.

Its personnel have been hard pressed to meet the growing demands placed uopn it. Last year, Congress provided funds to hire an additional eleven hundred people, but the Administration moved to add only four hundred full time and three hundred part-time staff.

I have received complaints from some constituents regarding delays on the part of the Farmers Home Administration in responding to legitimate requests for assistance.

In some instances, the Farmers Home representative discouraged the constituent—mainly on housing—because he personally opposed the program.

I do not intend to have bureaucrats holding up programs and services because they object to the purposes of the authorizing legislation. Congress enacts the laws, and the sole function of appointed federal officials is to carry out those laws!

I am aware that the Farmers Home Administration is in the process of trying to streamline its paper requirements to help speed up service. This is an extremely important program, and I hope that the delivery of services can be improved.

We hear much discussion these days over "big government" and how it interferes with our lives. I believe that there are certain services which only the government can provide.

The complaint which I receive from my constituents is not that government is too big but that it is sometimes unresponsive.

I was very active in 1972 in developing the Rural Development Act. While there were some additional areas which should have been included in it, my main concern is over the lack of enthusiasm with which this Administration has proceeded on implementation.

I know of no area which has been beset by so many attempts at recission, impoundment or veto. Each year we have to go to bat to save activities such as rural fire protection and the Agricultural Conservation Program.

I am reminded of F.D.R. saying:

"The test of our progress is not whether we add to the abundance of those who have much, it is whether we provide enough for those who have too little."

One shortcoming of the 1972 Rural Development Act was the failure to establish a separate rural credit institution. Such a financial institution is essential to provide the

muscle for the economic revival of rural America. Often, rural communities are prevented from taking steps to spur economic development because they lack sufficient capital to attract investors.

The 1971 Presidential Task Force on Rural Development recognized this need and recommended "a new credit institution to provide rural areas with greater access to private capital."

I have introduced legislation designed to carry through this recommendation, and I am hopeful that action will be taken on it.

Another key area where a major effort is needed in support of rural America is in developing a rural transportation policy.

I can take you to places in rural Minnesota where it takes a full day to go 50 miles because the rail bed is so bad. You can barely find the ties! It's understandable that there are frequent derailments.

Since 1960, track abandonments have averaged about 1,000 miles annually. Yet the railroads insist that they are losing $130 million a year on branch lines alone.

We seem unable to develop a concerted program which recognizes the central importance of the transportation system—including roads, railroads, and waterways—as it relates to rural development.

I am hopeful that groups such as this can come up with new suggestions to encourage a balanced rural economic development program.

Our academic experts need to be encouraged to be creative and not discouraged by today's lack of interest on the part of this Administration.

We also need to develop better mechanisms for establishing rural development priorities. This means looking at the resources available and allocating them according to a plan.

I know that this Administration cries out against planning ahead. But it is done—and very successfully—in the Defense Department where they have a whole host of long range plans.

Now I see no reason why planning, evaluation and coordination between agencies and departments shouldn't be followed in rural development. It's called good management.

A business which did not look ahead and plan for the future would be repudiated by its board of directors. And yet, some people fight the notion of having government plan ahead.

But good management requires sound leadership. And you have to give these programs priority attention.

I share the view of the immortal Dante who stated:

"Better the occasional faults of a government living in the spirit of charity than the consistent omissions of a government frozen in the ice of its own indifference."

We cannot do all that we would like to accomplish. But, we can do a great deal more than offer excuses and curse the darkness.

This is an important task which calls for the best talents and dedication of all of us. I pledge my best in this effort.

## CONCORDE AN ECONOMIC DISASTER

Mr. PROXMIRE. Mr. President, in the June 16, 1976, Washington Star, Eliot Janeway, a respected economic commentator and columnist, discussed the miscalculation on the Concorde and its significance as a symbol of "the inertia and inflexibility at the root of the all-pervasive weakening of the Western European economy." The Anglo-French governments, though confronted with the Concorde's "hopeless inefficiency" and though totally unable "to peddle the Concorde even as a gift," plowed ahead in their commitment.

Now, with the decision to limit production to 16 planes compared to the minimum 120 planes required to break even, the Concorde's death knell has been sounded. According to Mr. Janeway:

The biggest open secret in London and Paris is that the Concorde has been abandoned as a lost cause.

Mr. President, I ask unanimous consent that Eliot Janeway's article "Concorde Project Disaster Symbol," be printed in the RECORD.

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

CONCORDE PROJECT DISASTER SYMBOL

(By Eliot Janeway)

The collapse of the once-proud British pound has not been a fluke. A good deal of creative thought, hard work and political face-saving have gone into the operation responsible for the fiasco.

Nor does the failure of the pound dramatize an isolated case of British inefficiency.

The related miscalculation on the Concorde is even more revealing of the inertia and inflexibility at the root of the all-pervasive weakening of the Western European economy.

The Concorde itself is more than just a British project. The French are their partners in this pathetic casualty of the transatlantic air race that needs three times as much fuel as a Boeing 747 to cross the Atlantic, and carries only one-third the payload. If France is not as busted as Britain, it's not for lack of trying.

Britain's more acute distress goes back to the nature of her previous prosperity as a financial power.

Much of her affluence depended upon the willingness of foreign money to trust sterling with its bank accounts. The loss of this confidence has sent sterling plummeting.

While the French franc was never exposed to this jeopardy, France and Britain share a common catastrophe-prone characteristic. The government is far and away the biggest factor in the economy of each country; and in neither country is an official mistake possible.

The formative case history of the Concorde shows what happens to a government that is not free to admit being on a wrong course. It cannot avoid engineering a disaster.

The present disaster is a 20-year hand-me-down from one generation of civil servants to the next. Both governments still pay lip service to the fiction that the elected representatives who make it to the cabinet play a part in the decisionmaking process; but cabinet ministers are no more than face cards played by the civil servants supposedly subject to their direction.

No cabinet officer in either London or Paris dared to veto the commitment made by the respective bureaucracies in going for broke on the Concorde.

Mrs. Mary Goldring, a respected economic writer in London, published a pragmatic post-mortem on the death of the Concorde a few months ago. She noted that the British and French governments felt no pressure to satisfy independent customers that the Concorde was a good buy. They shared two captive customers: British Airways and Air France.

But captive or not, Goldring reports, neither airline was a willing buyer. Even more shocking was the fact that the Anglo-French governments were unable to peddle the Concorde even as a gift.

Pan American World Airways refused to take the planes on an indefinite loan, and as far back as 1973 canceled its option to buy them. Coming from Pan Am, of all transoceanic carriers, this refusal was an early warning signal that the plane would prove unsalable.

Pan Am's special problems would argue for its receptivity to such gifts. The airline is vulnerable to blackmail from government-subsidized competitors; and it has no domestic business.

It had the most to gain from getting the use of an economic plane for nothing; it also had the most to lose if its competitors proved able to use the Concorde to cut into its business.

It is the measure of the Concorde's hopeless inefficiency that Pan Am refused to touch it with its competitor's money.

It is the measure of institutionalized lunacy in London and Paris that the marketplace sent a clear message, and the nabobs in charge refused to receive it.

Now, the biggest open secret in London and Paris is that the Concorde has been abandoned as a lost cause. To break even on the project, a minimum of 120 planes had to be sold—before reckoning on any cost inflation in manufacturing or in operations since the fuel gouge.

The announcement limiting the production schedule to 16 planes is a death sentence. The on-going charade of the Concorde's serviceability is for foreign consumption only.

The Concorde disaster has left the American manufacturers the winners of the air race by default; and Goldring's version of a coroner's verdict explains how: "The Americans put the cart in front of the horse and set out to find out what the airlines did want."

It is unfortunate that the makers of the Concorde did not do the same.

## THE MURDER OF A REPORTER

Mr. McGEE. Mr. President, there should be a sadness, a grief within us all at the death of Don Bolles of the Arizona Republic. Pursuing truth for a large constituency, Mr. Bolles made the supreme sacrifice, giving his life for a free press. No such dedication or result should ever go unnoticed lest we tend to forget the first amendment and the blood shed to defend it. We should never forget Don Bolles and what he stood for, and I join with his newspaper in a promise he will not be forgotten.

Mr. President, I ask that an editorial: "The Murder of a Reporter" which appeared in Thursday's Washington Post be printed in the RECORD by unanimous consent.

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

THE MURDER OF A REPORTER

It has been a long time since a reporter was murdered in this country as a direct consequence of the information his reporting turned up. But that is what happened to reporter Don Bolles of the Arizona Republic of Phoenix who was fatally injured by a remote control bomb placed under his car. Mr. Bolles was reporting on the connections of organized crime to the land sale business when he apparently got close to some sensitive truth. He paid for his resolute devotion to his job with his life, and today we would like to salute him as a colleague, to deplore the brutal act by which he died, and to say a few words about the line of work that led to his killing.

Don Bolles was an investigative reporter—by all accounts, an extremely good one—and this is the highest form of journalism in the sense that, when it is well done, it is capable of producing the greatest public good. And that is why it is also the riskiest.

toughest form of journalism; because it usually addresses itself to wrong-doing of one kind or another, the subject matter is almost always controversial, and the objects of such inquiries are inclined to be somewhat more than usually sensitive.

Assassination, of course, is not the usual resort of those under investigation by the press. And we would not wish even to suggest that this criminal act might mark the beginning of some sort of pattern of violent reprisal. But the fact remains that there has developed in recent years an ugly intolerance of the concept, so basic to the First Amendment, of a free-functioning, adversary press. So that while nobody, of course, is actually advocating violence, we do not believe it is too far-fetched to relate the murder of Mr. Bolles in a very particular way to the general atmosphere of hostility now confronting the news media. To those who are concerned about the difficulties already standing in the way of investigative journalism, and the danger of more being imposed, this tragic act, coming at a time when it is fashionable to inveigh against the press and to call, unthinkingly, for new restrictions on its freedom, serves as a grim reminder that the investigative press, for all of its supposed great power and unfettered freedom, already is operating in an area of high risk, and against heavy odds.

We are not talking now about the Spiro Agnews of the world, although the former Vice President did his reckless bit to create an atmosphere in which others have been encouraged to bring forth a variety of measures to curb the media. There has, for example, been a rash of gag orders against publication of information that developed in public trials. Reporters have been exposed increasingly to the threat of jail for refusing to reveal their sources. The press has lost court cases that limited its access to prisons and it has had to fight back attempts by government in such legislation as S. 1 to keep the reporters away from certain kinds of secrets, many of them very much the people's business.

We are well aware, when we express our opposition to such measures, that we have a vested interest in this matter—a vested interest, you might say, in the inviolability of the press freedoms that we think the First Amendment quite properly guarantees. Nevertheless, the case of Mr. Bolles strikes us as a perfect example of why these First Amendment protections should not be tampered with. He was one of many reporters working on various aspects of a very serious social and legal problem in the United States. That problem is that organized crime, once a separate segment of our society, has crept into so-called legitimate activities, using its enormous excess capital and well-known muscle to buy into businesses which then become fronts for crime of all sorts. Arizona, a place where excess capital is more abundant than in many other parts of the country, was particularly vulnerable to organized crime. Mr. Bolles had proved that point in his reporting before his latest inquiry began.

His newspaper has declared its intention to finish the work its slain staffer began. Other newspapers around the country have sent reporters into Arizona to work on the story. In the end, that is exactly the right response of a free press to a brutal attempt at intimidation. And the best response of a free people, in turn, is to give reporters like Don Bolles and those who will come after him their encouragement and support. To impose new burdens on the investigative reporter is simply to play into the hands of those who felt sufficiently threatened by Mr. Bolles' investigations to take his life.

## THE ILLINOIS HOUSE ENDORSES THE FULL EMPLOYMENT AND BALANCED GROWTH ACT

Mr. HUMPHREY. Mr. President, legislators of one of the Nation's most populous States have adopted a resolution strongly endorsing the Full Employment and Balanced Growth Act of 1976 and calling on all members of their congressional delegation to support it.

Led by Representative Corneal Davis the Illinois House of Representatives adopted the resolution by a vote of 81 to 53.

During debate on the measure, Davis declared:

Every able-bodied man deserves assistance in finding employment and enjoying its benefits. Equal opportunity should not be construed to mean that a person must be poor and unemployed, but to share in the nation's wealth.

Welfare rolls are robbing able-bodied men of their dignity. The answer to increasing welfare rolls is full employment. Black communities, black workers and the great masses of black Americans within urban areas are those who need jobs. Unemployment in black communities is out of control.

In presenting the Full Employment and Balanced Growth Act as the answer to critical unemployment among minority groups, Davis said that joblessness in urban black communities has reached a level of between 25 and 30 percent.

Mr. President, I am deeply grateful for the support provided S. 50 and H.R. 50, the Full Employment and Balanced Growth Act, which I have introduced in the Senate and which Representative AUGUSTUS HAWKINS has introduced in the House.

The resolution adopted by the Illinois House concisely outlines the major provisions of the bill. Mr. President, I ask unanimous consent that the resolution be printed in the RECORD.

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

HOUSE RESOLUTION 803

Whereas, There is legislation currently pending in the Congress of the United States which would establish the right and opportunity to obtain useful paid employment at fair rates of compensation for all adult Americans able, willing and seeking to work; and

Whereas, The Full Employment and Balanced Growth Act of 1976 (H.R. 50 and S. 50) would create a permanent institutional framework whereby the President, the Congress and the Federal Reserve Board would develop and establish economic policies and programs to provide for full employment, with a clearly established goal of an unemployment rate of less than three per cent within four years; and

Whereas, If this bill becomes law, government policy would encourage the private sector to hire the unemployed, and the President would be required to articulate anti-inflation policies and make recommendations for increasing productivity in the private sector; and

Whereas, The bill also establishes countercyclical programs, with the government as the employer of last resort, to combat the invidious effect of recession upon unemployment such as the people of Illinois have been experiencing recently, including programs such as public service employment, standby public works, anti-recession grants for State and local governments, skill training in both the public and private sectors, and special youth employment programs; and

Whereas, These countercyclical programs created by the Full Employment and Balanced Growth Act of 1976 would be implemented automatically only during a time of rising unemployment and would be phased out automatically during periods of economic recovery as unemployment is reduced, and which programs, along with the provisions in the bill for systematic review of federal regulations and programs to determine their efficiency and continued value, will assure that only such governmental assistance is provided as is genuinely necessary to combat the personal hardships and tragedies for the people of this State and Nation caused by rising unemployment and recession; therefore, be it

*Resolved*, By the House of Representatives of the Seventy-ninth General Assembly of the State of Illinois, that we respectfully petition the Congress of the United States to enact the Full Employment and Balanced Growth Act of 1976, and that we encourage all of the members of the Illinois Congressional delegation to support the enactment of this legislation, H.R. 50 or S. 50, without amendment which would weaken it; and, be it further

*Resolved*, That copies of this preamble and resolution be forwarded by the Illinois Secretary of State to the President pro tempore of the United States Senate and the Speaker of the House of Representatives, to the Honorable Yvonne B. Burke, Chairperson of the Congressional Black Caucus, and to each of the members of the Illinois Congressional delegation.

Adopted by the House, June 2, 1976.

## AL BRADY RETIRES

Mr. HOLLINGS. Mr. President, I have just learned that Mr. Bernard A. Brady, Assistant Director of the General Accounting Office, plans to retire after 30 years of public service, the last 17 of which were spent here at the Capitol. During these years we have come to look upon Al Brady as Mr. GAO-on-the-Hill. In addition to efficiently carrying out GAO's responsibilities for examining records of the many activities of the legislative branch, Al has been a wise counselor and a strong right arm to the Members, committees, and officers of the Congress in dealing with their accounting and administrative problems.

Mr. Brady joined GAO in 1947, and is a supervisory auditor in the General Government Division. He is a certified public accountant—District of Columbia and Virginia—and a member of the Federal Government Accountants Association, the National Association of Accountants, the American Institute of CPA's, and the District of Columbia Institute of CPA's. He received the GAO Meritorious Service Award in 1962 and 1971.

In the spring 1974 issue of the GAO Review, Al wrote an article entitled "In the Backyard of Congress." This is an interesting and informative account of the work of the GAO team on Capitol Hill. In this limited space I can give but a few highlights of Al's many valuable contributions, but he has designed new accounting systems for the Senate and House restaurants; assisted in devising and implementing a new pay system for certain House employees, made valuable

suggestions for improving the management of the House and Senate restaurants, and assisted in the reorganization of the House beauty shop.

It is also impossible to even summarize here the 17 years of cheerful day-to-day help he has given Members, officers, and staff on a thousand and one matters.

Let me just say that we remember and we appreciate.

We will sorely miss Al's presence at the Capitol and hope that he enjoys his well-earned retirement years. We hope, too, that somehow we may from time to time continue to have the benefit of his counsel.

## HEALTH MAINTENANCE ORGANIZATION AMENDMENTS—S. 1926

Mr. KENNEDY. Mr. President, I ask unanimous consent that a statement by Senator CHURCH pertaining to the Church/Kennedy amendment to S. 1926, which was inadvertently left out of the RECORD during floor consideration of S. 1926, be printed in the RECORD.

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

STATEMENT BY SENATOR FRANK CHURCH

I support the enactment of the Church-Kennedy Amendment to S. 1926, the Health Maintenance Organization Amendments.

First, however, I wish to thank Senator Kennedy for offering this amendment on my behalf. In addition, I wish to commend him for his effective leadership in making home health services more readily available to aged and aging Americans.

In recent years institutional costs have increased substantially. A stay in the hospital, for example, may now cost $150 to $200 a day—depending upon the region of the country a patient is hospitalized.

The overwhelming proportion of Medicare costs is for hospitalization. In fact, about 96 percent of all reimbursement under the Part A Hospital Insurance program is for hospitalization.

Home health care, on the other hand, accounts for less than 1 percent of Medicare reimbursement.

Last November I introduced S. 2713 to improve home health services under Medicare by:

Removing the requirement that only "skilled" nursing care or physical or speech therapy would qualify as reimbursable home health services under Medicare.

Increasing the number of reimbursable visits from 100 to 200 under both the Hospital Insurance and Supplementary Medical Insurance programs.

The Church-Kennedy Amendment is designed to build upon S. 2713 by making home health services more readily available.

First, it would extend the authority under the Health Revenue Sharing Act—Public Law 94-63—to finance the initial costs of establishing and operating home health agencies and to expand services of existing agencies. The Amendment would authorize $2 million for the transitional quarter and $8 million for fiscal 1977 for this purpose.

Second, it would continue the authority to train professional and paraprofessional personnel for home health agencies. An authorization of $1 million for the transitional quarter and $4 million for fiscal 1977 is provided for this purpose.

Hearings conducted by the Senate Committee on Aging—of which I am Chairman—have made it abundantly clear that many health conditions can be treated more effectively and economically at home. This is particularly true when highly specialized services are not required.

Most older Americans would prefer to remain at home in familiar surroundings if at all possible. And they can if effective alternatives to institutionalization are available.

But if this is to become a reality, home health services and facilities must be increased. In addition, it is vitally important that there be trained personnel to deliver services to elderly persons.

Approximately one-half of all the counties in the United States do not have home health services.

The need for home care is especially acute in rural areas where institutional facilities may be limited or nonexistent.

Many rural areas, though, have no home health agencies. And those that do usually have agencies equipped to provide only limited service. About one-half of the agencies certified under Medicare offer nursing plus one other service—typically physical therapy. Yet, a sizeable proportion of older Americans reside on farms or in small communities. And their need for home health services is great.

The Church-Kennedy Amendment would help make it possible for home health agencies to expand their services. Moreover, this measure can help target these services to areas where the need is the greatest.

One final point: Home health care can be substantially cheaper—and in many cases more appropriate—than institutionalization.

Today many elderly persons are unnecessarily or prematurely institutionalized at a much higher public cost simply because alternative forms of care are not available.

This takes on added importance now because our Nation can conceivably save $600 million if the Medicare national hospital average would be reduced by just one day.

For these reasons, I reaffirm my support for the Church-Kennedy Amendment.

## LOCKS AND DAM 26 AT ALTON, ILL.

Mr. PERCY. Mr. President, on June 17 members of the Illinois delegation were invited to attend a breakfast meeting concerning the proposed U.S. Army Corps of Engineers project at locks and dam 26 at Alton, Ill. The breakfast was arranged by the Illinois Agricultural Association and included many guests who use the waterway system to transport their commodities. Particularly helpful views were presented by Mr. David Rotterick, president of United States Steel; Mr. Harold Steele, president of the Illinois Agricultural Association; and Mr. John Harvey, director of corporate transportation for the Archer Daniels Midland Co. I believe that their statements will also be helpful to my colleagues, and therefore ask that their statements be printed in the RECORD.

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

REMARKS OF D. M. RODERICK

United States Steel Corporation has a substantial and continuing interest in the maintenance of this Nation's inland waterway system. Many of our mills throughout the country, and particularly those located in the Chicago area, are dependent on this system for the efficient and economical movement of raw materials inbound and the delivery of finished products to our customers.

Lock 26 at Alton, Illinois, is a vital part of the river system to the extent that almost all waterborne traffic originating or terminating in the State of Illinois must necessarily traverse this facility. For example, all waterway traffic between Illinois on the one hand and, on the other, points on the Missouri, Lower Mississippi, Ohio, Monongahela, Cumberland, Tennessee and Arkansas Rivers, as well as all ports on the Gulf Coast, is funneled through Lock 26 at Alton, Illinois. Failure to maintain and expand the capacity of this lock will result in the restriction of Illinois industries' ability to operate economically and to compete effectively in domestic and foreign markets.

United States Steel Corporation employs several thousand workers in the Chicago area whose livelihood depends, in significant part, on access to reliable and economic water transportation. To illustrate, in 1974, our Chicago area plants received in excess of one quarter of a million tons of raw materials, such as fluorspar, ferroalloys and scrap, via the inland waterway system. In that same year, we delivered close to 1,000,000 tons of finished and semi-finished steel to our customers by barge. Much of this tonnage was delivered to customers locted on the Gulf Coast who have immediate access to steel products produced in other countries. Many of these foreign nations directly subsidize their own steel industries and provide financial incentives to permit such producers to offer attractive terms on tonnage exported to the United States.

As a consequence, any action, governmental or otherwise, which impairs our ability to reach southwestern markets via the energy efficient and economical method of barge transportation must necessarily and adversely impact on our ability to compete with overseas producers in the Gulf Coast area.

It should also be noted that, in 1974, almost 20% of our barge shipments originating in the Chicago area were destined for export. The ability to economically reach our ports of export for overseas forwarding significantly enhances our ability to compete in these foreign markets. Should we fail to maintain or increase the capacity of the Alton Locks, this point in the river system will become an even greater bottleneck, forcing us to turn to higher cost methods of transporting our products to both domestic and overseas destinations. This higher transportation cost will inevitably have to be reflected in higher product prices which will, in the long run, render us less competitive. Being less competitive will, in turn, adversely affect our ability to sustain employment in the greater Chicago area, and will of necessity influence our thinking and planning relative to the maintenance or expansion of Chicago area operations.

I don't mean to oversimplify the issues involved in the debate surrounding the question of whether to maintain and expand Lock 26. We fully recognize that there are environmental questions to be resolved and a fundamental dispute between two major modes of transportation relating to the necessity for and the financing of this facility. However, we feel that parties representing all sides of these issues have very able spokesmen who can effectively articulate the arguments they consider to be pertinent. My purpose today is to emphasize the economic aspects of the situation. It should be clearly understood that failure to act affirmatively on the Lock 26 reconstruction will have a substantial and adverse effect on the steel industry in the Chicago area. This adverse effect will be shared by both industry and its employees, the former by reducing, or at least not expanding, production facilities in this area and the latter by the loss of employment opportunities.

It may ultimately be decided that regardless of the adverse economic effect on the State of Illinois, other considerations dictate that Lock 26 should not be reconstructed and improved. It is my purpose to emphasize to all present today that there are economic consequences attached to this decision and these consequences are serious. You, in effect, must decide if these other considerations are so important that they justify a serious impairment of the ability of Illinois' industry to effectively compete in domestic and international markets. As has been said before, we cannot offer you simplistic answers, only intelligent alternatives. In this case, one alternative, that is, failure to maintain and expand this river facility, will economically hurt your constituency. I can only ask that you give this full and thoughtful consideration when the decision is made.

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AGRICULTURAL FACT SHEET

(Presented by Harold Steele)

EXPORTS—1975

Exports of U.S. grain from the New Orleans Port in calendar year 1975 were 1,165,000,000 bushels.

An estimated eighty percent of the grain exported from New Orleans in 1975 arrived at the port by barge—a total of 932,000,000 bushels.

A total of 927,451,010 bushels of grain moved down the Mississippi and Illinois Rivers through Locks and Dam 26 either to the New Orleans Port or to other ports or domestic markets to the south and east.

A total of 480,337,000 bushels of grain were loaded and inspected on the Illinois River and an estimated 118,819,400 bushels were loaded and inspected out of Illinois-based grain facilities on the Mississippi River above Locks and Dam 26. Thus, nearly 600 million bushels of grain were loaded, inspected and moved through Locks and Dam 26 from Illinois-based handling facilities. Nearly all of this was produced by Illinois farmers.

Thus, dependable river transportation is critical to farmers in moving their products to market; to the U.S. balance of payments; and to the hungry people of the world.

Farmers also depend upon railroads and trucks to move large quantities of grain to both local domestic markets and to ports for export. However, experience in recent years such as limited availability of railroad cars, glutted elevators and large piles of grain stored on the ground would indicate that truck and railroad facilities are being taxed to their full limit to move that portion of the crop now committed to rail or truck transportation. If Illinois grain production and markets continue to grow in the years immediately ahead as in the recent past, there will be more than enough grain to challenge all modes of transportation.

Illinois farmers' regional grain marketing cooperative—Illinois Grain Corporation—shipped some 125 million bushels of grain down the river system and through Locks and Dam 26 during its 1975–76 fiscal year. Additional grain from that same cooperative was also shipped on the river from points south of Locks and Dam 26, during the same fiscal year.

Roughly one-half of all Illinois Grain Corporation's shipments were made on water and half by rail or truck.

PRODUCTION SUPPLIES

Illinois farmers are also heavily dependend upon river transportation for critical production supplies.

In 1975, 5,956,830 tons (about 1.8 billion gallons) of petroleum products moved up the Mississippi River through Locks and Dam 26. An estimated 74% or 4,408,054 tons (about 1.35 billion gallons) of which were destined for Illinois.

In the case of Illinois farmers' own supply cooperative—FS Services, Inc.—a major supplier of petroleum products to Illinois farmers, about 50 percent of its total petroleum supplies arrived in Illinois by barge, passing through Locks and Dam 26.

In 1975, 1,866,654 tons of agricultural chemicals, primarily plant food, moved up the Mississippi River through Locks and Dam 26. An estimated 47.5% of these products were destined for Illinois.

Of the total agricultural plan food distributed to Illinois farmers by FS Services, Inc., about 30 percent were received by the FS System by barge through Locks and Dam 26.

COMPETITION

Users of transportation services, including farmers, benefit from competition between modes of transportation. Competition spurs innovation and efficiency. In the past decade, the Big John Covered Hopper and the Unit Train have appeared to improve the ability of railroads to move bulk commodities.

RATES

Water transportation remains the most economical means of moving bulk commodities long distances. A spot check of freight rates during the first full week of June, 1976 revealed the following:

Peoria to New Orleans—barge—15.8¢ per bushel.

Champaign to New Orleans—rail—100 car unit—25¢ per bushel.

Ivesdale to Norfolk, Virginia—rail—100 car unit—25¢ per bushel.

Freight rates will vary over a period of time by specific location and the number of cars shipped at a time. Even if the difference in the cost of transportation between water and rail averages only 5¢ per bushel for the entire year, the savings would amount to $30 million per year on grain alone. Since the net price received by farmers for their grain is heavily influenced by the cost of the transportation to the buyer, most of the $30 million would accrue to the benefit of the farmers. Likewise, the farmer will benefit from the efficiencies of transportation in moving fuel and fertilizer to Illinois since the price for these products includes the cost of transportation.

Sources of Information—USDA Farmers Cooperative Service Report; U.S. Army Corps of Engineers; Grain Market News—USDA, Independence, Missouri, April 16, 1976; FS Services, Inc.; and Illinois Grain Corporation.

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SUBMITTED BY JOHN HARVEY, ARCHER DANIELS MIDLAND COMPANY

Archer Daniels Midland Company, with corporate offices at Decatur, Illinois, is a multi-plant agri-business engaged in the handling and processing of grains and oilseeds for U.S. and world market distribution. The prime businesses are grain merchandising, flour milling, corn milling and soybean processing. ADM is a leader in the production of foods and protein sources for human consumption, in addition to ingredients and feeds for the animal and poultry business. There is attached a prospectus of the many and varied businesses in which ADM engages.

ADM processes, into direct products, approximately one million bushels of grain and oilseeds daily. In addition, large volumes of grain and soybeans are merchandised.

In 1975, ADM's transportation bill exceeded $100 Million. Approximately 85 percent was for rail, the balance for truck and barge. All modes of transportation are required, rail, truck and barge, as no single mode could handle all the commodity movement. Over the past 10–12 years, the transportation demand has increased annually, and is projected to continue to increase. Because the carrier industry was unable to supply sufficient equipment to meet this demand, ADM was required to acquire, through lease and purchase, freight hauling equipment, and at this time controls a fleet of about 3,000 railroad cars, 300 over-the-road trucks and over 300 barges.

With major processing and grain handling facilities located in Illinois and states west, ADM relies heavily on the western railroads and the Illinois and Upper Mississippi Rivers to distribute its commodities.

At Decatur, Illinois alone, where ADM has two large soybean processing plants, a food oils packaging plant has been constructed and is scheduled to start production in July. Initially, the production will be about 600,000 pounds per day and will eventually reach close to a million pounds per day. A new wet corn milling plant is under construction and is expected to commence production in the spring of 1977. At that time, the corn and soybean demand to maintain production will exceed 200,000 bushels per day, 7 days a week, and within four years, will exceed a 300,000 bushel daily demand.

ADM now loads over 75 rail cars each day at Decatur, which will exceed 110 cars per day in the next 7-8 months. Over the past 7 years, the procurement of soybeans for Decatur has reverted from 10% to over 90% truck, and during harvest as many as 700 large trucks are unloaded daily. It is estimated that ADM at Decatur handles about 70,000 trucks a year. Over 50% of the total Decatur production is railed to Alton, Illinois for barge loading. All the barges so loaded must clear Locks and Dam 26, and all this tonnage is for export.

This indicates the need for good efficient economical transportation.

It is not the purpose of ADM to denigrate any carrier, but we become incensed at the attitude and position of the railroads as to Locks and Dam 26. Since 1967, our rail rates have been increased over 90% due to escalation in material and labor prices. Service has not improved. In June of 1974, the ICC authorized the railroads a gratuitous 7% increase to permit them a catch-up in deferred maintenance and capital expenditures. That increase remains in effect. During the first 15 months of the increase, or as of October, 1975, the railroads had collected $559 million, but deferred maintenance had been reduced by only $13.7 million. The 21 western railroads opposed to Locks and Dam 26, as of October 1975, had netted $306 million from this 7% increase, and as of June 1976, that figure exceeds $500 million, or much more than the cost of Locks and Dam 26 replacement. It is estimated that if Locks and Dam 26 construction takes 7 years, these 21 railroads will have assessed and collected over $2 billion from this one non-cost justified increase.

No single carrier mode can possibly handle all of ADM's transportation demand, let alone that of the State of Illinois. It is essential that we have inter-modal carriers, and even more essential that the facilities existing today be greatly improved to meet the future demand. Locks and Dam 26 is an essential and critical element in this demand.

Operations and plants, products, and markets:

Fleischmann Malting Company, Inc: Plants—San Francisco, California; Chicago, Illinois; Detroit, Michigan; Minneapolis and Red Wing, Minnesota; malt products, brewing, distilling, food, animal and poultry feeds.

Gooch Feed Mill Corporation: Formula feed plants—Decatur, Illinois; Baxter and Storm Lake, Iowa; Salina, Kansas; Lincoln, Nebraska; formula feeds, pet food, animal and poultry feeds.

Gooch Foods, Inc.: Food plant—Lincoln, Nebraska; spaghetti, noodles, macaroni, soy macaroni, mixes, corn meal products, pet foods, family flour, package prepared dinners, food, pet food.

Supreme Sugar Company, Inc.: Sugar Cane Grinding Mill, Supreme, Louisiana; Sugar Refinery, Supreme, Louisiana—Granulated

refined sugar, liquid refined sugar, brown sugar, molasses, food, beverage, animal feeds.

Archer Daniels Midland International S.A.; Archer Daniels Midland Nederland, B.V.; ADM Brussels S.A.; Archer Daniels Midland S.A.; Ardanco, Inc.; ADM Handels A.G.; Ardanco S.A.: Soybean meal, soybeans, wheat, corn, linseed meal, corn gluten feed, wheat millfeeds, grains, brewer's grains, TVP®, soy flours, soy protein concentrates; worldwide export.

ADM do Brasil Produtos Agricolas Ltda, Extraction Plant—Araraquara, Brazil, Vegetable Oil Refinery—Araraquara, Brazil, Soybean oil, soybean meal; canned salad oils, lecithin, soap, Animal and poultry feeds, Margarine oil, salad and cooking oil, bakery, processed foods, consumer.

Oliefabriek De Ploeg, B.V., Extraction Plant—Maassluis, The Netherlands, Soybean oil, soybean meal, Vegetable oil refineries, animal and poultry feeds; Vegetable Oil Refinery—Maassluis, The Netherlands, Hydrogenated vegetable oils, mayonnaise, salad dressings, lecithin, Margarine oil, salad and cooking oil, bakery, processed foods, food service, consumer, pharmaceutical.

The British Arkady Company Ltd. Soy Flour Plant—Manchester, England, Soy flours, protein supplements, Bakery, processed meat products, convenience foods, pet food, industrial products; Textured Vegetable Protein Plant—Manchester, England, TVP Brand textured vegetable protein, Processed meat products, convenience foods, pet food; Tweedy (Holdings) Ltd., Machinery Manufacturing Plant—Burnley, England, Equipment for bakery and food industries and institutions, Worldwide.

National City Bancorporation, National City Bank of Minneapolis.

Corporate Offices and Research Laboratory, Decatur, Illinois.

ADM Soybean Processing Division, Extraction Plants—Decatur, Galesburg and Granite City, Illinois; Fredonia, Kansas; Mankato, Minnesota; Fremont and Lincoln, Nebraska; Kershaw, South Carolina; Soybean oil, soybean meal, Vegetable oil refineries, animal and poultry feeds; Vegetable Oil Refineries—Decatur, Illinois; Lincoln, Nebraska, Soybean oil, corn oil, hydrogenated vegetable oils, packaged vegetable shortenings, margarine, lecithin, Margarine oil, salad and cooking oils, bakery, processed foods, food service, consumer, pharmaceutical, protective coatings. Rail-Barge Terminal—Alton, Illinois.

ADM Protein Specialty Division, Soy Flour Plants—Decatur, Illinois (2); Fredonia, Kansas; Soy flours, protein supplements, Bakery processed meat products, convenience foods, pet food, industrial products; Textured Vegetable Protein Plants—Decatur, Illinois; Fredonia, Kansas, TVP brand textured vegetable protein, Processed meat products, convenience foods, pet food; Soy Protein Concentrate Plant—Decatur, Illinois, Soy protein concentrates, Procesed meat products, processed foods.

ADM Industrial Oils Corporation, Oil Refinery—Elizabeth, New Jersey, Fish oils, marine oils, linseed oil, sunflower oil, Protective coatings, cosmetics, lubricants, printing inks, caulks, resins, highway maintenance. Oilseed Plant—Red Wing, Winnesota.

ADM Milling Company, Flour Mills—Mount Vernon, Indiana; Des Moines, Iowa; Salina, Kansas; Destrehan, Louisiana; Minneapolis and Red Wing, Minnesota; North Kansas City, Missouri; Lincoln, Nebraska; Charlotte, North Carolina; Wheat flour, durum flour, wheat soy blend, corn soy milk, soy fortified wheat flour, durum flour soy blend, millfeeds, Bakery, biscuit, cracker and cake baking, macaroni and spaghetti, animal and poultry feeds, government and voluntary agency food donation programs. River Terminals—Carabelle, Florida; Wolcott, Kansas; Frederick, Maryland; Vicksburg, Mississippi; St. Louis, Missouri; Cincinnati, Ohio; Cheswick, Pennsylvania, Bulgur Plant—Abilene, Kansas; Bulgur, Food. Dry Corn Mills—North Kansas City, Missouri; Lincoln, Nebraska; Corn meal, corn kibbles, corn flour, brewer's grits, Food, beverage, pet food. Elevators—Smoot Grain Company; grain terminal and line elevator operations in Colorado, Kansas, Nebraska, Oklahoma, Texas and Wyoming. Wheat, barley, corn, grain sorghum, Milling, animal and poultry feeds, export.

ADM Grain Company, Elevators—Burlington, Iowa; Granite City, Joliet, Morris, Ottawa and Spring Valley, Illinois; Destrehan, Louisiana; Minneapolis and St. Paul, Minnesota; Indianola and Vicksburg, Mississippi; Memphis, Tennessee; Superior, Wisconsin, Wheat, barley, corn, grain sorghum, oats, rye, flaxseed, soybeans, Milling, malting, distilling, oilseed processing, animal and poultry feeds, export; Pelleting Plant—Decatur, Illinois, Corn gluten feed, corn germ meal, wheat millfeeds, Export, animal and poultry feeds.

American River Transportation Company, nesota; Indianola and Vicksburg, Mississippi; Missouri and Arkansas Rivers, Carrier of dry-bulk and liquid commodities, Inland waterway transportation. Offices—New Orleans, Louisiana; St. Louis, Missouri.

Corn Sweeteners, Wet Corn Mill—Cedar Rapids, Iowa, Corn syrup, high fructose syrups, corn starch, gluten feed, gluten meal, corn oil, caramel color, Food, beverage, confectionery, pharmaceutical, adhesives, paper, chemicals, textiles, animal and poultry feeds.

Caramel Color Plant—Granite City, Illinois.

Wet Corn Mill—Decatur, Illinois.

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## CONGRESSIONAL BUDGET OFFICE ESTIMATES NET COST OF PUBLIC SERVICE JOBS PROGRAM

Mr. WILLIAMS. Mr. President, the Committee on Labor and Public Welfare has favorably reported H.R. 12987, the Emergency Jobs Programs Extension Act of 1976, with an amendment in the nature of a substitute. This bill would authorize appropriations for public service employment programs under title VI of the Comprehensive Employment and Training Act.

As you know, Mr. President, title VI of the act was enacted in December 1974 in response to the clear evidence that the Nation had entered a serious recession. At the time of this enactment, the national unemployment rate, upon which our concern was based, was 6.5 percent. The seasonally adjusted number of unemployed was 6 million.

Last month, the national unemployment rate was 7.3 percent, and the seasonally adjusted number of unemployed was 6,860,000—over 14 percent more than the number that provoked our concern and prompted the enactment of the emergency public service jobs program. Clearly, the need is greater now to continue the program for another year.

Throughout the long and intensive consideration of this legislation, there has been increasing interest in determining the actual budgetary impact of public service jobs. It was our belief that many who criticize public service employment as an expensive remedy for joblessness would be surprised by the magnitude of the additional tax collections and the budgetary savings that result from public service jobs.

The Congressional Budget Office, in its report on the gross cost of implementing H.R. 12987 as provided in the committee amendment, included the following statement:

> The employment projects section of this bill have considerable offsets in the form of reduced AFDC payments, U.C. benefits, and increased tax receipts, which will substantially reduce the net costs of this section of the legislation.

The committee felt that similar offsets of significant proportions would also be realized from the existing program.

At our request, the Congressional Budget Office conducted an analysis of these offsets—both for the existing program and for the new employment projects proposed in the committee amendment—so as to derive an estimate of the net cost of this legislation.

Mr. President, my colleagues in the Senate will be interested to know the results.

Assuming total public service employment under title VI of 463,683 jobs, CBO estimated a gross cost of $3.507 billion for fiscal 1977.

However, direct and indirect budget savings resulting from the program are estimated by CBO to be $1.964 billion.

The net cost of the program in fiscal 1977, therefore, is estimated to be $1.543 billion—about 44 percent of the gross cost upon which some opposition to this legislation has been based.

Mr. President, so that the Senate may have the opportunity to study the new report from the Congressional Budget Office in detail, I ask unanimous consent that it be printed in the RECORD.

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

CONGRESSIONAL BUDGET OFFICE,
*Washington, D.C., June 10, 1976.*

Hon. HARRISON A. WILLIAMS, Jr.,
*Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: On May 14, 1976 the Congressional Budget Office provided a regular cost estimate report for the Emergency Jobs Program Extension Act of 1976 under Section 403 of the Congressional Budget Act of 1974.

At that time, we noted that the estimates provided were the gross direct costs of the bill and that, if the bill were to be enacted and funds appropriated to finance the direct costs of the program, there would be substantial offsetting factors that would reduce the net budget impact of the bill. The offsetting factors include increased revenues through payroll and personal income taxes, as well as lower levels of benefits in income assistance programs.

As a result of a strong expression of interest on the part of the staff of your Committee, we have prepared for the Committee's use the attached staff analysis showing the net budget impact of the bill under certain assumptions which are specified in the analysis.

Should the Committee so desire, we would be pleased to provide further details on the attached staff analysis.

Sincerely,

———,

(For Alice M. Rivlin,
Director)

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CONGRESSIONAL BUDGET OFFICE STAFF ANALYSIS OF NET PROFIT IMPACT

1. Bill Number: H.R. 12987 (proposed Senate substitute)
2. Bill Title: Emergency Jobs Program Extension Act of 1976
3. Net Cost Estimate:

On May 14, 1976, the Congressional Budget Office submitted an estimate of the gross costs associated with H.R. 12987. As stated in that estimate, the employment funded will have substantial budget offsets. These offsets result from direct and indirect savings incurred during the year in which this bill authorizes public employment programs. Direct savings occur through increases in tax revenue and decreases in income security payments to individuals. Indirect savings are realized through the expansionary effects on the economy caused by the estimated net increase in federal spending authorized for this bill.

Table I summarizes the net budget estimate for this bill. The gross cost was $3,507 million, but an estimated budget savings of $1,964 million yields a net budget estimate of $1,543 million.

TABLE I.—*Net cost of Senate subsitute for H.R. 12987 in FY 1977**

(Dollars in millions)

| | |
|---|---|
| Gross costs: | |
| Continuation of title VI | $1,711 |
| Public employment projects | 1,789 |
| Unemployment compensation for CETA employees | 6 |
| National commission | 1 |
| Total | 3,507 |
| Federal budget savings: | |
| Direct | 1,502 |
| Indirect | 462 |
| Total | 1,964 |
| Net budget cost | 1,543 |

*There are no costs for this bill in fiscal year 1976 or the transition quarter. In addition to the costs in fiscal year 1977, the commission will cost about $1 million in fiscal year 1978, but the budget savings from this expenditure is negligible.

4. Basis for Estimate:

CONTINUATION OF TITLE VI

The extent of fiscal substitution during the possible phase-out of Title VI and the percent of the employment funded that would lead to the payment of unemployment compensation to unemployed workers are the main sources of uncertainty in this estimate.

During the phase-in of a public employment program, it has been generally assumed that fiscal substitution would be about 50 percent in the first year. However, in the first year of a phase-out, fiscal substitution may not be as rapid. A slower rate may occur for the following reasons: (1) Taxpayers are more likely to resist a local tax increase than a decrease; (2) Legal and administrative time lags are likely to delay local tax increases more than tax decreases, because tax increases usually are not retroactive. Because of these factors, it has been assumed that fiscal substitution will range between zero and 25 percent.

The percent of the employment previously funded that would lead to the payment of unemployment compensation is uncertain. It was assumed that for each laid-off worker year of Title VI, 70 percent of this year would be compensated with unemployment insurance. It should be noted that the average worker stays on a PSE job less than a year, and hence a worker year usually consists of more than one worker. The 70 percent adjustment allows for benefit exhaustion in some states and the ineligibility of some individuals subsequently unemployed as a result of the Title VI phase-out.

Appendices A and B present the line-by-line net budget cost calculations for the continuation of Title VI. The net budget cost is estimated to be $723 million. Fiscal substitution is assumed to be zero and 25 percent for Appendix A and B, respectively. Point estimates were derived by taking the mid-point of the relevant ranges calculated in these two appendices.

PUBLIC EMPLOYMENT PROJECTS

Fiscal substitution and the percent of enrollees who previously received various categories of income security payments are the main sources of uncertainty in this estimate.

Fiscal substitution is likely to be less in this program than the existing program for the following reasons: (1) The enrollees are less likely to have the skill characteristics of those who would normally be hired; (2) Local projects are not likely to produce goods and services normally produced by state and local governments. On the other hand, because the funds are not targeted specifically to areas of substantial unemployment, there is likely to be some fiscal substitution. Thus, it was assumed that the range is zero to 25 percent.

The income security off-sets are very difficult to calculate for the following reasons: (1) Lack of adequate data and the need to substitute assumptions; (2) Uncertainty about the enrollment proportions of the eligible population. Both problems were solved with a variety of techniques, which are explained in Appendix C.

The line-by-line net budget cost calculations are contained in Appendices D and E. Fiscal substitution was assumed to range from zero to 25 percent, respectively. The net budget cost is estimated to be $814 million. Point estimates were derived by taking the midpoint of the relevant ranges in these two appendices.

5. Estimate Comparison: Not Applicable.

6. Previous CBO Estimate: May 14, 1976.

7. Estimate Prepared by: Richard A. Hobbie (225–9690); Marc P. Freiman (225–1262); Stephen H. Brooks (225–1477); Robert F. Black (225–4972).

8. Estimate Approved by:

JAMES L. BLUM,
*Assistant Director for Budget Analysis.*

APPENDIX A

*Continuation of title VI net budget cost*

*(Zero fiscal substitution)*

Gross Cost=$1,711 million; at assumed $8,138 average cost per job, this yields 210,248 jobs.

Calculation of Income and Payroll Taxes Collected Per Job:

| | |
|---|---|
| Cost per job | $8,138 |
| Administrative and other costs (assumed to be 10 percent of total | −814 |
| Gross wage | 7,324 |
| Tab deductions and exemptions | −4,900 |
| Exemptions for family of four | 3,000 |
| Low income allowance | +1,900 |
| | 4,900 |
| Taxable income | 2,424 |
| Personal income tax at 12 percent on taxable income | 291 |
| Social security tax at 11.7 percent on gross wage | 857 |
| Total taxes collected per job | 1,148 |

Net Budget Cost and Savings:

| | Millions |
|---|---|
| Total increase in tax revenues (210,248×$1,148) | $241 |
| Food stamp savings (210,248×.25 ×$1,248) (assumed participation rate of 25 percent and average annual bonus value of $1,248) | 66 |
| UC savings (210,248×.7×$3,900) (assumed average weekly benefit amount of $75×52 weeks; also, see page 2) | 574 |
| Total Direct Savings[1] | 881 |
| Total Gross Cost | $1,711 |
| Total Direct Savings | −811 |
| Net Direct Cost | 830 |
| Second round increase in income (.7 multiplier×830) | 581 |
| Second round savings (.33 saving factor×581) | 192 |
| Net budget costs (total gross costs minus direct and second round savings) | 638 |

[1] By examining data on PSE enrollees, it is assumed that the number of AFDC recipients taking jobs would be negligible.

APPENDIX B

*Continuation of title VI net budget cost*[2]

*(25 percent fiscal substitution)*

Gross Cost=$1,711 million; at assumed $8,138 average cost per job, this yields 210,248 jobs.

Calculation of Income and Payroll Taxes Collected Per Job:

| | |
|---|---|
| Cost per job | $8,138 |
| Administrative and other costs (assumed to be 10 percent of total | −814 |
| Gross wage | 7,324 |
| Tax deductions and exemptions | −4,900 |
| Exemptions for family of four | 3,000 |
| Low income allowance | +1,900 |
| | 4,900 |
| Taxable income | $2,424 |
| Personal income tax at 12 percent on taxable income | 291 |
| Social security tax at 11.7 percent on gross wage | 857 |
| Total taxes collected per job | $1,148 |

Net Budget Costs and Savings:

| | Millions |
|---|---|
| Total increase in tax revenue (1,148×210,248×.75)[2] | $181 |
| Food stamp savings (.25×1,248×210,248×.75)[2] | 50 |
| UC savings (210,248×.75×3,900)×.7[2] | 430 |
| Total Direct Savings | 661 |
| Total Gross Cost | $1,711 |
| Total Direct Savings | −661 |
| Net Direct Cost | $1,050 |
| Second round increase in income (.7 multiplier × 1,050) | 735 |
| Second round savings (.33 saving factor × 735) | 243 |
| Net budget costs (total gross costs minus direct and second round savings) | 807 |

[2] For more detailed explanation, see Appendix A.

APPENDIX C

PUBLIC EMPLOYMENT PROJECTS ESTIMATE OF TARGET GROUP ENROLLMENT (FISCAL YEAR 1977)

(1) AFDC–UF recipients equals 155,000 DHEW estimate in Daily Labor Report, May 20, 1976, page a–7.

(2) Recipients of UC for 15 weeks or more equals 625,000:

IUR equals minus 1.071 plus $0.862_{\mu}$: $\mu$ equals 6.8 percent; where IUR equals insured unemployment rate; $\mu$ equals unemployment rate.

IUR equals 4.79 times 0.85 participation rate of insured.

IUR' equals 4.07 times 62.3 million covered employment equals 2.5 million; 0.25 percent Uc $\geqslant$ 15 weeks on November

12, 1974, UI statistics, December 1974, p. 16; 0.625 million times 1.15 adjustment for FSB and SUA recipients (not included in IUR) equals 0.720.

(3) Not receiving UC or AFDC and unemployed 15 weeks or more equals 536,000.

1,200,000 $\mu \geqslant$ 15 weeks November 12, 1974 (Monthly Labor Review), minus 720,000 from (2) and minus 39,000 from (1), assuming 25 percent of AFDC–UF recipients receive benefits $\geqslant$ 15 weeks, 441,000.

(4) Adjustments based on work-leisure choices and lower living standard family income constraint:

AFDC–UF: Eligible adjustment of 155,000 times 0.2 equals 31,000 willing to work (4 percent).

UC $\geqslant$ 15: Eligible adjustment of 720,000 times 0.5 equals 360,000 willing to work (51 percent).

$\sim$ UC $\geqslant$ 15: Eligible adjustment of 441,000 times 0.7 equals 309,000 willing to work (45 percent).

Total ( 100 percent): Eligible adjustment, 1,316,000 and willing to work, 700,000.

Adjustments were based on judgments about work-leisure choices of the individuals in the three basic groups and their income distributions in relation to 70 percent of the lower living standard budget (.7×9,588=6,712 for an urban family of four). The following analysis provides information on which to make some adjustments to the eligible population:

(a) AFDC–UF average disposable income:

| | |
|---|---|
| AFDC–UF benefit | $4,108 |
| Food stamps | 1,248 |
| Medicaid | 1,194 |
| | $6,550 |

When compared to the disposable income of the average job funded of $5,436, few AFDC–UF recipients are likely to take the job. It is assumed that at most 20 percent would have benefit levels sufficiently below $5,436 to make accepting a public job attractive enough to choose work, rather than leisure. By examining data on PSE entrants, it was decided that the number of AFDC (regular program) recipients taking jobs would be negligible.

(b) UC Recipient $\geqq$ 15 weeks—according to a DOL–sponsored exhaustee study, very few of the exhaustees received food stamps or medicaid during the receipt of UC. It is assumed that this group received no medicaid and only 10 percent received food stamps. This means that 90 percent have an average benefit level of $3,900 per year and 10 percent have $5,148. It is also assumed that those with both UC and food stamps would not take a job at an average disposable income of $5,436. Also, it is assumed that one-third of the 80 percent would choose leisure and homework instead of market work, which leaves 60 percent of the total recipients of UC for more than 15 weeks willing to work. Finally, we allowed an additional reduction of 10 percent for the possible violation of the household income constraint. Thus, we ultimately assumed that 50 percent would be eligible and willing to work.

(c) Not UC and not AFDC–UF and unemployed $\geqq$15 weeks—this group contains exhaustees of UC and all those ineligible for UC (many new entrants and reentrants to the labor force). We assume that 70 percent would be willing and eligible to take a public job at $5,436 disposable income. Some may still consume leisure or do homework, because they are secondary workers being supported by others or because their reservation wages are still higher than the PSE wage rate. Also, since very few of the UC exhaustees get food stamps, we have assumed a participation rate of only 20 percent.

APPENDIX D

*Public employment projects net budget cost Calculation (zero fiscal substitution)*

Gross Cost=$1,789 million: At assumed average cost per job of $7,059, this yields 253,435 jobs.

Calculation of Income and Payroll Taxes Collected per job:

| | |
|---|---|
| Cost per job | $7,059 |
| Administrative and other costs (assumed to be 10 percent of total) | −706 |
| Gross wage | 6,353 |
| Low income allowance and four personal exemptions (see appendix A) | −4,900 |
| Taxable income | 1,453 |
| Personal income tax at 12 percent on taxable income | 174 |
| Social security tax at 11.7 percent on gross wage | +743 |
| Total taxes collected per job | 917 |

Net Budget Costs and Savings: $232 million—total increase in tax revenues (253,435×$917).

From (4) in Appendix C we get the following number of jobs filled from each category:

AFDC equals .04 times 253,435 equals 10,137.

UC equals .51 times 253,435 equals 129,252.

Other unemployed equals .45 times 253,435 equals 114,046.

The assumed food stamp participation for these groups are 100%, 10%, and 20%. Using an average bonus value of $1,248 we get:

| | *Million* |
|---|---|
| Food stamp savings (10,137×1×$1,248 +129,252×.1×1,248+114,046×.2×1,248) | 57 |
| UC savings (129,252×$3,900) | 504 |
| AFDS–UF savings (10,137×$4,108) | 42 |
| Total Direct Savings | $835 |
| Total Gross Cost | $1,789 |
| Total Direct Savings | −835 |
| Net Direct Cost | $935 |
| Second round increase in income (.7 multiplier×954) | 668 |
| Second round savings (.33 saving factor×668) | 220 |
| Net budget costs (total gross costs minus direct and second round savings) | $734 |

APPENDIX E

*Public employment projects net budget cost calculation (25 percent fiscal substitution)*

Gross Cost=$1,789 million: At assumed average cost per job of $7,059, this yields 253,435 jobs.

CALCULATION OF INCOME AND PAYROLL TAXES COLLECTED PER JOB

| | |
|---|---|
| Cost per job | $7,059 |
| Administrative and other costs (assumed to be 10 percent of total) | −706 |
| Gross wage | 6,353 |
| Low income allowance and four personal exemptions (see app. A) | −4,900 |
| Taxable income | 1,453 |
| Personal income tax at 12 percent on taxable income | 174 |
| Social security tax at 11.7 percent on gross wage | +743 |
| Total taxes collected per job | 917 |

NET BUDGET COSTS AND SAVINGS:

| | *Millions* |
|---|---|
| Total increase in tax revenue (917 x 253,435 x 0.75) | $174 |
| Food stamp saving (57 x 0.75). See app. D | 43 |
| AFDC–UC savings (42 x 0.75). See app. D | 31 |
| UC savings (504 x 0.75) See app. D | 378 |
| Total direct savings | 626 |
| Total gross cost | 1,789 |
| Total direct savings | −626 |
| Net direct cost | 1,163 |
| 2d round increase in income (7 x 1,163) | 814 |
| 2d round savings (0.33 x 814) | 269 |
| Net budget costs (total gross costs minus direct and 2d round savings) | 894 |

## SECRETARY RICHARDSON'S APOLOGY TO CHAIRMAN HILLS

Mr. PERCY. Mr. President, yesterday I inserted into the RECORD a Washington Post article describing the controversy between Secretary of Commerce Elliot Richardson and Chairman Roderick Hills of the Securities and Exchange Commission. At that time I called the Senate's attention to the outstanding role that the SEC has played in publicly exposing instances of questionable payments abroad by U.S. corporations.

I was pleased to see published reports today that Secretary Richardson has issued a public apology to Chairman Hills for his criticisms of the SEC. I would like to commend the distinguished Secretary of Commerce for the sincerity and candor of his apology.

I have been in touch with Secretary Richardson's office. He is forwarding to me the full text of his letter to Chairman Hills and I will insert it in the RECORD for the benefit of my colleagues as soon as I receive it.

For now, I ask unanimous consent to print in the RECORD the article appearing in today's Washington Post which contains excerpts from the Secretary's letter.

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

[From the Washington Post, June 18, 1976]

RICHARDSON OFFERS APOLOGY

(By John F. Berry)

In a "Dear Rod" letter to Securities and Exchange Commission Chairman Roderick M. Hills, Commerce Secretary Elliot L. Richardson offered his apologies yesterday for criticizing the SEC.

The letter followed by one day a stinging letter from Hills to Richardson, which was addressed "Dear Mr. Secretary."

That letter, in turn, had been precipitated by still an earlier letter on Monday from Richardson to Sen. William Proxmire (D-Wis.).

Richardson, to bolster the case for the administration's proposed legislation to stem foreign payoffs by U.S. corporations, made some unflattering remarks about the SEC.

He said new legislation was needed because "the commission's enforcement policy in this area, however laudable, may be based on tenuous legal grounds."

Richardson added, "there may be virtue in a legislative scheme which does not depend for its viability on the continued zeal or militancy of its administrators."

This was taken as an insult by the young lawyers in the SEC's enforcement division, who have sued 17 companies for failure to disclose domestic and foreign payments. More than 100 other companies have voluntarily admitted making such payments.

Hills, in his Wednesday letter, called Richardson's remarks "unfounded, inappropriate and ill-timed." He concluded, "If you believe we are incorrect, we would appreciate a more useful articulation of the problems you perceive."

In his apology yesterday Richardson said, "I sincerely regret that certain language in my letter has been construed as potentially undercutting the legitimate ongoing enforcement activities of the SEC."

He praised the SEC for "taking a forceful position at the vanguard of those seeking to assure that the business standards of all American corporations comport with our national ethic."

Richardson concluded, "I would not want any misunderstanding my letter may have caused to interfere with our continued cooperation in the pursuit of adequate measures to restore and maintain confidence in American business conduct."

And he ended the letter to Hills, "With warm regard, Sincerely, Elliot."

At the SEC, an aide close to Hills said: "We're not going to press this thing any further. I think Rod [Hills] was satisfied with Richardson's answer."

Richardson had written the original letter in his position as chairman of the Cabinet Task Force on Questionable Corporate Payments Abroad. Members included the Secretaries of State, Treasury and Defense, as well as the Attorney General and the director of the Office of Management and Budget.

Among the task force staff members who had worked hard to convince administration officials of the need for legislation, there was dismay over the uproar caused by the Richardson letter.

However, a senior official in the SEC's enforcement division argued that the letter read more like a legal brief. And the "brief," he said, leaned on the often repeated complaint in the business community that the SEC had no business investigating bribes, kickbacks, and payoffs by corporate executives. These crimes, the argument holds, are not of "material" interest to stockholders, whose interests the SEC must watch over.

Richardson, in his letter yesterday, said: "I personally did not and do not wish to take a particular side."

## WHATEVER HAPPENED TO THE BALANCED BUDGET

Mr. FANNIN. Mr. President, there is hardly a periodical or daily newspaper today which does not express concern over the rate of inflation. In a State like my own where there are so many retired citizens, every increase in the rate of inflation substantially affects their standard of living. The performance of the economy of this Nation over the last 2 years has been a serious concern not only to this Congress but to the Nation as a whole. The combination of a prolonged decline in real gross national product, unemployment in excess of 8 percent, and a continued inflation gives us reason for concern and points to the immediate necessity for us to take steps to combat these problems.

A brief look at the history of our Federal budget is in order especially in light of the fact that we have experienced only one balanced budget since 1960 and that was in fiscal 1969. The deficit was quite small until it jumped to $25 billion in both fiscal 1971 and 1972, in good part as a consequence of the recession at that time. Then after declining with recovery to a recent low of only $3.5 billion in fiscal 1974, the deficit soared to the current horrendous level of $50.8 billion in fiscal 1977.[1] There can be little doubt the continuation of such deficits must certainly feed a fiercely burning inflation. Not only the elderly and the retired will be ruined by such reckless spending, but every citizen will suffer.

If we look at the relationship of the deficit to inflation we find that the inflationary impact of a budget deficit depends in large part on how it is financed. If private investors buy the new Treasury debt, there is no more spending power in the economy than there was before and the deficit is not inflationary. But, if the Federal Reserve System directly or indirectly finances the deficit, it adds to the Nation's money supply and thus sets the stage for inflation. Inflation diminished in 1975 since the Treasury was able to raise a record amount of slightly over $80 billion by selling new securities. It is possible that Treasury may be able to meet its demands in 1976 out of total national savings and a somewhat enlarged supply of bank credit, but we cannot be certain at this time that such borrowing will not be at the expense of productive private borrowing, chiefly by business.[2] Some analysts indicate that a large Federal deficit this year will be harder to finance without a crowding out effect on business as normal business short-term borrowing resumes.

Of further concern is the impact of a budget deficit on capital formation. Over the past year studies have shown that the United States faces a huge shortage of capital in the years ahead and that the need for capital could be met provided the Government began to run a budget surplus once reasonable full employment is restored.[3] However, it appears that the continuing high rate of unemployment and large budget deficit projected for 1976 are inflationary and should be avoided.

While U.S. economic growth may be more modest than that of our European trading partners, it should be pointed out that in addition to the slowing down most have more recently experienced, their continued expansions have been at the expense of price stability. Our inflation rate has been considerably below those of other major industrial countries. The United States has had to devote a far greater share of its real resources to national defense since World War II than those of other nations.

*Inflation rates[1] in selected countries (percent increase)*

| | 1960–72 Average | 1970 | 1971 | 1972 | 1973 | 1974 |
|---|---|---|---|---|---|---|
| United States | 2.9 | 5.5 | 4.5 | 3.3 | 5.6 | 10.2 |
| Canada | 3.4 | 4.8 | 3.1 | 4.8 | 7.6 | 13.0 |
| Japan | 4.8 | 6.7 | 4.6 | 5.0 | 12.1 | 24.0 |
| United Kingdom | 4.9 | 7.3 | 8.9 | 7.8 | 7.4 | 11.0 |
| France | 4.5 | 5.6 | 5.4 | 5.7 | 7.6 | 10.0 |
| West Germany | 4.0 | 7.0 | 7.9 | 6.0 | 5.8 | 6.5 |
| Italy | 4.8 | 6.7 | 6.7 | 6.0 | 10.3 | 15.2 |

[1] Entries refer to GNP deflators.

Source: International Economic Report of the President, 1975, table 4.

In light of this trend and its adverse effects upon our economy, it is imperative that we require a balanced budget or set a spending ceiling before any further tax cuts such as the extensions of individual income tax reductions provided for in sections 401 and 402 of title IV of H.R. 10612, the Tax Reform Act of 1975 are considered.

I voice the same opposition to these tax cuts as I did to the extensive tax cuts passed by Congress in Public Law 94–164, the Revenue Adjustment Act of 1975. Those resulted in a $7.4 billion reduction for individuals and a $1 billion reduction for corporations for the 6-month period January 1 through June 30, without being tied to a spending ceiling. The additional extension of those reductions as provided in H.R. 10612 once again is not tied to a spending ceiling and, as a result, will merely increase the rate of inflation.

During the years that I have been a Member of the U.S. Senate I have observed with increasing alarm the spending figures of our National Government which go higher and higher while the deficit has grown bigger and bigger. I wonder how far this spending and these deficits can go before the American taxpayers rise up in anger and the economy of the richest nation on earth collapses. Those who did not live through the thirties may find it hard to imagine that the events of a decade could work such profound and lasting change in social attitudes developed over centuries. Having experienced those years I have no trouble doing so. What I recall most vividly is the sense of shock and despair that colored social thought. The hardship of the moment was bad enough, but even worse was fear of what the uncertain future would bring.

Confidence was hardly inspired by looking elsewhere. Bad times were spread throughout the world, and societies most akin to ours were coping badly.

In a word, things were a mess, and we sought a way out by creating a welfare state at record speed. Let the size of government, in the sense of its power to command the nation's resources, be

Footnotes at end of article.

measured by the fraction of national income accounted for by government spending of all types at all levels. That fraction doubled in 10 years, rising from 12 percent in 1929 to 24 percent in 1939, when the real national product had roughly recovered to its 1929 level. During the next decade, the size of government moved up and down with the demands of war, demobilization and subsequent threats to national security. At its peak in 1944, Government spending had risen to 56 percent of national income. Between 1929 and 1949, the fraction of national income attributable to total government spending rose, but that net rise encompassed a decline for domestic spending. In other words, the growth of government was more than accounted for by expansion of the defense effort.

GOVERNMENT SPENDING AS PERCENTAGE OF NATIONAL INCOME

| | Total spending [1] | Defense spending [2] | Domestic spending [3] |
|---|---|---|---|
| 1929 | 11.9 | 0.8 | 11.1 |
| 1933 | 26.6 | 1.5 | 25.1 |
| 1939 | 24.2 | 1.6 | 22.6 |
| 1944 | 56.4 | 47.9 | 8.5 |
| 1949 | 27.2 | 6.1 | 21.1 |
| 1953 | 33.2 | 16.0 | 17.2 |
| 1959 | 32.8 | 11.5 | 21.2 |
| 1960 | 32.8 | 10.8 | 22.0 |
| 1961 | 34.9 | 11.2 | 23.7 |
| 1962 | 34.9 | 11.3 | 23.7 |
| 1963 | 34.6 | 10.5 | 24.1 |
| 1964 | 33.9 | 9.7 | 24.2 |
| 1965 | 33.1 | 8.9 | 24.2 |
| 1966 | 34.2 | 9.8 | 24.4 |
| 1967 | 37.2 | 11.1 | 26.1 |
| 1968 | 38.0 | 11.0 | 27.0 |
| 1969 | 37.6 | 10.2 | 27.3 |
| 1970 | 37.8 | 9.3 | 28.5 |
| 1971 | 37.5 | 8.3 | 29.1 |
| 1972 | 39.1 | 7.9 | 31.2 |
| 1973 | 38.6 | 7.0 | 31.6 |

[1] Expenditures of Federal, State, and local government as defined in national income accounts.

[2] Purchases of goods and services for national defense as defined in national income accounts.

[3] Total spending minus defense spending.

Source: Economic Report of the President, 1974, pp. 249, 265, and 328.

Until 1958, domestic spending by Government represented a smaller share of national income than in 1949. But not for long. Beginning with the early sixties, a fundamentally new, almost revolutionary, trend had established itself. Regardless of what happened to the defense effort, domestic spending by Government steadily rose faster than national income. Only in 2 years—1962 and 1965—had that relatively upward movement faltered. And the pace accelerated. 1963 through 1968, the percentage of national income represented by domestic spending of Government rose from 24 to 27, or by 12 percent, from 1968 through 1973, it rose from 27 to 32, or by 17 percent. Despite the Vietnam war, introduction of the all-volunteer Armed Forces, and mounting problems of national security the fraction of national income spent for defense has been lower in every year since 1959 than it was then. Today, the fraction is lower than in any year since 1950. Correspondingly, the proportion of national income devoted to the welfare state has assumed revolutionary proportions. Larger and ever larger proportions of the income of each citizen are being removed from the area of his personal decision. A Government elite is increasingly making the decision as to how the income of the citizen shall be spent. The present tax bill offers little hope for any reversal, or even slowing down of what I regard as a disastrous trend.

As you well know, I am a fiscal conservative. I offer no apology for this title. It is an allegation in which I take pride. After all, conservation is a good word in the Arizona lexicon, and in the national vocabulary as well, I should hope.

I am also an economic realist. I realize full well that in a period of recession, particularly when unemployment is high, the Government has an obligation to do what it can, reasonably and within certain fixed limits, to stimulate and expand the national economy. Such a result can be best accomplished by overhauling our tax system and focusing on the encouragement of capital formation. There are a variety of tax policies available to alter the profitability of business investment and potentially to increase aggregate savings and investment in the economy. The creation of real jobs can and ought to be the result. Several major approaches including: First, liberalization of the investment credit; second, liberalization of depreciation allowances; third, integration of the corporate and individual income taxes; fourth, a cut in corporate income tax; fifth, more favorable treatment of net operating losses; sixth, more favorable treatment of personal savings; and seventh, consideration of an investment reserve fund could be used to improve business return on investment by reducing business taxes.

President Ford urged this Congress to stimulate the private sector so that we can create productive and lasting jobs instead of following a welfare state philosophy of deadend, nonproductive, and inflationary Government-manufactured jobs. At a time when we are faced with the continued increase in the rate of inflation, it is astounding that some people believe that the cure is to provide even more Government spending. There are those among us who would urge this Congress to reduce the high unemployment rate by having the Government provide more sterile jobs. There are some individuals who scoff at the attempt to provide for a balanced budget. As I have before, I urge again that we consider providing the incentives for business so that our free enterprise system can be given a breath of fresh air. I say that by encouraging capital formation we will provide jobs for the unemployed and we may yet stem the effects of excessive Federal spending.

Federal spending encourages exorbitant wage increases in key industries. When contractors dealing with the Government can pass increased costs on to the Government, they have little incentive to resist unrealistic wage increases. Increases in wages should be related to increases in productivity—not Government subsidy. Inflationary wage increases cause American industries to flee abroad. Domestic producers find their goods being undersold by foreign competition in the U.S. marketplace. We have seen it happen with textiles, shoes, so many American products that used to be sold in a world market. We are right now watching it happen with automobiles.

Let me say, furthermore, Federal spending robs capital from the private sector. When the Government borrows heavily, interest rates soar. This has been a disaster for the retired citizen and low income families who once had a hope of owning their own homes. The more the Federal Government spends, the less likely we are to meet our Nation's housing needs. Increases in Government building programs mean a cutback in private construction.

Government spending certainly distorts our economy, and it brings some painful readjustments when national priorities are changed. Some people think that the Government should absorb these unemployed persons by creating new Federal programs.

I believe the only sound answer to current unemployment and to fiscal soundness is to get people back into productive jobs in the private sector. There is no need to use the Government as an employer of last resort if we will only provide the atmosphere for private industry to operate at the maximum.

Many of our industries are faced today with the necessity to acquire new plants and equipment or will have to expand their current facilities in order to keep up with the economy, but are faced with the problem of being unable to utilize an investment credit since it must be offset against profits. For those companies that are necessary to our national welfare I would recommend that any additional increases in the rate of investment credit also provide for the liberalizing of the method of calculating the credit so that industries such as those faced with losses rather than profits at this time can benefit and will be able to purchase new plant and equipment and thus stimulate the economy and provide more employment.

Section 801 of title VIII of H.R. 10612 fails to provide adequately for such problems and merely extends for 4 years the 10-percent investment credit and $100,000 limitation on such property. We have several industries necessary for our national security such as the electric utilities, the railroads and the airlines which have been and are still experiencing substantial losses. Each of those industries must purchase new plant and equipment and continue to expand in order to best support our national effort. In addition to providing them with investment credit relief, we should consider the deferral of tax on dividends paid by such companies to shareholders who elect to take additional stock in lieu of a cash dividend. By recent estimates over 200 dividend-paying corporations—utilities and nonutilities—have taxable dividend reinvestment plans now in operation.[4] A tax-

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free dividend reinvestment plan would allow those companies to retain a significant portion of their annual earnings needed for plant and equipment expansion and modernization which otherwise would have to be paid in dividends. This would still allow those who need cash dividends to receive them. Dividend reinvestment programs will make the stock of those companies more appealing to other investors who normally invest in growth stocks.

With the modernization of current plant and equipment and the purchase of new facilities the Government will benefit not only by increasing employment and building stronger industrial complexes but will also substantially make inroads in solving our energy crisis. Utilities will be able to expand and modernize, utilizing improved technologies and alternate resources which will conserve our water consumption, reduce pollution and conserve fuel. It is imperative that we move along with our program for energy conservation. In the 93d Congress we enacted a geothermal loan guarantee program and the Energy Research and Development Administration completed regulations to implement that program last year. To further enhance geothermal development, I have proposed tax incentives which are awaiting your consideration when we take up H.R. 6860, the Energy Conservation and Conversion Act of 1975.

I join with President Ford in urging this Congress to provide changes in the Federal estate tax laws to make it easier for small farmers and small businessmen to bequeath their assets to future generations. We must assure that family businesses and family farms can be handed down from generation to generation without having to be sold to pay taxes. Such a proposal would permit the heirs of small estates to defer their initial estate-tax payment for 5 years beyond the date it would otherwise be due. After that 5-year period, the tax could be paid over the next 20 years at 7 percent annual interest. At present taxes on smaller estates may only be spread over 10 years; a 9-percent interest charge, which will drop to 7 percent on February 1 is assessed on the deferred payments. This proposal would apply in full only to the first $300,000 in value of the family farm or business. Between $300,000 and $600,000 there would be a dollar for dollar reduction in the value of the farm or business, qualifying for the payment moratorium and the extended payment provisions. The portion that does not qualify would continue to be subject to 10-year installment payments with the 7-percent interest rate. The conservation of the small family farm and small family business is essential to the spiritual as well as the economic wealth of our country.

I find that the provisions of H.R. 10612 providing for limitations on artificial losses and recapture of depreciation on real property will substantially affect the real estate industry and I am deeply concerned over the impact of those provisions as they affect an industry which contributes, and has contributed, so substantially to the growth of Arizona. I will work to assure that this entire industry is not jeopardized.

It is important at this time that we take no steps that would jeopardize our recovery from the recession of the past few years. Viewed in the context of the need to encourage our troubled real estate industry and to encourage building and construction, we must carefully scrutinize any tax legislation that will affect that industry. Likewise, I plan a careful examination of each of the other tax shelter proposals to determine whether the harms to the industry involved outweigh the revenue gain.

At the annual meeting of the International Monetary Fund and the World Bank in Washington, the fund's managing director, Johannes Witteveen took the unusual step of calling explicitly on the United States, Germany, and Japan to press harder to get their domestic production up to normal levels. With demand slack in the world's markets, prices have been down for the commodities that the poorer countries sell. Economic development requires stable commodity markets without which all else fails. The United States, for its part, is now more heavily dependent upon foreign markets and foreign demands than ever before in its modern history. Most Americans are unaware of the speed with which our foreign trade has grown in recent years. American exports have grown from $20 billion in 1960 to over $100 billion in 1975.[5] The tremendous surge of foreign sales meant more jobs and profits in this country and certainly helped our economy during a period when we were experiencing a steady and destructive increase in the rate of inflation. The growth in foreign exports has given this country an opportunity to reinflate its economy unilaterally and to carry through a world recovery by stimulating growth.

When we consider legislation with regard to the treatment of foreign income we must carefully analyze the effect such legislation will have on American companies doing business abroad since we do not want to place them in the position of being unable to compete with foreign businesses. I would wish to carefully analyze the competitive business relationship between American companies and foreign companies in areas of economic concern to this country before eliminating the per country limitation in the foreign tax credit. I urge that if we are to provide any assistance in this area that we first consider our possessions and assist them in stimulating their economy and giving them incentives to attract new businesses. We might well provide that the income received from these possessions not be subject to the foreign tax credit limitation but be accounted for under a new and separate foreign tax credit. In this way companies which are in an excess foreign tax credit position will consider establishing new businesses and investing in these areas which will have the overall effect of assisting our possessions in meeting their budget commitments without having to come to this Congress for handouts. This will also strengthen business since it will have incentive to build in those areas rather than going abroad to foreign countries.

We are still faced with what I consider the double taxation feature of our present tax system in that currently income is subject to taxation when first earned by corporations and also after being received by stockholders in dividends. Once again in order to stimulate our economy I would propose to give companies a tax deduction for a portion of dividends paid out and also give stockholders a tax credit for this income. Clearly, some action is necessary in the tax field to encourage a greater rate of savings and investment in the Nation's future. The Treasury Department has presented a tax program to achieve those goals involving gradual elimination of the double tax on corporate profits. When we consider the treatment of long-term capital gains and losses, we should realize that a decade of inflation has turned the capital gain tax into a concealed capital levy. A substantial portion of the so-called gain reflects simply the rise in the general price level over the holding period. The payment of taxes on such fictitious appreciation can only result in a reduction of the real capital of the taxpayer.[6]

Much is made of the deprivations imposed by inflation on the poor consumer. Almost totally ignored is the crushing effect of inflation on the poor consumer's savings. Consider the individual who may put $1,000 into a passbook savings account at 5¼ percent a year ago with more than a 10-percent increase in the price level over the past year at the end of the year his real savings are worth less than $956. It is as if he had invested his money at a negative yield at 4.325 percent.

For many households, thanks in part to Government regulations, there are few realistic opportunities to shift their savings to higher yield securities. Their own efforts to provide financial shelter for temporary emergencies, reserve for retirement, for investment in children's education, and so forth, are viciously sapped by inflation. It would be desirable both as a short range measure and as an initial step toward long range tax reform to provide a tax credit for increases in the amount of saving. Such a credit could be designed so that it would treat all bracket taxpayers equally. It would have a major advantage over many other tax relief proposals in that it would offset any revenue losses involved by increases in personal savings.

Inflation is the most potentially destructive, the most dangerous, problem we face. Intelligent tax policy can do much to alleviate and to decrease this danger.

We owe those on fixed incomes, the elderly, the retired, that they not face a ruinous future. We owe the coming generation that they receive from our hands a country of promise and expanded possibilities, not a land in which all solid values have melted away in the fires of inflation.

It is not merely whether prices have gone up or down during the past few

Footnotes at end of article.

months that should engage our attention, it is the overall upward trend of inflation. Our tax policy, well considered, can be a major, perhaps a critical factor, in reversing the direction of this trend.

FOOTNOTES

[1] "Whatever Happened to The Balanced Budget?" The New York Times, 18 January 1976, p. F1.

[2] *Ibid.*

[3] Barry Bosworth, James S. Quesenberry, and Andrew S. Carron, "Capital Needs in The Seventies", Washington, D.C. The Brookings Institution, 1975, pp. 76–78; see also Lindley H. Clark, Jr., "Speaking of Business—Assault on Capital" Wall Street Journal, 26 January 1976, p. 8.

[4] Staff of the Joint Committee on Internal Revenue Taxation, "Capital Formation—Prepared For the Use of the Committee on Ways and Means, U.S. Government Printing Office, 7 October 1975, p. 26.

[5] "Recession Abroad" Washington Post, 7 September 1975.

[6] George Terborgh, Inflation and The Taxation of Business Income, Machinery and Allied Products Institute and Council For Technological Advancement, January 1976.

## THE COMMUNIST PARTY IN THE ITALIAN ELECTIONS

Mr. HELMS. Mr. President, the parliamentary elections in Italy on June 20–21 may bring a profound change in the political configuration of Western Europe.

The Italian Communist Party—PCI—made tremendous progress in projecting itself as a legitimate "democratic" force in Italian politics with a record for clean, uncorrupted administration in the cities controlled by the party.

Unfortunately, the Communists of Italy are neither democratic nor uncorrupted. The PCI is operated under the principles of party structure of "proletarian" dictatorship similar to the Soviet Union or any other Communist-controlled country. The internal party discipline and obedience to party bosses within the party's rank and file does not permit any real democracy or political freedom.

It is obvious that once in power, the Communists will extend the same strict discipline and party-line policies to the administration of national agencies under their supervision.

At present, the Italian Communists, headed by dedicated organizer Enrico Berlinguer, claim their independence from Moscow and speak about the continuation of Italian membership in NATO even if they win a clear victory at the polls on June 20–21 and, as a result, should have controlling position in the Italian Government. But the Italian membership in NATO will become of very questionable value under the circumstances of Communist control or even of substantial influence. It is really unthinkable to expect that the Communists of Western Europe would genuinely and honestly participate in an alliance against the Communist bloc of nations when throughout their entire operational history they blamed the Western alliance for instability and lack of peace and enjoyed the economic, political, and organizational support of the Communist bloc.

On the road to its present strength the PCI went through every possible procedure to undermine the Italian Government and to destroy the economy of Italy in order to make any reasonable policies impossible and ineffective.

The political strikes of the 1950's and 1960's, instigated and organized by the Communist-controlled trade unions, constantly expanding new demands placed before the industry by the unions, combined with poor management, brought the economy of Italy to a catastrophic condition from which it will be very difficult to extricate the country.

But Communist control of the economy and government is by far not the answer to the Italian troubles. The inefficiencies of the Communist bloc economies go beyond the Italian example. The agriculture and industry of the Soviet Union and other Communist countries are not models for anyone to be inspired by. The Soviets cannot rejuvenate Italian industry when it takes Fiat to build the largest automobile plant in the Soviet Union. The Communist economic methods of operation need constant support from the West and, in particular, in management organization of production lines and innovative technology.

The Communist control over the Italian economy will only deepen the existing economic crisis and contribute to the further downfall of the Italian monetary system. No matter how inefficient and corrupt the Italian economic and government administration has been under the Christian Democrats and other democratic parties. The Communists could bring only further disaster and deeper economic and political weakness.

The hope for the June 20–21 elections in Italy is that the Italian electorate will not be swayed by Communist rhetoric and promises and will support the existing democratic structure, no matter how weak and inefficient. It is obviously better than anything that the totalitarian discipline can offer.

## MAN-MADE EVOLUTION

Mr. MATHIAS. Mr. President, I would like to bring to the attention of my colleagues an article that appeared in today's Washington Post. Written by Nicholas Wade, a well respected writer for Science Magazine, the article deals with recent work on DNA and the increasing capacity of bioscientists to intervene directly in the most fundamental processes of cellular growth and development.

While this seemingly esoteric matter may appear to be of interest to only a small band of scientists, the importance of the article, in my view, lies in the clarity with which it illuminates the public policy implications of this research. Clearly the Federal Government, through sponsorship of research—primarily supported by the National Institutes of Health—is directly involved. Beyond this, however, I am firmly convinced that the political institutions of our society must become involved in the decisionmaking for something as profound as the ability of humans to intervene in, and alter, the evolutionary process—a domain previously governed exclusively by the laws of nature. In a column that appeared last New Year a step forward in this branch of science was called the most important event of 1975 by the distinguished and thoughtful writer, George Wills. Mr. Wade confirms Mr. Wills conclusion. I urge all of my colleagues to read, and ponder, the implications of Mr. Wade's article.

Mr. President, I ask unanimous consent that the article referred to be printed in the RECORD.

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

MAN-MADE EVOLUTION

(By Nicholas Wade)

In the next few weeks a new and adventuresome technology will be unleashed on the world by way of guidelines issued at the command of the head of a minor federal agency.

The technology is based on a method for creating new forms of life, a prerogative hitherto reserved for evolution. Whereas new organisms arise in nature through the slow and haphazard reshuffling of genes, the method now available enables the scientist to manipulate the genetic material directly by a technique of cutting and splicing. This technique presents benefits and risks on a scale probably comparable with those of harnessing the atom. Just as at the dawn of the nuclear age, the benefits, which are easily visible and near at hand, appear at present to outweigh the more nebulous and seemingly distant hazards.

It would be untrue to say that the scientific community is divided on the merits of pushing ahead with the development of the technology. Most scientists believe that the dangers are negligible or can be contained. In fact, the present plans to proceed, in the form of guidelines to be issued this month by the director of the National Institutes of Health, have only two serious critics.

Yet the critics happen to be two of the most distinguished of all the scientists involved in the decision-making process. Also, unlike many of their colleagues, they have no personal interest in using the new techniques in their own research.

Robert Sinsheimer, a member of the National Academy of Sciences and chairman of the biology division at Cal-Tech, commented recently of the proposed NIH guidelines: "Obviously neither I nor anyone else can say that if the present committee guidelines are adopted, disaster will ensue. I will say though, that in my judgment, if the guidelines are adopted and nothing untoward happens, we will owe this success far more to good fortune than to human wisdom."

And Erwin Chargaff of Columbia University, who holds the National Medal of Science, points out that new forms of life, once created, cannot be recalled from nature. "Have we the right to counteract, irreversibly, the evolutionary wisdom of millions of years, in order to satisfy the ambition and curiosity of a few scientists?" he asks in a letter in Science. To do so, he believes, is a folly and a crime, an attack on the biosphere "so unthinkable to previous generations, that I could only wish that mine had not been guilty of it."

What has made the new technology possible is not so much man's cleverness as the accidental discovery of something in nature, a class of bacterial enzymes endowed with quite unexpected properties. The enzymes constitute a molecular-level scissors-and-paste kit for cutting and splicing the genetic material with undreamed of precision.

The technique of assembling new genetic

messages—known as "recombinant DNA" molecules—is a powerful research tool that will doubtless bring its earliest users a crop of Nobel prizes and the like. It also offers a cornucopia of practical applications in the form of custom designing organisms for use in industry, agriculture and medicine.

Instead of rushing ahead to exploit the technique, however, the scientific community has shown a notable degree of responsibility. Scientists first drew attention to the hazards two years ago when a group of American researchers called for a voluntary moratorium until appropriate safety conditions could be established. Scientists throughout the world have observed the moratorium, and will probably follow closely the NIH guidelines that will bring it to an end.

And yet, despite the two years of self-restraint and conscience-wringing, the guidelines about to be issued will allow almost all but the most wildly dangerous experiments to proceed under strict but not grossly inconvenient safety conditions. The public has had little effective opportunity to share in the decision-making process, and the fundamental objections of inside critics such as Sinsheimer and Chargaff have been ignored without being specifically rebutted.

What are the dangers of the new technique and the technology that will sprout up from it? First, the new forms of life can be expected to escape quite regularly, particularly from the less meticulous laboratories. Even the most careful scientists become exposed to the organisms they work with, and the best available containment methods used in the Army's biological warfare laboratories at Fort Dietrich, for example, did not prevent 423 cases of infection and 3 deaths over a period of 25 years.

Escape is made more certain by the circumstances that the bacterium to be used as host for many of the new life forms is Escherichia coli, a common inhabitant of the human gut and nose. If a human pandemic or some other "worst case" accident occurs, future historians will never be able to understand why of all the bacterial species at our disposal, we made the most reckless possible choice. They will not credit the reason, that the human gut bacterium was simply the most convenient organism available at the time.

Most of the new life forms will perish outside the laboratory, unless deliberately designed to survive. But some may find suitable niches, in our crop plants, in our domestic animals, or in human populations. At worst, the consequences could range from mass infection to the virtual eradication of a species.

People worry about the proliferation of nuclear technology to more than a handful of countries. The "recombinant DNA" technique puts what will one day become an almost equally awesome technology into the hands of every biological researcher with access to a modern laboratory. Sooner or later, one of these researchers may try to put the technology to evil use. But more to be feared is the do-gooder who attempts to take some unilateral action for what he conceives to be the benefit of mankind.

Many of the projected experiments involve the insertion of genes from higher cells into bacteria. Bacteria and the higher forms of life interact intensely with each other as organisms. But they ceased to interact on the genetic level hundreds of millions of years ago. To transgress the genetic apartheid that nature appears to have set up is to risk endowing bacteria with the genetic control signals of higher cells—a kind of molecular-level betrayal of state secrets that could equip bacteria with a whole new weaponry for attacking plants and animals. "There is no need to spin out horror stories," says Sinsheimer in describing the possible consequences of breaking the genetic barrier. "The point is that we will be perturbing, in a major way, an extremely intricate ecological interaction which we understand only dimly."

The technique and its immediate uses now being discussed are only the prelude to a more fundamental intervention in the process of evolution. Do we really want to assume responsibility for life on this planet? Hitherto evolution has always seemed as inexorable and irrevocable a process as time or entropy. Now man has a handle on the force that shaped him. "Shall we take into our hands our own future evolution?" Sinsheimer has asked. The response has been that it is a sick society that fears to venture into the unknown.

After the explosion of the first atomic weapons Robert Oppenheimer remarked, perhaps sententiously, that physicists had "known sin." With the advent of the recombinant DNA technique, molecular biology has reached the end of an age of innocence. The vast storehouse of pure knowledge that biologists have accumulated over the last 20 years will now be turned into a manipulative art, a tool for changing the world as well as for understanding it.

## ON CONTROLLING THE RISING COSTS OF HEALTH CARE

Mr. McINTYRE. Mr. President, not long ago Morton Miller, representing the Health Insurance Association of America, presented a statement to the Subcommittee on Health of the Senate Committee on Labor and Public Welfare on controlling the rising cost of health care.

Mr. Miller suggested a number of approaches to meeting the problems of health cost inflation, and though I do not necessarily agree with every point made in his presentation, I do believe what he had to say deserves our serious consideration.

So that my colleagues can give it that consideration, I ask that Mr. Miller's statement be printed in the RECORD.

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

STATEMENT OF THE HEALTH INSURANCE ASSOCIATION OF AMERICA ON HEALTH CARE COSTS

My name is Morton D. Miller. I am Vice Chairman of the Board of Directors of the Equitable Life Assurance Society of the United States. With me are Mr. Daniel W. Pettengill, Vice President of the Aetna Life & Casualty and Mr. Brooks Chandler, Executive Vice President of the Provident Life & Accident Insurance Company. We appear today on behalf of the Health Insurance Association of America. The member companies of the Association are responsible for some 85% of the private health insurance written by insurance companies in the United States.

As an industry responsible for the private health insurance protection of almost 100 million Americans, we have been vitally concerned with the incessant erosion of the value of the American public's health care dollar.

Our concern is not of recent origin. As we have testified previously, both in the Senate and in the House we share the committee's concern for the increasing proportion of our Gross National Product consumed by medical care expenditures. We feel, of course, that adoption of the principles embodied in the National Health Care Act of 1975, S. 1438 introduced by Senator McIntyre would provide universal access to medical care coverage for all Americans and deal with the problem of increasing medical care costs.

There has been a welcomed increase in concern about medical care costs over the last several months. Concern with medical care costs seems to have risen in almost everyone's consciousness—labor, management, government, providers, insurers and consumers alike. The time seems ripe for all of us, acting in concert to tackle this most difficult problem.

For the first time, there seems to be the common realization that more and more expensive medical care does not necessarily produce better health or better health status. Additionally, many now recognize that as a nation, we do not have unlimited resources to expend on medical care. Insurers recognize that they cannot solve this problem alone and offer their expertise to this committee in forging a practical, reasonable and effective program of medical care cost containment

I believe that there are several principal explanations for the rapid rise in medical care costs. For example:

A. In this country, as in others which have adopted governmental national health insurance programs, the patient usually does not pay for his medical care services at the time they are received. A significant portion of the patient's health care bill is paid by a third party—either a private health insurer or the government. Neither the provider nor the patient experiences the immediate crunch of having to economize on the use of expensive resources.

B. The hospital system which has evolved in this country is based upon the principle of paying hospitals whatever they spend. Such a reimbursement arrangement, when combined with the extensive private and governmental payment system, has led to reduced cost consciousness.

C. Physicians and patients alike expect to have all the resources they feel to be necessary, whenever they feel they need them, and without regard to the cost. For many years, this belief has been stated in national policy and has found expression in such legislation as the Hill-Burton program. The Hill-Burton program, for example, has been allowed to continue well beyond the point of diminishing returns and has contributed to the current overbedding problem. Unfortunately, it has been almost impossible to terminate these types of programs.

D. There has been a growth of medical malpractice suits with awards at increasing levels. We estimate that as much as $1.5 billion of malpractice premiums is paid by providers annually. Additionally, DHEW has estimated that somewhere between $3 and $6 billion annually in health care expenditures is the result of "defensive medicine" practices to avoid the possibility of medical malpractice suits. Both the premiums and "defensive medicine" add-ons are passed through to patients and third party payors by the providers.

E. There is a discernable lack of competition among providers both as to services and charges. Without the force of the market place to restrain cost escalation and assure quality, providers are able to create a major proportion of the demand for their own services without having to justify the necessity of such services to the public.

The opposite is true of health insurance. In fact, the full forces of the market place have spurred private health insurers to achieve real cost savings in the conduct of their business. That part of private health insurance premiums which is not paid-out in benefits has been an ever shrinking percentage of total premiums, e.g., benefits for group coverages have risen from 70% to 90% of premium in the period of 1950 to 1975.

There are a number of things insurers have done, with varying degrees of effectiveness, in an honest effort to offset these basic problems.

A. Policy Design—

Insurers have designed benefit plans, par-

ticularly major medical, so that payment is made for care whether rendered in or out of a hospital. This encourages our insureds to utilize less costly ambulatory services instead of more costly inpatient institutional services. Our success has been somewhat limited by the fact that much of the public wants to retain its first-dollar hospital insurance, and is unwilling to accept a deductible on hospital charges. Through the use of modest cost sharing, we have however, sought to have the patient retain a financial stake in his treatment so as to deter the demand for unnecessary services without hampering access to necessary care.

Additional cost containment features included in health insurance policies are:

1. Payment for tests performed prior to admission to the hospital. Such pre-admission testing programs result in the saving of one or more days of room and board charges. To help make this program more successful, physicians should be encouraged to avail themselves more frequently of pre-admission testing for their patients.

2. Use of coordination of benefits provisions, so that patients with multiple coverage do not "profit" from medical treatment, by receiving claim payments that are greater than the total of their medical expenses. In this regard, the COB provision could be further enhanced if the provision could be applied to individual health insurance policies.

3. Experimentation with reimbursement of second and third opinions for elective surgery, which, with appropriate education of providers and the public, offers promise for savings on both hospital and surgical expenditures.

4. Reimbursement for care rendered under an organized home care program and for skilled nursing home facilities—both of which provide less costly alternatives to hospital care. Here too, physicians must be educated as to the availability of such alternatives. It should be noted that at present, nursing homes are only rarely used by patients under age 65.

B. We have developed claim control programs which isolate cases of questionable treatment or high fees. Many companies have developed profiles of physicians' fees, and in addition we have developed a mechanism for sharing on an industry-wide basis aggregate surgical and dental charge data. Our usual procedure is to refer high fee cases to peer review committees. To illustrate, cases which we have referred to the New York County Review Committee have resulted in decisions in which physicians agreed to reduce the amounts of their initial billings by $1 million annually.

In this connection, we hope that the current activity of the Federal Trade Commission against the Massachusetts Medical Society will be resolved in a manner that will permit peer review activity, which we believe is desirable and in the public interest, to continue.

Along with submitting cases for review, we have worked with and supported the efforts of the providers to establish quality and utilization review committees.

C. We have actively supported the enactment of legislation designed to restrain health care costs and improve the quality of such care. Included are the National Health Planning and Resources Development Act of 1975 (P.L. 93-641) and the Health Maintenance Organization Act of 1973 (P.L. 93-222).

We have supported state legislation designed to provide for prospective rate review of institutional charges which require hospitals to budget costs in advance and submit charges for review and approval by a rate setting commission in each state.

Over 50 insurance companies are directly involved in HMOs, and have provided financial support through grants and loans, totalling approximately $60 million. In addition, companies have provided $20 million in purely financial assistance to HMOs.

But, these mechanisms in themselves, although helpful, have proven inadequate to stem the tide of rising medical costs. The ability of insurance carriers by themselves to effectively influence aggregate medical expenditures is limited. I would call attention of the subcommittee to the fact that private insurers, unlike Blue Cross and Blue Shield plans which are limited to one state, are unable to collectively contract with providers because of legal restrictions. Even if we were able to, the self-pay patient, who has little bargaining power, would be left defenseless.

PROGRAM TO CONTROL THE COST AND THE QUALITY OF HEALTH CARE IN THE U.S.

The cost and quality of care delivered in the United States are controlled essentially by the practices of the health care providers. The elements involved are the unit cost, the volume, and the intensity of services provided. The public is entitled to the assurance that reimbursement systems do not encourage increased costs which are not directly tied to improvements in the quality of care or valid increases in the operating costs of providers.

In a pluralistic system of financing health care, it is essential that the regulatory process embrace the care rendered to all patients. This principle underlies the insurance industry support of the following federal and state legislative initiatives.

*I. Health Care Resources Allocation*

Planning for the development, allocation and modification of the limited resources and services of our health care system has evolved over the last 15 years from a voluntary program to a federal-state-private sector partnership first expressed in P.L. 89-749 in 1967. These earlier efforts, which depended upon voluntary actions to achieve the necessary cooperation and support of providers, were not highly successful. However, the enactment of the National Health Planning and Resources Development Act of 1974 (P.L. 93-641) has the potential for correcting many of the shortcomings in the earlier legislation. It affords a new blueprint for the maintenance of community involvement and the local determination of how existing and further resources shall be expended.

The insurance industry has consistently supported federal initiatives in this area. We have committed experienced insurance company representatives to the planning process at the federal, state and community levels. Implementation of P.L. 93-641 is now in its first phase with initial designation and funding of the health systems agencies. In order to assure the fulfillment of P.L. 93-641's great promise, we would offer for your consideration the following observations and actions.

1. Funding—

The new health systems agencies have been funded initially at a level far below that necessary for them to effectively carry out their charge. It is essential, therefore, that they be funded adequately and priorities be established for the HSA's which can be realistically achieved in the time remaining before the present statute expires. In this regard, Mr. Chairman, I am sure we share an appreciation of the Appropriation Committees' recent responsiveness to these funding needs.

High among these HSA priorities should be the development of health services plans based upon reliable and accurate data. Such plans are necessary for the HSA's to fulfill their resource allocation functions, particularly, the certificate-of-need component.

2. Consumer Advocacy—

Public Law 93-641 requires representatives of pre-payment plans or insurance companies to be in the provider category. We believe that both types of organization more appropriately identify with the interest of the consumer. Thus, amendment to the existing provision of the Act defining "health insurer" is necessary in order to assure the participation by representatives of both prepayment plans and insurance companies of each HSA Board.

3. Manpower Allocation—

HSA's should be encouraged to develop mechanisms for increasing the availability and accessibility of primary care physician services and for decreasing the number in medical specialties where supply already exceeds demand. Similarly, new incentives, through the planning process, must be developed to encourage primary care physicians to meet the demands for services in rural and inner city areas. Both of these activities should be enhanced greatly by the manpower bill now before the Senate and already passed by the House.

Finally, planning agencies should give consideration to using the regulatory process to apportion scarce facilities and services. One method which would facilitate equitably distributing such resources might be requiring open physician staff privileges.

*II. Control of hospital costs*

Expenditures for hospital care now exceed $50 billion per year and are increasing at a rate of about $7.5 billion per annum. Government, both at the federal and state level, concerned with the rate of escalation of hospital expenditures and the continunig drain which it represents on tax revenues has arbitrarily and unilaterally limited its payment to institutions, primarily hospitals. In most instances, hospitals have reacted to these unilateral reductions in payments by inflating charges correspondingly to the private sector patient. This has compounded the forced subsidy currently estimated to be in excess of $2 billion per year on the private sector patient. Additionally, it has failed to address the basic question of how to reduce the rate of escalation of hospital cost for everyone. We are strongly opposed to the Administration's current proposal for further reduction in the payment of hospital services under the Medicare program which will result in adding more than $1 billion of unreimbursable costs on the private sector.

We have monitored closely since their enactment, the Prospective Rate Review Systems established by the States of Connecticut, Maryland, Washington, and Massachusetts. We have been particularly interested in determining how their experience might be applied to a new reimbursement system for hospital care requiring the participation of all hospitals and including all patients. While the experience to date is limited, the following conclusions should serve as the basis for federal participation in and support of experimentation in this area.

1. The state agency, whether it be a full or part-time commission must have the authority and the capacity to review on an annual basis the total income of the institution and to approve both price and volume changes as they relate to increased cost.

2. In evaluating increases in cost due to capital expenditures for new or improved facilities and services, the commission should be guided by the recommendations of the appropriate planning agency.

3. Each hospital should be required to justify its budget increases once for all sources of patient income. This would assume that the hospital would follow one set of administrative requirements and would be subject to a single audit.

4. The rates submitted by the hospital must be based upon the institution's full financial requirements.

5. The rate review process should provide

a realistic management incentive for efficiency. Thus, any surplus income should be retained by the institution and disbursed on the basis of management's prerogative.

The hospital rate review commissions now operating in Connecticut and Maryland have the statutory authority to review and approve increases in total income for all institutions. They have reduced the rate of escalation in the cost of hospital care for all patients below the nation-wide average. In Connecticut in the last two years for which data are available, the rate of increase has been reduced by more than 30%, and in Maryland by 33% in its first year. Had these two programs been operating on a nation-wide basis, a savings of more than $2 billion would have resulted.

The Commonwealth of Massachusetts has a similar program in operation limited to Medicaid and Blue Cross. It has reduced the escalation of hospital charges by about $10 million. A more comprehensive program is now under consideration by the legislature and has the strong support of the Governor and the insurance industry.

The Department of Health, Education, and Welfare in carrying out its obligations under P.L. 92-603 to experiment with prospective rate review has funded more than 26 experiments. These experiments have failed to impact on the general rate of inflation for hospital care because they either involved too few hospitals or were not applied to the rates paid by all patients. We are encouraging HEW to limit further experimentation in this area to those states which have the authority to include all hospitals and the rates paid by all patients. It seems clear that the impact of the Connecticut and Maryland programs on the general rate of escalation has favorably influenced the experience of Medicare and Medicaid, although neither has voluntarily participated in these programs.

Consideration should be given by the Committee to modifying Section 1526 of P.L. 93-641 to provide funding for experimentation in an additional 12 states and to establish guidelines as the basis for federal participation in such experiments.

The guidelines should include at least the following:

1. A definition of reimbursable cost;
2. The identification of the cost allocating system used by institutions;
3. A requirement that the rates adopted apply uniformly to all patients;
4. A definition of "reasonableness" which will be applied uniformly in evaluating rate increases and allowable costs;
5. A requirement that major capital expenditures and new services be tied to the recommendations of the appropriate health systems agencies;
6. A requirement that increases in cost due to a voluntary change in the utilization and the intensity of services be supported by a quality assurance plan which monitors the appropriateness of the confinement and its duration and the quality of care rendered for all patients; and
7. Changes in the institution's total budget or price and intentional changes in volume should be subject to approval.

Until such a new reimbursement system is in place, legislation which arbitrarily limits the amounts which government programs will pay to providers should be avoided. Such legislation merely shifts the costs of such providers to the private sector.

*III. Physicians charges*

Physicians are paid for their services under a variety of arrangements including capitatation, salary, and fee-for-service. The first two are common ingredients of health maintenance organizations and, as previously stated, our member companies are involved in such experimentation. Although these arrangements offer much promise for cost containment and quality care, the total volume of services presently rendered under such arrangement is still relatively small. Thus, most of our activities have concentrated on the fee-for-service method of payment.

There are a number of alternatives now being employed by government and insurance plans to answer the questions of whether, under fee-for-service arrangements, (1) a given physician's charge is in line with prevailing charges in the community and (2) the rate of escalation is reasonable.

Medicare, for example, requires that for physicians accepting an assignment, the amount paid by Medicare be the full charge, with the patient responsible only for the co-insurance and deductible, if any. While this approach was initially effective, it has not kept pace with inflation because the Medicare prevailing fee guideline is based on charge data developed in the preceding year. The result has been more and more physicians refusing to accept assignment. Under such circumstances, the Medicare payment is used as a partial payment and the patient picks up the difference.

The option of making payment based on the physician's "usual and customary" fee was developed by our industry in 1951 in connection with major medical expense insurance coverage. Currently some 90 million of our insureds have such coverage. We believe that under a fee-for-service system in which a patient is free to choose his own physician, the "usual and customary" method of reimbursement is effective. We recognize, however, that this approach requires the support and cooperation of the medical profession in developing community-wide prevailing fee guidelines. Such guides may be used by insurance carriers in the administrative determinations of when to pay a claim routinely and when the claim requires further investigations. Such guidelines, when properly monitored by the medical profession, also offer a realistic basis for measuring the general rate of escalation in physician fees in the community. Finally, the cooperation of the medical profession is essential for the effective operation of peer review committees which serve as an objective forum in disputed cases concerning the reasonableness of the charge and whether a lower payment is justified.

Experience with the "usual and customary" method of reimbursement indicates that charges have been justified in approximately 98% of claims. In the approximately 2% of claims that require investigation, we exercise several options. There may be direct discussion with the physician to obtain an adjustment to a lower charge or, where the profession has established an effective peer review system, the disputed case could be referred to a peer review panel for evaluation. Overall, we experience reduced payments through this process of anywhere from 50% to 75% of the claims referred to a review committee.

The major weakness in the foregoing approach is that the doctor does not always reduce his fee to the patient. To correct this problem, we have been working with Medical or Health Care Foundations (physician sponsored organizations) to obtain an acceptance by individual physicians of the judgment of their peers when a recommendation for a reduced payment is made.

Two foundation approaches which have been successful in reducing physicians' charge escalation exist in the Twin Cities area of Minnesota (Minneapolis-St. Paul) and in the State of Iowa. In the former area, physicians' charges have increased by 20% over a four year period in comparison with a 25% increase for the nation as a whole. In Iowa, where the program has been in existence only one year, charges have escalated at one-half the national average.

The method of paying for physician services on a fixed or negotiated fee schedule approach is a concept which originated many years ago in a number of Blue Shield plans. The participating physicians agreed to accept the scheduled amount as full payment for services from low income subscribers. The negotiated or fixed fee schedule approach is under renewed discussion by the Congress and state governments, as a means of stabilizing the cost of physician services at a reasonable level.

There are, however, problems with the fixed or negotiated fee schedule approach. History indicates that if the schedule is set too low, most physicians will opt out of the arrangement as has happened with Medicaid, thus creating a barrier to needed care. If the schedule is set too high, it tends to be too costly as more physicians will be below the top limit than above it and once the schedule is established those below the top level will tend to move up to it. A third deficiency in the fixed fee schedule approach is that it necessitates continued negotiation between third party payors and the medical profession. This creates administrative problems as changes are made at periodic intervals. Furthermore, since the process of negotiating future rates of escalation with the medical profession is one on which there is limited experience, it is not clear how effective in controlling costs this approach might be in the long run.

*IV. Necessity and quality of care*

The total cost of physicians' services is the product of the unit cost of the services and the volume of the services rendered. In calculating the latter, as with hospitals, the question of whether the services rendered were medically necessary is raised. We believe that the delivery of quality health care is the responsibility of the medical profession working in cooperation with the hospital administration and other health professionals as appropriate. Therefore, the insurance industry supports the establishment of community-wide monitoring and evaluation systems operated under the direction of qualified, representative medical organizations.

The objectives of the program should be:

A. To assure each patient that his care is consistent with professional standards of quality;

B. To identify and correct practices which result in care that does not meet professional standards of quality;

C. To identify and eliminate wasteful and unreasonable practices, and to correct deficiencies in the system which unnecessarily inflate costs;

D. To inform the public of the objectives of the program and to seek their cooperation and support in interpreting its effect on the quality of health care.

The need for establishing this type program was recognized in the passage of P.L. 92-603 establishing Professional Standards Review Organizations for the beneficiaries of governmental programs. We believe it is important that there be one community-wide system for the evaluation of quality of institutional care and, thus, applaud the recent invitation of the Department of Health, Education, and Welfare to extend the PSRO Program, as it becomes operative, to the private sector. The decision to do so, of course, rests with each medical organization and hospital, and we are seeking to obtain their cooperation and support in fulfillment of this goal.

The extension of this program to the private sector may produce short-range dollar savings but the real value will lie in its long-range impact on (a) placing increased emphasis on the delivery of quality care; (b) correcting practices which now result in inferior quality care, through continuing education, and (c) generating support for the introduction of new services which improve the availability, access and delivery of quality care.

Where the program produces permanent reductions in hospital utilization rates, it will save the capital and operating costs of unnecessary new hospital beds.

Other possibilities which might be considered for assuring the quality of health care are: (a) periodic relicensure of physicians, as has been suggested by this Committee, at the state level; (b) extension of PSRO authority to develop listings, by condition, of specific tests and procedures which should be performed; and (c) implementation of the recommendations of the Institute of Medicine's recent Social Security Reimbursement Study, particularly that portion dealing with the supply and geographic distribution of medical specialists.

*V. The need for reliable patient care data to support regulatory processes*

Critical to the needs of adequate community health planning, PSRO's and hospital cost control is uniform data. Our industry is working with provider organizations and the American Association for Comprehensive Health Planning (AACHP) to develop a program for the establishment of statewide data consortia, balancing the input of the public and the private sectors. Such consortia would involve both the providers and users of data. These consortia would, hopefully, prevent a proliferation of multiple systems that would result in additional cost to the public and restrict our ability to coordinate and relate information.

In implementing this program, we are actively seeking the cooperation and involvement of the National Center for Health Statistics in coordinating the activities of federal and state governments with those of the private sector.

Such a consortium has gotten off to a good start in New York and, should it prove to be successful, might become a model for other states.

*VI. Support for and involvement in alternative delivery systems*

It is imperative for this country to move forward, with all deliberate speed, in the development of alternative delivery systems. In our opinion, it is essential to the future vitality of the health care system that its still largely "cottage" character be reduced and greater efficiency and heightened productivity be achieved among all segments of the industry. While Dr. Paul Ellwood and others have rightly emphasized the need to promote HMOs, a variety of other mechanisms must also be encouraged if we are to achieve these objectives.

We should foster competition among various modes of delivering health care since it is not yet clear which mode or mix of modes will ultimately be found to best achieve the objective. It follows that we should encourage not only closed panel, prepaid group practices, but also individual practice associations and multi-specialty group practices. The multi-specialty groups seem to have achieved a high degree of efficiency, increased productivity, and reductions in hospital utilization on a fee-for-service basis.

Given the present state of the art of managing health care delivery, we are of the firm opinion that the best way for us to achieve a result which reflects a reasonable balance of all objectives is to build a system with a high degree of pluralism. We should strive to produce an environment which maximizes competition and provides ample opportunities for experimentation with different modes.

*VII. The need for health education*

There is an emerging consensus that in order to improve the health status of Americans, what is needed is more focus, indeed a change in the way we live, rather than just more after-the-fact medicine. In our judgment, an area which seems to hold great promise in this connection is the potential of health education of the public. We must become more aware of our responsibility as individuals for the state of our health; style of life and personal habits have much to do with health status. Our business is particularly encouraged by the recent development of the National Center for Health Education, having contributed toward the financing of its start-up costs. There is much to be learned. Hopefully, the new National Center will be able to help show the way.

As Fuchs has said:

"A great deal of what has been written recently about 'the right to health' is very misleading. It suggests that society has a supply of 'health' stored away which it can give to individuals and that it is only the niggardliness of the Administration or the ineptness of Congress or the selfishness of physicians that prevents this from happening. Such a view ignores the truth of Douglas Colman's observation that 'positive health is not something that one human can hand to or require of another. Positive health can be achieved only through intelligent effort on the part of each individual. Absent that effort, health professionals can only insulate the individual from the more catastrophic results of his ignorance, self-indulgence, or lack of motivation.' The notion that we can spend our way to better health is a vast oversimplification. At present there is very little that medical care can do for a lung that has been over-inflated by smoking, or for a liver that has been scarred by too much alcohol, or for a skull that has been crushed in a motor accident."

In closing, Mr. Chairman, let me commend your Subcommittee for the constructive way in which you have approached this very complex problem. The HIAA shares your concern about the rising cost of health care and has welcomed this opportunity to join in the discussion of possible solutions. We certainly don't claim to have all the answers. Far from it, but we offer you and your staff the continued cooperation of our industry and the expertise we possess in thinking through a solution to these problems.

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## TREATY WITH THE SWISS CONFEDERATION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, as in executive session, that Executive F (94th Cong., 2d sess.) Calendar Order No. 6 on the Executive Calendar, be considered as having passed through the various parliamentary stages up to and including the presentation of the resolution of ratification.

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

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider Executive F, 94th Congress, second session, the Treaty with the Swiss Confederation on Mutual Assistance in Criminal Matters, which was read the second time as follows:

TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE SWISS CONFEDERATION ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS

The PRESIDENT OF THE UNITED STATES OF AMERICA
AND
THE SWISS FEDERAL COUNCIL

Desiring to conclude a treaty on mutual assistance in criminal matters,

Having appointed for that purpose as their Plenipotentiaries:

The President of the United States of America:

Walter J. Stoessel, Jr., Assistant Secretary of State for European Affairs.

Shelby Cullom Davis, Ambassador Extraordinary and Plenipotentiary of the United States of America to Switzerland.

The Swiss Federal Council:

Dr. Albert Weitnauer, Swiss Ambassador to Great Britain, who, having exchanged their respective full powers, which were found in good and due form, have agreed as follows:

### CHAPTER I

### APPLICABILITY

#### ARTICLE 1

#### Obligation to Furnish Assistance

1. The Contracting Parties undertake to afford each other, in accordance with provisions of this Treaty, mutual assistance in:

(*a*) investigations or court proceedings in respect to offenses the punishment of which falls or would fall within the jurisdiction of the judicial authorities of the requesting State or a state or canton thereof;

(*b*) effecting the return to the requesting State, or a state or canton thereof, of any objects, articles or other property or assets belonging to it and obtained through such offenses;

(*c*) proceedings concerning compensation for damages suffered by a person through unjustified detention as a result of action taken pursuant to this Treaty.

2. For the purposes of this Treaty, an offense in the requesting State is deemed to have been committed if there exists in that State a reasonable suspicion that acts have been committed which constitute the elements of that offense.

3. The competent authorities of the Contracting Parties may agree that assistance as provided by this Treaty will also be granted in certain ancillary administrative proceedings in respect of measures which may be taken against the perpetrator of an offense falling within the purview of this Treaty. Agreements to this effect shall be concluded by exchange of diplomatic notes.

4. Assistance shall include, but not be limited to:

(*a*) ascertaining the whereabouts and addresses of persons;

(*b*) taking the testimony or statements of persons;

(*c*) effecting the production or preservation of judicial and other documents, records, or articles of evidence;

(*d*) service of judicial and administrative documents; and

(*e*) authentication of documents.

#### ARTICLE 2

#### Non-Applicability

1. This Treaty shall not apply to:

(*a*) extradition or arrests of persons accused or convicted of having committed an offense;

(*b*) execution of judgments in criminal matters;

(*c*) investigations or proceedings:

(1) concerning an offense which the requested State considers a political offense or an offense connected with a political offense,

(2) concerning offenses in violation of the laws relating to military obligations;

(3) concerning acts by a person subject to military law in the requesting State which constitute an offense under military law in that State but which would not constitute an offense in the requested State if committed by a person not subject to military law in the requested State;

(4) for the purpose of enforcing cartel or antitrust laws; or

(5) concerning violations with respect to taxes, customs duties, governmental monopoly charges or exchange control regulations other than the offenses listed in items 26 and 30 of the Schedule to this Treaty (Schedule)

and the related offenses in items 34 and 35 of the Schedule.

2. Nevertheless, assistance shall be granted if a request concerns an investigation or proceeding referred to in subparagraph c. (1), (4) and (5) of paragraph 1, if made for the purpose of investigating or prosecuting a person described in paragraph 2 of Article 6 and

(a) in the case of subparagraphs c. (1) and (4), the request relates to an offense committed in furtherance of the purposes of an organized criminal group described in paragraph 3 of Article 6, or

(b) in the case of subparagraph c. (5), any applicable conditions of Article 7 are satisfied.

3. Contributions to social security and governmental health plans, even if levied as taxes, shall not be considered as taxes for the purpose of this Treaty.

4. If the acts described in the request contain all the elements of an offense for the investigation or prosecution of which assistance is required to be or may be granted as well as all the elements of an offense for which such assistance cannot be granted, assistance shall not be granted if under the law of the requested State punishment could be imposed only for the latter offense unless it is listed in the Schedule.

ARTICLE 3

Discretionary Assistance

1. Assistance may be refused to the extent that:

(a) the requested State considers that the execution of the request is likely to prejudice its sovereignty, security or similar essential interests;

(b) the request is made for the purpose of prosecuing a person, other than a person described in paragraph 2 of Article 6, for acts on the basis of which he has been acquitted or convicted by a final judgment of a court in the requested State for a substantially similar offense and any sentence has been or is being carried out.

2. Before refusing any request pursuant to paragraph 1, the requested State shall determine whether assistance can be given subject to such conditions as it deems necessary. If it so determines, any conditions, so imposed shall be observed in the requesting State.

ARTICLE 4

Compulsory Measures

1. In executing a request, there shall be employed in the requested State only such compulsory measures as are provided in that State for investigations or proceedings in respect of offenses committed within its jurisdiction.

2. Such measures shall be employed, even if this is not explicitly mentioned in the request, but only if the acts described in the request contain the elements, other than intent or negligence, of an offense:

(a) which would be punishable under the law in the requested State if committed within its jurisdiction and is listed in the Schedule; or

(b) which is described in item 26 of the Schedule.

3. In the case of such an offense not listed in the Schedule, the Central Authority of the requested State shall determine whether the importance of the offense justifies the use of compulsory measures.

4. A decision as to whether the conditions of paragraph 2 have been met shall be made by the requested State only on the basis of its own law. Differences in technical designation and constituent elements added to establish jurisdiction shall be ignored. The Central Authority of the requested State may ignore other differences in constituent elements which do not affect the general character of the offense of that State.

5. In those cases where the conditions of paragraph 2 or 3 have not been met, assistance shall be granted to the extent that it can be furnished without the use of compulsory measures.

ARTICLE 5

Limitations on Use of Information

1. Any testimony or statements, documents, records or articles of evidence or other items, or any information contained therein, which were obtained by the requesting State from the requested State pursuant to the Treaty shall not be used for investigative purposes nor be introduced into evidence in the requesting State in any proceeding relating to an offense other than the offense for which assistance has been granted.

2. Nevertheless, the materials described in paragraph 1 may, after the requested State has been so advised and given an opportunity to make its views known as to the applicability of subparagraphs a, b, and c of this paragraph, be used in the requesting State for the investigation or prosecution of persons who:

(a) are or were suspects in an investigation or defendants in a proceeding for which assistance was granted and who are suspected or accused of having committed another offense for which assistance is required to be granted;

(b) are suspected or accused of being participants in, or accessories, before or after the fact to, an offense for which assistance was granted; or

(c) are described in paragraph 2 of Article 6.

3. Nothing in this Treaty shall be deemed to prohibit governmental authorities in the requesting State from:

(a) using the materials referred to in paragraph 1 in any investigation or proceeding concerning the civil damages connected with an investigation or proceeding for which assistance has been granted; or

(b) using information or knowledge educed from the materials referred to in paragraph 1 in continuing any criminal investigation or proceeding, provided that:

(1) for such investigation or proceeding assistance may be given;

(2) prior to the date of the request for assistance referred to in paragraph 1 inquiries have already been carried out for the purpose of establishing an offense; and

(3) the materials referred to in paragraph 1 are not introduced into evidence.

CHAPTER II

SPECIAL PROVISIONS CONCERNING ORGANIZED CRIME

ARTICLE 6

General Requirements

1. The Contracting Parties agree to assist each other in the fight against organized crime as provided in this Chapter and with all means otherwise available under this Treaty and other provisions of law.

2. This Chapter shall apply only to investigations and proceedings involving a person who, according to the request, is or is reasonably suspected to be:

(a) knowingly involved in the illegal activities of an organized criminal group, described in paragraph 3, and who is:

(1) a member of such a group; or

(2) an affiliate of such a group performing supervisory or managerial functions or regularly supporting it or its members by performing other important services; or

(3) a participant in any important activity of such a group; or

(b) a public official who has violated his official responsibilities in order to knowingly accommodate the desires of such a group or its members.

3. For the purposes of this Chapter the term "organized criminal group" refers to an association or group of persons combined together for a substantial or indefinite period for the purposes of obtaining monetary or commercial gains or profits for itself or for others, wholly or in part by illegal means, and of protecting its illegal activities against criminal prosecution and which, in carrying out its purposes, in a methodical and systematic manner:

(a) at least in part of its activities, commits or threatens to commit acts of violence or other acts which are likely to intimidate and are punishable in both States; and

(b) either:

(1) strives to obtain influence in politics or commerce, especially in political bodies or organizations, public administrations, the judiciary, in commercial enterprises, employers' associations or trade unions or other employees' associations; or

(2) associates itself formally or informally with one or more similar associations or groups, at least one of which engages in the activities described under subparagraph b(1).

ARTICLE 7

Extent of Assistance

1. Compulsory measures referred to in Article 4 shall also be employed in the requested State even if the investigation or proceeding in the requesting State concerns acts which would not be punishable under the law in the requested State, or which are not listed in the Schedule, or neither. This paragraph is subject to the limitations of paragraph 2.

2. Assistance under this Chapter shall be rendered in investigations or proceedings involving violations of provisions on taxes on income referred to in Article I of the Convention of May 24, 1951, for the Avoidance of Double Taxation with Respect to Taxes on Income only if, according to the information furnished by the requesting State:

(a) the person involved in the investigation or proceeding is reasonably suspected by it of belonging to an upper echelon of an organized criminal group or of participating significantly, as a member, affiliate or otherwise, in any important activity of such a group;

(b) the available evidence is in its opinion insufficient, for the purpose of a prosecution which has a reasonable prospect of success, to link such person with the crimes committed by the organized criminal group with which he is connected in the sense of paragraph 2 of Article 6; and

(c) it has been reasonably concluded by it that the requested assistance will substantially facilitate the successful prosecution of such person and should result in his imprisonment for a sufficient period of time so as to have a significant adverse effect on the organized criminal group.

3. Paragraphs 1 and 2 apply only if the requesting State reasonably concludes that the securing of the information or evidence is not possible without the cooperation of the authorities in the requested State, or that it would place unreasonable burdens on the requesting State or a state or canton thereof.

ARTICLE 8

Applicable Procedure

1. In all cases where this Chapter requires a reasonable suspicion or a reasonable conclusion, or the opinion of the requesting State, that State shall furnish to the requested State information in its possession on the basis of which suspicion, conclusion, or opinion has been arrived at. However, this shall not oblige the requesting State to identify the persons who have provided such information. Upon application of the requesting State, the Central Authority of the requested State shall treat any information furnished in the request as confidential.

2. The Central Authority of the requested State shall have the right to review the determination of the requesting State as to the applicability of this Chapter. It need

not accept such determination where the suspicion, conclusion or opinion underlying such determination has not been made credible.

3. In rendering assistance pursuant to paragraph 2 of Article 7, all courts and authorities in the requested State shall apply such investigative measures as are provided for in its rules of criminal procedure.

4. Provisions in municipal law which impose restrictions on tax authorities concerning the disclosure of information shall not apply to disclosure to all authorities engaged in the execution of a request under paragraph 2 of Article 7. This paragraph shall not limit the applicability of provisions for disclosure otherwise provided by municipal laws in the Contracting States.

CHAPTER III

OBLIGATIONS OF REQUESTED STATE IN EXECUTING REQUESTS

ARTICLE 9

General Provisions for Executing Requests

1. Except as otherwise provided in this Treaty, a request shall be executed in accordance with the usual procedure under the laws applicable for investigations or proceedings in the requested State with respect to offenses committed within its jurisdiction.

2. The requested State may, upon application by the requesting State, consent to apply the procedures applicable in that State for:

(*a*) investigations or proceedings; and

(*b*) certification and transmission of documents, records or articles of evidence;

to the extent that such procedures are not incompatible with the laws in the requested State. A search or seizure may only be made in accordance with the law of the place where the request is executed.

3. The appropriate judicial officer and other officials in each of the two States shall, by all legal means within their power, assist in the execution of requests from the other State.

ARTICLE 10

Duty to Testify in Requested State

1. A person whose testimony or statement is requested under this Treaty shall be compelled to appear, testify and produce documents, records and articles of evidence in the same manner and to the same extent as in criminal investigations or proceedings in the requested State. Such person may not be so compelled if under the law in either State he has a right to refuse. If any person claims that such a right is applicable in the requesting State, the requested State shall, with respect thereto, rely on a certificate of the Central Authority of the requesting State.

2. The Swiss Central Authority shall, to the extent that a right to refuse to give testimony or produce evidence is not established, provide evidence or information which would disclose facts which a bank is required to keep secret or are manufacturing or business secrets, and which affect a person who, according to the request, appears not to be connected in any way with the offense which is the basis of the request, only under the following conditions:

(*a*) the request concerns the investigation or prosecution of a serious offense;

(*b*) the disclosure is of importance for obtaining or proving facts which are of substantial significance for the investigation or proceedng; and

(*c*) reasonable but unsuccessful efforts have been made in the United States to obtain the evidence or information in other ways.

3. Whenever the Swiss Central Authority determines that facts of the nature referred to in paragraph 2 would have to be disclosed in order to comply with the request, it shall request from the United States information indicating why it believes that paragraph 2 does not prevent such disclosure. Where, in the opinion of the Swiss Central Authority, such belief has not been made credible, it need not accept the determination of the United States.

4. Any acts of a witness or other person, in connection with the execution of a request, which would be punishable if committed against the administration of justice in the requested State shall be prosecuted in that State in accordance with the laws and enforcement policies therein, regardless of the procedure applied in executing the request.

ARTICLE 11

Locating Persons

If in the opinion of the requesting State information as to the location of persons who are believed to be within the territory of the requested State is of importance in an investigation or proceeding pending in the requesting State, the requested State shall make every effort to asecertain the whereabouts and addresses of such persons in its territory.

ARTICLE 12

Special Procedural Provisions

1. Upon express application of the requesting State that the testimony or statement of a person be under oath or affirmation, the requested State shall comply with such request even in the event no provisions therefor exist in its procedural laws. In that event, the time and form of the oath or affirmation shall be governed by the procedural provisions applicable in the requesting State. Where an oath is incompatible with law, an affirmation may be substituted, even though an oath has been requested, and testimony or a statement so obtained shall be admitted in the requesting State as though given under oath.

2. The presence of the suspect or defendant, his counsel or both, at the execution of a request will be permitted whenever the requesting State so requests.

3. (*a*) Where the presence of representatives of an authority in the requesting State at the execution of a request is required by its law in order to obtain admissible evidence, the requested State shall permit such presence.

(*b*) Where the requested State agrees that the complexity of the matter involved or other special factors described in the request for assistance indicate that such presence is likely to substantially facilitate a successful prosecution, it shall also permit such presence.

(*c*) In other cases the requested State may also permit such presence upon application by the requesting State.

(*d*) Nevertheless, if such presence would result in providing to the United States facts which in Switzerland a bank is required to keep secret, or facts which are manufacturing or business secrets therein, Switzerland shall permit such presence only where the requirements for disclosure in paragraph 2 of Article 10 have been met.

(*e*) Switzerland may, furthermore, at any time in the course of the execution of a request, exclude such representatives until it has been determined whether such requirements for disclosure are met.

4. Any person whose presence is permitted under paragraph 2 or 3 shall have, in accordance with the procedures in the requested State, the right to ask questions which are not improper under the laws of either State.

5. If in the requested State testimony or statements are sought in accordance with the procedures in the requesting State, persons giving such testimony or statements shall be entitled to retain counsel who may assist them during the proceeding. Such persons shall be expressly advised at the beginning of the proceeding of their right to counsel. After consent has been given by the Central Authority of the requesting State, counsel may be appointed, if necessary.

6. If the requesting State expressly requests that a verbatim transcript be taken, the executing authority shall make every effort to comply.

CHAPTER IV

OBLIGATIONS OF REQUESTING STATE

ARTICLE 13

Restrictions on Use of Testimony

Any testimony obtained pursuant to this Treaty from a citizen of the requested State, interrogated as a witness and not advised of his right to refuse testimony under paragraph 1 of Article 10, may not be introduced as evidence against such witness in a criminal proceeding in the requesting State unless the prosecution is for an offense against the administration of justice.

ARTICLE 14

Exclusion of Sanctions

No citizen of the requested State who has refused to give non-compulsory testimony or information or against whom compulsory measures had to be applied in the requested State pursuant to this Treaty shall be subjected to any legal sanction in the requesting State solely because he has exercised such rights as permitted under this Treaty.

ARTICLE 15

Protection of Secrecy

Evidence or information disclosed by the requested State pursuant to paragraph 2 of Article 10 shall, if in the opinion of that State its importance so requires and an application to that effect is made, be kept from public disclosure to the fullest extent compatible with constitutional requirements in the requesting State.

CHAPTER V

DOCUMENTS, RECORDS AND ARTICLES OF EVIDENCE

ARTICLE 16

Court and Investigative Documents

1. Upon request, the requested State shall make available to the requesting State on the same conditions and to the same extent as they would be available to authorities performing comparable functions in the requested State the following documents and articles:

(*a*) judgments and decisions of courts; and

(*b*) documents, records, and articles of evidence, including transcripts and official summaries of testimony, contained in the files of a court or an investigative authority, whether or not obtained by grand juries.

2. Items specified in subparagraph *b* of paragraph 1 shall be furnished only if they relate solely to a closed case, or to the extent determined by the Central Authority of the requested State in its discretion.

ARTICLE 17

Completeness of Documents

All documents and records to be furnished, whether originals or copies thereof or extracts therefrom, shall be complete and in unedited form except to the extent paragraph 1 of Article 3 applies or the documents or records would disclose facts described in paragraph 2 of Article 10 and the requirements of subparagraphs a, b and c thereof are not met. Upon application of the requesting State, the requested State shall make every effort to furnish original documents and records.

ARTICLE 18

Business Records

1. If the production of a document, including a book, paper, statement, record, account or writing, or extract therefrom, other than an official document provided for in Article 19, of whatever character and in whatever form is requested, the offical executing the request shall, upon specific

request of the requesting State, require, the production of such document pursuant to a procedural document. The official shall interrogate under oath or affirmation the person producing such document and examine it in order to determine if it is genuine and if it was made as a memorandum or record of an act, transaction, occurrence, or event, if it was made in the regular course of business and if it was the regular course of such business to make such document at the time of the act, transaction, occurrence or event recorded therein or within a reasonable time thereafter.

2. The official shall cause a record of the testimony taken to be prepared and shall annex it to the document.

3. If the official is satisfied as to the matters set forth in paragraph 1, he shall certify as to the procedure followed and his determinations and shall authenticate by his attestation shall be signed by the official and state his official position. The seal of the authority executing the request shall be affixed.

4. Any person subsequently transmitting the authenticated document shall certify as to the genuineness of the signature and the official position of the attesting person or, if there are any prior certifications, of the last certifying person. The final certification may be made by:

(*a*) an official of the Central Authority of the requested State;

(*b*) a diplomatic or consular official of the requesting State stationed in the requested State; or

(*c*) a diplomatic or consular official of the requested State stationed in the requesting State.

5. Where a request under this Article pertains to a pending court proceeding, the defendant, upon his application, may be present or represented by counsel or both, and may examine the person producing the document as to its genuineness and admissibility. In the event the defendant elects to be present or represented, a representative of the requesting State or a state or canton thereof may also be present and put such questions to the witness.

6. Any document, copy thereof, entry therein of extract therefrom authenticated in accordance with this Article, and not otherwise inadmissible, shall be admissible as evidence of the act, transaction, occurrence or event in any court in the requesting State without any additional foundation or authentication.

7. In the event that the genuineness of any document authenticated in accordance with this Article is denied by any party to a proceeding, he shall have the burden of establishing to the satisfaction of the court before which the proceeding is pending that such document to be excluded from evidence on such ground.

ARTICLE 19

Official Records

1. Upon request, the requested State shall obtain a copy of an official record, or an entry therein, and shall have it authenticated by the attestation of an authorized person. Such attestation shall be signed by, and state the official position of, the attesting person. The seal of the authority executing the request shall be affixed thereto. The procedures for certification set forth in paragraph 4 of Article 18 shall be followed.

2. In addition to any provision therefor in the municipal law of the requesting State, a copy of any official record in the requested State, or entry therein, shall be admissible in evidence without any additional foundation or authentication if authenticated and certified as provided in paragraph 1 and otherwise admissible.

ARTICLE 20

Testimony to Authenticate Documents

1. The Central Authority of the requested State shall have the authority to summon persons to appear in that State before representatives of the requesting State or a state or canton thereof in order to produce documents, records or articles of evidence supplied or to be supplied by the requested State and give testimony with respect thereto, whenever, under the applicable law in the requesting State, that is necessary for their admissibility in evidence in a criminal proceeding and such State makes a request to that effect.

2. The Central Authority of the requested State shall have the right to designate a representative to be present at the proceeding under paragraph 1. He shall be entitled to object to questions which either:

(*a*) are incompatible with the law and practices in the requested State; or

(*b*) go beyond the scope of paragraph 1.

ARTICLE 21

Rights in Articles of Evidence

If the requested State, a state or canton thereof, or a third party claims title or other rights in documents, records or articles of evidence, the production of which was requested or effected, such rights shall be governed by the law of the place where they have been acquired. An obligation for production or surrender under this Treaty shall take precedence over the rights referred to in the preceding sentence. These rights, however, remain otherwise unaffected.

CHAPTER VI

SERVICE FOR REQUESTING STATE AND RELATED PROVISIONS

ARTICLE 22

Service of Documents

1. The competent authority in the requested State shall effect service of any procedural document, including a court judgment, decision or similar document, which is transmitted to it for this purpose by the requesting State. Unless service in a particular form is requested, it may be effected by registered mail. The requested State shall, upon application, effect personal service or, if consistent with the law in the requested State, service in any other form.

2. The requested State may refuse to effect service of legal process on a person, other than a national of the requesting State, calling for his appearance as a witness in that State if the person to be served is a defendant in the criminal proceeding to which the request relates.

3. A request must be received by the Central Authority of the requested State not later than 30 days before the date set for any appearance. This time must be taken into consideration when setting the date for the appearance and forwarding the request. This period may be shortened by the Central Authority of the requested State in very urgent cases.

4. Proof of service shall be made by a receipt dated and signed by the person served or by a declaration specifying the form and date of service and signed by the person effecting it.

ARTICLE 23

PERSONAL APPEARANCE

1. When the personal appearance of a person, other than a defendant in the criminal proceeding to which the request relates, is considered especially necessary in the requesting State, such State shall so indicate in its request for service and shall state the subject matter of the interrogation. It will also indicate the kind and amount of allowances and expenses payable.

2. The executing authority shall invite the person served to appear before the appropriate authority in the requesting State and ask whether he agrees to the appearance. The requested State shall promptly notify the requesting State of the answer.

3. If requested by the requesting State, the requested State may grant an advance payment to the person agreeing to appear. This shall be recorded on the document calling for his appearance and taken into consideration by the requesting State when making payment.

ARTICLE 24

EFFECT OF SERVICE

1. A person, other than a national of the requesting State, who has been served with legal process calling for his appearance in the requesting State, pursuant to Article 22, shall not be subjected to any civil or criminal forfeiture, other legal sanction or measure of restraint because of his failure to comply therewith, even if the document contains a notice of penalty.

2. The effect in the proceeding to which any procedural document served pursuant to Article 22 relates, araising from a refusal to accept it or comply therewith, shall be governed by the law in the requesting State.

3. Service of a procedural document pursuant to Article 22 on a person, other than a national of the requesting State, does not confer jurisdiction in the requesting State.

ARTICLE 25

COMPELLING TESTIMONEY IN REQUESTING STATE

1. A person appearing before an authority in the requesting State pursuant to a legal process served under this Treaty may not be compelled to give testimony, make a statement or produce a document, record or article of evidence if under the law in either State he has a right to refuse, or if paragraph 2 below is applicable. Such a right shall be deemed to exist in the requested State to the extent that it could be invoked there if the acts which are the subject of the investigation or proceeding had been committed within its jurisdiction.

2. Such a person appearing before an authority in the United States may only be compelled to give testimony, make a statement or produce a document, record or article of evidence which would disclose facts described in paragraph 2 of Article 10 to the extent that the requirements of subparagraphs *a*, *b* and *c* thereof are met.

3. If any person claims that a right to refuse, pursuant to paragraph 1, exists in the requested State, or invokes the restrictions of paragraph 2, the requesting State shall in that regard rely on a certificate of the Central Authority of the requesting State except that, after due consideration of the certificate, the requesting State may make its own determination as to the applicability of subparagraphs *a*, *b* and *c* of paragraph 2 of Article 10.

ARTICLE 26

Transfer of Arrested Persons

1. A request pursuant to Article 22 may also be made if a person held in custody by an authority in the requested State is needed as a witness or for purposes of confrontation before an authority in the requesting State.

2. The person in custody shall be made available to the requesting State if:

(*a*) he consents;

(*b*) no substantial extension of his custody is anticipated; and

(*c*) the Central Authority of the requested State determines that there are no other important reasons against the transfer.

3. Execution of the request may be postponed for as long as the presence of the person is necessary for a criminal investigation or proceeding in the requested State.

4. The requesting State shall have authority, and be obligated, to keep the person in custody unless the requested State authorizes his release. The requesting State shall return the person to the custody of the requested State as soon as circumstances permit or as otherwise agreed. That person, however, shall have the right to use such remedies and recourses as are provided by the law in the requesting State to assure that his custody or return is consistent with this Article and the Constitution of that State.

5. The requesting State shall not decline to return a person transferred solely because such person is a national of that State.

ARTICLE 27

Safe Conduct

1. A person appearing before an authority in the requesting State pursuant to legal process served under this Treaty shall not be prosecuted or, except as provided in paragraph 4 of Article 26, be detained or subjected to any other restriction of his personal liberty in that State with respect to any act or conviction which preceded his departure from the requested State.

2. The restrictions of paragraph 1 shall not apply as to a person of whatever nationality appearing for the purpose of answering a criminal charge with respect to any act or conviction which is mentioned in the document calling for his appearance, or a lesser included offense.

3. The safe conduct provided in this Article shall cease if ten days after the person appearing has been officially notified that his appearance is no longer required he has not used the opportunity to leave the requesting State or, after having left it has returned.

CHAPTER VII

GENERAL PROCEDURES

ARTICLE 28

Central Authority

1. Requests for assistance shall be handled by a Central Authority. For the United States, the Central Authority shall be the Attorney General or his designee. For Switzerland, the Central Authority shall be the Division of Police of the Federal Department of Justice and Police in Bern.

2. Such requests which are approved by the Central Authority of the requesting State shall be made by that Authority on behalf of federal, state or cantonal courts or authorities which by law have been authorized to investigate or prosecute offenses.

3. The Central Authorities of the two States may communicate with each other directly for the purpose of carrying out the provisions of this Treaty.

ARTICLE 29

CONTENT OF REQUESTS

1. A request for assistance shall indicate the name of the authority conducting the investigation or proceeding to which the request relates and insofar as possible shall also indicate:

(a) the subject matter and nature of the investigation or proceeding and, except in cases of requests for service, a description of the essential acts alleged or sought to be ascertained;

(b) the principal need for the evidence or information sought; and

(c) the full name, place and date of birth, address and any other information which may aid in the identification of the person or persons who are at the time of the request the subject of the investigation or proceeding.

2. Such requests, to the extent necessary and insofar as possible, shall include:

(a) information described under subparagraph c of paragraph 1 concerning any witness or other person who is affected by the request;

(b) a description of the particular procedure to be followed;

(c) a statement as to whether sworn or affirmed testimony or statements are required;

(d) a description of the information, statement or testimony sought;

(e) a description of the documents, records or articles of evidence to be produced or preserved as well as a description of the appropriate person to be asked to produce them and the form in which they should be reproduced and authenticated; and

(f) information as to the allowances and expenses to which a person appearing in the requesting State will be entitled.

ARTICLE 30

Language

1. Requests for assistance and all accompanying documents shall be accompanied by a translation into French in the case of a request to Switzerland, and into English in the case of a request to the United States. The Swiss Central Authority may, whenever necessary, request a translation into German or Italian instead of French.

2. The translation of all transcripts, statements, or documents made, or documents or records obtained, in executing the request shall be incumbent upon the requesting State.

ARTICLE 31

Execution of Requests

1. If, in the opinion of the Central Authority of the requested State, a request does not comply with the provisions of this Treaty, it shall immediately so advise the Central Authority of the requesting State, giving the reasons therefor. The Central Authority of the requested State may take such preliminary action as it may deem advisable.

2. If the request complies with the Treaty, the Central Authority of the requested State shall transmit the request for execution to the federal, state or cantonal court or authority having jurisdiction or selected by the Central Authority as appropriate. The court or authority to which a request is transmitted shall have all of the jurisdiction, authority and power in executing the request which it has in investigations or proceedings with respect to an offense committed within its jurisdiction. In the case of a request by Switzerland, this paragraph shall authorize the use of grand juries to compel the attendance and testimony of witnesses and the production of documents, records and articles of evidence.

3. The court or authority to which a request is transmitted pursuant to paragraph 2 shall, when necessary, issue a procedural document in accordance with its own procedural law to require the attendance and statement or testimony of persons, or the production or preservation of documents, records or articles of evidence.

4. With the consent of the Central Authority of the requesting State, execution of a request may be entrusted to an appropriate private party, if circumstances so require.

5. A request shall be executed as promptly as circumstances permit.

ARTICLE 32

Return of Completed Requests

1. Upon completion of a request, the executing authority shall return the original request together with all information and evidence obtained, indicating place and time of execution, to the Central Authority of the requested State. The latter shall forward it to the Central Authority of the requesting State.

2. The delivery of documents, records or articles of evidence may be postponed if they are needed in an official action pending in the requested State and, in case of documents or records, copies have been offered to the requesting State.

ARTICLE 33

Inability to Comply

The requested State shall promptly inform the requesting State with a brief statement of the reasons when a request cannot be fully complied with because:

(a) of the limitations of this Treaty;

(b) after diligent search, the person whose testimony or statement is sought or who is to be served cannot be located or is believed to be dead;

(c) after diligent search, the evidence cannot be located; or

(d) of other physical impediments.

ARTICLE 34

Costs of Assistance

1. The following expenses incurred by an authority in the requested State in carrying out a request shall, upon application, be paid or reimbursed by the requesting State: travel expenses; fees of experts; costs of stenographic reporting by other than salaried government employees; costs of interpreters; costs of translation; and fees of private counsel appointed with the approval of the requesting State for a person giving testimony or for a defendant.

2. No reimbursement shall be claimed for any other expenses.

3. All expenses incurred in relation to a request pursuant to Article 26 shall be borne by the requesting State.

4. No bond, guarantee, or other security for the expected costs shall be required.

ARTICLE 35

Return of Articles of Evidence

Any original documents, records or articles of evidence, delivered in execution of a request, shall be returned by the requesting State as soon as possible, unless the requested State declares that return will not be required. However, an authority in the requesting State shall be entitled to retain articles for disposition in accordance with its law if such articles belong to persons in that State and if no title or other rights are claimed in such articles by a person in the requested States, or if any claims with respect to such rights have been secured.

CHAPTER VIII

NOTICE AND REVIEW OF DETERMINATIONS

ARTICLE 36

Notice

Upon receipt of a request for assistance, the requested State shall notify:

(a) any person from whom a statement or testimony or documents, records, or articles of evidence are sought;

(b) any suspect or defendant in a criminal investigation or proceeding in the requesting State who resides in the requested State if the municipal law in the requesting State generally or for admissibility of evidence so requires, and that State so requests; and

(c) any defendant in a criminal proceeding in the requesting State, where the law in the requested State requires such notice.

ARTICLE 37

Review of Determinations

1. The existence of restrictions in this Treaty shall not give rise to a right on the part of any person to take any action in the United States to suppress or exclude any evidence or to obtain other judicial relief in connection with requests under this Treaty, except with respect to paragraph 2 of Article 9; paragraph 1 of Article 10; Article 13; paragraph 7 of Article 18; paragraph 1 of Article 25; and Articles 26 and 27.

2. The right to and procedures for appeal in Switzerland against decisions of Swiss authorities in connection with requests under this Treaty shall be regulated in accordance with this Treaty by domestic legislation.

3. In the case of any claim that a State either as the requesting State or the requested State, has failed to comply with obligations imposed by this Treaty and as to such claim a remedy is not provided by paragraph 1 or 2, the claimant may inform the Central Authority of the other State. Where such claim is deemed by that other State to require explanation, an inquiry shall be put to the first-mentioned State; if necessary, the matter shall be resolved under Article 39.

CHAPTER IX

FINAL PROVISIONS

ARTICLE 38

Effect on Other Treaties and Municipal Laws

1. Whenever the procedures provided by this Treaty would facilitate assistance in criminal matters between the Contracting Parties provided under any other convention or under the law in the requested State, the procedure provided by this Treaty shall be used to furnish such assistance. Assistance and procedures provided by this Treaty shall be without prejudice to, and shall not prevent or restrict, any available under any other international convention or arrangement or under the municipal laws in the Contracting States.

2. This Treaty shall not prevent the Contracting Parties from conducting investigations and proceedings in criminal matters in accordance with their respective municipal laws.

3. The provisions of this Treaty shall take precedence over any inconsistent provisions of the municipal laws in the Contracting States.

4. The furnishing of information for use in cases concerning taxes which come under the Convention of May 24, 1951, for the Avoidance of Double Taxation with Respect to Taxes on Income, shall be governed exclusively by the provisions thereof, except for investigations or proceedings described in Chapter II of this Treaty to the extent that the conditions in paragraph 2 of Article 7 are satisfied.

ARTICLE 39

Consultation and Arbitration

1. When it appears advisable, representatives of the Central Authorities may exchange views in writing or meet together for an oral exchange of opinions on the interpretation, application or operation of this Treaty generally or as to a specific case.

2. The Central Authorities shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Treaty. Any dispute between the Contracting Parties as to the interpretation or application of the present Treaty, not satisfactorily resolved by the Central Authorities or through diplomatic negotiation between the Contracting Parties, shall, unless they agree to settlement by some other means, be submitted, upon request of either Contracting Party, to an arbitral tribunal of three members. Each Contracting Party shall appoint one arbitrator who shall be a national of that State and these two arbitrators shall nominate a chairman who shall be a national and resident of a third State.

3. If either Contracting Party fails to appoint its arbitrator within three months from the date of the request for the submission of the dispute to arbitration, he shall be appointed, at the request of either Party, by the President of the International Court of Justice.

4. If both arbitrators cannot agree upon the choice of a chairman within two months following their appointment, he shall be appointed at the request of either Contracting Party, by the President of the International Court of Justice.

5. If, in the cases specified under paragraphs 3 and 4, the President of the International Court of Justice is prevented from acting or is a national of one of the Parties, the appointments shall be made by the Vice-President. If the Vice-President is prevented from acting or is a national of one of the Parties, the appointments shall be made by the next senior Judge of the Court who is not a national of either party.

6. Unless the Contracting Parties decide otherwise, the tribunal shall determine its own procedure.

7. The decisions of the tribunal shall be binding on the Contracting Parties.

ARTICLE 40

Definition of Terms

1. In this Treaty:

(*a*) the terms "requesting State" and "requested State" shall be deemed to mean the United States of America or the Swiss Confederation, as the context requires;

(*b*) the term "state" or "states" shall be deemed to mean any one or more of the states of the United States of America, its territories and possessions, the District of Columbia and the Commonwealth of Puerto Rico, as the context requires:

(*c*) The term "canton" or "cantons" shall be deemed to mean any one or more of the cantons of the Swiss Confederation;

(*d*) in any place where the word "in" precedes "requesting State" or 'requested State", the phrase is used to refer to all of the territory under jurisdiction of the United States including its states as defined in subparagraph b, and subdivisions thereof, or to the territory of Switzerland, including its cantons, as, and to the extent, the context requires; and

(*e*) references to law or procedure in the requesting State or law or procedure to be used in executing requests, are, respectively, intended to refer to the law or procedure which is applicable to the investigation or proceeding being conducted or which would ordinarily be used in comparable investigations or proceedings by the authority executing the request.

2. Where a provision of this Treaty requires the use of a seal by an authority, other than the Central Authority, that authority may employ a hand stamp in lieu thereof, if that authority customarily uses such a stamp in connection with its own matters of like importance. The imprint of such stamp shall be treated as a seal for the purposes of this Treaty and the admissibility of evidence.

3. The expression "articles of evidence" shall not be construed to exclude items which may not be admissible in evidence.

4. Provisions in this Treaty as to admissibility of evidence shall not affect the principle of free consideration of evidence insofar as the courts of Switzerland are concerned.

5. References to assistance required to be, or which may be, furnished pursuant to this Treaty shall be deemed to include assistance of a compulsory as well as noncompulsory nature.

6. References to a "request" or "request for assistance" shall be deemed to include any attachments and supplements thereto.

7. References to "acts" in connection with offenses shall be deemed to include omissions.

8. The term "defendant" shall, unless the context otherwise indicates, be deemed to include a suspect who is a subject of an investigation.

9. The term "counsel" shall be deemed to mean counsel admitted in either State.

10. The term "antitrust laws", as applied to laws in the United States, refers to those provisions compiled in Chapter 1, Title 15, United States Code, and Chapter 2 of the same Title up to but not including Section 77a, et seq.

ARTICLE 41

Entry into Force and Termination

1. This Treaty shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible.

2. This Treaty shall enter into force 180 days after the date of the exchange of the instruments of ratification and apply with respect to acts committed before or after entry into force of this Treaty.

3. This Treaty may be terminated by either Contracting Party at any time after five years from entry into force, provided that at least six months prior notice of termination has been given in writing.

IN WITNESS WHEREOF the Plenipotentiaries have signed this Treaty.

DONE at Bern, in duplicate, in the English and German languages, the two texts being equally authoritative, this 25th of May, 1973.

For the President of the United States of America:

SHELBY CULLOM DAVIS.

For the Swiss Federal Council:

A. WEITNAUER.

SCHEDULE

OFFENSES FOR WHICH COMPULSORY MEASURES ARE AVAILABLE

1. Murder.
2. Voluntary manslaughter.
3. Involuntary manslaughter.
4. Malicious wounding; inflicting grievous bodily harm intentionally or through gross negligence.
5. Threat to commit murder; threat to inflict grievous bodily harm.
6. Unlawful throwing or application of any corrosive or injurious substances upon the person of another.
7. Kidnaping; false imprisonment or other unlawful deprivation of the freedom of an individual.
8. Willful nonsupport or willful abandonment of a minor or other dependent person when the life of that minor or other dependent person is or is likely to be injured or endangered.
9. Rape; indecent assault.
10. Unlawful sexual acts with or upon children under the age of sixteen years.
11. Illegal abortion.
12. Traffic in women and children.
13. Bigamy.
14. Robbery.
15. Larceny; burglary; house-breaking or shop-breaking.
16. Embezzlement; misapplication or misuse of funds.
17. Extortion; blackmail.
18. Receiving or transporting money, securities or other property, knowing the same to have been embezzled, stolen or fraudulently obtained.
19. Fraud, including:

(*a*) obtaining property, services, money or securities by false pretenses or by defrauding by means of deceit, falsehood or any fraudulent means;

(*b*) fraud against the requesting State, its states or cantons or municipalities thereof;

(*c*) fraud or breach of trust committed by any person;

(*d*) use of the mails or other means of communication with intent to defraud or deceive, as punishable under the laws of the requesting State.

20. Fraudulent bankruptcy.
21. False business declarations regarding companies and cooperative associations, inducing speculation, unfaithful management, suppression of documents.
22. Bribery, including soliciting, offering and accepting.
23. Forgery and counterfeiting, including:

(*a*) the counterfeiting or forgery of public or private securities, obligations, instructions to make payment, invoices, instruments of credit or other instruments;

(*b*) the counterfeiting or alteration of coin or money;

(*c*) the counterfeiting or forgery of public seals, stamps or marks;

(*d*) the fraudulent use of the foregoing counterfeited or forged articles;

(*e*) knowingly and without lawful authority, making or having in possession any instrument, instrumentality, tool or machine adapted or intended for the counterfeiting of money, whether coin or paper.

24. Knowingly and willfully making, directly or through another, a false, fictitious or fraudulent statement or representation in a matter within the jurisdiction of any department or agency in the requesting State, and relating to an offense mentioned in this

Schedule or otherwise falling under this Treaty.

25. Perjury, subornation of perjury and other false statements under oath.

26. Offenses against the laws relating to bookmaking, lotteries and gambling when conducted as a business.

27. Arson.

28. Willful and unlawful destruction or obstruction of a railroad, aircraft, vessel or other means of transportation or any malicious act done with intent to endanger the safety of any person travelling upon a railroad, or in any aircraft, vessel or other means of transportation.

29. Piracy; mutiny or revolt on board an aircraft or vessel against the authority of the captain or commander of such aircraft or vessel; any seizure or exercise of control, by force or violence or threat of force or violence, of an aircraft or vessel.

30. Offenses against laws (whether in the form of tax laws or other laws) prohibiting, restricting or controlling the traffic in, importation or exportation, possession, concealment, manufacture, production or use of:

(a) narcotic drugs, cannabis sativa-L, psychotropic drugs, cocaine and its derivatives;

(b) poisonous chemicals and substances injurious to health;

(c) firearms, other weapons, explosive and incendiary devices;

when violation of such laws causes the violator to be liable to criminal prosecution and imprisonment.

31. Unlawful obstruction of court proceedings or proceedings before governmental bodies or interference with an investigation of a violation of a criminal statute by the influencing, bribing, impeding, threatening, or injurying of any officer of the court, juror, witness, or duly authorized criminal investigator.

32. Unlawful abuse of official authority which results in deprivation of the life, liberty or property of any person.

33. Unlawful injury, intimidation or interference with voting or candidacy for public office, jury service, government employment, or the receipt or enjoyment of benefits provided by government agencies.

34. Attempts to commit, conspiracy to commit, or participation in, any of the offenses enumerated in the preceding paragraphs of this Schedule; accessory after the fact to the commission of any of the offenses enumerated in this Schedule.

35. Any offense of which one of the above listed offenses is a substantial element, even if, for purposes of jurisdiction of the United States Government, elements such as transporting, transportation, the use of the mails or interstate facilities are also included.

The PRESIDING OFFICER. Without objection, the treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The assistant legislative clerk read as follows:

*Resolved*, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty with the Swiss Confederation on Mutual Assistance in Criminal Matters, signed at Bern on May 25, 1973, six exchanges of interpretative letters of the same date, and an exchange of interpretative letters dated December 23, 1975, (Ex. F, 94th Congress, 2nd Sess.)

## ORDER FOR ROLLCALL VOTE ON MONDAY ON FOUR TREATIES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the one rollcall vote on Monday for which the distinguished majority leader previously entered an order, encompassing three treaties and conventions—Executive B, Executive A, Executive G—also include the vote on Executive F (94th Cong., 2d sess.), so that the one rollcall vote on Monday will count for four rollcall votes in the RECORD.

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

Mr. ROBERT C. BYRD. Mr. President, have the yeas and nays been ordered on the declaration and the adoption of the resolution of ratification on the Treaty of Friendship and Cooperation with Spain and the other four treaties and conventions?

The PRESIDING OFFICER. They have not been so ordered.

Mr. ROBERT C. BYRD. Mr. President, as in executive session. I ask unanimous consent that it be in order to order, with one show of seconds, the yeas and nays on the declaration and the resolution of ratification on the Treaty of Friendship and Cooperation with Spain and Executive B, Executive A, Executive G, and Executive F.

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

Mr. ROBERT C. BYRD. I ask unanimous consent that it be in order at any time to order the yeas and nays thereon.

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

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

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

Mr. ROBERT C. BYRD. As in executive session, I ask for the yeas and nays on the various treaties.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

## REMOVAL OF INJUNCTION OF SECRECY—EXECUTIVE I, 94TH CONGRESS, SECOND SESSION

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Protocols for the Third Extension of the Wheat Trade Convention and Food Aid Convention constituting the International Wheat Agreement, 1971, open for signature in Washington from March 17 through April 7, 1976 (Executive I, 94th Congress, second session), transmitted to the Senate today by the President of the United States, and that the protocols with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed in the RECORD.

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

The message from the President is as follows:

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocols for the Third Extension of the Wheat Trade Convention and the Food Aid Convention constituting the International Wheat Agreement, 1971, open for signature in Washington from March 17 through April 7, 1976. The Protocols were formulated by a Conference which met in London on February 20, 1976.

I transmit also, for the information of the Senate, the report of the Department of State with respect to the Protocols.

The Protocol for the Third Extension of the Wheat Trade Convention, 1971, extends the Convention until June 30, 1978, and maintains the framework for international cooperation in wheat trade matters. It also continues the existence of the International Wheat Council.

The Protocol for the Third Extension of the Food Aid Convention, 1971, also extends until June 30, 1978, commitments of parties to provide minimum annual quantities of food aid to developing countries. The United States intends not to deposit ratification of this Protocol unless the other major donors become a party to the Protocol and formally record this intention by a written declaration to that effect made at the time of signing.

Both Protocols provide that instruments of ratification shall be deposited no later than June 18, 1976. The Wheat Council and Food Aid Committee may, however, grant an extension of time to any signatory government that has not deposited an instrument of ratification by that date.

It is my hope that the Senate will give early and favorable consideration to the two Protocols so that ratification by the United States can be effected and instruments of ratification can be deposited without undue delay.

GERALD R. FORD.

THE WHITE HOUSE, *June 18 1976*.

## ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY, JUNE 21, 1976, AND FOR EXECUTIVE SESSION THEREAFTER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, there be a brief period for the transaction of routine morning business not to extend beyond the hour of 10:30 a.m.; that at the conclusion of the period for the transaction of routine morning business, the Senate go into executive session to proceed with the debate on the various treaties and conventions.

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

## ORDER FOR RESUMPTION OF LEGISLATIVE SESSION ON MONDAY AND CONSIDERATION OF UNFINISHED BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the various treaties and conventions on Monday, the Senate

resume legislative session and resume consideration of the unfinished business.

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

## PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 10 a.m. on Monday. At least six rollcall votes can come early, beginning as early as 12 o'clock noon. I ask unanimous consent that the first vote not occur prior to the hour of 12 noon.

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

Mr. ROBERT C. BYRD. So, Mr. President, there will be six rollcall votes. Actually, there will be three rollcall votes, but the third rollcall vote will count for four rollcall votes, so that, in totality, there will be three callings of the roll, with six rollcall votes appearing in the RECORD.

I ask unanimous consent that on the second and third backup votes the rollcall be limited to 10 minutes on each rollcall. Mr. President, there will be a vote on the declaration and a separate vote on the adoption of the resolution of ratification, will there not?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. So the first vote will be on the declaration and that will be followed by a vote on the adoption of the resolution of ratification, that will be followed by another rollcall vote which will include four treaties and conventions.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Now, Mr. President, let me begin again. The Senate will convene at 10 a.m. on Monday. There will be six rollcall votes, the first to occur no earlier than the hour of 12 o'clock noon, but no later than the hour of 12:30 p.m. There will be three calls of the roll back-to-back, the second and third of which will be 10-minute rollcalls. The third rollcall vote will count for four rollcall votes.

The votes will occur first, on the declaration and, second on the adoption of the resolution of ratification, with declaration, of Executive E, 94th Congress, second session, Treaty of Friendship and Cooperation with Spain.

The four rollcall votes, which will be included in one call of the roll are as follows:

Ex. B (94th Cong., 2d sess.), Supplementary Extradition Treaty with Spain.

Ex. A (94th Cong., 2d sess.), Extradition Treaty with the United Kingdom of Great Britain and Northern Ireland.

Ex. G (94th Cong., 2d sess.), Convention on Registration of Objects Launched into Outer Space.

Ex. F (94th Cong., 2d sess.), Treaty with the Swiss Confederation of Mutual Assistance in Criminal Matters.

Following the series of votes, the Senate will resume consideration of the unfinished business, and rollcall votes will occur throughout the afternoon on the tax bill and, possibly, on other matters.

Now, Mr. President, the Senate will still be on the tax bill next week, as I have indicated. But at least four appropriation bills are going to be ready for action in the near future, and other measures will be ready from time to time if it seems advisable and appropriate to sandwich them in.

By necessity, the Senate will be in session early and late daily, including Saturdays, from here on out until the convention, with rollcall votes occurring early and late. It may even be necessary to have a Saturday session not only next week but also in the final week before the convention. Senators will want to prepare their daily schedules accordingly.

## RECESS TO 10 A.M. MONDAY, JUNE 21, 1976

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 a.m. on Monday.

The motion was agreed to; and at 5:53 p.m., the Senate recessed until Monday, June 21, 1976, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate June 18, 1976:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Thomas L. Lias, of Iowa, to be an Assistant Secretary of Health, Education, and Welfare, vice Stephen Kurzman, resigned.

IN THE JUDICIARY

J. Blaine Anderson, of Idaho, to be U.S. circuit judge for the ninth circuit vice M. Oliver Koelsch, retired.

IN THE JUDICIARY

J. Waldo Ackerman, of Illinois, to be U.S. district judge for the southern district of Illinois vice Harlington Wood, Jr., elevated.

IN THE JUDICIARY

Cecil F. Poole, of California, to be U.S. district judge for the northern district of California vice Oliver J. Carter, retired.

IN THE NAVY

Vice Adm. Thomas B. Hayward, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of admiral while so serving.

## CONFIRMATIONS

Executive nominations confirmed by the Senate June 18, 1976:

DEPARTMENT OF JUSTICE

Nickolas P. Geeker, of Florida, to be U.S. attorney for the northern district of Florida for the term of 4 years.

Philip M. Van Dam, of Michigan, to be U.S. attorney for the eastern district of Michigan for the term of 4 years.

Walter M. Garrison, Jr., of West Virginia, to be U.S. marshal for the northern district of West Virginia for the term of 4 years.

George O. Houser, Jr., of Wyoming, to be U.S. marshal for the district of Wyoming for the term of 4 years.

FEDERAL POWER COMMISSION

John Holliday Holloman III, of Mississippi, to be a member of the Federal Power Commission for the term expiring June 22, 1981.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

# HOUSE OF REPRESENTATIVES—*Friday, June 18, 1976*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Fear not, for I am with you; be not dismayed, for I am your God; I will strengthen you; yea, I will help you.*—Isaiah 41: 10.

Eternal Father, make us ready for the adventure of living this day. By Your grace may we make the most of it. We do not pray for smaller tasks but for strength for greater tasks; not for fewer facts to face but for faith to face all the facts; not only for repentance over mistakes made but for a renewal of spirit that we do not make the same mistakes again; not that we may do our duty but that we may go beyond the call of duty and walk the second mile.

Amid the pressures and problems of daily life give us self-control that we may not be the slaves of circumstances but masters of ourselves in the midst of all circumstances.

Give us wisdom to make right decisions, courage to walk right ways and faith to keep the sense of right alive within us. Thus may no barrier in our hearts prevent the fulfillment of Your purpose for us and for our country.

In the spirit of Him who is with us all the way, we pray. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of the clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 12169. An act to amend the Federal Energy Administration Act of 1974 to provide for authorizations of appropriations to the Federal Energy Administration, to extend the duration of authorities under such act, and for other purposes;

H.R. 13965. An act making appropriations for the government of the District of Columbia and other activities chargeable in